

**BEFORE THE HON'BLE NATIONAL COMPANY LAW APPELLATE  
TRIBUNAL AT NEW DELHI**

**APPELLATE JURISDICTION**

**COMPANY APPEAL NO. (AT) (INSOLVENCY) \_\_\_\_ OF 2020**

**(Against Order dated 16.09.2020 passed by NCLT, Bengaluru Bench in  
I.A. No. 308/2020 in C.P. (IB) No. 84/BB/2019)**

**IN THE MATTER OF:**

M/s Dreamz Infra India Ltd.  
Through Shri Ashok Kriplani (RP) ... Appellant  
Versus  
Pratap Chandra Padhy ...Respondent

**INDEX**

<b>S. No.</b>	<b>DESCRIPTION</b>	<b>PAGE</b>
<b>1.</b>	Proof of Service	
<b>2.</b>	Synopsis and List of Dates	
<b>3.</b>	Memo of Parties	
<b>4.</b>	Memorandum of Appeal U/S 61 of IBC, 2016 against impugned order dated 16.09.2020 passed by the National Company Law Tribunal, Bengaluru Bench In I.A. No. 308/2020 in CP (IB) No. 84/BB/2019.	
<b>5.</b>	<b><u>ANNEXURE A 1</u></b> Copy of the impugned order dated 16.09.2020 passed by the NCLT, Bengaluru Bench In I.A. No. 308/2020 in CP (IB) No. 84/BB/2019.	
<b>6.</b>	<b><u>ANNEXURE A 2</u></b> Copy of the order dated 20.08.2019 thereby appointing IRP and initiating CIRP in CP (IB) No. 84/BB/2019.	
<b>7.</b>	<b><u>ANNEXURE A 3</u></b> Copy of FORM A, Public Announcement dated 03.09.2019 inviting claim	
<b>8</b>	<b><u>ANNEXURE A4</u></b> Copy of Order dated 17.12.2019 passed by NCLT, Bengaluru Bench InCP (IB) No. 84/BB/2019 confirming the Mr. Kriplani from IRP to RP	

<b>9.</b>	<b><u>ANNEXURE A 5</u></b> Copy of I.A no. 78/2020 filed by the Appellant in C.P (IB) No. 84/BB/2019.	
<b>10.</b>	<b><u>ANNEXURE A 6 (COLLY)</u></b> A copy of Form G, 2 <sup>nd</sup> Extension and the email on sending IM and RFRP to the PRA.	
<b>11.</b>	<b><u>ANNEXURE A 7</u></b> Copy of the application, I.A. No. 308/2020, filed by the Appellant/IRP in C.P (IB) No. 84/BB/2019.	
<b>12.</b>	<b><u>ANNEXURE A 8</u></b> A copy of the text on Amendment filed by the Appellant /RP in I.A. No. 308/2020 of C.P (IB) No. 84/BB/2019.	
<b>13</b>	<b><u>ANNEXURE A 9</u></b> Copy of Order dated 16.09.2020 passed by NCLT, Bengaluru Bench in I.A No. 326/2020 in CP (IB) No. 84/BB/2019.	
<b>14.</b>	<b><u>ANNEXURE A10</u></b> Copy of the order dated 04/09/2020 of Hon'ble NCLT against which an appeal is also pending at CA(AT)(Insol.) 851/2020.	
<b>15.</b>	<b><u>ANNEXURE A 11</u></b> Copy of the order dated 08.10.2020 of this Hon'ble Appellant Tribunal.	
<b>16.</b>	Caveat Clearance	
<b>17.</b>	Vakalatnama	

Appellant

**Through**

**Date: 10.2020**

**Place: New Delhi**

**SUNDER KHATRI, SHITAL KHATRI & RITIKA ACHINT  
COUNSELS FOR THE PETITIONER  
GF-124 & 113 WORLD TRADE CENTRE,  
BABAR ROAD,  
CONNAUGHT PLACE, NEW DELHI-110001  
EMAIL: [sunderkhatri069@gmail.com](mailto:sunderkhatri069@gmail.com)  
MOBILE:9810187449**

## **SYNOPSIS**

The present appeal, is being preferred on behalf of CD namely M/s Dreamz Infra India Ltd. through Mr. Ashok Kriplani (RP) appointed as the IRP by the Ld. Adjudicating Authority vide order dated 20<sup>th</sup> August, 2019, by initiating CIRP in C.P (IB) No. 84/BB/2019 followed up with confirmation as RP vide Order dated 17.12.2019, being aggrieved by the impugned order dated 16.09.2020 in I.A No. 308 of 2020 filed by the Appellant/ RP in the C.P (IB) No. 84/BB/2019, passed by the Hon'ble NCLT, Bengaluru Bench.

The I.A No. 308/2020 in C.P (IB) No. 84/BB/2019 has been filed by the RP of M/s. Dreamz Infra India Ltd. under section 60(5) of the Code seeking exclusion of certain time from the CIRP period in view of time spent in Litigation (03.02.2020 to 25.03.2020) and lockdown period and further litigation period (25.03.2020 to 24.08.2020) which is equivalent to 195 days which now stands to be 218 days at present, since Application for exclusion of time has been decided on 16.09.2020, therefore, exclusion could have been granted till passing of the impugned order (16.09.2020). Further, four Applications, I.A No 78,97,98 and 101/2020 are still pending since 03.02.2020. Additional grounds for exclusion of time period of 195 days was sought from 15.05.2020 in CIRP for the period 03.02.2020 to 25.03.2020 and period of lockdown from 25.03.2020 till the passing of impugned order dated 16.09.2020. Hence, it is calculated that now 218 days to be excluded as mentioned above.

The Hon'ble NCLT has committed a grave error in computing the lockdown period from 25.03.2020 to 31.05.2020 i.e. 68 days, which was granted, is completely unjustified and unreasonable because the lockdown has still not been completely lifted. Alternatively, the Application for exclusion has been decided by way of impugned Order on 16.09.2020, therefore, pendency of the Application(s) under disposal has not been granted by the Hon'ble NCLT, Bengaluru bench. The fact is that Ex – Directors of CD defrauded 2300 homebuyers, and the main Director is behind the bars. Further, in spite of directions passed by the Hon'ble NCLT to cooperate with RP in providing requisite documents and other details, which still have not been provided or furnished by the Ex- Directors which caused hardship to the RP in conducting the CIRP of the CD. Admittedly, in view of lockdown

imposed with effect from 25.03.2020 till date, no substantial progress could be carried out in CIRP of the CD.

By the impugned order dated 16.09.2020 the Ld. AA passed an Order in respect of the I.A filed by the Appellant disposing the Application vide I.A No. 308/2020 without giving due consideration to the relief sought to exclude the time period of 195 days from 03.02.2020 to 24.08.2020 in CIRP for the period 03.02.2020 to 25.03.2020, period of lockdown i.e. 25.03.2020 to 31.05.2020 and from 08.06.2020 to 24.08.2020. It is pertinent to mention even IBBI has inserted Regulation 40C to the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, vide notification dated 20.04.2020, which read as:

***“Special provision relating to time-line”***

*40C. Notwithstanding the time-lines contained in these regulations, but subject to the provisions in the Code, the period of lockdown imposed by the Central Government in the wake of Covid-19 outbreak shall not be counted for the purposes of the time-line for any activity that could not be completed due to such lockdown, in relation to a corporate insolvency resolution process.]”*

Given the above notification, the Hon’ble NCLT granted an exclusion of only 68 days. Whereas, the Appellant had sought an extension through an amendment in exclusion of 195 days from 15<sup>th</sup> May, 2020 for the period 03.02.2020 to 25.03.2020 and period of lockdown and for further litigation from 08.06.2020 to 24.08.2020.

That the impugned Order dated 16.09.2020 is erroneous, unrealistic, arbitrary and causes great prejudice to RP since the impugned order has been passed in haste without giving due consideration to the prayer sought.

Lockdown in Bengaluru city has been extended time to time, and the process of CIRP got affected due to lockdown and the pandemic and exclusion and extension is required to complete the process and to preserve the value of assets.

