



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

**IA(IBC)/1541/CHE/2024**

**In**

**CP(IBC)/243(CHE)/2021**

*(filed under Sections 66 of Insolvency and Bankruptcy Code, 2016)*

*In the matter of Scheme of  
Hotel Milestonnez India Private Limited*

**Amier Hamsa Ali Abbas Rawther**

**Resolution Professional of Hotel Milestonnez India Private Limited**

IP - PO 1727/2019 - 2020/ 12620 No R094,

SBIOA Unity Enclave, Mambakkam P.O,

Near Sivan Temple, Chennai-600127

Phone No: 9930846070

mail: amierhamsa@gmail.com

*... Applicant / Liquidator*

-vs-

**1. The Managing Director,**

SIPCOT Office,

19-A, Rukmani Lakshmipathy Road,

Egmore, Chennai - 600 008

*... Respondent No. 1*

**2. Shri. M Rajamanickam,**

No.19 / 6, Gandhi Nagar Main Road,

Virugambakkam,

Chennai - 600 092

mrcanteen247@gmail.com

*... Respondent No. 2*



**3. Shri. R Ramachandran,**  
No.19/6, Gandhi Nagar Main Road,  
Virugambakkam,  
Chennai - 600 092  
ramachandran6577@gmail.com

... Respondent No. 3

Order pronounced on \_\_\_\_\_ **June, 2026**

**CORAM :**

**SANJIV JAIN, MEMBER (JUDICIAL)**  
**VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)**

*For Liquidator* : *Jayanthi K Shah, Advocate*  
*Amier Hamsa Ali Abbas Rawther,*  
*Liquidator in person*  
*For Respondent No. 1* : *Abishek Murthy*

**ORDER**

1. This is an application filed by the Liquidator of the Corporate Debtor against the SBI under Section 60(5) and Section 35(1)(n) of the Insolvency and the Bankruptcy Code, 2016 (hereinafter, IBC, 2016) read with Rule 11 of NCLT Rules, 2016 and Regulation 4(2)(b) of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, seeking the following reliefs,

- a. *Direct the 1st Respondent to restore the schedule-mentioned property to the Corporate Debtor's liquidation estate since the Suo Moto cancellation of the registration was carried out during the moratorium period of the Corporate Debtor, which is prohibited as per IBC, 2016; consequently, permit the Liquidator to deal with the scheduled property separately including e-*



*auction sale to third parties if the same is restored to the liquidation estate and arrange to issue a certified Copy of the lease deed; Or*

- b. Direct the 1<sup>st</sup> Respondent to reimburse the amount of Rs. 60 lakhs along with interest at the rate of 15.50 percent per annum from the date of the lease deed or reimburse the subsequent sale value of Rs.1,53,24,000 towards the lease.*
- c. To Pass any other order/orders that this Tribunal may deem fit and proper.*
- d. To direct the Respondent to pay a sum of Rs 50,000/- towards the cost of this Application.*

## **2. BRIEF FACTS OF THE CASE**

2.1. It is stated that the State Bank of India filed an application under Section 7 of IBC, 2016, seeking to initiate Corporate insolvency Resolution Process (CIRP) against the Corporate Debtor Hotel Milestonnez India Private Limited (hereinafter referred to as 'Corporate Debtor'). The petition was admitted by this Tribunal vide order dated 19.04.2022 in CP/18/243/2021 and the Applicant herein was appointed as the Interim Resolution Professional.

2.2. It is stated that the Respondent No. 1 is SIPCOT represented by its Managing Director; Respondent No. 2 is M Rajamanickam, the suspended Chairman of the Corporate Debtor who was in charge of day-to-day management of its business and Respondent No.3, R



Ramachandran was the Managing Director of the Corporate Debtor supporting Respondent No. 2.

