

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT II**

**IANo.305/MB/C-II/2021
IN
C.P (IB) No. 1427/MB/C-II/2017**

Under Regulation 44(2) of The IBBI (Liquidation Process) Regulations, 2016 r.w. Rule 11 of NCLT Rules, 2016 Seeking Extension of The Liquidation Process of the Corporate Debtor.

Filed by
Mr.Bhupendra Singh N Rajput,
Liquidator of
M/s. Uttung Health & Wellness Private Limited
Office at: A-309, Atma House, Opp Old RBI,
Ashram Road, Ahmadabad - 380009
...Applicant/Liquidator

IN THE MATTER OF

M/s. Bell Finvest (India) Limited
Address: 103, Floor-10, Plot-228, Mittal Chambers,
Barrister Rajani Patel Marg, Nariman Point,
Mumbai - 400021
...Petitioner/Financial Creditor

Versus

M/s. Uttung Health & Wellness Private Limited
Address: A-3, Shri Sadguru Sai Baba Society,
Vakola Bridge, Santacruz (E), Mumbai - 400055
...Corporate Debtor

Order Pronounced on: 13.05.2021

Coram:

Hon'ble Member (Judicial) : Mr. H.P. Chaturvedi
Hon'ble Member (Technical) : Mr. Ravikumar Duraisamy

Appearances:

For the Applicant : Mr. Aniruth Purusothaman, Advocate.

ORDER

Per: H.P. Chaturvedi, Member (Judicial)

1. The present application is moved by **Mr. Bhupendra Singh N Rajput** (hereinafter called as “the Applicant”) **Under Regulation 44(2) of The IBBI (Liquidation Process) Regulations, 2016 r.w. Rule 11 of NCLT Rules, 2016. Seeking Extension of The Liquidation Process of the Corporate Debtor** so as to complete Liquidation process (hereinafter referred to as “Liquidation”) of the Corporate Debtor **M/s. Uttung Health & Wellness Private Limited** (hereinafter called as the “Corporate Debtor”) and for passing order/appropriate direction that this Tribunal may deem fit in the present matter.

The Applicant Liquidator has prayed for grant of following reliefs:-

- (a) This Tribunal be pleased to pass an order granting exclusion of 332 days from 15.03.2021 to 09.02.2021 for computing the period prescribed for completing liquidation process of the Corporate Debtor. It is also formed that such prescribed period to complete Liquidation process is going to over by 21.08.2021.
- (b) This Tribunal be pleased to grant further extension of one year with effect from 21.08.2021 as per Regulation 44(2) of the Liquidation Regulations for computing the period

required for completion of liquidation process of the Corporate Debtor the period prescribed for completion such liquidation process of the Corporate Debtor shall come to end on 21.08.2021.

- (c) This Tribunal be pleased to pass ad-interim reliefs and Interim Reliefs in terms of Clause A and B
- (d) This Tribunal be pleased to pass such other orders/directions as it may deem fit and proper in the facts and circumstances of the present case.

BRIEF FACTS OF THE CASE:

2. It is stated that the Corporate Debtor has been ordered to be Liquidated vide an Order dated 23.09.2019 passed by this Tribunal. Thereafter, the present Applicant was appointed as the Liquidator of the Corporate Debtor.
3. That this Tribunal vide an Order dated 20.04.2018 has admitted the present IB Petition filed by the Financial Creditor M/s Bell Finvest India Limited appointed thereby admitting the Company Petition filed by the appointing Mr. Bhupendra Singh Rajput as an Interim Resolution Professional to carry out the functions as per the provisions of the IBC 2016. It is also informed that present Applicant was appointed as an IRP than he was duly confirmed by the CoC to act as the RP.

4. As the Corporate Debtor was ordered for Liquidation by this Tribunal's order dated 23.09.2019. The present Applicant was appointed as Liquidator for Corporate Debtor and to complete the process of Liquidation in accordance of law and under the discipline of the IBC.
5. Thereafter, the Liquidator invited the claims of stakeholder of Corporate Debtor by making public announcement in newspapers and on the website of the IBBI. He prepared a list of all the stakeholders of the Corporate Debtor as per (Liquidation Process) Regulation, 2016 such list was also filed before this Tribunal.
6. That the Liquidator also filed a preliminary report and an asset memorandum on 06.01.2020 in accordance with the Regulation 34(4) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation, 2016. Further the Applicant Liquidator kept on preparing progress report and submitting time to time, before this Tribunal.
7. Thus the Applicant submitted that he made every endeavor to carry on his duties as Liquidator and to complete the Liquidation Process of the Corporate Debtor.
8. The Applicant Liquidator further submitted that due to the on-going Pandemic situation and nation-wide lockdown there caused genuine delay in carrying out the process of Liquidation of the Corporate Debtor and hence he has sought for exemption/exclusion of 332 days for the purpose of compulsion of the prescribed period to complete Liquidation Process and further extension of period of one year for completion of liquidation of Corporate Debtor.

9. We duly considered the above narrated facts and circumstances of the present IA.
10. Having heard the submissions of the Learned Counsel for the Applicant Liquidator. We are of the view that present IA deserved to allowed. Hence, it is partly allowed and the period to complete Liquidation Process is hereby is extended by six months form today. In addition to this the period consumed during the lockdown period needs to be excluded/exempted for counting the period prescribed for completing the Liquidation Process. By following decision of the Hon'ble Supreme Court in suo-moto Writ Petition in "*Miscellaneous Application No. 665/2021 in SMW(C) No. 3/2020*" by excluding/exempting the period from 15th March 2020 till 14th March 21 and now again until further order.
11. For the sake as convenient the relevant portion of the Order dated 27.04.2021 is of the Hon'ble Supreme Court is being reproduced herein bilow :-

"We also take judicial notice of the fact that the steep rise in COVID-19 Virus cases is not limited to Delhi alone but it has engulfed the entire nation. The extraordinary situation caused by the sudden and second outburst of COVID-19 Virus, thus, requires extraordinary measures to minimize the hardship of litigant-public in all the states. We, therefore, restore the order dated 23rd March, 2020 and in continuation of the order dated 8th March, 2021 direct that the period(s) of limitation, as prescribed under any general or special laws in respect of all judicial or quasi-judicial

proceedings, whether condonable or not, shall stand extended till further orders.

It is further clarified that the period from 14th March, 2021 till further orders shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.

We have passed this order in exercise of our powers under Article 142 read with Article 141 of the Constitution of India. Hence it shall be a binding order within the meaning of Article 141 on all Courts/Tribunals and Authorities.”

12. By the following the above direction of the Hon'ble Supreme Court, the present **IA No. 305 of 2021** in **CP (IB) No. 1427 of 2017** is partly allowed by extending the period for six month to complete the Liquidation Process of the Corporate Debtor.
13. With the aforesaid observation the present **IA No. 305 of 2021** is stand disposed of.

Sd/-

RAVIKUMAR DURAISAMY
MEMBER (TECHNICAL)

13.05.2021
SAM/Ankit

Sd/-

H. P. CHATURVEDI
MEMBER (JUDICIAL)