Hence the present Appeal

LIST OF DATES AND EVENTS

DATE	EVENT
	The present appeal is being preferred by Mr. Ashok Kriplani/ RP appointed by the Ld. Adjudicating Authority vide order dated 20 <sup>th</sup> August, 2019 by initiating CIRP in C.P (IB) No. 84/BB/2019, being aggrieved by the impugned order dated 16.09.2020 in I.A No. 308 of 2020 filed by the Appellant/RP in C.P (IB) No. 84/BB/2019, passed by the Hon'ble NCLT, Bengaluru Bench.
20.08.2019	Ld. AA. Bengaluru admitted the application for CIRP of M/s Dreamz Infra India Ltd. and Mr. Ashok Kriplani, Reg. No.- <b>IIBI/IPA-003/IP-N00009/2016-2017/10071</b> was appointed as IRP.
30.08.2019- 31.08.2019	IRP received the order dated 20.08.2019 and started the CIRP of the CD.
03.09.2019- 04.09.2019	Pursuant to the said appointment, Form A as mandated by law was published and the CoC was constituted whereby the Appellant was appointed as the Resolution Professional (RP) to carry on the duties and function under the code.
17.12.2020	The Hon'ble NCLT Bengaluru, vide Order dated 17.12.2020 confirmed IRP as RP.
03.02.2020	The Appellant filed one application at IA no. 78/2020 amongst other three applications, on Contempt of the Court against the Original Applicants for not paying CIRP Costs which till date remains undecided.
08.06.2020	The Appellant filed several applications through Email after the lockdown was partially lifted at IA no. 205-208/2020 & 213-218/2020.

15.07.2020	RP published Form G, 2 <sup>nd</sup> Extension duly approved by the COC, Pan India to invite wide participation for Expression of Interest.
22.07.2020	RP filed an Application, I.A. No. 308 of 2020 before the NCLT, Bengaluru under Section 60(5) of Insolvency and Bankruptcy Code, 2016 on Expediting Adjudication on Pending Application on disputed sites of the CD.
25.08.2020	RP filed an "Amendment in Exclusion Application" in the I.A. No. 308 of 2020 for Exclusion of time period of 195 days.
04.09.2020	All the applications filed till date were dismissed except applications with IA Nos. at 78,97,98 & 101/2020 which are still pending undecided. Applications at IA nos. 308/2020 & 316/2020 were decided on 16.09.2020.
16.09.2020	The Hon'ble NCLT, Bengaluru passed the impugned Order dismissing the Application, I.A. No. 308 of 2020 granting an exclusion of 68 days only i.e from 25.03.2020 to 31.05.2020.
.10.2020	HENCE the present Appeal.

**Through**

**Date: 10.2020**  
**Place: New Delhi**

**SUNDER KHATRI, SHITAL KHATRI & RITIKA ACHINT  
COUNSELS FOR THE PETITIONER  
GF-124 & 113 WORLD TRADE CENTRE,  
BABAR ROAD,  
CONNAUGHT PLACE, NEW DELHI-110001  
EMAIL: [sunderkhatri069@gmail.com](mailto:sunderkhatri069@gmail.com)  
MOBILE:9810187449**

**BEFORE THE HON'BLE NATIONAL COMPANY LAW APPELLATE  
TRIBUNAL AT NEW DELHI**

**APPELLATE JURISDICTION**

**COMPANY APPEAL NO. (AT) (INSOLVENCY) \_\_\_\_ OF 2020**

**(Against Order dated 16.09.2020 passed by NCLT, Bengaluru Bench in  
I.A. No. 308/2020 in C.P. (IB) No. 84/BB/2019)**

**IN THE MATTER OF:**

M/s Dreamz Infra India Ltd.  
Through Shri Ashok Kriplani (RP) ... Appellant  
Versus  
Pratap Chandra Padhy ... Respondent

**MEMORANDUM OF PARTIES**

M/s. Dreamz Infra India Limited,  
17/13, G.F., Old Rajinder Nagar,  
New Delhi-110060  
Through Mr. Ashok Kriplani (RP)  
**IIBI/IPA-003/IP-N00009/2016-2017/10071**  
E-mail: [dreamzcirp@gmail.com](mailto:dreamzcirp@gmail.com)  
[ashok.kriplani1956@gmail.com](mailto:ashok.kriplani1956@gmail.com) ... Appellant

**VERSUS**

Pratap Chandra Padhy  
S/o. Late Biswanath Pathy  
House no. 64 Srinivasa Nilaya,  
Ground Floor, 3<sup>rd</sup> cross,  
Ashwathnagar, RMV 2<sup>nd</sup> Stage,  
Sanjay Nagar Post, Bengaluru-560094,  
E-mail: [pratap626104padhi@gmail.com](mailto:pratap626104padhi@gmail.com)  
Mob: 9845253523. ... Respondent

**Through**

**Date: 10.2020  
Place: New Delhi**

**SUNDER KHATRI, SHITAL KHATRI & RITIKA ACHINT  
COUNSELS FOR THE PETITIONER  
GF-124 & 113 WORLD TRADE CENTRE,  
BABAR ROAD,  
CONNAUGHT PLACE, NEW DELHI-110001  
EMAIL: [sunderkhatri069@gmail.com](mailto:sunderkhatri069@gmail.com)  
MOBILE:9810187449**

**BEFORE THE HON'BLE NATIONAL COMPANY LAW APPELLATE  
TRIBUNAL AT NEW DELHI**

**APPELLATE JURISDICTION**

**COMPANY APPEAL NO. (AT) (INSOLVENCY) \_\_\_\_ OF 2020**

**(Against Order dated 16.09.2020 passed by NCLT, Bengaluru Bench in  
I.A. No. 308/2020 in C.P. (IB) No. 84/BB/2019)**

**IN THE MATTER OF:**

M/s Dreamz Infra India Ltd.  
Through Shri Ashok Kriplani (RP) ... Appellant  
Versus  
Pratap Chandra Padhy ...Respondent

**1. DETAILS OF APPEAL:**

Memorandum of Appeal is being filed U/S 61(1) of the Insolvency and Bankruptcy Code, 2016, against the impugned order dated 16.09.2020 the Ld. AA in respect of the I.A filed by the Appellant disposing the Application, I.A No. 308/2020, without giving due consideration to the relief sought to exclude the time period of 195 days from 16.05.2020 to 27.11.2020 in CIRP for the period 03.02.2020 to 25.03.2020, period of lockdown i.e. 25.03.2020 to 31.05.2020 and from 08.06.2020 to 24.08.2020.

**2. DATE ON WHICH IMPUGNED THE ORDER APPEALED AGAINST IS  
COMMUNICATED AND PROOF THEREOF, IF ANY:**

The impugned order was passed on 16.09.2020 and was communicated on 21.09.2020. The present appeal is being filed within the prescribed period of limitation under the IBC, 2016.

**3. THE ADDRESS OF THE APPELLANT FOR SERVICE IS AS SET OUT  
HEREUNDER:**

**Name and Address of the Appellant:**

M/s. Dreamz Infra India Limited,  
10/18, F.F., Old Rajinder Nagar,  
New Delhi-110060  
Through Mr. Ashok Kriplani (RP)  
**IIBI/IPA-003/IP-N00009/2016-2017/10071**  
E-mail: [dreamzcirp@gmail.com](mailto:dreamzcirp@gmail.com)  
[ashok.kriplani1956@gmail.com](mailto:ashok.kriplani1956@gmail.com)



**Name and Address of the Legal Representative:**

Sunder Khatri, Shital Khatri & Ritika Achint  
Gf-124 & 113 World Trade Centre,  
Babar road, Lalit Hotel  
Connaught place, New Delhi-110001  
EMAIL: [sunderkhatri069@gmail.com](mailto:sunderkhatri069@gmail.com)  
MOBILE:9810187449

**4. THE ADDRESS OF THE RESPONDENTS FOR SERVICE OF ALL NOTICES IN THE APPEAL ARE AS SET OUT HEREUNDER:**

Pratap Chandra Pandhy  
S/o. Late Biswanath Pathy  
House no. 64 Srinivasa Nilaya,  
Ground Floor, 3<sup>rd</sup> cross,  
Ashwathnagar, RMV 2<sup>nd</sup> Stage,  
Sanjay Nagar Post, Bengaluru-560094,  
E-mail: [pratap626104padhi@gmail.com](mailto:pratap626104padhi@gmail.com)  
Mob: 9845253523

**5 JURISDICTION OF THE APPELLATE TRIBUNAL**

The Appellant declares that the subject matter of the present Appeal is within the jurisdiction of the Appellate Tribunal under section 61(1) of the IBC, 2016.

**6 LIMITATION**

The order was passed on 16.09.2020 and was communicated on 21.09.2020. The time period of thirty days expires on 21.10.2020. The present appeal is preferred within the prescribed time limit to file an appeal.

**7 FACTS OF THE CASE**

The present appeal is being preferred on the following premises:

- i. The present appeal is being filed by Mr. Ashok Kriplani/ RP aggrieved by the impugned order dated 16.09.2020 passed by the Ld. NCLT, Bengaluru in application bearing I.A No. 308 of 2020 filed by the Appellant in C.P (IB) No. 84/BB/2019. A copy of the impugned order dated 16.09.2020 passed by the NCLT, Bengaluru is annexed herewith as **ANNEXURE A-1**.
- ii. The Appellant, Mr. Ashok Kriplani/RP, Reg. No. **IIBI/IPA-003/IP-N00009/2016-2017/10071** was appointed as the IRP in C.P (IB) No. 84/BB/2019 by the Ld. AA Bengaluru vide order

dated 20.08.2019 to commence the CIRP. A copy of the Order dated 20.08.2019 is annexed hereto as **ANNEXURE A 2**.

