

NATIONAL COMPANY LAW TRIBUNAL
COURT-I, MUMBAI BENCH

Item 19

C.P. (IB)/1894(MB)2019 IA 3738/2023

CORAM:

SH. PRABHAT KUMAR
HON'BLE MEMBER (T)

JUSTICE SH. VIRENDRASINGH BISHT(Retd.)
HON'BLE MEMBER(J)

ORDER SHEET OF THE HEARING ON **31.08.2023**

NAME OF THE PARTIES: - **M/S AVANTI RESOURCES PRIVATE LIMITED V/s**
AHALYA TRADING PRIVATE LIMITED

Section 60 (5), 9 of the IBC, 2016

ORDER

Mr. Avinash Khanolkar Ld. Counsel appearing for the applicant & Mr. Balasaheb Yewale Ld. Counsel appearing for the Respondent are present.

IA 3738/2023

This is an application filed by the Interim Resolution Professional seeking exclusion of the period from 27.09.2022 till the date Order over this Application from computation of statutory period of CIRP as enshrined under Section 12(1) of the Code, and allow the Applicant to carry out the CIRP of M/s. Ahilya Trading Private Limited w.e.f. date of order over this Application.

The Corporate Debtor Admitted to the CIRP vide an order dt. 27.09.2022 passed by this Hon'ble Bench and the applicant has been appointed the IRP. However, the Order was communicated to the Applicant only on 10.08.2023. Because of gap of 11 months from the date of order, the applicant is not in position to give effect to the order as per the provisions of the code read with CIRP Regulations. Hence, the applicant has sought following reliefs:-

- a) Admit and allow the application.
- b) Condone delay, if any, for filing this application

- c) Exclude the period from 27.09.2022 till the date of order over this application be excluded from computation of statutory period of CIRP as enshrined under Section 12(1) of the Code;
- d) Permit the applicant to carry out the CIRP of M/s. Ahalya Trading Private Limited w.e.f. date of Order over this application.
- e) Pass any other order in the interest of justice, equity and good conscience as the Hon'ble Tribunal may think fit.

We find that, Corporate Debtor was admitted to CIRP vide order dt. 27.09.2022 by this Bench. On perusal of the order it is noticed that, Mr. Milind Kasodakar was appointed as Resolution Professional and his consent in form 2 is stated to be placed at page 46 of the petition. It is a case of the applicant that M/s Avanti Resources Private Limited communicated this Order on 10.08.2023 through E-mail on that date. It is further submitted that, the Registry of this Tribunal had also not intimated about his appointment as IRP. On the basis of material available on record, we find that the process could actually commence on 10.08.2023 and the prayer of the applicant for exclusion of this period i.e. from 27.09.2022 till 09.08.2023 deserves to be accepted and allowed.

With the aforesaid observations IA 3738/2023 is allowed and disposed of.

Sd/-

PRABHAT KUMAR
Member (Technical)

Sd/-

JUSTICE VIRENDRASINGH BISHT
Member (Judicial)

Jagdish