NATIONAL COMPANY LAW TRIBUNAL
राष्ट्रीय कंपनी विधि अधिकरण

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Case Type :	**Interlocutory Application(IBC)**
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Filing Number :	**0710102/ 00998/ 2022**
Amount :	**1000 Rs. Only**

BEFORE THE HON'BLE COMPANY LAW TRIBUNAL,
PRNCIPAL BENCH, NEW DELHI
I.A. NO. OF 2022
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

(Resolution Professional)

...APPLICANT

INDEX

S. NO.	PARTICULARS	PAGES
1.	Synopsis And List Of Dates	1-12
2.	Memo Of Parties	13
3.	Application Under Section 60(5) Of The Insolvency And Bankruptcy Code, 2016 R/W Rule 11 Of NCLT, Rule 2014, Regulation 40 IBBI (Insolvency Of Corporate Person) Regulations, 2016 Seeking An Exclusion of 161 Days Alongwith Supporting Affidavit.	14-28
4.	**ANNEXURE A-1** Email dated 18.11.2020 by the erstwhile Directors to RP.	29
5.	**ANNEXURE A-2** A copy of order dated 27.07.2021 by this Hon'ble Tribunal.	30-31
6.	**ANNEXURE A-3** A copy of order dated 02.08.2021 by this Hon'ble Tribunal.	32-33
7.	**ANNEXURE A-4 (COLLY.)** Copies of letter dated 08.10.2021 and 12.01.2022 by the Applicant's counsel to the PMLA.	34-39
8.	**ANNEXURE A-5** A copy of minutes of 7th CoC Meeting dated 18.01.2022.	40-54

THROUGH

Varsha

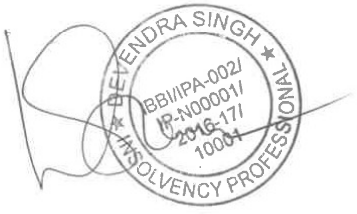
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SYNOPSIS

The instant application is being filed by the Applicant (Resolution Professional) under 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 07.02.2022). The said exclusion is sought on account of pendency of request made to Prevention of Money Laundering Authority on 08.10.2021 seeking release of documents seized by the Enforcement Directorate from the office of Corporate Debtor during the raid on 19.09.2019. 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. The counsel for Applicant vide its email dated 12.01.2022 again requested the PMLA to release the authority, however till date no response has been received despite of repeated request. 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 the PMLA.

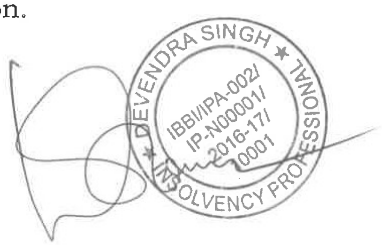
It is submitted that the Applicant had filed an application I.A. No. 1398 of 2021 in C.P. (IB) No. 1082 of 2018 seeking direction against the Enforcement Directorate to release and handover the copy of documents and data of the Corporate Debtor seized during the raid on 19.09.2019. This Hon'ble tribunal 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. 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.

Further, this Hon'ble Tribunal vide its order dated 02.08.2021 directed the Applicant to extend the time for filing of claims and resultantly various creditors approached the Applicant with new claims. The Applicant till 30.11.2021 received approximately 70,000 new claims and some of them have been verified and some are still under process on the basis of the limited documents available and consumed substantial amount of time. Due to continuous submission of substantial number of claims, the Applicant requires ample amount of time to collate and verify in the light of the limited information and document available with Applicant and accordingly the period from 31.08.2021 to 25.12.2021 during which the claims were received and verified.

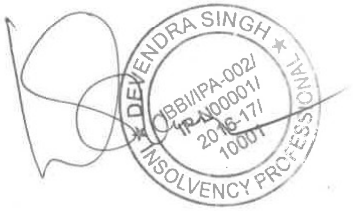
That till 20.11.2021, the Applicant received total 7,86,647 claims since Insolvency Commencement date from Financial Creditors in a Class. Out of 7,86,647 claims, the RP has admitted 6,16,415 Claims. However, the Applicant is still receiving claims from Financial Creditor in a Class. As per the records, the Applicant has received further around 70,000 claims apart from 7,86,647 claims which are still under process of verification.



