
(2020) 02 NCLT CK 0127

In the National Company Law Appellate Tribunal, Pricipal Bench, New Delhi

Case No : Company Application No. 120/C-V/ND Of 2019 And (IB) No. 923 (ND) Of 2019

Oriental Bank Of Commerce And Ors

APPELLANT

Vs

Venta Realtech Pvt. Ltd

RESPONDENT

Date of Decision : 06-02-2020

Acts Referred:

Insolvency And Bankruptcy Code, 2016 — Section 12, 12(2), 60(5)

Citation : (2020) 02 NCLT CK 0127

Hon'ble Judges : Abni Ranjan Kumar Sinha, J;Kapal Kumar Vohra, Member (Technical)

Bench : Division Bench

Advocate : Ajay K. Jain, Atanu Mukherjee, Manan Batra, Karan Singh

Final Decision : Disposed Of

Judgement

Abni Ranjan Kumar Sinha, J

1. The present application has been filed u/s 60(5) r/w Section 12(2) of the IBC, 2016 (Code) on behalf of the applicant Mr. Debashis Nanda who is the Resolution Professional (RP) of the Corporate Debtor praying the following:

a. Allow this application and extend the period of CIRP by a further period of 90 days; and/or

b. Pass such other orders/directions as this Hon'ble Bench may deem fit and proper in the facts and circumstances of the case.

2. We have heard the Ld. Counsel appearing for the RP and perused the averments made in the application.

3. Ld. Counsel for RP submitted that in this case the CIRP was initiated on 20th May, 2019 and subsequent to the public announcement, the IRP collated, verified, admitted the claims, constituted committee of creditors and conducted

1st meeting of CoC on 17th June, 2019 wherein the IRP was confirmed as the RP. He further submitted that the period of 180 days of CIRP as prescribed under Section 12 of the Code was to be completed on 16th November, 2019 and he further submitted that vide order dated 25.09.2019, this Adjudicating Authority restrained the RP and CoC from holding any meeting of CoC without orders of this Tribunal or disposal of this application whichever is earlier, therefore, the present application could not be filed under Section 12(2) of the IBC, 2016.

4. The present application has been filed under Section 60(5) r/w Section 12(2) of the Code and he further submitted that since the period of 180 days had already expired on 16.11.2019 and in a similar matter, Anuj Kumar Tiwari Vs. Adharshila Homes Pvt. Ltd., Ltd, where CoC was stayed and time period of 180 days expired then the same was extended with time period of another 90 days at the request of RP. So, in this application the time period may be extended on this ground also. Ld. Counsel for the Respondent did not oppose the prayer of the RP.

5. In the light of the submissions made on behalf of the parties when we have gone through the averments made in the application as well as order passed by co-ordinate bench of NCLT New Delhi in Anuj Kumar Tiwari Vs. Adharshila Homes Pvt. Ltd. We find that in the present case vide order dated 25.09.2019, the RP and CoC were restrained from holding any meeting of CoC till the Adjudicating Authority pass any order and no meeting was conducted. In the similar situation/matter i.e. Anuj Kumar Tiwari Vs. Adharshila Homes Pvt. Ltd, another co-ordinate bench, NCLT New Delhi extended the CIRP Period wherein, the Ld. Counsel for RP states that, inadvertently the number of days was not mentioned. The oral request was made in that case by the Ld. Counsel for RP for extension of 90 days period. The oral submission was accepted by the Hon'ble co-ordinate Bench, NCLT Delhi and extension for a period of 90 days of CIRP was granted from the date of expiry of 180 days which was 15th September, 2019. Application was allowed and disposed of.

6. In view of aforesaid decision passed by another co-ordinate bench, NCLT, New Delhi, in our opinion the present petition is covered under that decision. The present application is filed by the RP having similar situation, therefore, we are of considered view that since the RP was restrained from holding any CoC meeting and period of CIRP had already expired on 16.11.2019, and therefore, we think it proper to extend the period of CIRP by 90 days from the date of expiry.

7. Accordingly, we hereby allow the prayer of the RP and extend the period of 90 days of CIRP from the date of expiry and the same had expired on 16.11.2019. With this order, the application stands disposed of.