

**THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH-I**

**I.A. 3804 OF 2022**

Under Section 12(2) of Insolvency &  
Bankruptcy Code, 2016

Mr. Ajay Marathe,  
The Resolution Professional

**...Applicant**

In the matter of

C.P.(IB) No. 3755/MB/2019

Canara Bank

**. Operational Creditor**

Vs.

Paranjpe Agro Products (I) Private  
Limited

**...Corporate Debtor**

***Order delivered on: 01/11/2023***

***Coram:***

**Shri Prabhat Kumar**  
Hon'ble Member (Technical)

**Justice Shri V.G. Bisht**  
Hon'ble Member (Judicial)

***Appearances:***

For the Applicant/RP

:

Mr. Prakash Shinde a/w Ms.  
Ruchita Jain

**ORDER**

***Per: Prabhat Kumar, Member (Technical)***

1. This application IA 3804 of 2022 is filed on 5.12.2022 by the Resolution Professional Sh. Ajay Marathe ("RP") of the Corporate Debtor i.e. Paranjape Agro Products (1) Private Limited, upon the instructions of the Committee of Creditors(CoC) of the Corporate Debtor, seeking an extension of the Corporate Insolvency Resolution Process ("CIRP") by a period of 90 days under the provisions of Section 12 (2) of the Insolvency and Bankruptcy Code 2016 ("Code") read with Regulation 40 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations 2016 ("CIRP Regulations").
2. Vide an order dated 10.6.2022, this Tribunal admitted Company Petition No. 3755 of 2019 filed by the Financial Creditor i.e. Canara Bank against the Corporate Debtor under the provisions of Section 7 of the Code, whereby, inter alia, the Applicant was appointed as the Interim Resolution Professional, and was subsequently confirmed as the Resolution Professional by CoC on 13.7.2022.
3. Pursuant to Section 25(2)(h) of the Code and with the approval of CoC, the Applicant published Form G in the Financial Express (English), Navrashtra (Marathi) and Dainik Sagar (Marathi) inviting Expressions of Interest ("EOI") from the Prospective Resolution Applicants ("PRA").
4. In the 6<sup>th</sup> CoC meeting held on 16.11.2022, the CoC approved the resolution to file an Application for the extension of the CIRP period by a further period of 90 (Ninety) days in terms of Section 12(2) of the Code with 100% vote. The period of 180 days expired on 10.12.2022.
5. The Applicant further submitted that the Applicant has received 2 EOI's but RFRP and Information Memorandum is yet to be

circulated among PRAs. It is further stated that even though the Applicant is diligently pursuing his duties and obligations under the provisions of the Code to re-habilitate the Corporate Debtor, the sheer volume of work involved in the CIRP of the Corporate Debtor including functioning of the Corporate Debtor as a going concern makes it imperative that the time to complete CIRP is extended beyond 10<sup>th</sup> December, 2022.

6. We have heard the Counsel and perused the material available on record.
7. During the hearing in the matter on 31.08.2023, this Bench had recorded in daily order sheet that “*The applicant draws our attention to the words ‘from the date of the order hereof’ contained in the prayers and seeks extension of 90 days from the date of the order. However, this Bench finds that this kind of blanket exclusion cannot be allowed unless the applicant brings on record evidence to suggest that no steps were taken in the resolution process during the period, when the IA 3804/2022 was pending for order before this bench*”.
8. The Applicant filed an additional affidavit dated 09.09.2023 and has apprised this Bench that the Applicant has re-published EOI as approved by CoC in its 7th meeting held on 9th February, 2023 and 6 EOI were received in response on 10th March, 2023 and the same was presented before the CoC on 20 March, 2023, RFRP was issued for second time on 25th March, 2023 and final list of Resolution Applicant was circulated to CoC on 31 March, 2023. Last Date of submission for Resolution Plan was 24 April, 2023 and the last date was extended at the request of 3 PRA to 9th May, 2023. The decision was ratified by CoC in its 8th Meeting held on 10th May 2023. Resolution professional received 2 resolution plans till last date. Subsequently, Resolution Professional received

revised resolution plans on 19th August 2023. The Resolution Plans was put for approval before in its 11th CoC meeting held on 25th August, 2023. CoC has not yet approved nor rejected the Resolution plan. CoC informed that they will convey their decision through voting tentatively by 15th September 2023.

9. We also find that the minutes of the CoC meeting dated 16.11.2022 records that “RP informed that CIRP of the CD will expiring on 10<sup>th</sup> December 2022 i.e. 180 days. RP further informed that the two PRA has submitted the BID for Resolution of the CD. Hence it is proposed to extent the CIRP period by giving extension of 90 days u/s 12(2) of IBC 2016 beyond 180 days to extend the CIRP as per IBC, 2016. The revised completion date for CIRP will be 10<sup>th</sup> March 2023”, and the following resolution was passed:

*“Resolved that CIRP period of CD shall be extended by 90 days as per provision of Section 12(2) of IBC 2016 and Mr. Ajay Marathe RP be authorized to file the application before the National Company Law Tribunal, Mumbai Bench for the extension of CIRP period and to take necessary actions required in this connection under IBC, 2016 and relevant rules and regulations.”*

10. The Applicant contended before us that the prayer in the Application has sought extension of 90 days from 10.12.2022 or from the date of the order, accordingly, this Bench can consider to allow the period of 90 days from the date of its order so that the Resolution Plan in the case of Corporate Debtor can be considered by CoC and its approval be placed on record.

11. On the facts and circumstances of the case, we are satisfied that, in the interest of revival of the Corporate Debtor, the extension of 90 days be allowed from the date of this order considering the fact a resolution plan is before CoC in this matter, otherwise the Corporate Debtor shall have to be liquidated. However, it is clarified that this order shall not be taken as a precedent in any manner as having been passed on a peculiar facts and circumstances of the case.
12. In view of above, the I.A. 3804/2022 is disposed of as allowed.
13. Before we part with, we deplore the negligent conduct of the Resolution Applicant in pleading that extension for a period of 90 days be allowed from the date of the order, even though the CoC had resolved to seek extension for 90 days from 10.12.2012. We note that RP did not bother to bring this fact to the notice of this Bench or to the notice of CoC. This Bench pointed out that CIRP period would already have expired even if present application is allowed by extending period of 90 days from 10.12.2022, the Applicant RP instead of seeking approval from the CoC attempted to persuade this Bench to pass an order extending 90 days period from the date of order in exercise of its power under Rule 11 of NCLT Rules, 2016. It is also seen, that despite the CIRP in terms of present extension period had expired way back, the RP continued to

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hold CoC meetings and discharge his functions as RP. We have found, in some case, that the Insolvency Professionals are waiting for the Resolution Plan to come even after expiry of the CIRP period, and thereafter seek extension with retrospective effect to solicit sympathetic approach of this Tribunal in adjudication of extension application.

Sd/-

**Prabhat Kumar**  
Member (Technical)

Sd/-

**Justice V.G. Bisht**  
Member (Judicial)