

No. 1900
 Date of Presentation 15/11/19
 of application for Copy 3
 No. of Pages 5/-
 Copy Fee 15/-
 Total Fee 15/-
 Date of Receipt
 Record (IB)-55(ND)2018
 Date 20/11/19
 Date of Issue 20/11/19

NATIONAL COMPANY LAW TRIBUNAL

NEW DELHI BENCH

CORAM:

**PRESENT: MR. L. N. GUPTA
 HON'BLE MEMBER(T)**

**MS. INA MALHOTRA
 HON'BLE MEMBER (J)**

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING BEFORE NEW DELHI BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 16.10.2019.

NAME OF THE COMPANY: Sh. Hari Kishan Sharma Vs. AKME Projects Ltd.

SECTION OF THE COMPANIES ACT: 9 of IBC, 2016

S.NO.	NAME	DESIGNATION	REPRESENTATION	SIGNATURE
-------	------	-------------	----------------	-----------

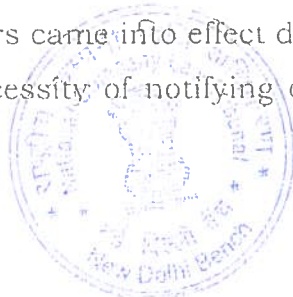
Present:	Mr. Abhishek Anand, Mr. Tushar Tyagi and Mr. Mohak Sharma,	Advocates for the Petitioner		
----------	------------------------------------------------------------	------------------------------	--	--

ORDER

CA 1341/2019 has been filed by the RP praying for exclusion of certain days to be computed in the CIR period. The facts of this case are peculiar. Drawing our attention to certain relevant dates, it is submitted by the Ld. Counsel appearing for the RP that the present petition was admitted for initiation of the CIR process vide order dated 17.04.2018. However, the CIR process was actually set in motion later and upon constitution of the COC, its 1st meeting was convened on 1st June, 2018. Applications had been filed by various interested parties, resisting inclusion of 2 entities viz. AAA Landmark and M/s. Spade Financial Services as financial creditors with voting rights, on grounds that they were related parties to the Corporate Debtor. These two applications were filed separately by Yes Bank and Phoenix ARC Financial Services on 06.07.2018 and were disposed off on 19.07.2019 by the Adjudicating Authority rejecting the voting rights of related parties.

Being a real estate company, apart from creditors, it also involved the voting rights of various flat owners. The amendment to include the flat owners as the Financial Creditors came into effect during the pendency of this petition, giving rise to the necessity of notifying each flat owners and inviting their

(Sapna)



2

claims. This process itself took a long time, as full details were not made available to the IRP at that point of time. In view of the same, the COC could not be convened till the Authorised Representation of the flat owners was nominated.

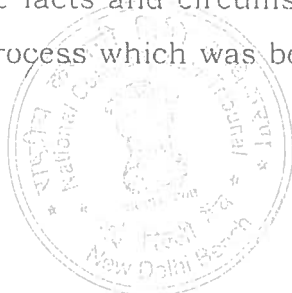
Vide the present application, it is submitted that in view of pendency of various applications before the coordinate Bench, only 2 meetings of the COC could be convened.

Vide order dated 12th September 2019, the IRP was replaced by Mr. Jailash Kumar Grover as the RP. In view of the procedural lapses which were beyond the control of the RP including pendency of applications before the judicial forae, the RP seeks exclusion of certain days. This is for the period between 06.07.2018 to 19.07.2019 i.e. period of 270 days taken out of 318 for the disposal of various pending applications. Reliance has been placed by the Id. Counsel for the RP in the matter of Quinn Logistics India Pvt. Ltd. V/s. Mack Soft Tech Pvt. Ltd. & Others in Company Appeal (AT)(Insolvency) No. 185/2018, wherein it has been observed that if the application is filed by the RP or the committee of creditors or any aggrieved person for justified reasons, it is always open to the Adjudicating authority/appellate tribunal to exclude certain period for the purpose of counting the total period of 270 days, if the facts and circumstances justify such exclusion, in unforeseen circumstances.

Reliance has also been placed on the decision of the Hon'ble NCLAT in the matter of IDBI Bank Ltd. V/s. Mr. Anuj Jain. While taking into consideration that the business of the Corporate Debtor was in the real estate sector, primarily for construction of buildings, the Hon'ble NCLAT had granted exclusion for the period of deadlock due to lack of decision on the voting pattern and therefore in the interest of maximization of assets of the Corporate Debtor and for the purpose of resolution, the period stood excluded. The Hon'ble NCLAT also consider the prayer for exclusion of time in the matter of J.P. Infratech.

We find that in the facts and circumstances of the case there is inordinate delay in the CIR process which was beyond the control of the RP. In view of

(Sapna)

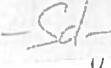


✓

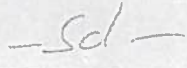
the same, exclusion of certain days would be justified. Delay is attributed to multiple reasons being multiple claims, primarily from flat owners which had not only to be invited but also verified thereby directly effecting the constitution of the COC and the voting power exercised by its members. Accordingly, we consider the request of the RP justified and allow the present application and permit the exclusion of 270 days.

Mr. Jalesh Kumar Grover, the RP in this case is directed to expedite the resolution process and file interim report.

CA stands disposed off.



(L. N. Gupta)
Member (T)




(Ina Malhotra)
Member (J)

No. 1900
Date of Presentation of application for Comp. 15/11/19
No. of Cases 3
Copies of 5/-
Total 15/-
Date of Filing
Report
Date of Presentation 20/11/19
Date of Delivery 20/11/19


Deputy Registrar
National Company Law Tribunal
CGO Complex, New Delhi-110003


DD/DH/AD
National Company Law Tribunal
New Delhi

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
COURT - II

Item No. 206
(IB)-55(ND)2018
IA/2574/2020

IN THE MATTER OF:

Sh. Hari Krishan Sharma

Versus

AKME Projects Ltd.

SECTION

U/s 9 of IBC, 2016

Order Delivered on 10.07.2020

CORAM:

SHRI CH. MOHD. SHARIEF TARIQ
HON'BLE MEMBER (J)

SHRI L. N. GUPTA
HON'BLE MEMBER (T)

PRESENT:

For the Applicant/OC : Mr. Abhishek Anand, Advocate

ORDER

IA-2574/2020 : This is an application filed by the Counsel for the Resolution Professional seeking extension of 90 days of the CIRP period, which was over on 23rd June, 2020. However, there was complete lockdown from 24th March, 2020 till 31st May, 2020. By this date, a period of 270 days is over.

The Ld. Counsel also apprised that the Order of admission passed on 19th July, 2019 by this Adjudication authority was challenged before the Hon'ble NCLAT, which issued some directions vide its order dated 20th August, 2019 due to which no progress could be made in the CIR process. It is further submitted that the appeal was dismissed on 27th January, 2020.

In the totality of the circumstances, it appears that still there is time till 330 days. In the circumstances, we hereby extend the CIR period for a further period of 60 days w.e.f. the passing of this order with a direction to Resolution Professional to expedite resolution process and to file the status report before expiry of the extended period. In case needed, the RP would be at liberty to file another application for seeking exclusion of the litigation period. The IA stands disposed off.

-sd-

(L. N. GUPTA)
MEMBER (T)

-sd-

(CH. MOHD. SHARIEF TARIQ)
MEMBER (J)