

**THE NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH, CHANDIGARH
(Through web-based video conferencing platform)**

**IA No.490/2020 & 502/2020 IN
CP(IB) No. 344/Chd/Pb/2018
(Admitted matter)**

**Under Section 12-A & 12(2) of the
Insolvency and Bankruptcy Code, 2016,
Regulations 40 & 30-A of IBBI (CIRP)
Regulations, 2016 & Rule 11 of NCLT
Rules, 2016**

In the matter of:

Bhawani Industries Private Limited	...Operational Creditor
Vs.	
Texlene Forge Private Limited	...Corporate Debtor

And in the matter of:

IA No. 502/2020

Mr. Nipan Bansal, Resolution Professional M/s. Texlene Forge Private Limited	...Applicant/Resolution Professional
Vs.	
Fullerton India Credit Co. Ltd. & Anr.Respondent-Financial Creditor

And In the matter of:

IA No. 490/2020

Bhawani Industries Private Limited, through Mr. Nipan Bansal, Resolution Professional M/s. Texlene Forge Private Limited	...Applicant/Resolution Professional
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Present through video-conferencing:

Mr. Pulkit Goyal and Mr. Harsh Garg, Advocates for the applicants.

IA No. 502/2020

This application has been filed by the Resolution Professional of Texlene Forge Private Limited under Section 12(2) of IBC, 2016 read with Regulation 40 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and Rule 11 of NCLT Rules, 2016 for extension of CIRP period by 90 days beyond 180 days.

2. CP(IB) No. 344/Chd/Pb/2018 filed by the operational creditor was admitted by this Adjudicating Authority vide order dated 19.12.2019. In view of the lock-down imposed due to Covid-19 Pandemic, IA No. 327/2020 filed for exclusion of lock-down period was allowed and the period from 25.03.2020 to 30.06.2020 was excluded from the initial period of CIRP. After exclusion of the said period of lock-down, the initial period of 180 days for CIRP, expired on 22.09.2020 and before the expiry of the said period, the instant IA was filed on 17.09.2020 seeking extension of period of CIRP for 90 days more beyond the period of 180 days.

3. It is submitted that in the 7th meeting of Committee of Creditors (CoC) held on 08.09.2020, resolution to seek extension of period of CIRP for 90 days was passed with a voting share of 55.24% only, whereas Indusind Bank Limited, one of the financial creditor having a voting share of 2.165% and Fullerton India Credit Co. Ltd., another financial creditor having voting share of 41.445% abstained from the voting. The resolution of the CoC filed with the IA is at Annexure A-7. However, in the 8th CoC meeting held on 28.09.2020 for passing of resolution seeking withdrawal of the CP in view of the settlement made by the respondent-corporate debtor with the operational creditor, Fullerton India Credit Co. Ltd. participated and consented for withdrawal of the CP and accordingly the said resolution was passed with a total voting share of 96.218%. It is also stated that Fullerton India Credit Co. Ltd., who is the first Respondent in the IA, has also given its consent for extension of CIRP period by 90 days more and has also given no objection to the filing of the IA for withdrawal of the CP. The requisite affidavit of Fullerton India Credit Co. Ltd. to this effect, is filed in the IA vide Diary No. 01202/3 dated 12.02.2021.

4. Accordingly, it is prayed that in view of the subsequent approval and consent given by Fullerton India Credit Co. Ltd. to the resolution seeking extension of CIRP period and in the peculiar circumstances of the case i.e. pendency of IA No. 490/2020 seeking withdrawal of the CP, the instant IA may be allowed.

5. Keeping in view the object of the IBC, prayer made for withdrawal of CP on the face of settlement of the matter and in the peculiar circumstances of the case, we are of the considered view that period of CIRP deserves to be extended. Accordingly, the instant IA is allowed to the extent of extension of period of 90 days beyond 22.09.2020. As the instant IA was filed on 17.09.2020, its pendency period from 17.09.2020 to till date is also excluded from the CIRP period.

6. Accordingly, IA No. 502/2020 stands disposed of.

IA No. 490/2020

This application has been filed by the Resolution Professional of Texlene Forge Private Limited under Section 12-A of IBC, 2016 read with Regulation 30-A of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and Rule 11 of NCLT Rules, 2016 for withdrawal of the CP (CP(IB) No. 344/Chd/Pb/2018).

2. CP(IB) No. 344/Chd/Pb/2018 filed by the operational creditor was admitted by this Adjudicating Authority vide order dated 19.12.2019. In view of the lock-down imposed due to Covid-19 Pandemic, IA No. 327/2020 filed for exclusion of lock-down period was allowed and the period from 25.03.2020 to 30.06.2020 was excluded from the initial period of CIRP. After exclusion of the said period of lock-down, the initial period of 180 days for completion of

CIRP expired on 22.09.2020 and before the expiry of the said period, IA No. 502/2020 was filed on 17.09.2020 seeking extension of period of CIRP for 90 days more beyond the period of 180 days.

3. IA No. 502/2020 has been allowed today to the extent of granting of extension of period of CIRP by 90 days beyond 22.09.2020. As IA No. 502/2020 was filed on 17.09.2020, the pendency period from 17.09.2020 till date has also been excluded from the CIRP period.

4. The instant IA has been filed by the Resolution Professional in Form FA in pursuance to the resolution against the agenda item No. 6 regarding approval of withdrawal of CP filed by the operational creditor, passed with 96.218% voting share in the 8th meeting of Committee of Creditors (CoC) held on 28.09.2021 (Annexure A-5).

5. In view of the resolution passed by the Committee of Creditors of the corporate debtor with requisite percentage of voting share, the instant IA is allowed and CP(IB) No. 344/Chd/Pb/2018 is permitted to be withdrawn, discharging the corporate debtor from all the rigors of the CIRP. The moratorium is lifted and the Resolution Professional is discharged. The records of the corporate debtor, if any, in the possession of the Resolution Professional shall be handed over to the corporate debtor. The Board of Directors are restored to its original position. It is stated in the application filed in Form FA (Annexure A-4) for withdrawal of CIRP, that the entire CIRP cost has been paid.

6. IA No. 490/2020 stands disposed of accordingly.

Sd/-
(Raghu Nayyar)
Member(Technical)

Sd/-
(Ajay Kumar Vatsavayi)
Member (Judicial)

February 24, 2021
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