

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH – I, CHENNAI**

**IA/515/IB/2020 and IA/517/IB/2020 filed in
CA/1/IB/2017**

(filed under sections 12 & 25 of IBC, 2016 r/w NCLT Rules, 2016)

In the matter of ***M/s. Vasan Health Care Private Limited***

V. Mahesh,

Interim Resolution Professional (IRP),

M/s. Vasan Health Care (P) Limited,

39/19, Aspen Court, 3rd Floor,

6th Main Road,

R.A. Puram, Chennai – 600 028.

... Applicant /IRP

Order pronounced on 6th August, 2020

CORAM :

**R. VARADHARAJAN, MEMBER (JUDICIAL)
ANIL KUMAR B, MEMBER (TECHNICAL)**

For Applicant / IRP : Anant Merathia, Advocate.

ORDER

Per: R. VARADHARAJAN, MEMBER (JUDICIAL)

1. IA/517/IB/2020 is filed by the Applicant seeking for an urgent hearing of IA/515/IB/2020.
2. IA/515/IB/2020 is an Application filed by the Interim Resolution Professional (IRP) of the Corporate Debtor viz., M/s. Vasan Health Care Private Limited under Section 12 & 25 of Insolvency & Bankruptcy Code, 2016 (IBC, 2016) read with NCLT



Rules, 2016 seeking for extension of time under Section 12 (2) of IBC, 2016 by 150 days and also seeking for exclusion of the time period considering the National and State lockdown related to Covid-19 enforced in order to enable the Committee of Creditors (CoC) of the Corporate Debtor to consider and approve a suitable resolution plan for the Corporate Debtor and for its implementation based on the averments contained in the Application.

3. During the course of submissions made by Learned Counsel for the IRP, it is brought to the notice of this Tribunal that the CIRP in relation to the Corporate Debtor was initiated on 24.04.2017 and soon thereafter the IRP has caused a paper publication to be made in the newspaper calling for the claims from the Creditors of the Corporate Debtor.

4. However, the proceedings viz., CIRP of the Corporate Debtor initiated by this Tribunal on 24.04.2017 came to be stayed by the Hon'ble High Court of Madras on 04.05.2017 and the said stay ultimately got vacated on 05.09.2019 by the Division Bench of the Hon'ble High Court of Madras and in the circumstances there has been a lull in relation to the CIRP of the Corporate Debtor for more than two years.

5. Upon vacation of stay on 05.09.2019, it is brought to the notice of this Tribunal that an Application by the IRP seeking for revival of the CIRP was filed and this Tribunal vide order dated 03.10.2019 ordered for revival of the CIRP of the Corporate Debtor



and immediately thereafter publication was again effected by the IRP calling for the claims from the Creditors on 04.10.2019 and consequent to filing of the claims CoC was constituted and thereafter a CoC meeting was held on 21.11.2019 and other CoC meetings aggregating in all five in numbers. In the 5th CoC meeting, it is submitted by Learned Counsel for the IRP, held on 24.03.2020 through electronic mode, voting have also been conducted via e-mail as enclosed in Annexure - 17 along with the Application wherein extension of moratorium period was also voted. The CoC has approved the extension of moratorium period by 91% (percent) votes and 9% failed to exercise their votes according to the IRP. He further represented that the CoC had approved the moratorium seeking for extension up to the limit of 330 days, as provided under section 12 (3) of IBC, 2016 effectively for a further period of 150 days.

6. In the course of submissions, Learned Counsel for the IRP has also pointed out Notifications issued by both the Central Government through the Ministry of Home Affairs as well as by the Government of Tamil Nadu in relation to the lock down extended from time to time and in force as and from 25.03.2020 and in the circumstances there has been an inactivity in relation to the CIRP during that period.



