IN THE NATIONAL COMPANY LAW TRIBUNAL,

MUMBAI BENCH, COURT II

I.A. NO. 379/MB/C-II/2021

IN

C.P (IB) No. 1406/MB/C-II/2017

Under Section 47A of The Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016 r.w. Section 60 (5) of The Insolvency and Bankruptcy Code, 2016 And Rule 11 of The National Company Law Tribunal Rules, 2016.

Filed by

Mr. Bhupendra Singh N Rajput,

.... Applicant/Liquidator

In the matter of

M/s. Bell Finvest (India) Limited
O/at 103, Floor, Plot-228, Mittal Chambers,
Barrister Rajani Patel Marg, Nariman Point,
Mumbai-400021

...Petitioner/Financial Creditor

Versus

Asha's Hospitality & Facility Management Private Limited
O/at A3, Shri Sadguru Sai Baba Society,
Vakola Bridge, Santacruz (East),
Mumbai-400055.

...Corporate Debtor

Order Pronounced on:25.06.2021

Coram:

Hon’ble Acting President : Mr. Bhaskara Pantula Mohan

Hon’ble Member (Technical) : Mr. Ravikumar Duraisamy

Appearances:

For the Applicant : Mr. Aniruth Purshottam, Advocate

Per: Ravikumar Duraisamy, Member

<u>ORDER</u>

1. The present application is preferred by **Mr. Bhupendra Singh Rajput,** Liquidator of the Corporate Debtor (hereinafter called as “the Applicant”) under Section 47A of The Insolvency And Bankruptcy Board of India (Liquidation Process) Regulations 2016 r.w. Section 60 (5) of The Insolvency And Bankruptcy Code, 2016 and Rule 11 of The National Company Law Tribunal Rules, 2016 seeking exclusion of COVID – 19 lockdown period from 15.03.2020 to 09.02.2021 i.e. 332 days and extension of one year for completing the liquidation process of the Corporate Debtor **Asha’s Hospitality & Facility Management Private Limited.**

2. The reliefs being sought for in the present IA are stated as under: -

(a) *Pass an Order granting exclusion of 332 days from 15.03.2020 to 09.02.2021 for calculating the period required for completing liquidation of the Corporate Debtor as a result of which the Liquidation of the Corporate Debtor shall now end on 21.08.2021.*

(b) *Pass an order granting extension of one year from 21.08.2021 as per Regulation 44(2) of the Liquidation Regulations for calculating the period required for completing liquidation of the Corporate Debtor as a result of which the time period for completion of liquidation of the Corporate Debtor shall now end on 21.08.2022.*

(c) *Pass ad-interim reliefs and Interim Reliefs in terms of Clause A and B.*

(d) *Pass such other orders/directions as this Hon'ble tribunal may deem fit and proper in the facts and Circumstances.*

3. The present Application states that the Corporate Insolvency Resolution Process (CIRP) was commenced in respect of Corporate Debtor vide an Order dated 20.04.2018 passed by this Tribunal and the Applicant was appointed as Interim Resolution Professional of the Corporate Debtor.

4. Thereafter this Hon'ble Tribunal vide Order dated 23.09.2019 initiated the Liquidation process of the Corporate Debtor and the Applicant herein was appointed as the Liquidator of the Corporate Debtor.

5. Pursuant to the liquidation order, the Applicant issued a public announcement in Free Press Journal and Navshakti newspapers on

07.11.2019 to submit prof of claims with the liquidator on or before 06.12.2019.

6. Thereafter, the Liquidator received the claims of the stakeholders. The Liquidator had 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.

7. Further the Applicant submits that due to on-going pandemic and nation-wide lockdown there was a genuine delay in carrying out the process of the Liquidation of the Corporate Debtor and hence the Liquidator sought an exclusion of period of 332 days and extension of period of one year for completion of liquidation of Corporate Debtor.

8. It is submitted that the Government of India imposed a nation-wide lockdown from March 25, 2020 in order to curb the spread of the Corona virus and thereafter issued several orders for extension of the lockdown in the country. Further, it is submitted that the lockdown due to COVID-19 pandemic in the state of Maharashtra is still in force, though some relaxation has been issued from time to time.

9. The Applicant/Resolution Professional took all necessary steps so as to complete the CIRP and filed its progress Report pursuant to an order passed by Hon’ble NCLT, Mumbai Bench.

10. We have duly considered the above narrated facts and circumstances of the present IA No. 379/2021. Having heard the submissions of the Learned Counsel for the Applicant/Liquidator, we are of the view that

present IA deserves to be allowed. Hence, it is allowed and the period to complete the liquidation process is hereby extended by **six months from the date of receipt copy of the Order**. In addition to this further the period consumed during the lockdown period needs to be excluded /exempted for counting the period prescribed for completing the liquidation process. By following the decision of Hon'ble Supreme Court in *suo moto* writ Petition *No. 665/2021 in SMW(C) No. 3/2020"*by excluding/exempting the period from 15thMarch 2020 till 14thMarch 2021 and now again until further order.

11. For the sake of convenience the relevant portion of the Order dated 27.04.2021 of the Hon'ble Supreme Court is being reproduced herein below:

> ***"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 following the above direction of the Hon'ble Supreme Court, the present **IA No.379 of 2021 In CP (IB) No. 1406 of 2017** is allowed by extending the period for six months from the date of receipt copy of the Order to complete the liquidation process of the Corporate Debtor.

13. With the aforesaid observation the present **IA No. 379 of 2021 In C.P (IB) No. 1406/MB/C-II/2017 is allowed** and stands disposed off.

Sd/-	**Sd/-**
RAVIKUMAR DURAISAMY **MEMBER (TECHNICAL)**	**BHASKARA PANTULA MOHAN** **ACTG. PRESIDENT**

25.06.2021