

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH - I, AHMEDABAD**

**IA/1000(AHM)2023
in
CP(IB)/487(AHM)/2018**

[An application filed under Section 60(5)(c) of the Insolvency and Bankruptcy Code, 2016 r.w. Regulation 44(2) of IBBI Regulations, 2016

MR. DUSHYANT C. DAVE

(Liquidator of Shirpur Power Private Limited)

Having address at:

1101, Dalamal Towers, Nariman Point,
Mumbai-400021.

....Applicant

In the matter of

CP (IB) No. 487/7/NCLT/AHM/2018

STATE BANK OF INDIA AND ANR.

....Financial Creditor

Versus

SHIRPUR POWER PRIVATE LIMITED

....Corporate Debtor

Order Pronounced On: 06.02.2024

CORAM:

SHAMMI KHAN, MEMBER (JUDICIAL)
SAMEER KAKAR, MEMBER (TECHNICAL)

Appearance:

For Applicant(s) : Ms. Prachiti Shah, a.w. Mr. Manit
Wadhwa, Ld. Adv.

O R D E R
[Per: Bench]

IA/1000(AHM)2023

1. This is an IA filed by the Liquidator seeking the following prayers:-
 - (A) *This Hon'ble Tribunal may be pleased to allow the present Interlocutory Application'*
 - (B) *This Hon'ble Tribunal may be pleased to permit the exclusion of liquidation period of the Corporate Debtor from July 01, 2022 to July 19, 2023 pursuant to the sale completion being sub-judice for the aforementioned period.*
 - (C) *Such other and further relief/s that may be deemed just and proper in the facts and circumstances of present case may kindly be granted.*
2. It is stated that the liquidation process was initiated on the Corporate Debtor (Shirpur Power Private Limited) vide order dated 10.03.2021 in IA No. 107 of 2021 in CP(IB) 487 of 2018 wherein the Applicant herein was appointed as liquidator.

3. It is stated that as per Regulation 44(1) of the Liquidation Regulations, the liquidation process of the Corporate Debtor was required to be completed by 09.03.2022.
4. It is stated that the Applicant, thereafter, filed IA No. 253 of 2022 seeking exclusion of 355 days of the liquidation period which was allowed vide order dated 05.04.2022 and this Tribunal extended the liquidation period for a further period of one year from 10.03.2022. The order was rectified by another order dated 13.03.2023.
5. The liquidator again filed IA No. 308 of 2023 seeking extension of the liquidation period by another one year from 09.03.2023. The same was allowed vide order dated 20.03.2023 and 6 months extension was granted w.e.f. 10.03.2023.
6. It is stated that on 01.07.2022, the successful bidder filed IA No. 561 of 2022 to convert the slump sale that had been completed by way of e-auction dated 11.04.2022 into a going concern sale without offering any incremental sale consideration.

7. It is stated that due to the aforementioned IA, the liquidator could not complete the sale of assets already auctioned. The IA was ordered on 19.07.2023. Under the above background, the liquidator is seeking extension from 01.07.2022 to 19.07.2023 i.e., 383 days.
8. It is stated that IA No. 561 of 2022 was dismissed by this Tribunal on 02.08.2022. However, the successful bidder failed to pay the applicable GST and for which Intervention Petition No. 7 of 2022 was filed by the liquidator. The successful bidder preferred an appeal against the order dated 02.08.2022 being Company Appeal (AT) (Ins) No. 11 of 2023 which was dismissed by Hon'ble NCLAT vide order dated 11.04.2023.
9. At this stage, the Applicant received offers from the successful bidder to acquire the Corporate Debtor as a going concern by paying some incremental consideration. The negotiations culminated in the receipt of the offer amounting to an incremental consideration of Rs.50 crore.
10. In the SCC meeting held on 28.03.2023, it was agreed that any offer for sale as a going concern basis from the

successful bidder shall be considered only if the incremental sale proceeds along with original slump sale proceeds amount to at least the reserve price of the last failed auction for the sale of the Corporate Debtor as a going concern.

11. Thereafter, the Applicant filed IA No. 523 of 2023 seeking permission from this Tribunal to sell the Corporate Debtor as a going concern in order to maximize the value for all stakeholders. The same was allowed vide order dated 19.07.2023 in IA No. 523 of 2023.
12. In the light of the above, the Applicant seeks exclusion of the period from 01.07.2022 i.e., the date of filing of IA No. 561 of 2022 to the date of order in IA No. 523 of 2023 i.e., 19.07.2023.
13. The Applicant has filed written submissions under Inward Diary No. D880 dated 01.02.2024 and a purshis under Inward Diary No. D9187 dated 02.02.2024.
14. We have heard the learned counsel for the Applicant and also perused the documents. It is seen that vide order dated 05.04.2022, the liquidation period of the Corporate

Debtor was extended by a period of one year from 10.03.2022. It is also seen that by another order which is dated 20.03.2023, this Tribunal has again extended the liquidation period of the Corporate Debtor by a period of six months w.e.f. 10.03.2023.

15. It is the prayer of the learned liquidator that the period from 01.07.2022 to 19.07.2023 i.e., 383 days the same being gap between the order in IA No. 561 of 2022 and IA No. 523 of 2023 be excluded from the liquidation period of the Corporate Debtor.
16. It is seen that majority of the period for which exclusion is now sought is already subsumed in the earlier two orders dated 05.04.2022 and 20.03.2023. Further, the delays attributed to the request by the successful bidder for conversion from stand-alone sale to sale as a going concern is part and parcel of the liquidator's duties and that cannot be a ground seeking exclusion of the period covered between the order dated 01.07.2022 to 19.07.2023.

17. It is also seen that no stay was granted in the matter for the period sought to be excluded by this Tribunal or any higher authority.
18. Considering the above, we do not find any merit in the present application. Accordingly, IA No. 1000(AHM)/2023 is hereby dismissed.
19. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

**-SD-
SAMEER KAKAR
MEMBER (TECHNICAL)**

**-SD-
SHAMMI KHAN
MEMBER (JUDICIAL)**

Rajeev Kr. Sen/P.S.