

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH (COURT-II)

IA-5641/ND/2020
IN
Company Petition No. (IB)-1491(ND)/2019

IN THE MATTER OF:

Akshay Kr. Soni

...Financial Creditor

Versus

M/S Value Infraestate India Pvt. Ltd.

...Corporate Debtor

AND IN THE MATTER OF:

Mr. Kumud Shekhar

...Applicant

Order Delivered on: 01.02.2021

SECTION: 60(5) of the Insolvency and Bankruptcy Code, 2016.

CORAM :

SH. ABNI RANJAN KUMAR SINHA, HON'BLE MEMBER (J)

SH. L. N. GUPTA, HON'BLE MEMBER (T)

PRESENTS:

For the Applicants: Mr. Ashik Kumar Juneja, Advocate for RP

Mr. Chander Prakash for the Financial Creditor

ORDER

BY ORDER OF THE BENCH

The present I.A. No. 5641/2020 is preferred by Mr. Kumud Shekhar, Interim Resolution Professional (IRP) of the Corporate Debtor (hereinafter referred as the 'Applicant') namely, M/s Value Infraestate Private Limited under Section 60(5) of the Insolvency and Bankruptcy Code, 2016.

2. That the prayers made in the IA are reproduced below:

- "i) To exclude the time period of 322 days between the date of order of admission dated 30.01.2020 till the actual date (i.e.16.12.2020) on which the present IRP came to know about the appointment and to declare 16.12.2020 as the date of commencement of CIRP.*
- ii) Pass such other and further orders as this may deem fit and proper in the facts and circumstances of the case."*

3. To put succinctly, the facts of the case are that the Financial Creditor Mr. Akshay Kr. Soni had filed an application bearing No. IB-1491(ND)/2019 under Section 7 of the Code for initiation of Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor, namely, M/s Value Infraestate Pvt. Ltd. The said application was admitted by this Tribunal vide its Order dated 30.01.2020 and as proposed by the Financial Creditor, Sh. Kumud Shekhar (IBBI/IPA-003/IP-N00206/2018-19/12358) was appointed as the IRP of the Corporate Debtor.

4. It is averred in the Application by the Applicant that he did not receive any intimation regarding his appointment as Interim Resolution Professional either from the Financial Creditor or from the Registry due to which no steps could be taken under CIR Process even though the order was passed by this Tribunal.

5. It is further averred by the Applicant that on 15.12.2020, one Mr. Anil Tayal had sent an E-Mail to the Applicant wherein he requested for submission of a claim against the Corporate Debtor i.e., Value Infraestate India Pvt. Ltd. (CIN-U45300DL2012PTC234356) & also informed regarding appointment of the Applicant as IRP by this Bench. A copy of the Email dated 15.12.2020 received from Mr. Anil Tayal is annexed by the Applicant as Annexure-2.

6. It has been added that thereafter, the Applicant via its Email dated 15.12.2020 asked the Counsel for the Financial Creditor about the Order dated 30.01.2020 passed by the NCLT admitting the petition for initiation of CIRP against the Corporate Debtor and appointment of the Applicant as IRP.

7. It is stated by the Applicant that in response to the Email sent on 15.12.2020, he received an email on the same day from the Counsel for the Financial Creditor Mr. Chandra Prakash replying that he was also not aware about such an order passed by this Bench on 30.01.2020 and the appointment of the Applicant as IRP.



8. It is further stated by the Applicant in para 6 of the Application that as per the Order dated 30.01.2020, this Bench had directed the Registry *“to inform the IRP, Financial Creditor (Applicant) and Respondent within 7 days of passing of Order, however no such communication was conveyed by the Registry of this Hon’ble Bench to the IRP, Financial Creditor or Respondent. Hence, none of the parties till 15.12.2020 had any knowledge of an order passed by this Hon’ble Bench on 30.01.2020.”*

9. It is submitted by the Applicant that :

“7. That the IRP was not aware about his appointment, hence the IRP could not take necessary action required to be taken under the Code, 2016. Therefore, it is humbly submitted to exclude the time period of 322 days between the date of order of admission was passed and the actual date (i.e., 16.12.2020) on which the IRP i.e., Mr. Kumud Shekhar came to know about the appointment.”

