

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

I.A.No.479/2020 in
C.P. (IB) No.48/BB/2018
U/s 60 (5) of the I & B Code, 2016
R/w Regulation 47A of the IBBI (Liquidation
Process) Regulations 2016& Rule 11 of NCLT Rules, 2016

In the matter of:

Shri Vinod Sunder Raman,
Liquidator of
M/s. Pranee Infrastructure Private Limited,
No.318, 19th Main, 41st Cross,
5th Block, HBR Layout,
Bengaluru – 560 043 --- RP/Applicant

Date of Order: 1st December, 2020

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

Parties/Counsels Present, (through Video Conference):

For the Applicant/Liquidator : Shri Vinod Sunder Raman

ORDER

Per: Rajeswara Rao Vittanala, Member (J)

1. i.A.No.479/2020 in C.P.(IB)No.48/BB/2018 is filed by Vinod Sunder Raman, the Liquidator of the Corporate Debtor (hereinafter referred as 'Applicant'), under Section 60 (5) of the I & B Code, 2016 R/w Regulation 47A of the IBBI (Liquidation Process) Regulations 2016, & Rule 11 of the NCLT Rules, 2016 by interalia seeking to exclude the period of 143 days from 25.03.2020 till 15.08.2020 owing to lockdown restrictions, from the Liquidation Period.



2. Brief facts of the case, as mentioned in the Application, which are relevant to the issue in question, are as follows:

- 1) Initially, C.P.(IB)No.48/BB/2018 filed by M/s. Vishwas Concrete Private Limited (Petitioner/Operational Creditor) against M/s. Prance Infrastructure Private Limited (Corporate Debtor), was admitted by the Adjudicating Authority, vide its Order dated 16.07.2019 by initiating CIRP in respect of the Corporate Debtor, appointing the Applicant as IRP, imposing moratorium etc. Accordingly the Applicant issued public announcement in the newspaper Financial Express and Vijay vani on 26.07.2019. Further only two Financial Creditors and few Operational Creditors submitted their claim and those were admitted by the Applicant, after verification. Consequent to the admission of the claims, the IRP constituted the COC on 14.08.2020.
- 2) In the first COC meeting held on 21.08.2019, the COC agreed for the initiation of liquidation of the Corporate Debtor and appoint the Applicant as Liquidator. Further, COC meetings were convened and held wherein the COC reaffirmed its decision to liquidate the Corporate Debtor. The Corporate Debtor is already under Liquidation as per order dated 20.11.2019 of the Tribunal and the Applicant was appointed as Liquidator. In compliance with Regulation 12 of the IBBI (Liquidation Process) Regulation 2016, the Liquidator made a public announcement in Form B of Schedule II on 02.12.2019 in newspapers viz., Financial Express and Vijayvani intimating the commencement of liquidation process against the Corporate Debtor and calling the Creditors to submit the proof of claims.



3) It is stated that the Corporate Debtor engaged in the business of construction and much prior to initiation of CIRP had an order from the government agency ISRO. The COC in its 4th meeting held on 12.11.2019 decided that the Liquidator should make his best efforts to complete the construction work allotted by ISRO and to sell the Company as going concern. However, due to the pandemic situation of COVID-19, lockdown was imposed by the Central Government in the whole country on 25.03.2020, construction activities were stopped and the same was actively resumed only in mid-August 2020. Therefore, construction activities were halted for the period of more than 4 months and the liquidation process could not be completed.

4) As per the provisions of Regulation 47 of the IBBI (Liquidation) Regulations 2016, the liquidation should be concluded within the period of 365 days of liquidation commencement date i.e., within 19.11.2020. The Hon'ble NCLAT in *Suo Moto CA (AT) (Insolvency) No.01 of 2020* vide order dated 30.03.2020 reiterated that *the period of lockdown ordered by the Central Government and the State Government including the period as may be extended in whole or part of the country, where the registered office of the Corporate Debtor may be located shall be excluded for the purpose of counting of the period for resolution process u/s 12 of the I & B Code, 2016.*

Regulation 47A has been inserted by Notification No. IBBI/2020-21/GN/REG060 dated 20.4.2020 in the Liquidation Regulation, 2016 which reads as under:

Exclusion of period of lockdown:

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47A.subject to the provisions of the code, the period of lockdown imposed by the Central Government in the wake of Covid 19 outbreak shall not be counted for the purposes of computation of the timeline for any task that could not be completed due to such lockdown in relation to any liquidation process.

- 5) It is stated that the nationwide lockdown was imposed by the Government of India which got extended till 31st May 2020. The Government of India, Ministry of Home Affairs vide order dated 30th May 2020 extended the lockdown in containment zones up to 30th June 2020 and re-opened prohibited activities in phased manner in areas outside containment zones. Further, the Government of Karnataka vide order No. RD158TNR 2020 dated 13th July 2020 issued the guideline and stated that the lockdown continues to remain in force upto July 22, 2020. Even after the lockdown been relaxed, there were restrictions in movement, the labour force had migrated out of state during the lockdown period and unable to return back due to the regulations set out by the State thus hampered the construction activities badly. The Liquidator is performing his duty as per the provisions laid down in the Code and the Liquidation Regulation 2016 duly on time before lockdown was imposed and also simultaneously kept the business of Corporate Debtor running effectively. However, the delay caused in the process was solely due to imposition of nationwide and state wide lockdown.
- 6) It is stated that the Liquidation process of the Corporate Debtor is at the stage of completion as the construction is going to complete shortly and sale of assets of Corporate



Debtor as per Liquidation Regulation, 2016 shall be made. Further, the Dissolution of Corporate Debtor not require any further extension in the liquidation period, after excluding the period of 143 days of lockdown w.e.f 25.03.2020 upto 15.8.2020 as per the provisions of Regulation 47A of the IBBI (Liquidation process) Regulation 2016. Therefore, the present application is filed praying to exclude 143 days of lockdown period w.e.f 25.03.2020 to 15.8.2020 from liquidation process of Corporate Debtor which is expiring on 19.11.2020.

3. Heard Shri Vinod Sunder Raman, the Liquidator, **through Video Conference**. We have carefully perused the pleadings of the Party and also extant provisions of the Code and Rules made there under and the decisions cited by the Applicant as mentioned supra.

4. As stated supra, the material facts of the issue are not in dispute and the Applicant could not conclude the CIRP in question, within stipulate time, due to the lockdown and partial lockdown imposed in the wake of Covid -19 outbreak and during the lockdown the construction activities were halted more than 4 months, thus, the liquidation process could not be completed. Further, the Liquidation process of the Corporate debtor is at the stage of completion. However, the delay caused in the process was solely due to imposition of nationwide and state-wide lockdown. It is settled position of Law that Adjudicating Authority is empowered to exclude certain period of time, during which CIRP could not be prosecuted. And the present Pandemic situation is one such circumstance where, the Adjudicating Authority can grant exclusion of time. And the reasons cited by the Applicant for exclusion of time are reasonable and justifiable, and thus we are inclined to allow the instant Application as prayed for.

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5. In the result, we hereby allowed **I.A.No.479 of 2020** in C.P.
(IB)No.48/BB/2018 with the following directions:
- (1) Hereby granted exclusion of exclude, 143 days i.e. from 25.03.2020 to 15.08.2020, from the ~~order~~ ^{judicial} period.
 - (2) The ~~Member~~ ^{Director} is directed to take expeditious steps to finalize the ~~order~~ ^{judicial}, without any further delay.



ASHUTOSH CHANDRA
MEMBER, TECHNICAL



RAJESWARA RAO VITTANALA
MEMBER, JUDICIAL

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