

**NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI**

**I. A. (IBC) No.56/2021
IN
CP (IB) No.03/GB/2020**

**Coram: Hon'ble Shri Rohit Kapoor, Member (J) : Hearing through
Hon'ble Shri Prasanta Kumar Mohanty, Member (T) : Video Conferencing**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF THE NATIONAL COMPANY
TRIBUNAL, GUWAHATI BENCH ON 11.11.2021**

In the matter of:

Mr. Kamal Agarwal, RP	...	Applicant / Resolution Professional
IN		
Manish Soni	...	Applicant / Operational Creditor
Versus		
M/s. Concept Eduventures Pvt. Ltd.	...	Respondent / Corporate Debtor
And		
Potential Coaching Institute Pvt. Ltd.	...	Non-Applicant / Respondents

Section : Under Section 60(5) (C) of IBC, 2016

<u>S. NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
1.	MR. KAMAL AGARWAL	RP	Petitioner	Present in Video Conference

ORDER

The Applicant is represented through respective Learned Counsel (s).

The case is fixed for pronouncement of order.

The Order is pronounced in the open Court, through Video Conferencing vide separate sheet.

**Sd/-
(PRASANTA KUMAR MOHANTY)
MEMBER (T) &
ADJUDICATING AUTHORITY**

**Sd/-
(ROHIT KAPOOR)
MEMBER (J) &
ADJUDICATING AUTHORITY**

//D-11.11.2021//

**NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI**

**I. A. (IBC) No.56/2021
IN
CP (IB) No.03/GB/2020**

In the matter of:

Mr. Kamal Agarwal, Resolution Professional, [having Regd. No. IBBI/IPA-001/IP-P00868/2017-18/11466] in the matter of Corporate Debtor – Concept Education Pvt. Ltd., resident of 487/27 School Road, Near Peeragarhi Metro Station, New Delhi- 110087, Email : advocate.kamal.aggl@gmail.co., Mobile No.9811138823

IN	...	Applicant / Resolution Professional
Manish Soni		
Versus	...	Applicant / Operational Creditor
M/s. Concept Eduventures Pvt. Ltd.		
And	...	Respondent / Corporate Debtor
Potential Coaching Institute Pvt. Ltd.		
	...	Non-Applicant / Respondents

Order delivered on 11th November, 2021.

Coram:

Hon'ble Shri Rohit Kapoor, Member (J):

Hearing through

And

Hon'ble Shri Prasanta Kumar Mohanty, Member (T): Video Conference

Appearance: For the Applicant - MR. KAMAL AGARWAL, RP in person

For the Respondents - NONE

ORDER

[Per: Mr. Prasanta Kumar Mohanty, Member (T)]

1. The present Interlocutory Application is filed by the Mr. Kamal Agarwal [Resolution Professional of the Corporate Debtor], the applicant herein on 15.10.2021 under Section

60(5) (c) of the IBC, 2016 read with Rule 11 of NCLT Rules praying for allowing further exclusion of 168 days in computing the period of 270 days for completion of the Corporate Insolvency Resolution Process of the Corporate Debtor in view of the second wave of COVID19 and directions of the Hon'ble Supreme Court in Misc. Application No.665 of 2021 in SMW(C) No.3 of 2020.

2. The facts of the present case are that the above matter is pending before this Hon'ble Bench as the order for initiation of CIRP of the Corporate Debtor was made by this Hon'ble Bench on 26.02.2020 and vide that order, Mr. Amit Pareek, having registration No.IBBBI/IPA-002/IP-N00413/2017-18/11205 was appointed as an IRP.

3. The First Meeting of the Committee of Creditors of the Corporate Debtor was held on 06.05.2020 comprising of only the Operational Creditors and vide agenda item No.6 Mr. Amit Pareek was appointed as the Resolution Professional.

4. In the Fourth Meeting of the Committee of Creditors held on 03.09.2020, vide agenda item No.7A, the sole Financial Creditor, M/s. Volkswagen Finance Pvt. Ltd. having 100% voting rights, resolved to replace the existing RP Mr. Amit Pareek and proposed the name of the Applicant herein Mr. Kamal Agarwal to be appointed as the incoming RP and the Applicant was appointed as the RP vide Order of this Bench dated 09.12.2020 in IA No.64 of 2020.

