

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 757 of 2018

IN THE MATTER OF:

R. Anil Bafna

...Appellant

Versus

Madhu Desikan & Ors.

...Respondents

Present:

For Appellant : **Ms. Aditi Dani and Mr. Ashwin Kumar D.S.,
Advocates**

ORDER

17.12.2018 Learned counsel for the appellant submits that though the order of admission of petition under Section 9 of the I&B Code was passed on 23rd November, 2017 but no IRP was appointed as ‘Operational Creditor’ had not proposed the name of the IRP and a reference was made by the Adjudicating Authority to IBBI for recommending the name of the IRP which recommended the name of Respondent No. 1. Mr. Madhu Desikan, who ultimately came to be appointed as IRP in terms of the order dated 13th December, 2017. Relying upon the judgment of this Appellate Tribunal’ in ‘***Quinn Logistics India P. Ltd. v. Mack Soft Tech Pvt. Ltd. – C.A. (AT) (Ins.) No. 185/2018***’ the learned counsel for the appellant submits that the aforesaid period will have to be excluded for purpose of counting the period of insolvency resolution process. Learned counsel for the appellant further submits that if the period intervening between the order of the admission under petition 9 of the I&B Code and the order of

appointment of IRP is excluded, revised resolution plan submitted by the appellant would be within the time and the impugned order would not survive.

Let notice be issued on the respondents by Speed Post. Requisites along with process fee, if not filed, be filed by 19th December, 2018. If the appellant provides the *e-mail* address of respondents, let notice be also issued through *e-mail*.

Post the appeal 'for Admission (After Notice)' on 22nd January, 2019.

The liquidation process is subjected to the outcome of this appeal.

[Justice Bansi Lal Bhat]
Member (Judicial)

/ns/uk/