BEFORE THE HON'BLE COMPANY LAW TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
I.A. NO. _____OF 2023
IN
C.P. NO. (IB)- 1082 (PB)/2018

IN THE MATTER OF:
KIRAN MALHOTRA

...FINANCIAL CREDITOR

VERSUS

ALCHEMIST TOWNSHIP INDIA LIMITED

...CORPORATE DEBTOR

AND IN THE MATTER OF:
DEVENDRA SINGH **...APPLICANT**

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APPLICANT

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PLACE: NEW DELHI
DATED: 21.04.2023

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DATED: 21.04.2023

SYNOPSIS

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The instant application is being filed by the Applicant (Resolution Professional) under Section 12(3) r/w Section 60 (5) of Insolvency and Bankruptcy Code, 2016 (IBC) read with Rule 11 of the NCLT, Rules, 2016 and Regulation 40 of IBBI (Insolvency Resolution Process for Corporate Person) Regulations, 2016 seeking exclusion of 161 days from the total CIRP period (ending on 21.04.2023) as approved by majority of the members of the Committee of Creditors (CoC) in the 17th meeting of the CoC held on 15.04.2023.

The aforementioned exclusion is being sought on account of failure of the Directorate of Enforcement (ED) to provide the copies of the documents seized by it from the office of Corporate Debtor during the raid conducted on 19.09.2020. It is pertinent to mention that the documents seized by the Enforcement Directorate are necessary for successful culmination of Corporate Insolvency Resolution Process (CIRP) of Corporate Debtor.

Exclusion is further being necessitated on account of Order dated 16.09.2021, of the Hon'ble High Court of Kolkata in WPA No.1389/2017, wherein the Hon'ble High Court of Kolkata has directed this Hon'ble Tribunal to not to pass any final Order in the instant matter. The Principal Bench of this Hon'ble Tribunal, vide Order, dated 10.01.2023, has also taken note of the Order of the Hon'ble High Court of Kolkata and passed direction for service of the Order of Hon'ble High Court of Kolkata, dated 16.09.2021 on Insolvency and Bankruptcy Board of India (IBBI).

In view of the same the CIRP of Corporate Debtor is still continuing and the Applicant seeks kind indulgence of this Hon'ble Tribunal to grant exclusion of 161 days on account of delay caused by ED in providing the data and documents seized during the raid as well as stay order passed by the Hon'ble High Court of Kolkata, dated 16.09.2021.

In view of the aforementioned reasons, the Applicant is seeking exclusion of following time period from the CIRP period:

S. No.	REASON FOR EXCLUSION	DATES	TIME PERIOD
1.	Time lost in seeking documents from ED and filing Petitions/ applications before PMLA/Ld. Special Court/Hon'ble High Court of Delhi	12.11.2022 (Date of filling of letter) To 21.04.2023 (last day of CIRP)	161 Days
2.	Time lost in seeking record /data / documents from the suspended management	12.11.2022 To 21.04.2023	161 Days
3.	Due to Order of Hon'ble High Court of Calcutta, dated 16.09.2021, vide which this Hon'ble Tribunal has been directed to not to pass any final Order in the instant matter	12.11.2022 To 21.04.2023 (date of filing of instant Application)	161 Days

The Applicant is seeking exclusion of the aforementioned period on the grounds mentioned hereinabove.

It is submitted that in the instant case, the Corporate Debtor is a Company in which there are larger number of claimants, to the tune of several lakhs, who have filed their claim before the Applicant. Further, the Applicant has circulated the final list of PRA and a Resolution Plan is also likely to be received in the instant case as the last date of submission of is 24.06.2023,

subject to approval of exclusion prayed in the instant Application. However, if the instant Application is not allowed, the instant CIRP proceedings shall be required to be terminated and the Corporate Debtor shall be relegated to liquidation proceedings, which may prejudice the interest of numerous stakeholders and defeat the objective and purpose of the IBC. Thus, the instant Application.

