

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
KOLKATA BENCH
KOLKATA**

**I. A. No. /KB/2020
In
CP (IB) No. 03/KB/2017**

In the matter of:

An applications under Section 35(1)(a), 60(5) of the Insolvency and the Bankruptcy Code, 2016 and Regulation 44 of the Insolvency and Bankruptcy Board of India(Liquidation Process) Regulations, 2016, and other applicable provisions of law.

And

In the matter of:

SRI VINOD KUMAR KOTHARI, the Liquidator of the Corporate Debtor.

... APPLICANT

In the matter of:

M/S. NICCO CORPORATION LIMITED (In Liquidation), a Company incorporated under the provisions of the Companies Act, 1956 and having its registered office at Nicco House, 2, Hare Street, Kolkata 700001.

...CORPORATE DEBTOR

Coram: Shri Jinan K.R., Hon'ble Member (Judicial)

Parties Present

Mr. Vinod Kumar Kothari	} Liquidator
Barsha Dikshit,	} P CS

Date of hearing: 11.05.2020

Order delivered on: 11.05.2020

ORDER

Per Jinan K.R. Member (Judicial)

1. This is an un numbered application filed by the Liquidator in the **CP (IB) No. 03/KB/2017** for extension of period of Liquidation of Nicco Corporation Limited for a period of 6 (Six) months from its expiration on 16.04.2020. Since the period of 2 years as per regulation 44 of the IBBI (Liquidation Process) Regulations, 2016, was expired, and vide order dated 15th October, 2019 in CA(IB) No. 1338/KB/2019 the liquidation period was extended and the said extended period would expire on 16.04.2020, the Ld. Liquidator filed this application for a further period of 6 months extension w.e.f. 16.04.2020.

2. It is submitted that since the period of liquidation is going to be expired on 16,04.2020 this application requires urgent consideration and being satisfied that it requires urgent consideration, it was listed for hearing on today through VC.
3. Ld. Liquidator **Mr. Vinod Kumar Kothari in person and Ms. Barsha Dikshit P CS, represented for the liquidator** were heard.
4. It is submitted that the Liquidator has been carrying out all duties and functions as provided for in the Liquidation Process Regulations, and also had liquidated a substantial chunk of assets forming part of liquidation estate of the Corporate Debtor, and has realised proceeds therefrom, which are partly distributed and partly in the process of distribution amongst the stakeholders in order of the priority laid down in Section 53 of the Code. As per directions of the Hon'ble Bench, three major assets viz., Shyamnagar Plant, (b) 25% shares in Nicco Parks and Resorts Limited (NPRL) and (c) 1st floor of Nicco House are still remaining to be sold.
5. He would further submits much time had been lost due to litigation against resistance pertaining to the sale of assets of the Corporate Debtor I.e. (a) CA No.669/KB/2019 filed for 25% shares in NPRL, and (b) CA No. 1134/KB/2019 and CA No. 1156/KB/2019 for eviction of NESL from the first floor of Nicco House, were disposed of by the Hon'ble Kolkata Bench vide order dated 18th December, 2019 and 7th January, 2020 respectively. Thereafter, the Respondents of both the applications preferred appeals before the

Hon'ble NCLAT and the order in the matters, upholding the order of the NCLT Kolkata Bench were passed on 20th March, 2020 and 5th February, 2020 respectively.

6. He also submitted that the order of the NCLAT in the matter of Nicco Engineering Services Limited required the office premises at 2, Hare Street, 1st floor, to be vacated by NESL, latest by 31st March, 2020. However, the said premises are yet to be vacated by the said NESL.
7. According to him till date of submission of this application by e-mail, neither the office of the erstwhile nominees have been vacated, nor the information request of Liquidator been answered and the liquidator has served a notice of contempt to the directors and the company Secretary of NPRL. Immediately after the disposal of the appeal the liquidator also initiated steps for the sale of the remaining assets and also invited interest for the sale Shyamnagar factory. He would further submits that the quarterly report was submitted on a belated date through e filing due to lock down.
8. In the above said backgrounds the Liquidator filed this application via e mail due to lock down and submits that he is optimistic about sale of the unsold assets within coming 4-5 months and accordingly the instant application has been filed praying for extension of period of Liquidation of Nicco Corporation Limited for a period of 6 (Six) months from its expiration on 16.04.2020.

9. The corona virus pandemic has disrupted the entire working of the country inclusive judicial work. Our government has extended the lock down till 17th May,2020. Chance of further extension cannot be ruled out upon the prevailing circumstances. In the meanwhile IBBI had inserted 47A to Regulation 47 of the IBBI (Liquidation Process) Regulations,2016 by way of Amendment on 17th April, 2020 so as to exclude the period of lock down from the timeline for any task that could not be completed due to such lock down, in relation to liquidation process. In view of the above said amendment, even if the two years period of liquidation process had been expired on 16.04.2020, the period of lock down from 25th March 2020 till the date of lifting the lock down shall be excluded. The lock down would definitely impact the performance of obligations of the liquidator in expediting the process. Amidst this challenging time, it appears to me that the prayer for extension of 6 months from 16.04.2020, can be allowed by excluding the period of lock down from 25th March,2020 till the date of lifting the lock down. Accordingly prayer for extension of 6 months from 16.04.2020 is allowed by extending the period of liquidation

process from 16th April, 2020 by excluding the period of lock down
from 25th March,2020 till the date of lifting the lock down.

10. This IA is disposed of accordingly.

(Jinan K.R.)

Member (J)

Signed on this, the 11th day of May, 2020.

VC