NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 1125 of 2025

IN THE MATTER OF:

ASREC (India) Ltd. **...Appellant**

Versus

Kamal Agarwal
RP of Torque Automotive Pvt. Ltd. **...Respondent**

Present:

For Appellant	**:**	**Mr. Arvind Nayyar, Sr. Advocate with Mr. Amit Mahaliyan, Mr. Akshay Joshi and Mr. Shubham, Advocates.**
For Respondent	**:**	**Mr. Abhishek Anand, Mr. Karan Kohli, Ms. Palak Kalra, Ms. Riddhima Mehrotra and Ms. Vanshika Agarwal, Advocates for RP.**

O R D E R
(Hybrid Mode)

07.08.2025: Heard learned counsel for the appellant as well as learned counsel Mr. Abhishek Anand appearing on behalf of the Resolution Professional (RP).

2. This appeal has been filed against the order dated 30.06.2025, by which I.A. 610(AHM)/2025 filed by the RP for extension of 90 days time beyond 18.04.2025 was rejected. In paragraph 39 of the judgment, adjudicating authority has given reasons for rejecting the extension of 90 days as prayed for. Paragraph 39 of the order is as follows:

> *"39. In light of the prolonged CIRP, the absence of exceptional circumstances, and the risk of further asset depreciation, this Adjudicating Authority, exercising its powers under Rule 11 and Rule 15 of the NCLT Rules, 2016, finds that granting a further extension would contravene the objectives of the IBC,*

as set out in Section 12 and Regulation 40 of the CIRP Regulations. Accordingly, in view of the above discussion, the following order is given:-

(a). The request for an extension of the CIRP period for Torque Automotive Private Limited by 90 days beyond 19.04.2025, is not allowed, as the 465-day period already granted was adequate for completing the resolution process.

(b). Given the expiry of the extended CIRP period on 18.04.2025, the Applicant/Resolution Professional is directed to file an application for liquidation under Section 33(1)(a) of the IBC, 2016, 2016 forthwith, along with any necessary reports, as no resolution plan has been approved within the stipulated period.

(c). The Applicant/Resolution Professional is directed to serve a copy of this, order to all members of the Committee of Creditors and other relevant stakeholders within three days from the date of this order."

3. Learned counsel for the appellant challenging the order submits that in the Corporate Insolvency Resolution Process (CIRP), 6 resolution plans have already been received and he submitted that only submission of final plans and voting was left to be completed.

4. Learned counsel for the applicant has referred to paragraph 48 of the application filed by the RP, where details of 19th CoC Meeting held on 17.04.2025 were referred to. It is submitted that according to the time extended the CIRP period was upto 18.04.2025 and CoC in 19th Meeting resolved to seek 90 days extension with 95.36% voting shares, hence the application was filed.

5. Learned counsel for the RP submits that an affidavit has been filed by the appellant dated 02.08.2025, where appellant in paragraphs 2 & 3 following has been pleaded:

"2. That vide hearing dated 31.07.2025, this Hon'ble Appellate Tribunal was pleased to allow the Appellant to file an affidavit to the effect that the prayer for extension of the period of Corporate Insolvency Resolution Process of M/s Torque Automotive Private Limited for a period of 45 days is the last and final prayer of extension, and that the appellant will not seek any further extension of the period of corporate insolvency in the present matter.

3. That in light of the above, the Appellant humbly prays and requests this Hon'ble Appellate Tribunal for grant of extension of the period of Corporate Insolvency Resolution Process of M/s. Torque Automotive Private Limited for a period of 45 days as the last and final extension."

