IN THE NATIONAL COMPANY LAW TRIBUNAL,

MUMBAI BENCH, COURT II

IA No.715/MB/C-II/2021
IN
C.P (IB) No. 1252/MB/C-II/2017

Under Regulation 44(2) of The IBBI (Liquidation Process) Regulations, 2016 r.w. Rule 11 of NCLT Rules, 2016 Seeking Extension of The Liquidation Process of the Corporate Debtor.

Filed by
Mr. Manish S Buchasia,
Liquidator of
Skyline Capital Private Limited
...Applicant/Liquidator

IN THE MATTER OF

Sarsan Securities Private Limited
...Petitioner/Financial Creditor

Versus

Skyline Capital Private Limited
...Corporate Debtor

Order Pronounced on: 25.06.2021

Coram:

Hon'ble Acting President	:	Mr. Bhaskara Pantula Mohan
Hon'ble Member (Technical)	:	Mr. Ravikumar Duraisamy

Appearances:

For the Applicant	:	Mr. Manish S Buchasia, PCS Liquidator in Person.

ORDER

Per: Ravikumar Duraisamy, Member

1. The present application is moved by **Mr. Manish S Buchasia** (hereinafter called as "the Applicant") **Under Regulation 44(2) of The IBBI (Liquidation Process) Regulations, 2016 r.w. Rule 11 of NCLT Rules, 2016. Seeking Extension of the Liquidation Process of the Corporate Debtor** to complete Liquidation (hereinafter referred to as "Liquidation") of the Corporate Debtor Company namely **Skyline Capital Private Limited** (hereinafter called as the "Corporate Debtor") and for passing any other order/suitable direction in the matter.

   Summary of Reliefs sought by this application

   (a) Extend the liquidation period for the period of one year time from 28.02.2021 (28th February, 2021) to 20.02.2022 (28th February, 2022) or such other date which will be arrived after excluding the period of lockdown as per Regulation 47A of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations Code 2016.

   (b) Exclude the time period from 24.03.2020 (date of imposition of lockdown) till 30.09.2020 (date of last notification of State Government extending lockdown in phased manner) or such other date which will be arrived after excluding the period of lockdown, as may be notified by the Central Government/Government or Maharashtra for the purpose of computation of the time-line for the task(s) which could not be completed during this period and also but not limited to the timelines for the completion of Liquidation Process of Corporate Debtor under Regulation 44 of the Liquidation Regulations in the matter of SKYLINE CAPITAL PRIVATE LIMITED, the Corporate Debtor.

(c) Such further and other reliefs as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the present case.

2. The Applicant states that the Corporate Debtor was ordered to be Liquidated by virtue of an Order dated 28.02.2019 by this Tribunal. Vide the said Order, the Applicant was appointed as the Liquidator of the Corporate Debtor.

<u>FACTS OF THE CASE:</u>

3. That one of the Financial Creditor namely **Sarsan Securities Private Limited** had filed an Application under Section 7 of the Insolvency and Bankruptcy Act, 2016 for initiating Corporate Insolvency Regulation Process ("hereinafter referred to as CIRP") on account of defaults committed by the Corporate Debtor in making payments to the Financial Creditor.

4. That this Tribunal had passed an Order dated 06.10.2017 thereby admitting the Company Petition filed by the appointing Mr. Rahul Sudhakar Kavathekar as an Interim Resolution Professional ("hereinafter referred as IRP") to carry out the functions as per the provisions of the IBC 2016.

5. Pursuant to the Applicant's appointment as the Liquidator, the Applicant issued a public announcement in Form B, on 29.03.2019, in compliance of Regulation 12 of the Liquidation Regulations, inviting claims from all the stakeholders of the Corporate Debtor. Further, the same was also published in newspapers and on the official website of the Corporate Debtor. The last date of submission the claims was 24.04.2019.

6. Thereafter, the Liquidator received the claims of the stakeholder of the Corporate Debtor, and accordingly a list of stakeholders as per Regulation 31 of the Insolvency and Bankruptcy Code of India (Liquidation Process) Regulation, 2016 was filed before this Tribunal on 29.08.2020.

7. That the Liquidator had filed a preliminary report and an asset memorandum on 06.01.2020 in accordance with the Regulation 34(4) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation, 2016.

8. Thereafter, the Liquidator in accordance with Regulation 15 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation, 2016 had prepared and submitted eight progress reports till 31.12.2020.

9. It is submitted that the Applicant has made every endeavor to carry on the duties in the capacity as Liquidator of Corporate Debtor.

10. It is submitted that due to the on-going Pandemic and nation-wide lockdown there was a genuine delay in carrying out the process of

Liquidation of the Corporate Debtor and hence the Liquidator in the instant Application is seeking an extension of period of one year from 28.02.2021 to 28.02.2022 for completion of liquidation of Corporate Debtor.

OBSERVATIONS:

11. We are satisfied with the submission that the liquidation period needs to be extended. Accordingly, prayer of Applicant is allowed the liquidation period is extended by **six months from today**. Further the period consumed During the lockdown period has to be excluded/exempted from counting the period prescribed for completing the process of liquidation as per the *suo moto* decision of Hon'ble Supreme Court in "*Miscellaneous Application No. 665/2021 in SMW(C) No. 3/2020'*'by extending/exempting the period from 15th March 2020 till 14th March 21 and again now until further order. The relevant portion of the Order dated 27.04.2021 is being reproduced herein below:

> ***"We also take judicial notice of the fact that the steep rise in COVID-19 Virus cases is not limited to Delhi alone but it has engulfed the entire nation. The extraordinary situation caused by the sudden and second outburst of COVID-19 Virus, thus, requires extraordinary measures to minimize the hardship of litigant–public in all the states. We, therefore, restore the order dated 23rd March, 2020 and in continuation of the order dated 8th March, 2021 direct that the period(s) of limitation, as prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings, whether condonable or not, shall stand extended till further orders.***

It is further clarified that the period from 14th March, 2021 till further orders shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.
We have passed this order in exercise of our powers under Article 142 read with Article 141 of the Constitution of India. Hence it shall be a binding order within the meaning of Article 141 on all Courts/Tribunals and Authorities."

12. With the aforesaid observations, the present **IA No. 715 of 2021 in CP (IB) No. 1252 of 2017** is allowed.

13. The **IA No. 715 of 2021** is disposed of.

Sd/-	**Sd/-**
RAVIKUMARDURAISAMY	**BHASKARA PANTULA MOHAN**
MEMBER(TECHNICAL)	**ACTING PRESIDENT**

25.06.2021
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