

IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH

I.A. NO. 163/2017
IN
CP(IB)NO.15/BB/17

Order Delivered on: 5th December 2017

IN THE MATTER OF
SECTION 10 OF THE INSOLVENCY & BANKRUPTCY CODE, 2016
AND
IN THE MATTER OF SUVARNA KARNATAKA CEMENTS PRIVATE LIMITED

Suvarna Karnataka Cements Private Limited

Flat No. 02, Block No.6

Celebrations Suncity, Sarjapura Ring Road

Bengaluru- 56 00 34

Corporate Applicant/ Corporate Debtor

Coram: Hon'ble Shri RatakondaMurali, Member (Judicial)
Hon'ble Shri Ashok Kumar Mishra, Member (Technical)

Parties Present : 1) Sri. H.N.Vasudevan, Advocate for Committee of Creditors
2) Kochhar & Co. Advocates for RP

Per : **Hon'ble Shri RatakondaMurali, Member (Judicial) - Author**

ORDER

This Application is filed under section 12, 60(5) of Insolvency and Bankruptcy Code r/w Regulation 40 of the Insolvency & Bankruptcy Board of India (Insolvency Process for Corporate Persons) Regulations, 2016 and Rule 11 of the National Company Law Tribunal Rules, 2016 .

The averments in the affidavit in support of the application are briefly described hereunder:-

Sri. Vinod Kumar Kothari gave affidavit stating that he was appointed as Resolution Professional by the Committee of Creditors. He averred that Corporate Insolvency Resolution Process be completed within a period of 180 days as per the provisions of Section 12 of the I & B Code from the date of admission of application.

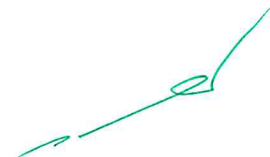
It is further averred this Tribunal passed moratorium order on 28.04.2017 which came to an end on 25.10.2017. It is further averred that the resolution plan had to be prepared and submitted to the Resolution Professional thirty days before the CIRP comes to an end i.e. by 25.09.2017. It is averred an initial Information Memorandum prepared in accordance with Regulation 36 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 was placed by the Interim Resolution Professional at the first Committee of Creditors meeting. However, the same was not approved by the members. Thereafter there was no meeting of Committee of Creditors. It is averred that preparation of resolution plan is complicated exercise, particularly with reference to the Corporate Creditor Company which was lying shut since several years. Therefore, it was found difficult to prepare resolution plan in a short span of time.

During moratorium period Committee of Creditors met for first time on 02.06.2017. The Information Memorandum was also prepared. Liquidation value is also prepared by the Chartered Accountants .

It is further averred the second Committee of Creditors meeting was held on 01.11.2017, but no resolution plan nor liquidation decision was taken by the Committee of Creditors. Therefore, the members of Committee of Creditors were of the view to seek extension of moratorium period so that Committee of Creditors can prepare a meaningful resolution plan.

Section 12 of I& B Code provides for extension of resolution process period by another 90 days. Therefore, this application is filed for extension of the time of resolution process by another period of 90 days.

We have heard the counsel appearing for Resolution Professional. He has filed his first report. It is stated that IRP appointed in this case by this Tribunal had constituted Committee of Creditors in accordance with Section 21 of the Code and that he has also prepared Information Memorandum in



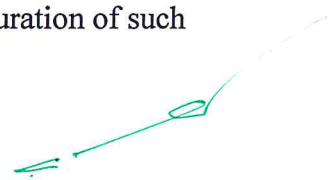
accordance with section 29 and Regulation 36 of CIRP Regulations. The first meeting of Committee of Creditors was held on 02.06.2017. The Committee of Creditors recommended Sri. Vinod Kumar Kothari as Resolution Professional. It is stated Resolution Professional also called for Committee of Creditors meeting and it was held on 01.11.2017 for passing a resolution for extension of moratorium period. The minutes of the meeting has been enclosed.

We have seen the minutes of the Committee of Creditors meeting . It is stated that a consensus was reached the sale of plant will fetch higher value than going for liquidation. Hence, Committee decided to seek extension of moratorium period.

The Resolution Professional has filed along with application a list of Creditors as Annexure-A. He also filed minutes of the Committee of Creditors meeting held on 01.11.2017 shown in Annexure-B. A resolution was passed by the Committee of Creditors seeking extension of Moratorium period by filing application before the Adjudicating Authority/Tribunal.


As seen from the papers, no resolution plan was prepared during first moratorium period of 180 days. Committee of Creditors wanted to replace the IRP appointed at the first instance and appoint new Resolution Professional. The Committee of Creditors are yet to formulate a resolution plan. Therefore, the Adjudicating Authority has to extend the moratorium period by 90 days. So that the Committee of Creditors can reach consensus and prepare a resolution plan to be submitted to the Tribunal for approval.

We have seen the averments in the application and the report of the Resolution Professional. We are satisfied that there exists grounds for extending the period of moratorium period . Section 12 of Insolvency and Bankruptcy Code empowers the Adjudicating Authority to extend the duration of such



resolution process beyond 180 days by such further period as it thinks fit, but not exceeding 90 days. Therefore, by virtue of provisions of Section 12 (3) of Insolvency and Bankruptcy Code we feel that it is a fit case to extend the duration of CIRP by a period of another 90 days.

The petition is accordingly allowed.


(ASHOK KUMAR MISHRA)
MEMBER, TECHNICAL


(RATAKONDA MURALI)
MEMBER, JUDICIAL