- iii. The IRP received the order dated 20.08.2019 on 30.08.2019 and initiated the CIRP of the CD on 31.08.2019 wherein admittedly the directors of the CD were not cooperating with the IRP which was also observed by the Ld. NCLT/AA during the course of proceedings amidst CIRP.
- iv. Pursuant to the said appointment, Form A as mandated by law was published and the CoC was constituted whereby the Appellant was appointed as the Resolution Professional (RP) to carry on the duties and function under the code. A copy of Form A is annexed hereto as **ANNEXURE A 3**
- v. The IRP vide order dated 17.12.2019 was confirmed as the RP in C.P (IB) No. 84/BB/2019 by the Ld. AA Bengaluru. Copy of the order dated 17.12.2019 is annexed hereto as **ANNEXURE A 4**.
- vi. That, the Appellant filed series of Applications, one against the Original Applicants at IA No. 78/2020 filed on 03.02.2020 which has not been taken up as yet despite many reminders and so also other applications at IA Nos.97, 98 & 101/2020 were filed by the Appellant/RP but have not been taken up as yet for hearing. The Appellants again filed Applications at IA nos. 205-208/2020 & 213-218/2020 on 08/06/2020. Copy of IA no. 78/2020 is annexed hereto as **ANNEXURE A 5**
- vii. That the Appellant/ RP published Form G, 2<sup>nd</sup> Extension, duly approved in the 4<sup>th</sup> COC Meeting, Pan India inviting a wide participation for Expression of Interest (EOI). The said EOI application was published on 15.07.2020 and against that an eligible PRA has already come, IM and RFRP have been issued to him. A copy of Form G, 2<sup>nd</sup> Extension and the email on sending IM and RFRP to the PRA are annexed hereto as **ANNEXURE A6(Colly)**.
- viii. The Appellant/RP filed the application with I.A. No. 308/2020 in C.P (IB) No. 84/BB/2019, under section 60(5) of Insolvency and Bankruptcy Code, 2016 R/W Rule 11 & 32 of National Company Law Tribunals Rules the Appellant on Expediting Adjudication on

pending Applications on Disputed sites of the CD, pending since 03.02.2020 & subsequently from 08.06.2020. A copy of the application filed by the Appellant /RP at IA No. 308/2020 in C.P (IB) No. 84/BB/2019 is annexed hereto as **ANNEXURE A7**

- ix. The Appellant/RP amended the prayer by hand at the instance of a Member of the bench of Hon'ble NCLT in Exclusion Application under I.A. No. 308/2020 in C.P (IB) No. 84/BB/2019 inter alia seeking to exclude the time period of 195 days from 15<sup>th</sup> May, 2020 in CIRP for the period 03.02.2020 to 25.03.2020 and period of lockdown and from 08.06.2020 to 24.08.2020. A copy of the text on such Amendment filed by the Appellant /RP in I.A. No. 308/2020 of C.P (IB) No. 84/BB/2019 is annexed hereto as **ANNEXURE A8**
- x. That vide Order dated 16.09.2020 passed by NCLT, Bengaluru bench in I.A. No. 326/2020 wherein and whereby 90 days were extended in view of the section 12(3) of the IBC,2016. A copy of Order dated 16.09.2020 is annexed hereto as **ANNEXURE A9**.
- xi. That the abovementioned Application filed by the Appellant/ IRP was allowed by the Ld. NCLT/ AA, Bengaluru but without giving due consideration to the prayer sought, the Ld. NCLT/AA Bengaluru granted 68 days of exclusion in place of 195 days that the RP had sought through the amended application.
- xii. That the impugned order interferes with the services rendered by the RP with effect from 20.08.2019 (admission of CIRP) till date for whole of the CD and not against one Project as made out by the Hon'ble NCLT, Bengaluru in its order dated 04.09.2020 since the CIRP is nearing the end and unless proper exclusion of days is granted, the whole process of CIRP will go down the drain just because no enough days were granted to have the process completed in an efficient manner. A copy of the order dated 04/09/2020 of Hon'ble NCLT against which an appeal is also pending at CA(AT)(Insol.) 851/2020 in which the Respondents have been noticed for dated of 23.11.2020 is annexed hereto as **ANNEXURE A 10**.
- xiii. That, where the Hon'ble NCLT, Bengaluru granted 180+90+68 days of time for completing the CIRP of one Project then the time required in conducting CIRP for more than 60 projects, though

good work at present has been done for more than 20 projects, requires exceptional and rational approach by the Hon'ble NCLT in granting time to complete the present CIRP of the CD as a whole. A copy of the order dated 08.10.2020 of this Hon'ble Appellant Tribunal is annexed hereto as **ANNXURE A11**

- xiv. That CD suffers with all stressed projects, therefore, the grant of extension of time, in another Application I.A. No. 326 of 2020 in C.P (IB) No. 84/BB/2019 filed by the RP, wherein the RP got an extension of 90 days and by lesser number of days excluded in I.A No. 308 of 2020 being 68 days will cause difficulty in completing the CIRP in the most efficient manner. Since these are not separate projects, they are all connected projects to be completed within the same time.
- xv. That the impugned order passed by the Ld. NCLT/AA is erroneous, unrealistic and arbitrary and causes great prejudice to the Appellant/RP. It is pertinent to mention that the pleadings were not considered.
- xvi. That there is a slight delay in asking for the exclusion since the RP was seeking to complete the CIRP in due time given that he had no cooperation from any of the Directors of the CD and that none of the promoters came forward.

**8 FORMULATE (I) THE FACTS IN ISSUE OR SPECIFY THE DISPUTE BETWEEN THE PARTIES AND (II) SUMMARIZE THE QUESTIONS OF LAW THAT ARISE FOR CONSIDERATION IN APPEAL:**

**a) FACT IN ISSUE.**

The facts of the present case cause prejudice to the RP since his prayer wasn't considered in I.A. No. 308 of 2020 i.e. exclusion of 195 days prayed against which only 68 days were excluded. This hampers the functioning of the CIRP of the CD since all the projects are singlehandedly handled by the RP without any support and since it is all a part of one project, the RP cannot deal with the projects separately. Therefore to complete the projects efficiently in time, the exclusion of time should have been granted by the Hon'ble NCLT/AA, Bengaluru.

## **(b) QUESTIONS OF LAW**

- i. Whether NCLT/ Adjudicating Authority has passed the Impugned Order dated 16.09.2020 in I.A. No. 308/2020 in C.P (IB) No. 84/BB/2019 by considering all facts and circumstances of the case?
- ii. Will the impugned order passed by the NCLT/ Adjudicating Authority not cause disruption and difficulties in completing the CIRP of the CD?
- iii. Whether or not Appellant/RP suffered hardship on account of disruptions in normal course of CIRP activities following which the application was moved before Adjudicating Authority that was dismissed without looking into the merits, and passed impugned Order dated 16.09.2020?
- iv. Whether or not impugned Order of granting 68 days of exclusion instead of 195 days as prayed will vitiate the whole process which is at the stage of finalizing the Resolution Process by the Appellant?
- v. Whether the impugned order passed by the NCLT/AA is justified considering the most part of this year went in restricted functioning given the pandemic and the lockdown due to which the RP has faced a lot of lag in completing the CIRP of CD?
- vi.** Relying upon the fact that the functioning of the courts around the country is still not fully activated, the country is still under partial lockdown period. Under these circumstances, is it justifiable to not grant exclusion of time for the effective functioning of CIRP?

## **9 GROUNDS RAISED WITH LEGAL PROVISIONS**

- i. BECAUSE the Ld. Adjudicating Authority has not considered the relief claimed in the Applications with an open mind.

- ii. BECAUSE the order passed by the Ld. Adjudicating Authority was never prayed or sought for by the Appellant.
- iii. BECAUSE the impugned order has been pronounced in haste in as much as the application at IA no. 308/2020 has also been dismissed without giving appropriate days of exclusion as prayed for, thus putting the cart before the Horse, as to where the RP should go, i.e. to conduct CIRP in the most efficient manner? Thus, the impugned order has been pronounced on ones whims and fancies which is irrelevant and is passed without application of even an iota of the mind and also not on the prevailing laws/precedences in vogue.
- xvii. BECAUSE the Appellant/RP filed the application with I.A. No. 308/2020 in C.P (IB) No. 84/BB/2019, under section 60(5) of Insolvency and Bankruptcy Code, 2016 R/W Rule 11 & 32 of National Company Law Tribunals Rules the Appellant on Expediting Adjudication on pending Applications on Disputed sites of the CD.
- xviii. BECAUSE the Appellant/IRP filed an Amendment in Exclusion Application under I.A. No. 308/2020 in C.P (IB) No. 84/BB/2019 inter alia seeking to exclude the time period of 195 days from 15<sup>th</sup> May, 2020 in CIRP for the period 03.02.2020 to 25.03.2020 and period of lockdown and from 08.06.2020 to 24.08.2020.
- xix. BECAUSE the application for exclusion of time has been decided on 16.09.2020, therefore, exclusion could have been granted till passing of the impugned order (16.09.2020).
- xx. BECAUSE four Applications, I.A No 78,97,98 and 101/2020 are still pending since 03.02.2020. Additional grounds for exclusion of time period of 195 days was sought from 15.05.2020 in CIRP for the period 03.02.2020 to 25.03.2020 and period of lockdown from 25.03.2020 till the passing of impugned order dated 16.09.2020. Hence, now it is calculated at 218 days to be excluded as mentioned above.
- xxi. BECAUSE the Hon'ble NCLT has committed a grave error in computing the lockdown period from 25.03.2020 to 31.05.2020 i.e. 68 days, which was granted, is completely unjustified and

unreasonable because the lockdown has still not been completely lifted.

