

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
BENCH-III  
NEW DELHI**

CA.430/C-III/ND/2019  
In  
CP.IB.761/ND/2018

**Section: Application on behalf of the Resolution Professional of Corporate Debtor under Rule 11 of NCLT Rules, 2016 for exclusion of time periods from Corporate Insolvency Resolution Process.**

**In the matter of:**

**Sony Pictures Networks India Pvt. Ltd.  
4<sup>th</sup> Floor, Interface Building No.7,  
Off Malad Link Road, Malad West,  
Mumbai-400064**

**.....Operational Creditor**

**Versus**

**Ortel Communications Ltd.  
B-7/122A, Safdarjung Enclave,  
New Delhi-110029.**

**.....Corporate Debtor**

**Coram:**

**R.VARADHARAJAN,  
Hon'ble Member (Judicial)**

**K.K.VOHRA  
Hon'ble Member (Technical)**

**Counsel for the Petitioners: Mr. Anuradha Dutt, Mr.  
Kunal Tandon, Advocates**

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CA-430/C-III/ND/2019 In CP-IB-761/ND/2018  
Sony Pictures Networks India Pvt. Ltd. vs. Ortel  
Communications Ltd.

Counsel for the Corporate : -  
Debtor

Counsel for the proposed : Ms. Anju Jain, Mr. Hitesh  
Intervener Sachar, Advocates.

**Delivered on: 13.09.2019**

**ORDER**

This is an Application filed by the Resolution Professional seeking to invoke Rule 11 of National Company Law Tribunal Rules, 2016 for exclusion of time of 90 days in relation to Corporate Insolvency Resolution Process (CIRP) initiated by this Tribunal on 27.11.2018. From the facts averred in the Application it is evident that the reasons given for the exclusion of time after the period of 90 days as claimed in the above Application is averred as follows:

- (i) Since the adjudicating authority approved the appointment of the Resolution Professional and the said order was received only on 7.2.2019 even though ~~approved by~~ <sup>approved by</sup> the Committee of Creditors (CoC) on 07.01.2019, delayed the CIRP period as in the absence of the order of the adjudicating authority namely, this Tribunal, the present Resolution Professional namely, Srigopal Choudhary was not in a position to act during

the said period and in the circumstances the exclusion of 1 month period is sought for in relation to CIRP period.

- (ii) During the CIRP of the Corporate Debtor (CD), it is averred that cyclonic storm had also struck the Odisha Coast and in the circumstances the cities of the State of Odisha, Bhubaneswar were badly affected and as the operations of the CD including the cable network as well as electric infrastructure are located in the State of Odisha, the operations of CD were severely restricted by the said cyclone and the exclusion of time is also sought for on the said count.

2. Taking into consideration the above reasons, it is averred in the Application that the CoC in its 10th meeting held on 12.6.2019 had decided to seek exclusion of the time period due to the above factors wherein 85.97% of the Members of the CoC have approved the exclusion of 4 months period. In the circumstances, this Application has been filed before this Tribunal seeking for the exclusion of time period in relation to CIRP of the CD by 90 days and thereby extend the completion of the CIRP to 24.11.2019.

3. From the Application it is evident that CIRP of the CD was initiated on 27.11.2018 and taking into consideration the normal course of time

period as made available under the provisions of IBC,2016, CIRP should have been completed within the period of 180 days subject to a further extension of 90 days thereby within the period of 270 days from the date of initiation of the CIRP. Taking into consideration the extension of 90 days, 270 days period has expired on 24.8.2019. The exclusion of time period of 90 days now sought for will exceed 270 days which falls on 24.8.2019 which in the normal course could not have been granted by this Tribunal. However, by virtue of the recent amendment brought into effect on 16.8.2019 to IBC,2016, it is seen that under Section 12 of IBC,2016, it has been provided that the CIRP shall be mandatorily completed within the period of 330 days from the insolvency commencement date including any extension of the period of CIRP granted under Section 12 of IBC,2016 as well as time taken in relation to the legal proceedings to such a resolution process. However, under second proviso, where on the date of notification namely, 16.8.2019 if any resolution process of the CD is pending and it has not been completed within the period referred to under Section 12, such resolution is required to be completed within the period of 90 days from the date of commencement of IBC(Amendment Act), 2019. In the instant case, it is seen that in view of the CIRP having been initiated on 27.11.2018 as such on the date of commencement of the Amendment Act, 2019, 330 days period has not expired and the same is expiring on 16.11.2019. In the circumstances, this Tribunal is empowered to grant extension in relation to pendency of any legal

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proceedings or for reasons arising out of act of God or force majeure, the extension/exclusion can be granted only till 16.11.2019 and in case the CIRP should exist, the mandatory limit as fixed under IBC,2016 and as mandated by the Amendment Act, 2019 brought into effect from 16.8.2019. With the above observations, the Application is allowed not to the extent of 90 days but restricted to the time period as given above. Accordingly the Application stands disposed of.

*- Sol -*

(K.K.VOHRA)  
MEMBER(Technical)

*- Sol -*  
13/09/19

(R.VARADHARAJAN)  
MEMBER(Judicial)

U.D.Mehta  
13.09.2019