

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

IA/509/CHE/2021 in CP/699/IB/2017

*(Filed under Sec. 35(1)(n) 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. Gemini Communication Limited**

M.S. Viswanathan
Liquidator of
M/s. Nag Gemini Communication Limited

.. .. Applicant / Liquidator

Present:

For Liquidator : V. Manivannan, Advocate

CORAM :

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

Order Pronounced on 15th July 2021

ORDER

Per: R. SUCHARITHA, MEMBER (JUDICIAL)

1. The IA/509/CHE/2021 has been filed by the Liquidator under Regulation 44(2) of Insolvency and Bankruptcy of India (Liquidation Process) Regulations, 2016, seeking relief as follows;

- a. *To grant an extension of time to continue Liquidation process which ends on 26.02.2021 for a further period of one year with exclusion of the lock down period;*
- b. *To pass such other orders as it deems fit in the above circumstances of the case and thus render justice.*

2. It is averred in the Application that in an Application filed under Section 7 of Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as 'IBC, 2016') by an Financial Creditor this Tribunal vide its order dated 20.06.2018 passed in CP/699/IB/2017 has initiated the Corporate Insolvency Resolution Process (CIRP) in relation to the Corporate Debtor viz. M/s. Gemini Communication Limited and appointed one Mr. Aishwarya Mohan Gahrana as the "Interim Resolution Professional" (IRP), and subsequently one Mr. R. Mukundan was appointed as the "Resolution Professional" of the Corporate Debtor.

3. It is submitted that this Tribunal vide order dated 26.02.2019 in MA/139/2018 has ordered for the Liquidation of the Corporate Debtor and appointed one Mr. Kasi Viswanathan as the Liquidator of the Corporate Debtor. However, it is seen that the said Liquidator Mr. S. Kasi Viswanathan filed MA/1290/2019 before this Tribunal seeking thereof to discharge him from the role of liquidator on account of his illness and accordingly, this Tribunal vide its order dated 20.02.2020 appointed the Applicant viz. Mr. M.S. Viswanathan as the Liquidator in relation to the Corporate Debtor.



4. The Learned Counsel for the Applicant submitted that the Liquidator has filed applications against the erstwhile Director of the Corporate Debtor under Section 66 of IBC, 2016 and also against one M/s. Karvy Financial Services and the same is pending adjudication before this Tribunal. Further it was also submitted that while going through the books of accounts / balance sheets of the Corporate Debtor, the Liquidator has identified that there are 52 sundry debtors and the total receivable amounts to Rs.11,56,69,173/- and that the Liquidator has sent notices to all those sundry debtors requesting them to pay their dues. In pursuance of the same, it was submitted that the Liquidator has till date received a sum of Rs.14,01,729/- from the sundry debtors and also following with the other sundry debtors to collect the dues owed to the Corporate Debtor. Under such circumstances, the Learned Counsel for the Liquidator prayed for extension of the Liquidation process for a period of one year from 26.02.2021.

5. Further, it was submitted by the Learned Counsel for the Applicant that due to the prevailing Covid – 19 pandemic and subsequent lock-down imposed by the Government of India and the State Governments, the Liquidator is unable to complete the Liquidation process of the Corporate Debtor within the time limit prescribed under the Code and in terms of Regulation 44 of the IBBI (Liquidation Process) Regulations, 2016 as was in force as on



the date of order of liquidation i.e. 26.02.2019, the Liquidation process has to be completed within 2 (two) years from the date of such order and as such the Liquidation period of the Corporate Debtor expired on 25.02.2021.

6. It is to be noted here that the Regulation which was prevalent at the time of passing the Liquidation Order mandates the Liquidation process to be completed within a period of 2 years and as such the liquidation process in relation to the Corporate Debtor is required to be completed on or before 25.02.2021. However, the Liquidator not being 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 15.12.2016*) for continuation of the Liquidation period of the Corporate Debtor for a further period of one year from 25.02.2021. In this context it is relevant to refer to Regulation 44 of IBBI (Liquidation Process) Regulations, 2016 (*amended upto 15.12.2016*)

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.

7. Regulation 44(2) of IBBI (Liquidation Process) Regulations, 2016, which was amended upto 15.12.2016, 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.

8. The Applicant in the Application has averred that the avoidance applications filed by Liquidator are yet to be adjudicated by this Tribunal and till such time the avoidance application is adjudicated, the Liquidation process in relation to the Corporate Debtor cannot be completed. Further, the dues from the sundry debtors are also required to be recovered by the Liquidator and as such, there arises a necessity to continue with the Liquidation process of the Corporate Debtor. However, this Tribunal feels that extension of the Liquidation period can be granted only for a period of six months and not one year as sought for in the relief portion.

9. 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 6 (six) months and as



such the Liquidation period of the Corporate Debtor is extended for a period of 6 (six) months from the date of this Order and the Liquidation process in relation to the Corporate Debtor is required to be completed on or before **14.01.2022**. Further, the Liquidator shall make every endeavour to complete the liquidation process within the extended period and not to seek any further extension. 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.

10. With the above said directions, IA/509/CHE/2021 stands **allowed**.

-sd-
(ANIL KUMAR B)
MEMBER (TECHNICAL)

-sd-
(R. SUCHARITHA)
MEMBER (JUDICIAL)

Raymond