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 incurred in seeking documents from PMLA on 08.10.2021.	08.10.2021 (Date of filling of letter) To 07.02.2022 (last day of CIRP)	123 Days
2.	Time spent to verify the new claims due to limited documents and COVID restrictions imposed by the Govt. of NCT	31.08.2021 To 25.12.2021	117 Days
	TOTAL	**Overlapping period from 08.10.2021 to 25.12.2021 may be ignored (79 days)**	161 Days

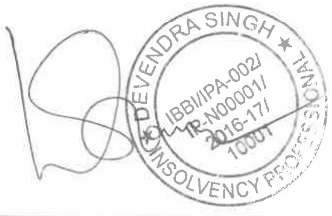
It is a matter of record that the CIRP of the Corporate Debtor was initiated on 25.01.2019 by this Hon'ble Tribunal. However, an appeal was preferred, wherein the Hon'ble National Company Law Appellate Tribunal (**NCLAT**), vide its order dated 01.03.2019 recorded that as settlement has been concluded between the parties, the admission order is set aside, with the liberty granted to the Financial Creditor to revive the captioned application upon failure of the encashment of cheques. Thereafter, as the settlement between the parties was not reached, the Financial Creditor preferred an application for revival of the captioned petition, which this Hon'ble Tribunal, vide its order dated 01.10.2020 was pleased to allow. The Applicant was appointed as the Resolution Professional in the 1st meeting of the COC held on



23.10.2020 and the same was confirmed by this Hon'ble Tribunal on 24.11.2020.

That in the instant case, the Applicant pursuant to his appointment discovered that the proper and complete relevant documents and information of Corporate Debtor were not in the custody of the erstwhile IRP and therefor the erstwhile IRP approached the erstwhile management of the Corporate Debtor to seek necessary information. One of the erstwhile Director vide email dated 18.11.2020 informed the erstwhile IRP about the raid conducted by the Enforcement Directorate on 19.09.2019 wherein all the documents were seized by the ED. However, the erstwhile IRP filed an application under section 19(2) of IBC, 2016 seeking necessary directions from this Hon'ble Tribunal against erstwhile Directors to provide all the documents to the IRP which is still pending adjudication.

Thereafter, the Applicant pursuant to his appointment was constrained to approach this Ld. Tribunal by way of an application I.A. No. 1398 of 2021 under section 19(2) of IBC, 2016 seeking necessary direction against the enforcement directorate to release and handover the copies of the documents seized during the raid on 19.09.2019. The Applicant by way of the said application requested this Ld. Tribunal to direct the ED to release the documents enabling the Applicant to verify the claims and complete the CIRP in a time bound manner. However, this Ld. Tribunal vide its order dated 27.07.2021 disposed off the said application with a liberty to Applicant to approach the Adjudicating Authority under Prevention



of Money Laundering Act, 2002. It is submitted that the documents and the information seized by the ED is vital for the verification of the claims and completion of CIRP in time bound manner.

It is to be noted that on account of exceptionally large number of stakeholders involved in the Corporate Insolvency Resolution Process **(CIRP)** of the Corporate Debtor, to the tune of several lakhs, the Applicant on 07.01.2021 established a Stakeholders Data Management Cell and thereafter established Compliance and Creditors Coordinator. It is submitted that the said process, as envisaged is quite lengthy and tedious in nature, taking into consideration the voluminous number of emails which is being received per day.

Apart from other compliances envisaged under IBC, the Applicant published Form-G on 25.12.2020 and 16.01.2021, wherein it received the Expression of Interest (**EOIs**) but did not receive any Resolution Plans from the interested parties. The Applicant thereafter again published Form G on 10.04.2021, with the last date for submission of Resolution Plan being 25.05.2021. The Applicant received an EoI, which was vetted and verified. However, on account of the lockdown which was imposed by the Government of NCT of Delhi, amidst rising COVID-19 cases, from 20.04.2021, the PRA requested for extension of time period in submitting the Resolution Plan as it was unable to carry out due diligence, due to the stringent restrictions.

