

IN THE NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH, CHANDIGARH

CA No.147/2019 and 154/2019

In

CP (IB) No.02/Chd/CHD/2018
(Admitted)

Under Section 60 (5) of the
Insolvency and Bankruptcy Code,
2016

In the matter of:-

Allahabad Bank

...Petitioner-Financial Creditor

Versus

Vardhman Chemtech Ltd.

...Respondent-Corporate Debtor

And in the matter of:-

(CA No.147/2019)

Hemanshu Jetley, Resolution Professional

...Applicant

Versus

The Commissioner/Principal Commissioner and Others

...Respondents

And in the matter of:-

(CA No.154/2019)

Committee of Creditors of Vardhman Chemtech Ltd.

...Applicant

Order delivered on 15.03.2019

**Coram: HON'BLE MR. JUSTICE R.P.NAGRATH, MEMBER (JUDICIAL)
HON'BLE MR. PRADEEP R.SETHI, MEMBER (TECHNICAL)**

For the Resolution Professional : Mr. G.S. Sarin, Practising Company
Secretary, for the Resolution
Professional

For the CGST Department : Ms. Hardeep Kaur, Superintendent,
(CA No.147/2019) Central Goods and Services Tax
Department

Per: Pradeep R.Sethi, Member (Technical)

ORDER (Oral)

CA No.147/2019

As per office report, reply has been filed by respondent No.2 and 3. Copy of replies filed by respondent No.2 and 3 be supplied to the Authorized Representative of the Resolution Professional during the course of the day.

In the reply of respondent No.2, it is stated as under:-

- “5. As per records, this office i.e. Central Goods and Service Tax Division-II, Derabassi, has not blocked the ITC Credit of the Corporate Debtor.
6. The e-mail dated 21.11.2018 issued from *gst.gov.in* is a system generated mail. As already clarified in Para 5 above, this office has not blocked the ITC credit, therefore, no question of issuing email in this regard. Further, the above said mail has been forwarded by Sh. Sunil Sharma of M/s Vardhman Chemtech Ltd., to Sh. Himanshu Jately with the remarks that the credit has been blocked by the Sales Tax Department. This office is a Central Government office and does not deal with issues related to Sales Tax.”

Ms. Hardeep Kaur, Superintendent from the office of Central Goods and Services Tax Department, impleaded as respondent No.3, is present in person and states that the GST Department has not blocked the ITC credit of the respondent-corporate debtor.

In view of the above, the authorized representative of the Resolution Professional seeks and is permitted to withdraw the application with the liberty to file fresh application against the appropriate authority.

Thus, CA No.147/2019 stands disposed of.

CA No.154/2019

The present application is filed by Hemanshu Jetley, Resolution Professional ('**RP**') on behalf of the Committee of Creditors ('**COC**') of Vardhman Chemtech Limited ('**Vardhman**') for extension of time beyond the period of 180 days for the Corporate Insolvency Resolution Process ('**CIRP**') as per the provision of Section 12(2) of the Insolvency and Bankruptcy Code, 2016 ('**Code**') read with Regulation 40 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

2. Petition under Section 7 of the Code was filed by Allahabad Bank for initiating CIRP in the case of Vardhaman. The petition was admitted by order dated 25.09.2018 and moratorium under Section 14 (1) of the Code was declared. Shri Hemanshu Jetley was appointed as Interim Resolution Professional with certain directions. He was confirmed as RP in the first meeting of the COC, held on 29.10.2018.

3. It is stated that in the 3rd Meeting of the COC held on 08.01.2019, the RP informed the COC Members that pursuant to the publication of Form 'G', the RP has received Expression of Interest ('**EOI**') from two prospective Resolution Applicants, till the last date of submission of EOIs i.e. 20.12.2018 and that he had received e-mails from three other parties showing interest in the Resolution Process, but had not received EOI from any of these three parties in the prescribed format. It is stated that the COC discussed the matter and after deliberations, it was decided that a Process Advisor be appointed to assist in the process of identifying prospective Resolution Applicants and since only two

EOIs have been received, the need to republish Form 'G' be assessed after discussion with the Process Advisor.

4. It is stated that in the 4th COC Meeting, held on 21.01.2019, the appointment of Process Advisor was discussed and the RP also informed the members that subsequent to the appointment of Process Advisor, the complete process of inviting prospective Resolution Applicants will have to be started afresh in accordance with the various provisions of the Code, read with the Rules and Regulations made thereunder. It is submitted that in the 5th Meeting of COC, held on 01.02.2019, it was resolved to appoint Mr. Vishal Gandhi, of BIOR x Venture Advisors Pvt. Ltd., as Process Advisor.

5. It is stated that in the 6th Meeting of COC, held on 08.02.2019, the eligibility criteria was revised after making detailed discussions with the Process Advisor and it was unanimously decided to republish Form G. The RP also informed the Members that republication of Form G will also require extension of CIRP period beyond 180 days by such further period not exceeding 90 days as specified under Section 12(3) of the Code and that application before the Tribunal to seek extension of the CIRP period will be required to be filed. It is stated that after deliberations, the COC Members decided to accord approval for the same and since, IDBI (one of the financial creditors) was not present in the Meeting, it was decided that the Members shall cast their vote for the same through e-voting. The results of the e-voting is stated be at Annexure 15 of the application, showing that the approval for filing of application for extension of CIRP period before NCLT was accepted by 72% votes with 28% votes abstaining.

6. We have carefully considered the submissions made by the authorized representative for the RP and have also perused the record.

7. Section 12(2) of the Code, states that the RP shall file the application to the Adjudicating Authority to extend the period of CIRP beyond 180 days, if instructed to do so by a resolution, passed at the Meeting of the COC by a vote of 66% of the voting shares. Section 12(3) of the Code, states that on receipt of application under Section 12(2) of the Code, if the Adjudicating Authority is satisfied that the subject matter of the case is such that CIRP cannot be completed within 180 days, it may by order extend the duration of such process beyond 180 days by such further period as it thinks fit, but not exceeding 90 days and extension shall not be granted more than once.

8. In the present case, it has been submitted that in the 6th Meeting of the COC held on 08.02.2019 (Annexure 16), the approval of the extension of CIRP beyond 180 days and filing of application before the Tribunal for this purpose, was discussed and e-voting was held. The results of the e-voting are stated to be filed at Annexure 15, showing that the filing of application for extension of CIRP period before the Tribunal was accepted by 72% voting share with 28% voting share abstaining.

9. As already discussed above, Form 'G' was earlier issued, but EOIs were received from only two parties and that thereafter, the COC decided to appoint a Process Advisor and also republish Form 'G'. It is in these circumstances that the recommendation for extension of the CIRP period beyond 180 days was made by the COC.

In view of this position, we are satisfied that the CIRP cannot be completed within 180 days and we extend the duration of CIRP by further period of 90 days. Thus, CA No.154/2019 stands disposed of.

Copy of this order be supplied to the RP.

Sd/-
(Justice R.P. Nagrath)
Member (Judicial)

Sd/-
(Pradeep R. Sethi)
Member (Technical)

March 15, 2019
Mohit Kumar