

**THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH-I**

**I.A. 576 OF 2022**

Under Section 14 r/w 60(5) of Insolvency  
& Bankruptcy Code, 2016

Ashish Niranjana Nanavaty

Resolution Professional

...Applicant

Vs.

Office of Tahsildar (Revenue Recovery) &  
Others

...Respondents

In the matter of

C.P.(IB) No. 1387/MB/2017

Ericsson India Pvt Ltd

**Financial Creditor**

Vs.

Reliance communications Ltd.

**Corporate Debtor**

*Order delivered on: 21.11.2023*

*Coram:*

**Shri Prabhat Kumar**  
Hon'ble Member (Technical)

**Justice Shri V.G. Bisht**  
Hon'ble Member (Judicial)

*Appearances*

For the Applicant : Mr. Rishabh Jaisani, Advocate  
For the Respondent : Attendance not marked in the  
attendance sheet

**ORDER**

***Per: V.G. Bisht, Member (Judicial)***

1. This Application IA 576/2022 is filed by Sh. Ashish Niranjana Nanavati, the Resolution Professional (“Applicant”) of M/s Reliance Communication Limited (“Corporate Debtor”) in the Corporate Insolvency Resolution Process (“CIRP”) for (i) declaration of Revenue Recovery Notice issued by Tehsildar (Revenue Recovery) (“Respondent No. 1”) to be void; (ii) declaration of demand Notice(s) raised by Trivandrum Municipal Corporation through its Secretary (“Respondent No. 2”) to be void; (iii) direction to Respondent No. 1 to refrain from initiating the Recovery Action vide Notice dated 9.6.2020 & 7.8.2020; (iv) declaration of all letters/notices issued by Respondent No. 2/Respondent No. 1 for recovery of part of Unpaid Dues for the period prior to CIRP period to be null and void; and (v) stay on all these notice(s) and letters issued by Respondent No. 1 & 2 till hearing in the present application.
2. The Corporate Debtor and its parent company M/s Reliance Infratel Limited (“Respondent No. 3”) obtained requisite permissions from Respondent No. 2 for deploying fibre network (including installation of poles, Electronic Distribution Point (“EDP”) units and fibre termination boxes, collectively referred to as “Fibre Assets”) within the territorial jurisdiction of Respondent No. 2.

- 2.1. The Corporate Debtor was admitted into CIRP process on 15.5.2018 and the Hon'ble NCLAT stayed the Admission Order dated 15.05.2020 vide its Order dated 30.05.2018, which was vacated on 30.04.2019, reviving the CIRP process. The Applicant was appointed as Resolution Professional on 21.06.2019 replacing the then Interim Resolution Professional.
- 2.2. Respondent No. 2 issued a notice dated 18.5.2019 demanding payment of Rs. 2,97,086/- and Rs. 6,71,827/- from the Corporate Debtor towards pending property taxes, which was responded by the Applicant vide letter dated 26.08.2019 informing Respondent No. 2 of inter alia the commencement of CIRP in case of Corporate Debtor, the prevailing moratorium in terms of Section 14 of the Code, and the treatment applicable to the payment/settlement of the dues, owed by the Corporate Debtor to Respondent No. 2, under the Code.
- 2.3. The Respondent No. 2 issued another demand notice dated 18.1.2020 under the Kerala Municipality Act, 1994 demanding payments to the tune of Rs. 62,52,245/- towards purported dues in respect of the Fibre Assets for the FY 2017-18, FY 2018-19 & FY 2019-20, which was responded by the Applicant vide letter dated 11.2.2020 again informing about the imposition of moratorium upon the Corporate Debtor, reiterating that the settlement of dues owed to the Respondent No. 2 pertaining to Pre-CIRP period can only be done as per the provisions of the Code, and also informed that the Applicant has initiated the process for clearing pending dues for the period of CIRP.
- 2.4. Respondent No. 2 issued subsequent demand Notice dated 29.2.2020 & 31.3.2020 reiterating its earlier demands, which was again responded by the Corporate Debtor vide letter dated 29.4.2020, reiterating the contents of letter dated 26.8.2019 & 11.2.2020, and further stated that on account of outbreak of the

COVID-19 pandemic, processing of permissible payments had been delayed.

- 2.5. Respondent No. 2 issued another notice dated 9.6.2020, informing the Applicant that on account of non-payment of requisite dues owed to it by the Corporate Debtor, revenue recovery proceedings were being initiated against the Corporate Debtor in terms of Section 538A of the Municipality Act, which was responded by the Corporate Debtor vide letter dated 26.06.2020 informing of the ongoing CIRP of the Corporate Debtor, and the provisions of Code dealing with settlement of dues owed to the creditors by a corporate debtor, and also expressed willingness to pay portion of the Unpaid dues which have arisen after commencement of CIRP, which are treated as Insolvency Resolution Process Cost under section 5(13)© of the Code. Accordingly, the Corporate Debtor processed a demand draft for sum of Rs. 24,83,717/- on 6.7.2020 towards payment of post CIRP dues, and on account of closure of office of Respondent No. 2, a copy of such Demand draft was shared vide mail dated 16.7.2020.
- 2.6. Thereafter, the representatives of the Corporate Debtor physically met the revenue officer of Respondent No. 2 on 21.7.2020 to handover the demand draft, however the revenue officer requested to hold the demand draft till 28.7.2020 since the offices were closed on account of COVID-19 pandemic, and on 28.7.2020 the Corporate Debtor issued an email to Respondent No. 2 expressing its readiness to submit the demand draft. However, the Revenue Officer of Respondent No. 2 issued a Notice No. R18/38653/2020 dated 7.8/2020 to the Corporate Debtor along with Form-24 dated 16.6.2020, stating that Respondent No. 2 would be unable to accept part-payment of the Unpaid dues, and that revenue recovery proceedings have already been initiated against the Corporate Debtor requiring the Corporate Debtor to pay dues with penalty and

