IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (Court-II)
KOLKATA

IA(IBC) No. 1029 /KB/2022
In
C.P.(IB) No. 82/KB/2019

An application under section 12(2) (3) of the IBC,2016 readwith Rule 11 of the National Company Law Tribunal Rules, 2016.

In the Matter of:

Rahul Carbon Commercials Private Limited ….Operational Creditor

-versus-

Kohinoor Steel Private Limited …. Corporate Debtor

And

In the matter of

Mr. Ashok Kumar Sarawagi …. Applicant

Date of Hearing : 28/09/2022

Date of pronouncing the order: 30/09/2022

<u>Coram:</u>

Mr. P.Mohan Raj, Member (Judicial)

Mr. Balraj Joshi, Member (Technical)

<u>Appearances (via Video Conferencing/ Physical):</u>

1. Mr. Joy Saha ,Sr.Adv. } For RP
2. Ms. Urmila Chakraborty,Adv. }
3. Mr. Sanjib Dawn, Adv. }

1. Mr. Rishav Banerjee,Adv. } For the Applicant
2. Mr. Supriyo Gole, Adv. }
3. Ms. Madhuja Barman,Adv. }

1. Mr. Amandeep Singh, Adv. } For Applicant in IA 118/KB/2022

ORDER

PER: Balraj Joshi, Member (Technical):

1. This Court convened through video conferencing.

2. This is an application filed under section 12(2) (3) of the IBC,2016 readwith Rule 11 of the National Company Law Tribunal Rules, 2016 by Resolution Professional of Kohinoor Steel Private Limited, praying for exclusion /extension of CIRP period from 28.9.2022 September till the matter of attachment by the Enforcement Director is settled.

3. In this regard list of dates have been given which shows that the CIRP was commenced on 20th November, 2019. During the process of CIRP various extensions /exclusions were granted by this Adjudicating Authority including the one on page 29 of the application whereby vide order dated 31st May, 2021, the period from 03/02/2021 till the disposal of IA 162/2021 stood excluded.

4. In this regard, it is pertinent to mention that IA 162/2021 was an application filed by Shyam Steel Industries Limited against the RP challenging the decision in admitting the claim of RPM Impex and removal of RPM Impex from the list of creditors. However, the same application was withdrawn on 20th May, 2022 when cost of Rs. Two Lakhs was imposed on the applicant for delaying process of CIRP.

Thus in terms of the order dated 31st May 2021 the period of CIRP stood enlarged upto 20th May 2022.

5. Meanwhile on December 30,2021, the Enforcement Directorate issued a provisional attachment order for attaching the properties of the corporate debtor and as such the process of CIRP came to a stand still.

6. Vide upon a request by the RP, this Adjudicating Authority vide order dated June 28, 2022 (page 34 of the IA), excluded three months period from the CIRP to enable the RP to take action for removal of PMLA attachment. Thus this last enlargement resulted in the period being regularised upto 28.9.22.

7. It has been submitted by the Ld. Senior Counsel that on August 22nd 2022, the Adjudicating Authority under the PMLA, New Delhi has passed an order in OC/1614 on 22.08.2022, wherein the said Authority has confirmed Provisional Attachment Order on the properties of Corporate Debtor. The said order was circulated to all the members of CoC vide email dated 29/08/2022 by the RP. The CoC has advised the RP to file necessary appeal before the Hon'ble Appellate Tribunal under the PMLA, 2002 to protect the assets of Corporate Debtor.

8. Further on September 1,2022, in the 23rd CoC meeting, it has been decided to file an exclusion /extension application (minutes of the CoC at page 35) . Accordingly, RP filed IA 1029/2022 for extension /exclusion of CIRP period from September, till the matter of attachment by Enforcement Directorate is settled.

9. When the matter was heard on 21st September, 2022, it was submitted by the Ld. Sr. Counsel that despite the attachment order two prospective resolution applicant are still interested in pursue their bid for the Corporate Debtor on as "As is where it is basis" together with the attachment order after considering the new liability which has arisen because of attachment of Enforcement Directorate. These submissions have now been filed along with an affidavit duly affirmed by the RP.

10. In the facts and circumstances and in interest of resolution of the corporate debtor, we consider it appropriate to grant three months enlargement of time i.e. upto 27th December by which time the CIRP be culminated by the CoC/RP. The RP/CoC shall take necessary action, that be required for completing the process within thus granted enlargement, as required under law.

11. In view of these directions IA (IBC) No. 1029/KB/2022 shall stands disposed of.

12. Certified copy of the order may be issued to all the concerned parties, if applied for, upon compliance with all requisite formalities.

(Balraj Joshi)	**(P.Mohan Raj)**
Member (Technical)	**Member (Judicial)**

Order signed on, this 30th day of September, 2022

PJ