10. In support of its contention, the Applicant has placed reliance on the Judgement of the Hon’ble NCLAT in the matter of **Quinn Logistics India Pvt. Ltd. Company Appeal (AT) (Insolvency) No. 185 of 2018**, the relevant extracts of which are reproduced below :

“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."

11. It is also stated by the Applicant that pursuant to Rule 9 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules 2016, the Applicant had given his consent to act as Interim Resolution Professional (IRP) in the present matter in Form-2 dated 17.12.2020, which is annexed to the Application as Annexure 5.

12. That during the course of the Arguments on 11.01.2021, the Ld. Counsel for IRP submitted that the Applicant did not receive any intimation regarding his appointment as Interim Resolution Professional either from the Financial Creditor or from the Registry due to which no steps could be taken to initiate CIR Process. The Financial Creditor took the plea that the order dated 30.01.2020 was neither pronounced nor uploaded on the website of this Tribunal. In view of the above, the Counsel for IRP prayed for exclusion of the period of 322 days between the date of passing of order of admission and 16.12.2020, the date on which the IRP came to know about his appointment and also, declaration of 16.12.2020 as the date of commencement of CIRP.

13. Taking notice of the aforesaid submissions, this Bench vide order dated 11.01.2020 directed the Court Officer to submit a report indicating as to when the order of CIRP was pronounced and uploaded for communication to the IRP as well as the parties concerned.

14. That in compliance with the directions given vide order dated 11.01.2021, the Court Officer in his report dated 18.01.2021 has submitted that the order was pronounced in the open court on 30.01.2020 in his presence. He has added that the Pronouncement of the order is reflected in the cause list of 30.01.2020, which was uploaded around 6 pm on 29.01.2020 on the website of the Tribunal. He has stated that the order was received by the registry on 30.01.2020 and was uploaded on the website of this Tribunal on



31.01.2020. He has further submitted that once the order is uploaded, it is in public domain and is available for the parties, IRP and others to download free of cost. The proof of uploading of the order on 31.01.2020 was also shown on the screen while hearing by this Bench.

15. The Court Officer's report dated 18.01.2021 is reproduced below:

BEFORE THE HON'BLE NATIONAL COMPANY LAW TRIBUNAL,
BENCH-II, AT NEW DELHI

IA no 5641/2020

in
IB No.-1491/ND/2019

IN THE MATTER OF:

Akshay Kr Soni Applicant

Versus

M/s. Value Infraestate India Pvt. Ltd ... Respondent

REPORT ON BEHALF OF COURT OFFICER IN COMPLIANCE OF THE ORDER DATED 11.01.2021.

1. That this Hon'ble Tribunal had directed me on 11.01.2021 to provide information regarding, as to when the order of CIRP was pronounced and was uploaded for the communication to the IRP as well as the parties concerned.
2. That the CIRP in the above captioned matter was initiated on 30.01.2020. The order was pronounced in the open court on 30.01.2020 in my presence.
3. That the Pronouncement of the order was reflected in the cause list of 30.01.2020. The cause list of 30.01.2020 was uploaded around 6 pm on 29.01.2020 on the website of this Hon'ble Tribunal i.e. www.nclt.gov.in. The copy of Cause list dated 30.01.2020 is annexed and is marked as Annexure A.
4. That the outcome of pronouncement was also uploaded in the status of Cause List of 30.01.2020 on the website. The same is annexed as Annexure B.
5. That the order dated 30.01.2020 was received by the registry on 30.01.2020 and was uploaded on the website of this Tribunal on 31.01.2020. The proof that the order dated 30.01.2020 was upload on 31.01.2020 is marked as Annexure C.
6. It is submitted that once the order is uploaded, it is in public domain and is available for the parties, IRP and others to download free of cost.

Date – 18.01.2021


Court Officer
TS Singh

Annexure - A



GOVERNMENT OF INDIA
NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH
COURT NO. II
DAILY CAUSE LIST

DATE: 30.01.2020

TIME: 10:30 A.M

PRESENT. 1. SMT. INA MALHOTRA HON'BLE MEMBER (J)
2. SHRI L.N. GUPTA, HON'BLE MEMBER (T)