revenue recovery charges in order to avoid execution proceedings in respect of the proposed revenue recovery action.

- 2.7. However, despite letter dated 10.8.2020 issued by Corporate Debtor reiterating the imposition of Moratorium and legal provisions for settlement of creditor's dues contained in the Code, the Respondent No. 1 proceeded to issue Form 1 (Demand Notice/Distrainment Order) and Form 10 (Revenue Recovery Notice) (demand prior to Attachment of Land, in terms of the Kerala Revenue Recovery Act, 1968 on 19.8.2020 against the Corporate Debtor stating therein that in view of non-payment of the Unpaid dues, Respondent No. 1 shall be proceeding to attach the MCN-land property under 'Thandaper' 2566112 and survey No. 2566 land in Muttathara village, falling under Territorial jurisdiction of Respondent No. 1 towards recovery of unpaid dues as arrears of Public revenue.
- 2.8. Corporate debtor against responded vide letter dated 26.09.2020 reiterating the ongoing CIRP of Corporate Debtor and the consequent moratorium, however, the Respondent No. 1 issued a letter dated 16.11.2020 refusing to accept the part payment unless Orders to the contrary are received from any competent Court.
- 2.9. CIRP in case of Respondent No. 3 was concluded on 3.12.2020. Further, the Corporate Debtor again wrote letter dated 27.1.2021 & 21.09.2021 apprising the status of CIRP. Finally, the Respondent No. 2 accepted payments towards dues owed in respect of Fibre Assets pertaining to FY 2020-21, but notices so mentioned above were not withdrawn by the Respondent No. 1 & 2.
3. We have heard the Counsel and perused the material on record.
- 3.1. Section 14 of the Code provides here as under -

*(1) Subject to provisions of sub-sections (2) and (3), on the insolvency commencement date, the Adjudicating Authority shall by order declare moratorium for prohibiting all of the following, namely:—*

*(a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;*

*(b) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;*

*(c) any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;*

*(d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.*

*Explanation.—For the purposes of this sub-section, it is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a license, permit, registration, quota, concession, clearances or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license, permit, registration, quota, concession, clearances or a similar grant or right during the moratorium period;*

*(2) The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.*

*(2A) Where the interim resolution professional or resolution professional, as the case may be, considers the supply of goods or services critical to protect and*

*preserve the value of the corporate debtor and manage the operations of such corporate debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except where such corporate debtor has not paid dues arising from such supply during the moratorium period or in such circumstances as may be specified.*

*(3) The provisions of sub-section (1) shall not apply to —*

*(a) such transactions, agreements or other arrangements as may be notified by the Central Government in consultation with any financial sector regulator or any other authority;*

*(b) a surety in a contract of guarantee to a corporate debtor.*

*(4) The order of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process:*

*Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.*

3.2. The Section explicitly prohibits, on the insolvency commencement date, proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority. The Corporate debtor was admitted into CIRP on 15.5.2018 and process got finally revived on 30.04.2019 after vacation of stay. The Respondent No. 2 had issued first demand notice on 18.5.2019, which was after the commencement of CIRP period, and all such subsequent demand notice(s) were issued after commencement of CIRP period by

Respondent No. 1 & Respondent No. 2. It is apparent from the submissions that the action of Respondent No. 1 in issuing the Notice on 19.8.2020 was clearly prohibited in terms of provisions of Section 14 of the Code, and accordingly was an illegal act committed by them, despite being apprised from time to time by the Applicant about the provisions of the Code in this relation. Respondent No. 2's conduct has also been adamant and they appeared to have consciously ignored the legal mandate contained in the Code. Accordingly, we stay the operation of all notices/letter issued by the Respondent No. 1 & 2 with immediate effect, and all acts done under such notice(s) shall be void.

- 3.3. Consequently, any encumbrance created on the property by Respondent No. 1 or 2 under the Kerala Municipality Act as well as Under recovery provisions shall be void, however, the payments made by the corporate debtor and acknowledged by the Respondent No. 2 shall remain a valid transactions, and the dues payable the Corporate Debtor shall be accordingly reduced.
- 3.4. The Respondent shall be at liberty to file an appropriate claim within 30 days from the date of this Order, and the Applicant shall consider the same on its merits for admission thereof.
4. With the aforesaid direction, the IA 576/2022 is allowed.

**Sd/-**

**Prabhat Kumar**  
Member (Technical)

**Sd/-**

**Justice V.G. Bisht**  
Member (Judicial)