- xxii. BECAUSE Ex – Directors of CD defrauded 2300 homebuyers, and the main Director is behind the bars. Further, in spite of directions passed by the Hon'ble NCLT to cooperate with RP in providing requisite documents and other details, which still has not been provided or furnished by the Ex- Directors which caused hardship to the RP in conducting the CIRP of the CD.
- xxiii. BECAUSE the abovementioned Application filed by the Appellant/ IRP was dismissed by the Ld. NCLT/ AA, Bengaluru without giving due consideration to the prayer sought, the Ld. NCLT/AA Bengaluru granted 68 days of exclusion in place of 195 days that the RP had sought through the amended application.
- xxiv. BECAUSE the impugned order interferes with the services rendered by the RP with effect from 20.08.2019 (admission of CIRP) till date since the CIRP is nearing the end and unless proper exclusion of days is granted, the whole process of CIRP will go down the drain just because no enough days were granted to have the process completed in an efficient manner.
- xxv. BECAUSE CD suffers with all stressed projects, therefore, the grant of extension of time, in another Application I.A. No. 326 of 2020 in C.P (IB) No. 84/BB/2019 filed by the RP, wherein the RP got an extension of 90 days and by lesser number of days excluded in I.A No. 308 of 2020 being 68 days will cause difficulty in completing the CIRP in the most efficient manner. Since these are not separate projects, they are all connected projects to be completed within the same time.
- xxvi. BECAUSE the impugned order passed by the Ld. NCLT/AA is erroneous, unrealistic and arbitrary and causes great prejudice to the Appellant/RP. It is pertinent to mention that the pleadings were not considered.
- xxvii. BECAUSE there is a slight delay in asking for the exclusion since the RP was seeking to complete the CIRP in due time given that he had no cooperation from any of the Directors of the CD and that none of the promoters came forward.

- xxviii. BECAUSE the Appellant/RP has been discharging all his responsibilities and duties prescribed under the IBC, 2016. It is most respectfully submitted that the Appellant / RP has bonafidely and on the basis of legal opinion, filed the application seeking exclusion of time to carry out the CIRP within stipulated time as prescribed under the IBC, 2016.
- xxix. BECAUSE it will cause a grave difficulty on the RP in performing the CIRP efficiently if the order dated 16.09.2020 is not stayed and the exclusion of time is not granted.
- xxx. BECAUSE the impugned order passed by the NCLT/AA is not justified considering the most part of this year went in restricted functioning given the pandemic and the lockdown.
- xxxi. BECAUSE the Hon'ble Supreme Court of India in Suo Motu Writ Petition (Civil) No(s). 3/2020 in RE: Cognizance for Extension of Limitation, vide order dated 23.03.2020, observed as under:-

*“This Court has taken Suo Motu cognizance of the situation arising out of the challenge faced by the country on account of Covid-19 Virus and resultant difficulties that may be faced by litigants across the country in filing their petitions/applications/suits/ appeals/all other proceedings within the period of limitation prescribed under the general law of limitation or under Special Laws (both Central and/or State). To obviate such difficulties and to ensure that lawyers/litigants do not have to come physically to file such 2 proceedings in respective Courts/Tribunals across the country including this Court, it is hereby ordered that a period of limitation in all such proceedings, irrespective of the limitation prescribed under the general law or Special Laws whether condonable or not shall stand extended w.e.f. 15th March 2020 till further order/s to be passed by this Court in present proceedings.*

*We are exercising this power under Article 142 read with Article 141 of the Constitution of India and declare that this order is a binding order within the meaning of Article 141 on all Courts/Tribunals and authorities. This order may be brought to the notice of all High Courts for being communicated to all subordinate Courts/Tribunals within*



*their respective jurisdiction. Issue notice to all the Registrars General of the High Courts, returnable in four weeks.”*

xxxii. BECAUSE the Hon’ble National Company Law Appellate tribunal in Suo Moto Company Appeal (AT) (Insolvency) No. 01 of 2020, observed as under:-

*“Upon requests for urgent listing of cases having been made telephonically to Registrar of this Appellate Tribunal from various persons, who were unable to physically file the same on account of complete lockdown declared by Government with effect from 25th March, 2020, we take suo moto cognizance of the unprecedented situation arising out of spread of COVID19 virus declared a pandemic. Having regard to the hardships being faced by various stakeholders as also the legal fraternity, which go beyond filing of Appeals/ cases, which has already been taken care of by the Hon’ble Apex Court by extending the period of limitation with effect from 15th March, 2020 till further order/s in terms of order dated 23rd March, 2020 in Suo Motu Writ Petition (Civil) No(s).03/2020, inasmuch as certain steps required to be taken by various Authorities under Insolvency and Bankruptcy Code, 2016 or to comply with various provisions and to adhere to the prescribed timelines for taking the ‘Resolution Process’ to its logical conclusion in order to obviate and mitigate such hardships, this Appellate Tribunal in exercise of powers conferred by Rule 11 of National Company Law Appellate Tribunal Rules, 2016 r/w the decision of this Appellate Tribunal rendered in “Quinn Logistics India Pvt. Ltd. vs. Mack Soft Tech Pvt. Ltd. in Company Appeal (AT) (Insolvency) No.185 of 2018” decided on 8th May, 2018 do hereby order as follows: - (1) That the period of lockdown ordered by the Central Government and the State Governments including the period as may be extended Page 1 of 2 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. A copy of this order be communicated to Registrar of National Company Law Tribunal, New Delhi with a request to circulate the same to all Benches of NCLT across the country including the Principal Bench based at Delhi. A copy of this order be also communicated to Secretary, Ministry of Corporate Affairs, New Delhi for information and compliance by various Authorities under its control.”*

xxxiii. BECAUSE thereafter, the Insolvency and Bankruptcy Board of India, inserted Regulation 40 C to the Insolvency and Bankruptcy Board of India Regulations, 2016, vide notification dated 29.03.2020 and the same is as under:-

*“40C. Special provision relating to time-line. Notwithstanding the time-lines contained in these regulations, but subject to the provisions in the Code, the period of lockdown imposed by the Central Government in the wake of COVID19 outbreak shall not be counted for the purposes of the time-line for any activity that could not be completed due to such lockdown, in relation to a corporate insolvency resolution process.”*

xxxiv. BECAUSE in the circumstances and in view of the orders of the Hon’ble Supreme Court of India and the Hon’ble NCLAT and the regulations issued by the IBBI, the period sought for exclusion of time i.e. 218 days is a genuine request made by the Appellant.

xxxv. BECAUSE relying upon the fact that the functioning of the courts around the country is still not fully activated, the country is still under an unsaid lockdown period. Under these circumstances, is it not justifiable- to not grant exclusion of time for the effective functioning of RP and completion of the CIRP?

xxxvi. BECAUSE the impugned Order dated 16.09.2020 is erroneous, unrealistic, arbitrary and causes great prejudice to RP since the

impugned order has been passed in haste without giving due consideration to the prayer sought.

xxxvii. Because, the same bench of Hon'ble Tribunal has granted 120 days of exclusion on account of lockdown period in **CP(IB) No.189/BB/2018**(of same peer year) *where the liquidator could not verify the claims of claimants, presumably of homebuyers as the CD is a real estate entity, without asking the liquidator how he can justify asking for such a period where he had to receive claims electronically.* Analogously to the facts of the stated case, the Appellant/RP could not conduct the CIRP physically from 25.03.2020 to 02.08.2020 (129 days) when he reached at Bengaluru, the Registered office of the CD, which period also has not been excluded by the Hon'ble NCLT vide the impugned order.

xxxviii. Because, the same bench in yet another case no. **CP(IB) No. 144/BB/2018** (of same peer Year) granted 100 days of exclusion period due to lockdown period *without Applicant therein justifying any reason therefor than lesser period granted to the Appellant, where the Appellant is handling Most Complex project in the CIRP till date, in its category, in multi locations, multi problems, 2300+ homebuyers (Out of which more than 1000 homebuyers are not paying CIRP Costs), closed company with fled and jailed Directors, non-cooperative CD, CID, AC(Revenue), etc.*

xxxix. Because, it is a settled law that the time spent in litigation need to be excluded even if the CIRP lasts for more than 330 days depending upon the facts of exceptional in each case. Where no one can say that the present CIRP is not an exception, the present CIRP needs sympathetic consideration from the Hon'ble NCLT to exclude the litigation period it has taken to decide the applications, *few of which are still pending to be decided. The application on extension for 90 days at IA no. 326/2020 was filed on 18/02/2020 but was decided on 16/09/2020, almost 210 days after filing of the application.*

For example, much easier case, having one single problem on Joint Development Agreement compared to herein more than 60+ such problems, got resolved before Supreme Court of India in **Civil Appeal No. 12248 of 2018** *and took almost 3-years' time, but the time spent in litigation was excluded.* The said case was admitted on 24.07.2017 and decided one issue by the Hon'ble SC

on 19.02.2020 and the case was sent back to the Hon'ble NCLT to carry forward the case.

