IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH, CHENNAI

IA/356/CHE/2021 in CP/1211/IB/2018

(Under Section 60(5) of Insolvency and Bankruptcy Code, 2016 read with Regulation 44 and 47A of the IBBI (Liquidation Process) Regulations, 2016 read with Rule 11 of NCLT Rules, 2016)

In the matter of ***M/s. Gold King Tex India Private Limited***

CA Mahalingam Suresh Kumar
Liquidator of M/s. Gold King Tex Private Limited
M/s. SPP & Co., Chartered Accountants,
No.27/9, Nivedh Vikas, Pankaja Mill Road,
Puliyakulam,
Coimbatore – 641 045

.. .. .. Applicant

Order Pronounced on 31st May 2021

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R. VARADHARAJAN, MEMBER (JUDICIAL)
ANIL KUMAR B, MEMBER (TECHNICAL)

For Applicant : A. G. Sathyanaryana, Advocate

ORDER

Per: **R. VARADHARAJAN, MEMBER (JUDICIAL)**

1. This is an Application which is filed by the Liquidator of M/s. Gold King Tex Private Limited under Regulation 44 and 47A of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 seeking relief as follows;

a. That this Hon'ble Adjudicating Authority may be pleased to pass an order by extending the Liquidation Timeline for a period of another 6 months from 04.09.2020;

b. To exclude the Covid – 19 lockdown period from 25.03.2020 to 14.03.2021; and

c. To pass such further orders or further orders which may deem to be fit and proper in the interest of justice.

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2. In an application filed under Section 9 of IBC, 2016, by one M/s. GHCL Limited against the Corporate Debtor viz. M/s. Gold King Tex Private Limited, this Tribunal vide its order dated 25.01.2019 passed in CP/1211/IB/2018 has initiated the Corporate Insolvency Resolution Process against the Corporate Debtor and appointed one Mr. C. Ramasubramaniam, as the Interim Resolution Professional (IRP).

3. Thereafter, it is seen that based on the recommendation of the Committee of Creditors (CoC) in its meeting held on 29.07.2019, the Applicant herein had filed an Application before this Tribunal under Section 33(2) of IBC, 2016 seeking for Liquidation of the Corporate Debtor and this Tribunal in MA/854/2019 vide its order dated 03.09.2019 passed an order of

Liquidation of the Corporate Debtor and appointed the Applicant herein as the Liquidator of the Corporate Debtor.

4. The Learned Counsel for the Applicant submitted that, the Liquidator effected public announcement on 06.09.2019 in accordance with Regulation 12 of the IBBI (Liquidation Process) Regulations, 2016 calling for the claims from the creditors of the Corporate Debtor and fixed the last date for the receipt of the claim as 03.10.2019. Thereafter, in compliance with Regulation 13 and 34 of the IBBI (Liquidation Process) Regulations, 2016 the Liquidator has filed the Preliminary Report and the Asset Memorandum within the prescribed time before this Tribunal. It was further submitted that in compliance of Regulation 15 of IBBI (Liquidation Process) Regulations, 2016, the Liquidator has filed the quarterly progress report with this Tribunal as follows;

S. No.	Particulars	Date of Filing
1	1st Progress Report	21.10.2019
2	2nd Progress Report	10.01.2020
3	3rd Progress Report	29.06.2020
4	4th Progress Report	25.08.2020
5	5th Progress Report	26.10.2020
6	6th Progress Report	07.01.2021

5. It was submitted by the Learned Counsel for the Liquidator that he had issued the 1st E-Auction Sale of the Land and Building & Plant and Machinery of the Corporate Debtor on 02.02.2020 and the E-Auction was conducted on 04.03.2020 and that he has sold the Plant and Machinery, after a competitive bidding, for a sum of Rs.3,20,30,500/-. Further, it was submitted that due to the nationwide lockdown imposed by the State / Central Government consequent upon the Covid – 19 pandemic, there was a delay in selling the Land and Building of the Corporate Debtor which resulted in the delay in completion of the Liquidation Process.

