

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 19 of 2025

IN THE MATTER OF:

**CA Ashish Saoji,
RP Interdril Asia Ltd.**

...Appellant

Versus

...Respondent

Present:

For Appellant : Mr. Jatin Kumar, Advocate.

For Respondent :

O R D E R
(Hybrid Mode)

07.01.2025: Heard Counsel for the Appellant.

2. This Appeal has been filed against an Order dated 27.11.2024 by which I.A. No. 1934/PB/2019 seeking exclusion of 588 days from computation of CIRP period has been partly allowed by granting exclusion of 540 days, during which period Interim Order was granted by the NCLAT was operated i.e., from 18.01.2023 to 11.07.2024, however, the period from 11.07.2024 to 28.08.2024 which was also prayed to be excluded has been refused.

3. Counsel for the Appellant submits that the earlier IRP who was appointed could not function due to his ill health and ultimately has submitted his resignation on 14.08.2024, which clearly mentions that he has been writing since May 2024 regarding inability of the IRP to continue his appointment and after his resignation, new IRP was appointed by the Adjudicating Authority on 28.08.2024, hence from 11.07.2024 till 28.08.2024

earlier IRP could not function nor discharge any function, hence the said period also required to be excluded. Counsel for the Appellant further submitted that in the Order dated 28.08.2024 the fact of resignation on health issues has been noticed.

4. We have considered the submissions of Counsel for the Appellant and perused the record.

5. The Application was filed with the resolution of the CoC seeking exclusion for the entire period i.e., from 18.01.2023 till 28.08.2024. The resignation of the IRP has been brought on the record as Annexure 6. In Para 2 of the said Application following has been stated by the IRP:

“...This letter is in continuation to the emails exchanged with your office since May 2024 informing you of the inability of the Interim Resolution Professional to continue his appointment in the captioned matter owing to his deteriorating health. The undersigned humbly requests you to accept his resignation as the Interim Resolution Professional of Mis Interdril Asia Limited...”

6. Adjudicating Authority also in its Order dated 28.08.2024 has noticed the resignation of the IRP and on account of the health issues and in the Order dated 28.08.2024 following has been observed by the Adjudicating Authority:

“Ld. Counsel submitted that the IRP who was appointed by this Adjudicating Authority has tendered his resignation vide communication dated 14.08.2024. In view of the health issues of the IRP, since CoC has not been constituted so far the Financial Creditor who had initiated the CIRP i.e. the present Applicant has accepted the resignation of the IRP and has now proposed the name of, Mr. Ashish Avinash Saoji having registration no. IBBI/IPA-001/IP-P01268/2018-

2019/12150. The written consent of the said IRP as well as valid AFA has also been filed. Keeping in view, the fact that the Constitution of the CoC was stayed by the Hon'ble NCLAT and CoC was not constituted by the IRP and in view the fact that IRP due to in different health is unable to do any function as IRP, we allow this application so far it relates to replacement of the IRP as the earlier IRP was also appointed on the basis of name suggested by the Financial Creditor. The IRP earlier appointed is discharged and he is directed to hand over all the documents and material available with him to the newly appointed IRP."

7. We thus are of the view that the period after 11.07.2024 till 28.08.2024 also required to be excluded since CIRP could not proceed any further on account of ill health of IRP and he started writing from May 2024 to the Financial Creditor he is unable to discharge his function.

8. We find substance in the submission of the Appellant. The Appellant was entitled to exclusion of the entire period of 588 days which was claimed in the Application, hence the period from 18.01.2023 to 28.08.2024 stands excluded. Subsequent extension of 90 days which has been allowed on 09.12.2024 shall be computed thereafter.

Appeal is disposed of accordingly.

[Justice Ashok Bhushan]
Chairperson

[Arun Baroka]
Member (Technical)

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