

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**BENGALURU BENCH**  
**(through web-based video conferencing platform)**

**ITEM No.21**  
**I.A. Nos.411 & 399 of 2020,**  
**I.A. Nos.25, 127, 243, 248, 287,**  
**288, 289, 325, 343 of 2021 in**  
**C.P. (IB) No.189/BB/2018**

**IN THE MATTER OF:**

M/s. Moonbeam Advisory Pvt. Ltd. ... Petitioner  
v.  
M/s. Sammrudhi Reality Ltd. ... Respondent

**Order under Section 9 of Insolvency & Bankruptcy Code, 2016**

**Order delivered on 17.11.2021**

**CORAM:**

**SH. AJAY KUMAR VATSAVAYI**  
**HON'BLE MEMBER (JUDICIAL)**

**SH. MANOJ KUMAR DUBEY**  
**HON'BLE MEMBER (TECHNICAL)**

**PRESENT:**

For the Liquidator /Applicant in  
I.A. Nos.25, 288, 289 & 287 of  
2021 & 399 of 2020/Respondent  
In I.A. Nos.343, 325 &  
243 of 2021 &  
I.A. No.411 of 2020

: Shri Abhishek Anand

For the Applicant in  
I.A. No. 325 of 2021

: Shri Ganesh R. Ghale

For the Applicant in  
I.A. No. 411 of 2020

: Shri B.S. Jeevan Kumar

For the Applicant in  
I.A. No. 343 of 2021

: Shri Pradeep

For the Respondent No.1  
in I.A. No.399 of 2020

: Ms. Lavanya B Anant

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**ORDER**

**I.A. No.25 of 2021**

1. Heard Shri Abhishek Anand, learned Counsel for the Applicant/Liquidator.
2. This Application has been filed by Shri Pankaj Srivastava, Liquidator of M/s. Samruddhi Realty Ltd. under Sections 60(5) of the IBC, 2016, r/w Regulations 31(3) & 21A of the IBBI (Liquidation Process) Regulations, 2016 and r/w Rule 11 of the NCLT Rules, 2016 seeking a direction for modification of the list of Stakeholders of the Corporate Debtor.
3. Issue Notice to the Respondents. Registry is directed to prepare the notice and Counsel for the Applicant is permitted to collect the notice and serve it personally on all the Respondents along with Application and other material papers through e-mail as well as by speed post and is directed to file affidavit of service in the Registry within three weeks.
4. A period of three weeks for filing reply from the date of receipt of copy of the notice and two weeks for filing rejoinder, if any, thereto from the date of receipt of a copy of Reply is granted. List the IA on 04.01.2022.

**I.A. No.288 of 2021**

1. Heard Shri Abhishek Anand, learned Counsel for the Applicant/Liquidator.
2. This Application has been filed by Shri Pankaj Srivastava, Liquidator of M/s. Samruddhi Realty Ltd. under Regulation 31(3) of the IBBI (Liquidation Process) Regulations, 2016 seeking a direction for modification of the list of Stakeholders of the Corporate Debtor.
3. List the IA on 04.01.2022.

**I.A. No.289 of 2021**

1. Heard Shri Abhishek Anand, learned Counsel for the Applicant/Liquidator.
2. This Application has been filed by Shri Pankaj Srivastava, Liquidator of M/s. Samruddhi Realty Ltd. under Section 60(5), r/w Section 35(1)(B), 36(3)(B) of IBC, 2016, r/w Regulation 9 of the IBBI (Liquidation Process) Regulations, 2016 seeking to direct the Respondent Bank to close the bank accounts of the Corporate Debtor maintained with Respondent Bank and to forthwith remit the balance outstanding in the Bank account as maintained for the Corporate Debtor along with interest accrued thereon to date to the liquidation bank account of the Corporate Debtor for the purpose of liquidation estate.
3. Issue Notice to the Sole Respondent/Kotak Mahindra Bank. Registry is directed to prepare the notice and Counsel for the Applicant is permitted to collect the notice and serve it personally on the Respondent along with Application and other material papers through e-mail as well as by speed post and is directed to file affidavit of service in the Registry within three weeks.

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4. A period of three weeks for filing reply from the date of receipt of copy of the notice and two weeks for filing rejoinder, if any, thereto from the date of receipt of copy of Reply is granted.
5. List the IA on 04.01.2022.