S. No	CP/CA No.	Purpose	Section	Name of Parties	Name of the Legal Practitioner	Remarks
Pronouncement of Order						
1	(IB)-1670(ND)2019		U/s 9 of IBC Code, 2016	Consolidated Shipping Line (India) Pvt. Ltd. V/s. M/s. Technofab Engineering Limited	B. Dhanaraj	
2	(IB)-1491(ND)2019		U/s 7 of IBC Code, 2016	M/s. Akshay Kr. Soni V/s. M/s. Value Infraestate India Pvt. Ltd.	Chandra Prakash	
3	(IB)-1593(ND)2019		U/s 7 of IBC Code, 2016	M/s. Utsav Securities Pvt. Ltd. V/s. M/s. Vogue Clothiers Pvt. Ltd.	Sakshi Jaiswal	
4	(IB)-299(ND)2019	For Clarification	U/s 9 of IBC Code, 2016	M/s. Banyan Tree Developers Pvt. Ltd. V/s. M/s. Parivartan Buildtech Pvt. Ltd.	Rajiv Virmani	
Supplementary List						
101	(IB)-391(ND)2020	New Petition	U/s 9 of IBC Code, 2016	Gopal Singh V/s. M/s. Technofab Engineering Limited And Another	Ayandeb Mitra	
102	(IB)-386(ND)2020	New Petition	U/s 9 of IBC Code, 2016	M/s. Prism Johnson Ltd. V/s. M/s. Eminence Township India Private Limited.	Abhijeet Gupta & Associates	
103	Appeal No. 144/252/ND/2020	New Petition	252	Income Tax Officer Ward-19(3) V/s. ROC(M/s. Parbhat Motels Pvt. Ltd.)	Zoheb Hossain	

True Copy

18/1/2021

NATIONAL COMPANY LAW TRIBUNAL DAILY CAUSE LIST

New Delhi Bench Court-II

New Delhi Bench Court-II

CORAM: 1. Hon'ble Member (J), Smt. Ina malhotra
2. Shri L.N. Gupta, Hon'ble Member (T)

DATE: 30-01-2020

S.No	CP/CA No	Case Purpose	Section	Name of Parties	Name of the Legal Practitioner	Remarks
1	(IB)-1670(ND)2019	N/A	U/s 9 of IBC Code,2016	Consolidated Shipping Line (India) Pvt. Ltd. V/s. M/s. Technofab Engineering Limited Vs --	Petitioner Advocate : B. Dhanaraj Respondent Advocate : -	Admitted
2	(IB)-1491(ND)2019	N/A	U/s 7 of IBC Code,2016	M/s. Akshay Kr. Soni V/s. M/s. Value Infraestate India Pvt. Ltd. Vs --	Petitioner Advocate : Chandra Prakash Respondent Advocate : -	Admitted
3	(IB)-1593(ND)2019	N/A	U/s 7 of IBC Code,2016	M/s. Utsav Securities Pvt. Ltd. V/s. M/s. Vogue Clothiers Pvt. Ltd. Vs --	Petitioner Advocate : Sakshi Jaiswal Respondent Advocate : -	Admitted
4	(IB)-299(ND)2019	For Clarification	U/s 9 of IBC Code,2016	M/s. Banyan Tree Developers Pvt. Ltd. Vs M/s. Parivartan Buildtech Pvt. Ltd.	Petitioner Advocate : Rajiv Virmani Respondent Advocate : -	5.02.2020

https://ncit.gov.in/status-of-cause-list?field_date_value%5Bvalue%5D%5Bday%5D=30&field_date_value%5Bvalue%5D%5Bmonth%5D=1&field_date... 1/9

Time cost: 15/01/2024

Content List

Content List

Type Title Post date Date For (Interim Order/Final Order) Date For (Cause List)

Interim Order/Final Order value infr - Any - Day Month Year

Apply Reset

TITLE	EDIT	TYPE	PUBLISHED	POST DATE	VIEW RESULT
M/s. Akshay Kr. Soni Vs. M/s. Value Infraestate India Pvt. Ltd.	edit	Interim Order/Final Order	Yes	07/02/20	1
M/s. Akshay Kr. Soni Vs. M/s. Value Infraestate India Pvt. Ltd.	edit	Interim Order/Final Order	Yes	30/01/20	2
M/s. Akshay Kr. Soni Vs. M/s. Value Infraestate India Pvt. Ltd.	edit	Interim Order/Final Order	Yes	31/01/20	3
M/s. Akshay Kr. Soni Vs. M/s. Value Infraestate India Pvt. Ltd.	edit	Interim Order/Final Order	Yes	01/01/20	4
M/s. Akshay Kr. Soni Vs. M/s. Value Infraestate India Pvt. Ltd.	edit	Interim Order/Final Order	Yes	05/12/19	5
M/s. Akshay Kr. Soni Vs. M/s. Value Infraestate India Pvt. Ltd.	edit	Interim Order/Final Order	Yes	28/11/19	6
M/s. Akshay Kr. Soni Vs. M/s. Value Infraestate India Pvt. Ltd.	edit	Interim Order/Final Order	Yes	09/11/19	7