5. The application for replacement of RP was filed by the CoC vide IA No.53 of 2020. This Hon'ble Bench directed Mr. Amit Pareek to file an application for replacement. Thereafter, Mr. Amit Pareek filed an IA No.64 of 2020 seeking his replacement. This Hon'ble Bench vide Order dated 09.12.2020 passed Order for replacement of the RP.

6. That as per the Form A published by the IRP, the estimated date of closure of CIRP process was 23.08.2020. The erstwhile RP filed an application under Section 60(5) of IBC seeking exclusion of period of 130 days. This Hon'ble Bench was pleased to allow the application and excluded the period of 130 days in computation of total period of 180 days. After the exclusion the estimated date of closure of CIRP period is 01.01.2021.

7. Thereafter, the Applicant / Resolution Professional filed an application under Section 12 (2) of the Code, praying for extension of CIRP period by 90 days beyond 180 days vide IA No.01 of 2021 and this Hon'ble Bench was pleased to allow the above

application vide its Order dated 10.02.2021. The estimated date of closure of CIRP after extension of 90 days is 01.04.2021.

8. Meanwhile, the CoC in its 7th meeting held on 31.03.2021 resolved to liquidate the Corporate Debtor in absence of any resolution plan. An Application under Section 33(2) was filed before this Bench and it was first listed on 28.07.2021. This Bench directed the RP to explore the possibility of a resolution plan and pursuant to the direction again the RP received two EOI from prospective resolution applicants along with the EMD amount.

9. The 9th CoC meeting was being called on 22.10.2021 for consideration and approval of the resolution plan and the approved resolution plan, if any, should be filed by 31.10.2021. Regulation 39(4) mandates the approved plan to be filed at least 15 days prior to the maximum period for completion of CIRP under section 12.

10. It is stated that hence an exclusion of 168 days in view of COVID 19 second wave disruptions and subsequent order of the Hon'ble Supreme Court in Misc. App. No. 665 of 2021 is sought as upon exclusion of further period of 168 days, the maximum permitted period of completion of CIRP including the time taken for litigation shall end on 15.11.2021.

11. It is further the RP, applicant herein has filed an Additional Affidavit on 02.11.2021 submitting that one of the prospective Resolution Applicants which is a consortium led by Mr. Binay Bhusan Das has requested for further 10 days' time for submission of their resolution plan. The CoC allowed the extension and the next date of CoC was fixed for 30.10.2021 and in view of extension of time permitted by the CoC for submission of the plan by one of the Resolution Applicants, the 10th CoC was held on 30.10.2021 and in the said meeting both the Resolution Plans were considered and were analysed for its technical viability and feasibility. However, the CoC sought minimum 48 hours for completion of voting process.

12. It is submitted that in view of the above, the Applicant /RP prays for exclusion of a total 183 days in computing the permitted period of 270 days for completion of the CIRP. It is also submitted that if the exclusion of 183 days is permitted then the maximum permitted period of 330 days in terms of second proviso to Section 12(3) for completion of CIRP of the Corporate Debtor shall expire on 30.11.2021.

13. The Applicant / RP undertakes to submit the Resolution Plan as approved by the CoC before this Hon'ble Bench under Section 30(6) of the Code, latest by 15.11.2021.

ORDER

14. Heard the RP in person at length.

15. In view of the facts and circumstances of the case, the decision of the Hon'ble Supreme Court rendered in Misc. App. No. 665 of 2021 and receipt of two Resolution Plans now by the CoC, we are of the considered opinion that as a special case, prayer of the Applicant /RP needs to be allowed and accordingly, 183 days is excluded as prayed for in computing 270 days for completion of the CIRP of the Corporate Debtor. Accordingly, after exclusion of the aforesaid period, the CIRP will expire on 30.11.2021.

16. The RP is hereby directed to complete the entire process within the above stipulated period. No further extension shall be allowed.

17. Hence, this IA is admitted and the matter stands disposed of with the above observations and directions.

Sd/-

**(Prasanta Kumar Mohanty)
(Member (Technical))
&
Adjudicating Authority**

//D-11.11.2021//

Sd/-

**(Rohit Kapoor)
Member (Technical)
&
Adjudicating Authority**