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**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH – I, CHENNAI**

**IA/IBC/693/CHE/2022 in MA/289/2018
in**

TCP/10/IB/2017

(Filed under Section 42 of the Insolvency and Bankruptcy Code, 2016)

In the matter of **NAGARJUNA OIL CORPORATION LIMITED**

The Assistant Commissioner GST & Central Excise
No 1. Vallalar Nagar
Manjakuppam
Cuddalore -607 001.

... Applicant

-Vs-

Mr. V. Mahesh
Liquidator of Nagarjuana Oil Corporation Limited
Having Office at:
12/22, 2nd Floor, 7th Main Road,
R.A. Puram, Chennai- 600 028.

... Respondent

*Order Pronounced on **17th October 2022***

CORAM:

**JUSTICE RAMALINGAM SUDHAKAR, Hon'ble PRESIDENT
SAMEER KAKAR, MEMBER (TECHNICAL)**

For Applicant : S.Sathish , *Advocate*
For Respondent : Raj Jahbakh, *Advocate*



ORDER

Per: JUSTICE RAMALINGAM SUDHAKAR, Hon'ble PRESIDENT

This Application IA/693/CHE/2022 has been filed under Section 42 of the IBC,2016 by the Assistant Commissioner GST & Central Excise seeking the following reliefs: -

- "1) Condone the delay of 1104 days from 10.01.2019 to 17.01.2022 in filing the requisite Form C before the Respondent under Regulation 17.
- 2) Direct the Respondent to process and accept the claim Form submitted for a total sum of Rs. 1,09,42,925/-
- 3) Pass such further or other orders as this Hon'ble Tribunal may fit and proper in the circumstances of the case and render justice."

I. SUBMISSIONS OF THE APPLICANT:

2. The Ld. Counsel for the Appellant submitted that the Corporate Insolvency Resolution Process of the Corporate Debtor viz. Nagarjuna Oil Corporation Limited (NOCL) was initiated by this Tribunal vide order dated 25.07.2017 in TCP/10/IB/2017 and one Mr. V. Nagarajan was appointed as the "Interim Resolution Professional" (IRP) and subsequently Mr. S. Rajendran was appointed as the "Resolution Professional" (RP) of the Corporate Debtor with effect from 22.09.2017. It was submitted by the Learned Counsel for the

Appellant that the IRP has published public notice in Form – A and the Applicant has not submitted his claim during the CIRP. Thereafter, the Corporate Debtor was ordered into Liquidation by this Tribunal vide order dated 11.12.2018 and the Respondent herein was appointed as the Liquidator. That the liquidation of the Corporate Debtor was ordered by the virtue of this tribunal order dated 11.12.2018 dated 11.12.2018 passed by this Hon'ble Tribunal and Mr. V. Mahesh. i.e., the Respondent herein was appointed as the Liquidator of the Company. Therefore, the Liquidation Commencement date is on 11.12.2018.

3. The Ld. counsel for the Applicant submitted that the last date for receipt of the claim form was 10.01.2019 and that the Applicant has filed the Claim form before the Liquidator only on 18.01.2022, which came to be rejected by the Liquidator on 19.01.2022. As against the said rejection of the claim, the Applicant has filed the present Application before this Tribunal seeking relief as extracted *supra*.

4. The Ld. Counsel for the Applicant submitted that the reason for the delay was not willful or wanton and the Applicant did not have knowledge of the public announcement for receiving claims. Further



once the Applicant got to know of the Liquidation process the same has been filed with the Respondent.

5. The Ld. Counsel submitted that the acceptance of the claim would not disrupt the process of liquidation or cause any damage to interest of third parties. The Ld. Counsel further pressed emphasis on the NCLT, Delhi Bench order dated 16.07.2018 in *Globe Express services Limited -Vs- M/s Cargo Container Lime Private Limited*. However the same does not hold good in this scenario.

II. SUBMISSIONS OF THE RESPONDENT:

6. The Respondent Liquidator has filed counter in this petition. The Respondent submitted that the Applicant has filed this claim with an enormous delay of 3 years (i.e.), on 18.01.2022. Hence the claim was rightly rejected by the Respondent Liquidator.

7. Further it was submitted by the Ld. Counsel for the Respondent that the Liquidator does not have powers to condone the delay in filing the claim and no explicit provisions in the code or Regulation confers powers on the Liquidator to consider the claim after the prescribed period.

8. The Ld. Counsel submitted that the contentions of the Applicant on the enormous delay of filing the claim are not justifiable. Further, the Ld. Counsel for the Liquidator also brought to the notice of this Tribunal that the final orders approving the Scheme in relation to the Corporate Debtor under Section 230 of the Companies Act, 2013 read with attendant provisions of IBC, 2016 have already been pronounced on 18.03.2021 in CP/546/CAA/2020 and that the applications similar to the present application filed by other Applicants have also been dismissed by this Tribunal. Further, it was submitted that admitting a claim, even if it happens to be a statutory authority after a delay of almost 3 years, and at this stage would negate the purpose and objective of the Code. Thus this present Application is liable to be dismissed *in limine*.

III. FINDINGS:

9. Heard the submissions made by the Learned Counsel for the parties. Before venturing to the submission made by the Learned Counsel for the Appellant, it is pertinent to note here that the Scheme in relation to the Corporate Debtor viz. NOCL which has been proposed under Section 230 of the Companies Act, 2013 read with the attendant provisions of Insolvency and Bankruptcy Code, 2016

was approved by this Tribunal vide its order dated 18.03.2021 passed in CP/546/CAA/2020.

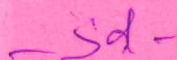
10. However, it is seen that as per the provisions of the IBC, 2016, the Applicant is required to submit the claim to the Liquidator in such form and in such manner along with such supporting documents as specified by the Board. Thereafter, upon submission of the claim, the Liquidator, ought to verify the claims within the time limits specified by the Board and in this connection referring to the relevant Regulations namely, IBBI (Liquidation Process) Regulations, 2016 and more specifically under Regulation 30, the Liquidator is required to verify the claim submitted within a period of 30 days from the last date of receipt of the claims and may either admit or reject in whole or part as the case may be of such claim. Section 40 of the I&B Code, 2016 mandates the Liquidator to record the reason in writing for rejection of the claim and the same is also required to be communicated to the Applicant.

11. Further in relation to his decision of admission or rejection, the Liquidator is required to communicate to both the creditors and the Corporate Debtor within seven days of such admission or rejection of the claim. As against the rejection of the claim, Section 42 of I&B

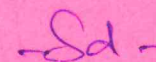
Code, 2016 provides for a time window of 14 days upon receipt of such decision to the creditor to file an appeal to the Adjudicating Authority against the said decision of the Liquidator.

12. On perusal of the Application it can be seen that the Applicant has not filed the claim within the given period and in order to overcome the insurmountable delay has stated that the lack of knowledge of the Liquidation process as the reason for the delay.

13. In any case as already stated *supra*, the Scheme in respect of the NOCL has been sanctioned by this Tribunal and it is binding upon the stakeholders of NOCL and as per the Scheme and the successful scheme proponent cannot be made suddenly to face with an 'undecided' claim, which would amount to a hydra head popping up. See Hon'ble Supreme Court in the matter of **Committee of Creditors of Essar Steel India Limited -Vs- Satish Kumar Gupta & Ors.** in Civil Appeal No. 8766 – 67 of 2019. In view of the above the Application IA (IBC)/693/CHE/2022, stands **dismissed**. No costs.



SAMEER KAKAR
MEMBER (TECHNICAL)



JUSTICE RAMALINGAM SUDHAKAR
PRESIDENT