

**IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH**

I.A. No.364 of 2020 in
C.P No. 258/2016 (TP No. 108/2017)
U/s. 60(5) of the I&B Code, 2016
R/w Regulation 47A of the IBBI
(Liquidation Process) Regulations, 2016.

In the matter of:

Shri Ramachandra D Chaudhary,
Liquidator of
M/s. Vikram Hospital Pvt Ltd.

9B, Vardan Tower,
Lakhudi Circle, Naranpura,
Ahmedabad – 380 014

... Applicant/Liquidator

Date of Order: 27th January, 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/Liquidator : Mr. Atul Sharma

ORDER

Per: Rajeswara Rao Vittanala, Member (J)

1. I.A. No. 364 of 2020 in C.P.No.258/2016 (TP No. 108/2017) is filed by Shri Ramachandra D Chaudhary, Liquidator of M/s. Vikram Hospital Pvt Ltd U/s 60(5) of the I&B Code, 2016 R/w. Rule 47A of the IBBI (Liquidation Process) Regulations, 2016, by inter-alia seeking to grant exclusion of a minimum of 211 days from the Liquidation period of the Corporate Debtor etc.



2. Brief facts of the case, which are relevant to the issue in question, are as follows:

- (1) Initially, C.P. No.258/2016 (TP No. 108/2017) filed by M/s. Encarta Pharma Pvt Ltd, was admitted by the Adjudicating Authority vide order dated 19.06.2018 by initiating Corporate Insolvency Resolution Process (CIRP) in respect of the Corporate Debtor, appointing IRP, imposing moratorium etc. Further, this Hon'ble Tribunal vide an order dated 28.02.2020 initiated Liquidation proceedings against the Corporate Debtor.
- (2) In pursuant to the Liquidation order dated 28.02.2020 the Applicant has to sell the business of the Corporate Debtor under Regulation 32 R/w Regulation 32A of the Liquidation Regulations. Therefore, due to the nationwide lockdown imposed by the Ministry of Home Affairs on 25.03.2020 and restrictions were continued vide various orders till 21.08.2020. The substantial period for the purpose of sale of Corporate Debtor, as a going concern, has elapsed and all the task undertaken by the Applicant has been halted. Further, the Applicant had appointed the registered valuers, however the valuers have not been able to travel due to the imposition of lockdown.
- (3) It is submitted that the Applicant is required to sell the Corporate Debtor or its business within ninety (90) days from the Liquidation commencement date, however due to late receipt of Liquidation order on 10.03.2020, the nationwide lockdown and thereafter the lockdown imposed by the Karnataka Government, the Applicant has not been able to sell the Business of the Corporate Debtor. Further, the Applicant has relied upon the Regulation 47A of the



Liquidation Regulation vide notification dated 20.04.2020 and the same is as under:

“Exclusion of period of lockdown”

47A. Subject to the provisions of the Code, the period of lockdown imposed by the Central Government in the wake of Covid-19 outbreak shall not be counted for the purposes of computation of the time-line for any task that could not be completed due to such lockdown, in relation to any liquidation process.”

- (4) It is further submitted that the Applicant vide an email dated 06.07.2020 communicated to the Respondent about the hospital facility of the Corporate Debtor being used and occupied by the Respondent from the 2nd week of July for catering to COVID-19 related treatment of Covid warriors and frontline officers, etc. The Applicant submits that the terms of usage of the Hospital facility and infrastructure and the duration of usage of premises has been enquired by the Applicant vide email dated 10.07.2020. Further, the Respondent has sent a letter dated 13.07.2020 to the Applicant stating that the installed infrastructure shall be used for a period 3 (three) months and if required will extend the time period for the usage of the Hospital facility.
- (5) It is further submitted that the Applicant vide an email dated 16.07.2020 communicated to the Respondent about an appropriate amount of sum to be received in lieu of rent for the usage of the hospital and the facilities therein by the Respondent. The Applicant asked for a rent upto the tune of Rs.30 lacs to Rs.35 lacs. However, the Applicant has not received any response from the Respondent. Since, the Corporate Debtor is a debt ridden Company and is in Liquidation, the Corporate Debtor is in dire need of funds. The



inflow of funds in the form of rent will improve the position of the stakeholders and will be beneficial for the selling of the Corporate Debtor as a going concern. Therefore, the Applicant requests this Hon'ble Tribunal to grant exclusion of 90 days due to the usage and occupation of the hospital premises by the Respondent and also grant exclusion for any further time if taken by the Respondent to vacate the hospital. The Applicant also seeks directions to the Respondent for depositing an appropriate amount of rent for the usage of the hospital and the facilities available in the hospital.

- (6) It is also submitted that there will be prospective buyers for the hospital facility, however, first due to the lockdown and also the usage and occupation of the hospital facility by the Respondent has hindered the process of the prospective sale of the hospital facility being the asset of the Corporate Debtor.
3. Heard Mr. Atul Sharma, learned Counsel for the Liquidator, **through Video Conference**. We have carefully perused the pleadings of the Party and also extant provisions of the Code and Rules made there under and the decisions cited by the Applicant as mentioned supra.
4. As stated supra, the material facts of the issue are not in dispute, and the Applicant could not conclude the Liquidation in question, within stipulate time, also due to the lockdown and partial lockdown imposed in the wake of Covid-19 outbreak. It is settled position of Law that Adjudicating Authority is empowered to exclude certain period of time, during which Liquidation could not be prosecuted. And the present Pandemic situation and pending legal proceedings before NCLAT as stated supra, are such circumstance where, the Adjudicating Authority can grant



exclusion of time. And the reasons cited by the Applicant for exclusion of time is reasonable and justifiable,. However, the Applicant is entitled for partial exclusion of time for 110 days.

5. In the result, **I.A.No.364/2020** in C.P No.258/2016 (TP No. 108/2017) is disposed of with the following directions:

- (1) Hereby granted exclusion of 110 days from the Liquidation process period.
- (2) The Liquidator is directed to take expeditious steps to finalize the Liquidation process, without any further delay.

**ASHUTOSH CHANDRA
MEMBER, TECHNICAL**

**RAJESWARA RAO VITTANALA
MEMBER, JUDICIAL**

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