



**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV**

I.A. No. 2421 of 2021

Under Section 60(5) of IBC, 2016

Mr. Jayesh Sanghrajka,

Resolution Professional of

Ornate Spaces Private Limited

..... Applicant

In the matter of

CP (IB) No.4469/MB/C-IV/2019

IDBI Trusteeship Services Limited

... Financial Creditor

Vs.

Ornate Spaces Private Limited

... Corporate Debtor

Order Pronounced on: **17.03.2023**

Coram:

Mr. Prabhat Kumar
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Applicant

:

Mr. Jayesh Sanghrajka,
Resolution Professional a/w
Mr. Vikram Nankani, Ld.
Sr. Counsel a/w Mr. Nausher
Kohli, Advocates.

Per: Kishore Vemulapalli, Member (Judicial)



ORDER

1. This is an Application filed by the Resolution Professional (RP) of Ornate Spaces Private Limited on 12.10.2021 seeking following reliefs:-
 - a. That for calculation of CIRP period this Adjudicating Authority be pleased to excluded the period from July 26, 2021 to October 12, 2021.
 - b. That CIRP of the Corporate Debtor be resonably allowed to continue/ extend until the filing of the IA seeking approval of the resolution plan viz. October 12, 2021.
 - c. That the Applicant by allowed to withdraw the Interlocutory Application bearing diary No. 2709138/03542/2021.
2. Interlocutory Application bearing Diary No. 2709138/03542/2021 (subsequently Numbered as IA-2390/2021) was filed earlier, after resolutoin passed by the CoC in its meeting dated 15.07.2021 and 19.07.2021, seeking extension of time till August, 2021, which was allowed to be withdrawn consequent to present application vide order dated 18.10.2021 passed in IA-2390/2021.
3. The CIRP period exipres on 26.07.2021 in terms of order dated 03.06.2021 passed by this Bench allowing extention/ exclusion. The Resolution Professional has placed on record tabular list of sequence of events to satisfy this Bench for allowing exclusion of the period from 26.07.2021 to October, 2021. It was submitted by the Ld. Counsel for the RP that the RP informed CoC in its meeting held on 24.07.2021 that he had circulated updated offers of the PRAs (Prospective Resolution Applicant), however, the meeting was adjourned to 30.07.2021 whereat CoC decided that



it would vote on all Resolution Plan(s) in next CoC meeting. Thereafter, the ex-promoter placed a proposal u/s 12A in the meeting held on August 30, 2021 which was rejected on 01.09.2021 and CoC discussed and deliberated on all plans. The result of e-voting was declared on 10.09.2021 and thereafter re-voting took place on 18.09.2021 when the plan under consideration in IA-2374/2021 was approved by 80.86% vote. The successful Applicant furnished guarantee on 03.10.2021 and RP filed IA-2374/2021 seeking approval of the plan on 12.10.2021.

4. We noticed that an exclusion of one month was allowed owing to COVID-19 lockdown vide order dated 11.02.2021 and thereafter exclusion of 1 month 23 days vide order dated 03.06.2021. The CIRP commenced on June 29, 2020. Regulation 40C for relaxation of timelines under the CIRP provides that -

“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 COVID-19 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. We feel that the words “could not be completed due to such lockdown” are of wider import and have to be given meaning accordingly. It is widely known that the pace of activity during the COVID-19 outbreak was severely impacted on account of restrictions on movement and place of working. This was further



compounded by the fear imbibed in the mind of citizens as to its deadly impact on life of human beings. Even the Hon'ble Supreme Court of India in "***Suo-Motu Writ Petition (Civil) No. 3/2020***" has taken Suo Motu cognizance of the situation arising out of the challenging faced by the country of COVID-19 Virus and resultant difficulties that may be faced by litigants across the country and has vide its order dated 10.01.2022 excluded the period from 15.03.2020 till 28.02.2022 for filing of petitions/ applications/ suits/ appeals/ all other proceedings. The relaxation granted by Hon'ble Apex Court in the context of limitation further validates that it was immaterial whether a person could work or has worked on any day falling in aforesaid period of relaxation. We noticed that the Adjudicating Authority has been granting exclusion of period stated in ***Suo-Motu Writ Petition (supra)***, wherever prayed.

6. In the present case, the CIRP commenced on 29.06.2020 and this Bench has so far granted total exclusion of 2 months 23 days on previous two occasions. Vide this Application, the Applicant has further prayed for exclusion of period from 26.07.2021 to 12.10.2021 which comes to 2 months 17 days. If we considered to allow present prayer the total exclusion would come to 5 months 10 days and the extended period would itself fall under the period specified in ***Suo-Motu Writ Petition (supra)***. It is further noticed that the CIRP in this case was commenced and completed during COVID period. It is settled law that the resolution of the Corporate Debtor is a rule and liquidation is only an exception. Considering the facts that the resolution plan approved by the CoC is pending consideration before this Bench and approval thereof may resolve the Corporate Debtor this



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Bench feels that an exclusion of the period from 26.07.2021 to 12.10.2021 deserved to be allowed in the interest of all Stakeholders. Before we leave, it is pertinent to note that the compliance with provisions of section 30 of the Code can be examined independent of the findings in this order while **disposing** of IA-2421/2021.

7. In view of above observation, **IA-2421/2021** is **allowed** and **disposed of**.

Sd/-

PRABHAT KUMAR
Member (Technical)

Sd/-

Kishore Vemulapalli
Member (Judicial)