

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 161 of 2018

IN THE MATTER OF:

Velamur Varadan Anand

...Appellant

Versus

Union Bank of India & Anr.

...Respondents

Present:

For Appellant : **Ms. Varsha Banerjee and Mr. Tarun Mehta,
Advocates**

For 1st Respondent: **Mr. Kamal Satija, Advocate**

O R D E R

16.05.2018 On 26th April, 2018 when the case was taken up, the following order was passed :

“The question arises for consideration in this appeal is as to how the period of 180 days is to be counted for Corporate Insolvency Resolution Process i.e. from the date of admission, as per the provisions of the Code or from the date of knowledge of the Resolution Professional? If there is a gap between knowledge of Resolution Professional and the actual date of admission, then how such period is to be treated? Whether such period should be excluded for the purpose of counting the period of 180 days or additional time is to be allowed beyond 180 days for completing the Resolution Process?”

2. Similar issue was fell for consideration in “*Quinn Logistics India Pvt. Ltd. vs. Mack Soft Tech Pvt. Ltd. and others in Company Appeal (AT) (Insolvency) No. 185 of 2018*” wherein after taking into consideration all the relevant provisions of the Insolvency and Bankruptcy Code, 2016, this Appellate Tribunal by judgment dated 8th May, 2018 observed as follows:

- “9. *From the decisions aforesaid, it is clear that if an application is filed by the ‘Resolution Professional’ or the ‘Committee of Creditors’ or ‘any aggrieved person’ for justified reasons, it is always open to the Adjudicating Authority/Appellate Tribunal to ‘exclude certain period’ for the purpose of counting the total period of 270 days, if the facts and circumstances justify exclusion, in unforeseen circumstances.*
10. *For example, for following good grounds and unforeseen circumstances, the intervening period can be excluded for counting of the total period of 270 days of resolution process:-*
- (i) *If the corporate insolvency resolution process is stayed by ‘a court of law or the Adjudicating Authority or the Appellate Tribunal or the Hon’ble Supreme Court.*
- (ii) *If no ‘Resolution Professional’ is functioning for one or other reason during the corporate insolvency resolution process, such as removal.*

- (iii) The period between the date of order of admission/moratorium is passed and the actual date on which the 'Resolution Professional' takes charge for completing the corporate insolvency resolution process.*
- (iv) On hearing a case, if order is reserved by the Adjudicating Authority or the Appellate Tribunal or the Hon'ble Supreme Court and finally pass order enabling the 'Resolution Professional' to complete the corporate insolvency resolution process.*
- (v) If the corporate insolvency resolution process is set aside by the Appellate Tribunal or order of the Appellate Tribunal is reversed by the Hon'ble Supreme Court and corporate insolvency resolution process is restored.*
- (vi) Any other circumstances which justifies exclusion of certain period.*

However, after exclusion of the period, if further period is allowed the total number of days cannot exceed 270 days which is the maximum time limit prescribed under the Code."

3. In the present case, we find that after admission of the application the 'Resolution Professional' was informed who took over the charge after 30 days of admission. In fact the case was admitted on 16th August, 2017 and on receipt the intimation, he took charge on 14th September, 2017.

4. Having heard the learned counsel for the parties following the decision in “*Quinn Logistics India Pvt. Ltd.*” (Supra), we direct the Adjudicating Authority to exclude 30 days for the purpose of counting the period of ‘corporate insolvency resolution process’ and thereby allow the ‘Resolution Professional’ to complete the ‘corporate insolvency resolution process’ by 15th June, 2018.
5. The impugned order dated 16th March, 2018 passed by the Adjudicating Authority, Mumbai Bench in M.A. No. 131/2018 in C.P. (IB) – 1197(MB)/2017 stands modified to the extent above. The observation made by the Adjudicating Authority against the ‘Resolution Professional’ is expunged and is set aside.
6. The appeal stands disposed of with the aforesaid observations.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

/ns/uk