

**NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH**

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
BENGALURU BENCH, BENGALURU, HELD ON 16.09.2020

THROUGH VIDEO CONFERENCING

CAUSE LIST

PRESENT: 1. Hon'ble Member (J), Shri Rajeswara Rao Vittanala
2. Hon'ble Member (T), Shri Ashutosh Chandra


CP/CA No.	Purpose	Sec	Name of Petitioner	Petitioner Advocate	Name of Respondent	Respondent Advocate
CP(IB) No. 84/BB/2019	For pronouncement on IA 308/2020 IA 326/2020-CIRP	Sec 7 of I&B code 2016	M/s Pratap Chandra Pandhy & Ors	Abhay Kumar Das/Aruni Poddar, Advocates	M/s Dreamz Infra India Ltd	Ashok Kriplani, RP Mahesh Chowdary for RP

ADVOCATE FOR PETITIONER/s:

ADVOCATE FOR RESPONDENT/s:

ORDER

IA. Nos. 308 and 326/2020 are disposed of by separate order. Post the case on 16/10/2020.


Member (T)


Member (J)

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH**

I.A.No.326/2020
U/s. 12 (3) of the IBC, 2016
R/w Reg. 40 of the IBBI
(IRP for Corporate Persons) Reg. 2016

In the matter of :

Shri Ashok Kriplani

Resolution Professional of
M/s. Dreamz Infra India Limited
17/13, GF, Old Rajinder Nagar,
New Delhi – 110 060.

- Applicant/RP

Date of Order: 16th September, 2020

Coram: 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)
2. Hon'ble Shri Ashutosh Chandra, Member (Technical)

Parties/Counsels Present:

For the Applicant/RP : Shri A. Mahesh Chowdhary

ORDER

Per: Rajeswara Rao Vittanala, Member (J)

1. I.A.No.326/2020 is filed by Shri Ashok Kriplani, Resolution Professional of M/s. Dreamz Infra India Limited, ('Applicant'), U/s. 12 (3) of the IBC, 2016 R/w Reg. 40 of the IBBI (IRP for Corporate Persons) Reg. 2016, by inter alia seeking to extend further period of 90 days from 17.02.2020 to 16.05.2020 beyond 180 days for completion of CIRP of the Corporate Debtor.
2. Brief facts of the case, which are relevant to the issue in question, are as follows:
 - (1) Initially, C.P.(IB)No.84/BB/2019 filed by Pratap Chandra Padhy (Petitioner/Financial Creditor), U/s. 7 of the IBC, 2016, read with Rule 4 of I&B (AAA) Rules, 2016, by inter alia



seeking to initiate Corporate Insolvency Resolution Process (CIRP) in respect of M/s. Dreamz Infra India Limited (Respondent/Corporate Debtor), was admitted by the Adjudicating Authority, vide an Order dated 20.08.2019 (Admission Order), by initiating CIRP in respect of the Corporate Debtor; appointing the Applicant as IRP, imposing moratorium etc. Accordingly, the Applicant issued a Public Announcement dated 03.09.2019, by calling Creditors of CD to submit their claims with relevant proof on or before 13.09.2019. Subsequently, the IRP was confirmed as RP, vide an Order dated 17.12.2019, passed by this Adjudicating Authority, to carry on the duties and function under the Code.

(2) Thereafter, since the IRP could not trace the suspended Directors of the CD and nor the Assistant Commissioner(AC) The Applicant has filed I.A.No.509/2019, which was disposed of by the Adjudicating Authority with directions to the CD and the AC to cooperate with the IRP, vide its Order dated 18.10.2019. In pursuant to the above said Order the IRP contacted the AC on 05.11.2019 and 20.12.2019, but the AC did not respond. The AC has further filed an Application before the Special Court to sell off the properties of the CD at a paltry sum of Rs.100 Cr. The Applicant is taking appropriate action in the case.

(3) Therefore, non-co-operation of the AC, the Applicant appointed Process Consultant to speed up the present CIRP and 180 days of CIRP are expiring as on 16.02.2020. Therefore, 3rd CoC e-voting was held and has been approved by the Members of the CoC, for extension of CIRP period for further period.

3. Heard Shri A. Mahesh Chowdhary, learned Counsel for the Applicant, **through Video Conference**. We have carefully perused the pleadings of the party and extant provisions of the Code and the Rules made thereunder and the Law on the issue.



4. The facts and circumstances of the case, as furnished by the Applicant in the instant Application, do not fully justify to granting time as sought for. However, as per law, if time is not granted, the Company would be deemed to be under Liquidation. In order to avoid to such a situation, we are inclined to exercise discretionary powers conferred on the Tribunal/Adjudicating Authority, to extend further period of 90 days beyond the statutory period of 180 days.
5. In view of the above facts and circumstances of the case, by exercising powers conferred on the Adjudicating Authority U/s. 12(2) R/w Section 60(5) of the IBC Rules, 2016, we hereby disposed of I.A.No.326/2020 in C.P.(IB)No.84/BB/2019 with the following directions:
- (1) Hereby extended for a further period of 90 days beyond the statutory period of 180 days as to complete the Corporate Insolvency Resolution Process in question.
 - (2) The Resolution Professional is directed to take expeditious steps to finalize the CIRP, without any further delay and to submit progress reports to the Adjudicating Authority and conclude CIRP well before completion of the present extended period. No order as costs.