Volume 14912.pdf Volume 14913.pdf Volume 14914.pdf Company Petition.pdf DMG Information.pdf

16. This Bench had also directed the IT Official of NCLT to submit a report through Ld. Registrar, NCLT in respect of the date of pronouncement of the Order dated 30.01.2020 shown in the Cause List and as well as uploading of the Order in the IB-1491(ND)2019 on the NCLT website.

17. That the IT Official Mr. Yogendra Verma has submitted report through Ld. Registrar, NCLT on 22.01.2021 and reconfirmed that *"The order dated 30.01.2020 in case no. IB-1491(ND)2019-Akshay Kr. Soni Vs. M/s Value Infraestate India Pvt. Ltd. has been uploaded on nclt Website dated 31.1.2020"*. He has attached the screenshot of the website along with his report. The report is reproduced below :

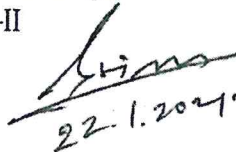
National Company Law Tribunal

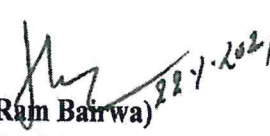
File No. 25/2/2021-NCLT

Dated 22nd January 2021

1. Reference order dated 20.1.2021 passed by Hon'ble Shri Abni Ranjan Kumar Sinha Member (Judicial) & Hon'ble Shri L.N. Gupta, Member (Technical) court no. II.
2. The aforementioned order says that *"In the meantime, the IT Official of NCLT is also directed to submit a report in respect of the date of Pronouncement of the Order dated 30.1.2020 in IB-1491 (ND) 2019, pronouncement shown in Cause List as well as the date of uploading the said Order on DMS. The IT Official of NCLT will submit the report duly countersigned by the Registrar of NCLT within a week from today. Let the copy of this Order be sent to the Registrar"*.
3. The IT Official has submitted the report on 22.1.2021 with regard to details of uploading of order dated 30.1.2021 on website in C.P. No. IB-1491 (ND) 2019: Akshay Kr. Soni Vs. M/s Value Infraestate India Pvt. Ltd (Copy enclosed).
4. The court officer is directed to place the report before the Hon'ble NCLT New Delhi Bench Court No. II.

Shri T.S. Singh
C.O-II


22.1.2021


(Shiv Ram Bairwa)
Registrar

1/22/2021

Email

Email

Shiv Ram Bairwa

Re: IB-1491(ND)2019- Akshay Kr. Soni vs. Value Infraestate India Pvt. Ltd.

From : yogendra v0023 <yogendra.v0023@gmail.com>
Subject : Re: IB-1491(ND)2019- Akshay Kr. Soni vs. Value
Infraestate India Pvt. Ltd.

