

DIVISION BENCH

ITEM NO.101

**NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD**

**CP NO.(IB)85/ALD/2020,
IA NO.253/2021, IA NO.269/2021**

CORAM:

- 1. SHRI RAJASEKHAR V.K.,
HON'BLE MEMBER (JUDICIAL)**
- 2. SHRI BALRAJ JOSHI,
HON'BLE MEMBER (TECHNICAL)**

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING ON 20th OCTOBER, 2021, 02:30 PM

NAME OF THE COMPANY	AXIS BANK LTD. V/S LANCO MANDAKINI HYDRO ENERGY PVT. LTD.
UNDER SECTION	7 OF IBC

COUNSEL APPEARED THROUGH VIDEO CONFERENCING :

Mr. Amit Saxena, Ld. Sr. Adv. : For the applicant in IA No.269/2021
Mr. Yash Tandon, Adv. : For the RP/R No.1 in IA 269/2021
Ms. Aditi Mittal, Adv. : For the CoC (Res. No.2) in IA No.269/2021
Mr. Aditya Narayan Mahajan, Adv.

ORDER

IA NO.269/2021

1. This is an applicant filed by Scatec Solar Netherlands BV seeking condonation of delay in submitting a resolution plan for the corporate debtor. We have perused the application and heard the learned Senior Counsel appearing for the Applicant. The CoC has already recommended liquidation of the corporate debtor since it did not receive any resolution plans.
2. After hearing the learned Senior Counsel for the applicant and the learned counsel appearing for the RP and for the CoC, we feel that there is no real opposition to considering the prayers in the present application. The only apprehension expressed by the CoC is the mounting CIRP costs. In this milieu, we feel that liquidation of the Corporate Debtor would not unlock the real value of the assets of the Corporate Debtor and that another attempt should be made at resolution. Only if that fails, should liquidation be considered.
3. There are some prospective resolution applicants who have approached this Adjudicating Authority during the course of hearing and requested for an opportunity to submit resolution plans. From the submissions made across the Bar by Ld Counsel representing various prospective resolution applicants who

—Sd—

wish to use any opportunity which may be given by this Bench to try and submit a resolution plan for the corporate debtor, we are convinced that the possibility of inviting Fresh EoIs should be considered by the RP and any resolution plans received should be placed before the CoC for consideration.

4. There is a lifeline in the form of extension of CIRP under the proviso to s.12(2) of the Code, i.e. 60 days that has not been exhausted in the matter.
5. In *Committee of Creditors of Essar Steel v Satish Kumar Gupta & others*,¹ the Hon'ble Supreme Court had held that – “*On the facts of a given case, if it can be shown to the Adjudicating Authority ... 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, ... it may be open in such cases for the Adjudicating Authority to extend time beyond 330 days ...*” [placetum ‘b’ to ‘d’, at page 628, para 127 of the judgment.] This, in our considered opinion, is a classic case where this discretion recognised by the Hon'ble Supreme Court should be exercised.
6. We, therefore, hereby propose the following time schedule for inviting fresh EoIs and consideration of any plans received: -

Sl No.	Activity	Date by which to be completed
1.	Date of invitation of fresh expression of interest	23.10.2021
2.	Last date for receipt of expression of interest	03.11.2021
3.	Date of issue of provisional list of prospective resolution applicants	10.11.2021
4.	Date of issue of final list of prospective resolution applicants	17.11.2021
5.	Date of issue of information memorandum, evaluation matrix and request for resolution plans to prospective resolution applicants	To be shared immediately with all prospective resolution applicants and in any case by 17.11.2021
6.	Last date for submission of resolution plans	03.12.2021
7.	Estimated date for submission of resolution plan to the Adjudicating Authority for approval	30.12.2021

¹ (2020) 8 SCC 531 : 2019 SCC OnLine SC 1478, decided on 15.11.2019

7. We request individual members of the CoC to stick to the model timeframe given above in the interest of resolution of the corporate debtor.
8. List these matters on 26th October, 2021 for further consideration.
9. All prospective resolution applicants may apply to the resolution professional in response to the invitation for expressions of interest.

—Sd—

Balraj Joshi
Member (Technical)

—Sd—

Rajasekhar V.K.
Member (Judicial)

Typed by:
Kavya Prakash Srivastava
(Stenographer)