

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD**

SPECIAL BENCH - COURT 1 (URGENT HEARINGS THROUGH VIDEO CONFERENCE)

PRESENT: HON'BLE SHRI K ANANTHA PADMANABHA SWAMY – MEMBER JUDICIAL

HON'BLE SHRI VEERA BRAHMA RAO AREKAPUDI - MEMBER TECHNICAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 08.10.2020 AT 10:30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA No. 885/2020 in CP (IB) No. 529/7/HDB/2018
NAME OF THE COMPANY	Lanco Vidarbha Thermal Power Ltd
NAME OF THE PETITIONER(S)	Punjab National Bank
NAME OF THE RESPONDENT(S)	Lanco Vidarbha Thermal Power Ltd
UNDER SECTION	7 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 No. 885/2020 is listed for orders. IA is allowed vide separate orders.


Member (T)


Member (J)

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**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH-1**

IA NO. 885 of 2020

in

CP (IB) No. 529/HDB/2018

*Application under section 60(5) of IBC, 2016 r/w Regulation 40C of IBBI
(IRPCP) Regulations, 2016 and Rule 11 of NCLT Rules 2016*

In the matter of

PUNJAB NATIONAL BANK

Versus

M/S LANCO VIDARBHA THERMAL POWER LIMITED

Mr. Vijay Kumar Garg

(IBBI/IPA – 002/IP -N00359/2017 – 2018/11060)

Resolution Professional of

M/s Lanco Vidarbha Thermal Power Limited

Plot No. 4, Software Units Layout, Hitec City,

Madhapur, Hyderabad – 500081, Telangana.

... Applicant

Date of order: 08.10.2020

Coram:-

Hon'ble Shri K. Anantha Padmanabha Swamy, Member (Judicial)

Hon'ble Shri Veera Brahma Rao Arekapudi, Member (Technical)

Appearance:

For Applicant: Shri P. Ravi Charan, Shri L. Venkateswara Rao and Ms
Niharika Agarwal, Advocates

Heard on: 06.10.2020

**PER: SHRI VEERA BRAHMA RAO AREKAPUDI
MEMBER (TECHNICAL)**

1. Under consideration before us is the interlocutory application filed under Section 60 (5) of Insolvency & Bankruptcy Code, 2016, Read with Rule 11 of National Company Law Tribunal Rules, 2016 and Regulation 40C of IBBI (Insolvency Resolution Process for Corporate Persons), by Resolution Professional / Applicant herein seeking exclusion of 160 days of lockdown period from 25.03.2020 to 31.08.2020 from CIRP period.

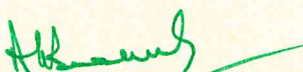




2. The averments germane to the Application in brief are that this Tribunal vide order dated 03.10.2019 admitted the Petition filed by Punjab National Bank under Section 7 of the Insolvency and Bankruptcy Code, 2016 ("**Code**") read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 and Corporate Insolvency Resolution Process (CIRP) commenced against **M/S LANCO VIDARBHA THERMAL POWER LIMITED** by appointing Mr. Vijay Kumar Garg (IP Registration No. IBBI/ IPA-2/ IP 0 N00359/ 2017 – 2018/11060) as the interim resolution professional ("**Interim Resolution Professional**") who was later confirmed as Resolution Professional in the 1st Committee of Creditors meeting held on 01.11.2019.
3. On assuming charge of IRP/Resolution Professional, the Applicant herein had made concerted effort to run the Corporate Debtor as a going concern and to maximise the asset value of the Corporate Debtor. It is averred, the Applicant while discharging his duties has taken necessary action for continuation of existing contracts/ agreements for the benefit of the Corporate Debtor. Additionally, the Applicant is stated to have taken the following steps/ action towards running the CIRP effectively in terms of the timelines stipulated under the Code:
- a. Public Announcement in terms of Section 13 of the Code;
 - b. Maintenance and upkeep of the premises of the Corporate Debtor;
 - c. Issuance of Form G for expression of interest for submission of resolution plan.
 - d. Complying with various orders of the courts in pending litigations.
 - e. Correspondences with the prospective resolution applicants for the submission of resolution plans
 - f. Complying with the provisions of the Code and applicable rules and regulations etc.



4. The Applicant avers that in the 2nd CoC meeting held on 12.12.2019, after due deliberation, the CoC with 92.98% voting share approved the eligibility criteria for inviting Expression(s) of Interest and Request for Resolution Plans (RFRP) from prospective resolution applicants. Accordingly, publication was carried out inviting EoI in the following newspapers.
- Business Standard (English) All India Edition on December 17, 2019, Business Standard (Hindi) All India Edition, Lokmat (Marathi) Nagpur Edition and Andhra Prabha (Telugu) Hyderabad Edition on December 18, 2019 and the last date of submission of EoI is January 02, 2020;
 - Business Standard (English and Hindi) All India Edition, Loksatta (Marathi) Nagpur Edition and Nav Telangana (Telugu) Hyderabad Edition on January 02, 2020 and the last date of submission of EoI is January 17, 2020;
 - Business Standard (English and Hindi) All India Edition, Loksatta (Marathi) Nagpur Edition and Nav Telangana (Telugu) Hyderabad Edition on January 24, 2020 and the last date of submission of EoI is January 31, 2020.
5. It is averred, in the 4th (fourth) meeting of the CoC held on February 03, 2020, the CoC was apprised about receipt of EOIs from prospective resolution applicant(s) and further after due deliberations the draft RFRP which included the modifications proposed by CoC was approved by the members of the CoC with a voting percentage of 87.64%.
6. The Resolution Professional, the Applicant herein further submits that pursuant to publication of EoI, he had received three EOIs and that all qualified prospective applicants/ qualified bidders have been actively participating in the CIRP of the Corporate Debtor and are reviewing the documents/ data provided in the virtual data room and information memorandum provided to them with the RFRP for submission of the resolution plan for the Corporate Debtor. However, two qualified prospective resolution applicants have approached the Resolution Professional *vide* email dated March 13, 2020 and March 16, 2020 and requested him to extend