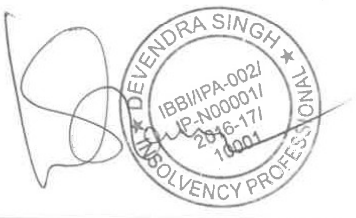
The Applicant is filing the instant application, seeking exclusion of time period lost from 31.08.2021 to 25.12.2021 on account of time

DEVENDRA SINGH
IBBI/IPA-002/IP-N00001/2016-17/10001
INSOLVENCY PROFESSIONAL

period lost due to receipt of voluminous claims and its verification process. Further time lost due to failure of PMLA to provide necessary documents from 08.10.2021 to 07.02.2022 should also be excluded wherein the Applicant was seeking vital information from the PMLA/Enforcement Directorate which is required for verification of the claims received so far.

Therefore, due to reasons which were beyond the control of the Applicant, time lost due to adjudication of the applications, time granted to the Creditor to file the claims and verification of large number of claims on the basis of limited information as the relevant documents are in the custody of ED, the Applicant is preferring the instant Application seeking exclusion of 161 days from the total period of CIRP period of the Corporate Debtor. The CoC during the 7thc CoC meeting dated 18.01.2022 approved the resolution item agenda no. B1 seeking exclusion of 161 days from the total CIRP period. The said resolution was approved with the majority of CoC with 99.75% voting share.

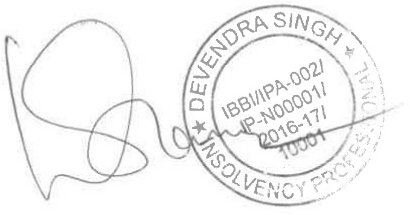
It is submitted that in the instant case, the Corporate Debtor is a Company in which there are larger number of claimants, to the tune of several lakhs, who have filed their claim before the Applicant. The said list of a class of creditors is being updated continuously. Further, the Applicant has circulated the final list of PRA and a Resolution Plan is also likely to be received in the instant case. However, if an exclusion of 161 days is not granted, 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 several homebuyers 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.

The CoC in its Sixth Meeting held on 16.12.2021, wherein several matters and issues were discussed and voted upon including revised Eligibility Criteria under section 25(2)(H) or l8C, 2016, for fixing the eligibility criteria of Prospective Resolution Applicants ("PRAs") who would be interested submission of Resolution Plan in the CIRP of Corporate Debtor. The CoC approved the Eligibility Criteria and accordingly, in compliance with the provisions of Regulation 36(A) of the Insolvency and Bankruptcy Board of India (Insolvency and Resolution Process for Corporate Persons) Regulations, 2016, the Applicant published Form-G on 25.12.2021.

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 07.02.2022. Admittedly, the time period from 31.08.2021 to 25.12.2021 and 08.10.2021 to 07.02.2022 which is lost or will be lost due to the reasons beyond the Applicant's control. Hence the applicant is seeking kind indulgence of this Hon'ble Adjudicating Authority to exclude the time period of 161 days from the total period of CIRP for the reasons as mentioned above.

