

**NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH
(Video Conference)**

PRESENT: SHRI BHASKARA PANTULA MOHAN – HON'BLE ACTING PRESIDENT

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 16.07.2021 AT 10.30 AM

TRANSFER PETITION NO.	IA(IBC)/73/2021 in TCP (IB) NO. 28/7/AMR/2019 IA NO. 87/2020 in IA NO. 17/2020 & IA NO.99&101/2020& IA NO. 21/2021& TCP(IB) NO. 28/7/AMR/2019
COMPANY PETITION/APPLICATION NO.	CP(IB) NO. 18/7/HDB/2019
NAME OF THE COMPANY	Sembmarine Kakinada Ltd
NAME OF THE PETITIONER(S)	Axis Bank
NAME OF THE RESPONDENT(S)	Sembmarine Kakinada Ltd
UNDER SECTION	7 OF IBC

Counsel for Petitioner(s):

<small>Ries</small>			
Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

Counsel for Respondent(s):

<small>Ries</small>			
Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

ORDER

Heard. I.A.No.71/2021 is allowed, vide separate sheets.

I.A.No.87/2020 is disposed off.

List the matter on 13.08.2021.


**(BHASKARA PANTULA MOHAN)
ACTG. PRESIDENT**

**NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH**

**IA No.71 of 2021
IN
TCP (IB) No.28/7/AMR/2019
IN
CP (IB) No.18/7/HDB/2019]**

**Under Section 60(5) of the Insolvency and Bankruptcy Code, 2016
Read with Regulation 40C of the Insolvency and Bankruptcy
Board of India (Insolvency Resolution Process of Corporate
Persons) Regulations, 2016**

In the matter of

M/s. SEMBMARINE KAKINADA LIMITED

BETWEEN:

Mr.Om Prakash Agarwal,
Resolution Professional (RP) of
M/s. Sembmarine Kakinada Limited
BIA Merlin Chamber, 18, British Indian Street,
5th Floor, Room No.403, Kolkata, West Bengal – 700069

...Applicant/Resolution Professional

Order dated on: 16.07.2021

Coram: Bhaskara Pantula Mohan, Member Judicial.

Parties/Counsels present:

For the Applicant : Titiksha Jain, PCS &
Mr. Dishit Bhattacharjee, Advocate

ORDER

1. This is an Application filed Under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 Read with Regulation 40C of the Insolvency and Bankruptcy Board of India (Insolvency Resolution

Process of Corporate Persons) Regulations, 2016 seeking orders from this Hon'ble National Company Law Tribunal for:

- a) Directing further exclusion of 30 days in the Corporate Insolvency Resolution Process period of the Corporate Debtor from the Insolvency commencement date thereby extending the CIRP period after 21.06.2021 to 21.07.2021.

2. The brief facts of the Application are that:

- i. That the Financial Creditor filed the Company Petition against the Corporate Debtor under Section 7 of the IBC, 2016 for seeking initiation of CIRP of the Corporate Debtor on account of default in repayment of Rs.417,09,13,610/- as on 31.03.2018. The CIRP process of Corporate Debtor was commenced from 23.09.2019 and that the Applicant appointed as IRP to carry out the CIRP.
- ii. That the Applicant convened the first CoC meeting on 22.10.2019 wherein the CoC inter alia, resolved to appoint Applicant/IRP as a RP of the Corporate Debtor and resolutions passed in the meeting. Further the Applicant convened 16 CoC meetings upto 03.02.2021.
- iii. That the Applicant/RP appointed two registered valuers to carry out valuation of the Corporate Debtor and determine fair value and liquidation value of the Corporate Debtor as per Regulation 27 of CIRP Regulations and prepared the Information memorandum.
- iv. That the Applicants states whilst pursuing the records of the Corporate Debtor, he was prima facie of the view that

transactions carried out by the suspended Board of Directors/Promoters and management of Corporate Debtors, he appointed M/s. Sarath and Associates as a transaction auditor to assist the Applicant in conducting the detailed review of the transactions of the Corporate Debtor.

