

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
PRINCIPAL BENCH

ITEM No. 3
(IB)-1527(PB)/2018

IN THE MATTER OF:

Bank of Baroda

.... Applicant / petitioner

v.

Brys Hotels Pvt. Ltd.

.... Respondent

Under Section 7 of Insolvency & Bankruptcy Code, 2016

Order delivered on 03.09.2019

Coram:

CHIEF JUSTICE (RTD.) M. M. KUMAR
HON'BLE PRESIDENT

SH. S. K. MOHAPATRA
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the applicant :

Mr. Abhishek Anand, Mr. Tushar Tyagi, Advs. with Mr.
Sandeep Goel, RP

ORDER

CA-1683(PB)/2019

This is an application filed under Section 12(2) & (3) of Insolvency & Bankruptcy Code, 2016 with a prayer for extending the period of Corporate Insolvency Resolution Process beyond 180 days which are coming to an end on 14.09.2019. The reason for seeking extension are evident from the minutes of 6th meeting held on 13.08.2019. The first reason given is that the orders of possession of Hotel have been reserved by the Adjudicating Authority-NCLT. Secondly, the Resolution Professional/Process advisor is not fully equipped to give clear picture of the corporate debtor in the absence of records and physical possession of Brys Hotels, Jaisalmer and it would be deterrent to Prospective Resolution Applicant to submit the resolution plan. It has also been stated that the time is required for



evaluation for a resolution plan received, negotiation with the bidders, approval of the CoC for the successful resolution applicant involving site visit etc. After discussion of the aforesaid issue the Committee of Creditors has passed a resolution by 89.61% voting share and the following resolution has been passed:-

“RESOLVED THAT the Corporate Insolvency Resolution Process period of Brys Hotel Pvt. Ltd., which is ending on September 14th, 2019 be and is hereby extended by a further period of ninety days in terms of Section 12 of the Insolvency & Bankruptcy Code, 2016.”

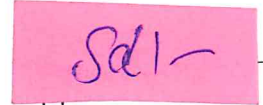
“RESOLVED FURTHER THAT the Resolution Professional be and is hereby instructed to file an appropriate application to the Adjudicating Authority for seeking approval for extension of Corporate Insolvency Resolution process period of Brys Hotel Pvt. Ltd. which is ending on September 14th, 2019 by a further period of ninety days.”

A perusal of the first part of the Resolution creates an impression that as if the committee of creditor is itself equipped to extend the time which is based apparently on the wrong advice of the Resolution Professional or its legal counsel. We would not be able to approve the first part of Resolution and set aside the same. However, the second part of the resolution authorising the Resolution Professional to file an appropriate application before the Adjudicating Authority-NCLT for approval of extension of CIR Process period is upheld. Accordingly, we grant period of 90 days beyond 180 days for the Corporate Insolvency Resolution Process. We also make it clear that the pendency of order on application mentioned in the CoC



meeting shall not be a factor creating any hurdle in the Corporate Insolvency Resolution Process.

CA-1683(PB)/2019 stands disposed of.



(M.M.KUMAR)
PRESIDENT



(S. K. MOHAPATRA)
MEMBER (TECHNICAL)

03.09.2019
Ritu Sharma