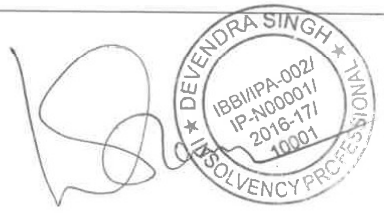


LIST OF DATES

DATE	EVENTS
25.01.2019	Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor was initiated by this Hon'ble Tribunal on an application filed under Section 7 of the IBC and Pramod Goel was appointed as the IRP.
02.02.2019	The IRP effected public announcement and also proposed the names of the three Insolvency Professionals to act as the Authorized Representatives of the Financial Creditors in a class.
12.02.2019	An appeal was preferred by Alchemist Infra Ventures Limited, shareholder of the Corporate Debtor, challenging the admission order. The Hon'ble NCLAT observed that as the Financial Creditor has no objection with the settlement being proposed, the IRP is to not proceed any further in the ongoing CIRP.
01.03.2019	The Hon'ble NCLAT vide its order set aside the admission order on account of cheques being handed over in terms of settlement concluded between the parties. However, liberty was granted to the Financial Creditor to revive the caption application, upon failure of the encashment of the cheques.
19.09.2019	Enforcement Directorate(ED) conducted a search on the premise of the Corporate Debtor and thereafter seized the books of account/records of the Corporate Debtor. The ED also seized the software which contained the complete information about the stakeholders of the Corporate Debtor.
01.10.2020	Upon failure of the encashment of the cheques, an application was preferred by the Financial Creditor for revival of the captioned application. This Hon'ble Tribunal was pleased to allow the application and re-commence the CIRP proceedings of the Corporate Debtor.



09.10.2020 12.10.2020	The IRP made a general public announcement in the Financial Express, Jansatta in Delhi NCR Edition and Chandigarh Edition and Daily Chardikhala in Punjabi Edition about the re-commencement of the CIRP proceedings.
23.10.2020	In the first meeting of the COC, the Applicant was appointed as the Resolution Professional of the Corporate Debtor.
03.12.2020	The appointment of the Applicant as the Resolution Professional was confirmed by this Hon'ble Tribunal on 24.11.2020. However, the copy of the order, confirming the appointment of the Applicant was received later on.
11.12.2020 14.01.2021	The Applicant on learning about the documents being seized by the Enforcement Directorate preferred a letter and an email in order to handover the said documents to the Applicant on account of CIRP proceedings being initiated of the Corporate Debtor.
25.12.2020	The Applicant published FORM-G in the Business Standard, New Delhi thereby inviting Expression of Interest from Prospective Resolution Applicants, with last date for receipt of EOI being 09.01.2021.
07.01.2021	On account of exceptionally large number of stakeholders being involved in the CIRP of the Corporate Debtor, the Resolution Professional established a Stakeholder Data Management Cell.
16.01.2021	As the Applicant had received total of two Expression of Interest, the members of the COC in order to provide opportunity for the other interested parties, advised the Applicant to re-publish Form-G. Therefore, Form-G was again published in Business Edition (All Editions- English & Hindi), with the last date for submission of the EOI being 31.01.2021.



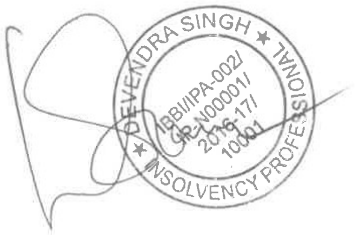
03.02.2021	This Hon'ble Tribunal on an application preferred by the Applicant was pleased to exclude the time period from 25.01.2019 to 09.10.2020, out of the total CIRP period of the Corporate Debtor, which was lost on account of disposal of appeal and in revival of the CIRP proceedings from 25.01.2019.
25.02.2021	In pursuance of the re-publication of FORM-G on 16.01.2021, the Applicant received 2 EOIs. The said EOIs were perused, verified and vetted and thereafter the final list of PRAs was issued. However, no Resolution Plan was received.
12.03.2021	The Applicant filed IA No.1398 of 2021 seeking direction against the Enforcement Directorate.
22.03.2021	The Ld. Coordinate Bench of this Ld. Tribunal heard CP. 103/74(3)/2019 wherein the Applicant apprised that Corporate Debtor is undergoing CIRP. The Ld. Bench directed the Applicant to remain present on the next date of hearing.
23.03.2021	The Applicant was constrained to prefer an application bearing IA No.1398/2021 before this Hon'ble Tribunal seeking directions to the ED to release and handover the documents seized during the search conducted on 19.09.2019. This Hon'ble Tribunal vide its order was please to issue notice.
10.04.2021	The Applicant thereafter again published Form G with the last date for submission of Resolution Plan being 25.05.2021.
13.04.2021	This Hon'ble Tribunal vide its order in IA no. 1747/2021 was pleased to extend the CIRP proceedings of the Corporate debtor by 90 days.
20.04.2021 25.04.2021, 01.05.2021 16.05.2021 23.05.2021	A week-long lockdown/curfew was imposed by the State Government of Delhi due to the rising Covid-19 cases, which kept on extending further in terms of the notification issued.



