

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH**

SINGLE BENCH (URGENT HEARINGS THROUGH VEDIO CONFERENCE)

PRESENT: HON'BLE SHRI RATAKONDA MURALI- MEMBER JUDICIAL
ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 30.07.2020 AT 10.30 AM

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TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA No. 523/2020 in CP (IB) No. 679/7/HDB/2018
NAME OF THE COMPANY	Neueon Towers Ltd
NAME OF THE PETITIONER(S)	IDBI Bank Ltd
NAME OF THE RESPONDENT(S)	Neueon Towers 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 523/2020 is listed today for pronouncement of orders. Orders passed separately.


Member (Judicial)

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

IA No.523/2020 in
CP(IB) No.679/7/HDB/2018
Under Section 12(2) r/w Section 60(5) of I&B Code, 2016
Regulation 40(C) of IBBI (IRP for Corporate Persons)
Regulations, 2016

In the matter of:
IDBI Bank Limited vs. M/s. Neueon Towers Limited

Dr. Madurai Sundaram Sankar
Resolution Professional of M/s. Neueon Towers Limited
Office at: 1206 S & S Sarvam, 200 Feet Pallavaram
Thuraipakkam Radial Road, Pallikarani
Chennai - 600 100

.... Applicant / Resolution Professional

Date of Order: 30.07.2020

Coram:

Hon'ble Shri Ratakonda Murali, Member (Judicial)

Parties / Counsels Present:

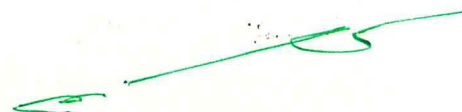
For the Applicant : Mr. B. Harinath Rao
Ms. N. Sridevi, Advocates

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

Heard on: 21.07.2020 & 29.07.2020

ORDER

1. This instant Interlocutory Application is filed by Dr. Madurai Sundaram Sankar / Resolution Professional of M/s. Neueon Towers Limited under Section 12(2) r/w Section 60(5) of Insolvency and Bankruptcy Code, 2016 and Regulation 40(C) of IBBI (Insolvency Resolution Process for Corporate Persons)

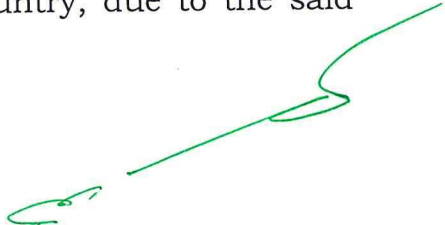


Regulations, 2016 praying the Tribunal to exclude the period of lockdown due to Covid-19 imposed by the Central Government and the State Government of Telangana from the Corporate Insolvency Resolution Process period (the period from 22.03.2020 to 31.07.2020) since the CIRP period had come to an end during the lock down period on 28.04.2020 and extend for a further period to complete the CIRP upto 06.09.2020 according to Regulation 40C since the COC in its meeting held on 22.06.2020 resolved to exclude the lockdown period to facilitate the Prospective Resolution Applicants to submit the Resolution Plans. Since the Applicants are from Singapore and Hongkong and they are affected with Covid-19 in their country due to which the Resolution Professional could not complete the task and file report before the Hon'ble Tribunal in this matter.

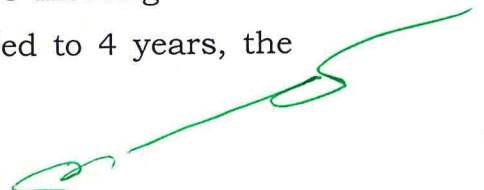
2. The brief averments made in the Interlocutory Application filed by the Resolution Professional are as follows:

The Petition for initiation of Corporate Insolvency Resolution Process (CIRP) filed by IDBI Bank Limited / Financial Creditor under Section 7 of Insolvency and Bankruptcy Code, 2016 (IBC) r/w Rule 4 of Insolvency and Bankruptcy (Application to the Adjudicating Authority) Rules, 2016 against M/s. Neuron Towers Limited / Corporate Debtor was admitted by this Tribunal on 03.06.2019. Dr.Madurai Sundaram Sankar/Applicant herein was appointed as Interim Resolution Professional and later he was confirmed as Resolution Professional in the 1st COC Meeting held on 01.07.2019 in terms of Section 22 of the Code.

3. On assuming charge as Interim Resolution Professional on 03.06.2019, the Applicant took various steps/actions as enumerated at para 3, page 7 of the Application.

