

BENCH-I

NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

C.P.No.173/2017
IA-171/2017
Ivn A (IB)No.406/KB/2017 (M)
CA(IB)NO.405/KB/2017 (M)

Present: Hon'ble Member (J) Shri Vijai Pratap Singh
Hon'ble Member (J) Shri Jinan K.R

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING ON 27th October 2017, 10.30 A.M

Name of the Company	Berger Paints India Ltd. -Versus- Precision Engineers & Febricators Pvt.Ltd.		
Under Section	8 & 9 IBC		
Sl. No.	Name & Designation of Authorized Representative (IN CAPITAL LETTERS)	Appearing on behalf of	Signature with date

(1) Mr. R. C Prusti, Adv.
(2) Mrs Manini Kabi, Adv } UBOI

[Signature]
27/10/2017

① Kishorendu Bhattacharya, Advocate
② Arishok Guha, Advocate
③ Neil Ganguly, Advocate } For Postume Report operational Creditor.

[Signature]
27/10/17.

1. URMILA CHAKRABORTY, Adv. } Axis Bank Ltd.

[Signature]
27.10.17

① Subhankar Nag, Advocate.
② Sneheshis Sen, Advocate. } L & T Finance

[Signature]
27/10/17

1. Ratanko Banerjee.
2. Amirkan Roy.
3. Rajesh Upadhyay. } For Respondent No.1.

[Signature]
27/10/17

1. S. M. Gupta, FCS
2. Mr. K Ananta Rao, Advisor to R P
3. Mr. Aniruddh Roy, Advocate } Resolution Professor

[Signature]
27/10/17

26/10/2017 - C.P. 173/2017 _ Berger Paints India Ltd -versus-
Precision Engineers & Fabricators Pvt. Ltd.

ORDER

Ld. Resolution Professional (RP) as well as the Ld. Counsel for the financial creditors, operational creditors and the corporate debtor are present.

Ld. RP has filed progress report, which may be taken on record. Time for submission of Resolution Plan is expiring on 30/10/2017. The agenda for extension of time has been put to vote. The resolution regarding extension of the period of time has been approved by the Committee of Creditors (CoC) by 63.73% vote. Extension for a period beyond 180 days can only be sought with a minimum of 75% vote.

As per Section 12(1) of IBC, Corporate Insolvency Resolution Process is mandatorily to be completed within 180 days from the date of the admission of the application. It is undisputed fact the insolvency petition has been admitted by an order dated 04/04/2017 and it is expiring on 30/10/2017. Till date no resolution plan has been submitted and RP has filed his progress report wherein he stated that CoC with 63.73% vote has passed the resolution seeking extension of time. But as per provisions of Section 12(2) of Insolvency & Bankruptcy Code, 2016 adjudicating authority is empowered to extend the period of Corporate Insolvency Resolution Plan beyond 180 days on the basis of recommendation of CoC by a vote share of 75%. At the last meeting of CoC, held on 25-10-2017, 63.73% has voted in favour of the resolution for extension. So extension cannot be granted and

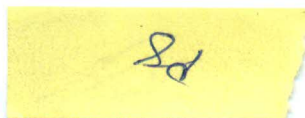
as per the submission on the side of the Ld. RP no resolution plan is pending under consideration.

Ld. Advocate for the corporate debtor made a request that adjudication authority has inherent power under Rule 11 of the NCLT Rules to extend the time period to prevent abuse of process but we are not convinced by the arguments of the Ld. Advocate. Section 12(2) of Insolvency & Bankruptcy Code, 2016 is very clear regarding mandatory time limit of 180 days. Unless it is extended with the vote share of 75% we cannot extend the time period beyond 180 days without a required resolution of CoC. Hence we cannot accept the prayer of extension.

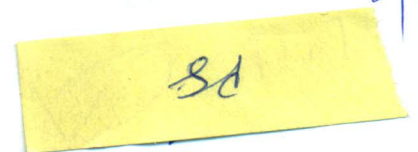
Necessary direction for further action will be issued on 30/10/2017.

List on 30/10/2017 for further order.

Urgent certified copy of the order be issued, if applied for, upon compliance of all requisite formalities.



(Jinān K.R.)
Member (J)



(Vijai Pratap Singh)
Member (J)