07.06.2021	In pursuance of the re-publication of FORM-G on 10.04.2021, the Applicant received 1 EOI. The said EOI was perused, verified and vetted and thereafter the final list of PRAs was issued.
24.06.2021	The Applicant received an email from the PRA wherein it requested to grant an extension of time period for submission of the Resolution Plan as it was unable to carry out due diligence, on account of the restrictions imposed by the Government of NCT of Delhi and by other states, due to rising Covid-19 cases.
19.07.2021	The Applicant pursuant to the Lockdown/Curfew imposed by the government of NCT due to sudden outbreak of Second Wave of Covid 19, approached this Hon'ble Tribunal to seek exclusion of 48 days lost due to which CIRP could not be completed. This Hon'ble Tribunal vide its order dated 19.07.2021 allowed the exclusion application IA No.2988 of 2021 and excluded 48 days from the CIRP period.
27.07.2021	The Applicant convened 4th CoC meeting and apprised the members about the ongoing litigations before this Hon'ble Tribunal and also the submission of voluminous claims. The CoC considered the peculiar situation and recommended the Applicant to file an appropriate Application before this Ld. Tribunal seeking exclusion of time period lost due to ongoing litigation due to which the CIRP could not have been completed.
27.07.2021	This Ld. Tribunal disposed of the IA No.1398 of 2021 and granted the liberty to the Applicant to approach the Adjudicating Authority under PMLA for seeking necessary directions.
02.08.2021	The Ld. Coordinate Bench vide its order in CP No.103/74(3)/ND/2019 directed the Creditor

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	(Kusum Lata) to file its claims before the Applicant within 1 month.
08.10.2021	Applicant filed letter before PMLA seeking release of documents which were seized by ED during the raid on 19.09.2019.
20.11.2021	The Applicant has received 7,86,647 claims from the stakeholders of the Corporate Debtor herein and verified and admitted total number of 6,16,415 claims.
30.11.2021	Additional 70,000 Claims were received by the Applicant.
25.12.2021	Form G was published by Applicant.
12.01.2022	The counsel for Applicant sent reminder to PMLA seeking release of documents as per letter dated 08.10.2021.
18.01.2022	CoC in its 7th meeting approved the resolution seeking exclusion of 161 days from the total CIRP period.
.02.2022	Hence, the instant application.



BEFORE THE HON'BLE COMPANY LAW TRIBUNAL,

PRNCIPAL BENCH, NEW DELHI

I.A. NO. OF 2022

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

(Resolution Professional)
ALCHEMIST TOWNSHIP INDIA LIMITED

...APPLICANT

MEMO OF PARTIES

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PLACE: NEW DELHI
DATED: 15.02.2022

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

**BEFORE THE HON'BLE COMPANY LAW TRIBUNAL,
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I.A. NO. OF 2022
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VERSUS

ALCHEMIST TOWNSHIP INDIA LIMITED
.... CORPORATE DEBTOR

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

APPLICATION UNDER SECTION 60(5) OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 R/W RULE 11 OF NCLT, RULE 2014, REGULATION 40 IBBI (INSOLVENCY OF CORPORATE PERSON) REGULATIONS, 2016 SEEKING AN EXCLUSION OF 161 DAYS ALONGWITH SUPPORTING AFFIDAVIT.

MOST RESPECTFULLY SHOWETH:

1. The instant application is being filed by the Applicant (Resolution Professional) under 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 07.02.2022). The said exclusion is sought on account of pendency of request made to Prevention of Money Laundering Authority on 08.10.2021 seeking release of documents seized by the Enforcement Directorate from the office of Corporate Debtor during the raid on 19.09.2019. It is pertinent to mention that the documents seized by the Enforcement Directorate are necessary for successful

DEVENDRA SINGH * IBBI/IPA-002/IP-N00001/2016-17/10001 * INSOLVENCY PROFESSIONAL

culmination of Corporate Insolvency Resolution Process (CIRP) of Corporate Debtor. The counsel for Applicant vide its email dated 12.01.2022 again requested the PMLA to release the authority, however till date no response has been received despite of repeated request. 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 161days on account of delay caused by the PMLA.

