

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

**TP/2(CHE)/2021**

**CP No. 201 of 1996**

*(On the file of the Hon'ble High Court of Madras)*

In the matter of ***M/s. Neptune Inflatables Limited***

**TIDCI Limited**

*... Financial Creditor*

- Vs -

**Neptune Inflatables Limited**

*... Corporate Debtor*

In the matter of

**Harikrishna,  
Proprietor of M/s. Classic Marketing**

*... Applicant*

- Vs -

**Neptune Inflatables Limited**

*... Corporate Debtor*

*Order pronounced on 1<sup>st</sup> February 2022*

CORAM :

**Justice (Retd.) S. RAMATHILAGAM, MEMBER (JUDICIAL)  
ANIL KUMAR B, MEMBER (TECHNICAL)**

*For Applicant : Chirag Gupta, Advocate*

**ORDER**

***Per: ANIL KUMAR B, MEMBER (TECHNICAL)***

The Financial Creditor viz. TIDCI Limited originally filed  
Winding up Petition under Section 433(e) and (f) of the Companies

Act, 1956 and the Hon'ble High Court of Madras vide its order dated 13.03.1998 ordered winding up of the Company and it was submitted that nothing effective has happened for all time these years and except for a sale of movable property for a sum of Rs.9,500/-. It was submitted that the Learned Official Liquidator has not taken steps to realize the property of the Company in Liquidation and settle the creditors.

2. While the proceedings were pending before the Hon'ble High Court of Madras, one of the Creditor of the Company in Liquidation viz. Harikrishna, Proprietor of M/s. Classic Marketing has moved a Company Application No. 98 of 2021 seeking transfer of proceedings in CP No. 201 of 1996 to National Company Law Tribunal (NCLT), Chennai to be treated as an Application for initiation of Corporate Insolvency Resolution Process under the provisions of the IBC, 2016.

3. The Hon'ble High Court of Madras vide its order dated 13.08.2021 has transferred the proceedings before this Adjudicating Authority to be dealt with in accordance with the provisions of IBC, 2016.

4. Thus it is seen that the affairs of the Corporate Debtor has not yet been completely wound up and hence under the said

circumstances, we hereby initiate Corporate Insolvency Resolution Process as against the Corporate Debtor viz. M/s. Neptune Inflatables Limited. The Official Liquidator is discharged of his duty in relation to the Corporate Debtor company is concerned.

5. The Applicant has proposed the name of **Mr. Mudappalur Varieth Gangadharan**, with *Reg. No. IBBI/IPA-001/IP-P00438/2017-2018/10761* to act as the "Interim Resolution Professional" in respect of the Corporate Debtor, who has also filed his consent in Form – 2 and also upon verification from the IBBI website, it is seen that the Authorization for Assignment is granted to the said IRP till 15.05.2022. The proposed IRP who is appointed shall take forward the process of Corporate Insolvency Resolution of the Corporate Debtor. The IRP appointed shall take in this regard such other and further steps as are required under the Statute, more specifically in terms of Section 15,17,18 of the Code and file his report within 20 days before this Bench. The powers of the Board of Directors of the Corporate Debtor shall stand superseded as a consequence of the initiation of the CIRP in relation to the Corporate Debtor in terms of the provisions of IBC, 2016.

6. As a consequence of the Application being admitted, moratorium as envisaged under provisions of Section 14(1) and as

extracted hereunder shall follow in relation to the Corporate Debtor;

- a. The institution of suits or continuation of pending suits or proceedings against the respondent 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 respondent 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 respondent in respect of its property including any action under the Securitization 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 respondent.

*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 licence, permit, registration, quota, concession, clearance 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 or a similar grant or right during moratorium period;



7. However during the pendency of moratorium period in terms of Section 14(2) and 14(3) as extracted hereunder;

(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 arrangement 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.

8. The duration of period of moratorium shall be as provided in Section 14(4) of the Code which is reproduced below for ready reference;



- (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.

9. Based on the above terms, the Petition stands **admitted** in terms of Section 9 of the Code and the Moratorium shall come into effect as on the date of this order. A copy of the Order shall be communicated to the Financial Creditor as well as to the Corporate Debtor above named by the Registry. In addition, a copy of the Order shall also be forwarded to IBBI for its records. Further, the Interim Resolution Professional above named shall also be furnished with copy of this Order forthwith by the Registry, who will communicate the initiation of the CIRP in relation to the Corporate Debtor to the Registrar of Companies concerned.

-Sd-  
**B. ANIL KUMAR**  
MEMBER (TECHNICAL)

-Sd-  
**Justice (Retd.) S. RAMATHILAGAM**  
MEMBER (JUDICIAL)

*Raymond*