2.3. It is stated that the Applicant took over the management of affairs of the Corporate Debtor as a going concern and caused public announcement to be issued on 22.04.2022 under Regulation 6(1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, for filing claims by the creditors of the Corporate Debtor in the specified forms. Thereafter, the CoC was constituted with State Bank of India, as the Sole Secured Financial Creditor. The CoC vide resolution dated 20.05.2022 decided that the Applicant shall continue as the Resolution Professional.

2.4. It is stated that the Corporate Debtor's audited balance sheet as on 31.03.2022 & 31.03.2023 reflected two immovable assets. Firstly, the Corporate Debtor acquired leasehold rights in the property allotted by SIPCOT vide lease deed dated 05.06.2013 registered as Document No. 6504/2013 on payment of consideration of Rs.60 lakhs. Secondly, the Corporate Debtor availed loan from State Bank of India by mortgaging the promoters' properties along with the Hotel complex as Collateral, for construction of the Hotel complex.

2.5. It is stated that the Liquidator was assured that the SIPCOT property mentioned above was the Corporate Debtor's property. It was added to the liquidation estate since the same was carried forward



in the balance sheet of the Corporate Debtor. The promoters never disclosed any termination of the lease to the Liquidator.

2.6. It is stated that the land area measuring 146 cents was mortgaged to State Bank of India, by the Respondent No. 2 and 3, on which the Hotel building of the Corporate Debtor was constructed from the project loan disbursed by the Sole Financial Creditor. It is stated that another land (inside the Hotel premises) wherein the hotel complex swimming pool and other utility rooms are constructed, owned by Respondent No. 2 admeasuring 132 cents was also mortgaged to the Sole Financial Creditor for availing the term loan.

2.7. It is stated that the realizable value of the hotel of the Corporate Debtor without land value is meagre. Hence, to address the land issue in the name of promoters/guarantors and Hotel complex in the name of the CD and deriving maximum value through a meaningful liquidation process of the CD, an application, IA/530/2023, was filed before this Tribunal seeking directions to Respondent No. 2 and 3 herein to hand over the physical possession of the mortgaged leasehold land of the Corporate Debtor to the Liquidator so as to add the mortgaged land to the Liquidation Estate of Corporate Debtor.

2.8. It is stated that this Tribunal vide order dated 09.02.2024 observed as under: *"In order to maximize the value of the assets of the Corporate Debtor, the Applicant along with the Respondent No. 1 (SBI) shall take steps to conduct a Joint Sale of the Properties of the Corporate Debtor and*



*the Guarantor both under IBC, 2016 and SARFAESI Act, 2002, by issuing a Joint e-Auction Sale Notice. (ii) It is made clear that the Respondents 2 and 3, (whose properties have been taken possession under SARFAESI Act 2002), shall have their rights and remedies available under the SARFAESI Act.”*

2.9. It is stated that the Suspended Directors (Respondent No. 2 and 3 herein) did not cooperate, hence, the Liquidator was constrained to file an application under Section 19 (2) of IBC vide application number IA/1373/2022. This Tribunal vide order dated 12.01.2023 directed the Suspended Directors to provide all the required documents and information to the liquidator and disposed of the application. The Liquidator vide letter dated 28.08.2022 mentioned the list of items for which cooperation was sought, however till date, the said details are not provided by Respondent No. 2 and 3.

2.10. It is stated that in the 4<sup>th</sup> SCC meeting held on 23.02.2024, it was decided to go for a joint auction sale. The Applicant published an e-auction sale notice in newspapers for joint e-auction on 28.02.2024 as per the directions of this Tribunal. However, there was no successful bidder.

2.11. It is stated that the Applicant vide letter dated 15.05.2024 once again requested Respondent No. 2 and 3 to share the original Lease deed for the Land allotted by SIPCOT. The Respondents replied stating that since they have shifted their residence recently, they are unable to locate the documents and shall share the same as early as possible.



