IN THE NATIONAL COMPANY LAW TRIBUNAL,

MUMBAI BENCH, COURT II

IA No.636/MB/C-II/2021
IN
C.P (IB) No. 3245/MB/C-II/2018

Under Regulation 44(2) of The IBBI (Liquidation Process) Regulations, 2016 r.w. Rule 11 of NCLT Rules, 2016 Seeking Extension of The Liquidation Process of the Corporate Debtor.

Filed by
Mr. Ravi Prakash Ganti,
Liquidator of
Akund Buildcon Private Limited
...Applicant/Liquidator

IN THE MATTER OF

Indiabulls Housing Finance Limited
...Petitioner/Financial Creditor

Versus

Akund Buildcon Private Limited
...Corporate Debtor

Order Pronounced on: 25.06.2021

Coram:

Hon'ble Acting President	:	Mr. Bhaskara Pantula Mohan
Hon'ble Member (Technical)	:	Mr. Ravikumar Duraisamy

Appearances:

For the Applicant	:	Mr. Mayank Padiya, Advocate a/w Mr. Ravi Prakash Ganti, Liquidator.

ORDER

Per: Ravikumar Duraisamy, Member

1. The present application is moved by **Mr. Ravi Prakash Ganti** (hereinafter called as "the Applicant") **Under Regulation 44(2) of The IBBI (Liquidation Process) Regulations, 2016 r.w. Rule 11 of NCLT Rules, 2016. Seeking Extension of the Liquidation Process of the Corporate Debtor** to complete Liquidation (hereinafter referred to as "Liquidation") of the Corporate Debtor Company namely **Akund Buildcon Private Limited** (hereinafter called as the "Corporate Debtor") and for passing any other order/suitable direction in the matter.

   Summary of Reliefs sought by this application

   (a) Permit exclusion of period of lockdown in terms of Reg 47A of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 from 25th March 2020 to 28th Feb 2021;

   (b) Pass such other order(s) as this Hon'ble Tribunal may deem fit and proper in the interest of justice.

2. The Applicant states that the Corporate Debtor was ordered to be Liquidated by virtue of an Order dated 19.12.2019 by this Tribunal. Vide the said Order, the Applicant was appointed as the Liquidator of the Corporate Debtor.

FACTS OF THE CASE:

3. That one of the Financial Creditor namely Indiabulls Housing Finance Limited had filed an Application under Section 7 of the Insolvency and Bankruptcy Act, 2016 for initiating Corporate Insolvency Regulation Process ("hereinafter referred to as CIRP") on account of defaults committed by the Corporate Debtor in making payments to the Financial Creditor.

4. That this Tribunal had passed an Order dated 19.02.2019 thereby admitting the Company Petition filed by the appointing Mr. Ravi Prakash Ganti as an Interim Resolution Professional ("hereinafter referred as IRP") to carry out the functions as per the provisions of the IBC 2016.

5. Pursuant to the Order of Liquidation of the CD, the Public Announcement in Form B was made in Free Press Journal (English) and Navakal (Marathi) on 23rd December 2019 calling upon stakeholders to file their claims by 18th January 2020 and in response to that, the Applicant has received claim from only one Stakeholder (as was the status during CIRP stage also):

Sl. No.	Name of the Stakeholder	Amount Claimed by the Stakeholder (Rs.)	Amount Admitted (Rs.)	Details of Security Interest
A. Financial Creditors				
1	Indiabulls Housing Finance Limited	93,87,21,267	93,87,21,267	Mortgage of 5 residential units in project called "Palais Royale" along with

				proportionate share / title / interest in land on which said building owned by Shree Ram Urban Infrastructure Ltd ("SRUIL")
B. Operational Creditors				
	NIL	NIL	NIL	NA
C. Workmen and Employees				
	NIL	NIL	NIL	NA
D. Other Stakeholders				
	NIL	NIL	NIL	NA

6. That the Liquidator had filed a preliminary report and an asset memorandum in accordance with the Regulation 34(4) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation, 2016.

7. Thereafter, the Liquidator in accordance with Regulation 15 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation, 2016 had prepared and submitted progress report.

8. It is submitted that the Applicant has made every endeavor to carry on the duties in the capacity as Liquidator of Corporate Debtor.

9. It is submitted that due to the on-going Pandemic and nation-wide lockdown there was a genuine delay in carrying out the process of Liquidation of the Corporate Debtor and hence the Liquidator in the instant Application is seeking an exclusion of period from 25th March 2020 to 28th Feb 2021 for completion of liquidation of Corporate Debtor.

OBSERVATIONS:

10. We are satisfied with the submission that the liquidation period needs to be excluded. Accordingly, prayer of Applicant is allowed the liquidation period is excluded from 25th March 2020 to 28th Feb 2021. Further the period consumed During the lockdown period has 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 15thMarch 2020 till 14thMarch 21 and again now until further order. The relevant portion of the Order dated 27.04.2021 is being reproduced herein below:

> ***"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."

11. With the aforesaid observations, the present **IA No. 636 of 2021 in CP (IB) No. 3245 of 2018** is allowed.

12. The **IA No. 636 of 2021** is disposed of.

Sd/- **Sd/-**

RAVIKUMARDURAISAMY
MEMBER(TECHNICAL)

BHASKARA PANTULA MOHAN
ACTING PRESIDENT

25.06.2021
SAM