

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**NEW DELHI BENCH (COURT - II)**

**Item No. 101**  
**(IB)-894(ND)2019**  
**Contempt Petition 11/2021, I.A/3230/2021**

**IN THE MATTER OF:**

<b>Ram Niwas &amp; Sons</b>	...	<b>Applicant/Petitioner</b>
<b>Versus</b>		
<b>M/s. Palm Developers Pvt. Ltd.</b>	...	<b>Respondent</b>

**Under Section: 9 of IBC Code,2016**

**Order delivered on 02.08.2021**

**CORAM:**

**SHRI. ABNI RANJAN KUMAR SINHA,**  
**HON'BLE MEMBER (J)**

**SHRI. L. N. GUPTA,**  
**HON'BLE MEMBER (T)**

**PRESENT:** Mr. Raghavendra Mohan Bajaj, Adv and Agnish Aditya, Adv for Abhinav Mukherji (Financial Creditor), Mr. Atul Sharma Advocate, Ms. Renuka Iyer, Advocate and Mr. Dev J Roy Advocate for Financial CrediorS/ACRE & IDBI, Mr. Milan Negi for IRP

**Order**

**Contempt Petition 11/2021:** Mr. Varun Kumar Sinha, Advocate appeared for the Respondent and sought one week's time to file reply to the show cause on the ground that the IRP has challenged the order passed by this Bench on 13<sup>th</sup> July, 2021 before the Hon'ble NCLAT.

In the course of the hearing, Ld. Counsel for the Respondent admits this fact that no stay has been granted by the Hon'ble NCLAT. Therefore, the reason for not filing show cause reply in pursuance of the order dt.13<sup>th</sup> July, 2021 is not liable to be accepted. Hence, we are not inclined to give time of one week to the contemnor to file reply. However, two days' time is granted to file reply to the show case. If the Respondent fails to file the reply within two days from today, it shall be deemed that he has accepted the averments made in the show cause Notice. List the matter on 5<sup>th</sup> August, 2021.

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We further notice that, though the Contempt Petition is given a registration number but it has not mentioned the correct title. Since it is the suo motu contempt initiated by the NCLT, Title shall be "Suo Motto Contempt case by NCLT through Registrar vs. Manoj Kumar Singh."

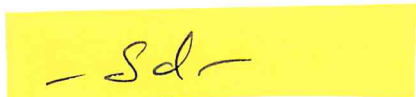
**I.A/3230/2021:** By filing this Application, the Applicant has prayed for exclusion of 502 days commencing from 28.02.2020 to 13.07.2021, on two grounds i.e first, vide Order dated 28.02.2020, the functioning of CoC was stayed by this Adjudicating Authority, which was vacated vide Order dated 07.09.2020 and the second ground is that the IRP appointed earlier did not taken any action from the date of order dt. 28.02.2020 till the date of his removal i.e. on 13.07.2021 for taking forward the CIR process as per provisions of IBC.

Ld. Counsel appearing for Applicant submits that the Hon'ble NCLAT in the Company Appeal (Insolvency) No. 185 of 2018 has given guidelines basing on which, the period of CIRP can be excluded. We notice that one of the grounds given is, if no Resolution Professional is functioning for one or other reason during CIR process, such as removal, on that ground also, the period can be excluded. In the case in hand, it is an admitted fact that the IRP had not taken any step towards furtherance of CIRP, for which the IBBI filed an Application for removal of the said IRP. On the prayer of the IBBI, vide Order dated 13.07.2021, this Bench removed the erstwhile IRP and appointed a new IRP.

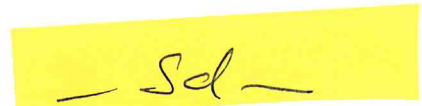
Considering the peculiar circumstances, that the IRP had not taken any steps from 28.02.2020 till the date of his removal i.e. on 13.07.2021 for furtherance of CIR process, we think it proper to exclude the period from 28.02.2021 to 13.07.2021 i.e. total 502 days.

Accordingly, we hereby allow the prayer and exclude the period of 502 days from 28.02.2020 to 13.07.2021, while calculating the period of CIR Process.

**With this, the present IA stands disposed of.**



**(L.N. GUPTA)  
MEMBER (T)**



**(ABNI RANJAN KUMAR SINHA)  
MEMBER (J)**