

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

I.A.NO.501/MB/C-II/2021

In

C.P (IB) No. 58/MB/C-II/2018

Under Section 60(5) of Insolvency and Bankruptcy Code, 2016 Read with Regulation 47A of The IBBI (Liquidation Process) Regulations, 2016 and Rule 11 of NCLT Rules, 2016 for seeking exclusion of Lockdown period from Liquidation Process of the Corporate Debtor.

Filed by

Mr. Sethurathnam Ravi,

Liquidator of

Acasia Tele Service Private Limited

O/at Flat No. 303, 3rd Floor, Gayatri SRA, CHA Ltd, Umeda Ashram Road, Opp. Rajada School, Boriwali (W), Mumbai-400092.

...Applicant/Liquidator

In the matter of

GTL Limited.

...Petitioner/Operational Creditor

Versus

Acasia Tele Service Private Limited

...Corporate Debtor

Order Pronounced on: 13.05.2021

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Coram:

Hon'ble Member (Judicial) : Mr. H.P. Chaturvedi

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

Appearances:

For the Applicant : Mr. Raj Khandke, Advocate.

ORDER

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

1. The present application is preferred by **Mr. Sethurathnam Ravi** (hereinafter called as "the Applicant") **Under Section 60(5) of Insolvency and Bankruptcy Code, 2016 Read with Regulation 47A of The IBBI (Liquidation Process) Regulations, 2016 and Rule 11 of NCLT Rules, 2016 for seeking exclusion of Lockdown period from Liquidation Process of the Corporate Debtor** to complete Liquidation (hereinafter referred to as "Liquidation") of the Corporate Debtor Company namely **Acasia Tele Service Private Limited** (herein after called as the "Corporate Debtor"). The Corporate Insolvency Resolution Process ("CIRP") commenced on 20.03.2018 vide the order of this Tribunal and the applicant was appointed as Interim Resolution Professional. The Applicant received the certified true copy of the NCLT order initiating CIRP on 26.04.2018 and therefore immediately took charge as Interim Resolution Professional.

Reliefs as being sought for in the present Application stated as under:

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- (a) To pass an order allowing a period of 251 days from March 25, 2020 to November 30, 2020 as “Exclusion” for the purpose of completion of the LIQUIDATION PROCESS of the Corporate Debtor.
 - (b) To pass such other order/directions as this Tribunal may deem fit and proper in the facts and circumstances of the present case.
2. It is stated that in the Fourth Meeting of CoC dated 17.10.2018, its members unanimously passed a resolution by recommending for initiation of liquidation process against the Corporate Debtor. Therefore this Tribunal passed an order on 11.02.2019 for liquidation of Corporate Debtor and appointed the Applicant as liquidator.
3. Thereafter the Liquidator took charge of the corporate debtor and carried out various activities in discharge of his duty under the provision of IBC, 2016 and Regulations framed thereunder which includes issuance of Public announcement, verification of claims, and following up with debtors for recovery of outstanding amount.
4. It is stated that the Asset of the corporate Debtor includes receivables and advances given to various parties. As on date, the parties from whom amount is due to be received by the corporate debtor are undergoing liquidation process. Claims have been filed to the respective Liquidators. Completion of recovery from these parties depends on the outcome of liquidation process.

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5. It is also stated that Corporate Debtor had also made investment into shares and liquidator is in the process of opening demat account for the realization of the shares and is following up with the concerned bank to have the process completed in least possible time.
6. It is submitted that the 8th Progress report of the corporate debtor (in accordance with Regulation 15 of IBBI (Liquidation Process) Regulation 2016) for the quarter ended 31.12.2020 by informing the factual position of the corporate debtor and a status of the liquidation process was filed with this Bench on 14.01.2021 through its e-filing section.
7. The Applicant Liquidator further submits that, the Corporate Debtor is having its registered office at Mumbai. Effective mid-March 2020, a Junta curfew was imposed followed by national lockdown announced by the Government of India from March 25, 2020 in order to curb the spread of Covid 19 pandemic. Since then, severe restrictions were imposed on individuals, businesses, operations, in respect of physical movement of people and resources, due to which records/documents/information could not be easily accessed. This lockdown further got extended from time to time nationally. Even as of date, though some parts of the country have been unlocked progressively, Mumbai and its nearby region including New Delhi (where the office of the liquidator is located) continues to reel under containment/lockdown measures (though relaxed), on account of unprecedented rise in Covid 19 cases. Further, it is submitted that the said lockdown in the state of Maharashtra continues to be in force till end of November' 2020. This has, till date, deeply impacted the time lines for delivery and

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compliance. As such, various activities including realization of debtors and liquidation of investment of corporate debtor were delayed copies of circulars dated March 23, 2020, April 13, 2020 May 02, 2020, May 17, 2020 May 31, 2020, June 29, 2020, July 29, 2020, August 31, 2020, September 30, 2020, October 174, 2020, October 29, 2020 issued by the Government of Maharashtra relating to extension of lockdown due to Covid 19 Pandemic are enclosed with the present I.A.

8. Therefore the present application is filed under Section 60(5) of the IBC 2016 read with Regulation 47A of the IBBI (Liquidation Process) Regulations 2016 seeking for exclusion of certain period of lockdown due to COVID-19 Pandemic from March 25, 2020 to 30th November, 2020 i.e. 251 days (refer table below) for computing the period prescribed for completion of Liquidation process in respect of the Corporate Debtor.

Month	Exclusion days
March 2020 (March 25 th to March 31) both days inclusive	7
April 2020	30
May 2020	31
June 2020	30
July 2020	31
August 2020	31
September 2020	30
October 2020	31
November 2020	30
Total	<u>251 days</u>

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9. It is submitted that various functions in respect of the Corporate Debtor are yet to be performed by the Liquidator under IBC, 2016 e.g. for realization of debtors and liquidation of investment made by corporate debtor and thereafter to make distribution of the net proceeds amongst its stakeholders.
10. Hence the Applicant /Liquidator pray for exclusion of 251 days from Liquidation process by taking into consideration in the paramount interest of the Corporate Debtor under liquidation. Hence it is submitted that the balance of convenience lies in favour of the Applicant/ Liquidator.
11. We duly considered the above narrated facts and circumstance of the present case and examined the merits of the present IA.
12. Having heard the Learned Counsel for the applicant we are satisfied with the submission of the applicant that the liquidation period in respect of present Corporate Debtor needs to be extended. Hence the present IA is partly allowed. The liquidation period is further extended by **six months from today**. Further the period consumed During the lockdown period also needs to be excluded/exempted from counting the period prescribed for completing the process of liquidation as per the *suo moto* decision of Hon'ble Supreme Court in "*Miscellaneous Application No. 665/2021 in SMW(C) No. 3/2020*" by extending/exempting the period from 15th March 2020 till 14th March 21 and again now until further order. The relevant portion of the Order dated 27.04.2021 is being reproduced herein below:

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“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.”

13. By following the above stated judicial precedents of Hon’ble Supreme Court with the aforesaid observations and directions, the present IA No.501 of 2021 In CP (IB) No. 58 of 2018 is partly allowed and stands disposed of accordingly.

Sd/-

RAVIKUMARDUR AISAMY
MEMBER (TECHNICAL)

13.05.2021
SAM/JD

Sd/-

H. P. CHATURVEDI
MEMBER (JUDICIAL)