

**NATIONAL COMPANY LAW TRIBUNAL  
GUWAHATI BENCH**

**IA (IBC)/48/2021**

In

**CP (IB) No. 05/GB/2018**

**Coram: Hon'ble Mr. H. V. SUBBA RAO, MEMBER (J)**

**Hon'ble Mr. PRASANTA KUMAR MOHANTY, MEMBER (T)**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF THE NATIONAL COMPANY LAW TRIBUNAL, GUWAHATI BENCH ON 09/09/2021.**

Name of the Company: **Hrisikesh Dasgupta** .... Liquidator  
In  
**Bank of Baroda** .... Financial Creditor  
Versus  
**Bluefern Ventures Pvt. Ltd.** .... Company (In liquidation)

Section: Section 230-232 of Companies Act

<b>S.NO.</b>	<b>NAME (CAPITAL LETTERS)</b>	<b>DESIGNATION</b>	<b>REPRESENTATION</b>	<b>SIGNATURE</b>
1.	PRANAY AGARWAL	Advocate	Liquidator	Through
2.	NONE	-	Respondent	Video Conference

**ORDER**

The Applicant is represented through respective Learned Counsel (s).

The case is fixed for pronouncement of order.

The Order is pronounced in the open court, through Video Conferencing vide separate sheet.

The present IA is allowed and disposed of.

**Sd/-**

**(PRASANTA KUMAR MOHANTY)  
MEMBER (T) &  
ADJUDICATING AUTHORITY**

**Sd/-**

**(HARI VENKATA SUBBA RAO)  
MEMBER (J) &  
ADJUDICATING AUTHORITY**

**NATIONAL COMPANY LAW TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI**

**IA (IBC)/48/2021**

**In**

**CP (IB) No. 05/GB/2018**

**In the matter of:**

**HRISIKESH DASGUPTA, Liquidator**, Having Office at AV Insolvency Professionals Pvt. Ltd., Bajrang Kunj, Room No. 412 & 413, 2B Grant Lane, 4<sup>th</sup> Floor, Kolkata- 700012

... **Applicant**

**IN**

**BANK OF BARODA**, having Branch Office at Gangtok Branch, Below Assembly House, Nam Nang Road Gangtok, Sikkim- 737101 and inter-alia Zonal Office at 6<sup>th</sup> Floor, Baroda Tower Plot No. 38/2, Block GN, Salt Lake, Sector-V, Kolkata 700091

...**Financial Creditor**

**VERSUS**

**BLUEFERN VENTURES PVT. LTD.**, Having registered office at Ethanpa Villa, Damthang Road, Namchi Bazaar, Namchi, South Sikkim- 737126

... **Company (in Liquidation)**

**Order delivered on 09/09/2021**

**Coram:**

**Hon'ble Mr. H. V SUBBA RAO, MEMBER (J)** : Hearing through  
**Hon'ble Mr. PRASANTA KUMAR MOHANTY, MEMBER (T):** Video conference

**Dated: 09.09.2021**

The matter is taken up through Video Conference. Heard the Ld. Counsels appearing on behalf of the Petitioners.

## **ORDER**

**[Per: Hon'ble Shri H.V Subba Rao, Member (J)]**

1. It is stated that CP (IB) 05/GB/2018 had been filed by the Financial Creditor namely, Bank of Baroda, hereinafter referred to as the "Financial Creditor", under Section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy Board of India (Application to Adjudicating Authority) Rules, 2016 for initiating CIRP in the matter of Bluefern Ventures Private Limited, hereinafter referred to as the "Company", claiming dues amounting to Rs.37,68,62,983.00 (Rupees Thirty Seven Crores Sixty-eight Lakhs Sixty-two Thousand Nine Hundred and Eighty Three only) owed to the said Financial Creditor by the Company.

2. It is also submitted that the aforesaid petition was heard by this Bench, hereinafter referred to the "Hon'ble Tribunal" and upon the said hearings the Hon'ble Bench was pleased to pass an order initiating CIRP in the matter of Bluefern Ventures Private Limited vide order dated 21.12.2018 and appointed the Applicant herein as the Interim Resolution Professional vide order of the Hon'ble Tribunal dated 31.12.2018. The said order of appointment was served upon the Applicant herein on 02.01.2019 vide order dated 02.01.2019 of this Bench. Subsequently, the Applicant herein was confirmed as the RP with 100% majority of the 1<sup>st</sup> CoC meeting held on 28.01.2019 and the appointment was confirmed by the Hon'ble Tribunal vide order dated 01.03.2019.

3. It is submitted that the Resolution Plan submitted by the promoter of the Company in liquidation was not acceptable to the CoC. Thus, the CoC in its 10<sup>th</sup> meeting, held on 13.08.2019, with 100% majority, recommended liquidation of the said company. Therefore the Hon'ble Tribunal passed an order of liquidation in the matter of Bluefern Ventures Private Limited vide order dated 06.09.2019 and appointed the Applicant herein as the Liquidator.