LIST OF DATES

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DATE	EVENTS
01.10.2020	Hon'ble Tribunal started the corporate insolvency procedure (CIRP) against the corporate debtor after receiving a request for its restart from the financial creditor. However, it is important to note that on 19.09.2020, the ED searched the Corporate Debtor's premises and later seized its books of accounts, papers, data, software, and other assets. This occurred prior to the resumption of the CIRP of the Corporate Debtor.
27.07.2021	Hon'ble Tribunal dismissed the aforementioned Application filled by the Applicant, seeking direction against the ED to release and hand over the copy of documents and data of the Corporate Debtor seized during the raid on 19.09.2019, in order to obtain a copy of the record/data of the Corporate Debtor seized by the ED, and instructed the Applicant to contact the PMLA for the release of such materials..
08.10.2021	In accordance with the instructions of this Hon'ble Tribunal, the Applicant wrote to the PMLA, requesting release of the documents; however, as of this writing, no document has been given to the Applicant.
08.10.2021 12.01.2022	The Applicant requested Ld. Adjudicating Authority under the PMLA to release copies of documents seized from the Corporate Debtor's offices and other pertinent documents that are a part of the Original Application No. 356 of 2019.
12.03.2022	The Petitioner received certified copies of the ED's application submitted to the Ld. Adjudicating

	Authority under the PMLA and the Ld. Adjudicatory Authority's rulings A cursory glance at the Application makes it abundantly clear that the ED seized a number of documents during the raid, but those documents are not included in the Original Application No.356 of 2019 that the ED filed before the Ld. Adjudicating Authority under the PMLA. As a result, the Applicant failed to obtain the pertinent record of the Corporate Debtor once more.
22.03.2022	The applicant in this case, unable to proceed with the CIRP due to the lack of papers, contacted the ED once more, and asked for the earliest possible delivery of the documents. The ED ignored the applicant's request here while acting dishonestly.
07.02.2022	In the meantime, as the Corporate Debtor's CIRP period was about to expire on 07.02.2022, the Applicant herein filed Applications with this Hon'ble Tribunal, asking for the exclusion of 161 days from the CIRP period of the Corporate Debtor on account of time lost in compiling and verifying an additional 70,000 claims and time lost because PMLA disregarded the Applicant's
20.05.2022	Hon'ble Tribunal by its order was delighted to grant the aforementioned Applications of the Applicant and to exclude the time-period from 31.08.2021 to 20.05.2022 from the Corporate Debtor's CIRP.
13.07.2022	The ED stated that the documents and material that were found during the search were sent to this Ld. Special Court, which is currently in charge of the proceedings, after confirmatory actions were taken under Section 17 of the Prevention of Money Laundering Act, 2000, during the hearing for Writ

	Petition No. 10566/2022 before the Hon'ble High Court of Delhi. Due to this, the Hon'ble High Court dismissed the Writ Petition, allowing the applicant to contact the Ld. Special Court/Ld. ASJ.
August, 22	In accordance with the Hon'ble High Court of Delhi's order dated 13.07.2022, the applicant submitted an application dated August 2022 to the Ld. Additional Sessions Judge of the Hon'ble Special Court, pursuant to Section 207 of the Cr.P.C read with Section 46 of the PMLA of 2002, asking for direction to the ED to provide copies of the data and documents it seized during the raid at the Corporate Debtor's office on 19.09.2020.
07.09.2022	The Ld. ASJ acknowledged the applicant's entitlement to get copies of the documents and data seized during the ED's search on 19.09.2020, but the Ld. ASJ unjustly dismissed the applicant's application without granting the request. The ED has been instructed by the Ld. ASJ by Order to furnish the Applicant herein with only those documents that are not pertinent to the CIRP of the Corporate Debtor.
13.10.2022	The applicant in this case filed a case under Section 482 of the Cr.P.C challenging the Order of Ld. ASJ, dated 7.9.2022, before the Hon'ble High Court of Delhi, the Hon'ble High Court was delighted to give the ED notice in Crl. M.C. No.5231/2022. In the aforementioned Petition, the Applicant has also submitted a response, which is now scheduled for 12.05.2023.
16.09.2021	The Hon'ble High Court of Calcutta, Kolkata, has instructed this Hon'ble Tribunal not to issue a final ruling in the current Corporate Debtor case in its Order

