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**NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH
SPECIAL BENCH (Video Conference)**

PRESENT: HON'BLE SHRI K ANANTHA PADMANABHA SWAMY – MEMBER JUDICIAL
ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 16.10.2020 AT 10.30 AM

TRANSFER PETITION NO.	IA No. 137/2020 in TCP(IB) NO. 32/7/AMR/2019
COMPANY PETITION/APPLICATION NO.	CP(IB) NO. 282/7/HDB/2017
NAME OF THE COMPANY	Seven Hills Healthcare Pvt Ltd
NAME OF THE PETITIONER(S)	Axis Bank
NAME OF THE RESPONDENT(S)	Seven Hills Healthcare Pvt Ltd
UNDER SECTION	7 OF IBC,

Counsel for Petitioner(s):


<small>Ries</small>			
Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

Counsel for Respondent(s):

<small>Ries</small>			
Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

ORDER

Order Pronounced in Open Court. IA disposed of. Vide Separate Orders.



MEMBER JUDICIAL

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IN THE NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH (SPECIAL)

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IA No. 137 of 2020 in
TCP (IB) No. 32/7/AMR/2019
[CP (IB) No.282/7/HDB/2018]
Under Section 60(5) of IB Code, 2016

In the matter of:

M/s. Sevenhills Healthcare Private Limited

Mr. Abhilash Lal,
Resolution Professional of
Sevenhills Healthcare Private Limited,
C 192, Belvedere Towers, DLF Phase II,
Gurgaon – 122 002.

...Applicant/Resolution Professional

Date of Order: 06.10.2020

Appearance:

For the Applicant/RP: Ms. Eshita, Advocate

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

ORDER

1. The present Application is filed by the Applicant/Resolution Professional, under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the National Company Law Tribunal Rules, 2016, inter-alia seeking an Order excluding/extending the period of CIRP of the Corporate Debtor (Sevenhills Healthcare Private Limited) until MCGM is using the hospital facilities for COVID-19 related operations or in the alternative, extend the CIRP for a period of 90 days starting from 04.10.2020.
2. That the Corporate Debtor was admitted for CIRP on 13.03.2018, which in terms of the extension orders dated 25th November 2019 (First), 20th February 2020 (Second) and 14th July 2020 (Third) passed by this Adjudicating Authority.

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3. That due to the outbreak of the Covid-19 pandemic and subsequent lockdown, no steps could be taken for completion of the CIRP thereafter, though discussions and meetings between MCGM and the PRAs continued even during this period. In light of the rapid spread of the pandemic, in March 2020, the Government of Maharashtra started using the Mumbai hospital as a quarantine facility on account of its substantial size and scale, and continues to do so till date. The Vizag hospital of the Corporate Debtor has also been treating Covid-19 patients over the last 6 months.
4. That the Covid-19 related lockdowns and the status of the Mumbai hospital as a quarantine centre has prevented the PRAs from physically accessing the site for inspection, thereby preventing them from preparing any Resolution Plans. Consequently, the Applicant filed an Application seeking either an exclusion/extension of the period of CIRP of the Corporate Debtor until the Mumbai hospital was serving as a quarantine centre, or in the alternative, extending the CIRP for a period of 90 days starting from 7th July 2020. In the Third Extension Order dated 14.07.2020 passed on the basis of this Application, this Adjudicating Authority found that the request for an extension of CIRP was genuine and was accordingly pleased to grant a further extension of 90 days. In doing so, this Adjudicating Authority took notice of the following facts:
 - a. That the invitation for submission of EoIs had granted responses from 10 Prospective Resolution Applicants;
 - b. That the Mumbai hospital of the Corporate Debtor was being used as a Covid-19 facility, as a result of which, the PRAs were not in a position to visit the hospital site for inspection; and
 - c. That it was “essential for the proposed Resolution Applicants to have access to the site physically and only then will they be in a position to work out the figures for a takeover of the Corporate Debtor.”
5. That the status of the Mumbai Hospital has not changed since the passing of the Third Extension Order. In fact, the Mumbai hospital has been made

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a 'dedicated Covid Hospital' and is likely to continue to operate as such at least till the emergency declared by the government on account of the pandemic has been rescinded. The Applicant, as the Resolution Professional of the Corporate Debtor, completely supports all endeavours undertaken by the authorities in this regard. However, as this effectively prevents PRAs from physically accessing the site for site inspections, the Applicant submits that the CIRP of the Corporate Debtor cannot be completed till the Mumbai hospital is being used as a Dedicated Covid Hospital by MCGM. Therefore, the CIRP be further continued by granting an exclusion/extension until MCGM is using the hospital facilities for Covid-19 related operations or in the alternative, at least for a period of 90 days.

