

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 1026 of2020**

**IN THE MATTER OF:**

**GABS Megacorp Ltd.**

**...Appellant**

**Versus**

**Sutanu Sinha and Anr.**

**...Respondents**

**With**

**Company Appeal (AT) (Insolvency) No. 1027 of2020**

**IN THE MATTER OF:**

**GABS Megacorp Ltd.**

**...Appellant**

**Versus**

**Sutanu Sinha and Anr.**

**...Respondents**

**Present:**

**For Appellant: Mr. Virendra Ganda, Sr. Advocate with Mr. Harsh Parashar, Mr. Vishal Ganda, Mr. Chanakya Sharma, Mr. Tanishq Mehta, Mr. Saransh Kothari, Mr. Anand Singh Sengar, Mr. Gaddam Aniketh Reddy and Mr. Ashok K. Singh, Advocates.**

**For Respondents: Mr. Satendra K. Rai, Mr. Nirav Shah and Mr. Shashank Agarwal, advocates for R-1& 2 with Mr. Sutanu Sinha, R-1 in person.**

**ORDER**  
**(Through Virtual Mode)**

**21.12.2020:** Counter affidavit filed by Respondent No. 1 is taken on record.

2. Heard Shri Virendra Ganda, learned senior counsel representing the Appellant and Shri Nirav Shah, learned counsel representing the Respondents.

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3. The issue raised in this appeal relates to extension of time. According to the Appellant, though time has been extended in terms of the impugned order passed by the Adjudicating Authority (National Company Law Tribunal), Hyderabad Bench, time taken in prosecution of application seeking extension has not been taken care of. Thus, it is contended that the exercise has not yielded the expected benefit.

4. After going through the counter affidavit filed by Respondent No. 1, it emerges that the 'Lenders and Stakeholders Committee' has approved the waiver of interest. Reference in this regard is made to Annexure 6 and Annexure 7 of the Counter Affidavit at pages 47 and 48 respectively. It is manifestly evident that prayer in regard to extension of time sought by the Appellant remains uncontested as the 'Lenders and Stakeholders Committee' have expressed their interest in getting the sale of the Corporate Debtor, in favour of the Appellant, completed at the earliest. It would be conducive to the interest of justice that period during which the Appellant had been agitating before the judicial apparatus for waiver of interest to achieve the desired objective of completing the sale of Corporate Debtor, is excluded. From the minutes recorded on 8<sup>th</sup> December, 2020 (page 44 to 46 of the counter affidavit), it comes to fore that the 90 days period in terms of Regulation 44 has come to an end on 3<sup>rd</sup> December, 2020 whereas the Appellant has not

deposited any payment by 30<sup>th</sup> November, 2020 and the voting lines had been extended till 3<sup>rd</sup> December, 2020. Thereafter, the matter was heard by this Appellate tribunal and order directing status quo came to be passed, which is to expire today. The period sought to be excluded in terms of Regulation 47A has been worked out at page 45 in a tabular form which is reproduced herein below:-

Liquidation Order	26-07-2019	
Completion of Liquidation process as per Regulation 44	24-10-2020	
<b>Period Exclusion (47A)</b>	<b>Based on NCLAT order dated 03-12-2020</b>	<b>Based on NCLT order dated 29-09-2020 read with 11-11-2020</b>
From	25-03-2020	25-03-2020
To	21-12-2020	03-09-2020
No. of days	271	162
Last date of Liquidation Process	22-07-2021	04-04-2021

5. According to this calculation the period required to be excluded is from 25<sup>th</sup> March, 2020 until today, that is the period of judicial intervention, which has been calculated at 271 days and once this exclusion is permitted, the date of liquidation process to be completed would be 22<sup>nd</sup> July, 2021. Having

regard to the fact that the Lenders and Stakeholders Committee have approved the waiver of interest by 91.59% voting and there is justification for allowing exclusion of the period of judicial intervention, we allow exclusion of 271 days w.e.f. 25<sup>th</sup> March, 2020 till today, culminating in extending the liquidation process until 22<sup>nd</sup> July, 2021. Since the notice period would commence from tomorrow, i.e. 22<sup>nd</sup> December, 2020, the entire amount of Rs.1654.77 Crores minus whatever advance payment has been made shall be paid by the Appellant/Purchaser within a period of 90 days reckoned from 22<sup>nd</sup> December, 2020. It is being expressly made clear that in the event of such payment being made by the Appellant/Purchaser within 30 days beginning from 22<sup>nd</sup> December, 2020 no interest will be charged thereon. But in the event of payment being made beyond 30 days but within 90 days, interest will be chargeable as per IBBI Regulations. Appeal is allowed with aforesaid observations and directions.

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

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

**[Dr. Ashok Kumar Mishra]  
Member (Technical)**

*am/gc*

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