



**IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH (Court – II)  
KOLKATA**

**IA (IB) No.310/KB/2023**

**in**

**CP (IB) No.1536/KB/2019**

*An application under Section 60(5) of the Insolvency and Bankruptcy Code, 2016  
read with Rule 11 of the National Company Law Tribunal Rules, 2016.*

***In the matter of***

**CP (IB) No.1536/KB/2019**

Phoenix Arc Private Limited

*...Financial Creditors*

*Versus*

Arambagh Hatcheries Limited (under CIRP)

*... Corporate Debtor*

**IA (IB) No.310/KB/2023**

***In the matter of***

Squarevision Properties Private Limited

*... Applicant*

*Versus*

Mr. Pinaki Sircar, Resolution Professional of Arambagh Hatcheries Limited (under CIRP)

*...Respondent*

***Coram:***

Smt. Bidisha Banerjee

: Member (Judicial)

Shri Balraj Joshi

: Member (Technical)

***Appearances (via video conferencing):***

For the RP

: Mr. Shaunak Mitra, Adv.  
:  
: Mr. Vikash Singh, Adv.  
:  
: Ms. Zeenat Shabab, Adv.  
:  
: Mr. Pinaki Sircar, RP in person

For applicant in IA/310/2023

: Mr. Rishav Banerjee, Adv.  
:  
: Mr. Santosh Kumar Ray, Adv.  
:  
: Ms. Rituparna Sanyal, Adv.  
:  
: Ms. Sumana Mukherjee, Adv.  
:  
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**Date of hearing: 23 February, 2023**  
**Order pronounced on: 12 June, 2023**

**ORDER**

***Per Bidisha Banerjee, Member (Judicial)***

1. This court convened *via* hybrid mode.
2. The Corporate Insolvency Resolution Process (“**CIRP**”) was initiated against the Arambagh Hatcheries Limited (under CIRP) (“**Corporate Debtor**”) *vide* order dated 13 May, 2022, passed by this Adjudicating Authority. Further *vide* the said order, this Adjudicating Authority appointed Mr. Sanjai Kumar Gupta, as the Interim Resolution Professional (“**IRP**”) of the Corporate Debtor. However, the order of admission dated 13 May, 2022 was corrected *vide* a corrigendum order dated 18 May, 2022.
3. Thereafter, the Committee of Creditors (“**CoC**”) filed an application under Section 22(3(b)) of the Insolvency and Bankruptcy Code, 2016 (**‘the Code’**) seeking replacement of Mr. Sanjai Kumar Gupta by Mr. Pinaki Sircar. This Adjudicating Authority *vide* its order dated 17 June, 2022 replaced Mr. Sanjai Kumar Gupta, Interim Resolution Professional with Mr. Pinaki Sircar as Resolution Professional.
4. In pursuance of the CIRP, the Resolution Professional published “*Invitation for Expression of Interest*” under Regulation 36A(1) of the Insolvency Bankruptcy (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 under statutory Form-G on 25 July, 2022. However, since there were no prospective resolution applicants and no Expression of Interest (**‘EoI’**) was received in respect of such Form-G, the Resolution Professional once again published the Form-G on 31 October, 2022 thereby inviting submission of EoI. The last date for submission of expression of interest 15 November, 2022.



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**IA (IB) No.310/KB/2023**

5. *The Ld. Counsel appearing on behalf of the Applicant in IA (IB) No.310/KB/2023 submits as follows:*

5.1 This is an Interlocutory Application filed under section 60 (5) of the Code by Mr. Samir Agarwal, Director of Squarevision Properties Private Limited (*'Applicant'*), duly authorised *vide* Board Resolution dated 25 January, 2023<sup>1</sup>, against Mr. Pinaki Sircar (*'Respondent'*), Resolution Professional of Arambagh Hatcheries Limited (under CIRP), seeking the following reliefs:-