2. Further, this Hon'ble Tribunal vide its order dated 02.08.2021 directed the Applicant to extend the time for filing of claims and resultantly various creditors approached the Applicant with new claims. The Applicant till 30.11.2021 received approximately 70,000 new claims and some of them have been verified and some are still under process on the basis of the limited documents available and consumed substantial amount of time. Due to continuous submission of substantial number of claims, the Applicant requires ample amount of time to collate and verify in the light of the limited information and document available with Applicant and accordingly the period from 31.08.2021 to 25.12.2021 during which the claims were received and verified.

3. 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 incurred in seeking documents from PMLA on 08.10.2021.	08.10.2021 (Date of filling of letter)	123 Days



		To 07.02.2022 (last day of CIRP)	
2.	Time spent to verify the new claims due to limited documents and COVID restrictions imposed by the Govt. of NCT	31.08.2021 To 25.12.2021	117 Days
	TOTAL	**Overlapping period from 08.10.2021 to 25.12.2021 may be ignored (79 days)**	161 Days

4. It is submitted that the Applicant had filed an application I.A. No. 1398 of 2021 in C.P. (IB) No. 1082 of 2018 seeking direction against the Enforcement Directorate 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. 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.

5. That till 20.11.2021, the Applicant received total 7,86,647 claims since Insolvency Commencement date from Financial Creditors in a Class. Out of 7,86,647 claims, the RP has admitted 6,16,415 Claims. However, the Applicant is still

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receiving claims from Financial Creditor in a Class. As per the records, the Applicant has received further around 70,000 claims apart from 7,86,647 claims which are still under process of verification.

6. It is a matter of record that the CIRP of the Corporate Debtor was initiated on 25.01.2019 by this Hon'ble Tribunal. However, an appeal was preferred, wherein the Hon'ble National Company Law Appellate Tribunal (**NCLAT**), vide its order dated 01.03.2019 recorded that as settlement has been concluded between the parties, the admission order is set aside, with the liberty granted to the Financial Creditor to revive the captioned application upon failure of the encashment of cheques. Thereafter, as the settlement between the parties was not reached, the Financial Creditor preferred an application for revival of the captioned petition, which this Hon'ble Tribunal, vide its order dated 01.10.2020 was pleased to allow. The Applicant was appointed as the Resolution Professional in the 1st meeting of the COC held on 23.10.2020 and the same was confirmed by this Hon'ble Tribunal on 24.11.2020.

7. That in the instant case, the Applicant pursuant to his appointment discovered that the proper and complete relevant documents and information of Corporate Debtor were not in the custody of the erstwhile IRP and therefor the erstwhile IRP approached the erstwhile management of the Corporate Debtor to seek necessary information. One of the erstwhile Director vide email dated 18.11.2020 informed the erstwhile IRP about



the raid conducted by the Enforcement Directorate on 19.09.2019 wherein all the documents were seized by the ED. However, the erstwhile IRP filed an application under section 19(2) of IBC, 2016 seeking necessary directions from this Hon'ble Tribunal against erstwhile Directors to provide all the documents to the IRP which is still pending adjudication. Email dated 18.11.2020 is annexed herewith and marked as **Annexure A-1.**

8. Thereafter, the Applicant pursuant to his appointment was constrained to approach this Ld. Tribunal by way of an application I.A. No. 1398 of 2021 under section 19(2) of IBC, 2016 seeking necessary direction against the enforcement directorate to release and handover the copies of the documents seized during the raid on 19.09.2019. The Applicant by way of the said application requested this Ld. Tribunal to direct the ED to release the documents enabling the Applicant to verify the claims and complete the CIRP in a time bound manner. However, this Ld. Tribunal vide its order dated 27.07.2021 disposed off the said application with a liberty to Applicant to approach the Adjudicating Authority under Prevention of Money Laundering Act, 2002. It is submitted that the documents and the information seized by the ED is vital for the verification of the claims and completion of CIRP in time bound manner. A copy of order dated 27.07.2021 is annexed herewith and marked as **Annexure A-2.**



