

SAPAN MOHAN GARG

INSOLVENCY PROFESSIONAL

IBBI/IPA-002/IP-N00315/2017-18/10903

sapan10@yahoo.com

Phn: 0120-4109188

To,

30th November 2023

BSE Limited

Phiroze Jeejeebhoy Towers
Dalal Street, Fort, Mumbai 400 001

Scrip code 533221

National Stock Exchange of India Limited Exchange,

Plaza, 5th Floor, Plot No. C/1, G Block, Bandra Kurla
Complex, Bandra (East), Mumbai 400 051

Scrip Code AHLWEST

Sub: Intimation under Regulation 30 of the SEBI (LODR) Regulations 2015 | Receipt of Exclusion of 60 days from Corporate Insolvency Resolution Process, pursuant to Section 12 read with Section 60(5) of the Insolvency & Bankruptcy Code 2016

Dear Sir/Ma'am,

Pursuant to Regulation 30 of SEBI (Listing Obligation and Disclosure Requirements) Regulations, 2015 ("LODR"), we hereby inform you that in accordance with the approval of the Committee of Creditors ("CoC") in its 17th meeting convened on October 23, 2023, an application (IA/5966/2023) under Section 12 read with Section 60(5) of the Insolvency & Bankruptcy Code 2016 ("Code") was filed by the Resolution Professional, before the Hon'ble National Company Law Tribunal ("NCLT"), Delhi Bench IV, seeking the exclusion of time period commencing from the date of the last order passed by Hon'ble Adjudicating Authority (being 22 September 2023) till 24 November 2023 (i.e., the next date of hearing before the Hon'ble National Company Law Appellate Tribunal ("NCLAT")).

Accordingly, the Hon'ble NCLT vide its order dated 24th November 2023 has excluded the period of 60 days from Corporate Insolvency Resolution Process ("CIRP") of the corporate debtor and thus, the CIRP of the corporate debtor will be expiring on 1st January 2024 (from 2nd November 2023), pursuant to Section 12 read with Section 60(5) of the Code.

Please note that the copy of the order has been made available on NCLT website on 29th November 2023 and attached for your reference.

Kindly take the same on records.

Thanking you,

Sapan Mohan Garg
Resolution Professional
In the matter of Asian Hotels (West) Limited
Regn. No.: IBBI/IPA/-002/IP-N00315/2017-18/10903
Registered Address and email id with IBBI
D-54, 1st Floor, Defence Colony, New Delhi - 110024
Email Id: sapan10@yahoo.com ;
AFA valid up to 02.01.2024
Process specific address for correspondence:
C- 621, 6th Floor, Tower C, IThum,
Plot No. A-40, Sector 62, Noida, UP - 201301
Email id: cirp.asianhotelswest@gmail.com

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH

COURT-IV

I.A.(IBC)/5966/2023
IN
C.P.(IB)No.571/PB/2021

IN THE MATTER OF:

Mr. Sapan Mohan Garg
Resolution Professional of M/s. Asian Hotels (West) Limited

... Applicant

IN THE MATTER OF:

M/s. JM Financial Asset Reconstruction Company Limited
...Financial Creditor

Versus

M/s. Asian Hotels (West) Limited
...Corporate Debtor

CORAM:

SH. MANNI SANKARIAH SHANMUGA SUNDARAM,
HON'BLE MEMBER (JUDICIAL)

DR. SANJEEV RANJAN,
HON'BLE MEMBER (TECHNICAL)

PRESENT

For RP: Mr. Savar Mahajan & Ms. Pooja Mahajan, Advs

Order Delivered on: 24.11.2023

ORDER

PER: DR. SANJEEV RANJAN, MEMBER (TECHNICAL)

The present interlocutory application is filed on behalf of Mr. Sapan Mohan Garg ('applicant'), Resolution Professional of M/s. Asian Hotels (West) Limited under Section 12(2) read with Section 60(5) of the Insolvency and Bankruptcy Code, 2016 ('Code') read with Rule 11 of the National Company Law Tribunal Rules, 2016 ('NCLT Rules') seeking the following prayer(s):-

- a) Allow the present application and grant exclusion of time period of 60 days from the date of the last order passed by this Hon'ble Adjudicating Authority i.e., 22 September, 2023 till 24th November, 2023 (i.e., the next date of hearing before the Hon'ble National Company Law Appellate Tribunal) and;
- b) Pass any such other or further order(s) as this Hon'ble Adjudicating Authority may deem fit and proper in the facts and circumstances of the present case.