2.12. It is stated that 50 cents of land granted to the Corporate Debtor by SIPCOT on a 99- year lease was included in the Corporate Debtor's assets for the ongoing joint e-auction sale, as it was listed in the audited balance sheet of the company as of 31.03.2022 and 31.03.2023. Since the Promoters did not cooperate and provide the Lease deed, the Liquidator inquired from the connected people and examined the lease deed's Encumbrance Certificate (EC). To the shock and surprise, he found that SIPCOT had Suo Motu cancelled the leasehold entitlement on 19.05.2022 and subsequently registered it in the name of another entity on 14.03.2023 for a consideration of Rs.1.53 Crores. It is stated that the property was initially allotted and registered to the Corporate Debtor on 05.06.2013, through a Lease Agreement.

2.13. It is stated that the Suo Moto cancellation on 19.05.2022 by SIPCOT occurred after the Corporate Debtor was admitted into CIRP on 19.04.2022 during which prohibition under Section 14 of the IBC, 2016 was in effect. Therefore, SIPCOT ought not to have cancelled the lease deed during the moratorium period. However, the cancellation was also not withdrawn even after the Liquidator writing so many communications and informing SIPCOT.

2.14. It is stated that in the 7<sup>th</sup> SCC meeting, the SCC decided to cancel the e-auction sale process and the same was made by paper publication on 11.06.2024. It was also decided in the SCC meeting to cancel the joint e-auction sale announced in the newspapers since the SIPCOT property also was included in the liquidation estate to be sold



under the Joint e-auction sale. It was decided by the SCC to exclude the asset (SIPCOT leasehold land) from the liquidation estate and go for a new joint e-auction sale, for which the advertisement was released on 14.06.2024. It is stated that the joint e-auction sale bid is scheduled on 17.07.2024 with remarks of excluding the SIPCOT property from the liquidation estate of the Corporate Debtor proposed to be sold.

2.15. It is stated that the Liquidator also clarified to the members that as per the provisions of Section 14(1)(d) in conjunction with Section 33(5), a prohibition extends to the recovery of any property by an owner or lessor when the property is occupied by or in possession of the Corporate Debtor. Therefore, in the 7<sup>th</sup> SCC, it was decided to file an application before the Tribunal to restore the Suo Moto cancelled SIPCOT property.

2.16. It is stated that the Applicant is struggling to sell the hotel building located on the Promoter's land. Now, the other property allocated by SIPCOT mentioned in the liquidation estate is also cancelled by SIPCOT. Therefore, in the absence of the interference of this Tribunal nothing will be left in the Liquidation Estate, hence its necessary to restore of the SIPCOT property or recover the sums paid towards the lease of the same along the interest at the rate of 15.50% pa from the date of execution of the lease deed or the amount realized (Rs.1.53 Crores) by the SIPCOT for the re-sale of the allocated property.



### 3. REPLY OF RESPONDENT NO. 1

3.1. It is stated that the Respondent No.1 was incorporated as a Limited Company with an objective to develop industrial area with basic infrastructural facilities and maintenance of such industrial area in Tamil Nadu by allotting Lands for industrial purposes on long term Lease of 99 years. The Respondent allotted Plot No. PB-7/2, measuring 0.50 acres, for a consideration of Rs. 120 Lakhs (at the commercial rate) to the Corporate Debtor for the purpose of establishing a Hotel, Restaurant, and Hospitality Services. The allotment took place on 02.04.2013. A Lease Deed was executed and registered under Document No. 6504/2013 on 05.06.2013. Additionally, a Rectification Deed was executed and registered under Document No. 10580/2015 on 30.10.2015.

3.2. It is stated that the Applicant is aware of the fact that in accordance with Clauses 40(a) and 40(b) of the Lease Deed dated 05.06.2013, it is mandatory for the Corporate Debtor to obtain a 'No Objection Certificate (NOC)' from the Respondent No. 1 prior to seeking financial assistance from any financial institution or bank for the implementation of the project on the allotted plot. Furthermore, in the event the Corporate Debtor fails to comply with any of the terms and conditions stipulated in the Lease Deed, Respondent No. 1 reserves the right to cancel the allotment and reclaim the plot under the provisions of the Tamil Nadu Public Premises (Eviction of Unauthorized Occupants) Act. It is stated that the financial institutions



or banks issue NOC for the creation of a mortgage to be notified by Respondent No. 1, with a notice period of 90 (ninety) days, within which such institutions or banks shall be required to take appropriate remedial action.