9. It is to be noted that on account of exceptionally large number of stakeholders involved in the Corporate Insolvency Resolution Process **(CIRP)** of the Corporate Debtor, to the tune of several lakhs, the Applicant on 07.01.2021 established a Stakeholders Data Management Cell and thereafter established Compliance and Creditors Coordinator. It is submitted that the said process, as envisaged is quite lengthy and tedious in nature, taking into consideration the voluminous number of emails which is being received per day. The Applicant till 20.11.2021 has received total of 7,86,647 claims. The Applicant has verified and admitted total number of 6,16,415 claims, which continues to be further updated on the basis of limited information available.

10. It is submitted that apart from other compliances envisaged under IBC, the Applicant published Form-G on 25.12.2020 and 16.01.2021, wherein it received the Expression of Interest (**EOIs**) but did not receive any Resolution Plans from the interested parties. The Applicant thereafter again published Form G on 10.04.2021, with the last date for submission of Resolution Plan being 25.05.2021. The Applicant received an EoI, which was vetted and verified. However, on account of the lockdown which was imposed by the Government of NCT of Delhi, amidst rising COVID-19 cases, from 20.04.2021, the PRA requested for extension of time period in submitting the Resolution Plan as it was unable to carry out due diligence, due to the stringent restrictions.



11. The Applicant is filing the instant application, seeking exclusion of time period lost from 12.03.2021 to 27.07.2021 on account of time period lost due to adjudication of IA No.1398 of 2021 wherein the Applicant was seeking vital information from the Enforcement Directorate which is required for verification of the claims received so far. It is an admitted position that a raid was conducted on the Corporate Debtor on 19.09.2019 wherein the Enforcement Directorate seized documents, data and other vital information regarding the business activities and contains the information regarding the amount invested by the Creditors. The Applicant has received and procured limited information from Corporate Debtor which is making it difficult to verify the voluminous claims in the absence of information seized by the ED.

12. In the interregnum, a Company Petition No.103/74(3)/ND/2019 was filed by a Creditor against the Corporate Debtor seeking directions to refund the deposit made to the Corporate Debtor. The Applicant thereafter appeared on 22.03.2021 before the Ld. Coordinate Bench of this Ld. Tribunal and apprised that CIRP has already initiated against the Corporate Debtor. The Ld. Coordinate Bench vide its order dated 02.08.2021 directed the Creditor to file the Claim before the Applicant within 1 month and thereafter the same would be verified by the Applicant on the basis of the limited information available. In view of the time granted to the Creditor, one month will be lost to collate and verify the claims



and the entire CIRP process will be stuck for the time being. A copy of order dated 02.08.2021 is annexed herewith and marked as **Annexure A-3.**

13. 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 PRA and a Resolution Plan is also likely to be received in the instant case. However, if an exclusion of 161 days is not granted, the instant CIRP proceedings shall be required to be terminated ad the Corporate Debtor shall be relegated to liquidation proceedings, which may prejudice the interest of several homebuyers 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.

14. It is submitted that the Applicant vide its letter dated 08.10.2021 made a request to Prevention of Money Laundering Authority to seeking release of documents seized by the Enforcement Directorate from the office of Corporate Debtor during the raid on 19.09.2019. 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. The counsel for Applicant vide its email dated 12.01.2022 again requested the PMLA to release the authority, however till date no response has been received despite of repeated request. 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 the PMLA. Copies of letter dated 08.10.2021 and 12.01.2022 are annexed herewith and marked as **Annexure A-4 (Colly.)**

15. It is submitted that due to reasons which were beyond the control of the Applicant, time lost due to failure of PMLA to provide necessary documents, time granted to the Creditor to file the claims and verification of large number of claims (70,000) on the basis of limited information as the relevant documents are in the custody of ED, the Applicant is preferring the instant Application seeking exclusion of 161 days from the total period of CIRP period of the Corporate Debtor.

