

IN THE NATIONAL COMPANY LAW TRIBUNAL
JAIPUR BENCH

**CORAM: SHRI DEEP CHANDRA JOSHI,
HON'BLE JUDICIAL MEMBER**

**SHRI RAJEEV MEHROTRA,
HON'BLE TECHNICAL MEMBER**

IA (IBC) No. 278/JPR/2023
In CP (IB) No. 275/9/JPR/2019

IN THE MATTER OF:

SANGAM (INDIA) LIMITED

...Operational Creditor

VERSUS

SUZUKI TEXTILE LIMITED

...Corporate Debtor

MEMO OF PARTIES

IA (IBC) No. 278/JPR/2023:

MR. PRASHANT AGARWAL,
*Chairperson of Monitoring
Committee Suzuki Textiles
Limited*

F-106, Sumer Complex, Gautam
Marg, B/H Bagadia Bhawan, C-
Scheme, Jaipur-302001

...Applicant

VERSUS

OFFICE OF ASSISTANT COMMISSIONER,

*Commercial Taxes Department,
Circle-B, Bhilwara*

Room No. 110, Kar Bhawan,
Ajmer Road, Bhilwara-311001.

Email: ac-bhilwara-b@rajasthan.gov.in

...Respondent

FOR THE APPLICANT(S)

: Ankit Sareen, Adv.

Mr. Prashant Agarwal, *present in person*

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FOR THE RESPONDENT(S) : Mr. Shantanu Jugtawat, Adv.
Mr. Nagendra Singh, Adv.

Order Pronounced On: 22.11.2023


ORDER

Per : Shri Deep Chandra Joshi, Judicial Member

1. The present application bearing *IA (IBC) No. 278/JPR/2023* has been filed by *Mr. Prashant Agrawal, Chairperson of Monitoring Committee* ('Applicant') under Section 60(5)(c) of the Insolvency & Bankruptcy Code ('IBC'), 2016 r/w Rule 11 of the NCLT Rules, 2016 seeking necessary directions against the Office of the Assistant Commissioner, Commercial Taxes Department ('Respondent').
2. It is seen that in the main matter, an Application was filed under Section 9 of the Code by *M/s Sangam (India) Limited* seeking initiation of CIRP of the Corporate Debtor namely *M/s Suzuki Textile Limited*. This Authority vide order dated 31.01.2022 admitted the said application and appointed *Mr. Prashant Agrawal* as the Interim Resolution Professional ('IRP'). Thereafter, the Committee of Creditors ('CoC') approved the Resolution Plan submitted by *M/s Sai Leela Synthetics Pvt. Ltd.* being the Successful Resolution Applicant ('SRA') which was subsequently approved by this Adjudicating Authority on 18.01.2023. Pursuant to the aforesaid order passed by this Adjudicating Authority, the Applicant was appointed as the

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Chairperson of Monitoring Committee of the Corporate Debtor for the implementation of the Resolution Plan.

3. The present application has been filed on the following set of facts:

3.1. It is submitted by the Applicant that subsequent to the approval of the Resolution Plan, the SRA has initiated the process of disbursement of the amount to the creditors of the Corporate Debtor in lieu of the Financial Outlay of the approved Resolution Plan. In the view of the approved resolution plan, amount of Rs. 1,85,000/- (Rupees One Lakh Eighty-Five Thousand Only) was to be disbursed to the Assistant Commissioner CGST Division-F, Bhilwara within 30 days of the approval of the Resolution Plan.

3.2. In compliance to the aforesaid proposal term, a Demand Draft bearing no. 051047 dated 27.02.2023 was inadvertently drawn in the name of Respondent herein i.e., Office of the Assistant Commissioner Commercial Taxes Department Circle-B, Bhilwara instead of the office of the Assistant Commissioner CGST Division-F, Bhilwara. The said Demand Draft was sent to the Commercial Tax Department vide E-mail as well as Speed Post and which was delivered to the Respondent on 03.03.2023. Thereafter, the Applicant had sent an e-mail on 09.03.2023 for the confirmation of the delivery of the demand draft to the Respondent but no response was received.





- 3.3. In the meantime, the Applicant realised the inadvertent fault wherein the office of the Applicant had executed a demand draft in favour of the Respondent. The same was intimated *vide* E-mail dated 06.04.2023 to the Respondent and a request was made to transfer the said amount of Rs. 1,85,000/- (Rupees One Lakh Eighty-Five Thousand Only) to the account of the Corporate Debtor. Copy of the E-mail dated 06.04.2023 is annexed as Annexure-4 of the Application.
- 3.4. The Applicant has sent various reminders to the Respondent through e-mail for requesting them to return the said amount. The Applicant also provided the bank details of the CIRP account of the Corporate Debtor to return the such amount. The Applicant further submitted that a payment of Rs. 1,85,000/- (Rupees One Lakh Eighty-Five Thousand Only) is already made to the Respondent as per Financial Lay Out given by the SRA in the approved resolution plan.
- 3.5. It is pertinent to mention that the financial implementation of the Resolution Plan has been completed and the entire amount of the approved resolution plan has been disbursed by the SRA, however, due to inadvertent payment to the Respondent, the Chairperson of the Monitoring Committee/Applicant is facing hardship in the implementation of the Resolution Plan.
4. The reply to the said application has been filed by the Office of Assistant Commissioner, i.e., the Respondent, *vide* Diary No. 2153/2023 dated