3.3. It is stated that, in the present case, the Corporate Debtor neither availed the No Objection Certificate (NOC) from Respondent No. 1 to secure credit facilities from State Bank of India (Financial Creditor) by mortgaging the aforementioned plot, nor did the Financial Creditor insist the Corporate Debtor to furnish the NOC from Respondent No. 1 prior to sanctioning the loan.

3.4. It is stated that the said plot was allotted on a 99-year lease basis, with ownership of the plot vested in Respondent No. 1. The Financial Creditor failed to notify the resumption of the plot under the provisions of the SARFAESI Act. Further, the Financial Creditor committed an error by failing to ascertain the terms and conditions specified in the Allotment Order and the Lease Deed executed between the Corporate Debtor and Respondent No. 1. Despite this, the Financial Creditor proceeded to sanction the loan to the Corporate Debtor without ensuring compliance with the precondition of obtaining the NOC for sanctioning such loan in favour of Respondent No. 1. Therefore, the Corporate Debtor seems to have availed loan from SBI by mortgaging the above plot without obtaining NOC from Respondent No.1, which is in contravention of clause 40(a) & (b) of the



Lease deed dated 05.06.2013. It is stated that SBI also erred in considering the same before sanctioning such loan.

3.5. It is stated that since the Corporate Debtor failed to implement the project as per clause 14(1) of the agreement with regard to the allotted plot despite lapse of more than seven years, Respondent No.1 issued 15 days Show cause notice on 07.01.2020 followed by 90-days Notice on 27.02.2020 and subsequently a Cancellation Order on 26.09.2020. In response, the Corporate Debtor submitted a request on 12.10.2020 seeking the revocation of the Cancellation Order. In turn, Respondent No. 1, on 01.12.2020, instructed the Corporate Debtor to remit the differential land cost of Rs. 21,37,500/- within 30 days from the date of the letter, failing which action would be initiated under the Tamil Nadu Public Premises (Eviction of Unauthorized Occupants) Act for the resumption of the plot, as a prerequisite for revoking the Cancellation Order.

3.6. It is stated that since the Corporate Debtor failed to remit the differential land cost, despite being granted Extensions of Time (EOT) on three different occasions through letters issued by Respondent No. 1 dated 08.01.2021, 15.02.2021, and 27.05.2021, and with the third EOT expiring on 15.06.2021, Respondent No. 1 instructed, on 27.10.2021, the Project Officer / Estate Officer, SIPCOT Industrial Park, Irungattukottai, to initiate the necessary legal action for the resumption of the plot, in accordance with the procedure. Accordingly, the Estate Officer initiated the action and resumed the subject plot under the



Tamil Nadu Public Premises (Eviction of Unauthorized Occupants) Act, 1975. It is stated that the Cancellation Deed was executed and registered as Document No. 4462/2022, dated 19.05.2022, by the Project Officer / Estate Officer, SIPCOT Industrial Park, Irungattukottai. The subject plot was subsequently re-allotted to M/s. Deccan Supply Chain Solutions LLP on 18.08.2022, and they executed and registered the Lease Deed on 10.11.2022, as Document No. 10909/2022.

