

**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
SPECIAL BENCH – II, CHENNAI**

**IA(IBC)/1514(CHE)2023**

**IN**

**IBA/895/2019**

*(filed under Section 60(5) of Insolvency & Bankruptcy Code, 2016  
r/w Rule 11 of the NCLT Rules, 2016)*

*In the matter of M/s. UTHARA FASHION KNITWEAR LTD.*

Mr. Chandrasekhar Sagutoor,  
Resolution Professional of  
M/s. Uthara Fashion Knitwear Ltd.,  
G5 & G6, Ground Floor,  
No.333/17, Salma Arcade Complex,  
Kodambakkam Main Road,  
Trustpuram, Kodambakkam,  
Chennai-600 024

*... Applicant*

*Order Pronounced on 25<sup>th</sup> August, 2023*

CORAM:

**SANJIV JAIN, MEMBER (JUDICIAL)**

**VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)**

*For Applicant : Mr. Bhagavath Krishnan PMN. Advocate  
Ms. Anita Suresh, Advocate  
Ms. Jyotsna Sivakumar, Advocate*

**ORDER**

**Per: SANJIV JAIN, MEMBER (JUDICIAL)**

This application being IA(IBC)/1514(CHE)2023 has been filed by the Resolution Professional of the Corporate Debtor **M/s. Uthara Fashion Knitwear Limited** under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 ("IBC") read with Rule 11 of the National Company Law Tribunal Rules, 2016 seeking

extension of the Corporate Insolvency Resolution Process ("CIRP") of the Corporate Debtor for a period of 40 days from 29.07.2023 till 07.09.2023.

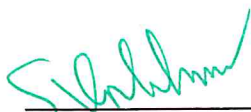
2. It is stated that CIRP in the present case was initiated on 01.07.2022. The Interim Resolution Professional ("IRP") issued the invitation of Expression of Interest ("EOI") for the Resolution Plans on 19.09.2022. The Applicant was appointed as Resolution Professional ("RP") on 17.10.2022 which order the Applicant received on 04.11.2022. He prepared the Information Memorandum and furnished to the Committee of Creditors ("CoC") on 01.11.2022. In the 4<sup>th</sup> CoC meeting held on 18.11.2022, CoC instructed the RP to file an application before the Tribunal seeking extension of time. The Applicant filed an application IA No.1524 of 2022 seeking extension of time which was allowed vide order dated 22.12.2022. The Resolution Applicant submitted a Resolution Plan on 10.01.2023 which was placed before the CoC. After negotiations, the Resolution Applicant submitted an addendum to the Resolution Plan on 31.01.2023 which was discussed in the 8<sup>th</sup> CoC meeting held on 06.02.2023. CoC approved the said Resolution Plan and accordingly the Applicant filed I.A. No.428 of 2023 seeking approval of the Resolution Plan.

3. It is stated that 270<sup>th</sup> day of the CIRP period of the Corporate Debtor was 28.03.2023 however, this Tribunal after hearing the

parties, dismissed the I.A. No.428 of 2023 and extended the time period for the CIRP by a period of 60 days till 29.07.2023 vide order dated 30.05.2023.

4. It is stated that pursuant to the directions of this Tribunal, the Applicant issued fresh Form-G on 03.06.2023 inviting the Resolution Plans from the Prospective Resolution Applicants ("PRAs"). 4(four) persons submitted the EOI. On 21.06.2023 the Applicant published the provisional list and on 29.06.2023 the final list of the PRAs mentioning the last date for submission of Resolution Plans as 22.07.2023. It is stated that even if the Resolution Plans are submitted on 22.07.2023 as per the timeline, CoC had only 7 days to consider and approve the Resolution Plans. It is stated that the Applicant had filed I.A. No.1156 of 2023 seeking exclusion of time period in the CIRP but the Applicant withdrew the application with liberty to file an Extension Application. It is stated that in 12<sup>th</sup> CoC meeting, a decision was taken to seek extension of time to complete the CIRP Process after discussions of the tentative timelines. It is stated that at least 47 days would be required to complete the process from the date of receipt of the Resolution Plans.