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01.09.2023 stating that the return of the amount which was deposited by the Applicant through Demand Draft in the state treasury, is not possible. Moreover, the said demand draft which was received by the Respondent was tagged along with the letter which states as follows:

“In light of the resolution plan submitted by M/s Sai Leela Synthetics Private Limited and its approval by the committee of Creditors and the Hon’ble NCLT Jaipur bench, the proportionate distribution of proceeds against your admitted claim is Rs. 1,85,000/-. As mentioned by in the claim form, demand draft of the said amount is issued in favour of the assistant commissioner, commercial taxes, circle-B, Bhilwara.”


5. The Applicant has filed rejoinder vide Diary No. 2331/2023 dated 22.09.2023 stating the following:

5.1. The Applicant contended that the Respondent has submitted its claim for an amount of Rs. 8,26,29,372/- (Rupees Eight Crore Twenty-Six Lakh Twenty-Nine Thousand Three Hundred Seventy-Two Only) on 27.05.2022, however, the same was rejected on ground of being filed after due date in terms of Regulation 12 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulation, 2016

5.2. In the view of forgoing regulation, the Applicant informed the Respondent about the rejection of their claim vide E-mail dated 08.06.2022. In the meantime, the Applicant inadvertently transferred an amount of Rs. 1,85,000/- (Rupees One Lakh Eighty-Five Thousand

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Only) in the account of the Respondent instead of the Office of the Assistant Commissioner CGST Division-F, Bhilwara. Hence, the Respondent with a *mala-fide* intent is taking unjust enrichment of the said amount and erroneously alleging that the said amount was paid in lieu of their claim despite being aware that its claim was rejected by Applicant.

5.3. It is also submitted that the Applicant has made various reminders to return the said amount which was erroneously transferred in the account of the Respondent. Also, it is apparent that the Respondent was aware of the intimations sent by the Applicant, but no positive steps have been taken by the Respondent.

6. We have heard the Ld. Counsels for the parties and perused the averments made in the Application, Reply and Rejoinder along with the documents enclosed therein.
7. In the present Application, the Applicant is seeking direction against the Respondent Commercial Tax Department to return the amount of Rs. 1,85,000/- (Rupees One Lakh Eighty-Five Thousand Only) which was erroneously deposited through Demand Draft bearing no. 051047 dated 27.02.2023. The Applicant revealed that the Respondent has submitted a claim of Rs. 8,26,29,372/- (Rupees Eight Crore Twenty-Six Lakh Twenty-Nine Thousand Three Hundred Seventy-Two Only), however, the said claim was not admitted due to delayed submission. Additionally, the Applicant






also received the claim of Rs. 1,07,71,42,340/- (Rupees One Hundred and Seven Crore Seven Lakh Seventy-One Thousand Forty-Two Thousand Three Hundred Forty Only) from the Assistant Commissioner CGST Division-F 10, Azad Nagar, Bhilwara and the same was admitted.

8. It is clear that the Demand Draft of Rs. 1,85,000/- dated 27.02.2023 has mistakenly been issued in the name of the Respondent i.e., *Office of the Assistant Commissioner, Commercial Taxes Department* in place of *Assistant Commissioner CGST, Division-F, Bhilwara*. Also, it is seen from the records that the claim of the Respondent herein was rejected by the Applicant earlier, hence the Respondent was not entitled to receive the money mentioned earlier as a settlement of its claim by the Successful Resolution Applicant. The error of mistakenly issuing the Demand Draft in the name of the Respondent in place of the *Assistant Commissioner CGST, Division-F, Bhilwara* seems to be inadvertent, hence, we are inclined to allow this Application.
9. The reasons given by the Respondent stating that the amount has already been deposited in the state treasury cannot be considered as a valid ground to reject this Application. It is seen that the Respondent has not responded to the e-mail reminders of the Applicant and failed to return the alleged claim amount. Since, it is established that the Demand Draft of Rs. 1,85,000/- was due to be paid to the *Assistant Commissioner CGST, Division-F, Bhilwara* in satisfaction of its claim, we are hereby directing the Respondent to submit



a Demand Draft in favour of *Assistant Commissioner CGST, Division-F, Bhilwara* of Rs. 1,85,000/- (Rupees One Lakh Eighty-Five Thousand Only) within 10 days from the date of this Order before this Adjudicating Authority. The Demand Draft shall be handed over to the Applicant by the registry upon receipt with due acknowledgement.

10. Upon failure to issue the said Demand Draft, the Applicant is directed to move an appropriate Application before this Adjudicating Authority for contempt of this Order. Therefore, in view of the directions mentioned earlier, this Application stands disposed of.

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**DEEP CHANDRA JOSHI,
JUDICIAL MEMBER**

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**RAJEEV MEHROTRA,
TECHNICAL MEMBER**