

In the National Company Law Tribunal
Mumbai Bench I
INTERLOCUTORY APPLICATION No. 4054 of 2025
IN
CP(IB) No. 1241 of 2022
(Under Section 60(5) of the Insolvency and Bankruptcy Code, 2016)

In the Application of

Mr. Vijay Malhotra ...Applicant

Versus

Mr. Pravin R. Navandar

RP for Hotel Horizon Pvt Ltd ...Respondent

In the matter of

Assets Care & Reconstruction

Enterprise Limited ...Financial Creditor

Versus

Hotel Horizon Private Limited ...Corporate Debtor

Order Pronounced on 12.01.2026

Coram:

Sh. Prabhat Kumar

Sh. Sushil Mahadeorao Kochey

Hon'ble Member (Technical)

Hon'ble Member (Judicial)

Appearances:

For the Resolution Professional : Adv Kriti Kalyani a/w Mr
Ansh Kumar

For the Respondent : Adv Yahya Batatawala a/w
Adv Uma Chatterjee

ORDER

1. The present Interlocutory Application IA 4054 of 2025 is filed on 13.8.2025 by Mrs. Vijaya Malhotra (“Applicant”) praying for directions to the Respondent Resolution Professional in the Corporate Insolvency Resolution Process (“CIRP”) of M/s Hotel Horizon Private Limited (“Corporate Debtor”) to consider and admit the claim of the Applicant amounting to Rs. 25,41,36,690/- filed on 07.06.2025 and to set aside the rejection order of the Respondent vide email dated 11.07.2025.
2. The Applicant had lent a sum of RS. 1,00,00,000/- (Rupees One Crores Only) to M/s Horizon Reality Pvt. Ltd., under the unstamped and unnotarised Loan Agreement dated 24.12.2013, whereto the applicant, the borrower and the Corporate Debtor were parties against the security and corporate guarantee provided by the Corporate Debtor. It is stated in the recital of said loan agreement that “*WHEREAS the Guarantor is undertaking a hotel development project and is in requirement of funds for meeting its project financing obligations. The Guarantor has requested the Borrower to arrange such funds for its project financing obligations. In furtherance thereof, Borrower has requested Lender to grant a principal loan amount of Rs.1 .00 crores {Rupees One Crore only} repayable along with interest thereon (as provided hereunder) for funding of General Corporate Purposes to meet the project expenses, operational expenses and financial costs of the Guarantor.*” Clause 1.2 thereof further states that “*The Loan is granted for funding the general corporate purposes and for project expenses, operational expenses and financing cost requirements of the*

Guarantor through the Borrower.” Clause 7 providing for ‘Representations and Warranties’ further states that “.....Guarantor represents and warrants that it has sufficient authority to Co-borrow the money and provide security and Corporate Guarantee for securing the said loans, in tenns of he provisions of the Companies Act, J 956 and any other provisions of the law and regulations applicable to it and it has obtained all approvals as may be applicable.....” Clause 9 of the Agreement provides for notice to ‘Sagar Sharma’ on behalf of borrower. Mr. Sagar Sharma is one of the Director and Principal Shareholder of Corporate Debtor.

3. To secure the said Loan Agreement, the Cororate Debtor executed an unstamped and unnotarised Deed of Guarantee on 24.12.2013, wherein the Corporate Debtor provided an unconditional and irrevocable guarantee in favour of the Applicant to secure the repayment of the Loan together with Interest and Default Interest.
4. Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor commenced vide Order of the Tribuanl dated 19.11.2024 on admision of an application filed by Assets Care and Reconstruction Private Limited under Section 7 of the Insolvency and Bankruptcy Code, 2016 (“Code”) and Mr. Rohit Ramesh Mehra was appointed as the Interim Resolution Professional of the Corporate Debtor, who issued a public annoucement on 22.11.2024 in Form A inviting claim under Regulation 6 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulation, 2016. Subsequently, he was replaced by the present Resolution Professional (“RP”), which

was duly confirmed by this Tribunal vide order dated 23 January 2025.

5. The Applicant submitted his claim in Form C dated 30.05.2025 vide email dated 07.06.2025 claiming herself a financial creditor on basis of Deed of Guarantee.

6. It is stated that the Applicant enclosed with the claim form a copy of the Loan Agreement dated 24.12.2013 and Guarantee Deed dated 24.12.2013 only. The Respondent / RP raised following queries vide email dated 09.06.2025 –

1. Bifurcation of principal and interest component out of the total amount of INR 25,41,36,690/- claimed by you in Form C submitted in mail dated 07th June 2025.

2. Any confirmation/communication/acknowledgement/any other supporting evidence from the Corporate Debtor wrt the amount claimed as outstanding.

3. Bank Statements for proof of disbursement of funds to the Corporate Debtor.

4. Any other relevant documents substantiating the claim amount.

5. A detailed calculation of interest, if applicable, including:

i) The agreed rate of interest.

ii) The basis and methodology for the calculation.

iii) The period over which the interest has accrued.

