



**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**NEW DELHI BENCH**

**COURT-IV**

**I.A.(IBC)/6208/2023**  
**IN**  
**C.P.(IB)No.223/ND/2022**

**IN THE MATTER OF:**

**Mr. Rakesh Kumar Jindal**  
**Resolution Professional of M/s. Grand Reality Private Limited**  
**... Applicant**

**IN THE MATTER OF:**

**Kaushal Deshmukh & Ors.**

**...Financial Creditors**

**Versus**

**M/s. Grand Reality Private Limited**

**...Corporate Debtor**

**CORAM:**

**SH. MANNI SANKARIAH SHANMUGA SUNDARAM,**  
**HON'BLE MEMBER (JUDICIAL)**

**DR. SANJEEV RANJAN,**  
**HON'BLE MEMBER (TECHNICAL)**

**Order Delivered on: 08.01.2024**

**For the Applicant:** Mr. Roshan Kumar

**ORDER**

**PER: DR.SANJEEV RANJAN, MEMBER (TECHNICAL)**

The interlocutory application i.e. I.A.(IBC)/6208/2023 is filed on behalf of Mr. Rakesh Kumar Jindal ('applicant'), Resolution Professional of M/s. Grand Reality Private Limited under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 ('Code') read with Rule 11 of the National Company Law Tribunal Rules, 2016 ('NCLT Rules') seeking the following prayer(s):-



- a) To allow the present application;
  - b) Grant exclusion of CIRP Period of 242 days starting from 14.02.2023 to 13.10.2023;
  - c) Pass any other order or further directions as this Hon'ble Tribunal may deem fit and proper to meet the ends of justice in favour of the applicant and in the interest of justice.
2. Briefly stated facts of the present case as mentioned in the instant application, which are just and necessary for adjudication, are that this Adjudicating Authority vide order dated 14.02.2023 had initiated Corporate Insolvency Resolution Process against M/s. Grand Reality Private Limited ('Corporate Debtor') on an application filed by Mr. Kaushal Deshmukh and 41 other financial creditors in a class under Section 7 of the Code, 2016 and the applicant was appointed as the Interim Resolution Professional and later confirmed as the Resolution Professional of the Corporate Debtor.
3. The Applicant submitted that Corporate Debtor's CIRP period of 180 days was expired on 13.08.2023, however, the CIRP of the corporate debtor could not complete within the statutory period of 180 days. The Applicant adds that this Adjudicating Authority vide its order dated 18.08.2023 in I.A/4372/2023 had granted extension of 90 days in the CIRP Period of the Corporate Debtor and the CIRP period got extended up to 11.11.2023.
4. Further, the Applicant submitted that Hon'ble NCLAT vide its order dated 26.09.2023 and 16.10.2023 has directed to maintain Status Quo in respect of the construction of the flats under the project "Marvel Fria" by the developer PAX Homes LLP. The Applicant considering the scenario with the approval of COC has decided to seek exclusion of the Corporate Debtor's CIRP period from 14.02.2023 to 13.10.2023. Moreover, the other reasons justifying the exclusion of CIRP period for the said period as averred by the applicant are stated in brief:
- a) Directors (Power Suspended) of the Corporate Debtor have not shared various crucial information as required by the IRP/RP such as



information relating to the land or property owned by the Corporate Debtor, details relating to the project and various transactions made by the suspended director. The IRP has filed an application under section 19(2) of the Insolvency and Bankruptcy Code, 2016 against the suspended directors in this regard. The application is pending before this Hon'ble Tribunal for adjudication.

- b) The project site is in possession of the Developer M/s PAX Homes LLP. The IRP/RP requested Pax Homes LLP to handover possession of the land and the project site to the RP. However, they have not cooperated with the Resolution Professional despite several requests and reminders. Consequently, The Resolution Professional has filed an application under Sections 18 of the Code seeking possession of the land/project in the possession of the Developer M/s PAX Homes LLP and Section 19(2) for seeking co-operation of the Insolvency and Bankruptcy Code, 2016 against Pax Homes LLP. The application is pending before this Hon'ble Tribunal for adjudication.
- c) That, the Hon'ble NCLAT has allowed the developer Pax Homes LLP to proceed with the construction work under the project "Marvel Fria ". Pax Homes LLP has also filed an affidavit undertaking that by end of March, 2024 possession will be given to the Homebuyers after completing the Construction of the flats in question.
- d) That, in light of the order dated 26.09.2023 and 16.10.2023 of the Hon'ble NCLAT, the COC has decided not to issue an RFRP to Resolution applicants.

5. We have heard Ld. Counsel for the Applicant and perused the averments made in the application and the written submissions filed by the parties. The relevant documents annexed with the applications have been examined in detail.

6. From the record of the present case, the CIRP of the Corporate Debtor is at nascent stage and the Applicant ('Resolution Professional') has to take forward duly complied with the procedure as prescribed under the Code for the purpose of Resolution of the Corporate Debtor .

7. The Hon'ble NCLAT in **Quinn Logistics India Pvt. Ltd v.Mack Soft Tech Pvt. Ltd and ors., dated 08.05.2018 [CA(AT) (Insolvency) No. 185 of 2018]** had held 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.”

8. Considering the conspectus of facts, this Adjudicating Authority is of the view that the Corporate Debtor being a Real Estate Project involving various stakeholders including the homebuyers/ Allottees, the issue related to exclusion of period while computing the CIRP period had to be seen from the prism of realism and pragmatic approach should have been adopted by the Adjudicating Authority, considering the fact that the exclusion is sought on the ground that



litigations in respect of the project land is sub-judiced before the Hon'ble CLAT.

9. After going through the record and giving consideration to the submissions made, this Adjudicating Authority hereby allow the exclusion of 242 days starting from 14.02.2023 to 13.10.2023 from the CIRP Period of the Corporate Debtor. Resultantly, **I.A.(IBC)/6208/2023 stands allowed.**

10. We also note that the present applications (i.e., I.A.(IBC)/6208/2023) seeking exclusion in the CIRP Period was filed on 13.11.2023. For an effective conclusion of the resolution process, this Adjudicating Authority further allows the exclusion of the period from the date of filing of the present application till the date of pronouncement of the present order from the Corporate Insolvency Resolution Process period. The resolution professional is directed to take all steps to complete the resolution process within the further period allowed to him in the present order.

**Sd/-**

**(DR. SANJEEV RANJAN)  
MEMBER (T)**

**Sd/-**

**(MANNI SANKARIAH SHANMUGA SUNDARAM)  
MEMBER (J)**