

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI**  
**Company Appeal (AT) (Insolvency) No. 1067 of 2020**

**IN THE MATTER OF:**

**Bhim Sain Goyal**

**....Appellant**

**Vs**

**The American Swan Lifestyle Co. Pvt. Ltd. (Under CIRP)**

**....Respondent**

**Present:**

**For Appellant: Mr. Pramod K. Sachdeva, Advocates with Mr. Bhim Sain Goyal, IRP in person.**

**For Respondent:**

**O R D E R**  
**(Through Virtual Mode)**

**15.12.2020:** This appeal is preferred by the Interim Resolution Professional – Shri Bhim Sain Goyal, appointed to conduct the Corporate Insolvency Resolution Process in respect of the Corporate Debtor – ‘American Swan Lifestyle Co. Pvt. Ltd.’, against impugned order dated 23<sup>rd</sup> October, 2020 passed by the Adjudicating Authority (National Company Law Tribunal) New Delhi, Court II by virtue whereof the Adjudicating Authority, while declining exclusion of 167 days allowed exclusion only to the extent of 68 days from initial period of 180 days of Corporate Insolvency Resolution Process.

2. Learned counsel for the Appellant submits that the impugned order is a non-speaking order and the Adjudicating Authority has failed to appreciate that the Hon’ble Apex Court has extended limitation in *suo moto* proceedings from 15<sup>th</sup> March, 2020 till further orders.

*Cont’d..../*

3. After hearing Shri P. K. Sachdeva, Advocate representing the Appellant – Interim Resolution Professional, we find that the order passed by the Hon'ble Apex Court in *suo moto* Writ Petition (Civil) No. 3/2020 on 23<sup>rd</sup> March, 2020 concerns only filing of petitions/ applications/ suits/ appeals and other proceedings for which period of limitation has been extended w.e.f. 15<sup>th</sup> March, 2020 till further orders irrespective of the limitation prescribed under the general law or special laws. Though, this direction given by the Hon'ble Apex Court under Article 142 r/w Article 141 of Constitution of India has not been specifically made applicable to matters other than filing of petition, applications, suits, appeals, etc, the spirit behind it holds good in other proceedings as well. The Hon'ble Apex Court has taken note of the difficulties arising out of the imposition of lockdown in the wake of outbreak of COVID 19 pandemic and the directions came to be passed to obviate such difficulties.

4. In the instant case, we find that the Adjudicating Authority has declined to exclude 167 days while reckoning the period of Corporate Insolvency Resolution Process by making an observation that the reasons stated are not plausible. The reasons assigned for seeking such exclusion and why the same did not prevail with the Adjudicating Authority have not been addressed. The impugned order to this extent can safely be termed to be a non-speaking order and cannot be supported.

5. It is submitted by Mr. P. K. Sachdeva, learned counsel for the Appellant that lockdown was imposed on 25<sup>th</sup> March, 2020 and even though the unlock process was stated in a phased manner after 30<sup>th</sup> June, 2020, many restrictions were continuing in the entire NCR area where the Corporate Debtor and its Registered Office is located. The Interim Resolution Professional and his team could not perform its function due to restrictions on movement.

6. Judicial notice has been taken of the hardship caused, curbs on movement and normal business activities which is evident from order passed by the Hon'ble Apex Court in *suo moto* proceedings. Therefore, following the spirit of the dictum of Hon'ble Apex Court, we are of the considered opinion that to obviate the difficulties faced by the Appellant – Interim Resolution Professional in taking steps necessary for carrying forward the Corporate Insolvency Resolution Process, the prayer for exclusion of time w.e.f. 20<sup>th</sup> March, 2020 to 2<sup>nd</sup> September, 2020 based on recommendation of Committee of Creditors dated 9<sup>th</sup> September, 2020 was warranted.

7. For the reasons stated hereinabove, we set aside the impugned order and while allowing the prayer direct exclusion of time w.e.f 20<sup>th</sup> March, 2020 to 2<sup>nd</sup> September, 2020 in reckoning of the ordinary Corporate Insolvency Resolution Process period viz. 180 days. Beyond that, if an occasion arises for seeking

extension of time based on cogent reasons, the Resolution Professional shall be at liberty to seek the same from the Adjudicating Authority. The appeal is accordingly allowed with direction to the Appellant – Interim Resolution Professional to carry forward the Corporate Insolvency Resolution Process with expedition.

8. A copy of this order be communicated to the Adjudicating Authority (National Company Law Tribunal), New Delhi, Court II forthwith.

**[Justice Bansi Lal Bhat]  
Acting Chairperson**

**[Justice Anant Bijay Singh]  
Member (Judicial)**

*am/gc*