	from 16.09.2021, in WPA No.1389/2017. The applicant has a pending application with the Hon'ble High Court of Calcutta asking for the modification of an order from 16.09.2021.
19.09.2022	The applicant filled an application under Section 19(2) and (3) of the Code against the suspended management Due to non-cooperation by the suspended management which has been allowed by this Hon'ble Tribunal, the applicant again by email dated 07.10.2022 requested that the suspended management produce the record and data of the Corporate Debtor in accordance with the order of 19.09.2022 but suspended management hasn't given the applicant in this case any data or records, despite this Hon'ble Tribunal's instructions.
07.10.2022	Pursuant to Order, dated 19.09.2022, the Applicant herein vide email, dated 07.10.2022, requested the suspended management to provide the record and data of the Corporate Debtor. However, despite direction from this Hon'ble Tribunal, the suspended management has not provided any data / record to the Applicant herein
15.04.2023	Since, the CIRP in the instant case is ending on 21.04.2023, therefore, the members of the Committee of Creditors ('CoC') in the 17th meeting of the CoC held on 15.04.2023 have passed a resolution for the purposes of seeking exclusion of period of 161 days from the CIRP of the Corporate Debtor. The reasons for exclusion are mentioned in the instant Application.
21.04.2023	Hence, the instant Application.

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DEVENDRA SINGH **...APPLICANT**

APPLICATION UNDER SECTION 12(3) R/W SECTION 60(5) OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 R/W RULE 11 OF NCLT, RULE 2016, REGULATION 40 IBBI (INSOLVENCY OF CORPORATE PERSON) REGULATIONS, 2016 SEEKING EXCLUSION OF PERIOD OF 161 DAYS.

MOST RESPECTFULLY SHOWETH:

1. The instant application is being filed by the Applicant (Resolution Professional) under Section 12(3) read with Section 60 (5) of Insolvency and Bankruptcy Code, 2016 ('Code') read with Rule 11 of the NCLT, Rules, 2016 and Regulation 40 of IBBI (Insolvency Resolution Process for Corporate Person) Regulations, 2016 seeking exclusion of 161 days from the total Corporate Insolvency Resolution Period (CIRP) in the case of the Corporate Debtor herein. It is submitted that the CIRP in the instant case is ending on 21.04.2023 and 99.82% of the members of the Committee of Creditors ('CoC') in the 17th meeting of the CoC held on 15.04.2023 have passed a resolution for the purposes of seeking exclusion of period of 161 days. Copies of Minutes of the 17th CoC meeting, dated 15.04.2023,

DEVENDRA SINGH IBBI/IPA-002/ IP-N000011/ 2018-19/ 10001 INSOLVENCY PROFESSIONAL

alongwith summary record of e-voting is being annexed herewith and marked as **ANNEXURE A-1 (COLLY)**.

2. The aforementioned exclusion is being necessitated on account of failure of the Directorate of Enforcement (ED) to provide the data, record and the copies of the documents seized by the Department from the office of Corporate Debtor during the raid conducted on 19.09.2019. It is pertinent to mention here that the date and the documents as seized by the ED are necessary for successful culmination of Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor.

3. Exclusion is further being necessitated on account of Order dated 16.09.2021, of the Hon'ble High Court of Kolkata in WPA No.1389/2017, wherein the Hon'ble High Court of Kolkata has directed this Hon'ble Tribunal to not to pass any final Order in the instant matter. The Principal Bench of this Hon'ble Tribunal, vide Order, dated 10.01.2023, has also taken note of the Order of the Hon'ble High Court of Kolkata and passed direction for service of the Order of Hon'ble High Court of Kolkata, dated 16.09.2021 on Insolvency and Bankruptcy Board of India (IBBI). The Applicant herein has complied with the Order of this Tribunal dated 10.01.2023, vide his email, dated 01.02.2023. Copies of Order dated 16.09.2021, of Hon'ble High Court of Kolkata in WPA No.1389/2017, Order of Principal Bench of this Hon'ble Tribunal Order, dated 10.01.2023 and email of the

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Applicant, dated 01.02.2023, are being annexed herewith as **ANNEXURE A-2 (COLLY).**

