

(2020) 08 NCLT CK 0018

In the National Company Law Tribunal

Case No : Interlocutory Appeal (IB) No. 603 Of 2020 In Company Petition (IB)
No. 187/7/Hdb Of 2019

Axis Bank Limited

APPELLANT

Vs

Ind-Barath Power Gencom Limited

RESPONDENT

Date of Decision : 21-08-2020

Acts Referred:

Insolvency And Bankruptcy Code, 2016 — Section 60(5)

Citation : (2020) 08 NCLT CK 0018

Hon'ble Judges : Ratakonda Murali, J; Veera Brahma Rao Arekapudi, Member
(Technical)

Bench : Division Bench

Advocate : V.V.S. N. Raju, Praveen Kumar Jain, A. Sravanthi, Girjesh Patidar

Final Decision : Allowed

Judgement

Veera Brahma Rao Arekapudi, Member (T)

1. This Interlocutory application bearing I.A. No. 603/2020 is filed by the Resolution Professional/applicant, under section 60(5) of the Insolvency and Bankruptcy Code, 2016 seeking extension of CIRP period by 90 days from 19.08.2020 for completion of Corporate Insolvency Resolution Process of Corporate debtor.

2. Averments in brief of the Application :

a. It is averred that CIRP started against corporate debtor on 13.11.2019 and appointed Mr. Rajesh Chillale as IRP who was further confirmed as RP by the COC in its 1st COC meeting dated 10.12.2019.

b. It is averred that public announcement dated 15.11.2019 was made in Form A intimating at large the commencement of CIRP against the corporate debtor and calling the creditors to submit proof of claims and the last date for submission of claims was 27.11.2019.

c. It is averred that the last date for submission of Resolution plan was on 15.04.2020 but due to the lockdown in view of the outbreak of corona virus the last date of submission of the Resolution plan was changed to 06.07.2020.

d. It is averred that the prospective Resolution applicants namely Sherisha Technologies Pvt. Ltd and Coastal Agro Industries Ltd. are facing hindrances on account of the travel restrictions prevailing in Tamil Nadu, since there is a strict lockdown in Chennai and for the same reason the Resolution Applicants are not able to visit the site for technical verification and thus requested the applicant to extend the time for submission of Resolution plan.

e. It is averred that in the 4th COC meeting dated 08.07.2020 the members of COC has passed a resolution unanimously voting in favour of extension of CIRP beyond 180 days to 270 days and directed the applicant to file a necessary extension application before the Hon'ble NCLT from 180 days to 270 days. The minutes of the 4th COC meeting dated 08.07.2020 is annexed herewith and marked as Annexure-E.

3. We have heard the Counsel for Resolution Professional. This application is filed by Resolution Professional U/S 60(5) of I&B Code, 2016 seeking extension of CIRP by another 90 days beyond 180 days.

4. The case of applicant, in 4th COC Meeting held on 08.07.2020 discussed the remaining time available for submission of Resolution Plan.

5. Learned Counsel for Resolution Professional would contend that the period of 180 days for completion of CIRP was expired on 19.08.2020. Learned Counsel for Resolution Professional further contend that there are two prospective resolution applicants who are facing hindrances to visit the site for technical verification on account of travel restrictions prevailing in Tamil Nadu and requested the Applicant to extend the time for submission of Resolution plan.

6. We have seen the Minutes of 4th COC Meeting dated 08.07.2020 which is called for seeking extension of CIRP by another 90 days. 100% voting share of COC approved the resolution seeking the extension of CIRP by another 90 days.

7. It is true lockdown was imposed w.e.f. 25.03.2020. According to Resolution Professional 180 days will be over by 19.08.2020. Resolution Professional is seeking extension of CIRP by 90 days which was approved by the COC unanimously.

8. The RP is authorized to move the application before Adjudicating Authority for extension of CIRP. The grounds for extension is to complete the CIRP of the corporate debtor and comply with the timeliness as specified in CIRP Regulations and under IBC, 2016 and for the purpose to extend the CIRP period for 90 days beyond 180 days. There are genuine grounds for extension of CIRP by another 90 days. Accordingly application is allowed and CIRP is extended by another 90 days beyond 180 days with effect from 20.08.2020.

9. Application is accordingly allowed.