NATIONAL COMPANY LAW TRIBUNAL

NEW DELHI BENCH, COURT-IV

I.A. 2839/ND/2022

IN

C.P. No. IB 2553/ND/2019

Under Section 60(5) (C) of the Insolvency and Bankruptcy Code, 2016

read with Rule 11 of NCLT Rules 2016

IN THE MATTER OF:

Umbrella Infocare Private Limited

....Applicant/Operational Creditor

Vs.

Superkisan E-Commerce Private Limited

...Corporate Debtor

CORAM:

SH. DHARMINDER SINGH, HON'BLE MEMBER (JUDICIAL)
DR. BINOD KUMAR SINHA, HON'BLE MEMBER (TECHNICAL)

Order Delivered on: 29.09.2022

ORDER

Per: Sh. DHARMINDER SINGH, MEMBER (JUDICIAL)

The instant application i.e. I.A. 2839/ND/2022 has been moved on behalf of the RP for excluding the period of CIRP from 23.07.2021 to 17.05.2022.

2. In the present application, it is being submitted that the order passed by this Tribunal dated 23.07.2021 was communicated to the Directors of the Corporate Debtor by registered e-mail, whatsapp for supplying the requisite information. Even the RP had also personally requested the Directors of the Corporate Debtor Mr. Ajay Raj Purohit, to provide the requisite information, but the same was not supplied. Thereafter, the CoC in its first meeting held on 23.08.2021, resolve the continue the IRP as RP and Mr. Ajay Raj Purohit, one of the

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Director of the Corporate Debtor was also present in the first meeting and the RP informed the CoC Member that the Statutory records such a shareholders' register, shareholders' meeting minutes, RoC compliances, Income Tax Assessment etc. for the year 2018-19 to 2020-21 and up to the date of admission of application 23.07.2021. Accordingly, the director of the Corporate Debtor has assured the same will be handed over to the applicant/RP within the week, but despite that no requisite information was provided. On 03.09.2021, the applicant against sent the e-mail to the Corporate Debtor to supply all the information, but they failed to do so. Accordingly, on 08.09.2021 the IA/4076/ND/2021, under section 19(2) & 19(3) of the Code was moved against the Directors of the Corporate Debtor for providing Assistance & Cooperation and all information, documents etc., thereafter the said application was taken up on 18.01.2022 and the same was adjourned to 21.02.2022. On that day when the matter was taken up by this Tribunal none of the Director had appeared. Accordingly, bailable warrants were issued against them and the matter was fixed on 07.03.2022. On that day Mr. Ajay Raj Purohit had submitted that he had supplied some information and was in process of collection and finalising the financial records and moveable assets of the Corporate Debtor to the handed over the Applicant/RP. Accordingly, the matter was fixed for 27.04.2022. On 27.04.2022 both the directors present before this Tribunal through Video Conferencing, who were directed to visit the applicant's office on 02.05.2022 at 11.00 AM to hand over all the relevant documents. Accordingly, registered office of the Applicant/RP. These developments were recorded in the minutes of the 2nd CoC meeting held on 02.05.2022. On 17.05.2022 Mr. Ajay Raj Purohit Director of the Corporate Debtor visited the office of the applicant/RP and

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handed over the financial statements, balance sheets of the Corporate Debtor from 2018-19 to 2020-21 and upto July 2021, but the same were not bearing the certification of the auditor of the Corporate Debtor and having signature of the one of the Director. Although he also handed over some moveable assets of the Corporate Debtor i.e. CPU, Server, Monitor etc. Thus the Corporate Debtor did not supply the requisite information and only after interference of this Tribunal on 21.02.2022 the Directors have appeared in response to the bailable warrants, therefore, this period has been spent for seeking the requisite information qua the Corporate Debtor and application under Section 19 (2) was pending before this Tribunal for adjudication. Accordingly, prayed for conclusion of the abovesaid period from 23.07.2021 to 17.05.2021 from the CIRP processed.

3. Heard. Record has been thoroughly, perused. Although certain requisite information has been submitted on behalf of the Director of the Corporate Debtor only in the month of May 2022, though, the CIRP proceeding were initiated by this Tribunal on 23.07.2021. Suspended Board of Directors failed to furnish the requisite information to the RP, accordingly, Ld. RP could not proceed further in the absence of any information. On perusal of the Master Data of MCA, it is revealed that the no such balance sheets since its incorporation were filed. Therefore, certainly the RP was handicapped. In these circumstances this Tribunal is of view that the CIRP period from the **23.07.2021 to 17.05.2022** must be excluded from the total CIRP period. Accordingly, the present application stands **allowed**.

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4. However, the RP is directed to conclude the CIR proceedings as soon as possible, within the CIRP period as prescribed under Section 12 of the Code, available after such exclusion.

5. Resultantly, application i.e. IA/2839/ND/2022 stands disposed of.

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(DR BINOD KUMAR SINHA)
MEMBER (T)

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(DHARMINDER SINGH)
MEMBER (J)