

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

I.A. No. 933/2021 In (IB)- 1626 (PB)/2019

Under Section: of IBC.

In the matter of:

M/s. L & T HOUSING FINANCE LTD.

.... **Applicant**

Vs.

M/s. COSMOPOLITAN TECHNOFAB TEXTILES PVT. LTD.

.... **Respondent**

In the matter of:

MR. HARISH TANEJA
(RESOLUTION PROFESSIONAL)

... **APPLICANT**

Order delivered on: 29.07.2021

CORAM

SH. BHASKARA PANTULA MOHAN

HON'BLE ACTG. PRESIDENT

SH. HEMANT KUMAR SARANGI

HON'BLE MEMBER (TECHNICAL)

PRESENT

For the Applicant : Mr. Harish Taneja, RP

I.A. 933 /2021 IN IB- 1626 (PB)/ 2019



ORDER
PER- SH. HEMANT KUMAR SARANGI, MEMBER (TECHNICAL)

1. The present application is being filed by Mr. Harish Taneja (hereinafter referred to as “the Applicant/RP”), for excluding the time period lapsed due to non-availability of records, assets, books of accounts and Covid-19 from the ongoing CIRP.
2. The Applicant states that the corporate debtor had not handed over the records and the same were not even traceable. In this regard the applicant had filed an application under section 19(2) of the I & B Code, 2016 on 07.12.2019, the said application was taken up by the Hon’ble Tribunal on various occasions, however, the Corporate Debtor never appeared. Pursuant to the said non-appearance, bailable warrants were issued by the Hon’ble Tribunal, vide its order dated 27.02.2020.
3. The Applicant further states that in the 5th (fifth) meeting of the Committee of Creditors (CoC, held on 29th August, 2020, it was discussed about filing an application for exclusion of time, for the period lapsed due to non-availability of records, assets, books of accounts and Covid-19. The copy of minutes of the 5th meeting of CoC is attached along with the I.A. The Applicant further states that, the issue of exclusion of ‘certain period’ came up for consideration before the Hon’ble NCLAT in ***Quinn Logistics India Ltd. v. Mack Soft Tech Pvt. Ltd, Comp App. (AT) (INS) No. 185 of 2018***, whereby it was stated that, “...it is open to the Adjudicating Authority/ Appellate Tribunal to ‘exclude



certain period' for the purpose of counting the total period of 270 days, if the facts and circumstances justify exclusion, in unforeseen circumstances." Further, the Hon'ble Supreme Court in **Swiss Ribbons Pvt. Ltd. v. Union of India & Ors. W.P. (c) No. 99 of 2018**, held that every effort should be made for the resolution of the Corporate Debtor and Liquidation is the last resort. The Applicant states that the Hon'ble Supreme Court in the case of **Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta & Ors. Civil Appeal No 8766-67 of 2019** has held as under-

"74. So far as Section 4 is concerned, it is clear that the original timelines in which a CIRP must be completed have now been extended to 330 days, which is 60 more days than 180 plus 90 days (which is equal to 270 days). But this 330-day period includes the time taken in legal proceedings in relation to such resolution process of the corporate debtor."

4. The Applicant states that by way of present Application it seeks an exclusion of the intervening period from the commencement of CIRP i.e., from 05.11.2019 till the disposal of application filed under section 19(2) of I & B Code, 2016 filed on 07.12.2019.
5. This bench, after taking into consideration the facts and circumstances of the present case and following the law as laid down by the Hon'ble Apex court, grants a period of 90 days so as to complete a total of 270 days, w.e.f 03.05.2020 i.e., date of



completion of 180 days, to the Applicant for completing the CIRP of the corporate debtor in a time bound manner as per the provisions of the I & B Code, 2016.

6. I.A. 933/2021 stands disposed of in terms of the above order.

Let a copy of order be served to parties.

— sd —

(BHASKARA PANTULA MOHAN)
ACTG. PRESIDENT

— sd —

(HEMANT KUMAR SARANGI)
MEMBER (Technical)

29.07.2021

SIDDHANT, LRA