- v. That the Applicant submitted that, non-cooperation of the erstwhile management, the Applicant is unable to finalize the books of accounts of the Corporate Debtor for the Financial Year 2017-18 and 2018-19.
- vi. That the Applicant submitted that the Preliminary Transaction Audit Report and Transaction cum Forensic Audit prepared by M/s.Sarath & Associates.
- vii. That the Applicant/RP published Invitation for Expression of Interest (EoI) viz. Form G on 07.12.2019 for inviting the resolution plans for the Corporate Debtor from the interested and eligible prospective resolution applicants with the approval of CoC by 23.12.2019 and the same is revised and published and the last date of submission of EoI was extended till 13.01.2020 and 24.01.2020 respectively. Further states that there is no resolution plan was received by 09.03.2020 and therefore, the applicant re-published EoI viz., Form G on 19.03.2020.
- viii. That the Applicant submitted that the CIRP period of 180 days of Corporate Debtor was due to expire on 21.03.2020 , the Applicant filed an application for extension of 90 days beyond 180days i.e., for a period of 270 days and the same



was allowed and CIRP period was extended upto 19.06.2020 by this Tribunal.

- ix. Further Applicant submitted that as per MHA, Government of India, the last date of EoI submission had to be extended till 10.06.2020 and lockdown starting from 25.03.2020 to 31.05.2020 (68 Days) cannot be counted for the purpose of CIRP timeline and thus, last date as revised for calculation period of 270 days of CIRP of the Corporate Debtor stood to be 26.08.2020. Further Applicant filed an application seeking exclusion of 60 days period from 01.06.2020 to 30.07.2020 from the computation of CIRP timeline of 270 days and the same is allowed by this Tribunal and the CIRP period stood extended upto 25.10.2020.
- x. Further applicant filed an application with the approval of the CoC meeting held on 29.09.2020 for exclusion of further 60 days from the CIRP timeline given the disruption in the relevant activities pertaining to CIRP of the Corporate Debtor due to continued lockdown in various states of India in light of the pandemic situation, and the same is allowed by this Tribunal and the CIRP period stood extended upto 23.12.2020 and further Applicant filed another application before this Tribunal for exclusion of 75 days from the calculation of the CIRP timeline for the purpose of computation of 270 days and thereby extending the CIRP period upto 08.03.2021.
- xi. That in the event a suitable Resolution Plan is received from the new Prospective Resolution Applicants the Applicant /RP require additional time to evaluate the same and take

necessary approval from CoC and further states that to grant extension of CIRP period of the Corporate Debtor from 270 days to 330 days i.e., upto 07.05.2021 and this Tribunal vide its order dated 31.03.2021 approved the extension upto 07.05.2021.

- xii. That the Applicant submitted that the revised Form G dated 18.03.2021 extended the last date of submission of the Resolution Plan to 30th March, 2021. Further, vide email dated 01.04.2021 informed the CoC members that Sri Consortium have submitted a Resolution Plan, but the same is not in conformity with RFRP and an amended Resolution Plan is awaited and further MEIL has requested to extend the time period of 10 days for submission of their Resolution Plan and the same was approved by CoC upto 10.04.2021 in favour of the proposal and suitable changes to extend the timeline were made in Form G. Further submitted that there is no complaint Resolution Plan was received from the PRA's as on the revised last date for submission of Resolution Plan.
- xiii. That the Applicant submitted that one of the PRA, Mr.Singla, New Delhi sought for additional time in submitting the final Resolution Plan due to second wave of Covid-19 and One M/s. Manuh Global Technologies Private Limited showed interest in the CIRP of the Corporate Debtor and submitted it EOI on 24.04.2021.
- xiv. That the Applicant submitted that the difficulty faced by the PRA;s in submitting their Resolution Plan due to ongoing restrictions laid down pursuant to the second wave of Covid-19, the last date of submission of Resolution Plan was

extended upto 20.05.2021 and the COC members approved the exclusion of 45 days in the CIRP period of the Corporate Debtor upto 21.06.2021 and the same was allowed by this Tribunal on 08.06.2021. Further the CoC approved the extension of the last date for submission of the Resolution Plan till 15.06.2021 subject to approval of exclusion of time period.

- xv. That the Applicant further submitted that e-voting held on 18.06.2021 for approval of the file application for seeking exclusion of 30 days from the CIRP timeline of the Corporate Debtor up to 21.07.2021 and the same is approved by the CoC members.

ORDER

Heard. In view of the facts stated in the Application, this Tribunal extends 30 days in the CIRP Period for the Corporate Debtor from the Insolvency commencement date thereby extending the CIRP period from 21.06.2021 to 21.07.2021.

Accordingly, I.A.No.71/2021 in TCP (IB) NO.28/7/AMR/2019 is disposed off. Hence this Order.



**HON'BLE BHASKARA PANTULA MOHAN
ACTING PRESIDENT**

Swamy Naidu