

ATTENDENCE - CUM-ORDER SHEET OF THE HEARING OF ALLAHABAD BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 03.06.2020 at 11:00 AM THROUGH VIDEO CONFERENCING.

NAME OF THE COMPANY : BANK OF INDIA V/S M/S B.B. FOOD PVT. LTD.

SECTION OF I & B CODE: 12(2) of IBC

PRESENT : HON'BLE MR. JUSTICE (RETD.) RAJESH DAYAL KHARE, MEMBER (J)

COUNSEL FOR APPLICANT/ RP : MS. BABITA JAIN, ADV.

IA NO.126/2020 IN CP NO.(IB)349/ALD/2018

The matter was taken up today through Video Conferencing at 11:00 AM.

Heard Ms. Babita Jain, Advocate for the Applicant/ RP through Video Conferencing.

The present application being IA No.126/2020 in CP No.(IB)349/ALD/2018 has been filed by the RP under the provisions of Section 12(2) of the IBC, 2016 read with regulation 40 of Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 for extension of CIRP period for further period of 90 days beyond 180 days.

It is argued by the Ld. Counsel for the Applicant/ RP that the present Company Petition has been filed by the Financial Creditor (Applicant/ Petitioner) U/s 7 of the IBC to initiate CIRP against M/s B.B. Food Pvt. Ltd. (Corporate Debtor). It is contended that pursuant to the order of this Tribunal dated 22.10.2019, the IRP took immediate steps to cause the public announcement of the Corporate Insolvency Resolution Process and started performing all such duties in terms of Section 15, 17 & 18 of IBC. It is further contended that the IRP also issued notice for convening the First CoC meeting on 22.11.2019, but on that date an email was received by one Mr. Manesh Agarwal stating that the Hon'ble NCLAT had passed an interim order on 18.11.2019 in Company Appeal (AT) (Insolvency) No.1182 of 2019 in the matter of *Manesh Agarwal v/s Bank of India & Others*, in pursuant to which, the CoC meeting was deferred. It is further contended that the Hon'ble NCLAT passed a final order on 22.02.2020 disposing off of the aforesaid Company Appeal, which order came in the knowledge of the applicant on 04.03.2020.

It is further contended that in the First CoC meeting, the IRP informed the CoC about the legal provisions of the IBC in respect of the liquidation of the Corporate Debtor

after the period of 180 days of CIRP, which will be completed on 19.04.2020 and therefore permission be sought from this Hon'ble Court, pursuant to the provisions of Section 12(2) of the IBC read with regulation 40 of Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, keeping in view the spirit of the IBC, which stipulates for revival of the Corporate Debtor.

The CoC considered the matter and passed the resolution by 100% voting strength in favour of moving present application and thus the present application is being moved. It is further contended that the First Meeting of the CoC was held on 17.03.2020, thereafter, the lockdown was declared on account of Pandemic Covid-19 and therefore, the application could not be moved, even thereafter, it is now being moved. It is further contended that the lockdown period should also be excluded and the application be allowed.

Considering the submission made by the Ld. Counsel for the Applicant, this Court is of the view that the cause shown is sufficient, accordingly, the application is hereby allowed. The extension of further period of 90 days beyond 180 days of CIRP is hereby extended along with exemption of lockdown period w.e.f 25.03.2020 as per the notification issued by the Central Government.

Accordingly, the present application (IA No.126/2020) stands disposed off.

Dated : 03.06.2020

**-Sd-
JUSTICE RAJESH DAYAL KHARE
(MEMBER JUDICIAL)**

*Typed by :
Kavya Prakash Srivastava
(Stenographer)*