4. It is submitted that in order to obtain the copy of data and record of the Corporate Debtor, the Applicant has approached various forums which includes this Hon'ble Tribunal under Section 60(5) of the Code, the Adjudicating Authority under PMLA and the Hon'ble High Court under Section 226 of the Constitution. The Applicant has also filed an Application under Section 207 of Cr.P.C. read with Section 46 of PMLA, 2002 before the Ld. Additional Sessions Judge of Special Court, Rouse Avenue Courts, seeking directions to the ED for providing the copy of the data and documents of the Corporate Debtor seized by the ED, during the raid conducted at the office of the Corporate Debtor on 19.09.2020.

5. The Ld. ASJ vide its Order, dated 07.09.2022, recognised the right of the Applicant to seek copy of documents and data as seized during search conducted on 19.09.2019 by the ED, however, the Ld. ASJ erroneously disposed of the application of the Applicant without allowing the prayer.

6. The Applicant herein has challenged the Order of Ld. ASJ, dated 07.09.2022, before the Hon'ble High Court of Delhi in Crl. M.C. No.5231/2022 filed under Section 482 of Cr.P.C. The Hon'ble High Court of Delhi was pleased to issue notice to the ED in Crl. M.C. No.5231/2022, vide its Order, dated 13.10.2022. Copies of

the Application filed under Section 207 of Cr.P.C (without annexures) alongwith Order of Ld. ASJ, dated 07.09.2022, are being annexed herewith as **ANNEXURE A-3 (COLLY).** Copies of the Crl. M.C. No.5231/2022 (without annexures) alongwith Order, dated 13.10.2022, are being annexed herewith as **ANNEXURE A-4 (COLLY)**.

7. In view of the aforesaid, the Applicant herein despite being Resolution Professional, is not being supplied the copy and data of the Corporate Debtor by the ED and therefore, the Applicant herein seeks kind indulgence of this Hon'ble Tribunal to grant exclusion of 161 days from the CIRP of the Corporate Debtor due to the aforementioned reasons.

8. The Applicant herein is explaining in detail the facts leading to the filing of the instant Application and the same are as follows:

   a. It is submitted that in the instant case, the CIRP of the Corporate Debtor was initiated by this Hon'ble Tribunal on 01.10.2020, upon an application filed by the Financial Creditor, praying for recommencement of CIRP of the instant Corporate Debtor. However, it is pertinent to note here that prior to recommencement of CIRP of the Corporate Debtor, the ED conducted a search on the premise of the Corporate Debtor on 19.09.2019 and thereafter, seized the books of account, documents, data, software, etc. of the Corporate Debtor.

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b. In order to obtain a copy of the record/data of the Corporate Debtor seized by the ED, the Applicant had filed an application before this Hon'ble Tribunal being I.A. No. 1398 of 2021 in C.P. (IB) No. 1082 of 2018, seeking direction against the ED to release and handover the copy of documents and data of the Corporate Debtor seized during the raid on 19.09.2019. This Hon'ble Tribunal vide its Order, dated 27.07.2021, disposed off the said Application by directing the Applicant to approach the PMLA for release of such documents. Copy of the Order, dated 27.07.2021, is being annexed herewith as **ANNEXURE A-5**.

c. Pursuant to the directions of this Hon'ble Tribunal, the Applicant vide its letter, dated 08.10.2021, approached the PMLA and sought release of the documents, however, till date no document has been supplied to the Applicant and Applicant is still trying to get the necessary documents as they are crucial for the CIRP of Corporate Debtor.

d. The Applicant herein also approached the Ld. Adjudicating Authority under PMLA by way of an application u/s 21 of PMLA, however, the registry informed that proceedings under section 17(1) of the Prevention of Money Laundering Act, 2002 (PMLA) in ECIR/09/DLZO-I/2018 dated 11.07.2018 in the matter of *"Deputy Director, Enforcement Directorate vs. Alchemist Township India Ltd and others"* has been disposed off and no Application can be entertained in that respect.



