

**A solitary act of complacency would not warrant the conclusion that there was delaying tactics on the part of the Resolution Professional.**

<b>CASE TITLE</b>	Subrata M. Maity, RP of Eskay K' N' IT (India) Ltd. Vs. COC of Eskay K' N' IT (India) Ltd. Through Bank of India & Ors. <sup>1</sup>
<b>CASE CITATION</b>	Company Appeal (AT) (Insolvency) No. 69 of 2021
<b>DATE OF ORDER</b>	04.02.2021
<b>COURT/TRIBUNAL</b>	NCLAT, New Delhi
<b>CASES REFERRED</b>	-
<b>SECTION/REGULATION REFERRED</b>	-

**Brief of the case:**

An appeal was raised on the issue that while granting extension of time of CIRP period, NCLT, Ahmedabad Bench, though excluded only 68 days after 180 days period expired and did not take into consideration the fact that the lockdown was imposed from 25th March, 2020 to 25th October, 2020 and thus, the entire period of lockdown was required to be excluded while computing the period of 180 days prescribed as CIRP period. There was also an observation made that there were delaying tactics on the part of the RP that caused serious impact on the CIRP which could have pushed the CD into liquidation.

**Decision:**

Hon'ble NCLAT allowed the appeal and excluded the entire period of lockdown ranging from 25th March, 2020 till 25th October, 2020 i.e., 213 days from the CIRP period. On the observations made against RP, it held that,

*“For clarity, we would say that the period of 270 days i.e. CIRP period of 180 days plus 90 days granted as extension period in terms of the impugned order while being calculated shall begin with the commencement of the CIRP period up to 24th March, 2020 and then after taking into account the period of exclusion again be counted from 25th October, 2020. We order accordingly. To this extent, the appeal deserves to be allowed.*

*..Holding somebody guilty of delaying tactics/dilatory tactics would be referable to a series of acts of omission and commission. A single act of callousness or complacency may not justify an observation of there being delaying tactics unless it is demonstrated that there was some malafide or oblique motive behind such delay being caused....”*



**QR CODE FOR FULL ORDER/JUDGEMENT:**

<sup>1</sup><https://ibbi.gov.in/uploads/order/35889db12e6ab5d35a0e728a74ccb461.pdf>