

**NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH-I**

CP (IB) No. 109/9/HDB/2017

**In the matter of**

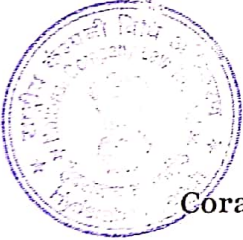
M/s Dr. Reddy's Laboratories Limited  
8-2-337, Road No.3, Banjara Hills  
Hyderabad – 500034

...Petitioner/  
Operational Creditor

**Versus**

M/s Inter Labs (India) Private Limited  
7-1-6442/2/1/F, G-1, Veera Palace  
Sundar Nagar, Erragadda  
Hyderabad – 500038

... Respondent/  
Corporate Debtor



**Date of order: 25.02.2020**

**Cōram**

Hon'ble Shri Ratakonda Murali, Member (Judicial)  
Hon'ble Shri Narendra Kumar Bhola, Member (Technical)

**Appearance:**

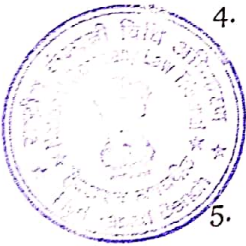
For Petitioner: Shri Ch. Gunaranjan along with Shri N.V. Shravan  
Kumar, Shri DVAS Ravi Prasad, Shri Sridhar. M,  
Advocates

Heard on: 12.02.2020

PER: SHRI RATAKONDA MURALI  
MEMBER (JUDICIAL)

**ORDER**

1. A memo dated 28.01.2020 is filed by Petitioner / Dr. Reddy's Laboratories Limited/ Petitioner herein seeking change of IRP in respect of M/s Inter Labs (India) Private Limited / Corporate Debtor and further praying for exclusion of time from 22.08.2017 till date of appointment of IRP from the CIRP period.
2. The averments in the Memo are that this Tribunal admitted the Petition filed under Section 9 of Insolvency & Bankruptcy Code, 2016 by the Operational Creditor on 22.08.2017 and Corporate Insolvency Resolution Process commenced by appointing Shri M. Vijay Bhaskar Rao as Interim Resolution Professional and further granted moratorium.
3. It is submitted, aggrieved by the admission order, an appeal was preferred by the Director of the Corporate Debtor before Hon'ble NCLAT. Hon'ble NCLAT vide order dated 16.10.2017 set aside the order dated 22.08.2017 passed by this Tribunal.
4. It is submitted that the Petitioner preferred an appeal to Hon'ble Supreme Court, which by order dated 24.08.2018 had remanded the matter to the Hon'ble NCLAT with a direction to decide the matter on merits.
5. It is submitted while passing judgement dated 14.01.2019, Hon'ble NCLAT rejected the application filed by the Petitioner on the ground there is a pre-existing dispute. Aggrieved by the said order of Hon'ble NCLAT, the Petitioner again preferred an appeal to Hon'ble Supreme Court which vide judgement dated 21.10.2019 had restored the order passed by this

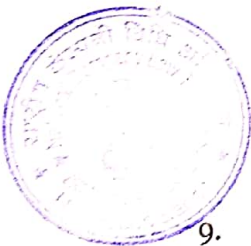


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Tribunal dated 22.08.2017. The Petitioner also brings to the attention of this Tribunal that period of limitation for filing a review before the Hon'ble Apex Court ended on 18.01.2020 and that Corporate Debtor allegedly disposed of significant part of its assets in the interregnum.

6. The Petitioner, thus requested the Tribunal to take the above orders on record and subsequently appoint an IRP and further exclude the time from 22.08.2017 till the date of appointment of IRP viz. the period lost in the legal proceedings and to thereby extend the period of CIRP.
7. We heard the Counsel for Petitioner. The matter was listed on 04.02.2020 consequent to Hon'ble Apex Court order dated 21.10.2019 vide which this Tribunal order dated 22.08.2017 admitting the petition was ordered to be restored. Subsequently, this Tribunal directed the Counsel for Petitioner to serve notice on the Corporate Debtor as well the Interim Resolution Professional appointed for Corporate Debtor in the first instance and adjourned the matter on 10.02.2020.
8. When the matter came up for hearing on 10.02.2020, the Counsel for Petitioner filed compliance memo with regard to service of notice on Corporate Debtor along with a letter received from the then IRP stating his incapability to act as IRP. As such the Petitioner urged this Tribunal to appoint another IRP to continue the CIRP process. It is reported notice was served on the Corporate Debtor but none appeared.
9. The Operational Creditor failed to name anyone as Interim Resolution Professional and has requested the Tribunal to appoint one for the Corporate Insolvency Resolution Process. The Insolvency and Bankruptcy Board of India (IBBI) has recommended a panel of Insolvency Professionals for appointment as Insolvency Resolution Professional for the



