

**NATIONAL COMPANY LAW TRIBUNAL
SPECIAL BENCH – II, CHENNAI**

IA/1316/IB/2020 & IA/129(CHE)/2021

In

CP/1000/IB/2018

*(filed under Sec. 12(2) read with Sec. 60(5) of the Insolvency and
Bankruptcy Code, 2016)*

Along with

IA/128(CHE)/2021

In

CP/1000/IB/2018

(filed under and Sec. 33 of the Insolvency and Bankruptcy Code, 2016)

*In the matter of **M/s. Info-Drive Software Limited***

Mr. Ashwani Kumar Gupta

Resolution Professional of

M/s. Info-Drive Software Limited

... Applicant

In the matter of

Mr. Bhaaskaran Rangarajan

...Operational Creditor

-Versus-

M/s. Info-Drive Software Limited

...Corporate Debtor

Order Pronounced on 6th April 2022

COROM

R. SUCHARITHA, MEMBER (JUDICIAL)

B. ANIL KUMAR, MEMBER (TECHNICAL)

For Applicant - Mr. Ashwani Kumar Gupta, RP

COMMON ORDER

Per: R. SUCHARITHA, MEMBER (JUDICIAL)

Under Consideration are three separate applications filed by
the Resolution Professional of M/s. Info-Drive Software Limited
seeking the following reliefs:



IA/1316/IB/2020

- 1. To permit the present Application, thereby extend the period of CIRP and moratorium by further 90 days after conclusion of 180 days, excluding the nationwide lockdown period.*
- 2. Any other or further orders as the Court may deem fit and proper in present facts and circumstances.*

IA/129(CHE)/2021

- 1. To exclude the Lockdown period of 190 days being the period from 25 March 2020 till 30 September 2020 from the computation of the CIR Process period; and*
- 2. To permit the present Application thereby extend the period of CIRP and moratorium by further 90 days after conclusion of 180 days, excluding the nationwide lockdown period, as prayed under*

IA/128(CHE)/2021

- A. Pass an order of Liquidation of the Corporate Debtor in consonance with Section 33 of the Code; and*
- B. Pass an order declaring that subject to section 52 of the Code, no suit or legal proceedings shall be initiated by or against the Corporate Debtor except in relation to the transactions as may be notified by the Central Government provided that the suit or other legal proceedings may be instituted by the Liquidator on behalf of the Corporate Debtor with prior approval of the Adjudicating Authority;*
- C. Pass an Order declaring that the moratorium under section 14(1) of the code shall cease to have effect from the date of passing of Order of Liquidation of the Corporate Debtor u/s. 33 of the Code and fresh moratorium under section 33(5) of the IBC, 2016 shall commence; and*
- D. Pass an order of initiation of Liquidation of the assets of the Corporate Debtor in consonance with Section 33 of the Code;*
- E. Pass an order appointing an Insolvency Professional, from the IBBI Panel as the Adjudicating Authority may deem fit, as the Liquidator of the Corporate Debtor;*
- F. Pass an order declaring that the order of Liquidation under section 33 of the Code shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor, except when the Business of the Corporate Debtor is continued during the Liquidation process by the Liquidator; and*



- G. Pass an order allowing the Liquidator to file for early dissolution if there are no assets in the possession of the Applicant available to be sold; and*
- H. Pass any further or other order which this Adjudicating Authority deems fit and appropriate in the interest of Justice.*

2. The Applicant/Resolution Professional has filed the instant applications seeking the above mentioned reliefs. The Corporate Debtor viz., M/s. Info-Drive Software Limited was admitted into Corporate Insolvency Resolution Process (hereinafter referred as 'CIRP') against an application filed under section 9 of the Insolvency and Bankruptcy Code, 2016 Process (hereinafter referred as 'IBC, 2016') vide Order dated 10.10.2019 (15.10.2019) and Mr. Nurani Subramanian Suryanarayanan was appointed as the IRP. Thereafter, in accordance with the decision of the Committee of Creditors (CoC) the applicant herein Mr. Ashwani Kumar Gupta was appointed as the Resolution Professional vide order dated 03.02.2020. At this juncture, it is pertinent to note that the CoC had not paid the fees of the IRP and also to the Resolution Professional and that an application in IA/1213/IB/2020 is pending on the file of this Adjudicating Authority.

