

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
COURT-V
(Division Bench)

Item No.-508

IB-1529/ND/2019

IA/1367/2023, IA/2737/2022, IA/5718/2022, IA/6193/2022, IA/6253/2022,
IA/296/2023, IA/1111/2023, IA-5174/2023, IA-6673/2023, IA-193/2024, IA-
404/2024, New IA669/2024, New IA637/2024

IN THE MATTER OF:

M/s. COL. C.D Sharma (Retd.) & Ors.

.....Applicant

Vs.

M/s. Orior Developers and Infrastructure Pvt. Ltd.

.....Respondent

SECTION

U/s 7 IBC CIRP

Order delivered on 16.02.2024

CORAM:

**SHRI MAHENDRA KHANDELWAL,
HON'BLE MEMBER (JUDICIAL)**

**Dr. SANJEEV RANJAN,
HON'BLE MEMBER (TECHNICAL)**

PRESENT:

For the Applicant : Adv Siddharth in IA 5174/2023, Adv. Shwet Kumar
Singh in IA 193 & 404, Adv Vinod Chaurasia in IA-
669/24

For the Respondent : Shreesh Chadha, Adv in IA 1111/2023, Adv Kushank
Sindhu in IA-6253/22

For the AR : Adv. Abhishek Anand, Adv. Karan Kohli and Adv.
Kashish Rehan

For the Home Buyer : Rajiv Malik

For the RP : Mr. Prabhakar Kumar, Adv Iswar Mohapatra

For the Susp Director : Adv Deepak Dahiya, Adv Mohit Yadav

ORDER

IA-193/2024, IA-404/2024, & New IA669/2024:-

These are the applications under Section 60 (5) of the IBC filed by the Plot Buyer seeking Condonation of delay in filing their claim before the Resolution Professional. Heard the submissions made by Ld. Counsels on behalf of the Applicant and Ld. Counsel for the RP. It was submitted by the Ld. Counsels for the Applicant that the Applicant being Senior

Citizens/Government Employee were not aware of the CIRP proceedings and therefore, could not file their claim within the stipulated period before the RP. Keeping in view the fact that the matter relates to Plot Buyer and on the similar applications, we had condoned the delay. We now condoned the delay in filing the claim by the each Applicant before the RP subject to payment of cost of Rs. 10,000/- to be paid by the each Applicant to the RP and the RP shall utilise that amount of the CIRP proceedings. The RP is directed to examine the claim of the Applicants and take appropriate decision on their claim. With these observations, the present **IAs are disposed off.**

New IA637/2024:-

This is an application filed by the Suspended Director of the Corporate Debtor in terms of Section 60 (5) of the IBC seeking certain directions to the RP. Heard Ld. Counsel for the Applicant. Ld. Counsel for the RP is present and accepts notice for filing reply to this application. Reply be filed within a period of 2 weeks. List this IA on **22.03.2024.**

IA/6193/2022:-

This is an application filed by the RP seeking certain directions against the Respondent. Ld. Counsel for the RP is present and on instructions, he seeks liberty to withdraw the present application. Liberty is granted to the RP to withdraw the present application i.e. IA/6193/2022. The same is **dismissed as withdrawn.**

IA-5174/2023:-

This is an application filed by one of the Member of the Financial Creditor in Class in terms of Section 60(5) of the IBC read with Rule 11 of NCLT Rules, 2016 seeking direction to the Respondent/RP to correctly compute the interest on the principal debt owed by the Corporate Debtor to the Applicants, as per the agreed rate of interest stipulated in the Deposit Registration Form issued by the Corporate Debtor and direction has also been

sought to the RP to calculate the interest from the date of receipt of the payment of principal debt. Heard Ld. Counsel for the Applicant who submitted that as per the Clause-F of the Deposit Registration Agreement, he is entitled to the interest at the rate of 18 per cent. Heard Ld. Counsel for the RP who also drew our attention to the language used in Clause-F of the Deposit Registration Agreement which reads as under:-

f) That the project being at the conceptual stage, it is understood by me/us that the amount paid by me/us is in the nature of a deposit only and when the concept takes a concrete shape: the allotment letter will be issued and a contract will come into force, thereafter. However, if for any reason whatsoever the project is abandoned, the deposit will be refunded with simple interest at the rate of 18% and no further rights, interest claims whatsoever remains thereafter.

We have considered the submissions made by both the sides. Clause-F provides that if for any reason whatsoever the project is abandoned, the deposit will be refunded with simple interest at the rate of 18%. It is the contention of the Applicant that he is entitled for the 18 per cent interest as the project has been abandoned. Since the CIRP has been initiated against the Corporate Debtor and the Resolution Plan has also been approved by the CoC, keeping in view the objective of the IBC i.e. to revive the Corporate Debtor, it would not be correct to say that the project has been abandoned. The RP has calculated the rate of interest at the rate of 8 per cent for all such cases in terms of Regulation 16A(7) of the IBBI (CIRP for CP) Regulations, 2016. Therefore, the decision of the RP cannot be faulted. Ld. Counsel for the RP submitted that the interest is being calculated from the date of payment received by the Corporate Debtor. In view of the submissions made by Ld. Counsel for the RP, since the RP has already calculated the rate of interest from the date of receipt of the money by the Corporate Debtor, we do not find any direction can be given at this stage.

However, RP is directed to once again verify this fact and if they found any anomaly, the same can be rectified and inform to the Applicant. With these observations, the present **application disposed off.**

All other IAs be listed on **22.03.2024.**

Sd/-
(Dr. SANJEEV RANJAN)
MEMBER (T)

Sd/-
(MAHENDRA KHANDELWAL)
MEMBER (J)