

IN THE NATIONAL COMPANY LAW TRIBUNAL

BENGALURU BENCH

I.A. No.501 of 2020 in
C.P. (IB) No.14/BB/2018
U/s 60 (5) of I & B Code, 2016 r/w
Regulation 44 (2) of IBBI
(Liquidation Process) Regulation 2016

In the matter:

Mr. Amit Chandrakant Shah
Liquidator of Biodiversity Conservation (India)
Private Limited,
BDO Restructuring Advisory LLP
The Ruby-Level 9, NW Wing,
SenapatiBapat Marg, Dadar (West),
Mumbai – 400 028

- Applicant / Liquidator

Date of Order: 21st December, 2020

Coram: 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)
2. Hon'ble Shri Ashutosh Chandra, Member (Technical)

Parties/Counsels Present (through Video Conference):

For the Applicant/RP : Ms. Ankita Singhania

O R D E R

Per: Rajeswara Rao Vittanala, Member (J)

1. I.A. No.501 of 2020 in C.P. (IB) No.14/BB/2018 is filed by Amit Chandrakant Shah,(hereinafter referred to as 'Applicant') the Liquidator of the Corporate Debtor M/s. Biodiversity Conversation (India) Private Limited, under Section 60 (5) of the I & B Code, 2016 R/w Regulation 44 (2) of the IBBI (Liquidation Process) Regulation 2016, inter alia seeking to extend the time for completing the liquidation process of the Corporate Debtor for further period of six (6) months from 23rd November 2020 upto 22nd May 2021.
2. Briefs facts of the case, as mentioned in Application, which are relevant to the issue in question, are as follows:



- 1) Initial Company Petition bearing C.P.(IB) No.14/BB/2018 was filed by M/s. Reliance Nippon Life Asset Management Limited and another, U/s 7 of Code against M/s. Biodiversity Conservation (India) Private Limited, was admitted by the Adjudicating Authority on 09.08.2018 by appointing the IRP, imposing moratorium, etc. Subsequently, the Corporate Debtor was placed under Liquidation, vide order dated 30th August 2019 by appointing the Applicant as Liquidator. A copy of the liquidation order was received on 6th September 2019 by the Applicant.
- 2) Pursuant to the same, the Liquidator taken various steps in accordance with the liquidation regulations and the progress reports for the quarter ending 31.12.2019, 31.03.2020 and 30.06.2020 was filed before the Adjudicating Authority as per Regulation 15 of the Liquidation Regulations. Further as per Regulation 44 (1) of the Liquidation Regulations provides that liquidator shall liquidate the corporate debtor within a period of one year from the liquidation commencement date.
- 3) The Applicant, in spite of his best efforts, is unable to liquidate the Corporate Debtor, within the time period of one year, i.e, on 22.11.2020 for the reasons stated below:
 - a) The Government of India through Ministry of Home Affairs *vide* its order dated March 24, 2020 imposed a nationwide lockdown in view of the outbreak of SARS-CoV-2 (“**COVID-19**”) in India and the press release issued pursuant to the Lockdown Order observed various directives/measures were being taken by state governments and union territory administrations towards containing the outbreak of COVID-19 and therefore, in furtherance to its efforts towards bringing parity and uniformity in the issued directives, the National Disaster Management Authority (“**NDMA**”) exercised its power under section 6(2)(i) of the Disaster Management Act, 2005 to



direct imposing a complete nationwide lockdown. The above-mentioned nationwide lockdown brought the entire country into a standstill, thereby halting business activities in India. Further, imposed restrictions on free movement of individuals, functioning of office spaces and urged for social distancing amongst all individuals and the above restrictions imposed for a period of 3 (three) weeks i.e. 21 days with effect from March 25, 2020.

