

**Through Videoconference**

IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH, COURT No. - I

IA No. 800 of 2021  
in  
C.P. (IB) No. 2096/MB/2019

Application u/s. 35(1)(n) of the I&B Code, 2016 read with  
Regulation 44(2) & 47A of the Insolvency and Bankruptcy Board of  
India (Liquidation Process) Regulations, 2016

Santanu T. Ray,  
Liquidator for Firestar Diamond International Pvt. Ltd.,  
Registration No. IBBI/IPA-002/IP-N00360/2017-18/11055  
A-301, BSEL Tech Park,  
Sec. 30A, Opp. Vashi Railway Station,  
Vashi - 400 705 ... *Applicant*

*In the matter of*  
C.P. (IB) No. 2096/MB/2019

Corporation Bank ... Financial Creditor  
V/s  
Firestar Diamond International Private Limited  
... Corporate Debtor

Date of Order: 29 .07.2021

CORAM:

Shri. Bhaskara Pantula Mohan, Hon'ble Acting President  
Shri. Narendra Kumar Bhola, Hon'ble Member (Technical)

*Appearance:*

For the Applicant: Ms. Rubina Khan, Advocate.

*Sd/-*

Per: Bhaskara Pantula Mohan, Acting President

**ORDER**

1. The present Application is filed by the Applicant under Section 35(1)(n) of the Insolvency and Bankruptcy Code, 2016 (the Code) read with Regulation 44(2) and 47A of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 (Liquidation Process Regulations), seeking exclusion of lockdown period and extension of liquidation period of the Corporate Debtor.
2. Brief facts leading to the Application are as under.
  - i. Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor was initiated by this Bench by order dated 25.09.2019 upon admission of a Petition under Section 7 of the Code and Mr. Ram Ratan Kanoongo was appointed as the Interim Resolution Professional (IRP).
  - ii. Further, as the Corporate Debtor was not a going concern and as the recovery actions had already been initiated by the Banks against the Corporate Debtor, the Committee of Creditors (CoC) in 4<sup>th</sup> meeting held on 02.12.2019 passed a resolution for liquidation of the Corporate Debtor with 98.5% voting share.
  - iii. Subsequently, this Tribunal *vide* Order dated 26.02.2020 commenced the liquidation process of the Corporate Debtor and appointed Mr. Santanu T. Ray, the Applicant herein, as the Liquidator. It is submitted by the Applicant

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that the certified copy of the Order dated 26.02.2020 was received on 03.03.2020.

- iv. The Applicant further submits that upon taking over the charge as Liquidator, it came to his knowledge that majority and substantial assets of the Corporate Debtor were attached/seized by the Directorate of Enforcement (ED). Therefore, to fulfil the liquidation obligations prescribed under the Code and to ensure smooth and legal process of sale of the assets of the Corporate Debtor, the Applicant filed IA Nos. 1261 of 2020, 1401 of 2020 & 1853 of 2020 in the captioned Company Petition, *inter alia*, seeking de-attachment / de-seizure of said assets and for handing over custody thereof to the Applicant. These IAs are pending adjudication.
- v. The Applicant submits that as per Regulation 44(1) of the Liquidation Process Regulations, the liquidation period (one year) of the Corporate Debtor expired on 03.03.2021. However, the liquidation process of the Corporate Debtor could not be completed within the stipulated period due to the following reasons:
- (a) Imposition of nationwide lockdown from 23.03.2020 by the Central Government due to the Covid-19 Pandemic.
  - (b) On account of lockdown the creditors of the Corporate Debtor were unable to file their claims within time.
  - (c) Due to pending litigations, the assets of the Corporate Debtor remained attached/seized and

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the Applicant failed to take custody and sell the assets of the Corporate Debtor.

vi. The Applicant submits that unless the liquidation period is extended, he would not be able to carry on the liquidation process of the Corporate Debtor to any logical conclusion which would prejudice the entire process.

3. The Applicant is thus before us seeking the following reliefs:

- a) *Allow the present Application;*
- b) *Exclude the period of Lockdown imposed by the Central Govt. between 23<sup>rd</sup> March 2020 and 31<sup>st</sup> August 2020 (i.e. 161 days) from the duration of the Liquidation Proceeding of One year, in which case the liquidation period will expire on 11<sup>th</sup> August 2021.*
- c) *Extend the period of Liquidation of the Corporate Debtor by another one year from 11<sup>th</sup> August 2021 (i.e. expiry of liquidation period after excluding 161 days).*
- d) *Issue such other necessary order as may be deemed fit in the matter.*

4. We have heard the learned counsel for the Applicant and have perused the records. The liquidation of the Corporate Debtor was ordered on 26.02.2020 and the nationwide lockdown was imposed from 23.03.2020 due to the Pandemic. Thus, substantial amount of time from the liquidation period has been lost under the lockdown and therefore the Applicant was

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not able to complete the liquidation process in stipulated period.

5. The Board (IBBI) in wake of the covid-19 pandemic amended the Liquidation Process Regulations and inserted Regulation 47A for 'exclusion of period of lockdown'. Also, Regulation 44(2) of the Liquidation Process Regulations provides that the Liquidator shall make an Application to the Adjudicating Authority to continue the liquidation process beyond the statutory period of one year specifying the additional time required.
6. In view of the above discussions the Application deserves to be allowed. Hence ordered.

ORDER

- i. The Application be and the same is allowed.
- ii. The period of lockdown from 23.03.2020 till 31.08.2020 is excluded from computation of the liquidation period.
- iii. Fresh period of one year is extended for completion of the liquidation process.
- iv. No costs.

Sd/-

Narendrā Kumar Bhola  
Member (Technical)

Sd/-

Bhaskara Pantula Mohan  
Acting President