Likewise, Hon'ble NCLT, Chandigarh bench in **CP (IB) No. 174/Chd/CHD/2019** allowed further extension of 60 days after expiry of 330 days, even when there was no Covid-19 crises as yet, as CIRP was in progress. *The idea is to see whether the Case in hand can be resolved or not, if it can be resolved, reasonable & explainable time spent on it whether in litigation or not, is no Bar.*

**10. MATTERS NOT PREVIOUSLY FILED OR PENDING BEFORE ANY OTHER COURT**

The Appellant declares that the Appellant has not filed any other writ petition or suit or appeal before any other court with regard to the impugned order dated 16.09.2020 before any court or any other Authority nor any such writ petition or suit or appeal is pending before any of them.

**11. SPECIFY BELOW EXPLAINING THE GROUNDS FOR SUCH RELIEF(S) AND THE LEGAL PROVISIONS, IF ANY, RELIED UPON.**

The impugned order dated 16.09.2020 in C.P (IB) No. 84/BB/2019 is illegal and without any reasoning. The Application filed by the RP was to seek exclusion of 195 days and only an exclusion of 68 days has been granted when the CIRP of the CD is nearing the end. The appellant has invoked R40C of IBBI (Insolvency Resolution of Corporate Persons) Regulations, 2016, as mentioned above in the body of the Appeal and has relied on various Judgments including of this Hon'ble Appellant Tribunal and Hon'ble Supreme Court of India, pronounced on the lockdown and exclusion periods.

**12. DETAILS OF INTERIM APPLICATION IF ANY PREFERRED ALONG WITH APPEAL.**

The Appellant has filed an Application for interim relief for stay of operation of the order dated 16.09.2020 in C.P (IB) No. 84/BB/2019 passed by the Ld. NCLT/AA, Bengaluru and for exemption of filing certified copy of the impugned order.

**13. DETAILS OF APPEAL/S, IF ANY PREFERRED BEFORE THE APPELLATE TRIBUNAL AGAINST THE SAME IMPUGNED ORDER/DIRECTION, BY RESPONDENT WITH NUMBERS, DATES AND INTERIM ORDER, IF ANY PASSED IN THAT APPEAL.**

N/A

**14. DETAILS OF INDEX**

Relied upon documents have been enclosed.

**15. PARTICULARS OF FEE PAYABLE AND DETAILS OF BANK DRAFT IN FAVOUR OF PAY AND ACCOUNTS OFFICER, MINISTRY OF CORPORATE AFFAIRS, NEW DELHI.**

**Name of the Bank:**

\_\_\_\_\_, Delhi.

Payable at Delhi.

DD. No. \_\_\_\_\_

Date: \_\_\_\_\_.10.2020 for Rs. 8000/-

**16. LIST OF ENCLOSURES**

1. Annexures A 1 to A 11
2. Application for Stay.
3. Application for Exemption of filing certified copy of the impugned order.
4. Application for Urgent listing.
5. Vakalatnama

**17. WHETHER THE ORDER APPEALED AS COMMUNICATED IN ORIGINAL IS FILED? IF NOT, EXPLAIN THE REASON FOR NOT FILING THE SAME**

The Impugned order dated 16.09.2020 in I.A No. 308/2020 in C.P (IB) No. 84/BB/2019 has been passed by AA, Bengaluru bench through video conferencing; same is available on official website of NCLT. A separate application for seeking exemption of certified copy of the impugned order has been filed along with present appeal.

**18. WHETHER THE APPELLANT IS READY TO FILE WRITTEN SUBMISSIONS/ARGUMENTS BEFORE THE FIRST HEARING AFTER SERVING THE COPY OF THE SAME ON RESPONDENT.**

Yes, if required and directed by the Hon'ble NCLAT.

**19. WHETHER THE COPY OF MEMORANDUM OF APPEAL HAS BEEN FORWARDED TO ALL RESPONDENTS AND INTERESTED PARTIES, IF SO, ENCLOSE POSTAL RECEIPT/COURIER RECEIPT IN ADDITION TO PAYMENT OF PRESCRIBED PROCESS FEE.**

Yes

**20. ANY OTHER RELEVANT OR MATERIAL PARTICULARS/ DETAILS WHICH THE APPELLANT DEEMS NECESSARY TO SET OUT.**

The appellant craves leave of this Hon'ble NCLAT to add to or to amend the appeal memo if necessity arises.

**21. RELIEFS SOUGHT**

In view of the facts and circumstances stated herein, the Appellant prays for the following reliefs:

- a) Call for the record of I.A No. 308 /2020 filed in C.P (IB) No. 84/BB/2019 and after perusal of the record, allow the Appeal and set aside the impugned order dated 16.09.2020 in I.A. No. 308/2020 C.P (IB) No. 84/BB/2019 being illegal, erroneous, causing prejudice to the Appellant and has been passed without appreciating the facts and law and grant exclusion of time period of 218 days (which includes days taken in pronouncement of the impugned order from the day of 24.08.20) from the end of 270 days as on 15.05.2020, and further litigation period spent in the present proceedings;
- b) Pass any other and further relief that this Hon'ble Appellate Tribunal deems fit.

**Appellant/RP**

**Through**

**Date: 10.2020**  
**Place: New Delhi**

**SUNDER KHATRI, SHITAL KHATRI & RITIKA ACHINT  
COUNSELS FOR THE PETITIONER  
GF-124 & 113 WORLD TRADE CENTRE,  
BABAR ROAD,  
CONNAUGHT PLACE, NEW DELHI-110001  
EMAIL: [sunderkhatri069@gmail.com](mailto:sunderkhatri069@gmail.com)  
MOBILE:9810187449**

**DECLARATION BY THE APPELLANT**

The Appellant above named hereby solemnly declares that nothing material has been concealed or suppressed and further declares that the enclosures and typed set of material papers relied upon and filed herewith are true copies of the originals/fair reproduction of the originals/ true translation thereof.

Verified at Bengaluru on this day of October, 2020.

**Through**

**Date: 10.2020**  
**Place: New Delhi**

**SUNDER KHATRI, SHITAL KHATRI & RITIKA ACHINT  
COUNSELS FOR THE PETITIONER  
GF-124 & 113 WORLD TRADE CENTRE,  
BABAR ROAD,  
CONNAUGHT PLACE, NEW DELHI-110001  
EMAIL: [sunderkhatri069@gmail.com](mailto:sunderkhatri069@gmail.com)  
MOBILE:9810187449**

**VERIFICATION**

I, Ashok Kriplani, Interim Resolution Professional, M/s. Dreamz Infra India Limited, 10/18, F.F., Old Rajinder Nagar, New Delhi-110060, **IIBI/IPA-003/IP-N00009/2016-2017/10071** duly authorized to conduct CIRP of the CD by the Ld. AA vide order dated 20.08.2019 do hereby verify that the

contents of paras 1 to\_\_ and their sub paras are true to my personal knowledge/derived from official record and para \_\_\_\_\_ are believed to be true on legal advice and Para \_\_\_ is the prayer to this Hon'ble Appellate Tribunal and that we have not suppressed any material facts.