4. It is also stated that the 1<sup>st</sup> Meeting of Consultative Committee of Stakeholders was held on 20.12.2019 wherein it was informed that the land on which the building of the company is situated does not belong to the Liquidation estate and it is only the

building and the contents thereof which form part of the liquidation estate. The said land is in the personal name of the promoters of the Company. It was further informed that the Secured Creditor/Stakeholder has already approached the Ld. Debts Recovery Tribunal, Siliguri, vide TOA/1208/2018 arising from OA/162/18, for realization of its security, on the said land, as it was a guarantee against the loan given to the Company (in liquidation).

5. Subsequently, it was discussed that the said creditor shall transfer the land to the liquidation estate so that the land and the building could be dealt with together. Thereafter, simultaneous e-auction of the land and building was attempted by the said creditor and the liquidator respectively. The same failed. Copies of the minutes of the 2<sup>nd</sup>, 3<sup>rd</sup> adjourned, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup> and 8<sup>th</sup> meeting of the Stakeholders Consultative Committee are annexed hereto and marked with the **letters "A", "B", "C", "D", "E" and "F" respectively**. E-auction notice by the Liquidator and the e-auction report are annexed hereto and marked collectively with the **letter "G"**. E-auction notice and recall notice by the Secured creditor is annexed hereto and marked collectively with the **letter "H"**.

**6. It is submitted that the Government of West Bengal and the Government of Sikkim announced lockdown in various zones from 17.04.2021 till recently wherein** mandatory state-wise restrictions and/or lockdown was observed affecting inter-state and inter-district movement among other things. It is important to note here that the registered office of the Company is situated in Sikkim whereas the Liquidator is situated in Kolkata.

7. It is submitted that due to the 2<sup>nd</sup> wave of the Covid-19 pandemic and the consequent lockdown and the resultant travel restrictions, limited progress was possible in the instant liquidation process and unless a period of 90 days i.e. from 17.04.2021 till 16.07.2021, rendered un-utilizable from the liquidation period, the instant liquidation process shall be severely prejudiced and rendered inefficient and ineffective and the maximization of the value of the assets of the Company shall not be achieved. It may be noted that although e-auction was conducted and attempts were made by the

Liquidator to continue the process but the results could not be achieved due to the pandemic despite the best efforts of the Liquidator.

8. It is submitted that due to the 2<sup>nd</sup> wave of COVID-19 pandemic and the consequent lockdown and/or the resultant travel restrictions, limited progress was possible in the instant liquidation process and unless a period of 90 days i.e. from **17.04.2021 till 16.07.2021**, rendered unutilizable, is excluded from the liquidation period, the instant liquidation process shall be severely prejudiced and rendered inefficient and ineffective and the maximization of the value of the assets of the Company shall not be achieved.

9. It is submitted that the Hon'ble bench may exclude any further period being rendered unutilizable from the liquidation period subject to any further imposition of lockdown. Alternatively, leave may be granted to apply for exclusion of any such further period if required.

10. The Applicant further submits that the present application is made bona fide and in the ends of justice.

11. The applicant in the instant petition have prayed for an order with the below mentioned reliefs:

- (a) Issue necessary Order/directions confirming exclusion of the period of 90 days i.e. from 17.04.2021 till 16.07.2021 from the liquidation period of Bluefern Ventures Private Limited.
- (b) Issue necessary Order/directions confirming exclusion of any further period of lockdown, from the liquidation period, if the Government of India, the Government of Sikkim and the Government of West Bengal, decide to extend the lockdown any further.
- (c) Pass such Order/directions as this Hon'ble Bench may deem fit and necessary in the facts and circumstances of the case.

## **ORDERS**

12. **Heard the Counsel appearing for the Liquidator. In view of the Second wave of Covid 19, the prayer made by the Liquidator to exclude 90 days from 17/04/2021 till 16/07/2021 is accepted and the above 90 days is excluded from the Liquidation Completion Period. It is observed that the Liquidation order was passed on 06/09/2019 and there is no progress in the liquidation process during last 2 years. Liquidation Process should have been completed within One Year. Hence, the Liquidator is directed to ensure the completion of the Liquidation Process without further loss of time but within 05/12/2021.**

13. **The present IA No.48 of 2021 in CP (IB) No. 05/GB/2018 stands allowed and disposed of accordingly.**

**Sd/-**

**(PRASANTA KUMAR MOHANTY)  
MEMBER (T) &  
ADJUDICATING AUTHORITY**

*//td//D//8.9.2021//*

**Sd/-**

**(HARI VENKATA SUBBA RAO)  
MEMBER (J) &  
ADJUDICATING AUTHORITY**