

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

I.A. NO. 2450/MB/C-II/2020

In

C.P (IB) No. 3513/MB/C-II/2018

**Under Section 60 (5) of the IBC, 2016 and
Regulation 40C of the IBBI, Regulations 2016,
Seeking Extension of the CIRP Period.**

Filed by

Mr. Laxmikant Yeshwant Desai,

Resolution Professional of

M/s. Global Towers Limited

O/at 503, Atharva, M B Raut Road, Shivaji Park,
Dadar (West), Mumbai Maharashtra – 400028.

...Applicant/Resolution Professional

In the matter of

M/s. Ada Cellworks Wireless Engineering

Private Limited.

...Petitioner/Operational Creditor

Versus

M/s. Global Towers Limited

...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. Vinod Bhadang, Advocate.

ORDER

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

1. The present application is preferred by **Mr. Laxmikant Yeshwant Desai** (hereinafter called as “the Applicant”) **Under Section 60 (5) of the IBC, 2016 and Regulation 40C of the IBBI, Regulations 2016**, has sought further extension of the CIRP period so as to complete the Corporate Interim Resolution Process of the Corporate Debtor **M/s. Global Towers Limited** (hereinafter called as the “Corporate Debtor”) and for passing order/appropriate direction that this Tribunal may deem fit in the present matter.

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

- (a) This Tribunal be pleased to pass an order allowing exclusion/exemption of 282 days from March 25, 2020 to December 31, 2020 for the purpose of computation of the CIRP period of the Corporate Debtor, and simultaneously also to permit the balance 32 days of unutilized period out of 60 days extension previously allowed vide IA 729 of 2020 by the Hon’ble NCLT, as a result of which the CIRP of the Corporate Debtor shall be extended till February 1, 2021.
- (b) Pass ad-interim and interim reliefs in terms of Clause A.

- (c) Pass such other order/directions as this Hon'ble Bench may deem fit and proper in the facts and circumstances of the case.
2. The present Applicant/Resolution Professional states that the CIRP process was commenced in respect of Corporate Debtor vide an Order dated 29.08.2019 passed by this Tribunal. Thereafter the Applicant/Resolution Professional was appointed as Resolution Professional of the Corporate Debtor by this Tribunal vide an Order dated 10.12.2019. It is also contended that after completion of initial period of 180 days this Adjudicating Authority further extended for 60 days vide Order passed in IA No. 729 of 2020.
 3. Hence, the present Application is taken out under Section 60 (5) of the IBC 2016 and Regulation 40C of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations 2016 seeking exclusion of period from March 25, 2020 to December 31, 2020 i.e. 282 days completion of CIRP of the Corporate Debtor.
 4. The Applicant/Resolution Professional was appointed as Resolution Professional of Corporate Debtor vide Order of the Hon'ble NCLT, Mumbai Bench, on December 10, 2019. The certified copy of the said order was received on December 24, 2019.

5. 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 NCOVID-19 pandemic in the state of Maharashtra is still in force, though some relaxation has been issued from time to time.
6. The Applicant/Resolution Professional took all necessary step so as to complete the CIRP and filed its progress Report pursuant to an order passed by Hon'ble NCLT, Mumbai Bench.
7. It is stated that the RP has duly appointed the Tax Consultant, Legal Counsel, Two Valuers (each) for valuation of land & building and Securities and Financial Asset (SFA) and Transaction Auditor as approved which has been approved by the CoC in its 2nd CoC meeting.
8. Thereafter, the Applicant/Resolution Professional convened 3rd CoC meeting on February 19, 2020. In the 3rd CoC meeting, the appointment of all valuers and the transaction auditor were ratified and duly confirmed by the CoC. In that meeting, the CoC, further passed a resolution authorizing the Resolution Professional to seek extension of the CIRP period of 60 days to enable prospective applicants, if any to submit their Resolution Plans, the last date of which as per the published FORM G, was March 5, 2020.
9. Meanwhile as per the direction of this Tribunal 2nd Progress Report dated February 27, 2020 was filed by the RP and the same was heard and taken on record by this Tribunal.

10. It is submitted that various responsibilities, functions including compliances those were to be completed as per the provisions of IBC, 2016 could not be completed or could even commenced because of lockdown measures pursuant to pandemic Covid-19 situation. Hence the present application seeking for exclusion of the said period of 282 days in calculating the time period for completion of the extended CIRP period of the Corporate Debtor and further to utilize the remaining period of 32 days of CIRP after exclusion/exemption of lockdown restriction.
11. It is hereby submitted that out of the 60 days period that CIRP extension was allowed by the Hon'ble NCLT, Mumbai Bench vide IA 729 of 2020, but only 28 days could be utilized i.e. from February 26, 2020 to March 24, 2020, as the lockdown became effective from March 25, 2020 onward. **Hence, 32 days (60 days less 28 days) out of the total CIRP extended period would still be available to the Resolution Professional so as to complete the CIRP process.**
12. The Applicant submits that the estimated date for closure of insolvency process of the Corporate Debtor would end February 1, 2020. Thus, in the interest of justice and so as to meet the objectives of the Insolvency & Bankruptcy Code, 2016 and to maximize the value of the assets of the Corporate Debtor, an exclusion of 282 days needs to be granted and thereafter permission of utilizing of the balance 32 days (out of the extension of 60 days already granted) to be considered to complete the CIRP. Accordingly, if this IA allow the above, then the date of

completion of the extended CIRP period would be up to **February 1, 2021**.

13. We are satisfied with the submissions that the CIRP needs to be extended. Accordingly, the present application is deserved to be allowed in terms of its prayer clause by granting permission to utilize the remaining available period of CIRP excluded/exempted after lockdown for counting the process of CIRP. By following the decision of Hon'ble Supreme Court 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.
14. For the sake of convenient 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.”

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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.”

15. By following the above decision of the Hon'ble Supreme Court and with our aforesaid observation and direction, the present **IA No. 2450 of 2020** In **CP (IB) No. 3513 of 2018** is allowed and stands disposed of.

Sd/-

RAVIKUMAR DURAISAMY
MEMBER (TECHNICAL)

13.05.2021
SAM/Sushil

Sd/-

H. P. CHATURVEDI
MEMBER (JUDICIAL)