3.7. It is stated that since an enquiry was conducted on 02.03.2022 at 11:00 a.m. at the SIPCOT Project Office, SIPCOT Industrial Park, Irungattukottai, the Corporate Debtor attended the enquiry in response to the Form-B notice issued on 15.02.2022. During the enquiry, the Corporate Debtor did not disclose any information regarding the loan availed from State Bank of India by mortgaging the subject plot. They also failed to inform about the ongoing CIRP proceedings pending before the Tribunal. Further, Respondent No. 1 did not receive any notice from the Liquidator. Hence, Respondent No. 1 initiated the action against the Corporate Debtor for the violation of the terms and conditions of the Allotment Order/Lease Deed as the Corporate Debtor had not implemented the project as per clause 40 (a) and (b) of the lease deed and the Corporate Debtor had availed the loan from State Bank of India by mortgaging the subject plot without obtaining 'No Objection Certificate (NOC)' from Respondent No. 1 which constituted a breach of Clause 40 (a) and (b) of the Lease Deed, executed and registered as Doc. No. 6504/2013 dated 05.06.2013.



3.8. It is stated that since the subject plot was resumed by the Respondent No. 1 under the Tamil Nadu Public Premises (Eviction of Unauthorized Occupants) Act (TNPP(E) Act) and subsequently allotted to another company, consequently, the cancellation of the Suo Motu Cancellation Deed at this stage would be rendered infructuous.

#### 4. REPLY OF RESPONDENT NO. 2 AND 3

4.1. It is stated that the averment regarding the joint e-auction and proceedings in IA/1373/2022 is irrelevant to the present application seeking restoration of the SIPCOT land and therefore the respondents refrain from replying to these averments and focus only on the issue at present.

4.2. It is stated that Respondent No. 2 representing the Corporate Debtor had entered into a 99 year lease dated 05.06.2013 registered as Doc. No. 6504 of 2013 on the file of SubRegistrar Office, Sriperumbudur with Respondent No. 1.

4.3. The 2nd Respondent states that when the liquidator sought for the copy of the lease deed, the same could not be provided to the liquidator as the 2nd Respondent had shifted his residence and could not locate the documents. It is stated that the non-production of the lease deed was for the bonafide reason as stated above.

4.4. It is stated that the 2nd Respondent came to know of the Suo moto cancellation of the Lease Deed dated 19.05.2022 by SIPCOT, only



upon the information provided by the Liquidator, as from the date of admission of Corporate Debtor into CIRP on 19.04.2022, the affairs of the Corporate Debtor were taken over by the Applicant and the 2nd Respondent had no control over the affairs of the Corporate Debtor.

4.5. It is stated that it is settled law that during moratorium any license, permit, registration, quota, concession, clearance and any other similar grant or right given by Government or its instrumentalities shall not be suspended or terminated on the grounds of insolvency, subjected to default in payment during moratorium period. In the present case the 1st Respondent suo moto cancelled the lease deed one month after the admission of the Corporate Debtor into CIRP, which is contrary to the restriction imposed under S. 14 (1) (d) of the Code, 2016.

4.6. As averred by the Liquidator that the Liquidator was struggling to sell the hotel building along with the promoter's land, which has now been sold vide sale auction held on 17.07.2024 and the same has been challenged before the Hon'ble Debt Recovery Tribunal on the ground that property has been sold for a meagre sum when compared to the value of the property and the same is pending adjudication. In this circumstance, if the SIPCOT property was jointly sold in the e-auction, then the value of the Corporate Debtor as a going concern would have been much higher and the property would have fetched much higher value.



4.7. Dehors the above, it is stated that the suo moto cancellation of the lease deed by the 1st Respondent during the moratorium imposed during the CIRP period is erroneous and liable to be restored back to the estate of the Corporate Debtor.

## 5. FINDINGS OF THE TRIBUNAL

5.1. The Corporate Debtor was admitted into Corporate Insolvency Resolution Process vide order dated 19.04.2022 passed by this Tribunal in CP/18/243/2021. Subsequently, liquidation proceedings against the Corporate Debtor, namely Hotel Milestonnez India Private Limited, were initiated vide order dated 15.02.2023 passed by this Tribunal in IA(IBC)/1425(CHE)/2022 in CP(IBC)/243(CHE)/2021 and the Applicant herein was appointed as the Liquidator.

