



**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH, (Court – II)
KOLKATA**

IA(IBC)/754(KB)2023

In
CP(IB)/34(KB)2022

An application under section 12(2) of the Insolvency and Bankruptcy Code, 2016

In the matter of:

Rudraksh Dealcom Private Limited

... *Corporate Applicant*

And

In the matter of:

Mr. Neeraj Jain, Resolution Professional of Rudraksh Dealcom Private Limited

.... *Applicant/Resolution Professional*

Date of Hearing: 03/05/2023

Date of Pronouncement: 12/05/2023

Coram:

Smt. Bidisha Banerjee

: Member (Judicial)

Shri Balraj Joshi

: Member (Technical)

Appearances through hybrid mode:

For RP

: Mr. Soumya Roy, Adv.
Mr. Santosh Mahato, Adv

ORDER

Per: Bidisha Banerjee, Member (Judicial)

1. This Adjudicating Authority convened through hybrid mode.
2. IA(IBC)/754(KB)2023 is an application filed by the Applicant/Resolution Professional u/s. 12(2) of the Insolvency and Bankruptcy Code, 2016 (“**IBC 2016**”)



read with Rule 11 of the National Company Law Tribunal Rules, 2016 (“**NCLT Rules, 2016**”) praying for extension of CIRP period by a further period of 60 days after the expiry of the 270 days, i.e., from 07/04/2023. This application is supported by an affidavit duly affirmed by the Applicant/Resolution Professional, on 06/04/2023, which is at pages 15 and 16 of the application

3. This Adjudicating Authority *vide* order dated 11/07/2022 on a petition filed u/s. 10 of the IBC, 2016 by Rudraksh Dealcom Private Limited, the Corporate Applicant (Corporate Dehtor), had admitted the Corporate Applicant (Corporate Debtor) under Corporate Insolvency Resolution Process (“**CIRP**”) appointing Mr. Neeraj Jain as the Interim Resolution Professional (“**IRP**”).
4. Public Announcement inviting claim from the Creditors was made in **Form A** one in “*Business Standard*” (English) and one in “*Aajkal*” (Bengali) on 14/07/2022. Last date of submission of claim was 25/07/2022.
5. In response only one claim was received from one of the unsecured financial creditor. Committee of Creditors (“**CoC**”) was duly constituted on 01/08/2022 with only one unsecured creditor, Bela Properties Private Limited. At the first CoC meeting held on 10/08/2022, IRP was confirmed as Resolution Professional (“**RP**”).
6. **Form G**¹ inviting Expression of Interest (“**EoI**”) from prospective resolution applicants was published twice in newspapers on 24/09/2022 and 24/10/2022 respectively. In response, no EoI was received.
7. At the 5th CoC meeting² held on 13/12/2022, a resolution for extension of CIRP period by a period by 90 days was passed with 100 % voting share since the 180 days CIRP period would come to an end on 07/01/2023. The RP has accordingly filed an application being IA(IBC)63(KB)2023 for extension of CIRP period by 90 days. This Adjudicating Authority *vide* its order dated 31/01/2023 had granted extension of 90 days, thereby the 270 days CIRP period would come to an end on 07/04/2023.

¹ Averments in paras 7 and 8 at page 13 of the application

² Averment in para 9 at page 13 of the application



8. With the approval of CoC, another **Form G³** was published on 25/02/2023 inviting EoI from prospective resolution applicants. In response only one prospective resolution applicant has submitted an EoI.
9. At the 8th CoC meeting held on 02/04/2023 the CoC with 100% voting shares passed the following resolutions:

“RESOLVED THAT the CoC be and hereby approves further extension of CIRP period for a period of 60 days after the expiry of 270 days i.e. April 7th, 2023”

“RESOLVED FURTHER THAT Mr. Neeraj Jain, Resolution Professional of the CD be and is hereby authorised to do all such acts, deeds and things as may be considered necessary to give effect to the above resolution”

A copy of the minutes of the said 8th CoC meeting forms Annexure B to the application.

10. We have heard the Ld. Counsel for the Liquidator, perused the application and the documents attached therewith.
11. *Vide* order dated 31/03/2023, this Adjudicating Authority had already granted an extension of 90 days. The Resolution Professional has not been able to complete the entire CIRP process within 270 days period. In terms of the judgment of the Hon’ble Apex Court dated 05/11/2019 in **Committee of Creditor of Essar Steel India Limited vs. Satish Kumar Gupta and Others, (2020) 8 SCC 531 (para 127)**, it was held that if, on the fact of a given case it can be shown to the Adjudicating Authority or the Appellate Authority under the Code that only a short period of time is left for completion of the insolvency process beyond 330 days and it would be in the interest of all stakeholders that the corporate debtor be put back on its feet instead of being sent into liquidation, it may be upon the Adjudicating Authority in such case for to extend the time.
12. The main objective of the Code is to resolve the Corporate Debtor as “a going concern” by way of a resolution plan and productive resources of economy can be

³ Avertisments in para 11 at page 13 of the application



put to best use, whereas liquidation means death of the Corporate Debtor. Liquidation is the last option when there is no scope for resolution.

13. Here, in this case, the Resolution Professional has in his hand one prospective resolution applicant, who has shown its eagerness to submit resolution plan and the CoC has consented for taking 60 days' enlargement of time. In the above scenario not granting some time to resolve the Corporate Debtor would go against the basic object of the Code, i.e., to revive the Corporate Debtor as a going concern.
14. Therefore, we exclude the time within which this IA(IBC)/754(KB)2023 was under judicial consideration from 07/04/2023 to date of pronouncement of this order, and further grant an enlargement of 60 days as prayed for in prayer (a) of the application. We direct the Resolution Professional to **strictly adhere to this time frame and complete the CIRP within the given time.**
15. **IA(IBC)/754(KB)2023** shall stand disposed of in accordance with the above directions.
16. List the Main C.P. on **03/07/2023**.
17. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
18. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

(Balraj Joshi)
Member (Technical)

(Bidisha Banerjee)
Member (Judicial)

Signed on this, the 12th day of May, 2023.

hb.