

**IN THE NATIONAL COMPANY LAW TRIBUNAL
CUTTACK BENCH
CUTTACK**

**IA (IB) No. 165/CB/2022
In
TP No. 17/CB/2021
[Earlier CP (IB) No. 1696/MB/2017]**

In the matter of:

An application under Section 60(5) of the Insolvency and Bankruptcy Code, 2016;
Read with Regulation 44(2) of Insolvency and Bankruptcy Board of India
(Liquidation Process) 2016;

-And-

In the matter of:

IDFC Bank Ltd.

Financial Creditor

-Versus-

In the matter of:

Monnet Power Company Limited,

...Corporate Debtor

In the matter of:

Mr. Navneet Kumar Gupta, Liquidator of Monnet Power Company Limited,
having Registration No. IBBI/IPA-001/IP-P00001/2016-2017/10009 and his
registered office at D1/02, Golf Link, Diplomatic Enclave, Sector 23B, Dwarka,
New Delhi- 110075.

...Applicant

Coram:

Shri P. Mohan Raj : Member (Judicial)

Shri Satya Ranjan Prasad : Member (Technical)

Appearances (through video conferencing)

For Petitioner(s) : Mr. Navneet Kr. Gupta, Liq.

**Order reserved on: 27.09.2022
Order pronounced on: 17.10.2022**

ORDER

Per: Satya Ranjan Prasad, Member (Technical)

1. This application has been filed by Mr. Navneet Kumar Gupta, Liquidator of Monnet Power Company Limited (**Corporate Debtor**) under Section 60(5) read with Section 35(1) of the Insolvency and Bankruptcy Code, 2016 read with Regulation 44(2) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 (Liquidation Regulations) seeking exclusion of 778 days consisting of the period from 23rd October, 2019 till 26th November, 2019 from 15th March 2020 till 03rd February 2022 and from 30th March, 2022 till the date of the present application (20th May, 2022) and also exclusion of further period till the *status quo* on the auction of the assets of the Corporate Debtor as imposed by the Hon'ble NCLAT in Company Appeal (AT) (Insolvency) 316 of 2022 remains in force, from the computations of the timelines prescribed for completion of the liquidation process of the Corporate Debtor under Regulation 44(1) of the Liquidation Regulation.
2. It is noted that the NCLT, Mumbai Bench by Order dated 23.10.2019 had initiated the Liquidation Process against the Corporate Debtor and appointed Mr. Navneet Kumar Gupta as the Liquidator.
3. The applicant states that, despite the limitation imposed on account of COVID-19 pandemic and stay on e-auction on the assets of the CD, the Liquidator has endeavoured to take all the possible steps towards the furtherance of the liquidation of the CD pursuant to the passing of the Liquidation Order. The Liquidator has apprised about the status and actions taken by him in the present liquidation process through various reports as submitted by him with the NCLT, Mumbai Bench and NCLT, Cuttack Bench.

4. The applicant submits that an IA No. 1438 of 2020 was filed by Bharat Heavy Electricals Limited (BHEL) before the NCLT, Mumbai Bench under Section 42 of the Code, on the ground that the Liquidator has wrongly rejected the part amount of the claims filed by BHEL in the Liquidation process of MPCL and contended further that BHEL was a secured creditor of the CD. In the hearing held on 7th December, 2020, NCLT, Mumbai Bench stayed the e-auction, which was proposed to be held on 10th December, 2020 and adjourned the matter to 17th December, 2020.
5. That the stay on the e-auction was continued by the NCLT through various orders. IA No. 1438 of 2020 was finally disposed of by the NCLT, Cuttack Bench in TP No. 17/CB/2021 *vide* order dated 03rd February, 2022. Hence, the stay on the e-auction process, which was imposed *vide* order dated 7th December, 2020 by the NCLT, Mumbai Bench, continued until the final order was passed by this Bench on 3rd February, 2022, resulting in the stay on e-auction process for a total period of 424 days. The stay rendered the Liquidator incapable of continuing with the e-auction process from 7th December, 2020 till the date of the final order in the concerned IA i.e., 3rd February, 2022.
6. Against the aforesaid order dated 3rd February, 2022 of the NCLT, Cuttack Bench, BHEL filed an appeal bearing No. Company Appeal (AT) (Insolvency) No. 316 of 2022 before the NCLAT. The Hon'ble NCLAT *vide* order dated 30th March, 2022 directed the *status quo* regarding the plant and machinery to be maintained. The Hon'ble NCLAT *vide* order dated 2nd May, 2022 extended the *status quo* till the next date of hearing i.e., 30th May, 2022. The *status quo* directed by the Hon'ble NCLAT as of the date of the present IA counts as 52 days.