5.2. Section 14 of the IBC, 2016 is extracted as under:

### *“Section 14: Moratorium*

*14. (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<sup>4</sup> 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."*

5.3. Respondent No. 1, State Industries Promotion Corporation of Tamilnadu Limited (hereinafter, SIPCOT) allotted the Plot No PB-7/2 in SIPCOT Industrial Park at Irungattukottai to the Corporate Debtor for a period of 99 years for setting up of hotel, restaurant and hospitality services vide allotment order dated 02.04.2013.

5.4. As per Clause 3(viii) of the Allotment Order, the Allottee/ Corporate Debtor was to complete the implementation of the project/ commercial production within 30 months from the date of allotment, failure of which would lead to cancellation of the allotment and the forfeiture of the deposit amounts. Clause 18 provides that construction of building shall commence within 6 months and completed within 24 months thereafter. Clause 17 reiterates that the commercial production shall commence within 30 days of allotment order.



5.5. Clause 19 of the Allotment Order provides that in the event of non-compliance with the terms of the Allotment Order, the same is liable to be cancelled and the plot will be resumed by SIPCOT. Clause 19 is extracted as under:

19. Failure to comply with any of the conditions of this allotment order shall result in cancellation of allotment, resumption of the plot and disconnection of water supply by SIPCOT. On such cancellation plot deposit, development charges, additional development charges incurred and collected if any, Lease rent or interest thereon already paid by the allottee shall not be refunded nor shall any compensation in whatever form be payable to the allottee.

5.6. Clause 14 of the Lease Deed executed on 05.06.2013 registered as Document No. 6504 of 2013 further solidifies the right of SIPCOT to unilaterally cancel the allotment of plot in the event that the allotted plot is not put to use for the purpose for which it is allotted. Clause 14 is extracted as under:



14.(i) If, in the opinion of the **Party of the First Part**, it is found that the land allotted to the **Party of the Second Part** is not put to use for the purpose for which it was allotted or is in excess of the actual requirements of the **Party of the Second Part** for the purpose for which it was allotted, the **Party of the First Part** shall at any time have the right to cancel the allotment in respect of such land or excess land, as the case may be, and resume the same under the provision of TNPPE Act. In the event of resuming excess land by the **party of the first part**, the plot deposit and development charges and additional development charges collected from the **Party of the Second Part** will be suitably modified and refund of the plot deposit alone if any, due to the **Party of the Second Part** will be made. Development charges, additional development charges, Lease rent, Interest and enhanced interest, if any already paid or due, will not be subject to any refund or modification in such an event.

5.7. Clause 12 reserves the right of SIPCOT to take possession of the allotted plot on the cancellation of the allotment and to initiate proceedings under Tamilnadu Public Premises (Eviction of Unauthorised Occupants) Act, 1975 for eviction of the Corporate Debtor and to recover the amounts due.

5.8. In the present case, SIPCOT issued 15 days show cause notice dated 07.01.2020 to the Corporate Debtor on account of failure to commence the construction of building as imposed under Clause 3 of the Allotment Order in exercise of its right under Clause 14 to cancel the plot allotment on the grounds of non usage for the purpose of allotment. In the Show Cause Notice, it was pointed out that while the binding deadline for construction of building is 6 months from the date of allotment order, no such construction activity has commenced although 6.5 years have elapsed since the allotment of the plot. Subsequently, 90 days Show Cause Notice was issued providing



opportunity to the Corporate Debtor to take remedial action. Since SIPCOT was not satisfied with the reply of the Corporate Debtor dated 22.01.2020 and 26.05.2020, the allotment was finally cancelled in exercise of its right under Clause 14 of the Lease Deed by Cancellation Notice 26.09.2020 and it sought for the execution of surrender deed within 15 days from date of notice.

