

**NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH**

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
BENGALURU BENCH, BENGALURU, HELD ON 09.09.2020

THROUGH VIDEO CONFERENCING
CAUSE LIST

PRESENT: 1. Hon'ble Member (J), Shri Rajeswara Rao Vittanala
2. Hon'ble Member (T), Shri Ashutosh Chandra

CP/CA No.	Purpose	Sec	Name of Petitioner	Petitioner Advocate	Name of Respondent	Respondent Advocate
CP(IB)No. 243/BB/2018	For hearing IA 284/2020 (Memo) - CIRP	Sec 7 of I&B code 2016	M/s Pridhvi Asset Reconstructi on & Securitisatio n Company Ltd	Cyril Amarchand Mangaldas	M/s Sagar power (Neerukatle) Pvt Ltd	Shri Pankaj Srivastava, RP

ADVOCATE FOR PETITIONER/s:

Ms. AMRITA JAIN - For R.P

ADVOCATE FOR RESPONDENT/s: —


ORDER

Heard Ms. Amrita Jain, learned Counsel for the RP, **through Video Conference.**

I.A No. 284 of 2020 is allowed by separate order.

Post the case on **30.09.2020.**


MEMBER (T)


MEMBER (J)

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

I.A. No.284 of 2020 in
C.P (IB) No. 243/BB/2018
U/s. 60 (5) R/w. Regulation 40C of the
IBBI (CIRP) Regulations, 2016 and
R/w. Rule 11 of the NCLT Rules, 2016.

In the matter of :

Mr. Pankaj Srivastava,
*Resolution Professional of
M/s. Sagar Power (Neerukatte) Private Limited*

5, 5th Cross, Navya
Nagar, Jakkur,
Bengaluru – 560 064

... Applicant/RP

Date of Order: 09th September, 2020

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 : Ms. Amrita Jain

ORDER

Per: Rajeswara Rao Vittanala, Member (J)

1. I.A. No. 284 of 2020 in C.P. (IB) No.243/BB/2018 is filed by Mr. Pankaj Srivastava, Resolution Professional of M/s. Sagar Power (Neerukatte) Private Limited. U/s 60(5) Read with Regulation 40C of the IBBI (CIRP) Regulations, 2016 & R/w. Rule 11 of the NCLT Rules, 2016, by inter-alia seeking to exclude the period from 25.03.2020 to 22.07.2020, i.e. a period of 120 days, from the CIRP period of the Corporate Debtor due to the lockdown and the restrictions imposed



by the Government of India in view of the Pandemic of Covid-19, in terms of Regulation 40C of the IBBI (CIRP) Regulations, 2016 to facilitate the completion of Resolution Plan discussion with the Potential Resolution Applicants for successful completion of CIRP of the Corporate Debtor.

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

(1) C.P.(IB)No.243/BB/ 2018 filed by M/s. Pridhvi Asset Reconstruction and Securitisation Company Limited, was admitted by the Adjudicating Authority vide order dated 27.09.2019 by initiating Corporate Insolvency Resolution Process (CIRP) in respect of the Corporate Debtor, appointing Shri Pankaj Srivastava as IRP, imposing moratorium etc. And later the IRP was appointed as RP and the same was confirmed by the Adjudicating Authority by order dated 22.11.2019. The Applicant made Public Announcement in Form-A on 30.09.2019 in Samyukta Karnataka and Financial Express Bengaluru Edition and stipulated the last date of submission of claims as 15.10.2019. Later the Applicant made Public Announcement in Form-G calling for Expression of Interest of the Schedule II on 15.09.2019 in Financial Express, Bengaluru and Hyderabad Edition and Vaartha Bharti, Bengaluru Edition and stipulated the last date of submission of Resolution Plan as 28.02.2020.

(2) In pursuant to that, based on the request of Resolution Applicants, the COC extended the due date of submission of Resolution Plans up to 14.03.2020. Two Resolution Plans were received before the said deadline and the same are under the consideration of the COC. Consecutively, the COC its meeting

on dated 16.03.2020 had instructed the RP to seek extension of time for the CIRP from the Hon'ble Tribunal for a period of 90 days, the Application was subsequently filed and the same was allowed by the Hon'ble Tribunal on 28.05.2020. However, in the meantime, due to the COVID-19 pandemic, the Government of India with effect from 25.03.2020 declared a nationwide lockdown and as a result the entire nation came to a halt.