**Through**

**Date: 10.2020**

**Place: New Delhi**

**SUNDER KHATRI, SHITAL KHATRI & RITIKA ACHINT  
COUNSELS FOR THE PETITIONER  
GF-124 & 113 WORLD TRADE CENTRE,  
BABAR ROAD,  
CONNAUGHT PLACE, NEW DELHI-110001  
EMAIL: [sunderkhatri069@gmail.com](mailto:sunderkhatri069@gmail.com)  
MOBILE:9810187449**



**BEFORE THE HON'BLE NATIONAL COMPANY LAW APPELLATE  
TRIBUNAL AT NEW DELHI**

**APPELLATE JURISDICTION**

**COMPANY APPEAL NO. (AT) (INSOLVENCY) \_\_\_\_ OF 2020**

**(Against Order dated 16.09.2020 passed by NCLT, Bengaluru Bench in  
I.A. No. 308/2020 in C.P. (IB) No. 84/BB/2019)**

**IN THE MATTER OF:**

M/s Dreamz Infra India Ltd.  
Through Shri Ashok Kriplani (RP) ... Appellant  
Versus  
Pratap Chandra Padhy ...Respondent

**AFFIDAVIT**

I, Ashok Kriplani, Interim Resolution Professional, M/s. Dreamz  
Infra India Limited, 10/18, F.F., Old Rajinder Nagar, New Delhi-  
110060, **IIBI/IPA-003/IP-N00009/2016-2017/10071**,  
Presently in Bengaluru, do hereby solemnly affirm and declare as  
under:-

1. That I am the Appellant in the above Appeal and I am well conversant with the facts and circumstances of the case, as such am fully competent to swear this affidavit.
2. That the accompanying Appeal has been drafted by my counsel under my instructions and the contents of the same are true and correct to my knowledge and the contents thereof may kindly be read as part and parcel of this affidavit which are not being reproduced for the sake of brevity, which have been read over to me in vernacular.
3. The annexures filed with the Appeal are true copies of respective originals.

**Deponent**

**Verification:**

Verified at Bengaluru on this \_\_\_\_\_ day of October, 2020 that the contents of the above affidavit are true to my knowledge and no part of it is false and nothing material has been concealed there from.

**Deponent**

**BEFORE THE HON'BLE NATIONAL COMPANY LAW APPELLATE  
TRIBUNAL AT NEW DELHI**

**APPELLATE JURISDICTION**

**COMPANY APPEAL NO. (AT) (INSOLVENCY) \_\_\_\_ OF 2020**

**(Against Order dated 16.09.2020 passed by NCLT, Bengaluru Bench in  
I.A. No. 308/2020 in C.P. (IB) No. 84/BB/2019)**

**IN THE MATTER OF:**

M/s Dreamz Infra India Ltd.  
Through Shri Ashok Kriplani (RP)

... Appellant

Versus

Pratap Chandra Padhy

...Respondent

**APPLICATION FOR STAY OF OPERATION OF ORDER DATED  
16.09.2020 IN C.P (IB) No. 84/BB/2019 PASSED BY THE LD. AA,  
BENGALURU BENCH DISMISSING THE APPLICATION FILED BY  
THE APPELLANT.**

The Appellant above named states as follows:

**1. Set out the relief:**

- i. The present appeal is being filed by Mr. Ashok Kriplani/ RP aggrieved by the impugned order dated 16.09.2020 passed by the Ld. NCLT, Bengaluru in application bearing I.A No. 308 of 2020 filed by the Appellant in C.P (IB) No. 84/BB/2019.
- ii. The Appellant, Mr. Ashok Kriplani/RP, Reg. No. **IIBI/IPA-003/IP-N00009/2016-2017/10071** was appointed as the IRP in C.P (IB) No. 84/BB/2019 by the Ld. AA Bengaluru vide order dated 20.08.2019 to commence the CIRP.
- iii. The IRP received the order dated 20.08.2019 on 30.08.2019 and initiated the CIRP of the CD on 31.08.2019 wherein admittedly the directors of the CD were not cooperating with the IRP which was also observed by the Ld. NCLT/AA during the course of proceedings amidst CIRP.
- iv. Pursuant to the said appointment, Form A as mandated by law was published and the CoC was constituted whereby the Appellant was appointed as the Resolution Professional (RP) to carry on the duties and function under the code.

- v. That the Appellant/ RP published Form G Pan India inviting a wide participation for Expression of Interest (EOI). The said EOI application was published on 15.07.2020.
- vi. The Appellant/RP filed the application with I.A. No. 308/2020 in C.P (IB) No. 84/BB/2019, under section 60(5) of Insolvency and Bankruptcy Code, 2016 R/W Rule 11 & 32 of National Company Law Tribunals Rules the Appellant on Expediting Adjudication on pending Applications on Disputed sites of the CD.
- vii. The Appellant/IRP filed an Amendment in Exclusion Application under I.A. No. 308/2020 in C.P (IB) No. 84/BB/2019 inter alia seeking to exclude the time period of 195 days from 15<sup>th</sup> May, 2020 in CIRP for the period 03.02.2020 to 25.03.2020 and period of lockdown and from 08.06.2020 to 24.08.2020.
- viii. That the abovementioned Application filed by the Appellant/ IRP was dismissed by the Ld. NCLT/ AA, Bengaluru without giving due consideration to the prayer sought, the Ld. NCLT/AA Bengaluru granted 68 days of exclusion in place of 195 days that the RP had sought through the amended application.
- ix. That the impugned order interferes with the services rendered by the RP with effect from 20.08.2019 (admission of CIRP) till date since the CIRP is nearing the end and unless proper exclusion of days is granted, the whole process of CIRP will go down the drain just because no enough days were granted to have the process completed in an efficient manner.
- x. That CD suffers with all stressed projects, therefore, the grant of extension of time, in another Application I.A. No. 326 of 2020 in C.P (IB) No. 84/BB/2019 filed by the RP, wherein the RP got an extension of 90 days and by lesser number of days excluded in I.A No. 308 of 2020 being 68 days will cause difficulty in completing the CIRP in the most efficient manner. Since these are not separate projects, they are all connected projects to be completed within the same time.
- xi. That the impugned order passed by the Ld. NCLT/AA is erroneous, unrealistic and arbitrary and causes great prejudice

to the Appellant/RP. It is pertinent to mention that the pleadings were not considered.

- xii. That there is a slight delay in asking for the exclusion since the RP was seeking to complete the CIRP in due time given that he had no cooperation from any of the Directors of the CD and that none of the promoters came forward.

2. **Basis on which interim orders prayed for:**

- i. That the impugned order has been pronounced in haste in as much as the application at IA no. 308/2020 has also been dismissed without giving appropriate days of exclusion as prayed for, thus putting the cart before the Horse, as to where the RP should go, i.e. to conduct CIRP in the most efficient manner? Thus, the impugned order has been pronounced on ones whims and fancies which is irrelevant and is passed without application of even an iota of the mind and also not on the prevailing laws in vogue.
- ii. That the Appellant/RP filed the application with I.A. No. 308/2020 in C.P (IB) No. 84/BB/2019, under section 60(5) of Insolvency and Bankruptcy Code, 2016 R/W Rule 11 & 32 of National Company Law Tribunals Rules the Appellant on Expediting Adjudication on pending Applications on Disputed sites of the CD.
- iii. That the Appellant/IRP filed an Amendment in Exclusion Application under I.A. No. 308/2020 in C.P (IB) No. 84/BB/2019 inter alia seeking to exclude the time period of 195 days from 15<sup>th</sup> May, 2020 in CIRP for the period 03.02.2020 to 25.03.2020 and period of lockdown and from 08.06.2020 to 24.08.2020.
- iv. That the abovementioned Application filed by the Appellant/ IRP was dismissed by the Ld. NCLT/ AA, Bengaluru without giving due consideration to the prayer sought, the Ld. NCLT/AA Bengaluru granted 68 days of exclusion in place of 195 days that the RP had sought through the amended application.
- v. That the impugned order interferes with the services rendered by the RP with effect from 20.08.2019 (admission of CIRP) till date since the CIRP is nearing the end and unless proper exclusion of

days is granted, the whole process of CIRP will go down the drain just because no enough days were granted to have the process completed in an efficient manner.

- vi. That CD suffers with all stressed projects, therefore, the grant of extension of time, in another Application I.A. No. 326 of 2020 in C.P (IB) No. 84/BB/2019 filed by the RP, wherein the RP got an extension of 90 days and by lesser number of days excluded in I.A No. 308 of 2020 being 68 days will cause difficulty in completing the CIRP in the most efficient manner. Since these are not separate projects, they are all connected projects to be completed within the same time.
- vii. That the impugned order passed by the Ld. NCLT/AA is erroneous, unrealistic and arbitrary and causes great prejudice to the Appellant/RP. It is pertinent to mention that the pleadings were not considered.
- viii. That there is a slight delay in asking for the exclusion since the RP was seeking to complete the CIRP in due time given that he had no cooperation from any of the Directors of the CD and that none of the promoters came forward.
- ix. That the Appellant/RP has been discharging all his responsibilities and duties prescribed under the IBC, 2016. It is most respectfully submitted that the Appellant /RP has bonafidely and on the basis of legal opinion, filed the application seeking exclusion of time to carry out the CIRP within stipulated time as prescribed under the IBC, 2016.
- x. That it will cause a grave difficulty on the RP in performing the CIRP efficiently if the order dated 16.09.2020 is not stayed and the exclusion of time is not granted.

