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**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH**

SPECIAL BENCH (URGENT HEARING THROUGH VIDEO CONFERENCE)

PRESENT: HON'BLE SHRI RATAKONDA MURALI- MEMBER JUDICIAL

HON'BLE SHRI VEERA BRAHMA RAO AREKAPUDI - MEMBER TECHNICAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 10.09.2020 AT 10.30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA No. 700/2020 in CP (IB) No. 105/9/HDB/2019
NAME OF THE COMPANY	Parameswara Poultry Farm Pvt Ltd
NAME OF THE PETITIONER(S)	Shiva Parvati Poultry Feed Pvt Ltd
NAME OF THE RESPONDENT(S)	Parameswara Poultry Farm Pvt Ltd
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

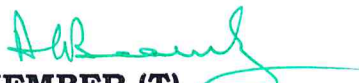
ORDER

IA 700/2020 is listed today for orders.

RP is connected through video conference.

Counsel for RP is connected through video conference.

Orders passed vide separate orders.


MEMBER (T)


MEMBER(J)

Syamala

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

**IA No.700 of 2020
IN
C.P (IB) No.105/9/ HDB/ 2019**

**Application under section 60(5) of the
Insolvency & Bankruptcy Code, 2016.**

Raghu Babu Gunturu
Resolution Professional,
M/s Sri Parameswara Poultry Farm Private Limited
No.402B, Technopolis Building, Galada Towers
Chikoti Gardens, Begumpet
Hyderabad.
Telangana – 500016.

..
**Applicant/
Resolution Professional**

In the Matter of

Shiva Parvati Poultry Feed Private Limited
Shiva House, Near State Bank of India
New Mondha, Nanded – 431602.
Maharashtra.

..
**Petitioner/
Operational Creditor**

Versus

Sri Parameswara Poultry Farm Private Limited
18-90/1, Opp Sai Baba Temple
Shadnagar, Farooq Nagar, Mahaboob Nagar
Telangana – 509216.

..
**Respondent
Corporate debtor**

Date of order: 10.09.2020

Coram:

**HON'BLE SHRI RATAKONDA MURALI,
MEMBER (JUDICIAL)**

**HON'BLE SHRI VEERA BRAHMA RAO AREKAPUDI,
MEMBER (TECHNICAL)**

Parties / Counsels Present:

N.D. S

For the Applicant : Shri VVSN Raju, Advocate.

RP : Shri Raghu Babu Gunturu.

**Per: HON'BLE SHRI VEERA BRAHMA RAO AREKAPUDI,
MEMBER (TECHNICAL)**

Heard on : 10.09.2020

ORDER

This application is filed by the applicant/ Resolution Professional under section 60(5) of the I&B Code, 2016, seeking exclusion of the lockdown period from 22.03.2020 to 31.07.2020 in the CIRP of the Corporate Debtor.

2. The Tribunal has admitted the main petition filed by the Operational Creditor/Shiva Parvati Poultry Feed Private Limited vide order dated 17.09.2019 (ANNEXURE-A) passed by the Tribunal in CP (IB) No.105/9/ HDB/ 2019, and the applicant herein represents the Corporate Debtor as Resolution Professional by virtue of order dated 27.01.2020 (ANNEXURE-B) passed in IA No1133 of 2019.

3. AVERMENTS IN THE APPLICATION:

3.1 CIRP period of 180 days has commenced on 17.09.2019 and ended on 15.03.2020. In the meanwhile, the Tribunal has extended the CIRP period for another 90 days vide order dated 20.03.2020 in IA No.286 of 2020.

3.2 It is averred in the IA that apart from lockdown imposed due to COVID-19 pandemic, there is lack of cooperation by the employees and the suspended directors of the Corporate Debtor, due to which the applicant could not initiate various steps required under law resulting into slow process of CIRP. The Tribunal vide order dated 22.07.2020 passed in IA No.447 of 2020 directed the respondents/ ex- management and employee to cooperate with the Resolution Professional in taking control of the Corporate Debtor / company and its assets. [para 6(iv)].