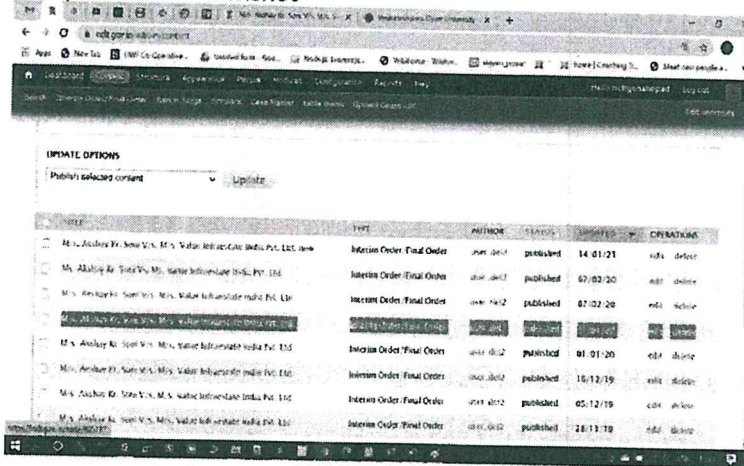
Fri, Jan 22, 2021 01:36 PM

2 attachments

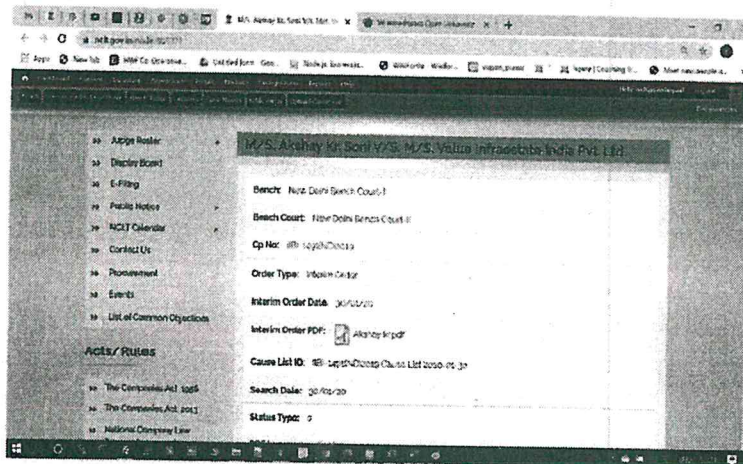
To : Shiv Ram Bairwa <registrar-nclt@gov.in>

Cc : yverma@ornatets.com

The order dated 30.1.2020 in case no. IB-1491(ND)2019- Akshay Kr. Soni vs. Value
Infraestate India Pvt. Ltd. has been uploaded on nclt website dated 31.01.2020.
kindly find the screenshot



ORDER	TYPE	AUTHOR	STATUS	DATE	OPERATIONS
M/S. Akshay Kr. Soni V/S. M/S. Value Infraestate India Pvt. Ltd.	Interim Order /Final Order	2019-01-21	published	14-01-21	edit delete
M/S. Akshay Kr. Soni V/S. M/S. Value Infraestate India Pvt. Ltd.	Interim Order /Final Order	2019-01-21	published	07-02-20	edit delete
M/S. Akshay Kr. Soni V/S. M/S. Value Infraestate India Pvt. Ltd.	Interim Order /Final Order	2019-01-21	published	07-02-20	edit delete
M/S. Akshay Kr. Soni V/S. M/S. Value Infraestate India Pvt. Ltd.	Interim Order /Final Order	2019-01-21	published	07-02-20	edit delete
M/S. Akshay Kr. Soni V/S. M/S. Value Infraestate India Pvt. Ltd.	Interim Order /Final Order	2019-01-21	published	07-02-20	edit delete
M/S. Akshay Kr. Soni V/S. M/S. Value Infraestate India Pvt. Ltd.	Interim Order /Final Order	2019-01-21	published	07-02-20	edit delete
M/S. Akshay Kr. Soni V/S. M/S. Value Infraestate India Pvt. Ltd.	Interim Order /Final Order	2019-01-21	published	07-02-20	edit delete
M/S. Akshay Kr. Soni V/S. M/S. Value Infraestate India Pvt. Ltd.	Interim Order /Final Order	2019-01-21	published	07-02-20	edit delete
M/S. Akshay Kr. Soni V/S. M/S. Value Infraestate India Pvt. Ltd.	Interim Order /Final Order	2019-01-21	published	07-02-20	edit delete
M/S. Akshay Kr. Soni V/S. M/S. Value Infraestate India Pvt. Ltd.	Interim Order /Final Order	2019-01-21	published	07-02-20	edit delete



M/S. Akshay Kr. Soni V/S. M/S. Value Infraestate India Pvt. Ltd.

Bench: NCLT Delhi Bench Court I

Bench Court: NCLT Delhi Bench Court II

Op No: 10/1491(ND)2019

Order Type: Interim Order

Interim Order Date: 30/01/2020

Interim Order PDF: [Akshay Kr.pdf](#)

Cause List ID: 10/1491(ND)2019 Cause List Date: 30/01/2020

Search Date: 30/01/2020

Status Type: 2

With Warm Regards,
Yogendra Verma
Ornate TechnoServices Pvt. Ltd. | H-189, Sector-63, Noida, Uttar Pradesh, India.