6. It was submitted that since there was no response on the issue of the 2nd and 3rd E-Auction Notice, the Liquidator had issued the 4th E-Auction Sale Notice for the sale of Land and Building on 06.12.2020 and the E-Auction Sale was conducted on 24.12.2020 and the Land and Building was sold to the successful bidder for a price of Rs.4,07,20,000/-. However, it was submitted that the suspended directors / promoters of the Corporate Debtor filed IA/1076/2020 before this Tribunal seeking for a proposal to file a Scheme after the expiry of 430 days, especially when the assets of the Corporate Debtor were already sold.

7. Further, it was submitted by the Learned Counsel for the Applicant that the Employee Provident Fund (EPFO) has filed a claim before the Liquidator and the same was admitted by the Liquidator as a result of which the Applicant has filed IA/856/2020 before this Tribunal seeking direction to modify the list of stakeholders and the same is pending before this Tribunal for adjudication. It was also submitted by the Learned Counsel for the Liquidator that the Registration process of the Land and Building of the Corporate Debtor is still pending and hence there arises a situation that the liquidation period of the Corporate Debtor is required to be extended for a further period of 6 months from 04.09.2020, after excluding the period of lockdown from 25.03.2020 to 14.03.2021. The Learned Counsel for the Applicant placed reliance upon the Judgment of the Hon'ble Supreme Court in the matter of Suo Motu W.P. (C) No. 3 of 2020 for seeking exclusion of the Lockdown period from 25.03.2020 to 14.03.2021.

8. Heard the submission made by the Learned Counsel for the Applicant. It is to be noted here that the Regulation 44(2) mandates that the Liquidation in relation to the Corporate Debtor is required to be completed within a period of one year and in the

present case, the Liquidation process in relation to the Corporate Debtor is required to be completed on or before 04.09.2020.

9. The Applicant in the Application has averred that eventhough he had completed the sale of the Land and Building of the Corporate Debtor, the Registration Process still remains to be completed and further it is also averred that an Application filed by the Promoter / suspended Director in IA/1076/2020 is still pending adjudication before this Tribunal and also IA/856/2020 which is filed by the Liquidator is also pending before this Tribunal. Further, it is also stated that due to the prevailing Covid – 19 pandemic and the attendant lock down imposed by the Central / State Government, the Liquidator is unable to complete the Liquidation process and hence there arises a necessity to continue with the Liquidation process of the Corporate Debtor.

10. It is also significant to note here that owing to Covid-19 pandemic and consequent lockdown imposed by the Central / State Government from time to time, the Regulator viz. Insolvency and Bankruptcy Board of India (IBBI) by way of an amendment inserted

Regulation 47A in IBBI (Liquidation Process) Regulations, 2016, which states as follows;

> **Exclusion of period of lockdown.**
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> 47A. Subject to the provisions of the Code, the period of lockdown imposed by the Central Government in the wake of Covid-19 outbreak shall not be counted for the purposes of computation of the time-line for any task that could not be completed due to such lockdown, in relation to any liquidation process.

11. Thus, by taking into consideration all the facts mentioned above, and also based upon the Notification issued by the Ministry of Home Affairs, Government of India dated 24.03.2020, 15.04.2020, 01.05.2020, 17.05.2020, 30.05.2020, 29.06.2020 and 29.07.2020 and the Notifications issued by the Tamil Nadu State Government in relation to lockdown being extended in the State of Tamil Nadu dated 31.07.2020, 31.08.2020, 30.09.2020, 31.10.2020 and 30.11.2020, this Authority feels that it is just and proper that the period from 24.03.2020 to 14.03.2021 is required to be excluded from the Liquidation period timelines and consequently the Liquidation period is required to be extended for a further period of 6 months and as such, after exclusion of the period from 24.03.2020 to 14.03.2021, the Liquidation period of

the Corporate Debtor is extended for a period of 6 months from 04.09.2020 and the Liquidation process in relation to the Corporate Debtor is required to be completed on or before 24.02.2022. Further, the Liquidator shall make every endeavour to complete the liquidation process within the extended period and not to seek for any further extension. The Liquidator, in view of the extension granted as above, is directed to abide by the model timelines for the completion of the tasks remaining incomplete, 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.

12. Accordingly, IA/356/CHE/2021 stands **allowed**.

-Sd-	-Sd-
ANIL KUMAR B	**R. VARADHARAJAN**
MEMBER (TECHNICAL)	MEMBER (JUDICIAL)

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