

**THE NATIONAL COMPANY LAW TRIBUNAL
JAIPUR BENCH
(Camp at Chandigarh)
(through web-based video conferencing platform)**

**IA No.147/JPR/2020
in
IA No.129/JPR/2020
In
CP IB No.156/9/JPR/2019**

Under Section 9 of the IBC 2016

In the matter of:-

Toyota Kirloskar Motors Pvt. Ltd. ...Petitioner-Operational Creditor

Versus

R.S. Motors Pvt. Ltd. Respondent-Corporate Debtor

IA No.147/JPR/2020 & IA No.129/JPR/2020

Rajeev Sharma, Resolution Professional
of M/s R.S. Motors Pvt. Ltd. Applicant

Present through Video Conferencing:-

Mr. Varun Mehra, Advocate for the Applicant/Resolution Professional

IA No.147/JPR/2020

This IA has been filed seeking urgent hearing of IA No.129/JPR/2020. In the circumstances, the IA No.147/JPR/2020 is allowed and IA No.129/JPR/2020 is taken up for hearing. Accordingly, IA No.147/JPR/2020 is disposed of.

IA No.129/JPR/2020 In CP No. IB-156/9/JPR/2019

This IA has been filed by the Resolution Professional of M/s R.S. Motors Pvt. Ltd. under Section 12(2) of the Code read with Regulation 40 of

IBBI Regulations 2016 seeking extension of the period of CIRP by 90 days beyond the period of 180 days, after excluding the lockdown period. It is stated that the CIRP proceedings were initiated against the Corporate Debtor on 30.09.2019 when CP No.IB 156/9/JPR/2019 was admitted. The period of 180 days was expired on 27.03.2020 however, in view of the lockdown imposed due to novel pandemic COVID-19 w.e.f. 25.03.2020 and hence the period from 25.03.2020 till 30.06.2020 has to be excluded from the CIRP period. It is also stated in the affidavit that since forensic audit is going on, granting further time is necessary. The minutes of the CoC meeting held on 09.03.2020 with required percentage of voting share seeking extension of time also enclosed as Annexure A-1 to the IA.

2. The Hon'ble Supreme Court of India in **Suo Motu Writ Petition (Civil) No(s).3/2020 in Re: cognizance for extension of Limitation**, vide order dated 23.03.2020, observed as under:-

“This Court has taken Suo Motu cognizance of the situation arising out of the challenge faced by the country on account of Covid-19 Virus and resultant difficulties that may be faced by litigants across the country in filing their petitions/applications/suits/ appeals/all other proceedings within the period of limitation prescribed under the general law of limitation or under Special Laws (both Central and/or State).

To obviate such difficulties and to ensure that lawyers/litigants do not have to come physically to file such proceedings in respective Courts/Tribunals across the country including this Court, it is hereby ordered that a period of limitation in all such proceedings, irrespective of the limitation prescribed under the general law or Special Laws whether condonable or not shall stand extended w.e.f. 15th March 2020 till further order/s to be passed by this Court in present proceedings.

We are exercising this power under Article 142 read with Article 141 of the Constitution of India and declare that this order is a binding order within the meaning of Article 141 on all Courts/Tribunals and authorities.

This order may be brought to the notice of all High Courts for being communicated to all subordinate Courts/Tribunals within their respective jurisdiction.

Issue notice to all the Registrars General of the High Courts, returnable in four weeks.”

3. The Hon'ble National Company Law Appellate Tribunal in *Suo Moto-Company Appeal (AT) (Insolvency) No.01 of 2020*. Vide order dated 30.03.2020, observed as under:-

*“Upon requests for urgent listing of cases having been made telephonically to Registrar of this Appellate Tribunal from various persons, who were unable to physically file the same on account of complete lockdown declared by Government with effect from 25th March, 2020, we take suo moto cognizance of the unprecedented situation arising out of spread of COVID19 virus declared a pandemic. Having regard to the hardships being faced by various stakeholders as also the legal fraternity, which go beyond filing of Appeals/ cases, which has already been taken care of by the Hon'ble Apex Court by extending the period of limitation with effect from 15th March, 2020 till further order/s in terms of order dated 23rd March, 2020 in *Suo Motu Writ Petition (Civil) No(s).03/2020*, inasmuch as certain steps required to be taken by various Authorities under Insolvency and Bankruptcy Code, 2016 or to comply with various provisions and to adhere to the prescribed timelines for taking the 'Resolution Process' to its logical conclusion in order to obviate and mitigate such hardships, this Appellate Tribunal in exercise of powers conferred by Rule 11 of National Company Law Appellate Tribunal Rules, 2016 r/w the decision of this Appellate Tribunal rendered in "*Quinn Logistics India Pvt. Ltd. vs. Mack Soft Tech Pvt. Ltd. in Company Appeal (AT) (Insolvency) No.185 of 2018*" decided on 8th May, 2018 do hereby order as follows: -*

- (1) *That the period of lockdown ordered by the Central Government and the State Governments including the period as may be extended either in whole or part of the country, where the registered office of the Corporate Debtor may be located, shall be excluded for the purpose of counting of the period for 'Resolution Process under Section 12 of the Insolvency and Bankruptcy Code, 2016, in all cases where 'Corporate Insolvency Resolution Process' has been initiated and pending before any Bench of the National Company Law Tribunal or in Appeal before this Appellate Tribunal.*
- (2) *It is further ordered that any interim order/ stay order passed by this Appellate Tribunal in anyone or the other Appeal under Insolvency and Bankruptcy Code, 2016 shall continue till next date of hearing, which may be notified later.*

A copy of this order be communicated to Registrar of National Company Law Tribunal, New Delhi with a request to circulate the same to all Benches of NCLT across the country including the Principal Bench based at Delhi.

A copy of this order be also communicated to Secretary, Ministry of Corporate Affairs, New Delhi for information and compliance by various Authorities under its control.”

4. Thereafter, the Insolvency and Bankruptcy Board of India, inserted Regulation 40C to the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, vide notification dated 29.03.2020 and the same is as under:-

“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. Similarly, the Insolvency and Bankruptcy Board of India, vide notification dated 20.04.2020, inserted Regulation 47 A to the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 and the said regulation reads as under :-

“Exclusion of period of lockdown

47A. Subject to the provisions of the Code, the period of lockdown imposed by the Central Government in the wake of Covid-19 outbreak shall not be counted for the purpose of computation of the timeline for any task that could not be completed due to such lockdown, in relation to any liquidation process.”

6. In the circumstances and since the facts are not disputed and in view of the orders of the Hon’ble Supreme Court of India, National Company Law Appellate Tribunal and in view of the Regulations issued by Insolvency and Bankruptcy Board of India, we allow the instant IA to the extent of excluding the period of lockdown period i.e. from 25.03.2020 to 30.06.2020

and the CIRP period is extended by 90 days beyond 180 days i.e. after excluding the lockdown period i.e. from 25.03.2020 to 30.06.2020.

7. Accordingly, IA No.129/JPR/2020 is disposed of.

Sd/-
(Ajay Kumar Vatsavayi)
Member (Judicial)

Sd/-
(Raghu Nayyar)
Member (Technical)

July 31, 2020
Anchal