

NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH

MA 903 of 2018

C.P. No.: 1264 of 2017

60(S)
Filed U/s.: 7

Item No (As Per Cause List): 16 .

Date .: 12/09/2018

Name & Signature of Counsel for Petitioner:

Madhur Rai with Bahaj Kulkarni ilb
PRS legal

Ms. Khushboo Shah Rajani
ilb AKR Advisors LLP.
Advocate for Resolution Professional

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Name & Signature of Counsel for Respondent:

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Note: Kindly Handover the Attendance Sheet before Hearing.

MA 903 of 2018 in CP 1264/IBC/NCLT/MB/MAH/2017

ORDER

1. Through this Miscellaneous Application (MA 903/2018) filed on 23.08.2018, the Resolution Professional Mr. Rajendra K. Bhuta is seeking exclusion of 115 days from the period of 180 days as prescribed under the Insolvency Code for completion of Insolvency Process.

2. In short, it is explained that a Petition u/s. 7 was submitted by Abhyudaya Co-operative Bank Limited in the capacity of a Financial Creditor in respect of a Financial Debt of ₹1,30,00,000/- (Principal) against the Corporate Debtor M/s. Trust House Commerce Centre Private Limited, which was admitted vide Order dated 05.03.2018 in CP No.1264/IBC/NCLT/MB/MAH/2017. On admission, Mr. R.K. Bhuta was appointed as IRP.

2.1. As per the Resolution Professional's affirmation the certified copy of the said Order was received on 13.06.2018, which was communicated to IRP through email on 14.06.2018. As a consequence, the Prayer in this Application is to exclude 100 days for the purpose of calculation of 180 days as prescribed under The Code.

2.2. One more fact has been affirmed by the Applicant that an Appeal was preferred by the Respondent Debtor, however, vide an Order dated 16.07.2018 in Company Appeal (AT) (Insolvency) No.372 of 2018 the Prayer of "Limitation and Latches" was rejected and it was directed to continue the Corporate Insolvency Resolution Process. According to the Applicant, the Appeal was filed on 03.07.2018 and the Order was received on 16.07.2018, therefore, further 13 days have also been not utilized for completion of the Insolvency Process.

2.3. In total, the Applicant is seeking exclusion of 115 days while calculating the initial 180 days as prescribed under Section 12 of the Insolvency Code. Considering the totality of the circumstances and following the decision of the Hon'ble NCLAT pronounced in the case of *Quinn Logistics (India) Pvt. Ltd. Vs. Macksoft Tech Pvt. Ltd. [Company Appeal (AT) (Insolvency) No.185 of 2018]* Order dated 08.05.2018, the Prayer of

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exclusion of 115 days is hereby allowed. The Applicant has submitted that if 180 days is to be calculated from 05.03.2018 i.e. the date of the Order, the same had expired on 31.08.2018. It is hereby ordered that for the completion of Insolvency Process 115 days be excluded to be effective retrospectively. Application allowed.

SD/-

(M.K. SHRAWAT)
Member (Judicial)

Date : 12.09.2018

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