

**NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH (COURT-I)
CHENNAI**

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH,
NATIONAL COMPANY LAW TRIBUNAL, HELD ON **26.02.2021 at 2.00 P.M**
THROUGH VIDEO CONFERENCING

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

IA/MA/IBA/TCP/TCA/CP/CA No : IA/63/2021 IN IA/56/2021 IN CA/1/IB/2017
NAME OF PETITIONER : V Mahesh (IRP), M/s Vasan Health Care Pvt Ltd
NAME OF RESPONDENT :
SECTION : Rule 11 Of NCLT Rules 2016

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SECTION : 12, 25 & 60(5) of IBC 2016 R/w Rule 11 of NCLT Rules 2016

ORDER

Learned IRP Mr. V. Mahesh is present through video conferencing platform. This is an Application filed by the Interim Resolution Professional of the Corporate Debtor viz., Vasan Health Care Pvt. Ltd. which is under the CIRP process initiated by this Tribunal.

Learned IRP represents that the Application is seeking extension of the CIRP period by exclusion of 150 days from the moratorium period in order that the Committee of Creditors to consider and approve the best possible Resolution Plan for revival of the Corporate Debtor and its implementation.

Further Learned IRP also points out to the tabulation / statement as contained in Page No.2 of the Application as to the dates and events pertinent for the consideration of this Application which is extracted as below:-

Date	Particulars
21.04.2017	Initial commencement of CIRP of Corporate Debtor in CA/1/IB/2017
24.04.2017	Public Announcement of CIRP
04.05.2017	CIRP order stayed by the Hon'ble High Court of Madras
05.09.2019	Vacation of stay dated 04.05.2017 by the Hon'ble High Court of Madras
03.10.2019	Vacation of stay mentioned before the Hon'ble NCLT and revival of CIRP Order obtained.
04.10.2019	Fresh public announcement after revival of CIRP
06.08.2020	Order of NCLT extending the CIRP period for a period of 150 days, excluding the period of lockdown imposed by the Central and State Government of India in IA/515/2020 & IA/517/2020 in IA/515/2020 in CA/1/IB/2017.
28.12.2020	Current estimated date of closure of CIRP factoring in the extension granted vide order dated 06.08.2020.

In the above table it is seen that in the order dated 06.08.2020 based on the Applications filed in IA/515/2020 and IA/517/2020 this Tribunal had granted extension of time by excluding the period of Covid-19 based on the notifications which have been issued

till 31st July 2020 to which notifications were brought to the notice of this Tribunal by the Learned IRP. Considering the said exclusion or extension, as the case may be, the period of CIRP has expired on 28.12.2020 and presently this Application has been filed seeking 150 days for further exclusion. Justification for exclusion of the time, Learned IRP represents that the branches of the Corporate Debtor is situated in all the Southern States of the country viz., Karnataka, Telungana, Andhra Pradesh, Pudhucherry and Tamil Nadu. However, it is brought to the notice of this Tribunal that the interested Resolution Applicants to submit a Resolution Plan, it is required to travel to all the southern States to make assessment of the assets and health facilities which are available with the Corporate Debtor and accordingly submit the bid, which is not possible in view of the lock downs, which have been imposed by the respective State Governments.

It is further brought to the notice of this Tribunal that already interest has been evinced by the competitor of the Corporate Debtor viz., M/s. Dr. Agarwal Health Care Limited and in this connection Learned IRP points out the Additional documents filed by the IRP by filing dated 16.02,2021, more particularly, Pages 13 and 14 of the typed set filed in the additional documents fortifying the justification for extension of time / exclusion of time as sought in the Application. Learned IRP also relies upon the judgment of the *Hon'ble Supreme Court of India in the matter of Committee of Creditors of Essar Steel India Limited through Authorized Signatory Vs Sathish Kumar Gupta & Othrs. filed in Civil Appeal No.8766-67 of 2019 dated 15.11.2019 as well as the Hon'ble NCLAT in the matter of Committee of Creditors of Trading Engineers International Ltd. Vs Trading Engineers International Ltd. through Resolution Professional in Company Appeal (AT) (Insolvency) No.61 of 2021.*



Learned IRP also represents that in view of the lock down imposed by the different State Governments as well as taking into consideration that the CIRP period may be extended so that there is every possibility of achieving a Resolution of the Insolvency of the Corporate Debtor and seeks for the prayer to be granted.

We have considered the averments contained in the Application and the typed set filed along with the Application as well as the oral submissions of the IRP. It is seen from the judgment of the Hon'ble Supreme Court extension / exclusion can be granted by this Tribunal under only extraordinary circumstances beyond the period of 330 days, as mandated under Section 12 of IBC, 2016.

However, the Hon'ble Supreme Court in the said decision has also held the time period which has been stipulated therein is not mandatory and only directory which is evident from the observations of the Supreme Court that in the extraordinary circumstances the same can be extended in a particular case which has been demonstrated by Learned IRP in the instant case in view of Covid-19 lock down and the Corporate Debtor being involved in Health care and travelling to the places viz., the branches which are situated within south India is not possible either for the IRP or for any intended Resolution Applicant in relation to the Corporate Debtor which makes the Insolvency Resolution of the Corporate Debtor remote. The said reasons seems to be justified and taking into consideration the peculiarity of the Corporate Debtor and the area in which the Corporate Debtor operates we are of the view that the time period as sought by the IRP in the Application can be considered and granted and in the circumstances the time period as sought is granted. The CIRP is to expire on 31.05.2021.



Let the insolvency resolution of the Corporate Debtor be achieved on or before the said dated of 31.05.2021 failing which this Tribunal will be constrained to proceed in accordance with the provisions of the Code, more particularly, Section 33 of the IBC, 2016.

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(ANIL KUMAR B)
MEMBER (TECHNICAL)

-SD-

(R.VARADHARAJAN)
MEMBER (JUDICIAL)