e. The Applicant vide his letters, dated 08.10.2021 and 12.01.2022, requested the Ld. Adjudicating Authority under PMLA to release the copies of the documents seized from the premises of Corporate Debtor and other relevant documents forming part of the Original Application No.356 of 2019.

f. On 12.03.2022, the Petitioner received certified copies of Application filed by the ED before the Ld. Adjudicating Authority under PMLA and the orders passed by the Ld. Adjudicatory Authority. A bare perusal of the Application clearly shows that the ED seized various documents during the raid, however, the same are not the part of the Original Application No.356 of 2019 filed by ED before Ld. Adjudicating Authority under PMLA, therefore, the Applicant was once again unsuccessful in obtaining the relevant record of the Corporate Debtor.

g. The Applicant herein being unable to proceed with the CIRP, due to non-availability of documents, again approached the ED vide letter, dated 22.03.2022 and requested to release documents at the earliest. The ED acting malafidely, did not respond to the request of the Applicant herein. Copy of letter, dated 22.03.2022, is annexed herewith and marked as **ANNEXURE A-6.**



In the interim, due to CIRP period of the Corporate Debtor coming to an end on 07.02.2022, the Applicant herein filed

Applications, being IA No.640/2022 and IA No.1239/2022, before this Hon'ble Tribunal, seeking exclusion of 161 days from the CIRP period of Corporate Debtor on account of time lost in collating and verifying additional 70,000 claims and time lost due to failure of PMLA to adhere to the request of the Applicant for providing relevant document and data of the Corporate Debtor.

i. This Hon'ble Tribunal was pleased to allow the above Applications of the Applicant being IA No.640/2022 and IA No.1239/2022, vide Order, dated 20.05.2022 and excluded the time period from 31.08.2021 to 20.05.2022, from the CIRP of the Corporate Debtor. Copy of Order, dated 20.05.2022, is annexed herewith and marked as **ANNEXURE A-7.**

j. Despite several requests including letter, dated 22.03.2022, the ED did not provide any response or documents/data to the Applicant for verifying the claims received. Thus, aggrieved by the inaction on the part of ED, upon reopening of the Hon'ble High Court of Delhi after summer vacation, the Applicant herein approached the Hon'ble High Court of Delhi under Article 226 of the Constitution of India in Writ Petition No. 10566/2022. Copy of Writ Petition No.10566 of 2022 (without annexures) is annexed herewith and marked as **ANNEXURE A-8.**

DEVENDRA SINGH
INSOLVENCY PROFESSIONAL

k. The ED during the course of hearing held on 13.07.2022 before the Hon'ble High Court of Delhi in Writ Petition No. 10566/2022, submitted that the documents and material which were seized during the course of the search, have since and upon confirmatory steps having been taken under Section 17 of the Prevention of Money Laundering Act, 2000 been transmitted to this Ld. Special Court which is in seisin of proceedings. In view of the same, the Hon'ble High Court disposed off the Writ Petition vide Order, dated 13.07.2022, providing the Applicant herein the liberty to approach the Ld. Special Court/ Ld. ASJ. Copy of Order, dated 13.07.2022, of the Hon'ble High Court of Delhi is annexed herewith and marked as **ANNEXURE A-9.**

l. Pursuant to the Order of Hon'ble High Court of Delhi, dated 13.07.2022, the Applicant herein approached the Ld. Special Court before whom the Complaint Case No.02/2021 titled as *'Directorate of Enforcement vs M/s Alchemist Township India Limited & Ors'* was pending. The Applicant filed an Application, dated August, 2022, under Section 207 of Cr.P.C. read with Section 46 of PMLA, 2002 before the Ld. Additional Sessions Judge of Hon'ble Special Court, Rouse Avenue Courts seeking direction to the ED for providing copy of the data and documents seized by it during the raid conducted at the office of the Corporate Debtor on 19.09.2020. The relevant part of the prayer as sought before



the Ld. ASJ is being reproduced herein for the convenience of this Hon'ble Tribunal:

> *"(a). Allow the present application;*
>
> *(b). Direct the Respondent/Non-Petitioner herein to release and handover the documents and data seized during the search on 19.09.2019 from the premise of Corporate Debtor to Petitioner herein as requested vide letter/email dated 11.12.2020, 14.01.2021, 13.02.2021 & 22.03.2022."*

