

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH, CHENNAI**

IA/1001/2020 in IBA/1459/2019

*(filed under Section 12(2) of the Insolvency and Bankruptcy Code,
2016)*

In the matter of M/s. Appu Hotels Limited

Radhakrishnan Dharmarajan

Resolution Professional of
M/s. Appu Hotels Limited

... Applicant/Resolution Professional

Order Pronounced on 23rd December 2020

CORAM:

**R.VARADHARAJAN, MEMBER (JUDICIAL)
ANIL KUMAR B, MEMBER (TECHNICAL)**

For Applicant : T. Ravichandran, Advocate

ORDER

***Per:* R. VARADHARAJAN, MEMBER (JUDICIAL)**

1. The above application has been preferred by the Resolution Professional under section 12(2) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "IBC, 2016") seeking for the following relief;

It is therefore prayed that this Hon'ble Tribunal may be pleased to exclude period between 05.05.2020 and 31.10.2020 amounting to 179 days including 3 weeks of stay granted by the Hon'ble Madras High Court while calculating the time period for completion for CIR Process of the Corporate Debtor and pass such other orders which are deemed fit and

necessary in the nature and circumstances of the case and thus render justice.

2. It is averred in the application that the Corporate Insolvency Resolution Process (CIRP) was initiated against the Corporate Debtor viz. M/s. Appu Hotels Limited by this Tribunal on 05.05.2020 and one Mr. Mukesh Kumar Gupta was appointed as Interim Resolution Professional (IRP). Thereafter, the said IRP caused public announcement on 08.05.2020 and the last date for submissions of claims was fixed as 21.05.2020. Further, the suspended Director of the Corporate Debtor filed a petition challenging the order of this Tribunal dated 05.05.2020 and when the said matter came up for hearing on 20.05.2020, the Hon'ble Madras High Court has directed the IRP not to constitute the Committee of Creditors for a period of 3 weeks till 10.06.2020.

3. It is further averred in the Application that the CoC in its 3rd Meeting held on 04.09.2020 resolved to appoint the Applicant herein as the Resolution Professional of the Corporate Debtor and accordingly IA/726/2020 was filed by the CoC of the Corporate Debtor and this Tribunal vide order dated 02.11.2020 appointed the Applicant herein as the Resolution Professional of the Corporate Debtor. It is stated that the 180th day of the Corporate Insolvency Resolution Process of the Corporate Debtor



has ended on 04.11.2020 and in the meantime, due to the lockdown imposed by the Central / State Government on account of Covid – 19 pandemic, the various activities in relation to the CIRP of the Corporate Debtor could not be completed as per the timelines prescribed under the Code.

4. The Learned Counsel for the Applicant submitted that the CoC in its 5th Meeting held on 12.11.2020 deliberated on the issue of filing of an exclusion application before this Tribunal for excluding the period from 05.05.2020 till 31.10.2020 due to Lockdown imposed by the Central Government and accordingly, the CoC with 100% voting has passed an Resolution to that effect, which is as follows;

“Resolved that the CoC approved, seeking exclusion of time period due to Covid – 19 and the lockdown and thus the CoC approved with 100% voting power, for the RP to file an Application with the NCLT, Chennai for seeking of exclusion of time period from 05.05.2020 to 31.10.2020.”

5. Further, it was submitted by the Learned Counsel for the Applicant that the Regulator viz. the Insolvency and Bankruptcy Board of India, has introduced Regulation 40C to the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 whereby the period of lockdown imposed by the Central Government is excluded from the period of CIRP and



as such it was submitted that it is necessary to exclude the period from 05.05.2020 to 31.10.2020 from the CIRP period in relation to the Corporate Debtor.

6. Heard the submission made by the Learned Counsel for the Applicant and perused the records placed on file. In the facts of the present case, it is to be noted that the CIRP in relation to the Corporate Debtor was initiated only on 05.05.2020 i.e. during the period of lockdown and as such the Applicant has sought to exclude the period from 05.05.2020 till 31.10.2020. The Applicant placed on record the G.O. Ms. No. 482, Revenue and Disaster Management (DM-IV) Department, Government of Tamil Nadu dated 12.09.2020 and G.O. Ms. No. 447, Revenue and Disaster Management (DM-IV) Department, Government of Tamil Nadu dated 30.08.2020 in order to substantiate the during such time, where the exclusion is sought for, the lockdown was in existence in the Government of Tamil Nadu.

7. Further, it is pertinent to note here that due to Covid-19 pandemic coupled with attendant lockdown imposed by the Central / State Government, the Regulator viz. IBBI has introduced an Amendment in the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, so as to exclude the period of lockdown from the CIRP timeline.



Regulation 40C of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 states as follows;

40C. 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.

8. The Learned Counsel for the Applicant submitted that he sought to exclude the period from 05.05.2020 till 31.10.2020, a total of 179 days from the period of CIRP. Thus, as to the facts of the present case, in view of Regulation 40C of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 the period from 05.05.2020 till 31.10.2020 is excluded from the period of CIRP in terms of Section 12(2) of IBC, 2016. The Applicant shall make every endeavour to complete the CIRP in relation to the Corporate Debtor within the timelines as prescribed under the Code. Accordingly, the application stands **allowed**.

-SD-

(ANIL KUMAR B)
MEMBER (TECHNICAL)

-SD-

(R.VARADHARAJAN)
MEMBER (JUDICIAL)

Raymond