

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
COURT-V

Item No.-9
IB-2728/ND/2019
New IA/57/2021

IN THE MATTER OF:

Om Logistics Ltd
V/s
Serval India Pvt Ltd

...Applicant

...Respondent

SECTION

U/s Sec. 9 IBC

Order delivered on 22.01.2021

CORAM:

SHRI ABNI RANJAN KUMAR SINHA
HON'BLE MEMBER (JUDICIAL)

SHRI K.K. VOHRA,
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant :
For the Respondent :

ORDER

IA/57/2021:-

By filing this application, the applicant/RP prayed for extension of period of CIRP during the period of 180 days under Section 12(2) of the IBC.

Heard, Ld. Counsel for the RP and perused the averment made in the application.

Ld. Counsel for the RP submitted that the CIRP was initiated on 08.06.2020 and certified copy of the order was communicated to him on 09.06.2020 and the period of 180 days has already been expired on 05.12.2020 and the matter was placed before the CoC for extension of the period of CIRP for further period of 90 days and in its meeting dated 23.12.2020, considered the approval for extension and e-voting was held on 29.12.2020, which is available at page 43 of the application and the CoC by 99.16% voting shares approved the Resolution for seeking extension for further period of 90 days,



So, considering this, we hereby allow the prayer of the RP and approved the extension for further period of 90 days beyond the period of 180 days commencing from 06.12.2020. ll

With this order, the present application i.e. IA/57/2021 stands disposed of.

-Sd-

(K.K. VOHRA)
MEMBER (T)

-Sd-

(ABNI RANJAN KUMAR SINHA)
MEMBER (J)

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
COURT-V

Item No.-10
IB-2728/ND/2019
New IA/83/2021

IN THE MATTER OF:

Om Logistics Ltd
V/s
Serval India Pvt Ltd

...Applicant

...Respondent

SECTION

U/s Sec. 9 IBC

Order delivered on 22.01.2021

CORAM:

SHRI ABNI RANJAN KUMAR SINHA
HON'BLE MEMBER (JUDICIAL)

SHRI K.K. VOHRA,
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant :
For the Respondent :

ORDER

IA/83/2021:-

By filing this application under Section 60(5) of the IBC, the RP prayed for exclusion of time period commencing from 27.08.2020 to 03.11.2020 i.e. 60 days on the ground that the Union Bank of India had not co-operated with the RP in conducting the CIRP.

Heard, Ld. Counsel for the RP and perused the averment made in the application and we notice that of course this application is filed under Section 60(5) of the IBC but at this juncture, we would like to refer the relevant provision of Section 12 of the IBC and the same is quoted below:-

Section 12: Time-limit for completion of insolvency resolution process.

****12. (1) Subject to sub-section (2), the corporate insolvency resolution process shall be completed within a period of one hundred and eighty days from the date of admission of the application to initiate such process.***



(2) The resolution professional shall file an application to the Adjudicating Authority to extend the period of the corporate insolvency resolution process beyond one hundred and eighty days, if instructed to do so by a resolution passed at a meeting of the committee of creditors by a vote of 1[sixty-six] per cent. of the voting shares.

(3) On receipt of an application under sub-section (2), if the Adjudicating Authority is satisfied that the subject matter of the case is such that corporate insolvency resolution process cannot be completed within one hundred and eighty days, it may by order extend the duration of such process beyond one hundred and eighty days by such further period as it thinks fit, but not exceeding ninety days:

Provided that any extension of the period of corporate insolvency resolution process under this section shall not be granted more than once.

2[Provided further that the corporate insolvency resolution process shall mandatorily be completed within a period of three hundred and thirty days from the insolvency commencement date, including any extension of the period of corporate insolvency resolution process granted under this section and the time taken in legal proceedings in relation to such resolution process of the corporate debtor:

Provided also that where the insolvency resolution process of a corporate debtor is pending and has not been completed within the period referred to in the second proviso, such resolution process shall be completed within a period of ninety days from the date of commencement of the Insolvency and Bankruptcy Code (Amendment) Act, 2019.]

We notice that the second proviso of Section 12 Sub Section 3 says that the CIRP shall be completed within the period of 330 days from the insolvency commencement date including any extension of the period of CIRP granted under this Section and the time taken in proceedings in relation to such process of the Corporate Debtor.



So, considering this fact, we notice that there is a specific provision in the IBC, therefore, we are of the considered view that under Section 60(5) is not applicable in this matter. We further notice that in another matter, we have already extended the period of 90 days on the approval of the CoC commencing from 06.12.2020 and that period is still in existence and thereafter if the CIRP is not concluding, the applicant has right to move an application for further extension beyond the period of 270 days ~~that is 60 days+60 days~~, therefore, at this stage, we are not inclined to exclude any period on the ground of litigation and on the basis of second proviso to Section 12(3), the prayer of the RP to exclude the aforementioned period is hereby rejected. Ua

With this order, the present application i.e. IA/83/2021 stands dismissed.

-Sdr-

(K.K. VOHRA)
MEMBER (T)

-Set-

(ABNI RANJAN KUMAR SINHA)
MEMBER (J)