5. It is stated that 3(three) Resolution Applicants have submitted their Resolution Plans on 22.07.2023.



6. Ld. Counsel for the Applicant submits that the CoC member in their commercial wisdom feel, rather are confident that higher value can be availed in the CIRP. He submits that in order to achieve the objective of the Code of availing value maximization, the time period need be extended for a further period of 40 days. It is stated that the plan value is almost double the amount which was offered in the plan which was sent for approval before this Tribunal vide I.A. No.428 of 2023.

7. We have heard Learned Counsel for the Applicant/RP and perused the application as well as the record.

8. In the case of "**Committee of Creditors of Essar Steel India Limited Vs. Satish Kumar Gupta &Ors., 2019 SCC Online SC 1478, Axis Bank Ltd. V. Lanco Mandakani Hydro Power Energy Private Limited**", it has been held that if it can be shown to the adjudicating authority that only a short period is left for completion of the CIRP beyond 330 days and that it would be in the interest of all the stakeholders that the corporate debtor be put back on its feet instead of being sent into liquidation, in such cases, it is open to the adjudicating authority to extend time beyond 330 days or where the liquidation of the corporate debtor would not unlock the real value, another attempt be made at resolution and only if that fails, liquidation be considered. Similar observations have been

made in the case of **“Axis Bank Ltd v. Lanco Amarkantak Power Ltd. (I.A. 2 of 2022 in C.P.(IB) No.420/7/HDB/2018), Govindarajula Venkata Narasimha Rao, RP of Viceroy Hotels Limited v. Committee of Creditors (Viceroy Hotels Limited), Whispering Tower Flat v. Abhay Narayan Manudhane and others (Company Appeal (AT) (Ins) No.896 of 2021, Earthin Projects Limited v. Anup Kumar Singh, RP of Indu Projects Limited and Ors, Tarachand Agarwal, In Re, Company Appeal (AT) (INS) No.637 of 2021 and RituRastogi, Resolution Professional, Benlon India Ltd. V Riyal Packers in Company Appeal (AT) (INS) 482 of 2020 in page nos. 9 to 12 of the application”**

9. In the instant case, the Applicant has received three Resolution Plans which are in active consideration with the CoC which is being held on 22.08.2023. Applicant has submitted that the offer given by the Resolution Applicants is almost double the offer given in the earlier plan sent for approval vide I.A. No.428 of 2023. The CoC in the meeting held on 20.07.2023 had discussed on the extension of time in detail vide agenda Item No.7 and it was observed that 47 days would be required to complete the process from the date of receipt of the plan. The CoC accordingly passed a resolution seeking extension by 100% voting.

10. In the instant case, to get maximum value being the objective of the I&B Code, the plans are under active consideration

of the CoC who in its commercial wisdom, has recommended for seeking extension of time period for the completion of CIRP Process. It is true that ordinarily time taken in relation to CIRP must be completed within the outer limit of 330 days from the insolvency commencement date including the extensions but if it can be shown that it would be in the interest of all the stakeholders that the corporate debtor be put back on its feet instead of being sent into liquidation, in such cases, it is open to the adjudicating authority to extend time beyond 330 days or where the liquidation of the corporate debtor would not unlock the real value, another attempt be made at resolution and only if that fails, liquidation be considered.

11. It is seen that multiple plans have been received by the RP in the matter which go on to show that there is keen interest amongst the Resolution Applicants for the assets of the Corporate Debtor and the CIRP may result into a Resolution Plan, if time is allowed.

12. Further, Additional Affidavit dated 23.08.2023 has been filed by the Applicant which mentions that a Resolution Plan has been approved by CoC with 100% voting and that the Applicant has been taking steps to file application before the Adjudicating Authority seeking approval of the above Resolution Plan.



13. Having gone through the above facts and circumstances and the cases supra, we are of the view that the applicant has made out a case for extending the period of CIRP beyond the period of 330 days.

14. We therefore allow the application and grant extension of time upto 07.09.2023 in the CIRP process of the corporate debtor. The Applicant is directed to complete the process within the timeline granted by this Tribunal.

15. Accordingly, IA(IBC)/1514(CHE)2023 stands **allowed** and **disposed off**.

- sdt -

**VENKATARAMAN SUBRAMANIAM**  
MEMBER (TECHNICAL)

*Suguna*

- sdt -

**SANJIV JAIN**  
MEMBER (JUDICIAL)