

IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH-IV

IA 3668/2022  
IN  
CP (IB) No.1443/MB-IV/2020

Under Section 9 of the IBC, 2016

Mr. Satish Kumar Gupta  
(Resolution Professional of Bombay Rayon  
Fashions Limited)

.... Applicant/  
Resolution Professional

*Versus*

Adil Azeez & Ors.

...Respondents

*In the matter of*

Vikash Parasprampuria  
Sole Proprietor of Chiranjilal Yarn Traders  
(PAN: AFVPP0517M)

...Operational Creditor

v/s.

Bombay Rayon Fashions Limited  
[CIN: L17120MH1992PLC066880]

...Corporate Debtor

Order Delivered on:20.01.2023

*Coram:*

Mr. Prabhat Kumar  
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli  
Hon'ble Member (Judicial)

*Appearances (via videoconferencing):*

For the Petitioner:

Mr. Gaurav Joshi

For the Respondent/COC:

Mr. Sidharth Ranade

**ORDER**

***Per: Prabhat Kumar, Member (Technical)***

1. This is an Application is filed by Resolution Professional of the Corporate Debtor u/s 60(5) of the Insolvency & Bankruptcy Code, 2016 (IBC) r/w Rule 11 of the NCLT Rules, 2016 seeking directions to conclude the sale of Mysore Unit of the Corporate Debtor.
2. The applicant has submitted that the Corporate Debtor was admitted to CIRP vide order dated 07.06.2022 and he was appointed as resolution professional by the CoC in its 1st meeting held on 26.07.2022 replacing Intermission Resolution Professional.
3. The Corporate Debtor availed certain financial assistance from various financial institutions from time to time, including from Allahabad Bank and had mortgaged Mysore Unit in favor of Allahabad Bank to secure outstanding of the facilities availed from it.
4. Subsequently, the Corporate Debtor defaulted on the repayment of loan availed from Allahabad Bank following which a demand Notice dated 22.05.2018 u/s 13(2) of SARFAESI ACT. The outstanding due to Allahabad Bank together with the underlying security interest was assigned by the Bank to JMFARCL vide assignment Agreement dated 27.09.2018. JMFARC took symbolic possession of the Mysore Unit on 27.05.2019 and also published public notice of taking symbolic possession.

5. On 26<sup>th</sup> April 2022, one Mr. Adil Azeez and Mr. Azim Azeez entered into a registered agreement for sale of the Mysore Unit with JMFARC in accordance with the SARFAESI ACT and Security Interest Rules.
6. However, before the sale of Mysore Unit could be completed the Corporate Debtor was admitted to the CIRP. The Corporate Debtor has already received INR 9,00,00,000 towards part payment of the sale consideration.
7. The applicant apprehends that the value of the Mysore Unit will further deteriorate the detriment of the Corporate Debtors/Creditors/Stakeholders by the time Resolution plans are received by the CoC .It has also been submitted that the buyers/ Mysore Unit as per agreement to sale dated 26.04.2022 are still ready admitted to go ahead with the transaction.
8. The CoC considered the request of the applicant to conclude the transaction of sale of Mysore Unit in its 4<sup>th</sup> Meeting held on 11<sup>th</sup> Nov 2022 and passed the following resolution by majority of 99.77% vide e voting result placed at Exhibit D of the Application.

*“RESOLVED THAT the as proposed by the Committee of Creditors hereby:(a) takes note of the agreement for sale dated 26<sup>th</sup> April 2022, entered into between JMFARC, the Corporate Debtor, Mr. Adil Azeez and Mr. Azeem Azeez in connection with the proposed sale of land admeasuring 1,30,680.6 sq.ft. together with the industrial building thereon located at Mysore Road, kengeri Village, Bangalore (Mysore Unit) for an aggregate consideration of INR 38,00,00,000 to Mr. Adil Azeez and Mr. Azeem Azeez (Mysore Unit Purchasers) (Agreement for sale dated 26.04.2022, Mysore Agreement for Sale); and (b) grants its approval to the Corporate Debtor and the Resolution Professional to conclude the sale of the Mysore Unit in accordance with the terms of Mysore Agreement*

*for Sale and Applicable law, subject to the approval of the National Company Law Tribunal, Mumbai(NCLT).*

*RESOLVED FURTHER THAT JMFARC and Axis Bank agree to release their respective charge over the Mysore Unit further to sale of the Mysore Unit and agree to undertake all such actions and do all such things and sign all such documents, agreements, letters, etc. as may be required and necessary to give effect to and complete the transactions contemplated under the Mysore Agreement for Sale. Charge holders shall bear all costs and expenses to be incurred by the Resolution Professional in undertaking the steps for completion of the transactions contemplated under the Mysore Agreement for Sale*

*RESOLVED FURTHER THAT the Committee of Creditors hereby: (a) grants its approval to the Corporate Debtor to be joined as a “Confirming Party ” during the registration of sale certificate as mentioned above; and (b) authorities the Resolution Professional of the Corporate Debtor to undertake or delegate all such actions, do all such things and sign all such documents, agreements, letters etc. as may be required and necessary to give effect to and complete the transactions contemplated under the Mysore Agreement for sale, including filing an application before the NCLT to seek approval for the completion of the transactions contemplated under the Mysore Agreement for Sale”.*

9. The applicant prays that the Applicant, JMFARC and the Committee of the Creditors may be permitted to complete the sale of Mysore Unit of the Corporate Debtors more appropriately described as follows –

*“Assets bearing Bruhath Bangalore Mahanagara Palike Katha No. 6/1160/883/505 situated in Survey No. 122/13, at 12<sup>th</sup> Mile, Mysore Road, Kengeri Village, Bangalore South Taluk admeasuring 2 acres 28 Guntas or 1,30,680.06 square feet together with the industrial building*

*thereon comprising of Ground floor, First Floor, Second Floor and Third Floor, having a built up area of 42,997 sq.ft in the Ground Floor 38,478 sq.ft each in the first Floor, Second Floor and Third Floor having total built up area of 1,58,431 Square feet”.*

10. The Hon’ble Delhi High Court has held in the case of the *Hon’ble Supreme Court in Gujarat Urja Vikas Nigam Ltd. vs. Amit Gupta, (2021) ibclaw.in 44 SC* that the Hon’ble Supreme Court has, in a comprehensive manner, interpreted and laid down the scope and import of the phrase “arising out of” and “in relation to” in the specific context of Section 60(5)(c) of the IBC. It becomes evident that the phrase “arising out of” and “in relation to” is to be given wide import.
11. We have heard the Counsels and perused the material on record. We note that section 60(5) empowers the Adjudicating Authority to entertain or dispose of any application or proceeding by or against the Corporate Debtor or Corporate Person.
12. In view of the fact that the Mysore Unit has readily available buyer; the resolution of Corporate Debtor shall not be effected if sale of Mysore Unit is allowed to be proceeded with; and the Resolution of the Corporate Debtor will take some time which may cause deterioration in the value of Mysore Unit, we allow the Applicant, JMFARC and the Committee of the Creditors to complete the sale of Mysore Unit of the Corporate Debtor in accordance with Agreement to Sale Dated 26.04.2022 registered as the document No BKI-522 with concerns of Registrar.

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13. Accordingly, the IA 3668/2022 in CP 1443/2020 is allowed and disposed of.

Sd/-

**PRABHAT KUMAR**  
**MEMBER (TECHNICAL)**

Sd/-

**KISHORE VEMULAPALLI**  
**MEMBER (JUDICIAL)**

**20.01.2023.**