

## TODAY HOMES AND INFRASTRUCTURE PRIVATE LIMITED

(Undergoing Corporate Insolvency Resolution Process under I&B Code, 2016)

### Extension & Exclusion of Time from Insolvency Resolution Process Period

Reference may be given to the recent order of the Hon'ble NCLAT dated 10.03.2021 (published on 15.03.2021) regarding the ongoing insolvency resolution process of Today Homes and Infrastructure Private Limited ("**Corporate Debtor**") and its corresponding impact on the resolution process period.

It is apprised that the undersigned, through his Counsel, approached the Hon'ble Appellate Tribunal against the order of the Hon'ble NCLT dated 05.02.2021 whereby the Hon'ble Tribunal did not allow exclusion of time lost on account of delayed appointment of Resolution Professional in the instant Process and such other time-period pertaining to deleterious impact of COVID-19. For reference of the readers, the undersigned has tabulated the period that was prayed to be excluded before the Hon'ble Appellate Tribunal:

<b>Days</b>	<b>Period</b>	<b>Ground for exclusion</b>
29	25.12.2019 to 23.01.2020	Time lost in appointment of Resolution Professional
10	15.03.2020 to 24.03.2020	Time lost due to Covid-19 pandemic in pre-lockdown time
31	01.07.2020 to 31.07.2020	Time lost due to restrictions in movement
<b>TOTAL: 70 Days</b>		

In view to the afore-listed prayer of the undersigned, the Hon'ble Appellate Tribunal decided to set-aside the order of the Hon'ble Tribunal dated 05.02.2021 to the limited extent insofar as period of 29 days was concerned (that being pertaining to period lost in appointment of RP). However, while pronouncing Oral Orders during the date of hearing, the Hon'ble Appellate Tribunal did not make any such remark, of limited exclusion. Thus, the undersigned will be approaching the Hon'ble Appellate Tribunal, through his Counsel, as to seek clarity on the written Orders.

Meanwhile, it is also apprised that the Hon'ble Appellate Tribunal was pleased to exclude the period lost on account of pendency/disposal of I.A. 3930/2020 by the Hon'ble NCLT, that being, from 09.09.2020 (date of filing of Application) till 05.02.2021 (date of Order) totalling to 149 days. Resultantly, total time-period that stood excluded from the CIR Process period is equivalent to 178 days in light of the order of the Hon'ble NCLAT dated 10.03.2021. Apart from the foregoing, the undersigned will again be approaching the Hon'ble NCLAT seeking clarity on the instant Order since as per the verbal Orders entire 70 days were to be excluded and not just 29 days as being captured in the written Orders.

Hence, in view of the recent Order of the Hon'ble NCLAT, the ongoing insolvency resolution process period of the Corporate Debtor will now expire on **29<sup>th</sup> April 2021**. Whereas upon seeking clarification, if the Order of the Hon'ble NCLAT stood revised and entire period of 70 days stood excluded, then, the last date of process completion will be 9<sup>th</sup> June 2021.

The undersigned will keep the stakeholders posted on further developments.

#### **Encl:**

- Order of the Hon'ble NCLAT dated 10.03.2021

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**PRINCIPAL BENCH, NEW DELHI**  
**Company Appeal (AT) (Insolvency) No. 188 of 2021**

**In the matter of:**

**Nilesh Sharma**  
**(Resolution Professional of Today Homes**  
**And Infrastructure Pvt. Ltd.)**

**....Appellant**

**Present**

**For Appellant:      Mr. Ashu Kansal, Mr. Milan Singh Negi Adhita,**  
**Mr. Abhijeet Sinha, Ms. Vatsala Kak and Ms. Ankita**  
**Bajpai, Advocates.**  
**Mr. Nilesh, for RP.**  
**Mr. Sumesh Dhawan, for Suspended Board of**  
**Directors.**

**ORDER**  
**(Virtual Mode)**

**10.03.2021:**      Heard the Learned Counsel for the Appellant.

2.      Learned Counsel for the Appellant Mr. Nilesh (RP) in this case, filed an Interlocutory Application 3930 of 2020 in (IB)- 2130(ND) 2019 praying for exclusion of time of 131 days from 23.03.2020 to 31.07.2020. The National Company Law Tribunal, New Delhi Bench (Court No. – II) by Order dated 05.02.2021, while disposing of the Appeal excluded the period of 97 days from 25.03.2020 to 30.06.2020.

3.      But the Learned Adjudicating Authority has refused to exclude the period of 29 days from 25.12.2019 to 23.01.2020 spent in handing over the charge from the IRP to RP though prayed for and rejected this Appeal.

4.      Learned Counsel for the Appellant further submitted that this Bench in *Company Appeal (AT) (Insolvency) No. 934 of 2020*, while dealing with a similar situation had excluded the time consumed and have allowed the Appeal.

5. Mr. Sumesh Dhawan, Learned Counsel for Suspended Board of Directors, submitted that he has no objection.

6. Learned Counsel for the Appellant referring to Page No. 173 Volume II of the Appeal Paper Book, which is the Suo Motu Order passed by this Tribunal in *Company Appeal (AT) (Insolvency) No. 01 of 2020* dated 30.03.2020, referred to the case decided by this Tribunal in **‘Quinn Logistics India Pvt. Ltd.’ V/s. ‘Mack Soft Tech Pvt. Ltd.’ in Company Appeal (AT) (Insolvency) No. 185 of 2018** dated 08<sup>th</sup> May, 2018 and held as follows;

*“(1) That the period of lockdown ordered by the Central Government and the State Governments including the period as may be extended either in whole or part of the country, where the registered office of the Corporate Debtor may be located, shall be excluded for the purpose of counting of the period for ‘Resolution Process under Section 12 of the Insolvency and Bankruptcy Code, 2016, in all cases where ‘Corporate Insolvency Resolution Process’ has been initiated and pending before any Bench of the National Company Law Tribunal or in Appeal before this Appellate Tribunal.*

*(2) It is further ordered that any interim order/stay order passed by this Appellate Tribunal in anyone or the other Appeal under Insolvency and Bankruptcy*

*Code, 2016 shall continue till next date of hearing,  
which may be notified later.”*

7. It was submitted by Learned Counsel for the Appellant that the RP is unable to take over the charge and responsibility. The period of 29 days from 25.12.2019 to 23.01.2020, also be excluded which has also been rejected by the Learned Adjudicating Authority.

8. After hearing the parties going through the Judgement cited by the Learned Counsel for the Appellant, **(Supra)** we are of the view that further period of 29 days from 25.12.2019 to 23.01.2020 is to be excluded. The Appeal is allowed and the Impugned Order so far rejection of the prayer for exclusion period of 25.12.2019 to 23.01.2020 is hereby set aside, is allowed that limited extent.

9. Further, the time spent in pursuing this the Interlocutory Application 3930 of 2020 is also excluded from CIRP Process.

10. The Appeal is stands allowed. No order as to costs.

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

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

*ha/nn*