7. However it is also submitted by Learned Counsel for the IRP that the Corporate Debtor is being kept as a going Concern and even though in the month of April 2020 there has been a drastic reduction in the turnover of the Corporate Debtor, however, in relation to May and June 2020, it has almost reached the normal level prior to the imposition of lock down period on the part of both the Central and State Governments. Learned Counsel for the IRP further submits that in an order passed suo moto by the Hon'ble NCLAT in Company Appeal (AT) (Insolvency) No.01 of 2020 and referring to the decision passed in **"Quinn Logistics India Pvt. Ltd. -vs- Mack Soft Tech Pvt. Ltd. in Company Appeal (AT) (Insolvency) No.185 of 2018"** decided on 8th May, 2018 has held as follows:-

"that the period of lockdown ordered by the Central and State Governments including the period as may be extended either in whole or part of the country, where the registered office of the Corporate Debtor may be located, shall be excluded for the purpose of counting of the period for 'Resolution Process under Section 12 of the Insolvency and Bankruptcy Code, 2016, in all cases where 'Corporate Insolvency Resolution Process' has been initiated and pending before any Bench of the National Company Law Tribunal or in Appeal before the Appellate Tribunal".

8. Drawing support from the above decisions of the Hon'ble NCLAT, Learned Counsel for the IRP pressed for exclusion of the



time to be granted as well as to extend the period of CIRP for a further period of 150 days as prayed for in the Application.

9. It is also submitted by Learned Counsel for the IRP that 'Expression of Interest' has been called for by way of publication in Form 'G' by the IRP on 15.07.2020 and that 4 to 5 parties have evinced their interest. In the circumstances, Learned Counsel for the IRP represents that there is every possibility for obtaining a resolution plan in relation to the Corporate Debtor and taking into consideration all the above aspects for the extension, exclusion of time is granted by referring to the provisions of Section 12 (3) of IBC, 2016 which reads as follows:-

"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, 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:

Provided also that where the insolvency resolution process of a corporate debtor is pending and has not been completed within the period referred to in the second proviso, such resolution process shall be completed within a period of ninety days from the date of commencement of the Insolvency and Bankruptcy Code (Amendment) Act, 2019.”

10. It is seen from the above provision that if this Tribunal deems fit in a case where the IRP is not able to complete the CIRP within a period of 180 days, based on an Application to extend the time limit can extend for a further period of 90 days, however, in any case, such extensions not exceeding the period of 330 days overall.

11. In the instant case, as rightly pointed out by Learned Counsel for the IRP in relation to most of the CIRP period which stood revived on and from 03.10.2019 there has been an impasse due to the Covid-19 pandemic prevalent in the country and attendant lock down imposed by the Central Government as well as the respective State Governments on its part. The said Notifications have also been filed along with the Application as annexed in Annexure 9 and 10 (Colly) establishes that the lock down has been virtually continuant from 25.03.2020, which had crippled the normal business activities of the Corporate Debtor to a large extent.



12. It is also clear from the decision of the Hon'ble NCLAT referred by Learned Counsel for the IRP enclosed as Annexure - 16 to the typed set filed along with the Application, the Hon'ble NCLAT has sought to exclude the period in relation to the lock down enforced from the CIRP period.

13. As of today viz., 31.07.2020 another Notification; it is required to be noted, has been passed in relation to the City of Greater Chennai where the registered office of the Corporate Debtor is incidentally located being in the containment zone and the Central Government as well as State Government of Tamil Nadu have chosen to order that the lock down continues to be imposed on the respective containment zones like the City of Greater Chennai. In the circumstances, we deem it appropriate that lock down period should be excluded as sought for in the Application at least as of today. Further taking into consideration Section 12 (3) of IBC, 2016 and also keeping in mind the decision of the Hon'ble Supreme Court of India in the matter of **Swiss Ribbons Pvt. Ltd. & Anr. versus Union of India & Ors. filed in Writ Petition (Civil) No. 99 of 2018**, we extend the period of CIRP under the extraordinary circumstances prevalent in the country for a maximum period of 330 days i.e., by 150 days. No further extension shall be granted and the IRP of the Corporate Debtor is directed to expedite CIRP of the Corporate Debtor along with the CoC to arrive at a speedier resolution of the insolvency



of the Corporate Debtor within the extended period granted by this Tribunal.

14. With the above directions, the Application in IA/515/IB/2020 stands **allowed**.

-SD-

(ANIL KUMAR B)
MEMBER (TECHNICAL)

-SD-

(R.VARADHARAJAN)
MEMBER (JUDICIAL)

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