

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
SPECIAL BENCH

ITEM No. 08
(IB)-190(PB)/2017

IN THE MATTER OF:

Union Bank of India
Vs

...

Applicant/Petitioner

Era Infra Engineering Limited

...

Respondent

Order under Section 7 of Insolvency & Bankruptcy Code, 2016 CIRP.

Order delivered on 04.02.2022

CORAM:

DR. DEEPTI MUKESH
HON'BLE MEMBER (JUDICIAL)

SH. VIRENDRA KUMAR GUPTA
HON'BLE MEMBER (TECHNICAL)

PRESENT:

- For the Applicant : Ms. Hita Sharma & Ms. Richa Sandilya, Adv. for State Bank of India and Indian Overseas Bank.
Ms. Aditi Mittal, Mr. Aditya Narayan Mahajan, Mr. Siddhant Tripathi and Mr. Jatin Kumar Advocates Axis Bank in IA 592/2022 and IA 2497/2019.
Mr. Keshav Tiwari ,advocate for the Applicant in IA No. 1441/2021.
- For the Respondent : Mr. Abhishek Anand, Adv Pathik Choudhury, Adv & Tanveer Oberoi, Adv for Respondent No. 30 in I.A. No. 592 of 2022
Mr. Abhishek Anand, Adv for ICICI Bank
Mr. Apoorv Agarwal, Advocate Respondent No. 2-7
Mr. Palash Singhai for Respondent No.13(c) in IA No.2497 of 2019 (IIFCL)
- For the CoC : Mr. Abhirup Dasgupta, Ishaan Duggal and Bhawana Sharma for the CoC of Gwalior Bypass Projects Ltd.
- For the RP : Mr. Krishnedu Datta, Sr. Adv, Mr. Mohit Kishore, Adv.

ORDER

IA-592/2022

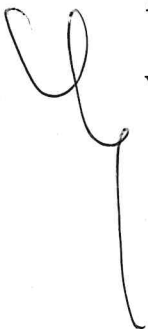
This is an application filed by the RP, Ld. Senior Counsel Mr. K. Dutta states that the CIRP has expired on 14.11.2019 but vide order of this Bench, allowed RP to continue functioning and the

same order was extended further vide order dated 02.12.2019. In view of the same RP has continued functioning and taking steps endeavouring to find resolution of the Corporate Debtor.

Ld. Senior Counsel Mr. K. Dutta states that it is an admitted fact there is no formal order of the bench extending CIRP period from expiry of 330 days further, till date. But in view of the RP being allowed to proceed with CIRP, the CoC and RP were under impression that the CIRP period will not be deemed to be expired till the application seeking liquidation by RP is allowed.

Since, there was no formal order extending CIRP, the RP found it appropriate to hold the meeting of the creditors in the form of Joint Lenders meeting and did not nomenclature it as CoC meeting. The Joint Lenders meetings were convened from time to time but in the year 2020-21, due to the Pandemic Lockdown and restricted movements, the proceedings before the Court also could not be decided and the action of the Joint Lenders also could not be expedited.

Today, the application is filed seeking withdrawal of IA-2497/2019, this application was filed by RP seeking consolidated resolution of the Corporate Debtor along with its subsidiaries, which could not be moved ahead and recently the Joint Lenders in



their meetings dated 18.01.2022 by substantial majority decided that IA-2497/2019 needs to be withdrawn. The copy of the minutes of the said meeting is annexed where the intention of the Joint Lenders to withdraw the application is expressly mentioned. Considering the intention of the Joint Lenders, we hereby allow prayer "(a)" and **IA-2497/2019 stands withdrawn and disposed of.**

With respect to prayer "(b)" seeking exclusion of time from 24.10.2019 till passing the order in the present application. After hearing the argument of the Ld. Senior Counsel for the RP and submissions made by the Ld. Counsel for CoC, we are of the view that instead of exclusion of time period spent from 24.11.2019 till date, the same can be considered as the time deemed to have been extended of CIRP period, since the RP is still continuing to discharge functions as RP since then. The lender are also active and taking decisions, though who have not termed themselves as CoC members as the meetings have been conducted in capacity of Joint Lenders which is similar and parallel to CoC.

In view of the same, we extend the CIRP period from 15.11.2019 till date and consider this period as the continuity of



the extended period of CIRP for ease of RP and Lenders to take appropriate decisions.

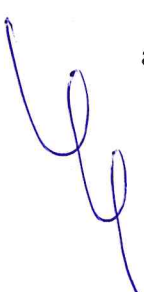
Prayer "(b)" is granted in the above terms.

IA-2577/2021 stands allowed and disposed of.

With respect to prayer "(c)" seeking further extension of 120 days from today, Ld. Senior Counsel Mr. K. Dutta states that one Resolution Plan is already pending before CoC and RP had already received three more Expressions of Interest during this past period. Thus, pending resolution plan and possibility of new resolution plans may be received for consideration of lenders / CoC, this prayer can be considered.

In view of the same, in order to meet the intention of the Code for Resolution of the corporate Debtor and in the interests of justice, 120 days are granted to endeavour for resolution of the Corporate Debtor. This view is further supported by the decision of the Hon'ble Supreme Court in the case of Essar Steels wherein the Hon'ble Supreme Court held that in the exceptional cases CIRP period could be extended to put the corporate debtor back on its feet.

IA-592/2022 stands allowed and disposed of in terms of above.



In view of the above order, **IA 2577/2019 and IA-2457/2021**, which were earlier filed by the RP for furthering the same objects, also **stand disposed of**.

On perusal, it is seen that IA-2577/2019 and IA-2457/2021 are listed on 07.03.2022, the dates of these application stand cancelled.

-sd-

VIRENDRA KUMAR GUPTA
MEMBER (TECHNICAL)

-sd-

DR. DEEPTI MUKESH
MEMBER (JUDICIAL)

Dipak - 04.02.2022