

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

**Item No. 208**  
**(IB)-24(PB)/2022**

**IA-219/2024, IA-1433/2023, IA-401/2023**

**IN THE MATTER OF:**

**Bank of Baroda Ltd.**

... **Applicant/Petitioner**

**Versus**

**Great Indian Nautaki Company Pvt. Ltd.**

... **Respondent**

**Under Section: 7 of IBC, 2016 (CIRP)**

**Order delivered on 07.05.2024**

**CORAM:**

**SH. ASHOK KUMAR BHARDWAJ**  
**HON'BLE MEMBER (J)**

**SH. SUBRATA KUMAR DASH**  
**HON'BLE MEMBER (T)**

**PRESENT:**

**For the Applicant** : Adv. Muskaan Mehra alongwith Mr. Dipanshu Singh

Sr. Adv. Krishnendu Datta, Adv. Kush Sharma,  
Adv. Asiya Khan, Adv. Nishchaya Nigam, Adv.  
Niharika Sharma in IA-219/2024, IA-401/2023.

**For the HSVP** : Adv. Anurag Kulharia in IA-401/2023.

**Hearing Through: VC and Physical (Hybrid) Mode**

**ORDER**

**IA-219/2024:** The prayer made in the application reads thus:

*“a. Kindly allow the present application and exclude a period of 276 days from 02.04.2023 to 03.01.2024 for the purpose of calculation of Corporate Insolvency Resolution Process period of Great India Nautanki Company Private Limited for the reasons as stated in the present application.”*

The grounds espoused for exclusion of period of 270 days from CIRP 02.04.2023 to 03.01.2024, as canvassed in para 13 & 14 of the application which reads thus:

*“13. It is submitted that due to the lack of cooperation on part of HSVP, the Applicant is unable to take custody and control over the sole asset of the Corporate Debtor or access the books of accounts and statutory record of the Corporate Debtor which is lying sealed at the premises and is therefore being constrained*

to admit claims on a provisional basis. Therefore, the Applicant was compelled to prefer an application, IA No. 401 of 2023, before this Hon'ble Tribunal under Section 60(5) of the Code seeking directions to HSVP to de-seal the premises. It is submitted that vide order dated 25.01.2023, this Hon'ble Tribunal was pleased to issue notice in the same. Further, owing to the non-appearance on part of HSVP even after being successfully served notice in the IA, this Hon'ble Tribunal was pleased to direct the Administrator of HSVP to be virtually present before this Hon'ble Tribunal vide order dated 06.03.2023. This Hon'ble Tribunal vide order dated 22.03.2023 was pleased to direct HSVP to file an affidavit placing on record the grounds on which they sealed the auditorium site of the Corporate Debtor. It is submitted that the said IA No. 401 of 2023 has now been posted on 11.01.2024 for further proceedings. A copy of orders dated 25.01.2023, 06.03.2023 and 22.03.2023 is annexed herewith and marked as **Annexure A- 11 (Colly)**.

14. It is pertinent to note here that Section 18(1)(f) casts a duty upon the Interim Resolution Professional to take control and custody of any asset over which the Corporate Debtor has ownership rights as recorded in the balance sheet of the Corporate debtor or with information. In addition, thereto, Section 20(1) of the Code, 2016 stipulates that the IRP shall make every endeavour to protect and preserve the value of the property of the Corporate Debtor and manage the operations of the Corporate Debtor as a going concern. It is submitted that in order to ensure a reasonable and fair chance of insolvency resolution of the Corporate Debtor, it is pertinent to attract viable prospective resolution plans, which in turn requires that the Applicant has full custody and control over the assets of the Corporate Debtor so that the Corporate Debtor can be managed as an operational concern. It is submitted that the in addition to pursuing HSVP to de-seal the auditorium site, the Applicant has invited and received many lucrative expressions of interest from prospective resolution applicants and is hopeful for a successful CIRP. However, in order to achieve the same it is paramount for the Applicant to obtain the custody and control over the auditorium site leased by HSVP and that the time spent in those efforts be excluded from the computation of the CIRP.”

In para 12 of the application, the RP has enumerated the steps taken by him during the CIRP. A conjoint reading of para 12 to 15 of the application would

reveal that the CIRP process was on and only in discharge of his duties during such process, the RP had been taking the steps. The factual development narrated in para 13 to 16 of the applications are in fact the obstructions which came in the way of the Applicant in taking possession of the assets of the CD, particularly on account of the act of HSVP (a government authority). When for a particular period the CIRP remained in progress, merely because the RP is unable to take possession of the assets of the CD, it cannot be perceived that the period during which the IRP/RP remains unsuccessful in his efforts to take possession cannot be treated as the CIRP period. On the contrary the steps which the RP/IRP takes to recover the possession of the assets of the CD, are very much part of the CIRP process. In the wake, the prayer for excluding the period of 270 days from CIRP may not be tenable. Nevertheless, the reasons mentioned in the application are sufficient ground to extend the period of CIRP. In the wake, the order of extension of CIRP from 02.04.2023 to 03.01.2024 is allowed.

**The application stands disposed of. No cost.**

**IA-401/2023:** Mr. Krishnendu Datta, Ld. Sr. Counsel submitted that the registered lease deed dated 30.07.2009 executed in favour of the CD was never rescinded/cancelled. The Ld. Counsel for HSVP submitted that the unregistered sale deed dated 15.02.2008, in terms of which the possession of the property in question was handed over to CD stand cancelled before commencement of CIRP. Let the application be listed for physical hearing on 06.06.2024.

**IA-1433/2023:** Ld. Counsel appearing for RP submitted that since the Applicant in IA has no charge over any security/assets of the CD, the application for treating as secured FC is misconceived. Ld. Counsel for the Bank/Applicant submitted that she is only proxy counsel and prayed for short adjournment. At her request, the hearing is deferred to 06.06.2024.

**Sd/-**  
**(SUBRATA KUMAR DASH)**  
**MEMBER (T)**

**Sd/-**  
**(ASHOK KUMAR BHARDWAJ)**  
**MEMBER (J)**