**IN THE NATIONAL COMPANY LAW TRIBUNAL**
**KOLKATA BENCH**
**KOLKATA**

**Before Shri Madan B. Gosavi, Hon'ble Member (J)**

**CP (IB) No. 564/KB/2017**

**In the matter of:**
**An application for initiation of Corporate Insolvency Resolution Process under Section 8 and 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016;**

-And-

**In the matter of:**
Govind Jagirdar, sole proprietor of Melgiri Enterprises, having his office at C-4-22, Venkatesh Bhuban, Dr. Boomanna Lane, Kachiguda, Hyderabad, Telengana- 500 027 and having address for correspondence 6, Old Post Office Street, 2nd floor, Room No.78, Kolkata- 700 001;

... **Operational Creditor**

-Versus-

**In the matter of:**
**Scope Vincom Industries Private Limited**, a company incorporated under the provisions of the Companies Act,1956 having its registered office at 5A, Robinson Street, Kolkata-700 017 within the aforesaid jurisdiction;

....**Corporate Debtor**

**Counsel appeared:**
1. Shri Ranjan Mukherjee, Advocate ] For Resolution Professional
1. Shri Yogendra Gupta, ] Resolution Professional
1. Shri Niraj Agrawal ] Ex-I.R.P.
1. Shri Anunoy Basu, Advocate ] For the CoC
1. Shri R.L. Mitra, Advocate for Upen Tulsyan

1. Shri Rupak Ghosh, Advocate ]
2. Shri Ayan Dutta, Advocate ] Corporate Debtor
3. Shri M.A.Jabbar, Advocate ]
4. Shri N. Khanjoy, Advocate ]

**Date of Pronouncement of Order: 20.12.2018**

## ORDER

**Govind Jagirdar-** sole proprietor of **M/s. Melgiri Enterprises-** the Operational Creditor filed this application under section 9 of the Insolvency & Bankruptcy Code, 2016 (in short, I&B Code) against **M/s.Scope Vincom Industries Limited**, Corporate Debtor for initiating Corporate Insolvency Resolution Process (in short, "CIRP") as the Corporate Debtor failed to pay the debt of Rs.12,65,652/-.

2. By order dated 11.06.2018, this authority admitted the application and started CIRP of the Corporate Debtor. Mr. Niraj Agrawal was appointed as the I.R.P. Moratorium under section 13 and 14 was also issued.

3. On 15.06.2018, IRP made public announcement that the Corporate Debtor is admitted to CIRP and called upon its creditors in general to submit their claims with proof. He received claims from three financial creditors i.e., (I) HDFC Bank, (2) L&T Finance Limited and (3) Reliance Commercial Finance Ltd. and one Operational Creditor, M/s. Krishna Enterprises. IRP formed the CoC consisting of financial creditors giving each of them percentage of voting share in proportionate to the debt claimed by them.

4. CoC in its second meeting replaced the IRP by appointing Mr. Yogesh Gupta as the Resolution Professional. Mr. Gupta again on 18.09.2018 made a

public announcement of CIRP of the Corporate Debtor. In fact, it was not at all required. It was expected from the RP to collect all information of the assets of the Corporate Debtor and to prepare information memorandum in order to publish a notice to call for Expression of Interest (EoI) and resolution plan from its prospective applicants. In respect of that, in his 3rd progress report dated 22.10.2018, the RP requested this authority to exempt him from preparing information memorandum and also from issuing public notice calling for EoI. In fact, it was the RP's statutory duty to prepare information memorandum based on the assets and properties of the Corporate Debtor, he received but the RP did nothing. Record reveals that the Corporate Debtor has huge landed property and the factory premises situated at Metiabruz, Kolkata. It was expected from the RP to prevail upon the CoC to appoint valuer and to get evaluated whatever assets of the Corporate Debtor, he found. In my considered opinion, if the RP had really discharged his statutory duties in getting valuation report of assets of the Corporate Debtor and in issuing public notice calling EoI, he certainly would have received some resolution plans.

5. On 07.12.2018, CIRP period of 180 days got over. RP held last meeting of the CoC. However, CoC did not take any decision either to get extended CIRP period for further 90 days as per section 12 of I&B Code or to refer the matter to this authority for passing an order of liquidation of the Corporate Debtor but CoC also did nothing.

6. RP submitted that he had filed one more application under section 19(2) of I&B code seeking some order against the Corporate Debtor for non-cooperation in CIRP but I am told that application is also defective and RP did not cure the defects. Ultimately, the application was not placed for orders but anyway now CIRP period of 180 days is already over on 07.12.2018. The CoC

did not think fit to consider to file application for extension of that period for further 90 days. The above application filed by the RP becomes infractuous. Now this authority is left with no other option but to pass liquidation of the Corporate Debtor as provided under section 33(2) of I&B Code as no resolution plan is received.

7. This is a classic case where the RP and CoC failed in discharging their duties and statutory obligation under I&B Code. They simply submitted that the Corporate Debtor did not cooperate in CIRP. Be that as it may, since RP and CoC did not receive any resolution plan, I proceed to pass the order of liquidation of the Corporate Debtor. However, while doing so, this authority is of the considered view that new RP to be appointed as the Liquidator to have a fair and proper liquidation process of the Corporate Debtor. With this, I proceed to pass an order requiring the Corporate Debtor to be liquidated in the manner as laid down in the Chapter III of Part II of I&B Code. I also pass an order under section 33 of the I&B Code, 2016 to start process of liquidation of the Corporate Debtor as follows:

## ORDER

By this order, Corporate Debtor- Scope Vincom Industries Private Limited is liquidated.

2. Mr. Shyamal Kumar Bhattacharjee (Mob. No.9434213133), having registration no.IBBI/IPA-003/IP-N00092/2017-18/10892 and Email.id: shy_bhatta1990@yahoo.co.in is appointed as the Liquidator.

3. Mr. Bhattacharjee is directed to issue Public Announcement stating that the corporate debtor is in liquidation, in terms of Regulation 12 of the IBBI(Liquidation Process) Regulations, 2016.

4. The Registry is directed to communicate this order to the Registrar of Companies, West Bengal and to the Insolvency and Bankruptcy Board of India (IBBI), New Delhi.

5. The Order of Moratorium passed under Section 14 of the I&B Code, 2016 shall cease to have effects and a fresh moratorium under Section 33 (5) shall commence.

6. This order is deemed to be a notice of discharge to the officers, employees and the workmen of the Corporate Debtor as per Section 33 (7) of I&B Code, 2016.

7. The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of the Insolvency and Bankruptcy Code, 2016.

8. Upon proceeding with the liquidation the Liquidator shall file a ***preliminary report*** as per regulation 5 read with Reg.13 of the IBBI(Liquidation) Regulations, 2016 at the registry within 75 days from the liquidation commencement date and continue to file ***progress reports*** as per Reg.15(1) within 15 days after the end of the quarter in which he is appointed.

9. The fee payable to the Liquidator shall form part of the liquidation cost as provided under Reg. 4(1) of the IBBI (Liquidation Process) Regulations,2016.

10. Registry is hereby directed to communicate the order to the RP, Financial Creditor, Corporate Debtor and the Liquidator by Speed Post and also by email for information and for taking necessary steps.

Let the certified copy of the order be issued upon compliance with requisite formalities

List the matter on **05.03.2019** for the filing of the progress report.

Sd/-

(Madan B. Gosavi)
Member (J)

*Signed on this, the 20th day of December, 2018.*