**3. Balance of convenience, if any:**

The balance of convenience lies in favour of the Appellant in the present case as the Ld. AA has passed an order without giving due consideration to the Application filed by the Appellant hampering the CIRP process by the RP. An irreparable injury will be caused to CIRP if necessary protection as prayed for is not granted and all the work done by the IRP since 20.08.2019 will go down the drain.

**PRAYER**

- a. Allow the Application for stay of the operation of the impugned order dated 16.09.2020 passed by the Ld. NCLT/AA, Bengaluru bench in C.P (IB) No. 84/BB/2019.
- b. Any other and further relief may be granted as the Ld. Tribunal deems fit and proper and in the interest of justice.

**DECLARATION**

The Appellant hereof declares that nothing material has been concealed or suppressed by the Appellant and further declares that the enclosures and typed set of material papers relied upon and filed herewith are true copies of the originals or fair reproduction of the originals or true translation thereof.

Verified at Bengaluru dated     day of October, 2020.

**Through**

**Date: 10.2020**  
**Place: New Delhi**

**SUNDER KHATRI, SHITAL KHATRI & RITIKA ACHINT  
COUNSELS FOR THE PETITIONER  
GF-124 & 113 WORLD TRADE CENTRE,  
BABAR ROAD,  
CONNAUGHT PLACE, NEW DELHI-110001  
EMAIL: [sunderkhatri069@gmail.com](mailto:sunderkhatri069@gmail.com)  
MOBILE:9810187449**

**VERIFICATION**

I, Ashok Kriplani, Interim Resolution Professional, M/s. Dreamz Infra India Limited, 10/18, F.F., Old Rajinder Nagar, New Delhi-110060, **IIBI/IPA-003/IP-N00009/2016-2017/10071** duly authorized to conduct CIRP of the CD by the Ld. AA vide order dated 20.08.2019 do hereby verify that the contents of paras 1 to\_\_\_ and their sub paras are true to my personal

knowledge/derived from official record and para \_\_\_\_\_ are believed to be true on legal advice and Para \_\_\_ is the prayer to this Hon'ble Appellate Tribunal and that we have not suppressed any material facts.

**Through**

**Date: 10.2020**  
**Place: New Delhi**

**SUNDER KHATRI, SHITAL KHATRI & RITIKA ACHINT  
COUNSELS FOR THE PETITIONER  
GF-124 & 113 WORLD TRADE CENTRE,  
BABAR ROAD,  
CONNAUGHT PLACE, NEW DELHI-110001  
EMAIL: [sunderkhatri069@gmail.com](mailto:sunderkhatri069@gmail.com)  
MOBILE:9810187449**

**BEFORE THE HON'BLE NATIONAL COMPANY LAW APPELLATE  
TRIBUNAL AT NEW DELHI**

**APPELLATE JURISDICTION**

**COMPANY APPEAL NO. (AT) (INSOLVENCY) \_\_\_\_ OF 2020**

**(Against Order dated 16.09.2020 passed by NCLT, Bengaluru Bench in  
I.A. No. 308/2020 in C.P. (IB) No. 84/BB/2019)**

**IN THE MATTER OF:**

M/s Dreamz Infra India Ltd.  
Through Shri Ashok Kriplani (RP) ... Appellant  
Versus  
Pratap Chandra Padhy ... Respondent

**AFFIDAVIT**

I, Ashok Kriplani, Interim Resolution Professional, M/s. Dreamz Infra India Limited, 10/18, F.F., Old Rajinder Nagar, New Delhi-60, **IIBI/IPA-003/IP-N00009/2016-2017/10071**, presently in Bengaluru, do hereby solemnly affirm and declare as under:-

4. That I am the Appellant in the accompanying Appeal and am well conversant with the facts and circumstances of the case, as such am fully competent to swear this affidavit.
5. That the present Application has been drafted by my counsel under my instructions and the contents of the same are true and correct to my knowledge and the contents thereof may kindly be read as part and parcel of this affidavit which are not being reproduced for the sake of brevity, which have been read over to me in vernacular.
6. The annexures filed with the Appeal are true copies of respective originals.

**Deponent.**

**Verification:**

Verified at Bengaluru on this \_\_\_\_\_ day of October, 2020 that the contents of the above affidavit are true to my knowledge and no part of it is false and nothing material has been concealed there from.

**Deponent**



**BEFORE THE HON'BLE NATIONAL COMPANY LAW APPELLATE  
TRIBUNAL AT NEW DELHI**

**APPELLATE JURISDICTION**

**COMPANY APPEAL NO. (AT) (INSOLVENCY) \_\_\_\_ OF 2020**

**IN THE MATTER OF:**

Ashok Kriplani

... Appellant/RP

Versus

Pratap Chandra Pathy&Ors

...Respondents

**APPLICATION UNDER RULE 11 OF NCLAT RULES, 2016 FOR  
EXEMPTION FROM FILING CERTIFIED COPIES OF THE  
IMPUGNED ORDER DATED 16.09.2020 AND OTHER  
ANNEXURES IN THE DOCUMENTS**

The Appellant above named states as follows:

**1. Set out the relief:**

- i. In view of urgency, the Appellant may kindly be exempted from filing the certified copies of the impugned order dated 16.09.2020 passed by the Ld. NCLT, Bengaluru in application bearing I.A No. 308 of 2020 filed by the Appellant in C.P (IB) No. 84/BB/2019 besides other documents relied upon herein.
- ii. Exemption may kindly be granted from filing true typed sets of the documents relied upon.
- iii. Any other order that may be passed by this Hon'ble Appellate Tribunal in the facts and circumstances of the case and in the interest of justice.

**2. Brief facts**

- i. The present appeal is being filed by Mr. Ashok Kriplani/ RP aggrieved by the impugned order dated 16.09.2020 passed by the Ld. NCLT, Bengaluru in application bearing I.A No. 308 of 2020 filed by the Appellant in C.P (IB) No. 84/BB/2019.
- ii. That the complete grounds and point of Fact and Law have been set out in detail in the accompanying appeal memo and are not produced here for the sake of brevity.

iii. In view of urgency the Appellant could not obtain certified copies from the registry of Hon'ble NCLT, Bengaluru. True typed copy of the documents may kindly be exempted.

**3. Basis on which exemption prayed for**

Due to the pandemic it is not feasible for the RP to obtain certified copies from the NCLT/AA.

**4. Balance of convenience, if any:**

The balance of convenience lies in favour of the Appellant in the present case as the Ld. AA has passed an order without giving due consideration to the Applications filed by the Appellant hampering the CIRP process by the RP. An irreparable injury will be caused to CIRP if necessary protection as prayed for is not granted and all the work done by the IRP since 20.08.2019 will go down the drain.

**PRAYER**

- a. Allow the Application for exemption of filing the certified copies of the impugned order dated 16.09.2020 and other documents annexed with the Appeal.
- b. Any other and further relief may be granted as the Ld. Tribunal deems fit and proper and in the interest of justice.

**DECLARATION**

The Appellant hereof declares that nothing material has been concealed or suppressed by the Appellant and further declares that the enclosures and typed set of material papers relied upon and filed herewith are true copies of the originals or fair reproduction of the originals or true translation thereof.

Verified at Bengaluru dated     day of October, 2020.

**Through**

**Date: 10.2020**

**Place: New Delhi**

**SUNDER KHATRI, SHITAL KHATRI & RITIKA ACHINT  
COUNSELS FOR THE PETITIONER**

**GF-124 & 113 WORLD TRADE CENTRE,  
BABAR ROAD,**

**CONNAUGHT PLACE, NEW DELHI-110001**

**EMAIL: [sunderkhatri069@gmail.com](mailto:sunderkhatri069@gmail.com)**

**MOBILE:9810187449**

## VERIFICATION

I, Ashok Kriplani, Interim Resolution Professional, M/s. Dreamz Infra India Limited, 10/18, F.F., Old Rajinder Nagar, New Delhi-110060, **IIBI/IPA-003/IP-N00009/2016-2017/10071** duly authorized to conduct CIRP of the CD by the Ld. AA vide order dated 20.08.2019 do hereby verify that the contents of paras 1 to\_\_\_ and their sub paras are true to my personal knowledge/derived from official record and para \_\_\_\_\_ are believed to be true on legal advice and Para \_\_\_ is the prayer to this Hon'ble Appellate Tribunal and that we have not suppressed any material facts.

