

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV**

IA No. 441/2023

Under Section 12(3) of Insolvency & Bankruptcy
Code, 2016

Mr. Bhrugesh Amin

Resolution Professional/
...Applicant

In the matter of

CP (IB) No.68/MB/C-IV/2021

Beacon Trusteeship Limited

...Financial Creditor

Vs.

Modella Textile Industries Limited

...Corporate Debtor

Order Pronounced on: 09.02.2023

Coram:

Mr. Prabhat Kumar
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Applicant/RP : Ms. Khushboo Shah Rajani, Advocate;

ORDER

1. The Application is filed on 01.02.2023 by Mr. Bhrugesh Amin, Applicant/ Resolution Professional, u/s 12(3) of the Code, seeking extension of 60 days of the CIRP period from 30.01.2023 to 30.03.2023.
2. Ld. Counsel for the Applicant submits that since the last day of the CIRP comes to an end on 29.01.2023 i.e. 270 days and the discussion with the Prospective Resolution Applicants are ongoing, therefore the COC in the 8th Committee of Creditors (CoC) meeting held on 20.01.2023 with 100% voting passed a resolution to seek an extension

of further 60 days in the CIRP period to complete the resolution process and make the Corporate Debtor as a going concern.

3. The Resolution passed in the 8th CoC meeting as provided herein under:-

“RESOLVED THAT pursuant to the applicable provisions of the Insolvency and Bankruptcy Code, 2016 read with subsequent amendments thereof and in accordance with rules and regulations made thereunder, in its meeting held on 20th January 2023, the Committee of Creditors hereby approves the extension of the duration of corporate Insolvency Resolution Process of the Corporate Debtor by 60 days beyond 270 days which expires on 29th January 2023 in view of on going consideration of resolution plan by Committee of Creditors.

RESOLVED FURTHER THAT the Committee of Creditors hereby authorize the Resolution Professional and/ or Legal Counsel of the Resolution Professional for making application under section 12(3) of the IBC before Adjudicating Authority i.e. the Hon'ble National Company Law Tribunal, Mumbai Bench, for seeking extension of the period of the Corporate Insolvency Resolution Process of the Corporate Debtor beyond 270 days i.e. 60 days from 29th January 2023 and the period would now expire on 30th March 2023.

RESOLVED FURTHER THAT the Resolution Professional of Modella Textile Industries Limited be and is hereby authorized to take such steps as may be necessary in relation to the above, if required and to settle all matters arising out of and incidental thereto and sign and execute all documents and writings that may be required and generally to do all acts, deeds, make payments and things that may be necessary, proper, expedient or incidental for the purpose of giving effect to the aforesaid resolution.”

4. This Bench notes that the CIRP period expired on 29.01.2023, however, this Application was filed by the Applicant in the capacity of resolution professional on 01.02.2023. This Bench admit this application in view of powers confirm on it in the Rule 11 of NCLT Rules 2016 which enables the Adjudicating Authority to make such orders as may be necessary for meeting the ends of justice or to prevent abuse of the process of the Tribunal.

5. The Bench has perused the minutes of meeting of 8th CoC meeting wherein the approval for seeking extension of the duration of CIRP period was taken up. Which is seen that Resolution Professional has received one resolution plan for resolution of the Corporate Debtor and same is to be considered by the CoC. In view of this fact and the resolution passed with 100% voting in the 8th CoC meeting, this Bench holds that the CIRP period can be extended another period of 60 days in the interest of Corporate Debtor and its Stakeholders. The said extension shall not result into CIRP period going beyond 330 days as stipulated in second proviso to sub-section 12(3) of Code.
6. Accordingly, this Bench allows an extension of 60 days from the date of expire of last extended period.
7. With the above directions, the IA No. 441/2023 filed u/s 12(3) by the applicant is hereby **Allowed and Disposed of**.

Sd/-

Prabhat Kumar
Member (Technical)

Sd/-

Kishore Vemulapalli
Member (Judicial)