- b) Further, the Government of India, exercised a cautious approach towards containing the outbreak and extended the nationwide lockdown up to May 03, 2020 *vide* order dated April, 14, 2020 ("Lockdown Order 2") issued by the NDMA. Further, the NDMA *vide* order dated May 01, 2020 bearing order no. 1-29/2020-PP issued guidelines for extension of the nationwide lockdown for a further period of two weeks with effect from May 04, 2020 ("**Lockdown Order 3**"). In view of such orders imposing complete lockdown, all business activities, services and commercial prospects had come to a complete standstill and remained in such position until October 2020. Further, NDMA *vide* order dated May 30, 2020 bearing order no. 40-3/2020-DM-1(A) issued guidelines for Unlock-1, thereby easing the restriction imposed *vide* earlier lockdown orders. However, the same further extended the lockdown up to June 30, 2020 in the areas identified as containment zones.
- c) Keeping in view of the efforts to roll back the restriction imposed in the nationwide lockdown, the NDMA *vide* order dated May 29, 2020 bearing order no.40-312020-DM-I(A) issued guidelines for Unlock-2 to re-open more economic and social activities in a calibrated manner. However, the NDMA, firstly directed towards extending the lock down in containment zones till July 31, 2020 and thereafter *vide* order



dated September 30, 2020 bearing order no.40-3/2020-DM-I(A) further extended the lockdown in the containment zone till October 31, 2020. In view of such restrictions subsisting till October 2020, the business activities came to a stand -still and were adversely affected creating operational and financial challenges for Indian business community.

- d) The construction and housing sector has been amongst the worst hit sectors of the Indian economy pursuant to the imposition of Lockdown Orders on account of outbreak of COVID-19 pandemic. Pursuant to the uncertainty and dismal business prospects, the investment in construction and housing related projects reduced in the estimated range of 13% to 30%. In view of certain surveys conducted specifically in the construction and housing sector, the housing sale had declined to the extent of 66% in the period between July-September 2020. However, thereafter in view of the various stimulus introduced by the Government of India to reinvigorate the market sentiments, the construction and housing sector has gradually begun the process of revival and re-gaining momentum. Further, considering the subsiding cash crunch in the construction and housing sector, the assets of the Corporate Debtor may entice better prospects and in view of such possibilities, the Liquidator issued 'invitation of EoI' dated October 13, 2020 inviting interest from prospective bidders for purchase of assets of the Corporate Debtor. However, the process of inviting EoIs was stayed on account of the order issued by the Hon'ble High Court of Karnataka *vide* its order dated October 29, 2020 passed in the writ petition preferred by M/s Bennett Property Holdings Company Limited directing the Liquidator to produce representation on next date of hearing i.e. November 10, 2020; whereupon, after considering the submission put

forth on behalf of the Liquidator in the said hearing, the Hon'ble High Court of Karnataka was pleased to dismiss the writ petition preferred by Bennett Properties Holding Company Limited and thereby granted liberty to the Liquidator to proceed with invitation of EoI for asset sale process of the Corporate Debtor. However as on the date of filing this Application, a copy of the order of Hon'ble High Court has not been made available to the Liquidator.

e) Hence this Application.

3. Heard Ms. Ankita Singhania, Learned Counsel for the Liquidator through Video Conference. We have carefully perused the pleadings of the Party and extant provisions of the Code and the Rules made thereunder.
4. As stated supra, the Liquidator has taken all reasonable measures to complete the liquidation process in the stipulated time, however due to the impact of Covid 19 pandemic, Legal proceedings, it could not be completed. Now it is settled position of law that lockdown is one of major reasons for slowing down judicial process and the Courts/Tribunal have to give time relaxations on that ground to complete CIRP/Liquidation proceedings We are convinced with reasons furnished by the Applicant for extension of time. Therefore, by keeping the object of the Code, it is just and proper to extend the Liquidation process for further period of five (5) months with effect from 23rd November 2020.
5. In the result, **I.A.No.501 of 2020** in C.P. (IB) No.14/BB/2018 is disposed of with the following directions:
 - (a) Hereby extended for a further period of five (5) months with effect from 23rd November 2020, in order to conclude the Liquidation process in respect of Corporate Debtor;



- (b) We hereby direct that the Liquidator to take all expeditious steps to complete the Liquidation process within the extended period without fail.



**ASHUTOSH CHANDRA
MEMBER, TECHNICAL**



**RAJESWARA RAO VITTANALA
MEMBER, JUDICIAL**

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