IN THE NATIONAL COMPANY LAW TRIBUNAL, DIVISION BENCH – I, CHENNAI

MA/887/2019
IN
CP/472/IB/2017

(filed under Section 60(5) of the Insolvency and Bankruptcy Code, 2016)

In the matter of ***BKR Hotels & Resorts Private Limited***

S.R. Shriraam Shekher,
Liquidator of BKR Hotels and Resorts Private Limited,
11, Prayag Apartments, Gandhi Nagar First Main Road,
Adyar, Chennai – 600 020

… Applicant / Liquidator

Vs.

Balakrishnaraja Dhanuskodi Raja,
New No. 9, Old No. 6, Venkatesan Street,
T.Nagar, Chennai – 600 017

… Respondent

Present:

For Applicant : *Jayanth Viswanathan, PCS*
Vijay Vigneshwar, Advocate

For Respondents : *Akash Balagee, Advocate for R1*

CORAM:

SANJIV JAIN, MEMBER (JUDICIAL)
VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

Order Pronounced on 08th September, 2026

O R D E R

(Heard Through Hybrid Mode)

1. This application **MA/887/2019** has been filed seeking the following reliefs:

   i. Issue Directions to the Respondent for recognition of income from BKR Courtallam in the books of the Corporate Debtor;

2. Briefly the facts are that the CIRP against the Corporate Debtor was initiated vide an order dated 14.08.2018. Shri. R. Venkatakrishnan was appointed as the RP by the CoC in the 1st meeting held on 19.09.2018. It is stated that the Corporate Debtor had business operations in the locations at Chennai, Ooty and Courtallam. The properties located in Chennai and Ooty are under the direct control of the Liquidator while the property at Courtallam, the land on which BKR Resorts Courtallam is located, is owned by the suspended Director / Respondent Balakrishnaraja Dhanuskodi Raja. The assets including the building are capitalized in the books of the Company since acquired through the loans sanctioned to the Company. It is stated that the Company had obtained loan from the Corporation Bank for construction at Courtallam. It has been recorded as fixed assets in the books of the

Corporate Debtor. However, income arising from the property has not been recorded in the books and is being taken by the Respondent. He preferred an application under Section 19(2) in MA/439/2018 for making available the books of accounts in respect of the property at Courtallam and for seeking assistance from the Respondent which this Tribunal allowed vide an order dated 26.02.2019 directing the Respondent to hand over the possession of the property to the Applicant and provide all necessary assistance.

3. It is stated that the property at Courtallam has two buildings i.e. Courtallam and Guest House. Even after the order, the Applicant was not provided keys of the Guest House. He was not provided access nor the books of accounts of the said property nor the income arising out of the property was shared.

4. On this application, this Tribunal vide an order dated 15.11.2019 directed the Liquidator to file a report with evidence to substantiate the allegations that the suspended Director has been carrying on the business of hotel at the premises. In compliance thereof, the Liquidator filed an affidavit vide Diary No. 6489 dated 09.12.2019 enclosing the

electricity bill for the period from May 2018 to October 2018 in respect of consumption of electricity. He also filed copy of room tariff in respect of the property, obtained from agents / hotel as Annexure 3 and sample receipts issued to the customers for the period from September 2019 to November 2019 as Annexure 4. It is stated that the receipts would indicate that the premises is a unit of BKR Hotels & Resorts Private Limited having its head office at Chennai and branch at Courtallam. It is stated that the acknowledgment made by the Respondent shows that the unit belongs to the Corporate Debtor. Therefore, earnings therefrom belongs to the Corporate Debtor. The Applicant also filed a memo vide Sr. No. 1669 dated 09.03.2020 annexing the balance sheets as on 31.03.2017, Auditors report dated 02.09.2016, trial balance for the period from 01.04.2016 to 31.03.2019 and letter from the erstwhile Director in compliance with the order dated 26.02.2019.

5. On getting notice of the application, the Respondent filed the reply wherein he denied the averments made in the application. It is stated that the property at Courtallam is his guest house for personal use. The keys of the property were handed over to the RP on the directions

of the Tribunal. Even then the Applicant / RP / Liquidator has been harassing him by filing the applications one after the other making false allegations. It is stated that the property was given as collateral for the loans secured from the Financial Creditor.

6. The Respondent also filed a reply vide Sr. No. 3236 dated 04.08.2025 stating that the Courtallam property belongs to him. He never transferred the land nor agreed that the earnings from the Courtallam property would be the earnings or the assets of the Corporate Debtor. It is stated that the building is capitalized in the books of the Company since it was constructed with the money borrowed by the Corporate Debtor. The Corporate Debtor has no right to claim earning from the Courtallam property as part of its earning. The land has not been declared as the asset of the Corporate Debtor and it exclusively belongs to him. At best, the money spent on the construction of the building can be construed as debt payable by the Respondent.

7. The Applicant filed the Rejoinder stating that in the balance sheet and the records maintained by the Corporate Debtor prior to CIRP, the Corporate Debtor recognized the building as the asset of the Corporate

Debtor. He cannot now state that it belongs to him. The Respondent has not disputed that the building was constructed from the loan borrowed from the Corporation Bank by the Corporate Debtor. Therefore building is the asset of the Corporate Debtor. The trial balance clearly reflects the Courtallam property / building as the asset of the Corporate Debtor. The Respondent has also admitted that the Courtallam building was capitalized in the books of the Corporate Debtor. Once an asset is capitalized and reflected in the statutory books of accounts of the Corporate Debtor, the income derived therefrom is liable to be treated as the income of the Corporate Debtor.

8. We have heard Ld. Counsels for the parties and perused the written synopsis filed by the Applicant.

9. A perusal of the documents reveals that the Corporate Debtor was into the business of Hotels and Resorts. It used to operate from the locations at Chennai and Ooty. The land at Courtallam exclusively belongs to the Respondent. However, the building on the land was constructed from the funds raised / borrowed by the Corporate Debtor from the Financial Creditor. The building was being used as a Guest

House. The record shows that the guest house at Courtallam was being used in the name of BKR Resorts, a unit of BKR Hotels & Resorts Private Limited. Receipts used to be issued to the customers by that name. In Annexure 3 placed vide Sr. No. 6489 dated 09.12.2019, a tariff details bears the name BKR Resorts. As regards electricity consumption, the connection is in the name of the Respondent not in the name of the Corporate Debtor.

10. There is no record or material to indicate that there was an understanding between the Respondent and the Corporate Debtor that the tariff / rent to be charged from the Customer would be the income either of the Corporate Debtor or the Respondent. The documents show that though in the receipts, the unit has been shown as a unit of BKR Hotels & Resorts Private Limited but the income used to be taken by the Respondent.

11. Admittedly, the land belongs to the Respondent and the building on the land was raised out of the funds / loan taken by the Corporate Debtor, but in the absence of any document / understanding, it cannot be said that the Corporate Debtor had the exclusive rights to collect the

rent in respect of the aforesaid property. It is not the case that the Corporate Debtor used to pay lease / rental to the Respondent for use of the land on which the building has been constructed. The Respondent in his reply has stated that the expenses incurred on raising construction of the building can be construed as debt payable by him to the Corporate Debtor.

12. Having considered the facts in totality, we are of the view that no such directions for recognition of income from BKR Courtallam in the books of the Corporate Debtor can be issued. The application is accordingly dismissed with no orders as to cost.

Sd/-

VENKATARAMAN SUBRAMANIAM
MEMBER (TECHNICAL)

Sd/-

SANJIV JAIN
MEMBER (JUDICIAL)