Copy of the Application of the Applicant, dated August, 2022 (without annexure) filed before the Ld. ASJ is being annexed herewith as **ANNEXURE A-10.**

m. The Ld. ASJ in its Order, dated 07.09.2022, recognised the right of the Applicant to seek copy of documents and data as seized during search conducted on 19.09.2019 by the ED, however, the Ld. ASJ wrongfully disposed of the Application of the Applicant without allowing the prayer. The Ld. ASJ vide Order, dated 07.09.2022, has directed the ED to provide only relied documents to the Applicant herein, which are not relevant for the CIRP of the Corporate Debtor.

n. The Applicant herein has challenged the Order of Ld. ASJ, dated 07.09.2022, before the Hon'ble High Court of Delhi in Crl. M.C. No.5231/2022, filed under Section 482 of Cr.P.C. The Hon'ble High Court was pleased to issue notice to the ED

in Crl. M.C. No.5231/2022, vide its Order, dated 13.10.2022. The Applicant has also filed rejoinder in the aforementioned Petition and the same is now listed on 12.05.2023.

o. It is further submitted that the Hon'ble High Court of Calcutta, Kolkata vide its Order, dated 16.09.2021, in WPA No.1389/2017, has also directed this Hon'ble Tribunal to not to pass any final order in the instant matter of Corporate Debtor. The Applicant has filed an Application before Hon'ble High Court of Calcutta seeking modification of the Order, dated 16.09.2021 and the same is still pending.

p. Further, the Applicant has also demanded the data and record of the Corporate Debtor from the suspended management. However, the suspended management has taken a stand that the records have been seized and thus, the same is not readily available with them. Due to non-cooperation by the suspended management, the Applicant herein had also filed an Application under Section 19(2) and (3) of the Code against the suspended management being IA No.5324/2020, which has been allowed by this Hon'ble Tribunal vide Order, dated 19.09.2022. Pursuant to Order, dated 19.09.2022, the Applicant herein vide email, dated 07.10.2022, requested the suspended management to provide the record and data of the Corporate Debtor. However, despite direction from this Hon'ble Tribunal, the suspended management has not provided any data / record

to the Applicant herein. Copies of the Order, dated 19.09.2022, and email, dated 07.10.2022, are being annexed herewith as **ANNEXURE A-11 (COLLY).**

9. In view of the aforementioned reasons, the Applicant is seeking exclusion of following time period from the CIRP period:

S. No.	REASON FOR EXCLUSION	DATES	TIME PERIOD
1.	Time lost in seeking documents from ED and filing Petitions/applications before PMLA/Ld. Special Court/ Hon'ble High Court of Delhi	12.11.2022 to 21.04.2023 (date of passing of the resolution for seeking exclusion from this Hon'ble Tribunal)	161 Days
2.	Time lost in seeking record /data / documents from the suspended management	12.11.2022 to 21.04.2023 (date when CIRP of the Corporate Debtor is coming to an end)	161 Days
3.	Time period during which the interim order of the Hon'ble Calcutta High Court has been in force (w.e.f. 16.09.2021)	12.11.2022 to 21.04.2023 (date of filing of instant Application)	161 Days
	TOTAL	**Overlapping period from 12.11.2022 to 21.04.2023**	161 Days

The Applicant is seeking exclusion of the aforementioned period due to the following:

a) Time lost in seeking documents from ED and filing Petitions/applications before PMLA/Ld. Special Court/Hon'ble High Court of Delhi for direction to ED for

supplying the copy of record/data/software of the Corporate Debtor seized during the raid conducted on 19.09.2019 at the office of Corporate Debtor,

b) Time lost in seeking record /data / documents from the suspended management to provide the data/documents sought by the Applicant, and

c) Further in the instant case the Hon'ble High Court of Calcutta, vide its order dated 16.09.2021, in WPA No.1389/2017 has directed this Hon'ble Tribunal to not pass any final Order in the instant matter.

