**IN THE NATIONAL COMPANY LAW TRIBUNAL**
**HYDERABAD BENCH, HYDERABAD**

**IA No.836 of 2020**
In CP (IB) No.506/7/HDB/2019
Under section 12 and 60(5) of the IB Code, 2016.

**In the matter of:-**
**M/s. MSM Energy Limited**
(CIN: U72200TG2000PLC033475)

Mr. Anup Kumar Singh
Resolution Professional of
M/s. MSM Energy Limited,
Plot No.53, Flat No.102,
Ashwini Homes, Behind Andhra Jyothi,
Journalist Colony, Road No.70,
Jubilee Hills, Hyderabad,
Telangana – 500 033.

...Applicant/
Resolution Professional

**Date of Order: 06.10.2020**

**Parties/Counsel(s) Present**:

For the Applicant/RP : Mr. VVSN Raju, counsel.

**Per: K. Anantha Padmanabha Swamy, Member Judicial**

**ORDER**

1. Under consideration is an Interlocutory Application bearing IA No.836 of 2020 in CP (IB) No.506/7/HDB/2019, filed by the Applicant/Resolution Professional (in short **RP**) in the matter of M/s. MSM Energy Limited, under section 12 and 60(5) of the Insolvency and Bankruptcy Code, 2016, inter-alia seeking the following relief(s):
   a) Pass an order/direction in respect of 128 days of exclusion due to lockdown.
   b) Pass an order/direction in respect of extension of CIRP period of 90 days and above the period of 180 days expiring on 19.09.2020

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for completion of Corporate Insolvency Resolution Process of the Corporate Debtor.

2. Brief facts of the case as stated by the Applicant are as follows:

a) That this Adjudicating Authority vide its order dated 15.10.2019, admitted the Application filed under section 7 of the IBC, 2016 in CP (IB) No.506/7/HDB/2019 for CIRP of the Corporate Debtor i.e., MSM Energy Limited and appointed Mr. Kalvakolanu Murali Krishna Prasad as Interim Resolution Professional (IRP). Later he was replaced with Mr. Anup Kumar Singh as Resolution Professional (RP) by this Adjudicating Authority vide its order dated 10.12.2019 in IA No.1099/2019, upon the Application filed by CoC who resolved in the 1st meeting dated 19.09.2019.

b) That the Applicant published Form-G for the invitation of Expressions of Interest (EoI) from prospective bidders for the Corporate Debtor on 03.01.2020 and the last date for submission of EoI was 18.01.2020.

c) That the Applicant on or before the stipulated timeline received no EoIs for the Corporate Debtor due to ongoing holidays. The Prospective Resolution Professionals (PRAs) were unable to complete their due diligence before submission of EoI. However, enquiries from PRAs were received by the Applicant, requesting time for submission of EoI for the Corporate Debtor. Therefore, PRAs requested for extension of time for submission of EoI till 17.02.2020 and the same approved by the members of CoC.

d) That the Applicant received EoI from Two PRAs namely M/s. S.C.Agarwal and Rainbow Food Products Private Limited on or before the stipulated timeline of submission of EoI as per Form G. Subsequently, the Applicant received one more EoI from a PRA namely M/s. Raajratna Energy Holdings Private Limited on 06.03.2020.

e) That the Applicant has verified the EoI as received on or before 06.03.2020 and has issued the provisional list of PRAs to the members of the CoC and the PRAs in compliance with Regulation 36A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons), Regulations, 2016 vide email dated 17.03.2020.

f) That the Applicant stated that the plants of the Corporate Debtor are located in Maharashtra wherein serious lockdown was imposed by the Maharashtra Government till 31.07.2020, wherein travel restriction was imposed for inter-state travel due to which the PRAs were unable to visit the plants of the Corporate Debtor.

g) That in view of the above, CoC has passed a resolution in their 3rd CoC meeting 21.03.2020 with 99% voting in favour of the following Resolution:

> *"**RESOLVED THAT** pursuant to section 12(2) of the Code (including all the amendments and modifications for the time being in force) consent of Committee of Creditors be and is hereby accorded to extend the Corporate Insolvency Resolution Process in the matter of M.S.M. Energy Limited for a period of additional 90 days over and above 180 days period for completion of Corporate Insolvency Resolution Process in the said matter.*
> ***RESOLVED FURTHER THAT** the committee hereby authorize Mr. Anup Kumar Singh, Resolution Professional to do all acts, deeds and matters as may be necessary to give effect to this resolution"*

3. RP submitted that the present Application is bona fide one and the extension sought for is as provided under Section 12(2) of Insolvency and Bankruptcy Code, 2016, and to meet ends of justice. Further, no prejudice will be caused to the parties herein.

4. Heard and perused the record.

5. The present Application is filed inter-alia seeking extension of 90 days' time period beyond 180 days along with an exclusion of a period of 128 days lost due to lockdown.

6. In this case, the commencement of CIRP was initiated by this Adjudicating Authority vide its order dated 15.10.2019 and period of 180 days was completed on 12.04.2020. However due to outbreak of Covid-19 pandemic and its outfall, the period of 25.03.2020 to 31.07.2020 is excluded after the introduction of the Regulation 40C of IBBI (Insolvency Resolution Process for Corporate Persons) (Third Amendment) Regulations, 2020, (CIRP Regulations). The relevant Regulation for sake of convenience is extracted as below:

> ***"40. 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.*

7. In view of the above Regulation and fact that the plant of the Corporate Debtor is located in Maharashtra wherein serious lockdown was imposed by the Maharashtra Government till 31.07.2020, whereas travel restriction was imposed for inter-state travel due to which the PRAs were unable to visit the plant of the Corporate Debtor, the period from 25.03.2020 to 31.07.2020, is liable to be excluded from computation of CIRP and thus the period of 128 days from computation of 180 days of CIRP is excluded and the same comes to end on 18.08.2020.
8. In view of the progress made in the CIRP and 99% voting shares of the CoC member in favour of the Resolution passed by the CoC in its 3rd meeting held on 23.03.2020, this Adjudicating Authority hereby grants extension of CIRP period in the matter of M/s. MSM Energy Limited beyond 180 days by further 90 days w.e.f. 19.08.2020.
9. It is further made clear that the computation of such extension of time period shall be computed in accordance with the Regulation 40C of IBBI (Insolvency Resolution Process for Corporate Persons) (Third Amendment) Regulations, 2020.

10. With the above observations, this Application bearing IA No.836/2020 in CP (IB) No.506/7/HDB/2019 is hereby stands disposed of.

**K. Anantha Padmanabha Swamy**
**Member Judicial**

Rk/Rathi