7. That, besides the *status quo* on e-auction, it is also submitted that the Government of India through Ministry of Home Affairs (GoI) *vide* its order No. 40-3/2020-DM-I (A) dated 24th March, 2020 imposed a nationwide lockdown in view of the outbreak of SARS-CoV-2 in India. The lockdown was further continued by the GoI *vide* orders dated 14th April, 2020, *vide* order dated 1st May, 2020 and 17th May, 2020. Subsequently, the GoI issued unlocking measures for re-opening of prohibited activities in phased manner in areas outside the containment zones and extension of lockdown in containment zones by the GoI through various orders. This was followed by the guidelines for surveillance, containment and caution against COVID-19 issued by the GoI through various orders for containing of COVID-19 in the country. The COVID-19 and the measures for containment of COVID-19 brought the business activities to a stand-still and adversely affected creating operational and financial challenges for Indian Business community. Due to this, majority of the stakeholders of the CD and/or bidders who showed some interest in purchase of the CD in liquidation proceedings could not travel to visit/inspect the assets of the CD which were located in Angul, Odisha.
8. In addition to the above, it is also submitted that the Hon'ble Supreme Court took *suo motu* cognizance of the COVID-19 pandemic, and the issues being faced by the litigants and by its order dated 23rd March, 2020 passed in *suo moto* Writ Petition (Civil) No. 3 of 2020 extended the period of limitation in all proceedings, irrespective of the limitation prescribed under the general laws or special laws whether condonable or not with effect from 15th March 2020 till further orders. This was followed by orders dated 08th March, 2021, 23rd September, 2021 and 10th January, 2022. *Vide* the order dated 10th January 2022 the Hon'ble Supreme Court directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation

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as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings.

9. Therefore, on account of the above-mentioned reasons which were beyond the control of the Liquidator including the global impact of the COVID-19 pandemic on business environment, sentiment, activities and cash flows, the period from 15th March, 2020 till 06th December, 2020 (**267 days**) is, in the interest of justice and equity, required to be excluded from the computation of the timelines mentioned under Regulation 44 (1) read with Regulation 47A of the Liquidation Regulation.
10. That, the Liquidation order was passed on 23rd October, 2019 by the NCLT, Mumbai Bench in MA No. 1582 of 2018. However, the Liquidation order was made available only on 27th November, 2019, absent which the process of liquidation could not commence, which resulted in loss of 35 days from 23rd October, 2019 to 26th November, 2019 for computation of the timelines mentioned under Regulation 44(1) read with Regulation 47A of the Liquidation Regulation.
11. The table below shows the computation of the aforesaid number of days sought to be excluded by the Applicant:

S.No.	Period Excluded	Dates	Days
1.	Liquidation Order was passed on 23 rd October, 2019 but order was made available only on 27 th November, 2019 as specified above under para 4.30	23 rd October, 2019 to 26 th November, 2019	35
2.	Lockdown Period as specified above under para 4.29	15 th March, 2020 to 06 th	267

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		December, 2020	
3.	Stay on e-auction process by NCLT as specified above under para 4.6	7 th December, 2020 to 3 rd February, 2022	424
4.	Stay on e-auction process by Hon'ble NCLAT as specified above under para 4.10	30 th March, 2022 to 20 th May, 2022 (till the date of the present application)	52
	Total		778

12. Therefore, keeping in view of the foregoing grounds/ causes, the Liquidator has filed the present application to request this Bench to exclude the following from the computation of the timelines as prescribed under Regulation 44(1) of the Liquidation Regulations for completion of the liquidation process of the CD:

- a. 778 days being 9 (i). 35 days from 23rd October, 2019 to 26th November, 2019, (ii) 691 days from 15th March, 2020 to 3rd February, 2022 and (iii). 52 days are from 30th March, 2022 to 20th May, 2022;
- b. Further period beginning from 21st May, 2022 till the *status quo* imposed by the Hon'ble NCLAT in Company Appeal (AT) (Insolvency) 316 of 2022 remains in force, from the computation of the timelines as prescribed under Regulation for completion of the liquidation process of the CD.

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13. In view of the above stated facts and circumstances of the case, the material on record and in the interest of all the stakeholders, this Adjudicating Authority is inclined to allow for exclusion of 778 days for completing the liquidation process from the date of this Order.

14. Accordingly, IA (IB) No. 165/CB/2022 in TP No. 17/CB/2021 [*Earlier CP* (IB) No. 1696/MB/2017] is **ALLOWED** and disposed of as above.

SATYARANJAN PRASAD Digitally signed by SATYARANJAN PRASAD
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Satya Ranjan Prasad
Member (Technical)

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Date: 2022.10.17 13:17:18 +05'30'

MOHAN RAJ
P. Mohan Raj
Member (Judicial)

Signed on this, the 17th day of October, 2022.

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