

**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
KOLKATA BENCH (COURT-II)  
KOLKATA**

IA(IB) / 1658/KB/2022  
*In*  
C.P (IB) No.302/KB/2021

*An application under section 12 read with Sections 60(5) of the Insolvency and  
Bankruptcy Code, 2016 read with Rule 11 of the National Company Law Tribunal  
Rules,2016.*

And

***In the matter of:***

**Avishek Gupta** , Resolution Professional of Sarga Hotel Private Limited .

*... Applicant*

Versus

**Shristi Infrastructure Development Corporation Limited & Another**

*...Respondents*

Date of hearing :03/01/2023

Order Pronounced on \_\_\_\_\_ : 10/01/2023

**Coram:**

***Mrs. Bidisha Banerjee, Member (Judicial)***

***Mr. Balraj Joshi, Member (Technical)***

**Counsels appeared through Video Conference**

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|-------------------------------|------------------|
| 1. Mr.Saptarshi Saha, Adv.    | ] For petitioner |
| 2. Mr.Arindam Mrinal Pal,Adv. | ]                |
| 3. Mr.Harsh Rathi, Adv.       | ]                |
| 4. Mr. Avishek Gupta,Adv.     | ]                |

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| 1. Ms. Manju Bhuteria,Adv.   | ] For RP |
| 2. Mr. Souvik Mazumdar, Adv. | ]        |
| 3. Ms .Pooja Mahajan, Adv.   | ]        |
| 4. Ms.Mahima Singh, Adv.     | ]        |

5. Ms.Shreya Mahalwar, Adv. ]  
1. Mr. Satyaki Mukherjee, Adv. ] For Applicant in IA 1131/2022  
2. Ms. Mini Agarwal, Adv. ]  
1. Mr.Rahul Auddy, Adv. ] Applicant in IA 822/2022  
2. Mr.Aditya Gooptu,Adv. ]

**ORDER**

**Per: Balraj Joshi, Member (Technical)**

1. **IA(IBC)/ 1658/KB/2022** is an application is filed under section 12(2) of the Code , 2016 filed by the RP seeking exclusion of time of the CIRP owing to the time taken in the judicial proceedings for making IA 690/2022.
2. It is submitted that the CIRP in the matter was started on 11<sup>th</sup> February, 2022. In the CIRP process of the CD progressed as the per laid down scheduled in the regulation 40A, till 15<sup>th</sup> July, 2022, when the process was hampered due to filing of an application by SIDCL claiming ownership rights on 3.5.Acres out of 8 Acres, on which the property of the Corporate Debtor stands.
3. In view of the SIDCL application, some of the PRAs had sought extension of time for submission of resolution plan. On this ground and in the interest of resolution , an extension of time was granted by the Adjudicating Authority on 2<sup>nd</sup> August, 2022 as 180 days of the CIRP got over on 10<sup>th</sup> August,2022.
4. It is further submitted by the Ld. Counsel for the liquidator, that five resolution plans have been received till 30<sup>th</sup> September, 2022.Meanwhile, the matter of the SIDCL claiming the rights over the property of Corporate Debtor travelled to Hon'ble NCLAT who on 12<sup>th</sup> October, 2022 dismissed the appeal with the directions to this Adjudicating Authority to consider the matter and dispose of the same as earliest as possible.
5. In view of the pending litigation on this accord, an extension from 270 to 330 days was also sought vide IA No. 1376/ 2022 which was granted on 12<sup>th</sup> November, 2022 and the time was enlarged to 7<sup>th</sup> January 2023 and in order to keep the overall

enlargement of time within 330 days. The present IA has been filed for exclusion of time consumed in the adjudication of SIDCL application.

6. Under section 12(2) of the Code, the resolution process of a corporate debtor should be completed within 330 days of the insolvency commencement date. The Hon'ble Supreme Court has held that while the general rule is that 330 days is the outer limit within which resolution of corporate debtor must take place, however, in exceptional cases, the period of CIRP of a corporate debtor can be extended even beyond 330 days, if it can be shown that it is the interest of all stakeholders that the corporate debtor be put back on its feet instead of being sent into liquidation.[ Ref: **Committee of Creditors of Essar Steel India Limited Through Authorised Signatory v Satish Kumar Gupta and Ors,(2020) 8 SCC 531 (Para 127)**].
7. In view of the forgoing, we hereby exclude the time **180** days from the time. Since the further enlargement of time would dependent upon the disposal of SIDCL application bearing IA No. 690/KB/2022,the same be listed on **08/02/2023**.
8. Accordingly, **IA No. 1658/KB/2022** is allowed in above terms and **disposed of**.
9. Certified copy of the order may be issued to all the concerned parties, if applied for, upon compliance with all requisite formalities.

**(Balraj Joshi )**  
**Member (Technical)**

**(Bidisha Banerjee)**  
**Member (Judicial)**

Order signed on this, the 10<sup>th</sup> day of January , 2023