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**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH**

SPECIAL BENCH (URGENT HEARING THROUGH VIDEO CONFERENCE)

PRESENT: HON'BLE SHRI RATAKONDA MURALI- MEMBER JUDICIAL

HON'BLE SHRI VEERA BRAHMA RAO AREKAPUDI - MEMBER TECHNICAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 10.09.2020 AT 10.30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA No. 628 & 686/2020 in CP (IB) No. 651/7/HDB/2018
NAME OF THE COMPANY	Sainath Estates Pvt Ltd
NAME OF THE PETITIONER(S)	Bank of India
NAME OF THE RESPONDENT(S)	Sainath Estates Pvt Ltd
UNDER SECTION	7 of IBC

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

ORDER

IA 686/2020 is listed today for orders.

Counsel for Petitioner is connected through video conference.

Orders passed vide separate orders.

IA 628/2020 is also taken up for hearing through video conference.

Counsel for RP requested the Tribunal to order notice to the Respondents. Issue notice to the Respondents. RP to serve notice on the respondents and file proof of service.

List it on 01.10.2020.


MEMBER (T)


MEMBER(J)

Syamala

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

IA No. 686/2020
IN

CP (IB) 651/7/HDB/2018
U/S. 12(2) of the I&B Code, 2016
R/w Regulation 40 of the IBBI, Regulations, 2016
Read with Rule 11 of NCLT Rules, 2016

IN THE MATTER OF

Dr. K.V.Srinivas
Resolution Professional,
Sainath Estates Private Limited
1-8-3-4 to 307, 4th Floor,
"Kamala Towers"
Patigadda Road, Begumpet-500 003.

...Applicant/RP

IN THE MATTER OF

Bank of India

...Financial Creditor

Versus

M/s. Sainath Estates Private Limited.

...Respondents

Order pronounced on 10.09.2020

Coram:

Hon'ble Shri Ratakonda Murali, Member (Judicial)

Hon'ble Shri Veera Brahma Rao Arekapudi, Member(Technical)

Counsels / parties present:

For the Applicant:

Resolution Professional: Dr.K.V.Srinivas.

Per: Hon'ble Shri Ratakonda Murali, Member (Judicial)

Heard on 04.06.2020




ORDER

1. This Interlocutory application bearing IA.No. 686/2020 is filed by Resolution Professional under section 12 of the Insolvency and Bankruptcy Code, 2016 Read with Regulation 40 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016 read with Rule 11 of NCLT Rules, 2016 seeking exclusion of lockdown period from 25.03.2020 till 31.07.2020(128 days) declared by Central and State Governments from the maximum CIRP period of 330 days.
2. The averments in the interlocutory application in brief that CIRP started against corporate debtor on 08.07.2019 and appointed Dr.K.V.Srinivas as IRP and continued as Resolution Professional after due approval of COC and Hon'ble Adjudicating Authority.
3. It is averred that based on the directions of the COC in the meeting held on November, 28 2019 RP has invited Expression of Interest from the prospective Resolution Applicants for submission of Resolution plan and the last date for submission of EOI is 5th December, 2019. In response to Form G published, 3 EOI's were received out of which two were satisfying the eligibility criteria.
4. It is averred that the Members of COC in its meeting held on 24th December, 2019 resolved to issue revised Form G and also to seek extension of CIRP by 90 days beyond 180 days, which was granted by the Tribunal on 21.02.2020.
5. It is averred that after issuance of another Form G two EOI's were received and total five EOI's were received. Among the five EOI'S three were qualified in the final list and out of which one had withdrawn later there by two applicants remained in the fray.
6. Thereafter, RP had obtained confidential undertakings envisaged under Regulation 36A(7) of IBBI (Insolvency



Process for Corporate Persons) Regulations, 2016 and the last date for submission of the Resolution plan by the Prospective Resolution Applicants was 29th March, 2020.

7. It is averred that the prospective resolution applicants requested time to submit the plan due to the prevailing Covid-19 and the COC in its meeting dated 26th March, 2020 decided to extend the last date for submission of resolution plans to 28th April, 2020.
8. It is averred that the prospective resolution applicants again requested time in submitting the Resolution plan and the COC in its meeting held on 15th June, 2020 decided to extend time till 10th July, 2020. Resolution professional had informed the COC in the meeting held on 10th July, 2020 that no resolution plans were received and also placed another request by the Resolution applicants for grant of additional time to submit resolution plan. Considering the difficulties faced by the Resolution Applicants in submitting the plan time extended till 24th July, 2020.
9. It is averred that the maximum period of 330 days for the completion of CIRP is coming to an end on 8th October, 2020 and therefore the Resolution Professional had placed before the COC the provisions with regard to the CIRP timelines as specified under Section 12 (2) of I&B Code, Read with Regulation 40 (c) of IBBI Regulations, 2016 and requested the COC to take a decision with regard to the need to seek appropriate directions from the Tribunal for exclusion of time lost due to COVID-19 pandemic situation and in view of the notification of IBBI in this regard.

Regulation 40 C which is as follows:

“40 C Special provision relating to time-line:

Notwithstanding the time-lines contained in these regulations, but subject to the provisions in the Code, the period of lockdown imposed by the Central Government 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 a Corporate Insolvency Resolution Process”.

10. Thus in view of the facts and circumstances the RP filed the present application seeking exclusion of time from 25.03.2020 till 31.07.2020(128 days) from the maximum CIRP period of 330 days.
11. We have heard the counsel for RP and also the RP. This application is filed for exclusion of lockdown period from 25.03.2020 till 31.07.2020 (128 days).
12. Applicant stated that CIRP could not be completed because of the reason that the prospective resolution applicants are seeking extension of time citing difficulties faced by them due to Covid-19 pandemic situation.
13. The applicant earlier filed an application for extension of CIRP by 90 days beyond 180 days. This Tribunal has extended CIRP by 90 days with effect from 26.02.2020.
14. The CIRP in the normal course should have been completed by 25.05.2020. However lockdown started from 25.03.2020. According to the applicant the lockdown was till 31.07.2020 in the containment zones. Counsel for RP requested the Tribunal to exclude lockdown period from the CIRP.
15. Actually days lost due to lockdown was 62 days i.e from 25.03.2020 to 25.05.2020. These 62 days lost in the lockdown period is to be added from 01.08.2020. Thus CIRP of 270 days to be completed by 01.10.2020.
16. Accordingly IA No.686 of 2020 is disposed of.


VEERA BRAHMA RAO AREKAPUDI
MEMBER (TECHNICAL)


RATAKONDA MURALI
MEMBER (JUDICIAL)

Pavani