2. Briefly stated the facts of the present case as averred by the applicant are that Corporate Insolvency Resolution Process was initiated against M/s. Asian Hotels (West) Limited ('Corporate Debtor') vide this Hon'ble Adjudicating Authority order dated 16.09.2022 in C.P.(IB) No. 571/2021, an application filed under Section 7 of the Code, 2016. Pursuant to the initiation of CIRP against the Corporate Debtor, one suspended director of the Corporate Debtor namely Mr. Sandeep Gupta being aggrieved of order dated 16.09.2022 in C.P.(IB)/571/2021 had filed an appeal before the Hon'ble NCLAT bearing Company Appeal (AT)(Ins.)No./1192-1193/2022. Furthermore, Mr. Sudhir Gupta, another suspended Director of the Corporate

Debtor and M/s. Asian Hotels (East) Limited had also filed appeal bearing Company Appeal (AT)(Ins.)No./13338-1339/2022 and Company Appeal (AT)(Ins.)No./1341/2022 before the Hon'ble NCLAT respectively challenging this Adjudicating Authority's order dated 16.09.2022 in C.P.(IB)/591/PB/2021. The applicant submitted that the Hon'ble NCLAT after hearing the appeals vide order dated 29.09.2022, had directed the Committee of Creditors of the Corporate Debtor not to take any final decision regarding the resolution.

3. The CoC in the 12th CoC meeting held on 4 August 2023, was informed about the receipt of the resolution plans and the emails received from the PRAs seeking clarification from Hon'ble NCLAT regarding submission of the resolution plans for the Corporate Debtor. The CoC after discussion was of the view that considering the existing numerous ongoing litigations against the Corporate Debtor and in order to minimize the risk of further litigations from the PRAs, the Applicant should seek clarification from the Hon'ble NCLAT regarding opening of the resolution plans and further course to be followed in respect of the resolution plans. Accordingly, an interlocutory application bearing I.A./776-3777/ 2023 is filed before the Hon'ble NCLAT seeking clarification on *"whether the Resolution Professional and the CoC can proceed to open the resolution plans, conduct negotiations with the Resolution Applicants and evaluate the resolution plans in light of the Order of the Hon'ble NCLAT directing the CoC not to take any final decision on resolution"?*
4. Further, the applicant submitted that the Applicant had also received a settlement proposal under Section 12A of the Code ("12A Proposal") from Mr. Sandeep Gupta, Director (powers suspended) of the Corporate Debtor, Mr. Sudhir Gupta, Director (powers suspended) of the Corporate Debtor, his wife (Promoter holding approx. 25% of equity shares) and Robust Hotels Limited

("Proposers"). The Proposers had also filed applications ("12A Applications") before the Hon'ble NCLAT seeking certain reliefs including passing an interim order restraining CoC and the Resolution Professional to take any other steps or actions in the CIRP till such time as the CoC considered and decide the 12A proposal filed by the Applicants and to direct the CoC to accept the 12A Proposal.

5. Moreover, the applicant submitted that the Corporate Insolvency Resolution Process period of the Corporate Debtor after considering the exclusions and the extensions granted by the Hon'ble Adjudicating Authority is slated to expire on 02.11.2023. The Applicant in the 17th CoC Meeting had informed the CoC that while the resolution plans have been received, the Applicant and CoC will not be able to conclude the resolution process of the Corporate Debtor on account of the Hon'ble NCLAT Order, pendency of the Clarification Application and the 12A Applications. The Applicant requested the CoC to consider and approve filing of another exclusion application by the Applicant, seeking exclusion of time period of 60 days from the date of the last order passed by this Hon'ble Adjudicating Authority i.e., 22 September 2023 till 24 November 2023 (i.e. the next date of hearing before the Hon'ble National Company Law Appellate Tribunal). The CoC members deliberated on the above and approved the agenda, during the CoC meeting itself, for filing of an application by the Applicant seeking exclusion of time period of 60 days time from the date of the last order passed by this Hon'ble Adjudicating Authority i.e., 22 September 2023 till 24 November 2023 (i.e. the next date of hearing before the Hon'ble National Company Law Appellate Tribunal). Accordingly, the present application.

6. We have heard the submissions made by the applicant and perused the averments made in the application.
7. Coming to the factual matrix of the present case, the CIRP against the Corporate Debtor was initiated on 16.09.2022 by this Adjudicating Authority, which was challenged by the Suspended Board of Directors before the Hon'ble NCLAT. The Hon'ble NCLAT vide order dated 29.09.2022, had directed the Committee of Creditors of the Corporate Debtor not to take any final decision regarding the resolution. Furthermore, the applicant had filed an interlocutory application bearing I.A./776-3777/ 2023 before the Hon'ble NCLAT seeking clarification with regard to the Hon'ble NCLAT's order dated 29.09.2023. Also, the suspended director's of the Corporate Debtor had also preferred an interlocutory application with a proposal of settlement with the creditors. The Hon'ble NCLAT had posted the Company Appeal (AT) (Insolvency) No. 1192 & 1193 of 2022 along with the connected interlocutory applications on 24.11.2023 with a direction of interim order to continue.
8. From the documents on record, it is evident that, the CIRP of the Corporate Debtor is at nascent stage and the Applicant ('Resolution Professional') has to take forward the CIRP of the Corporate Debtor, duly complied with the procedure as prescribed under the Code for the purpose of Resolution of the Corporate Debtor. The CoC in its 17th CoC Meeting held on 23.10.2023 after discussion and deliberations with 100% voting in favor had approved the filing of an application by the RP seeking exclusion 60 days from the date of the last order passed by the Hon'ble NCLT i.e., 22 September 2023 till 24 November 2023 (i.e. the next date of hearing before the Hon'ble National Company Law Appellate Tribunal) to complete the CIRP of the Corporate Debtor. The relevant extract of the Resolution is extracted below:-

Resolution:

To consider and if thought fit, to pass with or without modification the following resolution:

“RESOLVED THAT the consent of committee of creditors, be and is hereby accorded for filing of an application by the Resolution Professional, seeking exclusion of 60 days from the date of the last order passed by the Hon’ble NCLT i.e., 22 September 2023 till 24 November 2023 (i.e. the next date of hearing before the Hon’ble National Company Law Appellate Tribunal).

