

ASHUTOSH AGARWALA VS NA

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Summary of the Case: Ashutosh Agarwala v. NCLT, Mumbai Bench

(Company Appeal (AT) (Insolvency) No. 2301 of 2024 & I.A. No. 8629 of 2024)

1. Details of the Parties

- **Appellant:** Ashutosh Agarwala (Resolution Professional for Colour Roof (India) Ltd.)
- **Respondent:** N/A (Matter relates to the decision of the National Company Law Tribunal, Mumbai Bench, Court IV)

2. Facts of the Case

- The Resolution Professional (RP) filed an application before the NCLT, Mumbai Bench, seeking a 90-day extension of the Corporate Insolvency Resolution Process (CIRP) beyond the initial 180-day period.
- The application was supported by a resolution passed during the 4th CoC meeting, where the extension was approved to maximize value realization for the company.
- The NCLT granted the 90-day extension but counted it from May 12, 2024, the date from which the application for extension was originally sought.
- The Appellant contended that, due to the time consumed while the extension application was pending before the NCLT, the CIRP extension effectively left little to no time for pursuing the resolution process.

3. Issues Involved

- Whether the 90-day CIRP extension granted by the NCLT should begin from the date the extension application was filed (May 12, 2024) or from the date the NCLT passed

the order (August 22, 2024).

- Whether the delay caused by the pendency of the application before the NCLT should be excluded when calculating the CIRP period.

4. Judgment

- The NCLAT relied on its prior decision in *Kiran Martin Gulla v. NCLT Chennai Bench* (Company Appeal (AT) (CH) (Ins.) No. 450 of 2023), where it was held that when a 90-day extension is granted, the period should be counted from the date of the adjudicating authority's order, not from the date the extension was requested.
- Modifying the NCLT's order, the NCLAT ruled that the 90-day extension period should commence from January 22, 2025, the date of this appellate decision.
- The tribunal reasoned that the CIRP was at an advanced stage, with two resolution plans received, and that excluding the delay caused by the pendency of the application would allow the RP to consider these plans properly.

5. Conclusion

- The NCLAT upheld the 90-day CIRP extension but modified its starting point to align with the date of the appellate order.
- This decision ensures that the pending resolution plans can be considered effectively, supporting the overarching objective of the IBC to maximize the value of the corporate debtor's assets while facilitating a fair resolution process.