**Through**

**Date: 10.2020**

**Place: New Del**

**SUNDER KHATRI, SHITAL KHATRI & RITIKA ACHINT  
COUNSELS FOR THE PETITIONER  
GF-124 & 113 WORLD TRADE CENTRE,  
BABAR ROAD,  
CONNAUGHT PLACE, NEW DELHI-110001  
EMAIL: [sunderkhatri069@gmail.com](mailto:sunderkhatri069@gmail.com)  
MOBILE:9810187449**

**BEFORE THE HON'BLE NATIONAL COMPANY LAW APPELLATE  
TRIBUNAL AT NEW DELHI**

**APPELLATE JURISDICTION**

**COMPANY APPEAL NO. (AT) (INSOLVENCY) \_\_\_\_ OF 2020**

**(Against Order dated 16.09.2020 passed by NCLT, Bengaluru Bench in  
I.A. No. 308/2020 in C.P. (IB) No. 84/BB/2019)**

**IN THE MATTER OF:**

M/s Dreamz Infra India Ltd.  
Through Shri Ashok Kriplani (RP) ... Appellant  
Versus  
Pratap Chandra Padhy ...Respondent

**AFFIDAVIT**

I, Ashok Kriplani, Interim Resolution Professional, M/s. Dreamz Infra India Limited, 10/18, F.F., Old Rajinder Nagar, New Delhi-110060, **IBI/IPA-003/IP-N00009/2016-2017/10071** do hereby solemnly affirm and declare as under:-

1. That I am the Appellant in the above Appeal and am well conversant with the facts and circumstances of the case, as such am fully competent to swear this affidavit.
2. That the present Application has been drafted by my counsel under my instructions and the contents of the same are true and correct to my knowledge and the contents thereof may kindly be read as part and parcel of this affidavit which are not being reproduced for the sake of brevity, which have been read over to me in vernacular.
3. The annexures filed with the Appeal are true copies of respective originals.

**Deponent**

**Verification:**

Verified at Bengaluru on this \_\_\_\_\_ day of October, 2020 that the contents of the above affidavit are true to my knowledge and no part of it is false and nothing material has been concealed there from.

**Deponent**

**BEFORE THE HON'BLE NATIONAL COMPANY LAW APPELLATE  
TRIBUNAL AT NEW DELHI**

**APPELLATE JURISDICTION**

**COMPANY APPEAL NO. (AT) (INSOLVENCY) \_\_\_\_\_ OF 2020**

**(Against Order dated 16.09.2020 passed by NCLT, Bengaluru Bench in  
I.A. No. 308/2020 in C.P. (IB) No. 84/BB/2019)**

**IN THE MATTER OF:**

M/s Dreamz Infra India Ltd.

Through Shri Ashok Kriplani (RP)

... Appellant

Versus

Pratap Chandra Padhy

...Respondent

**APPLICATION UNDER RULE 11 OF NCLAT RULES, 2016 FOR URGENT  
HEARING IN C.P (IB) No. 84/BB/2019**

The Appellant above named states as follows:

**1. Set out the relief:**

- i. In view of urgency, the accompanying Appeal may kindly be listed for urgent hearing before the Ld. NCLAT to protect the functioning and process of CIRP.
- ii. The grounds of urgent hearing are:
  - a. The impugned order dated 16.09.2020 in C.P (IB) No. 84/BB/2019 passed by the Ld. NCLT/AA interferes with the CIRP of the CD and hampers the procedure illegally and is passed without any application of mind.
  - b. Immediate stay of the impugned order dated 16.09.2020 is prayed for not hampering the activities of CIRP.

**iii. Brief facts**

- i. The present appeal is being filed by Mr. Ashok Kriplani/ RP aggrieved by the impugned order dated 16.09.2020 passed by the Ld. NCLT, Bengaluru in application bearing I.A No. 308 of 2020 filed by the Appellant in C.P (IB) No. 84/BB/2019.
- ii. That the complete grounds and point of Fact and Law have been set out in detail in the accompanying appeal memo and are not produced here for the sake of brevity.

**5. Basis on which urgency is prayed for**

Urgency to list the appeal before this Hon'ble Appellate Tribunal is to obtain stay of operation of order of Ld. AA under challenge.

**6. Balance of convenience, if any:**

The balance of convenience lies in favour of the Appellant in the present case as the Ld. AA has passed an order without giving due consideration to the Applications filed by the Appellant hampering the CIRP process by the IRP. An irreparable injury will be caused to CIRP if necessary protection as prayed for is not granted and all the work done by the IRP since 20.08.2019 will go down the drain.

**PRAYER**

- a. Allow the application for urgent hearing through video conferencing and;
- b. Any other and further relief which this Ld. Tribunal may deem fit and proper may be granted in the interest of justice.

**Appellant/Appellant**

**DECLARATION**

The Appellant hereof declares that nothing material has been concealed or suppressed by the Appellant and further declares that the enclosures and typed set of material papers relied upon and filed herewith are true copies of the originals or fair reproduction of the originals or true translation thereof.

Verified at Bengaluru dated     day of October, 2020.

**Through**

**Date: 10.2020**  
**Place: New Delhi**

**SUNDER KHATRI, SHITAL KHATRI & RITIKA ACHINT  
COUNSELS FOR THE PETITIONER  
GF-124 & 113 WORLD TRADE CENTRE,  
BABAR ROAD,  
CONNAUGHT PLACE, NEW DELHI-110001  
EMAIL: [sunderkhatri069@gmail.com](mailto:sunderkhatri069@gmail.com)  
MOBILE:9810187449**

## **VERIFICATION**

I, Ashok Kriplani, Interim Resolution Professional, M/s. Dreamz Infra India Limited, 10/18, F.F., Old Rajinder Nagar, New Delhi-110060, **IIBI/IPA-003/IP-N00009/2016-2017/10071** duly authorized to conduct CIRP of the CD by the Ld. AA vide order dated 20.08.2019 do hereby verify that the contents of paras 1 to\_\_\_ and their sub paras are true to my personal knowledge/derived from official record and para \_\_\_\_\_ are believed to be true on legal advice and Para \_\_\_ is the prayer to this Hon'ble Appellate Tribunal and that we have not suppressed any material facts.

### **Through**

**Date: 10.2020**  
**Place: New Delhi**

**SUNDER KHATRI, SHITAL KHATRI & RITIKA ACHINT  
COUNSELS FOR THE PETITIONER  
GF-124 & 113 WORLD TRADE CENTRE,  
BABAR ROAD,  
CONNAUGHT PLACE, NEW DELHI-110001  
EMAIL: [sunderkhatri069@gmail.com](mailto:sunderkhatri069@gmail.com)  
MOBILE:9810187449**

**BEFORE THE HON'BLE NATIONAL COMPANY LAW APPELLATE  
TRIBUNAL AT NEW DELHI**

**APPELLATE JURISDICTION**

**COMPANY APPEAL NO. (AT) (INSOLVENCY) \_\_\_\_ OF 2020**

**(Against Order dated 16.09.2020 passed by NCLT, Bengaluru Bench in  
I.A. No. 308/2020 in C.P. (IB) No. 84/BB/2019)**

**IN THE MATTER OF:**

M/s Dreamz Infra India Ltd.  
Through Shri Ashok Kriplani (RP) ... Appellant  
Versus  
Pratap Chandra Padhy ...Respondent

**AFFIDAVIT**

I, Ashok Kriplani, Interim Resolution Professional, M/s. Dreamz Infra India Limited, 10/18, F.F., Old Rajinder Nagar, New Delhi-110060, **IIBI/IPA-003/IP-N00009/2016-2017/10071** do hereby solemnly affirm and declare as under:-

1. That I am the Appellant in the above Appeal and am well conversant with the facts and circumstances of the case, as such am fully competent to swear this affidavit.
2. That the present Application has been drafted by my counsel under my instructions and the contents of the same are true and correct to my knowledge and the contents thereof may kindly be read as part and parcel of this affidavit which are not being reproduced for the sake of brevity, which have been read over to me in vernacular.
3. The annexure filed with the Appeal are true copies of respective originals.

**Deponent**

**Verification:**

Verified at Bengaluru on this \_\_\_\_\_ day of October, 2020 that the contents of the above affidavit are true to my knowledge and no part of it is false and nothing material has been concealed there from.

**Deponent**



To,  
The Registrar,  
The National Company Law Appellate Tribunal,  
New Delhi.

IN THE MATTER OF:

M/s Dreamz Infra India Ltd.  
Through Shri Ashok Kriplani (RP)

...Appellant/RP

Versus

Pratap Chandra Pathy

...Respondent

Subject: Caveat Clearance

Dear Sir,

We hereby confirm that there is no caveat filed in this matter by the respondents or any other party. Kindly treat this as a caveat clearance confirmation.

Yours Sincerely,

**SUNDER KHATRI, SHITAL KHATRI & RITIKA ACHINT  
COUNSELS FOR THE PETITIONER  
GF-124 & 113 WORLD TRADE CENTRE,  
BABAR ROAD,  
CONNAUGHT PLACE, NEW DELHI-110001  
EMAIL: [sunderkhatri069@gmail.com](mailto:sunderkhatri069@gmail.com)  
MOBILE:9810187449**