6. Reference to the relevant clause or term that supports the claim for interest amount and period.

7. Thereafter, the Respondent RP sent another mail dated 11.7.2025 in furtherance of earlier mail dated 9.6.2025 informing that “till now the undersigned has not received any communication or information from you in spite of the said email.”, and further stated

that “However, till date you have not provided copies of any of the aforesaid documents. Further, you have only provided an unstamped document as proof of claim and have not provided any details of disbursements made to the Corporate Debtor. Having not received any details from you to substantiate your claim after expiry of one month, the undersigned is hereby constrained to reject the Claim Form submitted by you .”

8. Being aggrieved by rejection of her claim, the applicant has filed the present application.
9. The Applicant has alleged that the Respondent / RP, without application of mind, sent an frivolous queries inspite of sharing all necessary information and documents and rejected the claim. It is case of the Applicant that, out of 6 queries hereinabove, major answer is available in the Loan Agreement. However, the Respondent/RP failed to examine the documents. It is claimed by the Applicant that the Corporate Debtor is the Co-Borrower and Guarantor to the facilities and hence the Applicant is the Financial Creditor of the Corporate Debtor in terms of Section 5(8)(i) of the Code.
10. The Respondent RP filed his reply stating that, since the claim was unsupported by essential documentary evidence, he, vide email dated 09 June 2025, called upon the Applicant to furnish additional documents and information, including but not limited to bank statements evidencing disbursement of the alleged Loan, and other relevant particulars, to enable verification of the claim in terms of the Code and CIRP Regulations. It is also submitted that the Applicant submitted its claim at a belated stage, i.e., on

07 June 2025, which is beyond the 90-day time period prescribed in Regulation 12(1) of the CIRP Regulations and also after the issuance of the RFRP by the Respondent which was issued on 21 February 2025, accordingly, in terms of the proviso to Regulation 12(1) of the CIRP Regulations, the Applicant, in its capacity as a creditor of the Corporate Debtor, was required to provide reasons for delay in submitting its claim beyond the 90 (ninety) day time period prescribed under the Code, however, no reasons for delay were provided by the Applicant. Further, Regulation 8(1) of CIRP Regulations requires a financial creditor to submit claim with proof, and Regulation 8(2) thereof requires furnishing of *a record evidencing that the amounts committed by the financial creditor to the corporate debtor under a facility has been drawn by the corporate debtor*. Accordingly, in the absence of proof of disbursement and in view of the Applicant having relied solely upon unstamped documents, the RP was constrained to reject the Applicant's claim vide email dated 11 July 2025, informing the Applicant that the claim stood rejected on account of non-submission of requisite documents and lack of evidence of any financial debt or disbursement to the Corporate Debtor.

11. We have heard the Learned Counsel appearing for the Applicant and the Learned Counsel for the Respondent/Resolution Professional and perused the pleading and documents on record.
12. It is an undisputed fact that the Corporate Insolvency Resolution Process of the Corporate Debtor was initiated on 19.11.2024 and that a public announcement was issued on 22.11.2024 inviting claims. It is also not in dispute that the Applicant submitted her claim in Form C dated 30.05.2025 on 07.06.2025.

13. Regulation 12(1) of CIRP Regulations allows *a creditor, who fails to submit claim with proof within the time stipulated in the public announcement, may submit his claim with proof to the interim resolution professional or the resolution professional, as the case may be, up to the date of issue of request for resolution plans under regulation 36B or ninety days from the insolvency commencement date, whichever is later; Provided further that the creditor shall provide reasons for delay in submitting the claim beyond the period of ninety days from the insolvency commencement*”. The period of 90 days from insolvency date expired on 19.02.2025 and RFRP inviting Resolution was issued on 21 February 2025. Accordingly, in terms of proviso to Regulation 12(1), the Applicant was required to file her claim on or before 21st February, 2025.
14. Further, Regulation 13(1B) of CIRP Regulations further relaxes the time for submission of claims by a creditor and provides that *“In the event that claims are received after the period specified under sub-regulation (1) of regulation 12 and up to seven days before the date of meeting of creditors for voting on the resolution plan or the initiation of liquidation, as the case may be, the interim resolution professional or resolution professional, as the case may be, shall verify all such claims and categorise them as acceptable or non-acceptable for collation.”* Accordingly, the applicant filed her claim in the extended period as provided in Regulation 13(1B) for consideration of claims. However, she was required to give reasons for delay in submitting the claim beyond the period of ninety days from the insolvency commencement. Though no reason was given by the Applicant to the RP, however, she has given reasons in the application merely stating that *“on coming into knowledge about the CIRP of the Corporate Debtor, the Applicant filed her claim in Form C dated*

30/05/2025 which was 5. sent to the Respondent/ RP of the Corporate Debtor vide email dated 07/06/2025”.