16. It is submitted that the Applicant convened 7th CoC meeting on 18.01.2022 and apprised the members about the ongoing issues and hardships faced during the CIRP and also the submission of voluminous claims. The CoC considered the peculiar situation and recommended the Applicant to file an appropriate Application before this Ld. Tribunal seeking exclusion of time period lost due to reasons mentioned



hereinabove due to which the CIRP could not have been completed. A copy of minutes of 7th CoC Meeting dated 18.01.2022 is annexed herewith and marked as **Annexure A-5.**

17. 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 07.02.2022. Admittedly, the time period from 31.08.2021 to 25.12.2021 and 08.10.2021 to 07.02.2022 which is lost or will be lost due to the reasons beyond the Applicant's control. Hence the applicant is seeking kind indulgence of this Hon'ble Adjudicating Authority to exclude the time period of 161 days from the total period of CIRP for the reasons as mentioned above.

18. 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."

19. In the light of above facts and circumstances and power conferred upon the Hon'ble Adjudicating Authority, the instant case is a fit case for exclusion of time period lost due to adjudication of the aforementioned application which was required to be decided to proceed with the CIRP. Further, the Hon'ble Appellate Tribunal in Company Appeal (AT) (Insolvency) No. 120 of 2021 in "**Anil Tayal vs. Committee of Creditors**" dated 23.02.2021 excluded the time spent in judicial intervention.

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

21. 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.

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

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 161 days i.e., time period w.e.f. 31.08.2021 to 07.02.2022 time lost in collating and verifying

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

additional 70,000 claims and time lost due to failure of PMLA to adhere to the request of Applicant vide letter dated 08.10.2021.

c) Pass an order for excluding the time spent in adjudication of the instant application, if any, from the date of filing 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.



APPLICANT

THROUGH

Varsha

VARSHA BANERJEE
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ADVOCATES FOR RESOLUTION PROFFESIONAL
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PLACE: NOIDA
DATED: 15.01.2022

सत्यमेव जयते

INDIA NON JUDICIAL

Government of Uttar Pradesh

26

e-Stamp

Signature .....
Name : Kaliyan Singh, Acc Code : UP14016904
Acc Add : Sub-Registrar, Noida, Mob : 9654476964
License No : 202/2021-2022, Tehsil & Distt : Dadri, G.B. Nagar

Certificate No.	:	**IN-UP97328005737739U**
Certificate Issued Date	:	10-Jan-2022 04:54 PM
Account Reference	:	NEWIMPACC (SV)/ up14016904/ GAUTAMBUDDH NAGAR 1/ UP-GBN
Unique Doc. Reference	:	SUBIN-UPUP14016904853639199033 44U
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)

NOTARY PUBLIC Narendra Narayan Agnihotri NOIDA G.B. NAGAR (U.P.) R.NO. 2320 NOTARIAL GOVT. OF INDIA

Please write or type below this line

This is the integral part of the Affidavit.

NOTARY PUBLIC Narendra Narayan Agnihotri NOIDA G.B. NAGAR (U.P.) R.NO. 2320 GOVT. OF INDIA

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**BEFORE THE HON'BLE COMPANY LAW TRIBUNAL,
PRNCIPAL BENCH, NEW DELHI**

I.A. NO._____OF 2022
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 56 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.

NOTARY PUBLIC Narendra Narayan Agnihotri NOIDA G.B. NAGAR U.P. R.NO. 2520 GOVT. OF INDIA

DEVENDRA SINGH IBBI/IPA-002/IP-N000011/2016-17/10201 INSOLVENCY PROFESSIONAL

DEPONENT

28

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 25th day of January, 2022.

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

DEPONENT

NOTARY PUBLIC
Narendra Narayan Agnihotri
NOIDA G.B. Nagar (U.P.)
R.NO. 2320
GOVT. OF INDIA

ATTESTED

Narendra Narayan Agnihotri
Advocate (Notary)
R.No-2320
Noida G.B.Nagar

25 JAN 2022