

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA
I.A. No. 493/KB/2021
C.P. (IB) No. 184 /KB/2018**

In the matter of:

Application under section 12 (2) of the Insolvency and Bankruptcy Code, 2016.

In the matter of:

Sangita Fiscal Private Limited & Ors

... Financial Creditor

Versus

Duncan Industries Limited

...Corporate Debtor

And

In the matter of:

Mr. Ram Ratan Modi

... Applicant/Resolution Professional

Coram:

Shri Rohit Kapoor, Member (Judicial)

Shri Harish Chander Suri, Member (Technical)

Appearances (via video conferencing):

For the Applicant (RP) : Mr. Joy Saha, Sr. Adv.
Mr. Dipankar Das, Adv.
Ms. Sanjana Nandi, Adv

Date of Hearing: 08 February, 2022

Date of pronouncing the order: 18 February, 2022

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*I.A. No. 493/KB/2021 in C.P. (IB) No. 184 /KB/2018
Sangita Fiscal Private Limited & ors. v. Duncans Industries Limited*

ORDER

Per : Harish Chander Suri, Member (Technical):

1. This Court convened through video conferencing.
2. This is an application filed by the Resolution Professional of Duncan Industries Limited (***‘Corporate Debtor’***), praying the following relief(s):
 - (a) For an order extending the period of the Corporate Insolvency Resolution Process (***‘CIRP’***) of the Corporate Debtor for a further period of sixty days

It is submitted that:

3. The Corporate Debtor was admitted into CIRP *vide* order dated March 05, 2020. Thereafter, pursuant to such order the Applicant made a public announcement in accordance with Section 15 of the Insolvency and Bankruptcy Code, 2016 (***‘Code’***) read with Regulation 6 of the IBBI (Insolvency Resolution Process for Corporate Person) Regulation, 2016, in two widely circulated newspapers, namely, *Financial Express* and *Duranta Barta* on March 11, 2020.
4. Subsequently, on March 23, 2020 the Government had declared a nationwide lockdown on and from March 23, 2020. Thereafter, the Insolvency and Bankruptcy Board of India (***‘IBBI’***) *vide* notification no. IBBI/2020-21/GN/REG509 dated April 20, 2020 amended the CIRP regulation and inserted Regulation 40C for the period of exclusion for Insolvency Resolution Process, which envisages that the period of lockdown imposed in the wake of COVID-19 outbreak shall not be counted for the purposes of the time-line for any activity that could not be completed due to such lockdown, in relation to the CIRP.
5. Thereafter, this Adjudicating Authority while taking suo motu cognizance of the pandemic ordered that the period of lockdown ordered by the Central Government and the State Government 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 the period of Resolution Process.

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6. Accordingly, I.A No. 1025/KB/2020 was filed by the Applicant for exclusion of the time period from March 23, 2020 to August 31, 2020 from the CIRP¹. Further, another application being I.A No. 147/KB/2020 was filed for exclusion of time with the contention that the situation has still not become normal till November, 2020. Even after lockdown many offices and departments were not functioning properly/ full-fledged. Upon hearing the Application this Adjudicating Authority *vide* order dated February 05, 2021 was pleased to exclude the period from September 02, 2020 to November 30, 2020 from the CIRP².
7. Due to exclusion granted by the Adjudicating Authority, the period of 180 days for completion of the CIRP was extended till May 11, 2021.
8. Further, *vide* order dated August 18, 2021, this Adjudicating Authority again excluded the period from May 16, 2021 to July 31, 2021 on the grounds of lockdown.
9. Later, the Adjudicating Authority *vide* order dated November 25, 2021 excluded the period between the date on which orders were reserved in I.A No. 47/KB/2021 till its pronouncement.
10. The Applicant submits that the applicant had received three Resolution Plans and all of them were placed before the Committee of Creditors ('CoC'). The members of the CoC has observed that the Corporate Debtor is very close to a successful resolution and, therefore, the extension of CIRP by a period of 60 days would be sufficient to wrap up the CIRP.
11. Subsequently, the Applicant circulated the minutes of the meeting to all the members on April 29, 2021 and engaged linkstar Infosys Private Limited as an e-voting agency for voting on the resolution for the extension of the CIRP³. As per section 12 of the Code, at least 66% of the vote is required for the approval of the

¹ Annexure – A of the Petition

² Annexure – A-2 of the Petition

³ Annexure – A-4 of the Petition

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extension of the CIRP. The requisite percentage of votes has been cast in favour of the resolution seeking extension of the CIRP..

Orders

12. We've heard Mr. Joy Saha, Ld. Sr. Counsel appearing on behalf of the Applicant and perused the record.
13. It is pertinent to mention that Application was filed on December 01, 2021 for the extension of time for sixty days from November 25, 2011, which would conclude on January 24, 2022.
14. Since, the Application was under consideration before this Adjudicating Authority between December 01, 2021 to January 31, 2022 and the Resolution Plan is also under consideration, we exclude the said period and extend the period of CIRP by 60 days from February 01, 2022. The CIRP period will end on April 02, 2022.
15. ***I.A. No. 493/KB/2021 in C.P. (IB) No. 184 /KB/2018*** is disposed of. List the main ***C.P. (IB) No. 184 /KB/2018 on 28.02.2022.***
16. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.
17. File be consigned to record

Harish Chander Suri
Member (Technical)

Rohit Kapur
Member (Judicial)

This Order is pronounced on 18th day of February, 2022

SA, LRA