IN THE NATIONAL COMPANY LAW TRIBUNAL
SPECIAL BENCH – II, CHENNAI

IA(IBC)/1561(CHE)/2023

In

IBA/45(CHE)/2020

(filed under Section 12 read with 60(5) of the Insolvency & Bankruptcy Code, 2016 read with Rule 11 of NCLT Rules, 2016)

In the matter of ***Kiran Global Chem Limited***

MR. THARUVAI RAMACHANDRAN RAVICHANDRAN
Resolution Professional of
M/s. Kiran Global Chem Limited
G-3, Block-2, Shivani Apartments,
40, East Coast Road, Thiruvanmiyur,
Chennai – 600 041

... Applicant

Order Pronounced on ***13th October 2023***

<u>CORAM</u>

SHRI SANJIV JAIN, MEMBER (J)
SHRI RAVICHANDRAN RAMASAMY, MEMBER (T)

Appearances:

For Applicant : Mr. S. Sathyanarayanan, Advocate

ORDER

(Hearing conducted through VC)

Per: **RAVICHANDRAN RAMASAMY, MEMBER (TECHNICAL)**

1. Under consideration is an application filed by the Applicant under Section 12 read with 60(5) of the Insolvency & Bankruptcy Code, 2016 (hereinafter referred to as ("**the Code**") read with Rule 11 of the National Company Law Tribunal Rules, 2016 seeking reliefs as follows:

   a) An order excluding the 480 days (i.e., 29.03.2022 to 21.07.2023), lost due to legal proceedings from the Corporate Insolvency Resolution Process Period of the Corporate Debtor *and thereby extending the Corporate Insolvency Resolution Process Period till 26.10.2023;*

b) *Pass such further order orders/reliefs as may be deemed fit and proper in the facts and circumstances of the case and thus render justice.*

2. The brief facts are that, the Corporate Debtor was admitted into Corporate Insolvency Resolution Process (CIRP) vide order dated 27.04.2021. That the Committee of Creditors (CoC) of the Corporate Debtor constitute of the following members,

Sl. No.	Name of the Financial Creditor	Voting % in CoC
1.	ARCIL	51.73%
2.	Axis Bank Ltd.	22.74%
3.	LIC Housing Finance Co. Ltd.	22.93%
4.	Karur Vysya Bank Ltd.	1.68%
5.	Sundaram Finance	0.92%

6. An application for exclusion of Covid-19 period and extension of 90 days was filed before this Adjudicating Authority in IA(IBC)/1033(CHE)/2021, and the same was allowed vide order dated 15.11.2021.Thereby, the CIRP period of the Corporate Debtor was extended till 15.04.2022.

7. It is stated that the Suspended director of the Corporate Debtor also filed an application in IA/(IBC)1231/(CHE)/2021 seeking extension of last date for submission of resolution plan. The same was allowed by this Adjudicating Authority vide order dated 22.12.2021 given

extension by one month. The Resolution Professional was directed to verify and determine the MSME status of the Corporate Debtor. In compliance to the above, the Applicant upon ascertaining the MSME Status of the Corporate Debtor intimated to the suspended director vide e-mail dated 25.01.2022 and 27.01.2022 that the Corporate Debtor doesn't fall under the MSME Category.

8. It is state that the suspended director being aggrieved by the e-mail sent by the Applicant preferred an application before this Adjudicating Authority in IA/(IBC)/146(CHE)/2022 seeking to set aside the e-mail communication sent by the RP dated 25.01.2022 and 27.01.2022. The Adjudicating Authority vide order dated 16.03.2022 dismissed the above application.

9. It is stated that being aggrieved by order dated 16.03.2022 in IA/(IBC)/146(CHE)/2022, the suspended director preferred an appeal before the Hon'ble NCLAT. The Hon'ble NCLAT vide its order dated 29.03.2022 in Company Appeal (At) (Ins) No. 101 of 2022 and IA/230/2022 suspended the impugned order dated 16.03.2022. Thereafter, the Hon'ble NCLAT vide its order dated 07.06.2022 directed that the order dated 29.03.2022 be adhered by one and all, including the RP and clarified not to proceed with Corporate Insolvency Resolution Process of the Corporate Debtor.

10. It is stated that the Hon'ble NCLAT vide its order dated 21.07.2023 in an appeal filed by one of the Financial Creditor in Company Appeal (At) (Ch) (Ins) No. 101 of 2022 clarified that the order dated 29.03.2022 and 07.06.2022 shall not affect the proceedings of the Committee of

Creditors (CoC) in respect of the Corporate Insolvency Resolution Process of the Corporate Debtor and that those orders are only regarding suspension of the order of this Adjudicating Authority dated 16.03.2022.

11. It is stated that there are possibilities of reviving the Corporate Debtor as there are few other plans for consideration by the CoC.

12. It is sated that the CoC in its 13th CoC meeting held on 11.09.2023 taking into consideration the status of the Corporate Debtor resolved as follows with 99.08% approval of its members,

> *"Resolved to request Hon'ble National Company Law Tribunal, Chennai to exclude 480 days (i.e., 29.03.2022 to 21.07.2023) from the CIRP period of the Corporate Debtor, lost due to legal proceedings and thereby extending the Corporate Insolvency Resolution Process period till October 26, 2023."*

13. Heard the submissions and perused the documents on record. From the submission made it is found that this Adjudicating Authority vide its order in IA(IBC)/1033(CHE)/2021 dated 15.11.2021 this Tribunal excluded 83 days and extended the Corporate Insolvency Resolution Process period of the Corporate Debtor for 90 days. Thereafter, vide order in IA(IBC)/468 (CHE)/2022 dated 25.05.2022 excluded 79 days i.e., from 27.12.2021 to 16.03.2022. The Applicant now seeks exclusion of 480 days from 29.03.2022 to 21.07.2023.

14. It is seen that the period from 29.03.2022 to 21.07.2023 is lost due to the fact that the order dated 29.03.2022 and 07.06.2022 was misconstrued by the Applicant and the CoC. Vide order dated 21.07.2023, a clarification

order from the Hon'ble NCLAT paved way to the Applicant to proceed with the Corporate Insolvency Resolution Process of the Corporate Debtor without any further delay. Having considered the facts and circumstances that, there exists prospective applicants to resolve the Corporate Debtor, we are of the view that the extension may be allowed keeping in view the interest of the welfare of the Corporate Debtor.

15. In view of the above, the 480 days of Corporate Insolvency Resolution Process period of the Corporate Debtor is excluded from 29.03.2022 to 21.07.2023 and accordingly the Corporate Insolvency Resolution Process period of the Corporate Debtor shall expire on 26.10.2023. The RP is directed to expedite the Corporate Insolvency Resolution Process of the Corporate Debtor. This Application is ***allowed*** in terms of the above direction.

16. Accordingly ***IA(IBC)/1561(CHE)/2023*** stands ***disposed of.***

-Sd-

RAVICHANDRAN RAMASAMY
MEMBER (TECHNICAL)

-Sd-

SANJIV JAIN
MEMBER (JUDICIAL)

Order pronounced under Rule 151 of NCLT Rules 2016, by ***Hon'ble Technical Member Ravichandran Ramasamy*** *on behalf of the Bench Comprising of* ***Sanjiv Jain, Member (Judicial)*** *and* ***Ravichandran Ramasamy, Member (Technical)***

Dy. Registrar/***Court Officer***