6. That in the light of these developments, the CIRP period ought to be extended to facilitate a resolution for the Corporate Debtor failing which the Corporate Debtor would have to be liquidated after 04.10.2020. That the resolution process has been extended for reasons far beyond the control/contemplation of any of the parties and is in its final leg.
7. That an extension of the CIRP period is in the interest of all stakeholders, especially considering that there are 10 Potential Resolution Applicants and there are credible prospects of receiving a resolution plan from some of the Potential Resolution Applicants. The Applicant anticipates that a short period of time is left for completion of the CIRP, once the impact of the Covid-19 related quarantine measures is mitigated and effective cooperation is received from MCGM. This necessitates an extension of the CIRP period which would enable the Applicant and the COC to, (i) consider and deliberate on terms of resolution plans; (ii) negotiate with the PRAs who submit resolution plans; (iii) shortlist resolution plans in terms of the RFRP; (iv) vote (by the COC) for choosing the successful resolution applicant; and (v) filing of an application for approval of the successful resolution plan by this Adjudicating Authority.
8. That it would also be in larger public interest, if the two hospital owned by the Corporate Debtor, which provide state-of-the-art, multi-speciality

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healthcare services to a significant number of patients, including subsidised services to patients from economically weak classes, continue to remain operational, and liquidation is treated as a last resort in the present case, in line with the judgment of the Hon'ble Supreme Court in *Committee of Creditors of Essar Steel India Limited vs. Satish Kumar Gupta*. Accordingly, the Applicant is seeking an extension of the period of CIRP of the Corporate Debtor until MCGM is using the hospital facilities for Covid-19 related operations or in the alternative, for a period of 90 days.

9. It is stated that in view of the said need of extension of time, the CoC has duly deliberated and passed the circular resolution to make an application before this Adjudicating Authority for extending CIRP period by another 90 days and the following circular resolution was duly passed and approved by 80.45% voting share of Financial Creditors as under:

“RESOLVED THAT, the Committee of creditors does and hereby confirms the filing of an application by the Resolution Professional before the Hon'ble National Company Law Tribunal, Amaravati Bench to seek a further extension of the corporate insolvency resolution process period of Sevenhills Healthcare Private Limited for such period until MCGM is conducting Covid-19 related operations at the Mumbai Hospital or in the alternative, at least for a period of 90 days.”

10. Reiterating the above, counsel for the Applicant prayed to allow the instant Application as sought for.
11. Heard submissions and perused record.
12. That this Adjudicating Authority has accorded various extension from time to time and the period of CIRP after extension order vide IA No. 84/2020 dated 14.07.2020 has come to an end on 04.10.2020. Now that the Applicant is seeking for an exclusion/extension of the period of CIRP of the Corporate Debtor (Sevenhills Healthcare Private Limited) until MCGM is using the hospital facilities for COVID-19 related operations or in the alternative, extend the CIRP for a period of 90 days starting from 4th October 2020.

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13. It is pertinent to note that the judgment of the Hon'ble Supreme Court has held in Committee of Creditors of Essar Steel India Limited v. Satish Kumar Gupta & Ors in CA No.8766-67 of 2019 as follows:

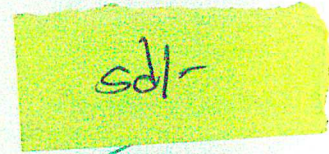
“79.....Thus, while leaving the provision otherwise intact, we strike down the work ‘mandatorily’ as being manifestly arbitrary under Article 14 of the Constitution of India and as being an excessive and unreasonable restriction on the litigant’s right to carry on business under Article 19(1)(g) of the Constitution. The effect of this declaration is that ordinarily the time taken in relation to the corporate resolution process of the corporate debtor must be completed within the outer limit of 330 days from the insolvency commencement date, including extensions and the time taken in legal proceedings. However, on the facts of a given case, if it can be shown to the Adjudicating Authority and/or Appellate Tribunal under the Code that only a short period is left for completion of the insolvency resolution process beyond 330 days, and that 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 and that the time taken in legal proceedings is largely due to factors owing to which the fault cannot be ascribed to the litigants before the Adjudicating Authority and/or Appellate Tribunal, the delay or a large part thereof being attributable to the tardy process of the Adjudicating Authority and/or the Appellate Tribunal itself, it may be open in such cases for the Adjudicating Authority and/or Appellate Tribunal to extend time beyond 330 days.”

14. Keeping the guidance of the Hon'ble Supreme Court as above in view, considering the submission that one of the hospitals owned by the Corporate Debtor, situated at Mumbai is being used as a Dedicated Covid Hospital by MCGM and due to which the prospective Resolution Applicants are unable to access the said hospital for submitting their Resolution Plans. Further, interest evinced by the Prospective Resolution Applicants for resolution of Corporate Debtor and in view of the decision of CoC with 80.45% as well as the economic scenario emerging due to Covid 19 Pandemic and its fall out, this Adjudicating Authority observes that extension of time period enabling for completion of CIRP would be in the interest of all stakeholders, to allow the completion of CIRP rather than going for liquidation of the Corporate Debtor which should only be

initiated as a last resort. Accordingly, I hereby approve to extend a period of another 90 days of CIRP period.

15. This extension is granted on having considered the steps already been taken by the RP, approval by the CoC with 80.45% acceptance and the current stage of CIRP in the case of the present Corporate Debtor i.e., M/s. Sevenhills Healthcare Private Limited.

16. Accordingly, this Application bearing IA No. 137 of 2020 hereby stands disposed of.



K. Anantha Padmanabha Swamy
Member Judicial

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