<https://email.gov.in/h/printmessage?id=42276&tz=Asia/Kolkata&xim=1>

1/2

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Company Petition No. (IB)-1491(ND)/2019
Akshay Kr. Soni Vs. M/S Value Infraestate India Pvt. Ltd.

UPDATE OPTIONS

Publish selected content

TITLE	TYPE	AUTHOR	STATUS	UPDATED	OPERATIONS
☐ M/s. Akshay Kr. Soni V/s. M/s. Value Infraestate India Pvt. Ltd. new	Interim Order/Final Order	user_del2	published	14/01/21	edit delete
☐ Ms. Akshay Kr. Soni Vs. Ms. Value Infraestate India Pvt. Ltd.	Interim Order/Final Order	user_del2	published	07/02/20	edit delete
☐ M/s. Akshay Kr. Soni V/s. M/s. Value Infraestate India Pvt. Ltd.	Interim Order/Final Order	user_del2	published	07/02/20	edit delete
☐ M/s. Akshay Kr. Soni V/s. M/s. Value Infraestate India Pvt. Ltd.	Interim Order/Final Order	user_del2	published	11/01/20	edit delete
☐ M/s. Akshay Kr. Soni V/s. M/s. Value Infraestate India Pvt. Ltd.	Interim Order/Final Order	user_del2	published	01/01/20	edit delete
☐ M/s. Akshay Kr. Soni V/s. M/s. Value Infraestate India Pvt. Ltd.	Interim Order/Final Order	user_del2	published	16/12/19	edit delete
☐ M/s. Akshay Kr. Soni V/s. M/s. Value Infraestate India Pvt. Ltd.	Interim Order/Final Order	user_del2	published	05/12/19	edit delete
☐ M/s. Akshay Kr. Soni V/s. M/s. Value Infraestate India Pvt. Ltd.	Interim Order/Final Order	user_del2	published	28/11/19	edit delete

Co. Court no 2
15.1.2021

<https://email.gov.in/service/home/-?auth=co&loc=en&id=42398&part=3>

18. That further, the Applicant in his Application has taken a plea that as per the order dated 30.01.2020 this Tribunal had directed the Registry to inform the IRP, Financial Creditor (Applicant) and Respondent *within 7 days* of passing of the order.

19. That on perusal of the order dated 30.01.2020, we notice that Registry was directed to communicate the order to the parties concerned but we do not find any specific direction to communicate within 7 days. Here, we consider it worthwhile to refer to the Judgement of Hon'ble NCLAT in deciding a similar issue in the matter of **Kuntal Constructions Pvt. Ltd Vs M/s Bharat Hotels Ltd. In Company Appeal (AT) (Insolvency) No. 542 of 2020 :**

"21. We also want to clarify that no one can take recourse that they have not been communicated the Judgment. It should be the duty of the counsel to keep a track after the matter is reserved for pronouncement...."

20. As evident from the abovementioned reports, since the order dated 30.01.2020 was uploaded on the website of this Tribunal on the very next day of the pronouncement i.e., on 31.01.2020, it is deemed to have been communicated to all the parties. Therefore, the plea that the parties had no knowledge about the order dated 30.01.2020 does not merit any consideration. Further, the IP, who admittedly (para 11 supra) pursuant to the Rule 9 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules 2016, had given his consent dated 17.12.2020 in the Form-2 to act as Interim Resolution Professional (IRP) in the present matter was obligated to keep a track of the status of the case, for which he had given the express consent. We are also surprised to note the complete ignorance on the part of the Financial Creditor (or his Counsel) who, this being the Petition



filed under Section 7 of the IBC, though himself had proposed the name of the IRP, did not keep abreast of the pronouncement of the order and its communication to the IRP. Instead, the Counsel for the Financial Creditor during the hearing chose to present a misleading picture before this Bench that neither the order was pronounced nor was it uploaded. The statement made by him on the bar is found to be completely contrary to the findings of the self-contained reports, dated 18.01.2021 submitted by the Court Officer and dated 22.01.2021 by the Ld. Registrar NCLT, both of which reflect the position otherwise.

