

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI**  
**Company Appeal (AT) (Insolvency) No. 1066 of 2020**

**In the matter of:**

**Committee of Creditors of Rosewood Trexim Pvt. Ltd. ....Appellant**  
**Through Resolution Professional**

**Present:**

**Appellant: Mr. Ashok Juneja, Mr. Shailender Singh, Advocates.**

**ORDER**

**(Through Virtual Mode)**

**15.12.2020:** Aggrieved of dismissal of IA 4719 of 2020, seeking exclusion of period and extension of Corporate Insolvency Resolution Process (CIRP for short) period in the wake of lockdown imposed due to COVID-19 being declared Pandemic, by the Adjudicating Authority (National Company Law Tribunal), New Delhi, Principal Bench, vide impugned order dated 19<sup>th</sup> November, 2020, the Committee of Creditors (“COC” for short) of Corporate Debtor- ‘Rosewood Trexim Pvt. Ltd.’ through Resolution Professional Mr. Shailendra Singh has preferred the instant appeal assailing the impugned order *inter alia* on the ground that the Resolution Professional had fallen sick around 01<sup>st</sup> September, 2020 necessitating to go into self-isolation and that he subsequently tested positive for COVID-19 on 18<sup>th</sup> September, 2020, which hampered progress in the conduct of CIRP.

2. It is submitted by the Appellant- Resolution Professional appearing in person that on account of being in self-isolation and quarantined as a victim of COVID-19 Pandemic, he could not carry on the CIRP. It is submitted that even when he was still in quarantine, due to urgency in the matter, he issued notice on 22<sup>nd</sup> September, 2020 convening meeting of COC on 24<sup>th</sup> September, 2020 through virtual mode but his efforts turned futile as his ill health proved to be a stumbling block in achieving the desired progress. It is submitted that the

Appellant recovered from illness and after testing negative on 2<sup>nd</sup> October, 2020, he sent notice for 8<sup>th</sup> COC Meeting on 5<sup>th</sup> October, 2020 and the meeting of COC was finally conducted on 8<sup>th</sup> October, 2020 wherein the COC unanimously resolved by 100% voting of the sole COC member that the Adjudicating Authority be approached for exclusion of period of lockdown time and extension of time to conclude the CIRP.

3. After hearing the Appellant in person and keeping in view the ground projected which is duly substantiated by material on record (Annexure A8 and A9 being page nos. 63 to 70 of the appeal paper book), we are of the considered opinion that the Appellant was, in the wake of outbreak of COVID-19 declared as Pandemic culminating in imposition of Nationwide lockdown w.e.f 25<sup>th</sup> March, 2020, prevented from undertaking further steps for bringing the CIRP to logical conclusion. There is ample proof on record to hold that the Appellant was tested positive for COVID-19 after falling sick and he became inactive due to medical reason being on self-isolation and quarantined. Thus, despite his earnest effort he was unable to convene meeting of the COC. Even an attempt made at convening such meeting through digital platform proved futile due to falling ill. In the given circumstances, the Adjudicating Authority should have taken these factors into consideration which warranted mitigating the hardship and not compounding the same. The COC, which was in existence, had not been dissolved and once the Nationwide lockdown was imposed as a sequel to outbreak of COVID-19 declared as Pandemic resulting in all activities related to trade and commerce business coming to a grinding halt, COC as an institution cannot be said to have got dissolved, moreso, when taking factors of Pandemic into consideration, fresh filing of applications under Sections 7, 9 & 10 of the 'I&B Code' was suspended and in *suo moto* jurisdiction of the Hon'ble Apex Court and this Appellate Tribunal, the limitation was extended. Having conspectus of all these relevant factors, we are inclined to hold that the COC would not be deemed to have been dissolved, at least for the purposes of passing of Resolution seeking exclusion of Lockdown period and extension of CIRP period beyond the prescribed time of 180 days. There being cogent reasons for acceding to the

prayer made in this appeal, we find that the impugned order cannot be sustained.

4. We accordingly, allow the appeal, set aside the impugned order and allow exclusion of 203 days w.e.f. 15<sup>th</sup> March, 2020 till 4<sup>th</sup> October, 2020 (inclusive of the period for which the petitioner was immobilized as a victim of COVID-19) from CIRP period of 180 days and also allow extension of CIRP period by 90 days.

Appeal is accordingly allowed with direction to the Appellant to carry forward the CIRP with expedition.

Copy of this order be sent to Adjudicating Authority.

**[Justice Bansi Lal Bhat]  
Acting Chairperson**

**[Justice Anant Bijay Singh]  
Member (Judicial)**

*AR/g*