IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI, COURT-III

IA-1065/2024
In
IB-559(ND)/2021

IN THE MATTER OF IB-559(ND)/2021:

YES BANK LIMITED .... **Financial Creditor**

Versus

M/s. PRESIDIUM EDUCATIONAL INSTITUTION PRIVATE LIMITED

.... **Corporate Debtor**

AND IN THE MATTER OF IA-1065/2024:

Mr. ANIL GOEL

Resolution Professional of the Corporate Debtor .... **Applicant**

Order Pronounced On: 07.03.2024

CORAM:
SHRI ATUL CHATURVEDI
MEMBER (TECHNICAL)

SHRI BACHU VENKAT BALARAM DAS
MEMBER (JUDICIAL)

PRESENT:
For the Applicant :

ORDER

PER: BACHU VENKAT BALARAM DAS, MEMBER (JUDICIAL)

1. The present Application has been filed by Mr. Anil Goel, the Applicant/Resolution Professional under Section 12(2) read with Section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the National Company Law Tribunal Rules, 2016 seeking extension of 90 days beyond 24.02.2024 and/ or exclusion from 27.05.2023 till the date of filing the present Application or the date of passing the order in the present Application. The Applicant seeks the following reliefs:

"a) Allow the present Application;

b) Exclude the period from 27.05.2023 till date of filing the present Application i.e., 23.02.2024 or the date of passing the order in the *present Application, based on the circumstances of the case in light of the lack of information available with the Applicant due to non-cooperation from the suspended Directors of the Corporate Director; and/or*

c) Extend the period of CIRP by 90 days beyond 360 days w.e.f. 24.02.2024."

2. Brief Background of the Case:

The facts which are relevant for the purposes of determination of the issues involved in this application are stated as under:

i. An application under Section 7 of the Insolvency and Bankruptcy Code, 2016 ("IBC") was filed by the Financial Creditor i.e. Yes Bank Limited, against the Corporate Debtor i.e. M/s. Presidium Educational Institution Private Limited and the said application was admitted by this Adjudicating Authority vide order dated 29.11.2022 and a moratorium was declared including the appointment of Mr. Ganga Ram Agarwal as an Interim Resolution Professional. Subsequently, Mr. Ganga Ram Agarwal was confirmed as Resolution Professional in terms of Section 22 of IBC. Afterward, this Adjudicating Authority vide order dated 31.03.2023 replaced erstwhile IRP namely Mr. Ganga Ram and appointed the Applicant as the Resolution Professional of the Corporate Debtor on the request of one of the Creditors of the Corporate Debtor i.e., M/s. J.C. Flowers Asset Reconstruction Pvt. Ltd.

ii. In the Second meeting of the CoC dated 09.02.2023, the members of the CoC had approved the Bid Evaluation Matrix (BEM) and Request for Resolution Plan (RFRP) with 99.87% votes. In the third meeting of the CoC held on 06.03.2023, the CoC with 99.87% vote resolved to Republish Form - G since various PRAs were requesting an extension for submission of the Resolution Plan, due to the Non-availability of Books of Accounts/ Documents with the RP and lack of clarity on assets available with the company. Thereafter, the Second Form-G was published on 19.03.2023.

3. **<u>Reasons for Exclusion:</u>**

   i. *"The first Form G was published on 05.02.2023 and the second on 19.03.2023. However, no Resolution plans were received due to lack of Cooperation by the Suspended Directors of the Corporate Debtor leading to cancellation of both the Forms. Further, in 10th meeting of CoC dated 13.12.2023, it was decided not to publish the Form G, till the cooperation from the suspended management of the Corporate Debtor.*

   ii. *An application bearing IA No. 6571 of 2023 was filed by the Applicant under Section 68 read with 70 of the Code seeking appropriate Directions against the suspended management of the Corporate Debtor for not providing requisite information which is pending adjudication before this Hon'ble Tribunal."*

4. The CIRP period of the Corporate Debtor comes to an end on 24.02.2024. Therefore, in the 11th meeting of the CoC, the following Resolution was proposed by the CoC:

   <u>"Resolution No. 4</u>

   <u>To approve the exclusion of CIRP period</u>

   Facts and Explanatory Statement

   The resolution item has been discussed in detail in the agendas above. Accordingly, the following resolution is being put to vote.

   Resolution:

   To consider and if found fit, to pass with or without modification the following Resolution.

