
The Insolvency and Bankruptcy Code, 2016

Part-II Insolvency Resolution and Liquidation for Corporate Persons

Chapter-II Corporate Insolvency Resolution Process

Section 12: Time-limit for completion of insolvency resolution process.

***12.** (1) Subject to sub-section (2), the corporate insolvency resolution process shall be completed within a period of one hundred and eighty days from the date of admission of the application to initiate such process.

(2) The resolution professional shall file an application to the Adjudicating Authority to extend the period of the corporate insolvency resolution process beyond one hundred and eighty days, if instructed to do so by a resolution passed at a meeting of the committee of creditors by a vote of ¹[sixty-six] per cent. of the voting shares.

(3) On receipt of an application under sub-section (2), if the Adjudicating Authority is satisfied that the subject matter of the case is such that corporate insolvency resolution process cannot be completed within one hundred and eighty days, it may by order extend the duration of such process beyond one hundred and eighty days by such further period as it thinks fit, but not exceeding ninety days¹:

Provided that any extension of the period of corporate insolvency resolution process under this section shall not be granted more than once.

²[Provided further that the corporate insolvency resolution process shall mandatorily² be completed within a period of three hundred and thirty days from the insolvency commencement date, including any extension of the period of corporate insolvency resolution process granted under this section and the time taken in legal proceedings in relation to such resolution process of the corporate debtor:

Provided also that where the insolvency resolution process of a corporate debtor is pending and has not been completed within the period referred to in the second proviso, such resolution process shall be completed within a period of ninety days from the date of commencement of the Insolvency and Bankruptcy Code (Amendment) Act, 2019.]

Reference

*[Effective from](#) 01.12.2016.

1. Subs. by the [Insolvency and Bankruptcy Code \(Second Amendment\) Act, 2018](#), w.e.f. 06.06.2018, for the word “seventy-five”.

2. Ins. by the [Insolvency and Bankruptcy Code \(Amendment\) Act, 2019](#), w.e.f. 16.08.2019[S.O. 2953(E)].

3. Notification: Compliance with the provisions of Section 12 of the Insolvency and Bankruptcy Code, 2016. ([IBBI: CIRP-13011/1/2019-IBBI dated 11.11.2019](#)).

Judicial Pronouncements:

J1. The entire process is to be completed within a period of 180 days from the date of admission of the application under Section 12 and can only be extended beyond 180 days for a further period of not exceeding 90 days. [*Innoventive Industries Ltd. v. ICICI Bank and Anr.* ([2017 ibclaw.in 02 SC](#), p31)]

J2. The term “mandatorily” is struck down as being manifestly arbitrary under Article 14 of the Constitution of India in *CoC of Essar Steel India Ltd. v. Satish Kumar Gupta and Ors.* ([2019 ibclaw.in 07 SC](#), p79).

J3. Even the literal language of Section 12(1) makes it clear that the provision must read as being mandatory. The expression “*shall be completed*” is used. Further, sub-section (3) makes it clear that the duration of 180 days may be extended further “*but not exceeding 90 days*”, making it clear that a maximum of 270 days is laid down statutorily. Also, the proviso to Section 12 makes it clear that the extension “*shall not be granted more than once*”. A reasonable and balanced construction of this statute would therefore lead to the result that, where a resolution plan is upheld by the Appellate Authority, either by way of allowing or dismissing an appeal before it, the period of time taken in litigation ought to be excluded. [*Arcelormittal India Pvt. Ltd. Vs. Satish Kumar Gupta and Ors.* ([2018 ibclaw.in 31 SC](#), p72&83)]

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