**I.A. No.287 of 2021**

1. Heard Shri Abhishek Anand, learned Counsel for the Applicant/Liquidator.
2. This Application has been filed by Shri Pankaj Srivastava, Liquidator of M/s. Samruddhi Realty Ltd. under Regulation 44(2) of the IBBI (Resolution Process for Corporate Persons) Regulations, 2016 seeking the following reliefs:
  - a. To exclude the period from 27.04.2021 to 14.06.2021 (48 days) in terms of Regulation 47A of the Liquidation Regulations due to restrictions imposed by the State Government on account or resurgence of case for Covid-19 pandemic;
  - b. To extend the liquidation period in the matter of the Corporate Debtor that expired on 10.07.2021 for a period of one year to enable the Applicant to successfully complete the Liquidation Process in the matter of the Corporate Debtor etc.
3. It is submitted that this Adjudicating Authority passed the order of liquidation of Corporate Debtor on 13.03.2020. After the period of exclusion as granted earlier by this Adjudicating Authority, the one year period of liquidation has expired on 10.07.2021.
4. In the circumstances, and for the reasons mentioned in the Application and in the interest of justice the instant Application is allowed, to the limited extent of excluding the period from 27.04.2021 to 14.06.2021 and extending the period of liquidation for one year with effect from 10.07.2021. Accordingly, I.A. No.287 of 2021 is disposed of.

**I.A. No.243 of 2021**

1. None for the Applicant. Heard Shri Abhishek Anand, learned Counsel for the sole Respondent/Liquidator.
2. This Appeal has been filed by Mr. Gopalachar Prasanna Kumar and others under Section 42, r/w any other applicable provision of the IBC, 2016 seeking the following reliefs:
  - a. To pass an order quashing the order vide email dated 11<sup>th</sup> May 2021 of the Liquidator rejecting the claim of the Applicant to the tune of Rs.65,25,000/- (as on filing of this appeal) and applicable interest and cost thereon against the Corporate Debtor i.e. M/s. Samruddhi Realty Ltd;
  - b. To pass an order directing the Liquidator to consider the claim of the Applicant and admit the same after determining its veracity by condoning the delay of 269 days as calculated from 14 August 2020 to 10 May 2021 etc.
3. The Applicants having aggrieved with the decision of sole Respondent/Liquidator in rejecting their claims on the ground of delay, filed

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the instant I.A. It is seen that as on date, the liquidation process is still going on and that no amounts have been distributed to any of the Stakeholders.

4. In the circumstances, and for the reasons mentioned in the Application, the instant IA is allowed to the limited extent of condoning the delay in preferring the claims by the Applicants and that the Respondent/Liquidator shall consider the claim of the Applicants in accordance with law and the Code and the Regulations made thereunder and to pass an order on merits within two weeks from the date of the receipt of this order.
5. In the event of allowing the claims of the Applicants partially or in full, the Liquidator is permitted to modify the list of Stakeholders accordingly and to file an appropriate Application thereafter.
6. Accordingly, I.A. No.243 of 2021 is disposed of.

**I.A. No.325 of 2021**

1. Heard Shri Ganesh R. Ghale, learned Standing Counsel for the Applicant and Shri Abhishek Anand, learned Counsel for the Respondent/Liquidator.
2. This Appeal has been filed by Income Tax Department under Section 42 & 60 of the IBC, 2016 R/w Rule 11 of the NCLT Rules, 2016 seeking the following reliefs:
  - a. To set aside the impugned order dated 07.09.2021 passed by the 02<sup>nd</sup> Respondent rejecting the claim of the Applicant;
  - b. To condone the delay of 364 days (14.08.2020 to 13.08.2021) in submission of the claim by the Applicant before the 2<sup>nd</sup> Respondent in the liquidation process of the 01<sup>st</sup> Respondent;
  - c. To direct the Liquidator to verify, admit and process the claim of the Applicant dated 13.08.2021 in accordance with the provisions of the IBC, 2016 and regulations framed thereunder in the liquidation proceedings of the 01<sup>st</sup> Respondent etc.
3. The Applicant having aggrieved with the decision of Liquidator in rejecting their claims on the ground of delay, filed the instant I.A. It is seen that as on date, the liquidation process is still going on and that no amounts have been distributed to any of the Stakeholders.
4. In the circumstances, and for the reasons mentioned in the Application, the instant IA is allowed to the limited extent of condoning the delay in preparing the claims by the Applicant and that the Respondent/Liquidator shall consider the claim of the Applicant in accordance with law and the Code and the Regulations made thereunder and to pass an order on merits within two weeks from the date of the receipt of this order.
5. In the event of allowing the claims of the Applicant partially or in full, the Liquidator is permitted to modify the list of Stakeholders accordingly and to file an appropriate Application thereafter.
6. Accordingly, I.A. No.325 of 2021 is disposed of.

