

IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH

I.A. No.128 of 2020 in
C.P. (IB) No.228/BB/2018
U/s.60 R/w Sec. 12(3) of IBC, 2016

In the matter:

Mr. Shivadutt Bannanje,
Resolution Professional of
M/s.Bhuwalka Steel Industries Ltd.,
R/Off: 10th Mile, Old Madras Road,
Bandapura Village,
Bengaluru – 560 049.

- Applicant/RP

Date of Order: 17th February, 2021

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/RP : Mr. A Murali, Adv.

ORDER

Per: Ashutosh Chandra, Member (Technical)

1. I.A. No.128 of 2020 in C.P. (IB) No.228/BB/2018 is filed by Mr. ShivaduttBannanje Resolution Professional of M/s. Bhuwalka Steel Industries Limited ('the Applicant/Resolution Professional') under Section 60 Read with Section 12(3) of the I & B code, 2016, seeking to extend the time period by a further period of 3 days i.e. from February29, 2020 to March 2, 2020 for counting the total period of 180 days + 90 days + 57 days + 3 days (i.e. 330 days) for completion of the Corporate Insolvency Resolution Process of the Corporate Debtor, etc.
2. Briefs facts of the case, as mentioned in Application, which are relevant to the issue in question, are as follows:



- (1) Initially, the Company Petition bearing C.P.(IB) No.228/BB/2018 was filed by M/s. Indu Corporation Private Limited, under Section 9 of the IBC, 2016, R/w Rule 6 of I&B (AAA) Rules, 2016 for initiating CIRP process in respect of the Corporate Debtor namely M/s. Bhuwalka Steel Industries Limited, and it was admitted by the Adjudicating Authority by appointing Mr.Shivadutt Bannanje the IRP vide its order dated 08.04.2019.
- (2) The Resolution Professional published advertisements in Form G – Expression of Interest as per Regulation 36A(2) on June 27, 2019 in Financial Express (English Paper) and Vishwavani (Kannada Paper) to invite Expression of Interest from prospective Resolution Applicants. The last date for submission of the Expression of Interest was July 15, 2019. Subsequent to filing of Form G i.e. Expression of Interest, the Corporate Debtor received 8(Eight) Expression of Interest. The CoC in its Meeting dated 14.08.2019, decided to invite Resolution Plan from those eight Applicants whose Expression of Interest was received.
- (3) Further, the CIRP period of 180 days was coming to an end on 04.10.2019 and an application was made extension of time for a further period of 90 days. The Tribunal passed an Order dated 20.09.2019 extending the time period by a further period of 90 days w.e.f. 05.10.2019.
- (4) On the last date of submission of Resolution Plan, two Resolution Plans were received. The Resolution Professional had scheduled a meeting of the CoC on 07.11.2019, to open the Resolution Plans for the Corporate Debtor received from the prospective Resolution Applicants. However, on 06.11.2019, an Order from the Hon'ble High Court of Karnataka was received putting a stay on the CIRP proceedings of the Corporate Debtor including restraining the Resolution Professional from opening, considering, evaluating or approving any Resolution Plans.
- (5) Further, the Hon'ble High Court of Karnataka has passed another Order dated 12.12.2019, posting the matter on 02.01.2020 and also extending the interim stay up to 02.01.2020. The CIRP period of 270 days was coming to an end on 02.01.2020 and an application was made before the



NCLT, Bengaluru Bench for exclusion of the litigation period i.e from 06.11.2019 to 02.01.2020 (i.e 57 days) as CIRP could not proceed during the aforesaid period on account of interim directions passed by the Hon'ble High Court of Karnataka, Bengaluru.

- (6) The Adjudicating Authority vide an Order dated 31.12.2019 allowed the Application and granted the exclusion of 57 days from 06.11.2019 to 02.01.2020 from the statutory period of 180 days + 90 days i.e. 270 days. Further the CoC meeting dated 18.02.2020, the Committee finalised the Highest Resolution Applicant i.e. M/s. Starteck Finance Limited. The CoC was able to get a Resolution Plan for Rs.94 Crores against the average liquidation value of Rs. 91.25 Crores.
 - (7) The Resolution Professional is in the process of getting the financial projections and Bank Guarantee from the Highest Applicant. Simultaneously, the Resolution Professional is also in the process of getting the e-voting done from the CoC. The CoC requested the time for approval of the Resolution Plan since the respective Banks have to evaluate the Resolution Plan and only then vote on the proposal. Further the Hon'ble High Court of Karnataka, is also hearing the Writ Appeal filed by one of the Resolution Applicants i.e. PP Metallix against another Resolution Applicant i.e. Bipin Textile Processing Industries Private limited.
3. Mr. A Murali, learned Counsel for the Applicant appeared and was heard through **Video Conference**. We have carefully perused the pleadings of the Party and the extant provisions of the Code and the Regulations made thereunder.
 4. As stated supra, the CIRP period of 180 days was coming to an end on 04.10.2019 and an application was made for extension of time for a further period of 90 days w.e.f. 05.10.2019. However, on 06.11.2019, an Order from the Hon'ble High Court of Karnataka was received putting a stay on the CIRP proceedings of the Corporate Debtor including restraining the Resolution Professional from opening, considering, evaluating or approving any



Resolution Plans. An Order dated 12.12.2019, extended the interim stay up to 02.01.2020. The CIRP period of 270 days was coming to an end on 02.01.2020 and an application was made before the NCLT, Bengaluru Bench for exclusion of the litigation period i.e from 06.11.2019 to 02.01.2020 (i.e. 57 days) as CIRP could not proceed during the aforesaid period on account of interim directions passed by the Hon'ble High Court of Karnataka, Bengaluru.

5. We find that the instant Application is filed in accordance with extant provisions of Code, and we are convinced that the total statutory period of 327 days would not be adequate to conclude CIRP in question. Therefore, it would be just and proper to extend the CIRP by a further period of 03 days as prayed for.
6. In the result, I.A.No.128 of 2020 in C.P. (IB) No.228/BB/2018 is disposed of with the following directions:

- (1) The CIRP period is hereby extended for a further period of 3 days beyond the initial, extended and exclusion period of 327 days i.e., from 29.02.2020 to 02.03.2020 to complete the Corporate Insolvency Resolution Process.
- (a) The Resolution Professional is directed to take expeditious steps to finalize the CIRP, without any further delay and to submit progress reports to the Adjudicating Authority, and conclude the CIRP well before completion of the present extended period. We make it clear that no further extension of time/exclusion of time is permissible under the Code. No order as to costs.
- (b) Post the case for the report of the RP on **10.03.2021**.


ASHUTOSH CHANDRA
MEMBER, TECHNICAL


RAJESWARA RAO VITTANALA
MEMBER, JUDICIAL

Amar