the time for submission of their resolution plans. The extension sought by Resolution Applicants have been deliberated upon by CoC in its 5th meeting held on 17.03.2020. In view of the fact that CIRP was coming to an end on 31.03.2020 and the time that may be required for the CoC to evaluate the resolution plans received from the prospective Resolution Applicants, a resolution was passed in the meeting permitting the Applicant to file an Application seeking further extension of 90 days' time beyond 180 days i.e. up to 29.06.2020, which was allowed by this Tribunal vide orders passed in IA No. 324 of 2020 dated 29.05.2020 but the other relief sought with regard to exclusion of covid lockdown period was not considered at that point of time since the lockdown was continuing and the exact period/days of lockdown could not be computed. This Tribunal further directed the Applicant to prefer a separate application for exclusion of lockdown period after it is lifted by the Central/State Governments.

7. It is the case of Applicant that the plant of Corporate Debtor is located at *Village & Post Office Mandwa, 11 Mile Stone, Belgaon Mandwa Road, Maharashtra-442001* and Government of Maharashtra vide order dated 29th July 2020 extended the lockdown measures up to 31st August 2020. It is stated, the restrictions imposed during lockdown caused impediment to the Resolution Professional in conducting resolution process and also for the prospective Resolution Applicants to visit the plant site before finalizing their resolution plans. Pursuant to requests received from Resolution Applicants, the CoC agreed for extending the time for submission of resolution plans till 07.09.2020. The Copy of minutes of the 8th CoC Meeting is annexed as **Annexure-A4**.
8. It is submitted, the Resolution Professional discussed with the CoC in its 9th meeting held on 08.09.2020 about receipt of email dated 04.09.2020 from Prudent ARC, one of the Resolution Applicants requesting three more weeks' time for submission of their resolution plan. Subsequently, the CoC with 81.90% voting have approved for granting time. The Copy of minutes of 9th CoC Meeting along with voting result is annexed and marked as **Annexure- A5**.

9. The Applicant relied on the newly inserted Regulation 40C of CIRP Regulations, 2020, for considering exclusion of lockdown period from 25.03.2020 to 31.08.2020 for enabling the Applicant/Resolution Professional to conclude CIRP of the Corporate Debtor. Regulation 40C of CIRP Regulations is reproduced as under:-

“40 C 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.”

10. We heard the Counsel for Resolution Professional through video conference. This application is filed under section 60 (5) of Insolvency & Bankruptcy Code, 2016 read with Regulation 40 (C) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 seeking exclusion of 160 days lockdown period from 25.03.2020 to 31.08.2020 to enable the Resolution Professional to complete CIRP Process within 270 days.
11. The Applicant would contend, 270 days period of CIRP came to an end on 29.06.2020. However, owing to lockdown from 25.03.2020 to 31.08.2020, no activities were undertaken during the said period. By relying on Regulation 40 (c) of CIRP Regulations, 2016, the Applicant requested to exclude the lockdown period of 160 days from the CIRP period. It is true, the Applicant sought for exclusion of lockdown period in IA 324/2020 apart from extension of 90 days period with effect from 31.03.2020 which came to an end on 29.06.2020. However, this Tribunal while considering extension of 90 days CIRP, has observed that since lockdown was continuing at that point of time, the period of lockdown can be computed only after the lockdown is lifted and directed the Applicant to prefer a separate application for exclusion of lockdown period from CIRP period. Consequently, this Application is filed praying the Tribunal to exclude 160 days lockdown period with effect from 25.03.2020 to 31.08.2020.

12. We have seen the minutes of the 9th CoC meeting held on 08.09.2020 where in CoC after considering the facts of the case and keeping the best interests of all the stakeholders involved, authorised the Applicant to prefer this Application seeking exclusion of 160 days of Covid-19 lockdown period.
13. In view of circumstances stated by the Resolution Professional supra, the Application deserves favourable consideration.
14. In the result, the Application is accordingly allowed. The lockdown period of 160 days w.e.f 25.03.2020 to 31.08.2020 stands excluded from CIRP period and the Applicant is directed to complete the process within 270 days.

 08/10/2020.

VEERA BRAHMA RAO AREKAPUDI
MEMBER (TECHNICAL)



K. ANANTHA PADMANABHA SWAMY
MEMBER (JUDICIAL)

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