

IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH

I.A. NO. 26/2018 IN CP (IB) No. 21/BB/2017

UNDER SECTION 12 OF I & B CODE R/W 40 OF IBBI (INSOLVENCY
RESOLUTION PROCESS FOR CORPORATE PERSONS)

Order Delivered on: 6th February, 2018

Aegan Batteries Limited

Corporate Applicant/ Corporate Debtor

Coram: Hon'ble Shri Ratakonda Murali, Member (Judicial)
Hon'ble Dr. Ashok Kumar Mishra, Member (Technical)

Parties Present : 1) Sri. Rajesh S., Advocate for Committee of Creditors
2) S. Narendra Kumar. Advocates for RP

Per : Hon'ble Dr. Ashok Kumar Mishra, Member (Technical)

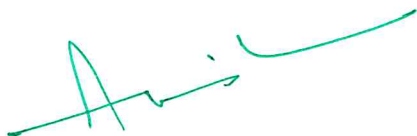
ORDER

This Application is filed under section 12, of Insolvency and Bankruptcy Code read with Regulation 40 of Insolvency & Bankruptcy Board of India (Insolvency Process for Corporate Persons) Regulations, 2016 for extension of Insolvency Resolution Process period by another 90 days (ninety days).

It is averred in the application that the applicant is acting as a Resolution Professional and he was duly appointed by the Adjudicating Authority on 03.11.2017. It is further averred that the petition was filed by the corporate applicant under Section 10 of the Insolvency & Bankruptcy Code which was admitted by this adjudicating authority on 18.08.2017 and the Insolvency Resolution Process should have been completed on or before 13.02.2017.

The applicant has further stated that a meeting of the Committee of Creditors was held on 20.12.2017 and the resolution was passed in the meeting of the Committee of Creditors which is as follows:

"RESOLVED THAT, CoC authorizes RP to convene a meeting of CoC specifically to take a decision regarding filing for extension of CIRP with a short notice of not less than 24 hours for the meeting to be held around 3rd January, 2017."



Certified copy of the resolution has been shown as Annexure-'A'.

It is averred that a meeting of the Committee of Creditors was again held on 11.01.2018 and pass the following resolution:

"RESOLVED that CIRP period shall be extended by a period of 90 days and Sri Ravindra Belayur, RP be authorized to file an application before National Company Law Tribunal, Bengaluru Bench for the extension of CIRP period and to take necessary actions required in this connection under IBC, 2016."

Certified copy of resolution is shown as Annexure-'B'. The applicant has further stated that the statutory audit for the year 2016-17 and also tax audit of the corporate debtor for the years 2015-16 and 2016-17 and further to prepare an information memorandum are pending. Therefore, this application is filed by the applicant/Resolution Professional seeking extension of period of Resolution Process by another 90 days on or after 13.02.2018 as per the provisions of Section 12 of the Insolvency & Bankruptcy Code read with Regulation 40 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

We have heard the counsel appearing for the Resolution Professional.

This application is filed under Section 12 (2) of the Code for extension of Insolvency Resolution period by 90 days beyond 180 days. The reasons given for extension of period of resolution process beyond 180 days that information memo is to be prepared and further statutory audit is to be carried out. The applicant has filed resolution passed at the meeting of the Committee of Creditors shown as Annexure-'A', which was held on 20.12.2017. It is stated in the resolution that no much progress takes place since the date of order of moratorium such as getting custody of business records, proper verification of claims, preparation of information memorandum, etc.



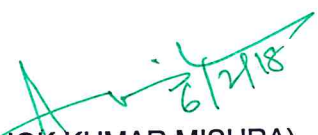
The applicant has further relied on the minutes of the resolution of the 3rd meeting of the Committee of Creditors held on 11.01.2018, wherein the CoC decided to seek extension of period of resolution process by another 90 days by approaching the Tribunal. The applicant has clearly stated that no information memorandum is prepared till date and that the period of 180 days prescribed for Insolvency Resolution Process will be completed by 13.02.2018.

In the circumstances, inevitably the period of Insolvency Resolution Process is to be extended beyond 180 days to enable the Resolution Professional to complete the pending work including preparation of memorandum of information and also the resolution plan, if any.

Section 12 (3) of I & B Code empowers the Adjudicating Authority where it is satisfied that the Corporate Insolvency Resolution Process cannot be completed within one hundred and eighty days, it may by order extend the duration of such process beyond one hundred and eighty days by such period as it thinks fit but not exceeding ninety days. This is the first application filed by the Resolution Professional seeking extension of time beyond one hundred and eighty days for completing the Insolvency Resolution Process.

We are satisfied with the ground stated by the applicant for extension of time. In the result application, I.A. No.26/2018 is allowed and the period of Resolution Process is extended by a period of another ninety days beyond one hundred and eighty days.

The application is accordingly allowed.


(ASHOK KUMAR MISHRA)
MEMBER, TECHNICAL


(RATAKONDA MURALI)
MEMBER, JUDICIAL