   "RESOLVED THAT *an exclusion of time in the CIRP period be applied to Adjudicating Authority from the date of filing of Application under Section 19(2) of the IBC till the date of passing of the order in the* *exclusion application in the matter of Presidium Educational Institution Private Limited"*

"FURTHER RESOLVED THAT, *the Resolution Professional be and is hereby authorized to file an appropriate application with Hon 'ble NCLT for seeking exclusion in the CIRP period from the date of filing of Application under Section 19(2) of the IBC till the date of passing of order in the exclusion application in the matter of Presidium Educational Institution Private Limited".*

The said resolution was approved by the members of the CoC with a voting share of 53.06%.

5. **Reasons for Extension:**

The following are the reasons for seeking an extension of 90 days beyond 360 days w.e.f. 24.02.2024:

i. *"An application bearing IA No. 652 of 2024 filed by the Applicant before this Hon'ble Tribunal for restricting the third parties using the Trademark of the Corporate Debtor illegally, and further to issue directions to the third party to transfer any revenue that is being earned by the use of such Trademark to the CIRP account of the Corporate Debtor. Pertinently, upon the adjudication of the aforesaid Application, the Applicant will have critical information regarding the future cash flows that may be generated through the assets of the Corporate Debtor and thus will have a positive impact over the publication of FORM G attracting more interest from Prospective Resolution Applicants to submit a viable Resolution Plan and realize optimum value for the Corporate Debtor.*

ii. *An Application bearing IA No. 5204 of 2023 was filed by the Applicant under Section 25(2) of the Code read with Regulations 30 of the IBBI Regulations, 2016 seeking assistance of local administration to assist the Applicant in taking control of the assets of the Corporate Debtor.*

The Application is pending adjudication before this Hon'ble Tribunal and listed for 05.03.2024.

iii. *Transaction Audit process of the Corporate Debtor has been delayed due to lack of financial data available with the RP to share with the Auditors. The RP is still in the process of reconstructing the books of accounts of the Corporate Debtor. However, the process is time consuming due to the large number of bank accounts (130 approximately) being maintained by the Corporate Debtor. Despite the lack of information, the Transaction Auditors have been able to prepare a draft report which clearly depicts that the suspended management of the Corporate Debtor have conducted transaction falling within the ambit Sections 43, 45, 49, 50 and 66. However, the Report is still to be finalised."*

6. The CoC in its 11^{th} meeting had also discussed for Extension of the CIRP period by 90 days and the following resolution was proposed before the members of the CoC.

"Resolution No 1

To approve extension of CIRP period by 90 days.

Facts and Explanatory Statement

The Resolution Item has been discussed in detail in agendas above. Accordingly, the following resolution is being put to vote. Resolution to consider and if found fit, to pass with or without modification the following Resolution.

"RESOLVED THAT*, the Corporate Insolvency Resolution Process period be extended by 90 days in the matter of Presidium Educational Institution Private Limited. "*

"FURTHER RESOLVED THAT*, the Resolution Professional shall file an appropriate application with Hon'ble NCLT for seeking extension of 90 days in the Corporate Insolvency Resolution Process of Presidium Educational Institution Private Limited"*

The said resolution was approved by the members of the CoC with a voting share of 98.07%.

7. We have heard the Ld. Counsel appearing for the Applicant and also perused the records.

8. In view of the facts and circumstances mentioned hereinabove, we are inclined to Exclude the period from 27.05.2023 till 23.02.2024 and Extend the period of CIRP by 90 days beyond 360 days w.e.f. 24.02.2024.

9. We advise the Resolution Professional as well as the Suspended management of the Corporate Debtor and others associated with the Corporate Debtor to make their best endeavors to get the ultimate essence in the implementation of the Code and in the interest of justice to expedite the process of Resolution of the Corporate Debtor under the Code.

10. In view of the above facts and circumstances and the foregoing discussion. It is accordingly ordered as follows:

i. The Application bearing **IA-1065/2024** filed by the Applicant is **allowed**.

ii. The Registry is directed to send a copy of this order to the Insolvency and Bankruptcy Board of India for their record.

No order as to costs.

Sd/-	Sd/-
(ATUL CHATURVEDI)	**(BACHU VENKAT BALARAM DAS)**
MEMBER (TECHNICAL)	**MEMBER (JUDICIAL)**