

**NATIONAL COMPANY LAW TRIBUNAL,  
CHANDIGARH BENCH, CHANDIGARH.**

**CAs No.232/2017 & 08/2018**

**IN**

**CP (IB) No.42/Chd/Hry/2017  
(Admitted matter)**

In the matter of:

Corporation Bank.

....Petitioner-Financial Creditor.

Versus.

Amtek Auto Limited.

....Respondent/Corporate Debtor.

Present: Mr.Yash Pal Gupta, Advocate for petitioner.  
Mr.Sanjay Bhatt, Advocate for Resolution Professional.

**CA No.232/2017**

Prayer made in this application was for deciding the claim submitted by the applicant namely Arfil India Limited submitted to the petitioner as creditor. The learned counsel for resolution professional has stated that the resolution professional has accepted his claim on 19.12.2017, which was also communicated to the applicant by email.

In view of the above, CA No.232 of 2017 stands disposed of.

**CA No.08/2018**

The learned counsel for resolution professional has handed over the copy of the minutes of the 5<sup>th</sup> meeting of the committee of the creditors of the corporate debtor held on 06.12.2017. The same be taken on record.

I have heard the learned counsel for resolution professional and carefully perused the record.

This application has been filed under sub-sections (2) and (3) of Section 12 of the Insolvency and Bankruptcy Code, 2016 for seeking extension of the period of completion of the resolution process, as the initial permitted period of 180 days is going to expire on 19.01.2018.

The learned counsel for the applicant has referred to the resolution passed by the committee of creditors granting approval to extend the period of insolvency resolution process for another 90 days. The resolution in this regard is reproduced as under:

*“ The ordinance issued by the Government of India on 23<sup>rd</sup> November, 2017 to amend the Code makes persons classified under Section 29A (inserted in the Code by the Ordinance) ineligible to submit resolution plan. The Resolution Professional had to thus call upon the short listed prospective resolution applicants to disclose their eligibility to submit resolution plan in terms of Section 29A of the Code. Further, Section 25 (2) (h), amended by the Ordinance, provides that the criteria laid down by the Resolution Professional for inviting prospective resolution applicants has to be approved by the Committee of Creditors (CoC). The process for inviting potential resolution applicants short-listed in Phase-1 was discussed in the meeting of the CoC held on 6<sup>th</sup> December, 2017.*

*Also, the Ordinance requires the CoC to evaluate the viability of each resolution plan submitted – which will need additional time and effort.*

*Further, while access to the enhanced VDR has been provided, bidders have reached out seeking extension of timelines given that there would be very little time from receiving the process note (this week until Dec 10). They are citing time needed to organise monies for cash calls/BGs (as Rs.100 cr BG needs to be furnished).*

*These developments have resulted in delay in resolution process for reasons beyond the control of the Resolution Professional and the Committee of Creditors, and it has become inevitable to seek extension in time limit for completion on insolvency resolution process.*

*Approval of the CoC is sought to extend the corporate insolvency resolution process period of Amtek Auto Limited by a period of 90 days (from 180 days currently to 270 days) under Section 12 of the Code and to authorise the Resolution Professional to file an application before the Adjudicating Authority (NCLT), Chandigarh Bench to seek extension for a period of 90 days. Section 12 (2) of the Code provides that extension can be applied by the Resolution Professional only if instructed by the CoC by a vote of seventy-five percent of the voting shares decides to seek extension.”*

As per Annexure A-7, the resolution was approved by 96.62% of the votes whereas only 0.35% cast their votes against the resolution in respect of making application for extension of period of 90 days.

Learned counsel for the applicant submitted that the matter was earlier fixed before the committee of creditors on 22.11.2017 and by that time, six investors including promoter director of the suspended Board of Directors submitted the resolution plan, but on the very next day i.e. on

23.11.2017, the amendments were made in the Code and CIRP regulations by way of an ordinance. Therefore, the applicants were supposed to file the fresh resolution plan in compliance with the amended provisions thus, causing delay in completion of the resolution process. This application is stated to have been filed on the basis of the resolution of the committee of creditors for seeking another 90 days period for completion of the resolution plan.

It is, therefore, made out that the corporate insolvency resolution process cannot be completed within 180 days and the request for extension of the time for another 90 days is allowed. CA No.08 of 2018, therefore, stands disposed of.

Copy of this order be communicated to the learned counsel for the applicant/Resolution Professional.

Sd/-  
(Justice R.P.Nagrath)  
Member (Judicial)

January 17, 2018.  
Ashwani