

NATIONAL COMPANY LAW APPELLATE TRIBUNAL

NEW DELHI, PRINCIPAL BENCH

Company Appeal (AT) (Ins.) No. 306 of 2021

In the matter of:

**Sanjay Kumar Dewani
Interim Resolution Professional of ADI Automotives
Pvt. Ltd.**

....Appellant

Present

For Appellant: Mr. Milan Singh Negi, Advocate.

ORDER
(Virtual Mode)

12.04.2021: In *Company Appeal (AT) (Insolvency) No. 306 of 2021* filed on behalf of the Appellant '*Sanjay Kumar Dewani, Interim Resolution Professional of ADI Automotives Pvt. Ltd.*' being satisfied by the Order dated 15.03.2021 in CP (IB) No. 259/CHD/HRY/2019 whereby the Learned NCLT, Chandigarh Bench allowed the I.A. Application No. 33 of 2021 to the limited extent of excluding the periods from 03.09.2020 to 14.12.2020 from the Corporate Insolvency Resolution Process period and disposed of the I.A.

2. This recent Appeal was filed before this Court on 05.04.2021 and taken up for Admission today.

3. Learned Counsel for the Appellant referred to Annexure A-4 at Page 52, which is the Order of the Learned Tribunal passed in I.A. Application No. 503 of 2020. Para 4 is reproduced as hereunder;

"4. In the circumstances, the instant IA No. 503/2020 is allowed to the limited extent of excluding the period of lockdown w.e.f. 25.03.2020 to 31.07.2020 and also with a liberty as aforesaid.

4. Learned Counsel for the Appellant submitted that pursuant to the Order they have filed the said I.A. Application bearing No. 33 of 2021 on 07.01.2021, in which the prayer was made that;

“In view of the foregoing, it is humbly prayed that this Hon’ble Adjudicating Authority may be pleased to:

(a) Allow the present application excluding the time period of 103 days utilized during the pendency of I.A. No. 503 of 2020 form the total time period of the Corporate Insolvency Resolution Process of the Corporate Debtor calculated from 03.09.2020 to 14.12.2020; and

(b) Exclude the time period as may be required for adjudication of the present application, i.e. from 14.12.2020 till the actual date of disposal of the instant application, from the total time period of the Corporate Insolvency Resolution Process of the Corporate Debtor;

(c) Pass such other/further order(s) of this Hon’ble Adjudicating Authority may deem fit and proper in the facts and circumstances of the present case.”

5. Learned Counsel for the Appellant while referring to the Impugned Order submitted that only period from 03.09.2021 to 14.12.2020 has been excluded. Being aggrieved, they have filed this Application.

6. Counsel for the Appellant further submitted that he has filed an ‘Additional Affidavit’ in I.A. Application No. 33 of 2021 on 05.03.2021, wherein in Para 4 they have arrayed the complete details, which is reproduced as hereunder;

“In compliance of the above direction of this Hon’ble Tribunal, the Applicant herein is filing the present affidavit, hence placing on record the following important list of dates and events thereon:

<i>Date</i>	<i>Events</i>	<i>Particulars</i>
08.01.2020	<i>CIRP in the present case was commenced on the order of this Hon'ble Tribunal.</i>	<i>This Hon'ble Tribunal was pleased to admit the application filed under section 9 of IBC</i>
06.07.2020	<i>The time-period of 180 days (as provided under Section 12(1) of IBC) expired.</i>	<i>On expiry of the time-period, the CoC became functus officio and the meeting of the CoC could not be held.</i>
03.09.2020	<i>The Applicant/IRP filed IA 503/2020 for exclusion of 192 days from the CIRP time-period.</i>	<i>10.02.2020-24.03.2020 (44 days) 25.03.2020-20.08.2020 (148 days) Total: 192 days.</i>
14.12.2020	<i>IA 503/2020 was partly allowed by granting exclusion of 129 days (25.03.2020 to 31.07.2020).</i>	<i>Liberty was also granted to the IRP to file application, "seeking exclusion of any other period if necessary".</i>
12.11.2020	<i>On applying the above exclusion of 129 days to the present case, it was observed that the time-period of 180 days held already expired on 13.11.2020.</i>	<i>Being so, the CoC could not be held for having become functus officio. IRP was advised to file appropriate application, as per the liberty so granted.</i>
07.01.2021	<i>The present application (IA 33/2021) was filed for exclusion of 188 days.</i>	<i>The application was listed on 11.01.2021 & 20.01.2021; however, the same could not be taken up due to strike called by the Bar Association.</i>

7. It was submitted that the period from 07.01.2021 till 15.03.2021 the period on which the Learned NCLT passed the Impugned Order be also excluded. This comes to 66 days. He, further, submitted that period of 7 days spent in pursuant of this Appeal total 73 days be excluded.

8. Impugned Order dated 15.03.2021 is modified to the extent that further period of 66 days i.e. from 07.01.2021 to 15.03.2021 and further from

05.04.2021 when the instant Appeal was filed before this Tribunal on 12.04.2021 total (66+7=73) days further excluded from the CIRP period.

9. The Appeal after modification of the Impugned Order dated 15.03.2021, is allowed to the limited extent as indicated above.

**[Justice Anant Bijay Singh]
Member (Judicial)**

**[Ms. Shreesha Merla]
Member (Technical)**

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