

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

Item No. 113
(IB)-1781(ND)2018

IA/2167/2021, IA/2074/2021, IA/2234/2021, I.A-2241/2021,
IA/2275/2021

IN THE MATTER OF:

Indu Kumar &Ors.

... **Applicant/Petitioner**

Vs.

M/s. Saha Infratech Pvt. Ltd

... **Respondent**

Under Section: 7 of IBC, (CIRP)

Order delivered on 21.05.2021

CORAM:

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

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

PRESENT:

Mr. Ashish Makhija, Akanksha Vasudevafor IRP, Mr. Krishnendu Dutta, Senior Advocate, Mr. Raghavendra Mohan Bajaj and Agnish Aditya, Advocates for FCs (Homebuyers), Mr. Pramod Kumar Dubey Senior Advocate, Mr. Atul Sharma, Ms. Renuka Iyer for IDBI Trusteeship Services Ltd., Mr. Virender Ganda, Senior Advocate, Mr. Atul Sharma, Advocate, Mr. Vishal Ganda Advocate Advocatefor ACRE ARC/Applicant

ORDER

IA/2167/2021: Heard the Ld. Counsel appearing for the IRP Mr. Ashish Makhija, Sr. Counsel Mr. Virender Ganda appearing for the Applicant No. 1 and Sr. Counsel Mr. Pramod Kumar Dubey appearing for Applicant No. 2.

In the course of hearing, the Counsel for the IRP submitted that the IRP has already filed an affidavit on 17.05.2021, by which he has informed the decision taken regarding the claims of both the Petitioners, which has also been communicated to the Petitioners through e-mail. Therefore, this Application has become infructuous. Mr. Virender Ganda, Sr. Counsel for ACRE ARC also submitted that in the facts and circumstances of the matter, the IA has become infructuous.

Therefore, **the IA is dismissed, being infructuous.**

IA/2074/2021: By filing this IA, the Applicant/IRP has prayed for appointment of Mr. Loveneet Handa, IP as Authorized Representative for the Class of Creditors of the Corporate Debtor. Heard the Ld. Counsel appearing for the Applicant and perused the averments made in the Application. Ld. Counsel appearing for the Applicant submitted that in terms of directions given by this Bench on 05.05.2021, the IRP has already filed an Affidavit on 17.05.2021. The Ld. Counsel for the IRP further submitted that the name of Mr. Loveneet Handa, I.P. has been approved by the Class of Creditors by voting share of 72.64%. So, he may be appointed as Authorised Representative of the Class of Creditors of the Corporate Debtor.

Considering the submissions, averments made in the Application and affidavit filed by the Applicant, we hereby allow the Prayer. Mr. Loveneet Handa, IP is appointed as the Authorised Representative for the Class of Creditors of the Corporate Debtor.

With this, **the present IA stands disposed of.**

IA/2241/2021: By filing this Application, IRP has prayed for exclusion of 402 days from 28.02.2020 to 05.04.2021 from the CIRP period. Heard the Ld. Counsel for the Applicant, who submitted that in this matter, the CIRP was initiated on 28.02.2020 and Mr. Arun Jain was appointed as IRP, who did not perform his duties and commenced the CIR process.

Ld. Counsel further submitted that this matter was raised in another I.A/3371/2020 filed before this Bench by the Home Buyer's Association namely, Aashray Social Welfare Society and this Adjudicating Authority appointed Mr. Shiv Nandan Sharma as IRP (Registration No. (IBBI/IPA-001/IP-P00384/2017-18/10641 email id. sharmasn@gmail.com). He further submitted that since the erstwhile IRP did not perform any work and took any steps as required under the IBC for the completion of CIRP, the period so lost may be excluded from the period of CIRP.

In the light of the submissions made by the Ld Counsel for IRP, when we went through the averment made in the Application as well as the detailed order passed by this Bench on 05.04.2021, we find that the matter against the erstwhile IRP Mr. Arun Jain was referred to the IBBI for initiating disciplinary action in accordance with the provision of law.

Under the peculiar facts and circumstances of the matter in which the erstwhile IRP did not perform any duty as required under the IBC for completion of the CIRP, therefore, by exercising the power under Rule 11 of the NCLT Rules, we think it proper to allow exclusion of total period of 402 days from 28.02.2020 to 04.04.2021 from the period of CIRP. Accordingly, we hereby exclude the total period of 402 days i.e., from 28.02.2020 to 04.04.2021 while calculating the period of CIR process.

With this, **the present IA stands disposed of.**

IA/2275/2021: Mr. Ashish Makhija appearing for the sole Respondent accepts the notice on his behalf. Hence, there is no need to issue notice upon the Respondent. Time of ten days is granted to file the Reply.

List the matter on 12.06.2021.

In course of hearing, Mr. Pramod Kumar Dubey, Sr. Counsel for the IDBI submitted that he has filed an Application bearing IA/2286/2021, which is not listed today. The Registry is directed to list this Application on 24.05.2021.

IA/2234/2021: Ld. Sr. Counsel appearing for the Applicant submitted that in view of the decision taken by the IRP, the Applicant wishes to withdraw the Application. Heard. Prayer is allowed.

The IA is dismissed as withdrawn.

Sd/-
(L. N. GUPTA)
MEMBER (T)

Sd/-
(ABNI RANJAN KUMAR SINHA)
MEMBER (J)

