

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
SPECIAL BENCH

ITEM No. 127
(IB)-448(PB)/2017

IN THE MATTER OF:

Rajendra Kumar Saxena

... Applicant/Petitioner

v.

Earth Gracia Bulcon Pvt Ltd.

... Respondent

Order under Section 7 of Insolvency & Bankruptcy Code, 2016

Order delivered on 09.12.2019

Coram:

DR. DEEPTI MUKESH,
HON'BLE MEMBER (JUDICIAL)

MR. S. K. MOHAPATRA,
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant

Mr. Anuj Tiwari, Mr. Sandeep Bisht, Advs.
Ms. Manisha Rawat, R.P.

For the Respondent

ORDER

CA-2695(PB)/2019

The present application has been filed seeking for exclusion of 55 days period while calculating Corporate Insolvency Resolution period of 330 days.

The petition is supported by resolution vide item no. 5 passed in the seventh CoC meeting held on 25.11.2019 with majority of 98% voting share.

It has been stated in the application that 330 days of CIRP period will expire on 13.12.2019. A perusal of the minutes of meeting of CoC held on 25.11.2019 reveals that three prospective resolution applicants have submitted their expression of interest to keep the corporate debtor as a going concern. It is further submitted that the last date to submit the resolution plan was 30.11.2019 and thereafter the plan is to be placed before the CoC

for approval. The entire process of approval of resolution plan cannot be completed within 330 days which is going to expire shortly on 13.12.2019.

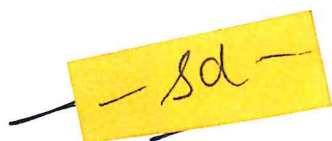
During the hearing Ld. Counsel for the RP contended that extension of CIRP period beyond 330 days will be beneficial to all stake holders and there is a possibility of revival of the corporate debtor.

The applicant has relied upon the Hon'ble Supreme Court judgment passed in the matter of *Committee of Creditors of Essar Steel India Limited through Authorised Signatory v. Satish Kumar Gupta & Ors.* (Civil Appeal No. 8766-67 of 2019 decided on 15.11.2019) wherein Hon'ble Supreme Court has struck down the word "mandatorily" provided in Section 12 of the Insolvency & Bankruptcy Code. It was clarified therein that in exceptional cases Tribunal can extend the Insolvency resolution period beyond 330 days.

After considering the submissions and in the interest of justice, 55 days period is extended beyond the period of 330 days for completion of the Insolvency Resolution Process so as to put the corporate debtor back on its feet instead of sending the corporate debtor into liquidation.

Accordingly, the application is allowed by extending 55 days from expiry of 330 days of Insolvency resolution period.

CA-2695(PB)/2019 stands disposed of.



(S. K. MOHAPATRA)
MEMBER (TECHNICAL)



(DR. DEEPTI MUKESH)
MEMBER (JUDICIAL)