21. As regards, the Judgement passed by the Hon'ble NCLAT in the matter of Quinn Logistics India Pvt. Ltd. Company Appeal (AT) (Insolvency) No. 185 of 2018 on 08.05.2018 relied by the Applicant, it is mentioned that with the Amendment in Section 12 of IBC 2016 introduced on 16.08.2019, the CIRP needs to be concluded within 330 days including the time spent in legal proceedings. The amended Section 12 of IBC 2016 is reproduced below :

"Time-limit for completion of insolvency resolution process. –

12. (1) *Subject to sub-section (2), the corporate insolvency resolution process shall be completed within a period of one hundred and eighty days from the date of admission of the application to initiate such process.*

(2) *The resolution professional shall file an application to the Adjudicating Authority to extend the period of the corporate insolvency resolution process beyond one hundred and eighty days, if instructed to do so by a resolution passed at a meeting of the committee of creditors by a vote of 1 [sixty-six] per cent. of the voting shares.*

(3) *On receipt of an application under sub-section (2), if the Adjudicating Authority is satisfied that the subject matter of the case is such that*



corporate insolvency resolution process cannot be completed within one hundred and eighty days, it may by order extend the duration of such process beyond one hundred and eighty days by such further period as it thinks fit, but not exceeding ninety days:

Provided that any extension of the period of corporate insolvency resolution process under this section shall not be granted more than once:

[Provided further] that the corporate insolvency resolution process shall mandatorily be completed within a period of three hundred and thirty days from the insolvency commencement date, including any extension of the period of corporate insolvency resolution process granted under this section and the time taken in legal proceedings in relation to such resolution process of the corporate debtor:

Provided also that where the insolvency resolution process of a corporate debtor is pending and has not been completed within the period referred to in the second proviso, such resolution process shall be completed within a period of ninety days from the date of commencement of the Insolvency and Bankruptcy Code (Amendment) Act, 2019.]”

22. In view of the findings as reflected in the para 20 supra and the aforesaid amendment by which the CIRP shall mandatorily be completed within a period of 330 days including any extension of the period of CIRP granted and the time taken in legal proceedings, we do not find any merit in the prayers for exclusion of the period of 322 days from CIRP and declaration of 16.12.2020 as the date of commencement of CIRP.

23. However, in the interest of taking the CIR process forward, what could utmost be done in terms of the Regulation 40C of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2020 is to exclude the period of Lockdown imposed by Central Government in the wake of Covid-19 and accordingly, we order



exclusion of the period from 25.03.2020 to 30.06.2020 i.e., a total period of 97 days from the period of CIRP with a direction to the IRP to expedite the CIR process.

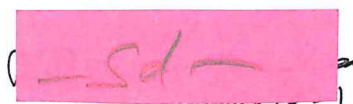
24. As regards, the conduct of IRP, Mr. Kumud Shekhar (IBBI/IPA-003/IP-N00206/2018-19/12358), in terms of not initiating the CIR Process of the Corporate Debtor M/s Value Infraestate India Pvt. Ltd. till 16.12.2020, we are constrained to refer the matter to the Insolvency and Bankruptcy Board of India (IBBI) for needful action.

25. Let a copy of this order be sent by the Registrar NCLT to the IBBI in the context of the observations made in the para 24 above.

26. **The IA-5641/ND/2020 is accordingly disposed of.**



(L. N. GUPTA)
MEMBER (T)



(ABNI RANJAN KUMAR SINHA)
MEMBER (J)

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH, (COURT-II)

Item No. 2
(IB)-1491(ND)2019
IA/5641/2020

IN THE MATTER OF:

M/s. Akshay Kr. Soni

... Applicant/Petitioner

Versus

**M/s. Value Infraestate India Pvt.
Ltd.**

...

Respondent

Under Section: 7 of IBC, 2016

Order delivered on 01.02.2021

CORAM:

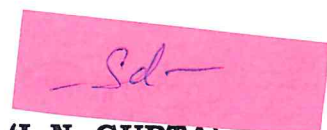
**SHRI. ABNI RANJAN KUMAR SINHA,
HON'BLE MEMBER (J)**

**SHRI. L. N. GUPTA,
HON'BLE MEMBER (T)**

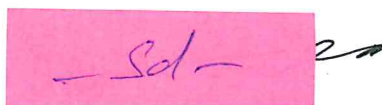
PRESENTS:

ORDER

The Order is pronounced in the open court.



**(L.N. GUPTA)
MEMBER (T)**



**(ABNI RANJAN KUMAR SINHA)
MEMBER (J)**