ASHUTOSH CHANDRA
MEMBER TECHNICAL



RAJESWARA RAO VITTANALA
MEMBER, JUDICIAL

Shruthi

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH**

I.A.No.308/2020 in
C.P. (IB)No.84/BB/2019
U/s. 60(5) of the IBC, 2016
R/w Rule 11&32 of the NCLT Rules, 2016

In the matter of:

Shri Ashok Kriplani

Resolution Professional of
M/s. Dreamz Infra India Limited
17/13, GF, Old Rajinder Nagar,
New Delhi – 110 060.

- Applicant/RP

Date of Order: 16th September, 2020

Coram: 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)
2. Hon'ble Shri Ashutosh Chandra, Member (Technical)

Parties/Counsels Present:

For the Applicant/RP : Shri A. Mahesh Chowdhary

ORDER

Per: Rajeswara Rao Vittanala, Member (J)

1. I.A.No.308/2020 is filed by Ashok Kriplani, Resolution Professional of M/s. Dreamz Infra India Limited, (hereinafter referred to as 'Applicant'), U/s 60(5) of the IBC, 2016, R/w Rule 11 & 32 of the NCLT Rules 2016, by inter alia seeking to exclude the time period of 195 days from 16.05.2020 to 27.11.2020 in CIRP process for the period 03.02.2020 to 25.03.2020, period of lockdown i.e. 25.03.2020 to 31.05.2020 & from 08.06.2020 to 24.08.2020.
2. Heard Shri A. Mahesh Chowdhary, learned Counsel for the Applicant, **through Video Conference**. We have carefully perused the pleadings of the party and extant provisions of the Code and the Rules made thereunder and the Law on the issue.

3. Shri A. Mahesh Chowdhary, learned Counsel for the Applicant, while reiterating various averments made the instant Application, has further submitted that C.P.(IB)No.84/BB/2019 filed by Pratap Chandra Padhy (Petitioner/Financial Creditor), U/s. 7 of the IBC, 2016, read with Rule 4 of I&B (AAA) Rules, 2016, by inter alia seeking to initiate Corporate Insolvency Resolution Process (CIRP) in respect of M/s. Dreamz Infra India Limited (Respondent/Corporate Debtor), was admitted by the Adjudicating Authority, vide an Order dated 20.08.2019, by initiating CIRP in respect of the Corporate Debtor; appointing the Applicant as IRP, imposing moratorium etc. Accordingly, the Applicant issued a Public Announcement dated 03.09.2019, by calling upon the Creditors of CD to submit claims with relevant proof on or before 13.09.2019. Subsequently, he was confirmed as RP vide an Order dated 17.12.2019, passed by this Adjudicating Authority, to carry on the duties and function under the Code. In order to proof the bona fide of the Applicant, he ready to forego his fees of such as this exclusion/suspension period. Therefore, he has earnestly appealed to the Adjudicating Authority to grant the prayer as sought for. .
4. The point for consideration is whether Lock down period involved in the CIRP in question should be excluded or not. In this regard, it is now settled position of law, that Lockdown period can be excluded from regular period of time available as per normal Rules/Law.
5. The Hon'ble Supreme Court of India, in *Suo Motu Writ Petition (Civil) No(s).3/2020 in Re: cognizance for extension of Limitation vide order dated 23.03.2020*, has inter alia observed as under:

"This Court has taken Suo Motu cognizance of the situation arising out of the challenge faced by the Country on account of Covid-19 Virus and resultant difficulties that may be faced by litigants across the Country in filing their Petitions/Applications/Suits/Appeals/all other proceedings



within the period of limitation prescribed under the general law of limitation or under Special Laws (both Central and/or State).

To obviate such difficulties and to ensure that lawyers/litigants do not have to come physically to file such proceedings in respective Courts/Tribunals across the Country including this Court, it is hereby ordered that a period of limitation in all such proceedings, irrespective of the limitation prescribed under the general law or special Laws whether condonable or not shall extended w.e.f. 15th March, 2020 till further order/s to be passed by this Court in present proceedings.

We are exercising this power under Article 142 read with Article 141 of the Constitution of India and declare that this order is a binding order within the meaning of Article 141 on all Courts/Tribunals and authorities. This order may be brought to the notice of all High Courts for being communicated to all subordinate Courts/Tribunals within their respective jurisdiction. Issue notice to all the Registrars General of the High Courts, returnable in four weeks.”

IBBI has also inserted Regulation 47A to the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, vide notification dated 20.04.2020, which reads as under:

“Exclusion of period of lockdown”

47A. *Subject to the provisions of the Code, the period of lockdown imposed by the Central Government in the wake of Covid-19 outbreak shall not be counted for the purposes of computation of the time-line for any task that could not be completed due to such lockdown, in relation to any liquidation process.”*

6. The Lockdown period involved in the Country covers the period from March 25, 2020 to May 31, 2020 i.e. 68 days, which can be granted in the case too. The Applicant cannot ask exclusion, as per his own calculation, contrary to actual Lockdown undergone by the People of Country. Therefore, we are inclined to grant exclusion of said 68 days from the statutory period available in the instant case.

7. In the result, I.A.No.308/2020 in C.P.(IB)No.84/BB/2019 is hereby disposed of with the following directions:

- (1) We hereby granted exclusion of time for a period of 68 days i.e. from 25.03.2020 to 31.05.2020, from the statutory period of 180 days + 90 days already available in the instant case.
- (2) The Applicant is directed to take expeditious steps to finalize the CIRP in question, within stipulated time, without raising frivolous issues leading to drag on the case.
- (3) The Applicant may follow his statement that he will not claim his fee for exclusion/*suspension period*.

**ASHUTOSH CHANDRA
MEMBER TECHNICAL**

**RAJESWARA RAO VITTANALA
MEMBER, JUDICIAL**

Shruthi