

**IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI**  
**PRINCIPAL BENCH**

**Item No. 6**  
**(IB)-448(PB)/2017**

**IN THE MATTER OF:**

Rajendra Kumar Saxena	....	Applicant/petitioner
Vs.		
Earth Gracia Builcon Pvt Ltd.	....	Respondent

**SECTION:**

**Under Section 7 of IBC, 2016 (CIRP)**

**Order delivered on 21.01.2020**

**Coram:**

**SH. B.S.V. PRAKASH KUMAR**  
**HON'BLE ACTG. PRESIDENT**

**MS. SUMITA PURKAYASTHA**  
**HON'BLE MEMBER (TECHNICAL)**

**PRESENT:**

For the Applicant	:	Mr. Dhruv Dewan, Mr. Rohan Batra, Ms. Reena Choudhary, Ms. Harshita Choubey and Mr. Dhruv Sethi, Advs.
For the Respondent	:	Mr. Anuj Tiwari, Adv. With Ms. Manisha Rawat, RP.

**ORDER**

**Per: B.S.V. PRAKASH KUMAR, HON'BLE ACTG. PRESIDENT**

**HEARD AND DICTATED IN OPEN COURT ON : 21.01.2020**

**C.A. No. 551(PB)/2020**

It is an application filed under Section 60(5) of the IBC, 2016 by the applicant namely Alpha Corp Development Pvt. Ltd. seeking (a) direction against the Resolution Professional to accept the Applicant's Expression of Interest made by way of the Applicant's email dated 15<sup>th</sup> January 2020 or in the manner directed by this Tribunal, (b) direction for extension of the last date for submitting the resolution plan by a further period of 14 days from 17 January 2020, (c) direction has been sought to the Resolution Professional to grant the Applicant access to the information/documents of the Corporate Debtor relevant for

submission of the resolution plan by the Applicant and (d) to allow the Applicant to submit the resolution plan within the extended time period under prayer (ii).

On perusal of this application, it appears that the Resolution Professional invited for Expressions of Interest on 05.10.2019 giving 15 days time for filing Expressions of Interest, in pursuance thereof three Expressions of Interest came to the Resolution Professional but this Applicant did not file his Expression of Interest within the time as stipulated under Regulation 36(A) of the CIRP.

Now after lapse of more than two months, this Applicant has come before this Bench with an application for extension of time for considering his Expression of Interest, for which time was expired way before, on the ground that this Applicant has expertise in real estate business.

As against this relief, the Resolution Professional counsel submits that this Applicant has not even filed Expression of Interest within 15 days period except sending an email on 15.01.2020 (after lapse of almost 90 days from the date 15 days limitation to file Expression of Interest) seeking extension of time for filing Expression of Interest. To which, the Resolution Professional counsel further says that as per Regulation 36(A) & (B) of the CIRP the Resolution Professional shall provide 15 days time to the prospective resolution applicants for submission of Expression of Interest, thereafter provisional list has to be filed before the COC within ten days of the last date for submission of the Expressions of Interest to the Committee, thereafter on

considering the objections, if any, received under sub regulation 11 of the Regulation 36(A) of the CIRP Regulations, the Resolution Professional shall issue the final list of the prospective resolution applicants within ten days of the last date for receipts of objections to the Committee.

Here all the process is over, now resolution plan is already placed before COC for its consideration.

Besides this, he has also made another submission saying that this Corporate Debtor already availed CIRP period of 330 days which is going to end by 06.02.2020, in case this Expression of Interest is accepted, again the Resolution Professional has to repeat the process, which will cause undue delay in processing the resolution plan placed before the COC, therefore he has sought for dismissal of this application.

On considering the submissions of either side, it appears that this Applicant has not responded within the period within which his Expression of Interest was to be given to the Resolution Professional, thereby we have not found any merit in the application filed by it, moreover this Applicant having no economic interest in the company by not considering a belated Expression of Interest, this applicant cannot even be construed as prejudiced. Since the speed is essence of the Code, we are of the view by rejecting this application, there won't be any impediment to the progress of the CIRP, therefore this application is hereby rejected.

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**(B.S.V PRAKASH KUMAR)**  
**ACTG. PRESIDENT**

—sd—

**(SUMITA PURKAYASTHA)**  
**MEMBER (TECHNICAL)**