

**IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH, BENGALURU**

I.A. No.81 of 2021 in
C.P. (IB) No.286/BB/2019
U/s 60 R/w Sec.12(2) of the IBC, 2016

Mr. Ravindranath Narayana Rao
Resolution Professional of
M/s. Alpine Wineries Private Limited
R/Off: 33/1, Sapthagiri Arcade,
II Floor, 8th Cross, Wilson Garden,
H. Siddaiah Road,
Bengaluru – 560 027.

- Applicant/RP

Order Pronounced On: 19th March, 2021

Coram: 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)
2. Hon'ble Shri Ashutosh Chandra, Member (Technical)

Parties/Counsels Present:

For the Applicant/RP : Mr. Ravindranath Narayana Rao, RP

ORDER

Per: Ashutosh Chandra, Member (Technical)

1. I.A. No.81 of 2021 in C.P. (IB) No.286/BB/2019 is filed by Mr. Ravindranath Narayana Rao, Resolution Professional of M/s. Alpine Wineries Private Limited (the 'Applicant/RP') Under Section 60 R/w Section 12(2) of the Insolvency and Bankruptcy Code, 2016, by inter alia seeking to consider the decision taken by the CoC of the Corporate Debtor in its meeting dated 16.02.2021 for exclusion of the Corporate Insolvency Resolution Process by a period of 60 days under the proviso of Section 12(3) with effect from 20.02.2021.
2. Brief facts of the Application, which are relevant to the question, are as follows:
 - (1) Initially, C.P. (IB) No.286/BB/2019 filed by M/s. Pridhvi Asset Reconstruction & Securitisation Company Limited U/s 7 of the I&B Code, 2016 R/w Rule 4 of the I&B (AAA) Rules, 2016 was admitted by the Adjudicating Authority vide order dated 17.12.2019 by initiating CIRP in



- respect of the Corporate Debtor and the Applicant herein Mr. Ravindranath Narayana Rao was appointed as the IRP, and imposed moratorium etc.
- (2) The Resolution Professional has received a total of Six Resolution Applicants who have given their expression of interest and one of the Resolution Applicants Mr. Sainroop Reddy of Esveear Distilleries Private Limited have sought two months extension of time for submission of Resolution Plan.
- (3) The Resolution Professional called the CoC meeting on 16.02.2021, to discuss the issue of granting an exclusion of time from CIRP Process due to non-cooperation of Corporate Debtor so that it would help the prospective Resolution Applicants for submitting of Resolution Plan, for the revival of the Corporate Debtor since the Resolution Applicants wanted to visit the premises, before submitting the plan.
- (4) The Resolution Professional informed the Committee that 90 days of extension and 161 days of exclusion due to Covid-19 lockdown and high Court Stay was asked for in the earlier I.A No.414 of 2020 and the NCLT on 27.11.2020 had given a total of 161 days exclusion and 90 days of extension, which would end on 20.02.2021. Further, RP mentioned that there was a need to request the NCLT, Bangalore to seek exclusion for non-cooperation of Corporate Debtor.
- (5) The Resolution Professional informed the Committee that the CIRP process that there were six Resolution Applicant who had submitted expression of interest and had made to the final list of Prospective Resolution Applicants. The Resolution Professional also mentioned to the CoC that the Prospective Resolution Applicants had approached RP to get the information and also a plant visit which would help them in submitting the plan. However, due to non-possession of the Plant due to non-cooperation of the Corporate Debtor, the process was at a standstill.
- (6) At the meeting of the CoC, it was proposed to exclude the CIRP period by 60 days due to non-cooperation of the Corporate Debtor w.e.f. 20.02.2021 and passed the following Resolution:



“Resolved That the approval of the Committee be and is hereby given to exclude the Corporate Insolvency Resolution Process by a further period of 60 days with effect from February 20, 2021 due to non-cooperation of Corporate Debtor so as to complete the Corporate Insolvency Process as per the designed Regulations of the Insolvency and Bankruptcy Code, 2016”

(7) Further, the CoC at their meeting held on 16.02.2021 also proposed to exclude the time period and allow time to the Resolution Applicants for submitting the Resolution Plan keeping in spirit of the IBC, 2016, to provide a Resolution and not Liquidation.

3. Heard Mr. Ravindranath Narayana Rao, learned Resolution Professional. We have carefully perused the pleadings of the party and the extant provisions of the Code and Rules made thereunder.
4. As stated supra, the material facts of the issue are not in dispute, and the law on the issue is also settled by the judgments. The Hon’ble Apex Court, in its decision in *Committee of Creditors of Essar Steel India Limited Vs. Satish Kumar Gupta & Ors.*, has conferred the power on the Adjudicating Authority to consider the issue of exclusion of time from the statutory period prescribed under the provisions of the Code, based on sufficient justification. The Hon’ble NCLAT also considered the issue of granting exclusion of time in appropriate cases, *in the matter of Quinn Logistics India Pvt. Ltd. Vs. Mack Soft Tech Pvt. Ltd.*,¹ especially at para 10 where it mentioned “..... Any other circumstances which justifies exclusion of certain period.”
5. Although non-cooperation of the Corporate Debtor cannot be construed as exceptional circumstances so as to seek exclusion / extension of time, we are mindful of the fact that with the police help, as ordered by this Tribunal, the CIRP has made considerable headway and is likely to reach a logical conclusion, in a few weeks’ time, as informed by the learned Counsel for the RP. The RP has been making sincere efforts in this direction. The overall time after extension would be within 330 days. If not allowed the Corporate Debtor

¹ *Company Appeal (AT)(Insolvency) No.185 of 2018*



would slip into liquidation, which would be the last and avoidable option. Hence, in exercise of the inherent powers conferred upon us by Section 60 of the Code and in view of the circumstances of the case, we are of the considered view that the exclusion of time period prayed for deserves to be acceded to.

6. In the result, I.A. No.81 of 2021 in C.P. (IB) No.286/BB/2019 is hereby disposed of with the following directions:
- a. Exclusion of 60 days from the timeline of CIRP process period of the Corporate Debtor, which ended on 20th February, 2021, is hereby granted, with effect from the date of this order.
 - b. The Resolution Professional is directed to take expeditious steps to finalize the CIRP process, without any further delay. No order as to costs.
 - c. Post the case for Report of the RP on 20.04.2021.

**ASHUTOSH CHANDRA
MEMBER, TECHNICAL**

**RAJESWARA RAO VITTANALA
MEMBER, JUDICIAL**

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