

National Company Law Tribunal

Allahabad Bench

121

CA No. 22/2019,  
CP No.(IB) 77/ALD/2017

ATTENDANCE - CUM-ORDER SHEET OF THE HEARING OF ALLAHABAD BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 28.01.2019

NAME OF THE COMPANY: IDBI Bank Vs. Jaypee Infratech Ltd.

SECTION OF I & B CODE: 12(2) & (3) IBC

<u>Sl. NO.</u>	<u>Name</u>	<u>Designation</u>	<u>Representation</u>	<u>Signature</u>
1.	RAHUL AGARWAL	ADVOCATE	F.C. (IDBI)	Rahul Agarwal
2.	SANJAY BHATT	ADVOCATE	IRP	

CA NO.22/2019, CP NO.(IB)77/ALD/2017

Sh. Rahul Agarwal, Advocate for the Financial Creditor (IDBI Bank) and Sh. Sanjay Bhatt, Advocate for the RP are present.

1. Heard the learned counsels appearing of IRP and Financial Creditor (IDBI Bank).
2. Interim Resolution Professional (IRP) for Jaypee Infratech Ltd. filed this application U/s 12(2) & (3) of the I & B Code, 2016 read with regulation 40 of IBBI (Insolvency Resolution for Corporate Persons) Regulations, 2016, seeking extension of the Corporate Insolvency Resolution Process (CIRP) for a further period of 90 days beyond 180 days.
3. CP No.(IB)77/ALD/2017 filed by the Financial Creditor (IDBI Bank) was admitted on 09.08.2017, commencing the CIRP in respect of Corporate Debtor Jaypee Infratech Ltd. (JIL) appointing IRP and imposing moratorium.
4. The Hon'ble Supreme Court vide order dated 09.08.2018 passed in Writ Petition (Civil) No.744 of 2017 directed revival of CIRP by another 180 days afresh from the stage of appointment of IRP and further directed the IRP to follow the provisions of IBC afresh in all respects from the stage of

— Sd —

— Sd —

appointment of IRP. The Hon'ble Supreme Court directed that a new Committee of Creditors (COC) should be constituted in accordance with the amended provisions of I & B Code to give effect to the statutory status as Financial Creditors granted to the allottees under real estate projects of JIL. The Hon'ble Supreme Court also ordered that if it becomes necessary to apply for a further extension of 90 days, permitted the NCLT to pass appropriate orders in accordance with the provisions of IBC.

5. In compliance of the order of the Hon'ble Supreme Court dated 09.08.2018 read with the order dated 14.08.2018 passed by this Authority, applicant as IRP for JIL issued public announcement in the revised Form A on 17.08.2018, constituted a COC on 30.08.2018 and filed report before this Authority on 31.08.2018. IRP identified two class of creditors as allottees and fixed deposit holders. After following the due process, IRP filed application being CA No.206/2018 for appointment of Insolvency Professionals, who scored maximum votes from their respective class as authorized representatives for each class of creditors and the same was allowed by this Authority vide order dated 05.09.2018 appointing Mr. Kuldeep Verma as Authorized Representative for class of allottees and Ms. Anju Agarwal as Authorized Representative for class of fixed deposit holders.
6. The agenda item concerning continuation/ appointment of IRP as RP in the first COC meeting has not been approved. However, in terms of Section 16(5) of the IBC as amended which came into force w.e.f 06.06.2018, IRP is continuing to perform the role of RP for JIL. IRP conducted the fifth COC on 17.01.2019 after serving due notice on 11.01.2019 containing agenda with the list of matters to be discussed and issues to be voted upon

—sd—

—sd—

at the meeting. There was only one voting matter, namely, Extension of CIRP process for further period of 90 days as per Section 12(2) of the IBC.

7. COC in its 5<sup>th</sup> meeting held on 17.01.2019 by a majority voting share of 71.49% approved the resolution authorizing the RP to file an application to the Adjudicating Authority to extend the period of CIRP beyond 180 days. The voting share required for passing a resolution to extend the CIRP period is 66%. However, the resolution was passed by a majority voting share of 71.49%. Pursuant to the said resolution, IRP filed this application.
8. On this application, this Authority ordered notice to all the Stakeholders by email. IRP issued notices to all the Stakeholders by email and filed proof of service. None opposed the application.
9. The reasons stated for seeking extension of CIRP for a further period of 90 days beyond 180 days are as follows:-

**i. Voting Deadlock :**

Voting items being tabled before COC are not being passed on account of not having met the required threshold under the IBC as only small number of allottees cast their vote and large number of allottees failed to exercise their votes.

The decision on the voting deadlock has been referred to the Hon'ble President, NCLT for hearing by one or more Members of the Tribunal by this Adjudicating Authority, NCLT, Allahabad Bench U/s 419(5) of the Companies Act read with rule 60 of NCLT Rules.

**ii. Delay in Evaluation Matrix and Process Note :**

In the third COC meeting held on 27.11.2018, there were two voting matters, namely 1- Proposed Evaluation Matrix and 2- Process Note for

— Sd —

— Sd —

Request for Resolution Plan. Both the voting items were deferred. The COC members could not come to a consensus on the Evaluation Matrix due to various suggestions made by the authorized representative which were not acceptable to other COC members, and as a result Evaluation Matrix and Process Note could not be finalized and put to vote for approval of COC members.

COC received a request from the prospective resolution applicant seeking till 15.02.2019 for submission of binding resolution plans.

10. It is further stated in the application that this is a bonafide application filed in good faith and for just reasons.
11. COC in its 5<sup>th</sup> meeting held on 17.01.2019 by a voting strength of 71.49% approved the resolution seeking extension of CIRP period for a further period beyond 180 days and authorized the RP to file this application. None of the Stakeholders raised any objection.

For the reasons stated above in the para no.9, it is necessary to extend the CIRP for a further period of 90 days beyond 180 days.

Hence, this application is allowed extending the CIRP for a further period of 90 days beyond 180 days.

Application (CA No.22/2019) is disposed of accordingly.

**Dated: 28.01.2019**

— Sd —

**(SAROJ RAJ WARE)  
MEMBER (TECHNICAL)**

— Sd —

**(BIKKI RAVEENDRA BABU)  
MEMBER (JUDICIAL)**