

**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
DIVISION BENCH – I, CHENNAI**

**IA/421/2020 in CA/124/2018 in TCP/431/IB/2017**  
(Filed under Sec. 60(5) of Insolvency and Bankruptcy Code, 2016 read  
with Regulation 44(2) of Insolvency and Bankruptcy Board of  
India (Liquidation Process) Regulations, 2016)

In the matter of **M/s. Nag Yang Shoes Private Limited**

CA Mahalingam Suresh Kumar  
Liquidator of  
M/s. Nag Yang Shoes Pvt. Ltd.  
No.27/9, Nivedh Vikas,  
Pankaja Mill Road,  
Puliyankulam,  
Coimbatore - 641 045

.. .. Applicant / Liquidator

Present:

For Liquidator : A.G. Sathyanarayana, Advocate  
Through Video Conference

CORAM :

**R. VARADHARAJAN, MEMBER (JUDICIAL)**  
**ANIL KUMAR B, MEMBER (TECHNICAL)**

*Order Pronounced on 3<sup>rd</sup> July 2020*

**ORDER**

**Per: R. VARADHARAJAN, MEMBER (JUDICIAL)**

1. The MA/421/2020 has been filed by the Liquidator under Regulation 44 of Insolvency and Bankruptcy of India (Liquidation Process) Regulations, 2016, seeking relief as follows;

- a. *That this Hon'ble Adjudicating Authority may be pleased to pass an order by extending the Liquidation for a further period of one year; and*
- b. *To pass such other orders or further orders which may deem fit and proper in the interest of justice.*

2. It is averred in the Application that in an Application filed by one M/s. SSA & Company under section 9 of Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as 'IBC, 2016'), this Authority vide order dated 07.09.2017 initiated the Corporate Insolvency Resolution Process (CIRP) in relation to the Corporate Debtor viz. M/s. Nag Yang Shoes Private Limited and the Applicant was appointed as the Interim Resolution Professional (IRP). It is further averred that in the 1<sup>st</sup> Committee of Creditors (CoC) meeting held on 07.11.2017, it was resolved to continue the Applicant to act as the Resolution Professional in relation to the Corporate Debtor.

3. It is submitted that in the 3<sup>rd</sup> CoC meeting held on 05.03.2018, since the Applicant has not received any interest for Resolution Plan, the sole Financial Creditor viz. Union Bank of India, who holds 100% voting share in the CoC recommended for the liquidation of the Corporate Debtor and accordingly by an application moved by the Applicant in CA/124/2018, this Tribunal

vide order dated 06.04.2018 ordered for liquidation of the Corporate Debtor.

4. The Ld. Counsel for the Applicant submitted that after the receipt of the Liquidation order, the Applicant issued Public Announcement in Form B dated 11.04.2018 and thereafter proceeded with the publication of sale notice for e-auction of movable and immovable assets of the Corporate Debtor on 27.07.2018, 29.09.2018, 17.11.2018 and 06.01.2019. The Learned Counsel for the Applicant submitted that the Liquidator has sold the Plant and Machinery to the next highest bidder M/s. Farida Shoes Pvt Ltd. for Rs.2,32,92,000/- plus 18% GST in the 2<sup>nd</sup> e-auction held on 17.10.2018, since the highest bidder has failed to make the payment on time. Further, it is submitted that the Applicant has sold the Land and Building of the Corporate Debtor through the e-auction sale notice dated 23.01.2019 to one M/s. Sri Vari Engineers for Rs.4,02,97,500/-.

5. It is averred in the Application that this Tribunal has passed a liquidation order with a direction to liquidate the Company within a period of 2 years as per the regulation prevalent at the time of passing the order and as such the liquidation process has to be

completed on or before 06.04.2020. However, the Liquidator being not in a position to complete the process and under the circumstances, the Liquidator has filed the present Application under Regulation 44(2) of IBBI (Liquidation Process) Regulations, 2016 (*amended upto 01.04.2018*) for continuation of the Liquidation period of the Corporate Debtor for a further period of one year from 06.04.2020. In this context it is relevant to refer to Regulation 44 of IBBI (Liquidation Process) Regulations, 2016 (*amended upto 01.04.2018*)

#### **44. Completion of liquidation.**

(1) The liquidator shall liquidate the corporate debtor within a period of two years.

(2) If the liquidator fails to liquidate the corporate debtor within two years, he shall make an application to the Adjudicating Authority to continue such liquidation, along with a report explaining why the liquidation has not been completed and specifying the additional time that shall be required for liquidation.

6. Regulation 44(2) of IBBI (Liquidation Process) Regulations, 2016, which was amended upto 01.04.2018, is taken into consideration for the facts of the present case and it contemplates that if the liquidator has failed to liquidate the Corporate Debtor within two years then he has to make an application to the Adjudicating Authority to continue such liquidation, along with a



report explaining why the liquidation has not been completed specifying the additional time that shall be required for completion of the liquidation.

7. It is averred in the Application that the Applicant / Liquidator has filed Avoidance Petition in CA/101/IB/2018 under Section 44, 48 and 49 of the IBC, 2016 and the same was reserved for orders on 28.11.2018. Again the matter was reopened on 31.01.2019 and it was suggested to the liquidator to conduct forensic audit and submit a report before this Tribunal for its consideration and accordingly, it is averred that the Applicant / Liquidator has filed the forensic audit report before this Tribunal on 04.04.2019 and the same is pending for adjudication before this bench.

8. Thus, by taking into consideration all the facts mentioned above, this Authority feels that it is just and proper to extend the Liquidation period for a further period of one year from 06.04.2020 and in the said circumstances, the Liquidation period of the Corporate Debtor stands extended for a further period of one year from 06.04.2020 and the Liquidator shall make every endeavour to complete the liquidation process within the extended period of one year and not to seek for any further extension. It is needless to



mention here that the Applicant / Liquidator is entitled to claim exclusion of period of lockdown imposed by the Central Government in wake of *Covid - 19* outbreak, as adumbrated in Regulation 47A of IBBI Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, if it applies to the facts and circumstances. The Liquidator in view of the extension granted as above, is directed to abide by the model timelines as prescribed by IBBI in Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 and thereby complete the process in all earnest and in accordance with the said Regulations including filing of reports as required, with this Tribunal. Accordingly, IA/421/2020 stands **allowed** on aforementioned terms.

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-SD-  
**(ANIL KUMAR B)**  
MEMBER (TECHNICAL)

-SD-  
**(R.VARADHARAJAN)**  
MEMBER (JUDICIAL)

*Raymond*