

**NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH**

SPECIAL BENCH (URGENT HEARINGS THROUGH VIDEO CONFERENCE)

**PRESENT: HON'BLE SHRI RATAKONDA MURALI- MEMBER JUDICIAL  
HON'BLE SHRI VEERA BRAHMA RAO AREKAPUDI—MEMBER TECHNICAL**  
ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 21.08.2020 AT 10.30 AM

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TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA No. 602/2020 in CP (IB) No. 563/9/HDB/2019
NAME OF THE COMPANY	VS Lignite Power Pvt Ltd
NAME OF THE PETITIONER(S)	Refex Industries Ltd
NAME OF THE RESPONDENT(S)	VS Lignite Power Pvt Ltd
UNDER SECTION	9 of IBC

**Counsel for Petitioner(s):**

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

**Counsel for Respondent(s):**

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

**ORDER**

IA No.602/2020, is listed today for orders.

Orders passed vide separate orders.

  
Member(Technical)

  
Member(Judicial)

Pavani

**NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH, HYDERABAD**

**IA No.602 of 2020  
IN  
C.P (IB) No.563/09/HDB/2019**

Application under Section 12(2) & (3) of IB Code, 2016  
R/w Regulation 40 of IBBI (IRPCP) Regulations, 2016.

**In the Matter of Refex Industries Limited vs VS Lignite  
Power Private Limited**

**Dr. Govindrajula Venkata Narasimha Rao**  
B/1201, Lansum Eania, Puppalguda  
Opp. My home Avatar  
Hyderabad - 500075

...Applicant/  
Resolution Professional

**Date of order: 21.08.2020**

**Coram:**

Hon'ble Shri Ratakonda Murali, Member (Judicial)  
Hon'ble Shri Veera Brahma Arekapudi, Member (Technical)

**Parties / Counsels Present:**

**For the Applicant** : Ms Titiksha Jain, PCS

**Heard on:** 18.08.2020

**PER: SHRI VEERA BRAHMA RAO AREKAPUDI  
MEMBER (TECHNICAL)**

**ORDER**

1. This application is filed by the applicant/ Resolution Professional under Section 12(2) of IB Code, 2016 read with Regulation 40 of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, seeking extension of CIRP Process for a further period of 60 days with effect from 28.08.2020.



2. Averments made in the application in brief:
  - 2.1 The Tribunal vide order dated 18.09.2019 has admitted the Company Petition and appointed the applicant herein as Interim Resolution Professional (IRP) who was confirmed as Resolution Professional in the 1<sup>st</sup> CoC meeting held on 18.10.2019.
  - 2.2 Pursuant to publication in Financial Express and Nava Telangana newspaper publication dated 03.12.2020, seeking Expression of Interest (EOI), the Applicant received 10 EOIs.
  - 2.3 The prospective Resolution Applicants sought time from CoC for completing plant visits located at Bikaner as 180 days of CIRP was expiring on 16.03.2020. As per the resolution passed by the CoC, in its 6<sup>th</sup> Meeting held on 20.02.2020, the Applicant preferred an application seeking extension of 90 days beyond 180 days, which was granted by this Tribunal on 13.03.2020 and the 270 days CIRP period came to an end on 14.06.2020. However, owing to practical difficulties on account of Covid-19 lockdown w.e.f. 25.03.2020 till 07.06.2020 the Resolution Plans were received by Resolution Applicants only on 08.07.2020 and that all the Resolution Applicants are based out of different parts of the Country. The Applicant cited notifications issued by MHA vide order No. 40-3/2020-DM-I(A) dated 30.05.2020, Govt. of Telangana GO No. Ms.72 dated 31.05.2020, G.O.Ms. No. 93 dated 30.06.2020 and IBBI notification dated 29.03.2020 by adding Regulation 40C to the Regulations. The Applicant also relied on Hon'ble NCLAT in Suo Moto Company Appeal (AT) (Insolvency) No. 01 of 2020 vide order dated 30.03.2020 wherein it was held that ***the period of lockdown ordered by the Central Government and State Governments including the period as may be***

***extended either in whole or part of the country, where the registered office of the Corporate Debtor may be located, shall be excluded for the purpose of counting of period for "Resolution Process" under Section 12 of IBC, 2016, in all cases where 'CIRP' has been initiated and pending before any Bench of NCLT or in Appeal before Appellate Tribunal.*** Thus, upon exclusion of the period of lockdown the extended period of 270 days is up to 28.08.2020.


3. It is submitted that the Committee in its 10<sup>th</sup> meeting held on 03.08.2020, with 100% voting share, resolved to prefer the present application seeking extension of time by further 60 days with effect from 28.08.2020. This is within the overall limit of 330 days as provided under section 12(3) of the Code.
4. We have heard the Counsel for Resolution Professional. This application is filed under section 12(3) of Insolvency & Bankruptcy Code, 2016 seeking extension of CIRP period by another 60 days w.e.f. 28.08.2020 to enable the Resolution Professional to complete CIRP Process within the mandatory period of 330 days.
5. Already there was extension of CIRP by 90 days w.e.f. 16.03.2020 which was expired on 28.08.2020 after excluding lockdown period wef 25.03.2020 to 07.06.2020.
6. Resolution Professional relied on first para of proviso to section 12(3) of I & B Code which was inserted w.e.f. 16.08.2019 which is as under:

***"Provided further that the Corporate Insolvency Resolution Process shall mandatorily be completed within a period of 330 days from the insolvency commencement date, including any extension of period of CIRP granted under this section and the time taken in legal proceedings in relation to such resolution process of such corporate debtor".***



7. It is true CIRP shall mandatorily be completed within a period of 330 days. There is no question of giving further extension but however by virtue of proviso to section 12(3) of I & B Code, the CIRP to be completed within 330 days. So, we direct the Resolution Professional to complete CIRP within a period of 330 days from the date of Insolvency Commencement Date.
8. The Application is accordingly allowed directing the Resolution Applicant to complete the CIRP within a period of 330 days from the Insolvency Commencement Date which includes extension already granted and exclusion of lockdown period w.e.f 25.03.2020 to 07.06.2020.

  
**VEERA BRAHMA RAO AREKAPUDI**  
**MEMBER (TECHNICAL)**

  
**RATAKONDA MURALI**  
**MEMBER (JUDICIAL)**

**Binnu**