15. The CIRP process is a time bound process and the Regulations taken note of practical aspects, has relaxed the time for submission of claims in terms of proviso to Regulation 12(1) and further in terms of Regulation 13(1B), however, such relaxation comes with a caveat that the creditor has to explain the reasons for delay in submission. Even if the contention of the applicant is accepted that she was not aware of CIRP, she failed to explain why it took her 7 days to file the claim when the claim form is still dated 30th May, 2025.
16. Further, it is pertinent to note that she had extended loan to Horizon Reality Private Limited, a sister concern of Corporate Debtor in December, 2013 at exorbitant rate of interest and no interest so far was paid in last 12 years. Despite this, the Applicant remained unconcerned with fate of her money and never bothered to keep track of financial health of principal borrower as well as Guarantor. Had the applicant been diligent, the fact of commencement of CIRP could have been known well in time. Accordingly, the reasons given by the applicant does not inspire confidence in her explanation and the purported arrangement is nothing but a concocted story to lodge a financial claim in CIRP of Corporate Debtor.
17. Nonetheless, the Applicant has filed her claim on the basis of unstamped loan agreement and unstamped guarantee agreement without enclosing proof of disbursement as mandated in Regulation 12(2). Though, she produced the her bank statement for the period from 21.12.2013 to 21.12.2013 only to evidence

disbursement of Rs. 62,00,000/- to Horizon Reality Private Limited by way of transfer of amount to CA 743614920 in name of Horizon Reality Private Limited with Indian Bank, and bank statement of CA 743614920 in name of Horizon Reality Private Limited with Indian Bank for the period from 24.12.2013 to 24.12.2013 only to evidence receipt of Rs. 38,00,000/- by it by way of rejoinder, however the perusal of these statements demonstrate that she was maintaining bank account with Indian Bank, however, a cheque drawn on Hongkong & Shanghai Bank Limited is credited in bank statement of Horizon Reality Private Limited, and sum of Rs. 95,00,000/- was paid by Horizon Reality Private Limited to the Corporate Debtor on 24.12.2013. Further, she could not explain why the money purported to be sued for project of Corporate Debtor was not directly borrowed by the Corporate Debtor from her instead of borrowing it through Horizon Reality Private Limited for the business of Corporate Debtor while it was known to her that the money was to be used for the business of Corporate Debtor's project and Mr. Sagar Sharma, the director and majority shareholder of Corporate Debtor executed loan agreement on behalf of both Corporate Debtor as well as Horizon Reality Private Limited. Further, it could not be explained why the statement of account maintained with Indian Bank for the preceding or succeeding days or her bank statement in relation to purported payment to Horizon Reality Private Limited on 24.12.2013 for the relevant period could not be produced. These facts coupled with execution of unstamped and unnotarized loan agreement and guarantee agreement, which in no way secure the lender legally, raises doubt on the true arrangement amongst the parties in relation to purported loan of Rs. 1,00,00,000/-.

18. It is also pertinent to refer to the decision in case of Essar Steel India Ltd. Committee of Creditors v. Satish Kumar Gupta, (2020) 8 SCC 531, wherein Hon'ble Supreme Court upheld the decision of this Tribunal, confirmed by Hon'ble NCLAT, in following words :

"152. So far as Civil Appeal No. 7266 of 2019 and Civil Appeal No. 7260 of 2019 are concerned, the resolution professional has rejected the claim of the appellants on the ground of non-availability of duly stamped agreements in support of their claim and the failure to furnish proof of making payment of requisite stamp duty as per the Indian Stamp Act despite repeated reminders having been sent by the resolution professional. The application filed by the appellants before NCLT came to be dismissed by an order dated 14-2-2019 [Essar Steel Asia Holdings Ltd. v. Satish Kumar Gupta, 2019 SCC OnLine NCLAT 736] on the ground of non-prosecution. The subsequent restoration application filed by the appellants then came to be rejected by NCLT through judgment dated 8-3-2019 [Resolution Professional v. Essar Steel (India) Ltd., 2019 SCC OnLine NCLAT 750] on two grounds: one, that the applications could not be entertained at such a belated stage; and two, that notwithstanding the aforementioned reason, the claim had no merit in view of the failure to produce duly stamped agreements. The impugned Nclat judgment [Standard Chartered Bank v. Satish Kumar Gupta, 2019 SCC OnLine NCLAT 388], at paras 96 and 97, upheld the finding of NCLT and the resolution professional. In view of these concurrent findings, the claim of the appellants therefore requires no interference. Further, the submission of the appellants that they have now paid the requisite stamp duty, after the impugned

Nclat judgment [Standard Chartered Bank v. Satish Kumar Gupta, 2019 SCC OnLine NCLAT 388], would not assist the case of the appellants at this belated stage. These appeals are therefore dismissed.”

19. In view of aforesaid discussion, it is apparent that the applicant has failed to explain the reasons for delay in filing of her claim beyond 21 February 2025 in terms of proviso to Regulation 12(1); she further failed to substantiate the true nature of arrangement in relation to purported debt and disbursement of Rs. 38,00,000/- by her to Horizon Reality as mandated under Regulation 12(2); and the arrangement of purported loan and existence of guarantee given by Corporate Debtor being a sham arrangement, we do not find any infirmity in the decision of Respondent RP in rejection her claim.

20. In terms of above, IA 4054 of 2025 is dismissed and disposed of.

Sd/-

Prabhat Kumar

Member (Technical)

Drupa

Sd/-

Sushil Mahadeorao Kochey

Member (Judicial)