

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
PRINCIPAL BENCH

(IB)-15(PB)/2017

IN THE MATTER OF:

Clutch Auto Limited

.... Applicant/Petitioner

Order under Section 9 of Insolvency & Bankruptcy Code, 2016

Order delivered on 06.10.2017

Coram:

CHIEF JUSTICE (Retd.) M.M.KUMAR

Hon'ble President

Ms. Deepa Krishan

Hon'ble Member (T)

For the Applicant/Petitioner : Mr. Sumesh Dhawan, Advocate for the
Resolution Professional

For the Respondent : Mr. Pulkit Deora, Advocate

ORDER


C.A. No.354 (PB)/2017

Notice of the application.

Mr. Pulkit Deora, learned Counsel for the respondent accepts notice. A copy of the application has already been furnished to the learned Counsel.

We have heard learned Counsel for the parties.

The prayer made in the application, moved by the Insolvency Professional, is to grant extension of time beyond the period of 180 days, which is likely to finish tomorrow i.e. on 07.10.2017. The reasons for extension as disclosed and explained in the application are that no co-operation was extended by various stakeholders including the Banks of the erstwhile Corporate Debtor. Even valuation was not completed which has now been completed. The



Resolution Professional filed an application and sought directions against the Bank. The application was disposed of by order dated 12.09.2017 with the following directions:

“In view of the above we direct that the ICICI Bank, Lajpat Nagar Branch, New Delhi and the DBC Bank, Barakhamba Road Branch, New Delhi shall substitute the authorized signatory with the Insolvency Professional in respect of the bank accounts therein concerning the Corporate Debtor to enable him to manage the affairs of the Corporate Debtor. All the personnels of the Corporate Debtor, its promoters or any other person associated with the management including Mr. V.K. Mehta (CMD), Mr. Pramod Kumar (Marketing Manager), Mr. Manish Rai (Company Secretary) and Mr. Rajesh Kumar (Finance Manager) of the Corporate Debtor shall extend complete cooperation and provide full information as required by the Insolvency Professional so that he may perform his duties which are cast on him by Section 17 & 18 of the Code 2016.

We further direct the Superintendent of Police and the Station House Officer of Police Station, Sector-31, Faridabad, Haryana to extend police assistance to the Insolvency Professional in ensuring to obtain vacant and peaceful possession of land of the Corporate Debtor named and styled as Plot No. 1, Sector-27D, Mathura Road, Faridabad, Haryana.

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We also direct the Superintendent of Police of District Alwar, Rajasthan to extend security to the Insolvency Professional so that he may visit the unit situated at SP2-173/174, RIICO Industrial Area, Kaharani, Bhiwadi, District Alwar, Rajasthan - 301019 and may carry on the affairs of the company without any fear threat to his own life or to that of his associates.

In case the erstwhile management fails to co-operate then the Insolvency Professional would be within his rights to substitute them by appointing his own officials so that he may feel free to perform his functions in order to implement the provisions of Section 17, 18, 19 & 25 of the Code, 2016. If any lapse is committed by any of the aforesaid persons then appropriate application be filed so that we may initiate proper proceedings to bring them to the books.

The application stands disposed of in the above terms”.

Apart from the above order and directions issued, the Committee of Creditors in its meeting held on 26.09.2017 vide Item no. 1 has resolved by 98.19% of the voting share of the committee of creditors that at the present stage the company could not go into liquidation merely because of the expiry of the stipulated time of 180 days and the corporate insolvency resolution process should be completed in order to explore the possibility of an acceptable resolution plan which may be beneficial for all the stakeholders. They have thus accorded their approval.

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In view of above, we are satisfied in terms of Section 12(2) & (3) of the Code that there is sufficient ground to grant extension of time by 90 days which shall commence from 08.10.2017. The insolvency process shall now be completed on or before the expiry of 90 days.

Application stands disposed of.

C.A. No.353 (PB)/2017

On the oral request made by the learned Counsel for the applicant, the name of Ms. Gargi Tandon is added as respondent before the word 'Branch Manager' as respondent in the memo of parties.

This Bench of the Tribunal has issued orders dated 10.04.2017, 28.06.2017 and 12.09.2017 directing the Branch Manager of the ICICI Bank to substitute the ^{authority to operate} accounts of the erstwhile management with that of the Resolution Professional. Despite the direction issued, the needful has not been done as is evident from the affidavit filed by the Resolution Professional.

Notice of the application for 31st October, 2017 to the respondents to show cause why the proceedings under the Contempt of Court Act be not initiated. Process dasti as well.

List the matter on 31st October, 2017.

—Sd—

(CHIEF JUSTICE M.M.KUMAR)
PRESIDENT

—Sd—

(DEEPA KRISHNA)
MEMBER(TECHNICAL)