

NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI

C.P No. 1053/(MAH)/2017
M.A. No. 674/2017


CORAM: Present: SHRI B.S.V. PRAKASH KUMAR
MEMBER (J)

SHRI V. NALLASENAPATHY
MEMBER (T)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF
THE NATIONAL COMPANY LAW TRIBUNAL ON 09.01.2018

NAME OF THE PARTIES: Amar Remedies Ltd.

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

S. No.	NAME	DESIGNATION	SIGNATURE
1	Fatima Bawodlawalla	Advocate	

ORDER

MA 674/2017 in CP 1053/IB/NCLT/MB/MAH 2017

On the application moved by the Resolution Professional, seeking extension of CIRP period for another 90 days as envisaged under Section 12(2) of the Insolvency and Bankruptcy Code, 2016, when this Bench has looked into this application, it has been noticed that this application has been filed on 15.12.2017 on a resolution dated 6.12.2017 passed by COC seeking extension of time. By the time, this application was moved by the Resolution professional, 180 days of CIRP was complete by 13.12.2017.

On visiting the provision of law, we have noticed that this application shall be filed by the Resolution professional for extension of CIRP period before completion of CIRP period, but this application has been filed after expiry of the original period of 180 days of CIRP. If at all this application is allowed, it will become nothing but revival of CIRP period that was complete by 13.12.2017.

Since there is no provision for revival of CIRP period to provide another 90 days' extension as mentioned under Section 12(2) of the IBC especially when earlier 180 days period is complete, by the time application has been filed before Adjudicating Authority, we strongly believe if at all we now exercised the jurisdiction then it will become nothing but exercise of jurisdiction beyond the powers conferred upon this Bench under Section 12 of the Code.

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Since it is a Tribunal created by this Code itself, this Adjudicating Authority has to be governed by the provisions of this Code. There can't be any doubt to say that extension can't be construed as revival, revival can be after expiry of period, whereas extension has to be given before expiry of original period.

Since speed and time lines are hallmark of this Code and there being no provision either for condonation or revival under any of the Provisions of this Code, we are of the view that this Adjudicating Authority is devoid of jurisdiction to revive the CIRP period already completed by 13.12.2017, i.e. by the time this application has come before this Bench, therefore, we don't find any merit in this application, whereby this application is hereby dismissed.

Sd/-

V. NALLASENAPATHY
Member(Technical)

Sd/-

B. S. V. PRAKASH KUMAR
Member (Judicial)