

NATIONAL COMPANY LAW TRIBUNAL, CUTTACK BENCH,
CUTTACK

ORDER SHEET OF THE HEARING ON 12th MARCH, 2020, 10:30 A.M.

TP No.205/CTB/2019, (CP (IB) No.1664/MB/2017)

IA No. 65/CTB/2020, MA No. 82/CTB/2020

Present: 1. Hon'ble Member, Ms. Sucharitha R. (J)
2. Hon'ble Member, Shri Satya Ranjan Prasad (T)

Name of the Company	Indiabulls Real Estate Company Pvt. Ltd. -Vs- Crest Steels & Power Pvt. Ltd.
Under Section	9 IBC

Coram: 1. Hon'ble Member, Ms. Sucharitha R. (J)
2. Hon'ble Member, Shri Satya Ranjan Prasad (T)

For Petitioner (s)

1. Saswat K. Acharya, Adv.

For Respondent (s)

1. Sourya Sundar Das, Sr. Adv.
2. Haripad Mohanty, Adv.
3. A P. Swain. Adv.
4. Shalaka Das, Adv.
5. Anupam Dash

ORDER

Both the Counsels are present. Order passed in MA No. 82/CTB/2020 in separate sheet. Post all the other applications on 31.03.2020 for further hearing.

Sd

Shri Satya Ranjan Prasad
Member (T)

Sd

Ms. Sucharitha R.
Member(J)

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For Petitioner (s) : 1. Mr. Saswat K. Acharya, Adv.

For Respondent (s) : 1. Mr. Sourya Sundar Das, Sr. Adv.
2. Mr. Haripad Mohanty, Adv.
3. Mr. Ambika P. Swain, Adv.
4. Mr. Shalaka Das, Adv.
5. Mr. Anupam Dash.

MA No. 82/CTB/2019

ORDER

- The present application is filed by the Resolution Professional Mr. Kshitiz Chhawchharia under Section 60 (5) of the Insolvency and Bankruptcy Code, 2016 for exclusion of a period of 21 days from the Order dated 13.08.2019. The Order of admission was passed by the Hon'ble NCLT, Mumbai Bench dated 11.03.2019. However, the Order was

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received and Interim Resolution Professional (IRP) was appointed only on 22.04.2019. Hence, by Order dated 05th September, 2019, it was clarified that commencement of Corporate Insolvency Resolution Process shall be from 22.04.2019. Thereafter, the applicant filed CA No. 77/CTB/2019 for exclusion of 57 days from the Corporate Insolvency Resolution Process and the same was allowed by this Adjudicating Authority vide Order dated 16.01.2020. Hence, the Corporate Insolvency Resolution Process shall end on 14th March, 2020. In CA No. 77/CTB/2019, the applicant had mentioned that Resolution Plan is under way and there is a possibility of getting a Resolution Plan. Further, the Corporate Debtor is an ongoing concern. Hence, it is very important to grant extension of time to complete the Corporate Insolvency Resolution Process. In this application, the applicant/Resolution Professional seeks time stating there was an outbreak of fire in the turbine in the captive power plant of the Corporate Debtor on 18th September, 2019. The applicant needs to call M/s. Triveni Turbine Ltd. to demand to the turbine power plant and necessary steps were taken on 25th November, 2019. Subsequent to this, we have by our Order dated 16.01.2020 has granted an exclusion of 57 days for completion of the Corporate Insolvency Resolution Process.

2. The applicant states that the Hon'ble Supreme Court while passing the judgment titled, "*Committee of Creditors of Essar Vs. Satish Kumar*

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Gupta, bearing Civil Appeal No. 8766-67 of 2019. Thus, while striking off the word “mandatorily” from Section 12 (3) [of the said Code], inserted vide Insolvency and Bankruptcy Code [Amendment Act], 2019, the Hon’ble Apex Court categorically held that the Hon’ble Adjudicating Authorities, if so deem fit may even grant an extension of time for CIRP even beyond a period of 330 days.”

“on the facts of a given case, if it can be shown to the Adjudicating Authority and/or Appellate Tribunal under the Code that only a short period is left for completion of the Insolvency Resolution Process beyond 330 days, and that it would be in the interest of all stakeholders that the Corporate Debtor be put back on its feet instead of being sent into liquidation it may be open in such cases for the Adjudicating Authority and/or Appellate Tribunal to extend time beyond 330 days. Likewise, even under the newly added proviso to Section 12, if by reason of all the aforesaid factors the grace period of 90 days from the date of commencement of the Amending Act of 2019 is exceeded, there again a discretion can be exercised by the Adjudicating Authority and/or Appellate Tribunal to further extend time keeping the aforesaid parameters in mind.”

3. The applicant submits that in Committee of Creditors Meeting held on 04th March, 2020, unanimously decided that the Resolution Professional

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shall file exclusion of 21 days in the Corporate Insolvency Resolution Process. The extract is produced herein below: -

“After detailed deliberations and consensus of all member of CoC, the members authorized the RP to file a suitable application for exclusion of 21 days in the CIRP period with the Hon’ble NCLT, Cuttack Bench. The members agreed that they shall seek clarifications from the RAs on the aforesaid concerns, and simultaneously arrange for the requisite approvals from their committees for casting physical vote during the upcoming CoC Meeting to be held on 11th or 12th March, 2020.”

4. The prayer of the applicant in this application are as follows: -

“(a) Exclude a period of 21 days from the Corporate Insolvency Resolution Process, and in this regard,

(b) Pass such other/further Order(s) which this Hon’ble Tribunal may deem fit in the

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facts and circumstances of the case in the interest of equity, justice and good conscience."

5. We considered the submissions and documents filed herein by the Resolution Professional. The applicant is seeking an extension of 21 days in completion of Corporate Insolvency Resolution Process. Since, there is scope for revival of Corporate Debtor and approval of a Resolution Plan, we are of view that exclusion of 21 days ought to be granted.

6. In view of the above, period of 21 days is excluded from the Corporate Insolvency Resolution Process. Accordingly, this MA No. 82/CTB/2020 is **ALLOWED**.

Sd

Shri Satya Ranjan Prasad
Member (T)

Sd

Ms. Sucharitha R.
Member(J)

Signed on this, the 12th day of March, 2020.

Santosh_P.S.