

**NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH  
KOLKATA**

C.P. (IB)/149(KB)2022  
IA(I.B.C)/639(KB)2024

**CORAM: 1. HON'BLE MEMBER(J), SHRI ROHIT KAPOOR  
2. HON'BLE MEMBER(T), SHRI BALRAJ JOSHI**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING ON 23<sup>RD</sup> APRIL 2024**

IN THE MATTER OF	<b>CFM ASSET RECONSTRUCTION PRIVATE LIMITED VS TANTIA SANJAULIPARKINGS PRIVATE LIMITED</b>
UNDER SECTION	<b>IBC UNDER SEC 7</b>

**Appearances (via video conferencing/physically)**

Mr.Ishaan Saha, Adv. ] For the Applicant in IA 639/2024  
Ms.S.Santra,Adv. ]

**O R D E R**

1. Ld.Counsel for the Applicant present.

**2. IA(I.B.C)/226(KB)2024-**

- i. This application has been filed by the RP for seeking enlargement of time in completion of CIRP by 90 days beyond the period of 330 days and also, enlargement of 150 days.
- ii. Ld.Counsel appearing for the RP while moving this application has relied upon the averments contained in page -12 at paras ' a to w'.
- iii. It is averred in these paragraphs that there were six prospective resolution applicants, two of them were constrained to back out owing to the natural calamity in Himachal Pradesh, which impeded the valuation of the assets of the Corporate Debtor and prevented the Prospective Resolution Applicant from taking inspection of the assets of the Corporate Debtor. It is also stated that the valuation could not be completed due to landslides and flash floods.
- iv. The period of 330 days came to an end on 3<sup>rd</sup> February 2024.

- v. It is also contended that it is owing to the intervening natural calamity in the State of Himachal Pradesh, where the assets of the Corporate Debtor were situated.
  - vi. RP has filed this application for enlargement of period for completion of CIRP.
  - vii. The supplementary affidavit has been filed by RP, wherein it is mentioned that the valuation of the assets of the Corporate Debtor could be completed only on 12<sup>th</sup> December, 2023 and structural Audit was completed on 27<sup>th</sup> March, 2024 and this was communicated to the Prospective Resolution Applicant on 27<sup>th</sup> March 2024. It is contended by Ld. Counsel that at present there are four Prospective Resolution Applicants.
  - viii. It is contended by the Ld. Counsel for the RP that two plans have already been received by the CoC and are receiving consideration.
  - ix. An earlier application seeking extension of time was filed on 27<sup>th</sup> September, 2023. However, for some reason that could not be moved and it was disposed on 02/04/2024 being rendered infructuous.
  - x. This fresh IA has been filed along with a supplementary affidavit.
3. While moving this application, Ld. Counsel has placed reliance on Judgment of Hon'ble Supreme Court in *Swiss Ribbons Pvt. Ltd. & Anr. v. Union of India & Ors.*, reported as (2019) SCC Online SC 73, wherein it is observed:
- "...It can thus be seen that the primary focus of the legislation is to ensure revival and continuation of the corporate debtor by protecting the corporate debtor from its own management and from a corporate death by liquidation."*
4. Further, *Committee of Creditors of Essar Steel India Limited Through Authorised Signatory vs Satish Kumar Gupta and Ors.*, reported as (2020) 8SCC 531 ("**Essar Judgment**"):
- "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 330 days, 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."*

5. Ld. Counsel has further placed reliance on Judgment of Hon'ble NCLAT in *West Bengal Financial Corporation vs Bijoy Murmuria and Ors.*, in Company Appeal (AT) (Ins) No. 1012 of 2021, while determining the issue of *whether the time limit of 330 days provided in Section 12 of IBC is mandatory*, the Hon'ble court had placed reliance on the Essar judgment of the Hon'ble Supreme Court and held as follows:

*"22. The Hon'ble Supreme Court in the above case has held that it would be in the interest of all stakeholders that the Corporate Debtor will be back on its foot instead of being sent into liquidation..."*

*24. With the aforesaid now it is settled law that the time limit for completion of Insolvency Resolution Process provided in Section 12 of IBC is not mandatory."*

6. In view of the peculiar circumstances as mentioned hereinabove and in view of the position of law quoted above and with a view to enable the RP to complete CIRP, we enlarge the time of completion of CIRP period upto 15<sup>th</sup> May 2024.
7. RP to ensure the entire process is completed within this period.

8. This IA is accordingly allowed and disposed to the extent of mentioned above.
9. Post the matter on **10/05/2024**.

**Balraj Joshi**  
**Member (Technical)**

**Rohit Kapoor**  
**Member (Judicial)**