

**IN THE NATIONAL COMPANY LAW TRIBUNAL
COURT NO. V, MUMBAI BENCH**

IA No. 2198 of 2020

in

CP (IB) 3562/MB/2018

Under Section 12 (2) and 60 (5)(c) of the I&B
Code, 2016 read with Regulation 40 and 40c of
IBBI Regulations, 2016.

In the matter of

Mr. Vijay Pitamber Lulla

....Resolution Professional/Applicant

In the matter of

Pravin Electricals Private Limited

...Operational Creditor

Vs

Ahinsa Buildtech Private Limited

...Corporate Debtor

Order reserved on: 06.01.2022.

Order Pronounced on: 24.03.2022.

Coram:

Hon'ble Smt. Suchitra Kanuparthi, Member (Judicial)

Hon'ble Smt. Anuradha Sanjaya Bhatia, Member (Technical)

For the Applicant: Mr. Chaitanya Nikte a/w. RP Vijay Lulla for Applicant.

Per: Suchitra Kanuparthi, Member (J)

ORDER

1. This is an application filed seeking exclusion during lockdown period from 30th March 2020 to 30th November 2020, have sought another extension of 90 days under Section 12 (2) of the Code and Regulation 40 of IBBI, beyond the period of 180 days, so as to allow the time for Resolution Plan. The CoC

in its 5th meeting held on 28.10.2021 have decided to seek an extension and exclusion u/s. 40 (c) due to lockdown by 100 % voting. The agenda as discussed in CoC meeting is as follows:

“13. Any other matter with the permission of the Chair

The RP stated that an extension and exclusion application needs to be filed due to lockdown. After some discussion it was decided to appoint the same lawyer as previous one and it be put for e-voting. Accordingly, the RP proposes to file an application for extension of CIRP of 90 days & exclusion period under sec 40C due to lockdown & appoint Mrs. Raina Birla as the advocate for the same with as fees of Rs. 25,000/-

In the e-voting held between 7th November, 2020 at 04.30 PM to 09th November, 2020 till 07.30 PM, to file application for extension of 90 days & exclusion of lockdown period as per sec 40 (1) and to appoint Ms. Raina Birla Advocate for the same at a fee of Rs. 25,000/-, all members voted in the favor of the resolution.

Hence the resolution is considered as passed.”

2. The Applicant also pointed that the Resolution Plan has been approved by the CoC and an Application for approval of Resolution Plan has been filed by IA 2230 of 2021 and the same is Reserved for orders.
3. The timeline for exclusion and extension is as follow:

Sr. No.	Particulars	Total Number of days
1	Total period from Insolvency commencement date to filing of Application for Approval of Resolution Plan bearing IA 2230 of 2021. i.e. 04.11.2019 to 27.09.2021	659 days
2	Less: Exclusion as per Supreme Court Order dated 23/09/2021. i.e., from 15.03.2020 to 14.03.2021	365 days

3	Less: Exclusion for further lockdown in Maharashtra i.e., 15.03.2021 till 10.06.2021 (U/s. 40C)	87 days
4	Thus, total period of exclusion sought and prayed (365 days + 87 days)	452 days
5	Less: Total period of CIRP available under IBC	180 days
6	Total days for which extension is sought	27 days

4. It is also relevant to refer the notification of IBBI with regard to extension of the time lime and the same is reproduced below:

“No. IBBI/2019-20/GN/REG059.- In exercise of the powers conferred by clause (t) of subsection (1) of section 196 read with section 240 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Insolvency and Bankruptcy Board of India hereby makes the following regulations further to amend the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, namely:-

- 1. (1) These regulations may be called the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Third Amendment) Regulations, 2020.*
- (2) They shall come into force on the 29th March, 2020.*

2. In the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, after regulation 40B, the following regulation shall be inserted, namely:

—

“40C. Special provision relating to time-line.

Notwithstanding the time-lines contained in these regulations, but subject to the provisions in the Code, the period of lockdown imposed by the Central Government in the wake of COVID19 outbreak shall not be counted for the

purposes of the time-line for any activity that could not be completed due to such lockdown, in relation to a corporate insolvency resolution process.”.

5. In view of the same, this Bench further concludes that in view of the regulation 40C of IBBI, this Bench grants the extension and exclusion of 1 year from 31st March, 2020 to 25th March 2021 and further period of 3 months till 25 June, 2021 and grants further period of 90 days thereafter. Further this Bench allows extension of CIRP period time till the date of filing of application of Resolution plan.
6. In view of the aforesaid, IA 2198 of 2020 is **allowed** and disposed of.

Sd/-
ANURADHA SANJAY BHATIA
Member (Technical)

Sd/-
SUCHITRA KANUPARTHI
Member (Judicial)