

NATIONAL COMPANY LAW TRIBUNAL

NEW DELHI BENCH

(IB) 452(ND)/2017

CORAM:

PRESENT: DR. V. K. SUBBURAJ
HON'BLE MEMBER(T)

MS. INA MALHOTRA
HON'BLE MEMBER (J)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING BEFORE NEW DELHI BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 10.01.2019

NAME OF THE COMPANY: M/s Power2sme Pvt. Ltd. Vs. JV Strips Ltd. & Ors.

SECTION OF THE COMPANIES ACT: 9 of IBC, 2016

S.NO.	NAME	DESIGNATION	REPRESENTATION	SIGNATURE
	For the Petitioner:	Mr. Pankaj Bhagat, Ms. Tusharika Sharma, Advocates Mr. Nakul Mohta, Mr. Ankur Goel and Mr. Johnson Subba, Advocates for the Applicants		
	For the Respondent:	Mr. Syed Sarfaraz Karim and Mr. Shashwant Anand, Advocates for RP Mr. R. P. Agrawal and Mr. Narendra Singh, Advocates for ECL Finance Ltd. Mr. Jitendra Kumar, Advocate for State Bank of India		

ORDER

Application has been filed under Section 60(5) of the Code praying for exclusion of certain days in computing the 270 days of the CIR process. Ld. Counsel for the RP has relied upon the decision of the Hon'ble NCLAT in the matter of Quinn Logistics India Pvt. Ltd. V/s. Mack Soft Tech Pvt. Ltd. & Others being Company Appeal (AT)(Insolvency) No. 185/2018, which has laid guidelines in respect of periods which could be excluded from computing the period of 180/270 days of the CIR period. Applying the said guidelines to the prayer made

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herein and to permit the same, it would be expedient to refer to certain dates which are relevant for this purpose.

The petition was Admitted on 13th April, 2018, but the order was communicated to the IRP on 20th April, 2018. In view of the same, it is submitted that the CIR process commenced from 20th April, 2018. Extension of another 90 days was duly granted as prayed.

During the period of CIR process, there was a change of RP and no function was effected between 19th May and 5th June i.e. period of 17 days. It is only this period which would justify for being excluded in computing the CIR period of 270 days, which in normal course shall expire on 15th January, 2019. The resolution work was stalled till the present RP took over and in terms of the decision of Quinn Logistics(supra) relied upon, would be justified to be excluded. With this exclusion of 17 days, the 270 days of CIR period stands extended to 1st February, 2019. The decision of the COC with respect to the final outcome of the CIR process be placed on record prior to expiry of the period.

5 applications being CA nos. 737, 757 to 760/2018 are before us for release the applicants' goods lying in the premises of the Corporate Debtor. These goods were given to the Corporate Debtor as material for carrying out job work. As such the property does not belong to the Corporate Debtor and cannot be held back from the rightful owners. The RP had confirmed that certain goods have been identified but the parties claim that more goods are lying in the premises and are not being released.

Under such circumstances, it would be expedient to appoint a Local Commissioner to accompany the applicants to identify their goods. We accordingly appoint Ms. Rita Khanna, Advocate (Mobile No.: 9871582556 and 8130627997) to visit the site for accompanying the applicants in order to identify their goods. The same shall be done in the presence of the RP. The 5 applicants shall produce their documents to substantiate their ownership of the goods. On being satisfied, the RP shall grant permission to the applicants to remove their

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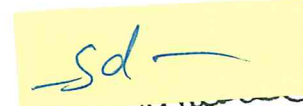
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goods. The Local Commissioner shall ensure that on production of ownership documents, there shall be no impediment in removal of the goods. The fees of the Local Commissioner is fixed at Rs. 1 lakh to be equally contributed by the 5 applicants. The Local Commissioner shall file her report within 10 days.

To come up for further consideration on 22nd January, 2019.



(V. K. Subburaj)
Member (T)



(Ina Malhotra)
Member (J)