RESOLVED FURTHER THAT the expenses so incurred by the Resolution Professional in connection to the afore-stated application and such other ancillary expenses connected thereto which shall form part of the insolvency resolution process cost be and is hereby approved”.

The representative of UV Asset Reconstruction Company Limited, having, voting share of 98.84% voted in favour of the agenda item B1. The representative of PTC having, voting share of 1.16% voted in favour of the agenda item B1. Therefore, the agenda item B1 has been approved with 100% voting share.

Hence the resolution/agenda item B1 is taken as APPROVED by the CoC.

(Extract of the Item B1 approved by the CoC in the 17th CoC Meeting)

9. The Hon’ble Supreme Court in **“Essar Steel India Ltd. through Authorised Signatory v. Satish Kumar Gupta & Ors. (Civil Appeal No. 8766-67/2019) dated 15.11.2019”** had observed as under:

“The effect of this declaration is that ordinarily the time taken in relation to the Corporate Resolution Process of the Corporate Debtor must be completed within the outer limit of 330 days from the Insolvency commencement date, including extensions and the time taken in legal proceedings. However, on the facts of a given case, if it can be shown to the Adjudicating Authority and/or Appellate Tribunal under the Code that only a short period is left for completion of the Insolvency Resolution Process beyond 330 days, and that it would be in the interest of all stakeholders that the Corporate Debtor be put back on its feet instead of being sent into liquidation and that the time taken in legal proceedings is largely due to factors owing to which the fault cannot be ascribed to the litigants before the Adjudicating Authority and /or Appellate Tribunal the delay or a large part thereof being attributable to the tardy process of the Adjudicating Authority and/or the Appellate Tribunal itself, it may be open in such cases for the Adjudicating Authority and/or Appellate tribunal to extend time beyond 330 days.”

10. The Hon'ble NCLAT in **Quinn Logistics India Pvt. Ltd v. Mack Soft Tech Pvt. Ltd and ors., dated 08.05.2018 [CA(AT) (Insolvency) No. 185 of 2018]** had held as follows:-

“9. From the decisions aforesaid, it is clear that if an application is filed by the ‘Resolution Professional’ or the ‘Committee of Creditors’ or ‘any aggrieved person’ for justified reasons, it is always open to the Adjudicating Authority/Appellate Tribunal to ‘exclude certain period’ for the purpose of counting the total period of 270 days, if the facts and circumstances justify exclusion, in unforeseen circumstances

10. For example, for following good grounds and unforeseen circumstances, the intervening period can be excluded for counting of the total period of 270 days of resolution process:-

i. If the corporate insolvency resolution process is stayed by ‘a court of law or the Adjudicating Authority or the Appellate Tribunal or the Hon'ble Supreme Court.

ii. If no ‘Resolution Professional’ is functioning for one or other reason during the corporate insolvency resolution process, such as removal.

iii. The period between the date of order of admission/moratorium is passed and the actual date on which the ‘Resolution Professional’ takes charge for completing the corporate insolvency resolution process.

iv. On hearing a case, if order is reserved by the Adjudicating Authority or the Appellate Tribunal or the Hon'ble Supreme Court and finally pass order enabling the ‘Resolution Professional’ to complete the corporate insolvency resolution process.

v. If the corporate insolvency resolution process is set aside by the Appellate Tribunal or order of the Appellate Tribunal is reversed by the Hon'ble Supreme Court and corporate insolvency resolution process is restored.

vi. Any other circumstances which justifies exclusion of certain period. However, after exclusion of the period, if further period is allowed the total number of days cannot exceed 270 days which is the maximum time limit prescribed under the Code.”

11. After going through the record and giving consideration to the submissions made and the judgments referred above, this Adjudicating Authority is inclined to grant the exclusion in Corporate Debtor's CIRP time period of 60 days from 22 September, 2023 till 24th November, 2023

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I.A.(IBC)/5966/2023

IN

C.P.(IB)No.571/PB/2021

Date of Order: 24.11.2023

i.e., the next date of hearing before the Hon'ble National Company Law Appellate Tribunal.

12. Resultantly, the present **I.A.(IBC)/5966/2023 in C.P.(IB)/571/PB/2021 stands allowed** and disposed of.

Sd/-

**(DR. SANJEEV RANJAN)
MEMBER (T)**

Sd/-

**(MANNI SANKARIAH SHANMUGA SUNDARAM)
MEMBER (J)**