5.9. In response to the cancellation notice dated 26.09.2020, the Suspended Director of the Corporate Debtor vide letter dated 12.10.2020 sought for extension of time for completion of the project till January 2021 and till April 2021 for commencement of the commercial run. Considering the representation made by the Corporate Debtor, SIPCOT proposed to consider the request for revocation of the cancellation order on the condition of remittance of differential plot cost of Rs. 21,37,500 within 30 days of the letter dated 01.12.2020 failing which action would be initiated under TNPPE Act. Subsequently, the time for remittance of differential cost was granted on three separate instances, with the final deadline granted upto 15.06.2021.

5.10. Thereafter, in the background of no extension of time being granted and the cancellation order dated 26.09.2020 still subsisting, hearing notice dated 15.02.2022 was issued to the Corporate Debtor under Section 4 of TNPPE Act, 1975. On failure of the proceedings, the order of eviction under TNPPE Act, 1975 was issued on 22.03.2022 followed by physical possession on 04.04.2022 at 04.00 P.M in



pursuance to the order of eviction. The Deed of cancellation was executed by SIPCOT on 19.05.2022.

*Sale as a going concern of assets of Hotel Milestonnez India Private Limited (in liquidation) including Hotel Building complex admeasuring above 50,000 sq.ft., furniture & fixtures, machinery, electrical and electronic equipments, swimming pool, etc. Bar attached three Star running Hotel at Chennai – Bangalore National Highway at Santha Velur, Sriperumbudu*

*Leasehold land of 50 cents at SIPCOT held by CD: A leasehold land of 50 cents from SIPCOT Industrial Park for 99 years (2013-2111) lease period. The land with Sy No. 232 part and 234 part with allotment No. DI/SIR-IRU/ MILESTONNEZ /2013 and Plot No.PB-7/2 dated 02.04.2013 is located at Irrignattukottai, Kattrambakkam and Thandalam Revenue Villages, Sriperumbudur Taluk.*

5.11. This Tribunal refers to the decision of the Hon'ble Supreme Court of India in the case of *A A Estates Pvt. Ltd. and Anr. v. Kher Nagar Sukhsadan Co-Operative Housing Society Ltd. and Ors. ((2025) ibclaw.in 492 SC)*, wherein it was held that in the event of lawful termination of a contract prior to Insolvency Commencement Date for the reasons of default in the performance of the contract by the corporate debtor, the Tribunal cannot revive such contractual rights on the grounds of moratorium imposed under Section 14 of IBC, 2016. The relevant paragraphs are extracted as under:



*“15.7. Applying these principles, the termination in the present case was not occasioned by the insolvency of the corporate debtor but by its persistent non-performance. Letters issued by the Society, including one dated 31.05.2019, record that continuation of the agreement was conditional upon compliance by the developer, failing which the contract would stand cancelled. These defaults occurred well before initiation of the CIRP. Thus, the termination was based on legitimate grounds unrelated to insolvency...”*

*“16.6. Similarly, in **Tata Consultancy Services Ltd** (supra), this Court held that the Resolution Professional cannot compel continuation of a contract that was validly terminated prior to initiation of CIRP. Once a contract stands lawfully terminated, it ceases to exist and cannot be treated as an “asset” or “property” of the corporate debtor. The moratorium under Section 14 does not have the effect of reviving or re-creating contractual rights that have been extinguished before insolvency.”*

5.12. Similarly the Hon’ble Supreme Court in **TATA Consultancy Services Limited Vs. Vishal Ghisulal Jain, Civil Appeal No. 3045 of 2020**, held that the Tribunal does not have the jurisdiction to entertain disputes that arises de hors insolvency of the corporate debtor. The relevant extract is as follows for convenience:

*“ 26. In Gujarat Urja (supra), the contract in question was terminated by a third party based on an ipso facto clause, i.e., the fact of insolvency itself constituted an event of default. It was in that context, this Court held that the contractual dispute between the parties arose in relation to*