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period 1<sup>st</sup> Jan 2020 to 30<sup>th</sup> June, 2020 in compliance with Section 16(3) (a) of the Code in order to avoid delay. Accordingly, this Tribunal appoints Mr. P V B Sudhakararao having Registration No. IBBI/IPA-002/IP-N00795/2019-2020/12547 # R/o Divya Collections, 2<sup>nd</sup> Floor, D.No. 8-3-677-8, SKD Nagar, Near Ganapathi Complex, Yellareddyguda, Hyderabad - 500073, e-mail id. pasalasudhakar3@gmail.com Telangana Hyderabad as Interim Resolution Professional. The aforesaid interim resolution professional has no disciplinary proceedings pending against him. He shall file his written communication and consent in Form-2 before Registrar of this Tribunal but not later than two days.

10. Further, Learned Counsel for Petitioner would contend that erstwhile IRP could not take any action after assuming charge because of legal hurdles as stated above. Now the order dated 22.08.2017 is restored to the file of this Tribunal by aforesaid order of Hon'ble Apex Court and the IRP appointed has to start the process immediately. We have perused the order of Hon'ble NCLAT dated 16.10.2017 in Company Appeal (AT) (Insolvency) No. 190 of 2017. It is true that Hon'ble NCLAT by referring to the decision in "**Uttam Galva Steels Limited**", set aside the order of this Tribunal dated 22.08.2017. Para 6 of the said order is reproduced below:-

**Para.6: In effect, order (s) passed by Ld. Adjudicating Authority appointing any 'Interim Resolution Professional' or declaring moratorium, freezing of account, if any, and all other order(s) passed by Adjudicating Authority pursuant to impugned order and action taken by the 'Interim Resolution Professional', including the advertisement published in the newspaper calling for applications as such orders and actions are**

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*declared illegal and are set aside. The application preferred by Respondent under Section 9 of I&B Code, 2016 is dismissed. Learned Adjudicating Authority will now close the proceeding. The appellant company is released from all the rigour of law and is allowed to function independently through its Board of Directors from immediate effect”.*

By virtue of the above order of Hon'ble NCLAT, and relying on the order passed by Hon'ble NCLAT in Quinn Logistics India (P) Limited Vs Mack Soft Tech (P) Ltd, the Adjudicating Authority can exclude certain period from CIRP if facts and circumstances justify such exclusion in unforeseen circumstances. Hon'ble NCLAT has held that in the following cases, time can be excluded from the CIRP:-

- (a) *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.*
- (b) *If no “Resolution Professional” is functioning for one or other reason during the Corporate Insolvency Resolution Process, such as removal.*
- (c) *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 CIRP.*
- (d) *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 CIRP.*
- (e) *If the CIRP is set aside by the Appellate Tribunal or order of the Appellate Tribunal is*

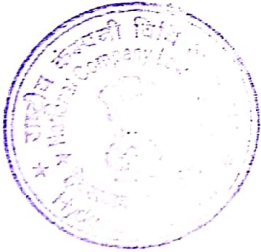
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**reversed by the Hon'ble Supreme Court and CIRP is restored.**

**(f) Any other circumstances which justifies exclusion of certain period.**

It is clear as per ground (f) above, the Adjudicating Authority can exclude a certain period for the purpose of counting total period of CIRP, if circumstances justify such exclusion.

11. Here is the case, where considerable time of more than two years have been lost due to reasons stated aforesaid. We are of the considered view that since admission order has been restored to the file of this Tribunal by the Hon'ble Supreme Court, the CIRP to start afresh from today.
12. In the light of memo dated 28.01.2020 filed by the Petitioner, the Corporate Insolvency Resolution Process to start afresh from today i.e. 25.02.2020. That the public announcement of the initiation of Corporate Insolvency Resolution Process shall be made immediately as prescribed under section 13 of Insolvency and Bankruptcy Code, 2016. Para 11 (2) of this Tribunal order dated 22.08.2017 shall apply to this order also. The Interim Resolution Professional appointed at para 9 supra to carry the functions as mentioned under the Insolvency & Bankruptcy Code.



*NKH*  
25.2.2020  
(NARENDER KUMAR BHOLA)  
MEMBER (TECHNICAL)

*25/2/2020*  
(RATAKONDA MURALI)  
MEMBER (JUDICIAL)

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*[Signature]*  
Dy. Secy/Asst. Regr/Court Officer  
National Company Law Tribunal, Hyderabad Bench

प्रमाणित प्रति  
CERTIFIED TRUE COPY  
केस नम्बर (7.113) No. 109/9/HDB/2017  
निर्णय का तारीख 25/2/2020  
प्रति लेखार किया गया तारीख  
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