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**I.A. No.411 of 2020**

1. Heard Shri B S Jeevan Kumar, learned Counsel for the Applicant and Shri Abhishek Anand, learned Counsel for the Respondent/Liquidator.
2. This Application has been filed by Bank of India under Section 42, 60(5), 18, 23, 25, 35, 38 and other applicable provisions of the IBC, 2016 and Rule 11 of the NCLT Rules, 2016 seeking the following reliefs:
  - a. To set aside the rejection of claim by the Respondent dated 05.09.2020;
  - b. To direct the Respondent to admit the claim of the Applicant;
  - c. To grant priority to the Applicant in the waterfall mechanism under the liquidation process of the Corporate Debtor etc.
3. Shri Abhishek Anand, learned Counsel for the Liquidator submits that he has already filed his Reply and seeks short time to enable him to place on record the Judgment passed by this Adjudicating Authority in Axis Bank Vs. M/s. Sammrudhi Reality Ltd. He shall do so within one week from today. The Applicant may file his rejoinder, if any, thereto to the objections filed by the Applicant as well as to the Judgment to be filed by the Respondent within two weeks from today.
4. List the IA on 04.01.2022.

**I.A. No.399 of 2020**

1. Heard Shri Abhishek Anand, learned Counsel for the Applicant/Liquidator and Ms. Lavanya B Anant, learned Counsel for Respondent No.1.
2. This Application has been filed by Shri Pankaj Srivastava, Liquidator of M/s. Samruddhi Realty Ltd. under Regulation 2A, Read with Regulation 4, 21A(2) of the IBBI (Liquidation Process) Regulations, 2016 & r/w Rule 11 of the NCLT Rules, 2016 seeking to issue appropriate directions to the Respondents to forthwith defray their portion of Liquidation process costs in terms of Regulation 2A of the IBBI (Liquidation Process) Regulations, 2016 as already approved in the 12<sup>th</sup> meeting of the CoC and the Liquidator fee in terms of the provision of the Code etc.
3. The first Respondent in the IA has already filed Reply.
4. The learned Counsel for the Liquidator submits that the notices were issued and served on Respondent No.2 and 3 and affidavit of service was filed through online. Since, no physical copy of the said affidavit of service is on record, let fresh notices to be issued to the Respondent Nos. 2 & 3. Registry is directed to prepare the notice and Counsel for the Applicant is permitted to collect the notice and serve it personally on the Respondent Nos. 2 & 3 along with Application and other material papers through e-mail as well as by speed post and is directed to file affidavit of service in the Registry within three weeks.
5. A period of three weeks for filing reply from the date of receipt of copy of the notice and two week for filing rejoinder, if any, thereto from the date of receipt copy of Reply is granted. If any of the parties failed to complete their part of

pleadings, their respective right stand forfeited and the IA will be decided based on the record available on the next date of hearing.

6. List the IA on 04.01.2022.

**I.A. No.343 of 2021**

1. Heard Shri Pradeep, learned Counsel for the Applicants and Shri Abhishek Anand, learned Counsel for the Respondent/Liquidator.
2. This Application has been filed by Shri K. Jayant Prabhu and Smt. Juhi Santani under Section 60(5)(C) of the IBC, 2016, r/w Rule 11 of the NCLT Rules, 2016 seeking the following reliefs:
  - a. To direct the Liquidator to exclude Schedule-B property from the Liquidation Estate of the Corporate Debtor;
  - b. To direct the Liquidator to Execute Sale Deed and Register Schedule-B property in favour of the Applicant as per Agreement to Sale and Construction Agreement dated 12.07.2011 etc.
3. Issue Notice. Shri Abhishek Anand, learned Counsel for the Sole Respondent/Liquidator accepts notice. A period of two weeks for filing reply and one week for filing rejoinder, if any, thereto from the date of receipt of copy of Reply is granted.
4. List the IA on 04.01.2022.

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**(MANOJ KUMAR DUBEY)**  
**MEMBER (TECHNICAL)**

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**(AJAY KUMAR VATSAVAYI)**  
**MEMBER (JUDICIAL)**