

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
SPECIAL BENCH (Video Conference)**

**CORAM: HON'BLE SHRI K. ANANTHA PADMANABHA SWAMY - MEMBER JUDICIAL
ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
HYDERABAD BENCH, HELD ON 03.09.2020 AT 11.00 A.M. THROUGH VIDEO CONFERENCE**

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA No.591/2020 in CP(IB) No.186/9/HDB/2019
NAME OF THE COMPANY	Sujana Universal IndustriesLtd
NAME OF THE PETITIONER(S)	Minera Steel & Power Pvt Ltd
NAME OF THE RESPONDENTS(S)	Sujana Universal IndustriesLtd
UNDER SECTION	9 of IBC

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-Mail & Telephone No.	Signature

Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-Mail & Telephone No.	Signature

ORDER

IA No.591/2020

1. Matter listed for pronouncement of Orders in IA No.591/2020 in CP (IB) No.186/9/HDB/2019 through Video Conference in view of Notice of the Headquarters dated 17.04.2020 read with Notice dated 03.05.2020.
2. Mr. B. Harinath Rao, counsel for Applicant/RP appeared through video conference.
3. Orders pronounced vide separate order. IA No.591/2020 in CP(IB)No.186/9/HDB/2019 is allowed.


MEMBER JUDICIAL

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERBAD**

IA No. 591 of 2020
In CP (IB) No.186/9/HDB/2019
Under section 12(2) of the IB Code, 2016
R/w. Regulation 40C of the IBBI Regulations, 2016.

In the matter of :-
M/s. Sujana Universal Industries Limited

Mr. Ramakrishnan Sadasivan,
Resolution Professional of
M/s. Sujana Universal Industries Limited,
Office at: New No.28, Old No.22, Menod Street,
Purasawalkam, Chennai – 600 007.

...Applicant/
Resolution Professional

Date of Order: 03.09.2020

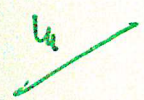
Parties/Counsel Present:

For the Applicant : Mr. B. Harinath Rao,
Ms. N. Sridevi, Counsels

Per: Shri. K. Anantha Padmanabha Swamy, Member Judicial.

ORDER

1. The present Application bearing IA No. 591 of 2020 in CP (IB) No.186/9/HDB/2019 is filed by RP/Applicant under section 12(2) of the IB Code, 2016, r/w. Regulation 40C of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, in the matter of M/s. Sujana Universal Industries Limited, inter-alia, seeking the following relief(s) as under:



- a) To exclude the period of lockdown and extend the 330 days CIRP period which ended on 15-05-2020 at least by a further period of 6 weeks to be allowed from 31-07-2020, since the COC in its meeting held on 04.07.2020 has resolved to request the Hon'ble NCLT to extend the CIRP period to facilitate the Prospective Resolution Applicant to submit the Resolution Plan, since one of the Resolution Applicant is from Singapore which is also equally affected by with Covid-19 virus, due to which the Resolution Professional could not complete the task and file report before this Adjudicating Authority the above said matter i.e., M/s. Sujana Universal Industries Limited. (Corporate Debtor).
2. Counsel for the Applicant filed memo dated 24.07.2020, praying to amend the above said prayer as under:
- a) To exclude the period of lockdown announced for Covid-19 by the State Government of Telangana and the Central Government through its Ministry of Home Affairs, from 23-03-2020 to 31-07-2020 from the Corporate Insolvency Resolution Process period, according to Regulation 40C as the CIRP ended during the lockdown on 15-05-2020 by the un-availed period of 54 days (from 23-03-2020 to 31-07-2020) in view of the lockdown and to allow the applicant to utilize/avail the left over 54 days of CIRP period (out of total days of 330 CIRP Period) from 01-08-2020 onwards, since the lock down was announced by the Ministry of Home affairs and further the COC in its 21st meeting held on 04-07-2020 has also resolved to approach



the Adjudicating Authority of NCLT, Hyderabad, for passing the necessary orders by this Adjudicating Authority for availing the un-availed 54 days of CIRP period and also in view of delay in submission of Resolution Plans by Prospective Resolution Applicants, due to Covid-19 pandemic situation, since the Resolution Applicants are from Singapore, which is equally affected with Covid-19 virus in their country, due to which the Resolution Professional could not complete the task and file report before this Hon'ble Tribunal in the above said matter i.e., M/s. Sujana Universal Industries Limited (Corporate Debtor).

3. The following are the brief facts of the case as submitted by the Counsel for Applicant:
 - a) That this Adjudicating Authority admitted the Application filed under section 9 of the IBC, 2016 vide its order dated 20.06.2019 in CP (IB) No.186/9/HDB/2019 and appointed Mr. Nethi Mallikarjuna Setty as IRP. Later he was replaced by Mr. Ramakrishnan Sadasivan as Resolution Professional (RP) vide order dated 20.09.2019 in IA No.771/2019.
 - b) That pursuant to the progress in CIRP, this Adjudicating Authority vide its order dated 12.12.2019 in IA No. 1127/2019, extended the CIRP period for a further period of 90 days beyond 180 days w.e.f. 17.12.2019 and by virtue of section 12 of IBC, 2016, a period of another 60 days beyond 270 days was extended vide order dated

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17.03.2020 in IA No. 278/2020 w.e.f. 17.03.2020 and the same came to be ended on 15.05.2020.

c) That the CoC in its 21st meeting dated 04.07.2020 have quoted the following reasons which evidences the necessity for exclusion of time.