10. It is submitted that in the instant case, the Corporate Debtor is a Company in which there are larger number of claimants, to the tune of several lakhs, who have filed their claim before the Applicant. The said list of a class of creditors is being updated continuously. Further, the Applicant has circulated the final list of the Prospective Resolution Applicant (PRA) on 07.02.2023 and a Resolution Plan is also likely to be received in the instant case. The PRAs have also demanded complete record/data of the Corporate Debtor for submitting a Resolution Plan and also sought for further time for submission of the Resolution Plan on account of pendency of proceedings before the Hon'ble Calcutta High Court and this Hon'ble Tribunal. It is evident that the Applicant in the instant case has been running from pillar to post for obtaining the record/data of the Corporate Debtor from

the suspended management as well as from ED. The exclusion of time period shall provide an opportunity for resolution of the Corporate Debtor as against Liquidation which is in line with the object and purpose of IBC.

11. That considerable time has been consumed in approaching different forums/Courts/Tribunals in order to obtain the record/data of the Corporate Debtor from the suspended management as well as from ED, therefore, the Applicant is preferring the instant Application. However, if the instant Application is not allowed, the instant CIRP proceedings shall be required to be terminated and the Corporate Debtor shall be relegated to liquidation proceedings, which may prejudice the interest of numerous stakeholders and defeat the objective and purpose of the IBC, which is to achieve resolution of the Corporate Debtor. If the instant application is allowed, it shall result in grant of adequate time in the ongoing insolvency resolution process of the Corporate Debtor herein and in accordance with the spirit of IBC i.e. finding a resolution to a distressed Company rather than putting the same into liquidation.

12. It is noteworthy that the CoC in its meeting dated 15.04.2023 has also, subject to exclusion of time approved by this Hon'ble Tribunal, duly extended the last date of submission of Resolution Plan to 24.06.2023.



13. It is pertinent to mention that the documents seized by the Enforcement Directorate are necessary for successful culmination of Corporate Insolvency Resolution Process (CIRP) of Corporate Debtor. Despite repeated requests and efforts, till date no response or document/data has been received by the Applicant. In view of the same the CIRP of Corporate Debtor is still continuing and the Applicant seeks kind indulgence of this Hon'ble Tribunal to grant exclusion as prayed hereunder for the reasons stated in the preceding paras.

14. It is submitted that due to reasons which were beyond the control of the Applicant, the instant Application is being preferred.

15. In view of the aforementioned reasons the Applicant is not able to conclude the CIRP process within the specific time frame which will expire on 21.04.2023.

16. In this regard the Applicant would like to rely upon the order of Hon'ble NCLAT dated 08.05.2018 in the case of *Quinn Logistics India Pvt. Ltd. v. Mack Soft Tech Pvt. Ltd. (Company Appeal (AT)(Insolvency) No. 185 of 2018)* wherein it was observed that the Adjudicating Authority is empowered to exclude certain period for the purpose of counting the total period of 270 days if the facts and circumstances justify such exclusion. In this matter a total of 166 days were allowed to be excluded. The



relevant para is hereby reproduced:

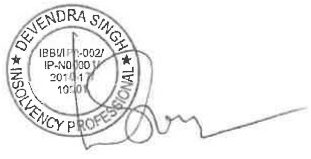
> *"... it is clear that if an application is filed by the 'Resolution Professional' or the 'Committee of Creditors' or 'any aggrieved person' for justified reasons, it is always open to the Adjudicating Authority/Appellate Tribunal to 'exclude certain period' for the purpose of counting the total period of 270 days, if the facts and circumstances justify exclusion, in unforeseen circumstances."*

17. In the light of above facts and circumstances and power conferred upon this Hon'ble Adjudicating Authority, the instant case is also a fit case for exclusion of time period lost due to adjudication of the instant application which was required to be decided to proceed with the CIRP.

18. That this Hon'ble Tribunal has appropriate jurisdiction to grant reliefs as sought by the Applicant herein.

19. That grave and irreparable harm, loss and prejudice shall be caused to the stakeholders if the reliefs as prayed for are not granted by this Hon'ble Tribunal. The balance of convenience lies entirely in favour of the Applicant.