*the insolvency of the corporate debtor and it was amenable to the jurisdiction of the NCLT Under Section 60(5)(c). This Court observed that “.... NCLT has jurisdiction to adjudicate disputes, which arise solely from or which relate to the insolvency of the corporate debtor... The nexus with the insolvency of the corporate debtor must exist” (para 69). Thus, the residuary jurisdiction of the NCLT cannot be invoked if the termination of a contract is based on grounds unrelated to the insolvency of the Corporate Debtor.*

*27. It is evident that the Appellant had time and again informed the Corporate Debtor that its services were deficient, and it was falling foul of its contractual obligations. There is nothing to indicate that the termination of the Facilities Agreement was motivated by the insolvency of the Corporate Debtor. The trajectory of events makes it clear that the alleged breaches noted in the termination notice dated 10 June 2019 were not a smokescreen to terminate the agreement because of the insolvency of the Corporate Debtor. Thus, we are of the view that the NCLT does not have any residuary jurisdiction to entertain the present contractual dispute which has arisen dehors the insolvency of the Corporate Debtor. In the absence of jurisdiction over the dispute, the NCLT could not have imposed an ad-interim stay on the termination notice. The NCLAT has incorrectly upheld the interim order of the NCLT. has no bearing, we would like to issue a note of caution to the NCLT and NCLAT regarding interference with a party’s contractual right to terminate a contract. Even if the contractual dispute arises in relation to the insolvency, a party can be restrained from terminating the contract only if it is central to the success of the CIRP. Crucially, the termination of the contract should result in the corporate death of the Corporate Debtor”*

5.13. In the present case, the material on record clearly establishes that the termination of the leasehold rights of the Corporate Debtor was not occasioned by the initiation of insolvency proceedings, but on account



of persistent non-performance and failure to comply with the terms of allotment and lease conditions by the Corporate Debtor. It is seen that SIPCOT had repeatedly informed the Corporate Debtor regarding the delay in commencement of the project and had expressed its intention to terminate the lease agreement much prior to the initiation of CIRP.

5.14. The cancellation order itself came to be issued on 26.09.2020, thereby bringing an end to the leasehold rights of the Corporate Debtor for want of performance of contractual obligations. Thereafter, though the Corporate Debtor continued to address communications seeking extension of time and revocation of the cancellation, such correspondence cannot dilute the legal effect of the cancellation order which continued to remain in force. It is seen that the eviction proceedings were also undertaken prior to the Insolvency Commencement Date. The hearing for eviction took place on 15.02.2022 and the eviction order came to be passed on 22.03.2022. The said order was executed on 04.04.2022, all of which occurred prior to the commencement of CIRP on 19.04.2022. The mere fact that the cancellation deed was formally registered subsequently would not revive or continue any subsisting right in favour of the Corporate Debtor.

5.15. We find that the lease deed stood validly terminated prior to the commencement of CIRP, hence, the Applicant cannot seek its continuation, and such extinguished contractual rights cannot be treated as the assets of the Corporate Debtor. Section 14 of the IBC does



not have the effect of reviving contractual rights that had already ceased to exist prior to insolvency.

5.16. Applying the principles *A A Estates Pvt. Ltd. and Anr. (supra)* and *TATA Consultancy Services Limited (supra)* to the facts of the present case, this Tribunal is of the considered view that the leasehold rights of the Corporate Debtor already stood terminated prior to the Insolvency Commencement Date and the consequential eviction proceedings also attained finality before initiation of CIRP. There is nothing to indicate that the termination was motivated by the insolvency of the Corporate Debtor or was intended to defeat the insolvency process. Rather, the termination was founded upon the admitted and continued default of the Corporate Debtor in performing its contractual obligations. That being the position, this Tribunal does not possess jurisdiction under the provisions of the IBC to revive or re-create rights that had already stood extinguished prior to commencement of CIRP.

5.17. **IA(IBC)/1541(CHE)/2024** is accordingly **dismissed**. No orders to costs.

**-Sd-**

**VENKATARAMAN SUBRAMANIAM**  
MEMBER (TECHNICAL)

**-Sd-**

**SANJIV JAIN**  
MEMBER (JUDICIAL)