

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
PRINCIPAL BENCH

ITEM No. 204
(IB)-16(PB)/2017

IN THE MATTER OF:

Anil Mahindroo & Anr. Applicant/petitioner

v.

M/s Earth Iconoic Infrastructure Pvt. Ltd. Respondent

Order under Section 7 of Insolvency & Bankruptcy Code, 2016 CIRP

Order delivered on 11.06.2019

Coram:

CHIEF JUSTICE (RTD.) M. M. KUMAR
HON'BLE PRESIDENT

SH. S. K. MOHAPATRA
HON'BLE MEMBER (TECHNICAL)

PRESENTS:

For the RP

For the Respondent

Mr. Rakesh Kumar & Mr. Sahil Dhawan, Advs.

Mr. Ashish Makhija, Ms. Akshara Chauhan, Advs.
for R-1

Mr. Prashant Jain, Adv. for R-2 to 5

Mr. Sandeep Bisht & Mr. Anuj Tiwari, Advs for R-3

Mr. Arpit Dwivedi, Adv for R-6

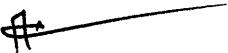
Mr. U.N. Singh, Adv. for R-8

For the Ex. RP

Mr. Vinod Chaurasia, Adv.

ORDER

This is an application filed under Section (60) (5) of Insolvency & Bankruptcy Code, 2016 with a prayer that period from 24.4.2019 to 25.05.2019 be excluded from the statutory period of 270 days for completion of CIR Process. The period of 270 days come to end on 07.07.2019. The application is supported by the resolution passed in 10th meeting of the COC held on 03.06.2019. The basic reason for granting approval to the Resolution Professional for filing instant application is that the earlier Resolution Professional Mr. Yogesh Gupta was replaced by new Resolution Professional Mr. Harish Chandra Manchanda and the new Resolution Professional could not function properly as it





took 31 days time to get hold of all documents and information from the earlier Resolution Professional. The resolution on the item no. 13 was carried by 56.89% and there was no vote against the resolution. There was only 30.17% who voted against the resolution but 42.74% remain absent. Therefore, we deemed that the resolution was carried by majority votes and there is no statutory threshold provided in the Insolvency & Bankruptcy Code for passing such a resolution.

Keeping in view the aforesaid discussions, we find that the Resolution Professional was not able to effectively conduct the resolution process during 31 days and the COC by majority votes has approved filing of such application for availing the additional period. We accept the prayer made in the application and allow the same. The application stand disposed of.

CA-1114(PB)/2019

The progress report is taken on record subject to all just exceptions. The office is directed to maintain the record and put up the same before the Bench at the time of final hearing.

CA-1114(PB)/2019 stands disposed of.

CA-692(PB)/2019

Shri Abhishek Malik non applicant has filed the reply. In the reply filed by Mr. Abhishek Malik to the application of the Resolution Professional it has been stated that direction be issued to the Resolution Professional or any other person to take over physical custody of moveable property of group companies of Corporate Debtor as shown in Annexure A-2. However, the



property/ assets belonging to the corporate debtor i.e. M/s Earth Icon Infrastructure Pvt. Ltd. are the one in question in the present proceedings. At the time of oral arguments, Mr. Rahul Raj Malik has stated that Mr. Abhishek Malik would not have any objection if Resolution Professional prepare an inventory as per the records for corporate debtor namely M/s Earth Icon Infrastructure Pvt. Ltd. and all the items belonging to the corporate debtor may be included in the inventory which shall be duly signed by the Resolution Professional and then the possession of those items can be taken by the Resolution Professional. Accordingly, we direct the Resolution Professional to prepare an inventory of the items which are in the custody of Mr. Abhishek Malik as per record belong to the corporate debtor and if those items are found in the possession of Mr. Abhishek Malik, the custody of the same be taken after due signatures and following the procedure. We make it clear that if any item belonging to any other corporate debtor of the group companies is mistakenly taken over by Resolution Professional then any aggrieved party shall be at liberty to file an appropriate application. The application stands disposed of. The surety stands discharged.

CA-928(PB)/2019

Learned counsel for the Ex-RP requests for withdrawal of the application. We order accordingly.

Dismissed as withdrawn.



CA-1252(PB)/2019

Mr. U.N. Singh, learned counsel appeared on behalf of respondent no. 8, Greater Noida Authority. A copy of the application shall be handed over to him during the course of the day. Reply be filed within one week with a copy in advance to the counsel opposite.

Fresh notice to remaining non applicants

Process dasti as well.

List for further consideration 04.07.2019.


CA-922(PB)/2019

Learned counsel for respondent no. 3 is stated to have filed reply and a copy furnished to the counsel opposite. On behalf of respondent no. 1 time for filing reply is sought. Learned counsel for respondent no. 1A, 1B, 1C, 2A, 2B, 2C, 3A, 3B, 3C, 4A, 4B, 4C, 5, 6, 7 & 8 seeks time to file reply. A copy of the application be handed over to him during the course of the day.

Reply be filed within 2 weeks with a copy in advance to the counsel opposite.

List for arguments on 04.07.2019.


(M.M.KUMAR)
PRESIDENT


(S. K. MOHAPATRA)
MEMBER (TECHNICAL)