

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH COURT NO. II
KOLKATA**

I.A. (IB) No. 1630/KB/2023

In

C.P. (IB) No. 56/KB/2019

*An application under Section 60(5) of the Insolvency and Bankruptcy Code, 2016
read with Rule 11 of the NCLT Rules, 2016.*

IN THE MATTER OF:

State of Bank of India	Verses	... Financial Creditor.
Simplex Projects Limited [CIN: L45201WB1990PLC050101]		... Corporate Debtor.

AND

IN THE MATTER OF:

Mr. Sudarsshhan Das Mundhra	Verses	... Applicant.
Sutanu Sinha, RP of the Simplex Projects Limited		... Respondent.

Date of Hearing: September 27, 2023

Date of Pronouncement: October 20, 2023

CORAM:

SMT. BIDISHA BANERJEE, MEMBER (JUDICIAL)

SHRI BALRAJ JOSHI, MEMBER (TECHNICAL)

Appearance:

For Applicant:

- 1. Mr. Joy Saha, Senior Advocate,**
- 2. Ms. Vidhi Sharma, Advocate,**
- 3. Ms. Sanjana Jha, Advocate.**

For RP:

- 1. Ms. Kanishka Prasad, Advocate.**

ORDER

Per: Bidisha Banerjee, Member (Judicial)

- 1. This Court is congregated through hybrid mode.**
- 2. Heard the Ld. Counsels.**

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3. This instant Application is filed under Section 60 of the Insolvency and Bankruptcy Code, 2016, for brevity “IBC” by One Mr. Sudarsshhan Das Mundhra, one of the Prospective Resolution Applicant (PRA) seeking the direction from this Adjudicating Authority upon the Respondent (RP) to consider and complete the re-voting process on the Resolution Plan submitted by the Applicant at the earliest and to enlarge and/or extend and/or exclude a further period of 30 days from the period of Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor.
4. It is evident that vide an Order dated **April 27, 2022**, CIRP was admitted in respect of Corporate Debtor and Mr. Sutanu Sinha was appointed as an IRP and the final list of PRAs was issued on October 05, 2022.
5. The Ld. Senior Counsel for the Applicant submits that the original 180 days of the CIRP period had expired on **October 24, 2022**. Vide an Order dated December 12, 2022, this Tribunal directed to enlarge the CIRP period for completion of the CIRP to February 22, 2023. Vide and Order dated May 15, 2023 this Bench allowed to exclude the time period from **22/04/2023 to 15/05/2023**, and further grant an exclusion of 60 days’ time and thereby the 330 days CIRP period would come to an end on **15/07/2023**. Further, we directed the Resolution Professional **to strictly adhere to this time frame and complete the CIRP within the given time as above.**
6. The Ld. Senior Counsel for the Applicant further submits that on the 31st CoC meeting held on July 26, 2023, the Resolution Plans of two PRAs was put to voting. The Applicant herein received an approval by 58.11%. The Applicant herein by a letter dated August 25, 2023 requested the Resolution Professional for re-voting on his Resolution Plan.
7. Vide an Order dated August 28, 2023, this Bench further allowed to extend the period of CIRP by further 30 days. On August 28, 2023, the Resolution

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Professional issued a Notice for continuation of the 32nd CoC Meeting to be held on August 29, 2023, and the same was held accordingly.

8. Vide and Order dated August 28, 2023, we further allowed to extend the period by further 30 days, i.e., **September 27, 2023**, beyond 330 days to complete the CIRP of the Corporate Debtor as prayed for and we clearly directed the RP to complete the whole process of CIRP within the extended period of time positively.
9. The Ld. Senior Counsel for the Applicant contends that the Applicant has attended a meeting with the Financial Creditors and renegotiated his already submitted Resolution Plan and the Applicant has proposed to revise and/or improve the Resolution Plan vide a letter dated September 21, 2023. Upon receiving such proposal, the RP issued a notice dated September 21, 2023 calling a COC meeting on September 23, 2023.
10. We rely upon the judgment of the **Hon'ble Apex Court** in *Committee of Creditor of Essar Steel India Limited v. Satish Kumar Gupta and Others*, reported in (2020) 8 SCC 531 (para 127) it was held that

“[...] on the fact of a given case it can be shown to the Adjudicating Authority or the Appellate Authority under the Code that only a short period of time is left for completion of the Insolvency process beyond 330 days and it would be in the interest of all stakeholders that the corporate debtor be put back on its feet instead of being sent into liquidation, it may be upon the Adjudicating Authority in such case for to extend the time [...].”

(Emphasis added)

11. We further rely upon the decision passed by this Adjudicating Authority in CoC of *Tamra Dhatu Udyog Pvt. Ltd. v. Ms. Mamta Binani RP*, I.A. (IB) No. 1459 (KB)2023 and I.A. (IB) No. 1444 (KB) 2023 in Company Petition (IB)/128(KB)2020 reported in (2023) ibclaw.in 650 NCLT that:

“18. [...] We are mindful of the objective of the Code and commercial wisdom of COC being of paramount importance. Hence, we allow this application and allow all the Participating Resolution Applicants by

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giving a last, equal and fair opportunity to submit their revised and/or enhanced resolution plans to the RP of the Corporate Debtor. If required fresh timelines may be provided to all the Participating Resolution Applicants who wish to enhance and/or revise their resolution plans, keeping in view the prescribed timelines of completion of the CIR Process and voting period may also be extended if necessary.”

(Emphasis added)

12. We have already noted that the 330 days period is long over. However, having noted the present stage of CIRP, by way of indulgence as a last and final opportunity, we allow the extension of the completion of the CIRP as prayed for, to a further period of 30 days from September 27, 2023. It is made very clear that the Resolution Professional shall complete the entire process of CIRP within the extended period of time positively and no further opportunity shall be given at all.
13. **I.A. (IB) No. 1630/KB/2023** is **disposed of** accordingly in terms of order above.
14. Certified copy of this order may be issued by the Registry, if applied for, upon compliance of all requisite formalities.

Arvind Devanathan
Member (Technical)

Bidisha Banerjee
Member (Judicial)

This Order is signed on the 20th Day of October, 2023.

Bose, R. K. [LRA]