3.3 The original schedule of CIRP as fixed by the Tribunal while admitting the petition, subsequent extensions granted by the Tribunal and exclusion of lockdown period sought by the applicant are worked out as under:

Event	Authority	Period
Commencement of CIRP of the Corporate Debtor.	Order dated 17.09.2019 in CP (IB) No.700 of 2020.	CIRP to complete during 180 days, viz. from 17.09.2019 to 15.03.2020.
Extension of 90 days granted.	Order dated 20.03.2020 in IA No.286 of 2020.	Extended period 90 days.
RP was advised to file application seeking exclusion of lockdown period.	CoC Meeting held on 24.08.2020.	Exclusion of lockdown period from 22.03.2020 to 31.07.2020.

3.4 It is submitted that the sole Committee of Creditors, viz. Union Bank of India (erstwhile Andhra Bank), with 100% voting share, resolved to prefer the present application seeking exclusion of lockdown period.

3.5 It is averred in paras 6(v) and (vi) of the IA that during 9th CoC Meeting held on 24.08.2020 (Minutes are at ANNEXURE 'C'), it was informed that a settlement proposal submitted by the Corporate Debtor is under process for consideration of the higher authorities as the Directors of the Corporate Debtor were interested in revival of the Corporate Debtor. It was further informed that the sole banker/ financial creditor needs four weeks' time to take final decision on withdrawal of CIRP proceedings. The CoC has advised the Resolution Professional to file application seeking exclusion of the period from 22.03.2020 to 31.07.2020.

3.6 Thus, aggregate period of 330 days as permitted under 2nd Proviso to section 12(3) read with Regulation 40 of the IBBI (CIRP) Regulations, 2016, would have been over by 12.08.2020. However, the applicant seeks exclusion of lockdown period from 22.03.2020 to 31.07.2020 in CIRP period.





3.7 CIRP period of 330 days, which ought to have been ended on 12.08.2020 got suspended from 22.03.2020 due to pandemic situation. In the meanwhile, Government of India issued guidelines to lift the lockdown and restrict the lockdown to only containment zones. In view of the above submissions the applicant/ Resolution Professional prayed that orders may be passed keeping the period of lockdown out of the reckoning period of the CIRP of the Corporate Debtor, as under:

17.09.2019 to 21.03.2020	..	186 days
22.03.2020 to 31.07.2020	..	Exclusion sought
Days available in CIRP After exclusion of lockdown.	..	144 days from 01.08.2020

FINDINGS :


4. We have heard the Resolution Professional. This application is filed for exclusion of lockdown period from CIRP. The learned counsel for the Resolution Professional would contend that due to lockdown declared by the Government of India as well as Government of Telangana, CIRP could not be completed. Further, the suspended Board of Directors of the Corporate Debtor have not been cooperating with the Resolution Professional to complete the CIRP.


5. The learned counsel relied on Regulation 40C of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 ('IBBI Regulations' for brevity) and contended that the period of lockdown imposed by the Central Government in the wake of COVID-10 outbreak shall not be counted for the purpose of timeline or any activity that could not be completed due to such lockdown in relation to CIRP.

6. This Tribunal had already extended CIRP by 90 days vide order dated 20.03.2020 in IA No.286 of 2020. Thus, CIRP to be completed by 30.08.2020 after exclusion of the lockdown.

7. The learned counsel contended that the Resolution Professional is filing the present application for exclusion of the lockdown period from 22.03.2020 to 31.07.2020.

8. It is true that there was lockdown due to COVID-19 pandemic from 22.03.2020 to 31.07.2020, in containment zones. By virtue of Regulation 40C of IBBI Regulations, this period is to be excluded from the CIRP. By virtue of order passed in IA No.286 of 2020, CIRP was extended by 90 days with effect from 16.03.2020. Thus, CIRP of 270 days should have been completed by 14.06.2020. Actual days lost in the lockdown from 22.03.2020 to 14.06.2020, were 84 days. This period is to be added to CIRP from 01.08.2020. Thus, CIRP is to be completed on or before 24.10.2020. The Resolution Professional is directed to complete the CIRP by 24.10.2020. The application is accordingly allowed.


VEERA BRAHMA RAO AREKAPUDI
MEMBER (TECHNICAL)


RATAKONDA MURALI
MEMBER (JUDICIAL)

Karim