- (3) The Applicant has relied upon the judgment of Hon'ble Supreme Court in *Suo Motu Writ Petition (Civil) No(s).3/2020 in Re: cognizance for extension of Limitation vide order dated 23.03.2020*, the aforesaid judgment reads as under:

"This Court has taken Suo Motu cognizance of the situation arising out of the challenge faced by the Country on account of Covid-19 Virus and resultant difficulties that may be faced by litigants across the Country in filing their Petitions/Applications/Suits/ Appeals/all other proceedings within the period of limitation prescribed under the general law of limitation or under Special Laws (both Central and/or State).

To obviate such difficulties and to ensure that lawyers/litigants do not have to come physically to file such proceedings in respective Courts/Tribunals across the Country including this Court, it is hereby ordered that a period of limitation in all such proceedings, irrespective of the limitation prescribed under the general law or special Laws whether condonable or not shall extended w.e.f 15th March, 2020 till further order/s to be passed by this Court in present proceedings.

We are exercising this power under Article 142 read with Article 141 of the Constitution of India and declare that this order is a binding order within the meaning of Article 141 on all Courts/Tribunals and authorities. This order may be brought to the notice of all High Courts for being communicated to all subordinate



Courts/Tribunals within their respective jurisdiction. Issue notice to all the Registrars General of the High Courts, returnable in four weeks.”

The Applicant has also relied upon the Hon'ble National Company Law Appellate Tribunal in Suo Moto Company Appeal (AT) (Insolvency) No.01 of 2020, vide order dated 30.03.2020 and also relied on the Insolvency and Bankruptcy Board of India, inserted Regulation 47A to the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, 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) The Government of India, Ministry of Home Affairs vide order dated 30.05.2020 extended the lockdown in Containment Zones up to 30.06.2020 and re-opened prohibited activities in phased manner in areas outside Containment Zones. And various stakeholders of the Corporate Debtor faced difficulties due to lockdown imposed by the Government of India in view of the outbreak of pandemic of Covid-19 all over the country. The COC meetings could not be held in time to discuss resolution plans received by due date 14th, March 2020 due to the nationwide lockdown. Moreover, after convening the meetings after easing of lockdown, some of the clarifications were requested by the COC with respect to the ownership of the land transferred by the Erstwhile Promoter to the Corporate Debtor



vide Sale Agreement dated 11.10.2018. This was necessitated after discussion with the Potential Resolution Applicants during technical and commercial negotiations to complete the evaluation of the Resolution Plans received. However due to the lockdown, the ability to obtain all the clarifications from the Erstwhile promoters as well as Land Records Departments of Government of Karnataka was delayed.

- (5) In lieu of the difficulty faced due to the nationwide lockdown and strict curfew in the Bengaluru city and adjoining districts from 14.07.2020 till 22.07.2020 declared by the Government of Karnataka, the RP under instructions of the COC, extended the time for collating information to substantiate the clarifications asked by the COC as it required extraction of documents and land records maintained by the jurisdictional Revenue Department. The RP has been faced with extreme difficulty in obtaining, collating and verifying the Land related documents of the Corporate Debtor due to the pandemic situation.
 - (6) The COC with majority of 88.43% of voting shares vide email dated 24.08.2020, has approved for filing of an Application for seeking exclusion of time in the CIRP due to above circumstances.
3. Heard Ms. Amrita Jain, learned Counsel for the RP, **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 law on the issue is also settled by the judgments cited above. Therefore, the Applicant is justified to seek exclusion as sought for



in the Application and thus we are inclined to allow the instant Application.

5. In the result, we hereby allowed **I.A.No.284/2020** in C.P. (IB) No.243/BB/2018 with the following directions:
- (1) Hereby granted exclusion of 120 days i.e. from 25.03.2020 to 22.07.2020, from the CIRP period.
 - (2) The Resolution Professional is directed to take expeditious steps to finalize the CIRP, without any further delay.

**ASHUTOSH CHANDRA
MEMBER, TECHNICAL**

**RAJESWARA RAO VITTANALA
MEMBER, JUDICIAL**

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