- a. An Order be passed upon the respondent to accept or to consider the EoI submitted by the Applicant by Condoning the delay of 72 (Seventy Two days in submission of EoI as per Form G published on 31 October, 2022;
- b. An Order be passed permitting the Applicant to submit a Resolution Plan within such time as may be directed by this Adjudicating Authority;
- c. Ad-interim Orders in terms of prayers above;

5.2 All this time, the Applicant was not aware of that the last date for submission of expression of interest was on 15 November, 2022 and as a result the applicant missed the deadline for filing of expression of interest. As the last date of submission of expression of interest had expired by the time the Applicant came to know about the publication of FORM-G, the Applicant *vide* email as well as by letter dated 27 January, 2023 requested the Respondent to consider its EoI as one of the prospective Resolution Applicants

5.3 The applicant also informed the Respondent the the Applicant is willing to submit a Resolution Plan, subject to approval by the Respondent. The Applicant to show its bonafide intention also submitted a cheque of Rs. 15,00,000/- (Rupees Fifteen Lakhs only) as Earnest Money Deposit.

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<sup>1</sup> Page 42 of the Petition.



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- 5.4 Subsequently, the Respondent *vide* its email dated 29 January, 2023 informed the Applicant that the since the last date for submission of EoI has already expired and further the CIRP timelines as per the Code will also expire soon and thus, at this juncture, the proposal of the Applicant cannot be considered. The Respondent further informed the Applicant that the CoC is considering to approach the Adjudicating Authority for extension of time of the CIRP of the Corporate Debtor and once such extension is granted necessary steps will be taken in the CIRP of the Corporate Debtor including considering of accepting of EoI.
- 5.5 In the circumstances, the Applicant having no other alternative has approached this Adjudicating Authority seeking condonation of delay of 72 (seventy-two days in filing of expression of interest and filing its Resolution Plan.
- 5.6 It is pertinent to mention herein that the delay in submitting the expression of interest by the Applicant is neither deliberate nor wanton and is purely on account of reason beyond its control.
- 5.7 The Applicant is filing the instant application with a desire to submit its resolution plan in respect of the Corporate Debtor in order to maximize the value of the asset of the Corporate Debtor. The principal object of the Insolvency and Bankruptcy Code, 2016 and a well settled proposition of law is to maximize the value of the assets of the Corporate Debtor and it is a well-established principle that in a competitive bidding process, having multiple bidders is likely to ensure that the highest value is obtained.

***Finding and Analysis***

6. We have heard the Ld. Counsels appearing in ***IA (IB) No.310/KB/2023*** and perused the documents on record.
7. It is pertinent to mention that the primary objective of the Code is to provide a time-bound and efficient process for resolving insolvency and bankruptcy in a transparent manner. Nevertheless, it is also one of tenants of the Code is to put



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the Corporate Debtor back on its feet for the larger benefit of all the stakeholders.

8. Further, in *Babulal Vardharji Gurjar v. Veer Gurjar Aluminium Industries Private Limited & another*,<sup>2</sup> the Hon'ble Supreme Court held in para 21 of its judgment that the primary focus of the Code is to ensure revival and continuation of the Corporate Debtor and, as far as feasible, to save it from liquidation. The Hon'ble Court had reiterated that the Code is not a mere recovery legislation for creditors.
9. In view of the objective of the Code and the Precedents set by the Hon'ble Apex Court the *IA(IBC)/310/KB/2023* seeking condonation of delay in submission of EoI and subsequently resolution plan, is *allowed*. However, the timelines should be scrupulously followed by the applicant, which includes submission of EoI as well as the resolution plan. Let the process be completed within three weeks.
10. Accordingly, the *IA (IB) No.310/KB/2023* in CP (IB) No.1536/KB/2019 is disposed of.
11. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

**Balraj Joshi**  
**Member (Technical)**

**Bidisha Banerjee**  
**Member (Judicial)**

The Order is pronounced on 12 June, 2023

SA, LRA

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<sup>2</sup> (2020) 15 SCC 1 : 2020 SCC OnLine SC 647 decided on 14 August 2020