

NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI

C.P No. 1211/(MAH)/2017
M.A. No. 532/2017

CORAM:

Present: SHRI M.K. SHRAWAT
MEMBER (J)



SHRI BHASKARA PANTULA MOHAN
MEMBER (J)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF
THE NATIONAL COMPANY LAW TRIBUNAL ON 07.11.2017

NAME OF THE PARTIES: Bell Finvest (India) Ltd.
V/s.

V-Tech Elastomers Pvt. Ltd.

SECTION OF THE COMPANIES ACT: I & BP Code 2016.

S. No.	NAME	DESIGNATION	SIGNATURE
1.	Devendra Jain	IRP	
2.	Adv. G. Praveen Purusothaman	Advocate for IRP	

ORDER

MA 532/2017 IN CP 1211/I&BC/NCLT/MB/MAH/2017

1. In this case, an Order was passed on 22nd August 2017 and Mr. Devendra Padamchand Jain was appointed as IRP. On receiving the Order, he has proceeded with the matter. However, seeking extension for 30 days for holding meeting of the Committee of Creditors through this Miscellaneous Application (MA No. 532/2017) filed on 11th October, 2017.
2. The IRP has intimated that on receiving the said Order on 14.09.2017, Public Notice was issued on 18.09.2017. According to his report, no claim was received from the Creditors and even the Promoters of the Company have also not been

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located. Due to the said reason, the Committee of Creditors could not be formed and Meeting could not be held. A prayer has been made to extend 30 days' time for constitution of Committee of Creditors and also for holding of meeting of Committee of Creditors.

3. We have examined the relevant provisions of the Insolvency & Bankruptcy Code and in short discussed below:-

a. As per section 19(2) where any personnel of the Corporate Debtor or Promoter is required to assist the IRP who, however, does not assist or extend cooperation to the IRP then the IRP may make an Application to the Adjudicating Authority for necessary directions. It is worth to mention that under section 19(1) the Promoter or any personnel of the Corporate Debtor or any other person associated with the Management of the Corporate Debtor shall extend all assistance and cooperation to IRP as required by him in managing the affairs of the Corporate Debtor. As a consequence of these sections and on due consideration of the Report of the IRP since the cooperation was wanting hence we hereby have no option but to exercise our discretion as granted under the Statute for requisite direction so that the purpose of initiation of CIRP ^{was} be not ^{defeated} forfeited.

b. We are also aware that as per section 16 of the Code the appointment and the tenure of IRP is prescribed therein hence under Sub-section

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(5) of Section 16 the term of the IRP is prescribed as 30 days from the date of his appointment.

- c. Although the time of 30 days is prescribed under section 16(5) but under section 60(5) it is provided that notwithstanding anything to the contrary contained in any other law for the time being in force, the NCLT shall have jurisdiction to entertain or dispose of any question of priorities or any question of law or facts arising out of or in relation to the Insolvency Resolution or Liquidation proceedings of the Corporate Debtor or Corporate person under this Code. Because of this jurisdiction granted under section 60 we deem it proper to entertain the Miscellaneous Application now under consideration.
- d. The Resolution Professional has to prepare a list of Creditors on the basis of the claims received by him under section 102 of the Code. There is no ambiguity in section 104 that the Resolution Professional shall prepare a list of Creditors on the basis of claims received by the Resolution Professional under section 102 of the Code. Thereupon the Resolution Professional shall prepare the list within 30 days from the date of the Notice.

4. In a situation when any of the Directors of the Corporate Debtor was not available and the Creditors have also not lodged their respective claims within

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the time prescribed, as reported by Learned IRP, we are of the conscientious opinion that an extension of 30 days is justifiable so as to implement the order dated 22nd August, 2017 passed under section 7 of the Code by this NCLT Bench. Side-by-side by invoking section 19(1) of the Code it is hereby directed that the personnel of the Corporate Debtor or Promoter or any other person associated with the Management of the Corporate Debtor shall extend all assistance and cooperation to the IRP as may be required by him in managing the affairs of the Corporate Debtor.

5. The Miscellaneous Application stood allowed.

Sd/-

BHASKARA PANTULA MOHAN
Member (Judicial)
Date : 07.11.2017

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Sd/-

M.K. SHRAWAT
Member (Judicial)