

NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, COURT – II  
CHENNAI

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF NATIONAL  
COMPANY LAW TRIBUNAL, CHENNAI BENCH, HELD ON 02-05-2024 AT  
10.30 A.M. THROUGH PHYSICAL HEARING:

PRESENT: SHRI. JYOTI KUMAR TRIPATHI, HON'BLE MEMBER (JUDICIAL)  
SHRI. RAVICHANDRAN RAMASAMY, HON'BLE MEMBER (TECHNICAL)

IN THE MATTER OF : Real Value Promoters Pvt Ltd

PETITION NUMBER : CP(IB)/577/CHE/2020

APPLICATION NUMBER : a) IA(IBC)/2063(CHE)2023  
b) IA/IBC/2129/2023 In IA/IBC/2063/2023  
c) IA/IB/887/2024

① Mr. R. Parthasarathy, Sr. Adv. for Respondent No. 4  
for Amritha Selhyajith, Adv.

② Mr. T-K. Bhaslekar for Applicant  
for A. C. Sathyanarayana  
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## ORDER

**1)(a) IA(IBC)/2063(CHE)2023 in CP(IB)/577/CHE/2020**

**1)(b) IA/IBC/2129/2023 In IA/IBC/2063/2023 in CP(IB)/577/CHE/2020**

Case partly heard.

List the Applications for **physical hearing on 31.05.2024 at the request of the parties, top of the list** for remaining argument.

**1)(c) IA/IB/887/2024 in CP(IB)/577/CHE/2020**

This Application has been filed under Section 12(2) of IBC, 2016 seeking to exclude the CIRP period of 197 days from the CIRP timeline and to declare that the CIRP shall expire on 18.10.2024.

Ld. Counsel for the Applicant submits that CIRP of the Corporate Debtor was initiated on 10.05.2023. 180<sup>th</sup> day of the CIRP was expired on 06.11.2023. After the two extensions granted by this Tribunal the CIRP expiry date is fixed as 04.04.2024.

Ld. Counsel for the Applicant submits that a 66 application IA/2063/2023 is pending wherein 17.26 acres of vacant land ownership is in dispute and which is major valued asset of the Corporate Debtor. Since the PRAs are coming with the conditional plan due to this pending litigation which is posted on 02.05.2024. The RP praying to exclude the time spent in this litigation. He further submits that if the exclusion is granted the Applicant would be able to get better plans by issuing fresh Form-G.

In long and short we understood that after expiry of 330 days the Applicant is praying to exclude the 197 days spent in Sec.66 Application from the CIRP period of the Corporate Debtor to issue fresh Form-G and receive

better Resolution Plans. At this juncture it is relevant to refer to Section 12(3) of IBC, 2016

**Section 12: Time-limit for completion of insolvency resolution process. -**

...

*(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, it 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:*

...”

Reading the above provisions clarifies that the extension of 90 days cannot be granted more than once. Further, the 2<sup>nd</sup> proviso stipulates that the CIRP be completed within a period of 330 days. This Tribunal is well aware of the Judgement of ***Committee of Creditors of Essar Steel India Limited Through Authorised Signatory Vs Satish Kumar Gupta & Ors.((2019) 16 SCR 275)*** wherein the Hon’ble Supreme Court was held that

*“The effect of this declaration is that ordinarily the time taken in relation to the corporate resolution process of the corporate debtor must be completed within the outer limit of 330 days from the insolvency commencement date, including extensions and the time taken in legal proceedings. However, on the facts of a given case, if it can be shown to the Adjudicating Authority and/or Appellate Tribunal under the Code that only a short period is left for completion of the insolvency resolution process beyond 330days, and that it would be in the interest of all*

*stakeholders that the corporate debtor be put back on its feet instead of being sent into liquidation and that the time taken in legal proceedings is largely due to factors owing to which the fault cannot be ascribed to the litigants before the Adjudicating Authority and/or Appellate Tribunal, the delay or a large part thereof being attributable to the tardy process of the Adjudicating Authority and/or the Appellate Tribunal itself, **it may be open in such cases for the Adjudicating Authority and/or Appellate Tribunal to extend time beyond 330 days.** Likewise, even under the newly added proviso to Section 12, if by reason of all the aforesaid factors the grace period of 90 days from the date of commencement of the Amending Act of 2019 is exceeded, there again a discretion can be exercised by the Adjudicating Authority and/or Appellate Tribunal to further extend time keeping the aforesaid parameters in mind. **It is only in such exceptional cases that time can be extended, the general rule being that 330 days is the outer limit within which resolution of the stressed assets of the corporate debtor must take place beyond which the corporate debtor is to be driven into liquidation.**”*

However, on perusing the records we see that 180<sup>th</sup> day of CIRP expired on 06.11.2023. The first extension of 90 days has been granted by this Tribunal on 20.11.2023 in IA/2152/2023. Further, considering the prospect of Resolution Plan this Tribunal again granted extension of 60 days vide order dated 12.02.2024 in IA/391/2024 and the CIRP expiry date is fixed as 04.04.2024.

It is also noticed from the records that Application for approval of the Resolution Plan of the corporate Debtor was filed on 16.04.2024 through IA(IBC)(PLAN)/3(CHE)/2024 which is coming up for hearing on 28.05.2024. In the said application it is noticed that the Resolution Plan was approved by the CoC on **04.03.2024** which is before expiry of the CIRP Period i.e. 04.04.2024.

Since, the application for approval of Resolution Plan is filed within the CIRP timeline there is no necessity to issue fresh Form-G. Moreover, the applicant is seeking to exclude 197 days spent in adjudication of application under Section 66 proceedings. The Division Bench of Hon'ble High Court of Delhi in the case of *Union of India Vs. Venus Recruiter Pvt. Ltd.* clearly held

that proceedings for avoidance of transactions are independent of proceedings for approval of Resolution Plans. It is thus clear that the pending Section 66 application will not come in the way of approval of the Resolution Plan.

In view of the above discussions this tribunal finds no concrete reason to grant exclusion in the CIRP period. **Accordingly, this Application IA(IBC)/887(CHE)/2024 stands dismissed.**

**-Sd-**

**RAVICHANDRAN RAMASAMY**  
**Member (Technical)**

**-Sd-**

**JYOTI KUMAR TRIPATHI**  
**Member (Judicial)**

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