(2023) 05 NCLT CK 0012

In the National Company Law Tribunal

Case No : IA (IB) No.382 /KB/2023 IN Company Petition (IB) No. 56/KB/2019

State Bank of India Vs Simplex Projects Limited ?

Date of Decision : 03-05-2023

Acts Referred:

Insolvency and Bankruptcy Code, 2016 — Section 12, 12(2), 12(3)
Insolvency and Bankruptcy Board of India (Insolvency Resolution ProcessforCorporate Persons) Regulations, 2016 — Regulation 40

Citation : (2023) 05 NCLT CK 0012

Hon'ble Judges : Bidisha Banerjee, Member (J);Balraj Joshi, Member (T)

Bench : Division Bench

Advocate : Shweta Dubey

Final Decision : Disposed Of

Judgement

Balraj Joshi, Member (Technical)

1. IA (IB) No. 382/KB/2023 is an application filed by Resolution Professional applicant seeking extension in time of the CIRP in respect of Simplex Projects Limited under section 12(3)of the Insolvency and Bankruptcy Code, 2016 for a period of 60 days beyond 270 days till 23rd April, 2023.

2. From the reasons given in the application at page 18 and 19 more specifically para 2.16 to 2.17, it is seen that time of extension is primarily required on account of PRAs asking for extension in time.

3. It is further mentioned at para 5 page 24 that two resolution plan have been received for consideration of the CoC. Further transaction audit has not been completed. Accordingly, CoC in the 11 meeting unanimously approved for seeking extension in the CIRP of the Corporate Debtor to complete the CIRP within 330 days.

4. It is relevant to mention that the CIRP started 27th February, 2022 whereas the last date for submission of resolution plan was fixed at 1st December, 2022.

5. Section 12 empowers this Tribunal to sanction extension/exclusion of time

period of the CIRP and it is specified as under:-

“12(3) On receipt of an application under sub-section (2), if the Adjudicating Authority is satisfied that the subject matter of the case is such that corporate insolvency resolution process cannot be completed within one hundred and eighty days, if may by order extend the duration of such process beyond one hundred and eighty days by such further period as it thinks fit, but not exceeding ninety days:

Provided that any extension of the period of corporate insolvency resolution process under this section shall not be granted more than once. [Provided further that the corporate insolvency resolution process shall mandatorily be completed within a period of three hundred and thirty days from the insolvency commencement date, including any extension of the period of corporate insolvency resolution process granted under this section and the time taken in legal proceedings in relation to such resolution process of the corporate debtor.

6. It is also seen from the pleadings that the matter had been stayed by Hon’ble NCLAT and sometime was consumed in the judicial proceedings.

7. From the above, it is seen that though CIRP has been handled in an apparently sluggish manner however, since two plans have been received which are under consideration of the CoC and relying on the ratio of Swiss Ribbons Pvt. Ltd., where it has been held that the primary focus of the legislation to understood to be revival and continuation of the Corporate Debtor as a going concern by protecting the Corporate Debtor from its management and from a corporate death by Liquidation, there is a case for enlargement of time.

8. Accordingly, we hereby grant prayer A given at page 27 of the application, which is upto 23rd April, 2023.

9. Accordingly, this IA is allowed in above terms and disposed of.

10. Certified copy of the order may be issued to all the concerned parties, if applied for, upon compliance with all requisite formalities.