3. The particulars of the members of the CoC and their respective voting shares are extracted hereunder from Form-H filed,



S.No.	Name of the Creditor	Voting Share (%)
1	K. Chandrasekaran	4.85%
2	Wembley Holdings Ltd.	95.15%

A total of 7 meetings of CoC have been held so far out of which the last two meetings were held on 20.12.2020 and 24.12.2020, unattended by the CoC members. Thereupon, it is pertinent to mention that the 180 days of the CIR Process ended on 12.04.2020; however, on account of exclusion of 180 days as prayed above in IA/129(CHE)/2021 the said 180 days would have ended on 18.01.2021. Accordingly, 270 days of the CIR Process also would have ended on 18.04.2021 subject to extension of 90 days as prayed in IA/1316/IB/2020. Further, 330 days of the CIRP period would have ended on 17.06.2021. Accordingly, **IA/129(CHE)/2021** and **IA/1316/IB/2020** stand **Allowed**.

4. After the admission of the Corporate Debtor under the Corporate Insolvency and Resolution Process Publication calling for submissions of claims was made on 17.10.2019; invitation for Expression of Interest (EoI) was made vide Form -G on 12.03.2020 as an outcome of which no EoI was received. Secondly, another EoI was issued on 02.09.2020 which has also gone in vain and lastly on 20.10.2020 three prospective resolution

applicants had approached but none had reverted back. Hence, there were no Resolution Plans for Consideration.

5. In the light of the above facts and circumstances, as there exists a pending application on the file of this Adjudicating Authority for payment of IRP/RP fees, and in the event of absence of pending approval of a Resolution Plan, there appears to be no revival prospectus under section 33(1) (a) of IBC, 2016 and thus taking into consideration that the maximum CIRP period of 330 days has come to an end and that no active participation of the CoC was also rendered during the last two meetings this Adjudicating Authority deems it fit to Order the Corporate Debtor viz., M/s. Infor Drive Software Limited for Liquidation.

6. It is also seen from the records and the arguments made by the Applicant herein that, owing to his old age he is not willing to continue as the Liquidator.

7. In the said circumstances, **Mr. Mahalingam Suresh Kumar (msureshkumar@icai.org)** is appointed as the Liquidator of the Corporate Debtor from the IBBI panel list to carry out the liquidation process subject to the following terms of the directions.

- a) The Liquidator shall strictly act in accordance with the provisions of IBC, 2016 and the attendant Rules and Regulations including Insolvency and Bankruptcy (Liquidation



Process) Regulations, 2017 as amended upto date enjoined upon her.

- b) The Liquidator shall issue the public announcement that the Corporate Debtor is in liquidation. In relation to officers/ employees and workers of the Corporate Debtor, taking into consideration Section 33(7) of IBC, 2016, this order shall be deemed to be a notice of discharge.
- c) The Liquidator shall investigate the financial affairs of the Corporate Debtor particularly, in relation to preferential transactions/ undervalued transactions and such other like transactions including fraudulent preferences and file suitable application before this Adjudicating Authority.
- d) The Registry is directed to communicate this order to the Registrar of Companies, Chennai and to the Insolvency and Bankruptcy Board of India;
- e) In terms of section 178 of the Income Tax Act, 1961, the Liquidator shall give necessary intimation to the Income Tax Department. In relation to other fiscal and regulatory authorities which govern the Corporate Debtor, the Liquidator shall also duly intimate about the order of liquidation.
- f) The order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and that a fresh Moratorium under section 33(5) of the Insolvency and Bankruptcy Code shall commence.
- g) The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016.
- h) The Liquidator is directed to investigate the financial affairs of the Corporate Debtor in terms of the provisions of Section - 35(1) of IBC, 2016 read with relevant rules and regulations and also file its response for disposal of any pending Company Applications during the process of liquidation.



- i) The Liquidator shall submit a Preliminary report to this Tribunal within 75 (seventy-five) days from the liquidation commencement date as per regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016. Further such other or further report as are required to be filed under the relevant Regulations, in addition, shall also be duly filed by him with this Adjudicating Authority.
- j) Copy of this order be sent to the financial creditors, Corporate Debtor and the Liquidator for taking necessary steps and for extending the necessary co-operation in relation to the Liquidation process of the Corporate Debtor, viz., company-in-liquidation.

8. The application **IA/128/CHE/2021** stands **Allowed** with the aforesaid directions.

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

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

Mohanapriya