

**IN THE NATIONAL COMPANYLAW TRIBUNAL: NEW DELHI**  
**SPECIAL BENCH**

**ITEM NO. 123**  
**(IB)-16(PB)/2017**

**IN THE MATTER OF:**

Anil Mahindroo & Anr

.... APPLICANT / PETITIONER

Vs

Earth Iconic Infrastructure Pvt. Ltd.

.... RESPONDENT

**SECTION:**

Under Section 7 of Insolvency of Bankruptcy Code 2016 (CIRP)

**Order delivered on 15/10/2018**

**Coram:**

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

**Dr. DEEPTI MUKESH**  
**HON'BLE MEMBER (JUDICIAL)**

**PRESENTS:**

For the RP(s):- Mr. Chandra Shekhar, Ms. Shweta Rani Adv  
Mr. Yogesh Gupta, RP

**ORDER**

This order shall dispose of in CA No. 103(PB)/2018.

The prayer made in the application is for excluding the period of two months from the CIRP period of 180 days. The application has been filed in view of the significant amendment made in section 21(6A) read with Section 5 (8)(f) which include a new class of financial creditor namely the Real Estate (residential & commercial). The ordinance was issued on 06.06.2018 and the amendment in the IBBI Regulation was carried only on 03.07.2018.



The Period involve in the present case is 13.05.2018 to 25.07.2018 for which the benefit of the amendment is sought to be taken. The aforesaid issue has come up before us in IB-02(PB)/2017 in the case of Nikhil Mehta & Sons (HUF) & Ors. V. AMR Infrastructure Limited. We had allowed the application by observing as under: -

*“Having heard the Ld. Counsel we are of the considered view that a case is made out for excluding the period of 70 days from the CIR Process period because this class of financial creditor could not have approached the Tribunal in view of the peculiar situation created by the enactment of amendment on 06.06.2018. The situation could be remedied by enactment of Regulation 16A (2) by the Bankruptcy Board. It was still not possible for the IRP/RP to move appropriate application as the CIR Process in the present case was initiated on 10.05.2018 whereas the Regulation 16A (2) of the IBBI Regulation permitted the availability of the aforesaid provision only in respect of CIR Processes initiated on or after 03.07.2018. Accordingly, the application could be*



*enabled only when circular letter was issued on 30.07.2018. It is in the aforesaid circumstances that we hold that the judgment rendered by Hon'ble Supreme Court in Arcelor Mittal's case would not be applicable to this part of period of the present case and the period of 70 days deserve to be excluded".*

In view of the above the application is allowed the period from 13.05.2018 to 25.07.2018 is excluded from the CIR Process period of 180 days.

The application is disposed of.

*Sd/-*

**(M. M. KUMAR)  
PRESIDENT**

*Sd/-*

**MS. DEEPTI MUKESH  
MEMBER (JUDICIAL)**