6. We have heard learned counsel for the appellant and learned counsel for the RP.

7. In the application filed by the RP in paragraph 48 and 49, following has been pleaded:

"48. The Applicant convened 19th CoC meeting on 17.04.2025 wherein the resolution plan of six prospective resolution applicants except plan of Mr Amit Kumar Gokhroo being absent in the meeting was not discussed and thereafter the members of CoC heard each of the plans at length and raised several queries including Sources of Funds, Treatment of Personal Guarantee, Treatment of Avoidance Applications and scope of enhancement in the Plan Amount to. which all the Prospective Resolution Applicants requested 7 to 1 0 days for issuing an addendum for clarification as well as enhancement in the plan amount. Further, members of CoC agreed to provide 1 0 days for clarifications and enhancement in the resolution plans by way of an addendum and the last date for submission was fixed as 30.04.2025. Further, CoC members suggested that an additional90 days extension may be prayed for as a last and final extension in the interest of value maximization and preventing the corporate debtor from liquidation and therefore directed for filing of an extension application. After deliberations and discussions, the members of CoC having 95.36% voting share present in the meeting

unanimously suggested for 90 days extension which was approved through evoting ended on 23.04.2025 with 96.04% in favor. Relevant portion of the minutes are reproduced hereinbelow:

> *Agenda item no 7 A*
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> *In view of the discussion in agenda item no 7 above, the CoC is to Vote on the agenda item of praying for extension of CIRP Period by another 90 days wef 20.04.2025 in view of the fact that Five out of Six Resolution Applications has sought time for clarifications and enhancement in their Plan amount and time is allowed till 30.04.2025.*
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> *RESOLVED THAT the approval of the committee of creditors of M/s Torque Automotive Private Limited is hereby accorded vide agenda item 7 A praying for final extension of90 days beyond 20.04.2025,/or completion of the CIRP, in view of the fact that Five out of Six Resolution Applications has sought time for clarifications and enhancement in their Plan amount and time is allowed till 30.04.2025.*

*Copy of minutes of 19th CoC minutes of meeting held on 17.04.2025 along with e-voting results are annexed herewith and marked as **ANNEXURE A-8(COLLY)**.*

49. That in view of the facts and circumstances as enumerated above, the Applicant is filing the present Application seeking extension of period of the Corporate Insolvency Resolution Process by a period of 90 days beyond 19.04.2025 as approved96.04% voting share in favour by the members of CoC through e-voting which was completed on 23.04.2025."

8. As observed above, the adjudicating authority in paragraph 39 has taken the view that there are no exceptional circumstance to allow the period of 90 days as prayed for. Adjudicating authority itself has noticed the judgment of the Hon'ble Supreme Court in ***'CoC of Essar Steel India Ltd.' Vs. 'Satish Kumar Gupta & Ors.'*** reported in **[(2020) 8 SCC 531]** that the period prescribed under 12 is not mandatory and the Court retains jurisdiction to extend if there are exceptional circumstances justifying the extension.

9. In the present case the period of 465 days including 135 days extension is already over and period was extended by adjudicating authority till 18.04.2025 in the CIRP. Thus, period till 19.07.2025 was available to the CoC and the RP in the Meeting of the CoC which was held on 17.04.2025 which we have already noticed that 6 Prospective Resolution Applicants (PRAs) were discussed and several queries were raised and for which resolution applicant asked for 7 to 10 days for issuing any addendum for a clarification.

10. As noted above, learned counsel for the appellant has filed an affidavit where now only request as a last extension is of 45 days to receive the final plans and complete the voting therein.

11. In view of the facts, we are of the view that insofar as the order of the adjudicating authority refusing extension of 90 days that does not warrant any interference however looking to the fact that 6 resolution applicants are already there which might lead to resolution of the corporate debtor and in the affidavit filed on behalf of the CoC now prayer is of 45 days as a final extension after which no prayer be entertained for any extension in the CIRP period.

12. Considering the aforesaid, in the ends of justice and towards resolution of the corporate debtor which appears to be in sight, we allow 45 days extension from today during which period, the CIRP be completed and resolution plan, if any, approved by the CoC be placed before the adjudicating authority by filing an application.

13. In view of the fact that we have extended the period of 45 days, the direction to file liquidation be considered after the above process is completed.

The appeal is disposed of accordingly.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

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