- i. Resolution Plan has already been received and is in the advanced stage of finalization.
- ii. Majority of the CoC Members are located in Chennai and Mumbai, wherein the lockdown is still in force. Almost all banks are working with skeleton staff and that only 30% of the staff are required to come to Office. Thus it is not possible for the CoC Members to co-ordinate with their higher officials and get the Resolution Plan voted upon.
- iii. One of the Resolution Applicant is in Singapore, which is also under lockdown during this period.
- iv. There have been a lot of modifications to the existing Resolution Plan, on account of which the Plan could not reach the final stage for voting.
- v. Moreover only 1 (one) Resolution Plan had been received. The COC Members have put in lot of efforts, negotiating on the proposals of the Resolution Plan for the revival of the Corporate Debtor. The Core theme of the IBC is to revive the Corporate Debtor and prevent it from going into liquidation. In case the resolution plan could not be voted upon due to the stringencies in the duration of time, then all such efforts may go in vain.

d) That, in the said meeting CoC referred to the Regulation 40C that excludes the period of lock down. The CoC in the said meeting approved the following resolution with 69.42% of voting shares for exclusion of CIRP period.

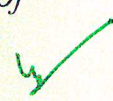
"Resolved that, considering the fact that majority of the CoC members are located in Chennai and Mumbai, wherein the lockdown imposed by the respective state governments on account of Covid 19 is in force, the CoC members are unable to co-ordinate and conclude the voting on the Resolution Plan. Under the circumstances, the Resolution Professional be and hereby be instructed to file an application with the Adjudicating Authority and request



for an extension of the period of CIRP ending on 29th July, 2020, by a further period of six (6) weeks.”

- e) Reiterating the above, the counsel for the Applicant prayed to allow the instant Application.
4. Heard and perused the record.
5. In this case, the commencement of CIRP was approved by this Adjudicating Authority vide its order dated 26.06.2019 in CP (IB) No.186/9/HDB/2019 and a period of 180 days was completed on 17.12.2019. The CIRP period of 180 days has been extended by another 90 days vide this Adjudicating Authority's order dated 12.12.2019 and by virtue of section 12 of IBC, 2016, a period another 60 days was extended vide order dated 17.03.2020. The period of 270 days + 60 days came to an end on 16.03.2020 and 15.05.2020 respectively. Now that the Applicant herein is seeking exclusion of period from 23.03.2020 to 31.07.2020 from the CIRP period, lost due to Coivd-19 pandemic and in view of the lockdown imposed by Central Government and state Government from time to time and also enable the Applicant/RP to utilize the left over period of 54 days in the CIRP from 01-08-2020 onwards.
6. It is pertinent to note that the judgment of the Hon'ble Supreme Court has held in Committee of Creditors of Essar Steel India Limited v. Satish Kumar Gupta & Ors in CA No.8766-67 of 2019 as follows:

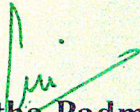
“79.....Thus, while leaving the provision otherwise intact, we strike down the work 'mandatorily' as being manifestly arbitrary under Article 14 of the Constitution of India and as being an excessive and unreasonable restriction on the litigant's right to carry on business under Article 19(1)(g) of



the Constitution. The effect of this declaration is that ordinarily the time taken in relation to the corporate resolution process of the corporate debtor must be completed within the outer limit of 330 days from the insolvency commencement date, including extensions and the time taken in legal proceedings. However, on the facts of a given case, if it can be shown to the Adjudicating Authority and/or Appellate Tribunal under the Code that only a short period is left for completion of the insolvency resolution process beyond 330 days, and that 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 and that the time taken in legal proceedings is largely due to factors owing to which the fault cannot be ascribed to the litigants before the Adjudicating Authority and/or Appellate Tribunal, the delay or a large part thereof being attributable to the tardy process of the Adjudicating Authority and/or the Appellate Tribunal itself, it may be open in such cases for the Adjudicating Authority and/or Appellate Tribunal to extend time beyond 330 days.”

7. Keeping the guidance of the Hon'ble Supreme Court as above in view and considering the submissions, facts and circumstances of case, interest envisaged by the Prospective Resolution Applicant for resolution of Corporate Debtor and in view of the decision of CoC in its 21st meeting dated 04.07.2020, as well as the economic scenario emerging due to COVID-19 pandemic and it's fall out, this Adjudicating Authority observes that exclusion of time period for completion of CIRP lost due to lockdown imposed by Central Government and State Government from time to time, would be in the interest of all stakeholders, to allow the completion of CIRP rather than going for liquidation of the Corporate Debtor which should only be initiated as a last resort. Accordingly, this Adjudicating Authority hereby approve the exclusion of another period of 54 days from calculation of CIRP period w.e.f. 01.08.2020.

8. This exclusion is granted on having considered the steps already been taken by the RP, approval by the CoC with 69.42% of voting shares and the current stage of CIRP in the case of the present Corporate Debtor i.e., M/s. Sujana Universal Industries Limited.
9. Accordingly, this Application bearing IA No.591/2020 in CP (IB) No.186/9/HDB/2019 is hereby disposed of.


K. Anantha Padmanabha Swamy
Member Judicial

Rk/Rathi