IN THE NATIONAL COMPANY LAW TRIBUNAL, SINGLE BENCH, CHENNAI

MA/32/2019 & MA/33/2019 in CP/120/IB/CB/2018 filed Mr. Gopalsamy Ganesh Babu under Sections 60 (5) & 33(1)(a) respectively of the Insolvency and Bankruptcy Code, 2016 r/w Rule 11 of National Company Law Tribunal Rules, 2016

In the matter of **M/s. Subburaj Cotspin Mills Pvt. Ltd**

M/s. Manjeet Cotton Private Limited

...Operational Creditor

Vs.

M/s. Subburaj Cotspin Mills Private Limited

...Corporate Debtor

Order delivered on 4th of February, 2019

CORAM:

CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

Resolution Professional : *Mr. G.Ganesh Babu*

ORDER

Per: CH MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

1. MA/32/IB/2019 has been filed under Section 60(5) read with Section 33(1)(a) of the Insolvency and Bankruptcy Code, 2016, (in short 'I&B Code, 2016) to condone the delay of 24 days in filing MA/33/IB/2019. The reasons stated by the Resolution Professional in the Affidavit filed in

support of Petition are sufficient to condone the delay. Accordingly, the delay is condoned. MA/32/IB/2019 stands allowed. MA/33/IB/2019 is taken up for consideration.

2. MA/33/IB/2019 in CP/120/IB/CB/2018 has been filed under Section 33(1)(a) of the I&B Code, 2016 praying *inter alia* for liquidation of the Corporate Debtor viz., M/s. Subburaj Cotspin Mills Private Limited.

3. Originally, CP/120/(IB)/CB/2018 was filed under Section 9 of the I&B Code, 2016, by the Operational Creditor viz., M/s. Manjeet Cotton Private Limited against the Corporate Debtor viz., M/s. Subburaj Cotspin Mills Private Limited, which was admitted by this Authority vide Order dated 20.03.2018, the CIR Process was initiated against the Corporate Debtor and one Mr. Tharuvai Ramachndran Ravichandran was appointed as Interim Resolution Professional (IRP) in the matter.

4. The IRP had taken over the management of the Corporate Debtor and had issued the Newspaper Publication as per Regulation 6 (1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Debtor) Regulations, 2016, inviting the claims from the creditors.

5. The IRP constituted CoC and in the 1st Meeting of the CoC held on 27.04.2018 the Applicant viz., Gopalsamy Ganesh Babu has been recommended for appointment as Resolution Professional and the same was approved by this Authority vide its Order dated 20.09.2018.

6. It is stated that in the 2nd Meeting of the CoC held on 28.09.2018 the Resolution Professional has informed the CoCs that the Corporate Debtor is not a 'going concern', it is defunct as on date and it does not own immovable assets or plant and machinery. It is further stated that the Annual Report of the Corporate Debtor for the year ended 31st March, 2018 illustrates that there are no prospects to revive the operations of the Corporate Debtor. In the said Meeting

of the CoC, after the detailed discussion and deliberations, the CoC has opined that there would be no purpose in inviting the "Expression of Interest" (EoI) and unanimously resolved to liquidate the Corporate Debtor to safeguard the interest of the stakeholders of the Corporate Debtor. The operative part of the Resolution reads as follows: -

> *"Resolved that the initiation of liquidation process of M/s. Subburaj Cotspin Private Limited subject be intimated to for the approval of Adjudicating Authority in terms of section 33(2) of the Insolvency and Bankruptcy Code, 2016, as there is no business existing to revive."*

7. Accordingly, the Resolution Professional has filed MA/33/IB/2019 in CP/120/IB/CB/2018 with the prayer to pass an order for liquidation of the Corporate Debtor viz., M/s. Subburaj Cotspin Mills Private Limited. Since no Resolution Plan has been received by this Authority under sub-Section (6) of Section 30 of the I&B Code, 2016, before the expiry of the Corporate Insolvency Resolution Process

period of 180 days, the Corporate Debtor has to be ordered for Liquidation.

ORDER

8. In view of the facts and circumstances recorded by the Resolution Professional in MA/33/IB/2019 filed in CP/120/IB/CB/2018 and in exercise of powers conferred under Sub-Clauses (i) (ii) and (iii) of Clause (a) of Sub-Section (1) of Section 33 of the I&B Code, 2016, this Authority proceeds to pass Liquidation Order as follows:-

I. This Authority hereby orders for liquidation of the Corporate Debtor viz., M/s. Subburaj Cotspin Mills Private Limited, which shall be conducted in the manner as laid down in Chapter III of part II of the I&B Code, 2016;

II. This Authority hereby appoints the Resolution Professional viz., Gopalsamy Ganesh Babu as Company Liquidator, who shall issue a public announcement stating therein that the Corporate Debtor is in liquidation;

III. The moratorium declared under Section 14 of the I&B Code, 2016, shall cease to have effect from the date of the order of liquidation;

IV. Subject to Section 52 of the I&B Code, 2016, no suit or other legal proceedings shall be instituted by/or against the Corporate Debtor. However, a suit and other legal proceedings may be instituted by the Liquidator, on behalf of the Corporate Debtor, with the prior approval of this Authority.

V. This Authority makes it clear that para (iv) hereinabove shall not apply to legal proceedings in relation to such transactions as notified by the Central Government in consultation with any financial sector regulator.

VI. This Order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor, except when the business of the Corporate Debtor is continued during the liquidation process by the Liquidator.

VII. All the powers of the Board of Directors, Key Managerial Personnel and the Partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested with the Company Liquidator viz., Gopalsamy Ganesh Babu. In addition to this, the Company Liquidator shall exercise the powers and duties as enumerated in Sections 35 to 50, 52 to 54 of the I&B Code, 2016, r/w Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

VIII. The personnel of the Corporate Debtor shall extend all assistance and co-operation to the Company Liquidator as may be required by him in managing the affairs of the Corporate Debtor.

IX. The Company Liquidator shall be entitled to charge such fee for the conduct of the liquidation proceedings in such a proportion to the value of the liquidation estate assets as may be specified by the Board. Accordingly, the fees and expenses of the conduct of the liquidation proceedings shall be paid to the Company Liquidator by the Operational Creditor.

X. The Registry is directed to communicate this order with immediate effect to the concerned Registrar of Companies, RD, OL, Registered Office of the Corporate Debtor and Company Liquidator viz., Gopalsamy Ganesh Babu, for information and compliance.

9. In terms of the above, MA/33/IB/2019 in CP/120/IB/CB/2018 filed by the Resolution Professional under Section 33(1)(a) of the I&B Code, 2016, for initiation of the Liquidation Proceedings against the Corporate Debtor viz., M/s. Subburaj Cotspin Mills Private Limited is **allowed**.

10. The Order is pronounced in the open Court.

[CH.MOHD SHARIEF TARIQ]
MEMBER (JUDICIAL)

P. ATHISTAMANI