20. The instant applicant is bonafide and being filed in the interest of justice, and to advance the objectives of the Code.



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PRAYER

In the aforesaid facts and circumstances, it is most humbly and respectfully prayed that this Hon'ble Bench may graciously be pleased to:

a) Allow the instant application;

b) Pass an order excluding a period 161 days i.e. w.e.f. 12.11.2022 to 21.04.2023 in the ongoing insolvency resolution process of the Corporate Debtor herein;

c) Pass an order for excluding the time spent in adjudication of the instant application w.e.f. 21.04.2023 till the date of pronouncement of the order in the instant application;

d) Pass such other or further order and other relief(s) as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the present case.

DEVENDRA SINGH
IBBI/IPA-002/IP-N000001/2016-17/10001
INSOLVENCY PROFESSIONAL

APPLICANT

THROUGH

VARSHA BANERJEE, KARAN GROVER
DHIR & DHIR ASSOCIATES
ADVOCATES FOR RESOLUTION PROFFESIONAL
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NEW DELHI 110 024
TEL: 011- 4241000
FAX: 011-42410091
E-MAIL: varsha.banerjee@dhirassociates.com

PLACE:
DATED:21.04.2023

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INDIA NON JUDICIAL

Government of Uttar Pradesh

e-Stamp

Signature .....
Name : Kalyan Singh Acc Code : UP14016904
Acc Add : Sub-Registrar, Noida, Mob : 9654476954
License No : 202/2021-2022, Tehsil & Distt : Dadri, G.B. Nagar

Certificate No.	:	IN-UP45016488334838V
Certificate Issued Date	:	25-Feb-2023 03:34 PM
Account Reference	:	NEWIMPACC (SV)/ up14016904/ GAUTAMBUDDH NAGAR 1/ UP-GBN
Unique Doc. Reference	:	SUBIN-UPUP14016904839428745326 35V
Purchased by	:	DEVENDRA SINGH
Description of Document	:	Article 4 Affidavit
Property Description	:	Not Applicable
Consideration Price (Rs.)	:	
First Party	:	DEVENDRA SINGH
Second Party	:	NA
Stamp Duty Paid By	:	DEVENDRA SINGH
Stamp Duty Amount(Rs.)	:	100 (One Hundred only)

GOVT OF INDIA
NOTARIAL NOTARIAL

This is an integral part of Affidavit.

GOVT OF INDIA

DEVENDRA SINGH
IBBI/IPA-002/ IP-N000001/ 2016-17/ 10001
INSOLVENCY PROFESSIONAL

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BEFORE THE HON'BLE COMPANY LAW TRIBUNAL,

BENCH-VI, NEW DELHI

I.A. NO._____OF 2023
IN
C.P. NO. (IB)- 1082 (PB)/2018

IN THE MATTER OF:
KIRAN MALHOTRA ..... FINANCIAL CREDITOR

VERSUS

ALCHEMIST TOWNSHIP INDIA LIMITED

.... CORPORATE DEBTOR

AND IN THE MATTER OF:
DEVENDRA SINGH ...APPLICANT

AFFIDAVIT

I, Devendra Singh, S/o. Late Shri Daryao Singh, aged about 58 years, having office at Assotech Business Cresterra, Office No. 216, 2nd Floor, Sector-135, Noida, Uttar Pradesh-201305, do hereby solemnly affirm and declare as under:

1. I am the Resolution Professional of Alchemist Township India Ltd. (Under CIRP) as appointed by this Hon'ble Tribunal vide its order dated 24.11.2020 and as such well conversant the facts of the case. Hence, I am competent to swear this Affidavit.

2. That I have read and understood the contents of the accompanying Application and have understood the contents of the same.

3. That I state that the accompanying Application has been drafted under my instructions. The contents of the same are true and correct to my own knowledge.

DEPONENT

VERIFICATION

I, the deponent hereinabove, do hereby verify and state that the contents of the paras 1 to 3 of the Affidavit are true and correct to the best of my knowledge and belief and no part of it is false and nothing material has been concealed therefrom.

Verified and signed at Noida on this the 21st April, 2023.

DEPONENT

GOVT OF INDIA

21 APR 2023