

**IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI**  
**SPECIAL BENCH**

**ITEM No. 109**  
**(IB)-448(PB)/2017**

**IN THE MATTER OF:**

Rajendra Kumar Saxena

.... Applicant/petitioner

Vs.

Earth Gracia Builcon Pvt. Ltd.

.... Respondent

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

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**Order delivered on 05.07.2019**

**Coram:**

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

**DR. V.K SUBBURAJ,**  
**HON'BLE MEMBER (TECHNICAL)**

**PRESENTS**

For the RP

Mr. Sandeep Bisht, Adv.

For the Respondent

**ORDER**

**CA-1120(PB)/2019 & CA-1219(PB)/2019**

This order shall dispose of the aforesaid two applications which deal with the same subject matter. The first one filed on 10.06.2019. We directed the RP to place the matter before the CoC and seek its approval for filing the application to exclude the period of 64 days from the Corporate Insolvency Resolution Process period from the 180 days. CA-1219(PB)/2019 has been filed placing on record the minutes of the CoC held on 26.06.2019. Under agenda Item No. 15 the CoC deliberated on the issue with regard to the approval to file an application for execution of 64 days and following discussions took place:-

“The Chairman apprised the Committee of Creditors that, the corporate insolvency resolution process (CIRP) commenced

against the Corporate Debtor on 17.01.2019, CIRP of is to be completed within 180 days from the commencement of CIRP. In the absence of any financial information of the Corporate Debtor, non-cooperation of officers of the Corporate Debtor, and all the offices and business places of Corporate Debtor been locked and/or sealed, substantial time was lost in collating the information and documents that were crucial for CIR Process.

The last audited balance sheet and profit and loss account of Corporate Debtor filed with the RoC, Delhi was up to the year ending on 31<sup>st</sup> March 2015. In 1<sup>st</sup> CoC meeting, held on 14<sup>th</sup> March 2019, M/s. Punit Gupta and Associates, practicing Chartered Accountant were appointed for preparation of the balance sheets and profit & loss account of the Corporate Debtor for the F.Y 2015-16, 2016-17, 2017-18 and 2018-19. These books of accounts were prepared on the basis of banking transactions as per bank statements of corporate debtor provided by the Resolution Professional. Further, 10 days were lost to recover documents/data from Economic offence wing to start the CIR Process. RP had to collect project and land related documents from Greater Noida Industrial Development Authority (GNIDA) which took 25 days to provide the documents because of which publication of invitation of EOI got delayed.”

A perusal of the aforesaid discussion shows that substantial time has been lost in collecting the information which has resulted from the non-cooperation of the officer of the corporate debtor and time was also lost in preparation of balance sheet; profit and loss account when the CoC appointed M/s. Punit Gupta and Associates, practicing Chartered Accountant. The balance sheet and profit & loss account of Corporate debtor for the financial year 2015-16, 2016-17, 2017-18 & 2018-19 was prepared which consumed in a total number of 64 days. The CoC approved the filing of an application by the Resolution Professional by passing the following resolution: -

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**“RESOLVED THAT** the consent of the Committee of Creditors be and is hereby accorded to authorize Ms. Manisha Rawat, the Resolution Professional of the Corporate Debtor to file application with Adjudicating Authority (i.e. National Company Law Tribunal (NCLT) seeking exclusion of 64 days from Corporate Insolvency Resolution Period of 180 days.”

~~The Resolution has been carried by 95% of total voting share.~~

In view of the above we accept the prayer made in the application and direct the exclusion of 64 days period from 180 days period of Corporate Insolvency Resolution Process which is come to an end on 03.08.2019. The period of 64 days would be added beyond 03.08.2019.

CA-1120(PB)/2019 & CA-1219(PB)/2019 are disposed of.

Sd/-

(M.M.KUMAR)  
PRESIDENT

Sd/-

(V.K SUBBURAJ)  
MEMBER (TECHNICAL)

05.07.2019  
Ritu Sharma