

**NATIONAL COMPANY LAW TRIBUNAL**  
**COURT ROOM NO. 1,**  
**MUMBAI BENCH**

**Item No. 23**

**IA 345/2024 IN C.P. (IB)/530(MB)2020**

CORAM:

**SH. PRABHAT KUMAR            JUSTICE VIRENDRASINGH BISHT (Retd.)**  
**HON'BLE MEMBER (TECHNICAL)    HON'BLE MEMBER (JUDICIAL)**

ORDER SHEET OF THE HEARING ON **12.02.2024**

NAME OF THE PARTIES:    **UNION BANK OF INDIA V/S ROLTA INDIA LIMITED**

Section 60(5) & 7 of the Insolvency and Bankruptcy Code, 2016

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**ORDER**

**IA 345/2024 IN C.P. (IB)/530(MB)2020**

1) Mr. Sandeep Bajaj, Ld. Counsel for the Resolution Professional of the Corporate Debtor, Ms. Mamata Binani, Resolution Professional of the Corporate Debtor, Mr. Mustafa Doctor, Ld. Sr. Advocate for (H1RA), Mr. Gaurav Joshi, Ld. Sr. Advocate for the Applicant and Mr. Janak Dwarkadas, Ld. Counsel for the Committee of Creditors are present.

2) The present Interlocutory Application has been filed by the Applicant, Patanjali Ayurved Ltd., seeking the following reliefs:

- i. Allow the Applicant and/or direct the Respondents to allow the Applicant to participate as resolution applicant and submit resolution plan in the corporate insolvency resolution process of the*

***Corporate Debtor, and direct the Respondents to issue Information Memorandum, Evaluation Matrix and grant access to Virtual Data Room of the Corporate Debtor to enable Applicant to file resolution plan;***

- ii. Direct the Respondents to evaluate and consider the Resolution Plan of the Applicant in parity with other resolution plans; and***
- iii. Pass directions for interim stay on CoC from considering resolution plans or from voting on resolution plan during the pendency of the present application.***

3) This Bench has heard the matter on 01.02.2024 and directed the Resolution Professional to place the document/communication received from the Applicant herein to place it before the Committee of Creditors for their consideration and to take action as appropriately directed by the Committee of Creditors.

4) The Ld. Counsel has informed that the Committee of Creditors has resolved to consider the Resolution Plan of the Applicant, considering the offer of higher value that too upfront in single instalment. It was further submitted that the re-run of the whole process shall further delay the Resolution Process. The Applicant placed reliance on the judgment of the Hon'ble Supreme Court in the case of *Kalpraj Dharamshi and Ors. Vs. Kotak Investment Advisors Ltd. and Ors. (2021)10SC C 401*, wherein, it is held as under:

***“It is within the domain of commercial wisdom of Committee of Creditors to adjudicate whether they wish to allow any prospective Resolution Applicant to participate in the CIRP of a Corporate Debtor, even if the date of submission of Expression of Interest has elapsed”.***

5) It was further submitted on the issue of CIRP timelines that the Hon’ble Supreme Court in the case of *Surendra Trading Company Vs. Juggilal Kamalapat Jute Mills Company Ltd. and Ors.* AIR2018SC186, while holding timelines under section 7(5) of the Insolvency and Bankruptcy Code, 2016 to be directory replied on the following judgments:

***“In PT Rajan v. TPM Sahir and Ors. (2003) 8 SCC 498, the Hon’ble Supreme Court observed ..... :***

***48. It is well-settled principle of law that where a statutory functionary is asked to perform a statutory duty within the time prescribed therefor, the same would be directory and not mandatory. (See Shiveswar Prasad Sinha v. The District Magistrate of Monghur and Anr. AIR (1966) Patna 144, Nomita Chowdhury v. The State of West Bengal and Ors. (1999) CLJ 21 and Garbari Union Co-operative Agricultural Credit Society Limited and Anr, v. Swapan Kumar Jana and Ors. (1997) 1 CHN 189).***

***49. Furthermore, a provision in a statute which is procedural in nature although employs the word "shall" may not be held to be mandatory if thereby no prejudice is caused.***

***33. That the Hon'ble Apex Court has on numerous occasions interpreted the word 'shall' to mean 'may'***

*43. Thus, in view of the aforementioned unambiguous position of law laid down by the Hon'ble Apex Court and discussion as made above, we hold that the mandate of Subsection (5) of Section 7 or Sub-section (5) of Section 9 or Sub-section (4) of Section 10 is procedural in nature, a tool of aid in expeditious dispensation of justice and is directory".*

- 6) The Ld. Counsel for the Resolution Professional further informed that the consideration of the Applicant's Resolution Plan shall require additional time; accordingly, extension in CIRP period be allowed.
- 7) Heard the Counsel, this Bench allows the Committee of Creditors to consider the Resolution Plan of the Applicant subject to condition that fresh opportunity be allowed to revise the bid to all the Resolution Applicants. The Resolution Professional is directed to file appropriate Application to seek further extension of time.
- 8) With the aforesaid observations and directions, the Interlocutory Application bearing IA No. 345 of 2024, is disposed of as Allowed. There would however be no order as to costs. Ordered Accordingly.

Sd/-

**PRABHAT KUMAR**  
**MEMBER (TECHNICAL)**

Sd/-

**JUSTICE VIRENDRASINGH BISHT**  
**MEMBER (JUDICIAL)**