

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

I.A.NO.248/MB/C-II/2022

In

I.A.NO.1696/MB/C-II/2021

In

C.P (IB) No. 3927/MB/C-II/2019

**Under section 60(5) of Insolvency and Bankruptcy
Code, 2016 read with Rule 11 of National
Company Law Tribunal Rules, 2016.**

Filed by

Hangji Global Limited,

**Successful Resolution Applicant of Globecon
Commercial Services Private Limited**

...Applicant

In the matter of

Hangji Global Limited

...Petitioner/Operational Creditor

Versus

Globecon Commercial Services Private Limited

... Respondent/Corporate Debtor

Order Pronounced on :- 16.03.2022

Coram:

Hon'ble Member (Judicial) : Justice P.N. Deshmukh (Retd.)

Hon'ble Member (Technical) : Mr. Shyam Babu Gautam

Appearances:

For the Applicant : Mr. Shyam Kapadia, Advocate.

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ORDER

Per: Coram

1. The present application is moved by **Hangji Global Limited** (hereinafter called as “the Applicant”) **under Section 60(5) of Insolvency and Bankruptcy Code, 2016 read with Rule 11 of National Company Law Tribunal Rules, 2016 seeking clarification in order dated 23.11.2021 passed in IA 1696 of 2021 approving the resolution plan.**
2. The Applicant has sought clarification from this Bench with regards to reliefs and concessions as set out under clause 12.3 of the Resolution Plan. The clause 12.3 enumerates various reliefs and concessions post approval of the plan. In this regard, the Bench via an Order approving the resolution plan dated 23.11.2021 in the Operative part under paragraph (ii), ordered:

“The approval of the Resolution Plan shall not be construed as waiver of any statutory obligation/ liabilities of the Corporate Debtor and shall be dealt by the appropriate authorities in accordance with law. Any waiver sought in the Resolution Plan, shall be subject to approval by the authorities concerned.”

3. The Jurisdiction of Adjudicating Authority has been clearly defined by the Code. The Jurisdiction of Adjudicating Authority comes to an end immediately upon approval of the Resolution Plan and can be invoked

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only in circumstances defined under the Code. Any reliefs and concessions sought for any activity post approval of the plan cannot be granted by the Adjudicating Authority. Hence, this bench is constrained in this respect.

4. In light of judgement of Hon'ble Supreme Court in the matter of ***Ghanashyam Mishra and Sons Private Ltd vs Edelweiss Asset Reconstruction Company Ltd & Ors***, it is clarified that the said para of the order has to be read as:

*“The approval of the Resolution Plan shall not be construed as waiver of any **prospective** statutory obligation/ liabilities of the Corporate Debtor and shall be dealt by the appropriate authorities in accordance with law. Any waiver sought in the Resolution Plan, shall be subject to approval by the authorities concerned.”*

5. It is also clarified that any fees, as applicable, for filing of any record with the Registrar of Companies or any other Regulatory Authority has to be borne by the Applicant.
6. This Bench has also considered the difficulty of the Applicant to implement the Resolution Plan pending clarification from this Bench. Hence, this Bench grants the Applicant an extension of time period from approval of the Resolution Plan i.e. 23.11.2021 till disposal of this IA i.e. 16.03.2022.

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7. Having considered, the submission of the Learned Counsel appearing for the Applicant and on perusal of the records placed before this Tribunal, we are of the considered view that present **IA deserves to be allowed.**
8. With the aforesaid observation the present **IA No. 248 of 2022 In IA No. 1696 of 2021 In CP(IB) No. 3927 of 2019 is allowed and stands disposed of.**

Sd/-

SHYAM BABU GAUTAM
MEMBER (TECHNICAL)

Sd/-

JUSTICE P.N. DESHMUKH
MEMBER (JUDICIAL)