IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI, (BENCH IV)
IA No. 1215/(ND)/2022
IN
Company Petition No. (IB) 613/(ND)/2019

[Under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 with 11 of the National Company Law Tribunal Rules, 2016 read with Section 12(2) of the IBBI (Insolvency Resolution process for corporate persons) Regulations, 2016]

IN THE MATTER OF:

MR. SANJEEV AHUJA

(Resolution Professional of the Corporate Debtor) .... APPLICANT

IN

STATE BANK OF INDIA ...FINANCIAL CREDITOR

Versus

SHRI LAL MAHAL LIMITED ....CORPORATE DEBTOR

ORDER PRONOUNCED ON: 11.04.2022

CORAM:
SHRI. DHARMINDER SINGH, MEMBER (JUDICIAL)
MS. SUMITA PURKAYASTHA, MEMBER (TECHNICAL)

ORDER

PER: SHRI DHARMINDER SINGH MEMBER -JUDICIAL

This is an application filed by Resolution Professional of Corporate Debtor (hereinafter referred as the "Applicant") under Section 25(2) and Section 60(5) of Insolvency and Bankruptcy Code, 2016 (hereinafter referred as the "Code") read with 40C of the IBBI (Insolvency Resolution Process for corporate persons) Regulation 2016, with a prayer to extend the time for completion of corporate insolvency resolution process by a further period of 30 days from 15.03.2022.

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2. As per the order dated 25.02.2021 CIRP was initiated against the Corporate Debtor and Mr. Sanjeev Ahuja (IBBI/IPA-002/IP-N00028/2016-2017/10061) was appointed as the interim resolution professional. The first CoC meeting was held on 26.03.2021. The Period of CIRP had expired on 15.03.2022.
3. It is submitted that the applicant filed an application bearing IA No. 3897/ND/2021 seeking extension of 90 days for completion of CIRP and the same was allowed vide order dated 07.09.2021 extending the period for further 90 days i.e. 26.12.2021. Subsequently, IA No. 5325/ND/2021 was filed by the Applicant seeking exclusion of 49 days i.e. from 19.04.2021 to 7.06.2021 due to the lockdown imposed by the government and the said application was allowed vide order dated 22.11.201 granting time till 14.01.2022. Thereafter, IA-434/ND/2022 was again filled by the Applicant seeking further extension of 60 days i.e. beyond 270 days. This Tribunal vide order dated 28.01.2022 allowed the said Application granting extension of 60 days and the same expired on 15.03.2022. The Applicant vide this application seeks extension of 30 days i.e., beyond 330 days.
4. The Applicant submitted in his application that the CIRP is at very crucial stage, as the Resolution Plan received from the sole Resolution Applicant-Kendriya Bhandar ("Resolution Applicant") a public sector undertaking is under final consideration before the CoC. Applicant further stated that the said company is the sole resolution applicant post two rounds of EOI's. It may be noted that the members of the CoC were facing technical issue

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while considering the resolution plan, which pertained to assignment of third-party property.

5. Heard record has been thoroughly perused. On behalf of Learned RP, the resolution dated 14th March 2022, passed by the Committee of Creditors has been placed on record, whereby it was resolved that 30 days extension be sought to enable the CoC members to seek the required mandate from the Higher Authorities to be able to participate in the voting. The relevant explanation of the Resolution is as under:

> *"Explanation: There are technical issues involved in the (Resolution Plan) variant with respect to assignment of third-party properties and there have been some unanswered questions of some COC members. Since the IBC law is not clear and does not address the assignment aspect, COC decided to avoid any confusions and challenges going forward and accordingly, COC has unanimously agreed to consider the plain vanilla variant of the same Resolution Applicant as requested by the RA himself, and seek necessary approvals, for which COC members need some additional time. All the COC members are PSU banks and have a set procedure to seek the approvals/mandates, hence the request for 30 days/1 month."*

6. From the bare perusal of the above said resolution, it is apparent that no concrete Resolution Plan was submitted and still the CoC was in dilemma, whether it should be approved or not, as the authorized office of the banks has to take approval from the Higher Authorities. In the application itself, it is mentioned that the CoC had a various query regarding the said Resolution Plan. Vide 08th CoC meeting held on 10th March 2022, there was discussion and voting on the Resolution Plan, but the Resolution Applicant itself suggested that in order to avoid any confusion and also to avoid any potential litigation going forward, it was requested to consider

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the other variant of the plan, which related to assets of the Corporate Debtor alone and no reference to any assignment. Though, it is being contended on behalf of Ld. RP that the CoC is very close to finalize the Resolution Plan and a short period would be require to CoC to take a formal decision and relied upon citation **"Essar Steel India Limited Vs. Satish Kumar Gupta & Ors. (2020) 8 SCC 531.** No doubt, as per the above said citation, if there is a short period left for completion of Insolvency Resolution Process, it may be opened to the Adjudicating Authority or the Appellate Tribunal to extend time even beyond 330 days. However, in the present matter, there is no concrete Resolution Plan and CoC is not in position to take any specific decision thereon. Further, it is also to be mentioned herein the context that already vide order dated 07th September 2021, the extension of 90 days was granted to the applicant. Apart that, the applicant has also sought exclusion of 49 days, which was also granted vide order dated 29th November 2021, but the CIRP proceedings could not be completed in that particular period despite extension & exclusion of period as stated above. Moreover, the resolution was passed on 14th March 2022, whereas 330 days expired on 15th March 2022. Further, the Resolution Plan was only received few days prior to 14.03.2022, that too on behalf of single Resolution Applicant, which also serious suspicion about the conduct of the proceedings. Even, on that day, no such definitely decision could be taken by the CoC.

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7. In view of the above said facts, this Tribunal is of the view that further extension of 30 days would not serve the purpose, accordingly, the request for extension of 30 days stands declined.

8. Consequently, the present application i.e., IA No. 1215/ND/2022 being devoid of any merits, stands dismissed, with no order to costs.

-Sd-

SUMITA PURKAYASTHA
MEMBER (T)

-Sd-

DHARMINDER SINGH
MEMBER (J)