

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH – II, CHENNAI**

IA/30(CHE)/2021 in IBA/1099/2019 filed
under section 12 (3) & Section 60(5) of the
IBC, 2016 read with Regulation 40 of the
IBBI (Insolvency Resolution Process for
Corporate Persons) Regulations, 2016 &
Rule 11 of NCLT Rules, 2016

In the matter of **M/s. Regen Powertech Private Limited**

Mr. Ebenezer Inbaraj,
Resolution Professional of
M/s. Regen Powertech Pvt. Ltd.
23, 3rd Floor, Teynampet,
Coimbatore-600018

--- Applicant/RP

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R. SUCHARITHA, MEMBER (JUDICIAL)

B. ANIL KUMAR, MEMBER (TECHNICAL)

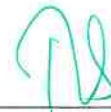
For the Applicant/RP : *Shri. A.G Sathyanarayana, Advocate*

ORDER

Per: R. SUCHARITHA, MEMBER (JUDICIAL)

Order Pronounced on: 20.04.2021

This application has been filed under Section 12 (3) & Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (IBC, 2016) read with Regulation 40 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 & Rule 11 of NCLT Rules, 2016.



2. By Order of this Adjudicating Authority dated 09.12.2019 in IBA/1099/2019, Corporate Insolvency Resolution Process (in short, 'CIRP') was initiated against the Corporate Debtor M/s. Regen Powertech Private Limited and the Applicant was appointed as the IRP. The Applicant published the public announcement on 15.12.2019 subsequent to which both the financial and operational creditors filed their claims with the Applicant. Subsequent to verification of claims, the Applicant constituted the Committee of Creditors (in short, 'CoC') and status of the the same was filed before this Tribunal on 08.01.2020. The first meeting of the CoC was conducted on 10.01.2020, in which meeting requisite majority of 66% voting rights was not achieved to confirm the Applicant as the Resolution Professional. Subsequently, during the 2nd CoC Meeting held on 06.02.2020, it was resolved that the Applicant shall continue to be the Resolution Professional. The CIRP ought to be completed within a period of 180 days from the date of commencement of CIRP i.e. 09.12.2019. Accordingly, the CIRP ought to have been completed on or before 06.06.2020.



3. The learned counsel for the Applicant further submitted that the lockdown period imposed by the Central Government shall not be counted for the purpose of computation of the time-line. Hence, in the 9th CoC meeting held on 30.12.2020, the CoC considered that, after exclusion of COVID-19 lockdown period from 25.03.2020 to 31.10.2020, the CIRP timeline would expire on 12.01.2021. In the same meeting, the CoC directed the Prospective Resolution Applicants to submit revised resolution plan with improved offer and thereby adjourned the decision on approval of resolution plan. Subsequently, the CoC authorised the Applicant to file this Application under Section 12 of the IBC, 2016. Accordingly, this application has been filed by the Resolution Professional seeking exclusion of the time period lost due to lockdown.

3. Heard the submission made by the Learned Counsel for the Applicant and perused the records placed on file. In the facts of the present case, it is to be noted that the CIRP in relation to the Corporate Debtor was initiated on 09.12.2019 and the lockdown was imposed on 25.03.2020.



4. Further, it is pertinent to note here that due to COVID-19 pandemic coupled with attendant lockdown imposed by the Central / State Government, the Regulator viz. IBBI has introduced an Amendment in the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, so as to exclude the period of lockdown from the CIRP timeline. Regulation 40C of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 states as follows;

40C. Special provision relating to time-line.

Notwithstanding the time-lines contained in these regulations, but subject to the provisions in the Code, the period of lockdown imposed by the Central Government in the wake of COVID-19 outbreak shall not be counted for the purposes of the time-line for any activity that could not be completed due to such lockdown, in relation to a Corporate Insolvency Resolution Process”.

5. The Learned Counsel for the Applicant submitted that he sought to exclude the period from 25.03.2020 to 31.10.2020, a total of 220 days from the period of CIRP and also sought to extend the CIRP period for a further period of 90 days from 13.01.2021

6. Thus, as to the facts of the present case, in view of Regulation 40C of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 the period from 25.03.2020 to 31.10.2020 stands excluded from the period of CIRP and the CIRP in relation to the Corporate Debtor is further extended for a period 90 days from 13.01.2021 in terms of Section 12(2) of IBC, 2016.

7. Accordingly, this application IA/30(CHE)/2021 is hereby allowed.

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(ANIL KUMAR B)
MEMBER (TECHNICAL)

-sd-
(R. SUCHARITHA)
MEMBER (JUDICIAL)

TJS