

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
BENGALURU BENCH**

I.A. No. 159 of 2020 In  
C.P. (IB) No. 235/BB/2018  
U/r 11 & 32 of the NCLT Rules, 2016  
R/w Section 60(5) of I&B Code, 2016

**Between:**

**M/s. ORIJEAN PRIVATE LIMITED**

No.29, Vadrappalya, J.P Nagar 8<sup>th</sup> Phase,  
2<sup>nd</sup> Block, Gottigere Post,  
Bangalore- 560083.

- Applicant

**And**

The Registrar of Companies, Karnataka  
'E' Wing, 2<sup>nd</sup> Floor,  
Kendriya Sadan, Koramangala,  
Bengaluru - 560 034.

- Respondent

**Date of Order: 26<sup>th</sup> May, 2020**

**Coram:** 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)  
2. Hon'ble Shri Ashutosh Chandra, Member (Technical)

**Parties/Counsels Present:**

For the Applicant/Petitioner : Mr. Saji.P.John

**ORDER**

**Per:** Rajeswara Rao Vittanala, Member (J)

1. I.A. No. 159 of 2020 in C.P (IB) No.235/BB/2018 is filed by M/s. Orijean Private Limited, (hereinafter referred to as 'Applicant') Under Rules 11 & 32 of the NCLT Rules 2016, Read with section 60(5) of Insolvency And Bankruptcy Code, 2016 by inter alia seeking to Condone the delay of 159 days caused in submission of the order of the Tribunal with Registrar of Companies and to further direct the ROC to accept the order filed in Form INC 28 vide SRN R33350448.

  
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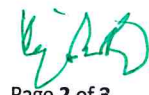
2. Brief facts of the case, which are relevant to the issue in question, as mentioned in the Application, are as follows:

(1) C.P (IB) No. 235/BB/2018 filed by M/s. Vaishnavi Industries (Operational Creditor) under Section 9 the Code read with Rule 6 of I&B (AAA) Rules, 2016 by inter alia seeking to initiate CIRP in respect of M/s. Orijean Private Limited (Present Applicant) on the ground that it has committed a default for an amount of Rs.12,28,762/- (Rupees Twelve Lakhs Twenty Eight Thousand Seven Hundred and Sixty Two Only). Accordingly the adjudicating authority admitted the case by order dated 07.08.2019, by initiating CIRP and appointing IRP, moratorium etc.

(2) Accordingly, the IRP made public announcement inviting claims, and before constituting the COC, an IA. No. 418/2019 was filed U/s 12A of the Code read with regulation 30A (1) (a) of the IBBI (IRP for Corporate Persons) Regulations, 2016, has been filed for withdrawal of application as "all the outstanding dues has been settled with Corporate Debtor" Hence, the Application was allowed permitting the Applicant to withdraw the main Company Petition vide order dated 04<sup>th</sup> September 2019. The Order need to be filed with Registrar of Companies, Karnataka within 30 days from the date of the order and thus it required to be filed by 05.10.2019. However, it was filed Form INC 28 vide SRN R33350448 on 18.02.2020 with a delay of 159 days. The delay was neither intentional nor deliberate.

3. Heard Shri. Saji.P.John, learned Counsel for the Applicant, through Video Conference (VC). We have carefully perused the pleadings of the Party and extant provisions of the Code and the Rules made thereunder.

4. Mr. Saji.P.John, learned Counsel for the Applicant, has inter alia submitted that as per rules, any order of Tribunal is required to be filed with Registrar of Companies, within 30 days from the date of



receipt of the order. Since the order was filed with a delay of 159 days, the Registrar of Companies is not accepting the same by raising objection that delay has to be condoned by the Tribunal. The delay neither intentional nor deliberate and thus prayed that the delay may be condoned by directing ROC to accept the filing of order.

5. It is not in dispute that the main Company Petition was disposed of as infructuous by an order dated 04.09.2019. Therefore there is no direction given in the order with regard to the filing of the order in requisite form. Since the learned Counsel submit that the order is required to be filed within 30 days and it was filed with delay, it is just and proper to allow the Application as prayed for.
6. In the result, I.A No. 159 of 2020 in C.P. (IB) No. 235/BB/2018 is allowed by condoning the delay of 159 days in submission of order with Registrar of Companies, with further direction to ROC to take appropriate action to accept the order filed in Form INC 28 vide SRN R33350448, on submission of this order.

**ASHUTOSH CHANDRA**  
**MEMBER TECHNICAL**

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**RAJESWARA RAO VITTANALA**  
**MEMBER, JUDICIAL**