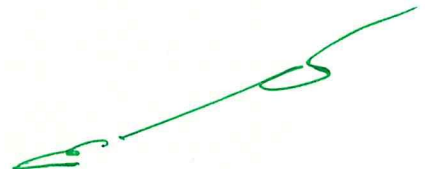
4. It is averred in the 6th COC Meeting held on 15.10.2019, the prospective Resolution Applicants sought for extension of time for submission of their respective Resolution Plans. The COC Members have agreed the requests of the Prospective Resolution Applicants and extended the period for 60 more days i.e. from 20.10.2019 to 20.12.2019 to submit their resolution plans and advised the Applicant herein to approach the Hon'ble Tribunal to seek permission for extension of CIRP by another 90 days.
 5. It is averred as per the Minutes of 6th COC Meeting, the Applicant herein had filed an application bearing IA No.1047 of 2019 on 15.11.2019 before the Tribunal seeking extension of CIRP period for a further period of 90 days beyond 180 days, which is going to expire on 30.11.2019. The said IA was allowed by the Hon'ble Tribunal and issued orders on 22.11.2019 extending the CIRP period by another 90 days i.e. upto 28.02.2020.
 6. It is averred in the 10th COC Meeting held on 23.01.2020, the Resolution Applicants made a presentation to the COC members and the COC felt that the amount of bid can be improved and requested the Resolution Applicants to improve their bid amounts. It is also averred in the 11th COC meeting held on 12.02.2020, the COC members resolved to extend the period of CIRP by another 60 days with the approval of the Adjudicating Authority as the Resolution Applicants made a request to extend the time for improving the bid amount in view of spread of Covid-19 in Hongkong etc. and also in view of existing unsuitable climate conditions prevailing in their country, due to the said virus.
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7. It is averred in view of the request made by the foreign investors, the COC at its meeting held on 12.02.2020 resolved to extend the CIRP period by another 60 days since the CIRP period of 270 days is going to expire on 28.02.2020 with a voting of 93.98% and the E-voting was completed on 17.02.2020, so as to enable the Resolution Applicants to improve their bid amounts and submit their revised plans.
8. It is averred the Applicant herein had filed an Application bearing IA No.206 of 2020 on 24.02.2020 before the Tribunal for seeking extension of CIRP for a further period of 60 days beyond 270 days, which is going to expire on 28.02.2020. The Hon'ble Tribunal allowed the application bearing IA No.206 of 2020 and extended the CIRP period by another 60 days w.e.f. 29.02.2020 to complete the CIRP within a period of 330 days from the date of Insolvency Commencement date.
9. It is averred in the 12th COC meeting held on 24.02.2020, the COC invited the Indian advisor of the Resolution Applicant to make a presentation and requested them to improve the bid amount and reduce the plan period. The Resolution Applicants informed the COC that they will consult their internal committees and inform.
10. It is averred in the 14th COC meeting held on 27.04.2020, the COC considered the alternate option of Security Receipts of Invent ARC in the place of NCD of Longview Resources (HK) Limited. The Personal Guarantees will not be released and the prorated release of securities was arrived at and the Resolution Professional was requested to convey the same to the Resolution Applicants. It is also averred in the 15th COC meeting held on 04.05.2020, the Resolution Plan was extended to 4 years, the




COC wanted to have an interest element for the staggered payments. The release of security was also discussed and opined that the Resolution Applicant to reassign the securities to FCs till such time the full amount is paid and conveyed the same to the Resolution Applicant.


11. It is averred in the 18th COC meeting held on 22.06.2020, the COC referred to the Regulation 40C of IBBI (IRP for Corporate Persons) Regulations, 2016 which excludes the period of lock down and hence the lockdown announced is to be excluded due to the fact Chennai and Mumbai are in lockdown and in Red Zone where the Resolution Professional and the majority of the Financial Creditors are located. It is also averred there are difficulties in obtaining permissions by the Financial Creditors from various committees for the approval of the Resolution Plan in the lock down situation moreover the signed Resolution Plan not received from the Resolution Applicants located in Hong Kong which is also affected by the Corona virus. The co-applicant Invent ARC is located at Mumbai which is also in Red Zone. It is averred unless and until the CIRP period is extended for further period upto 06.09.2020 taking the lockdown announced by the State of Telangana on 22.03.2020 and the MHA lockdown upto 31.07.2020. The balance 37 days from the original 330 days are with effect from 31.07.2020 to 06.09.2020. It is also averred no prejudice would be caused to any of the parties in the above said matter.



12. We have heard the Counsel for Resolution Professional. This application is filed to exclude the period of lockdown due to Covid-19 from CIRP period (the period from 22.03.2020 to 31.07.2020) and extend for a further period to complete the CIRP by 06.09.2020 according to Regulation 40C of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
13. Learned Counsel for Resolution Professional would contend that this Tribunal was pleased to extend the CIRP by another 90 days beyond 180 days which was expired on 28.02.2020.
14. Learned Counsel for Resolution Professional further contended in IA 206/2020 this Tribunal directed CIRP to be completed within 330 days from the commencement date of CIRP.
15. Learned Counsel for Resolution Professional would contend the extended period of 330 days for completion of the CIRP come to an end on 28.04.2020.
16. Learned Counsel for Resolution Professional would contend that there is lockdown from 22.03.2020 to 31.07.2020. The period lost during lockdown is 37 days for completion of CIRP within the period of 330 days. Therefore, CIRP to be completed by 06.09.2020 commencing from 01.08.2020 to 06.09.2020.
17. It is true lockdown commenced from 22.03.2020. It is the case of Resolution Professional that Resolution Applicants are from Singapore and Hongkong, those countries are affected with Covid-19 and hence the process of evolving the resolution process could not be completed.



18. Learned counsel for Resolution Professional relied on Regulation 40C of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and contended that lockdown period to be excluded from CIRP. The COC also approved the same. Therefore, there are grounds to allow the application for excluding the lockdown period from CIRP and as such CIRP to be completed by 06.09.2020.
19. In the result, application is allowed directing completion of CIRP by 06.09.2020.


30.7.2020
RATAKONDA MURALI
MEMBER (JUDICIAL)

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