

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH-I**

IA No. 1744/MB/C-I/2021

**In
C.P (IB) No. 920/MB/C-I/2020**

An application under Section 60(5) of the Insolvency and
Bankruptcy Code, 2016

Filed by
**Department of Sales Tax through the Deputy
Commissioner of Sales Tax**

...Applicant

Versus

**Mr. Milind Khasodekar
Resolution Professional of Uttam Galva Steels
Limited**

...Respondent

In the matter of

**State Bank of India
Creditor**

...Financial

Versus

Uttam Galva Steels Limited ... Corporate Debtor

Order Pronounced on: 14.10.2022

Coram:

Hon'ble Member (Judicial) : Justice P. N. Deshmukh (Retd.)
Hon'ble Member (Technical) : Mr. Shyam Babu Gautam

Appearances:

For the Applicant : None

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For the Respondent : Mr. Chetan Kapadia, Advocate

ORDER

Per Coram:

1. The present Application is filed seeking directions to the Resolution Professional to admit the Claim of the Applicant as an Operational Creditor and further seeks stay on implementation of the Resolution Plan dated 09.05.2021.
2. The Applicant submits that the Resolution Professional made a public announcement on 06.10.2020 and declared that that the last date for receipt of claims is 20.10.2020. The Applicant states that it had lodged the claim in Form-B with the RP on 27.10.2020 amounting to Rs.974,33,92,360/- (Nine Hundred and Seventy Crores Only) for the assessment years of 2009-10 to 2016-17. Thereafter, the RP vide email dated 30.12.2020 rejected the claim amounting to Rs.943 Crore.
3. The Applicant submits that the it being responsible for collection of revenue and taxes applicable under VAT & GST Act and the CD being the assessee of the Applicant, the Applicant was liable to deposit tax as per law.
4. In the abovementioned circumstances, the Applicant submits that rejection of the claim by the RP is illegal on the ground that the claim

was duly filed with the RP for consideration.

5. The stand taken by the Applicant is that rejection of the claim by the RP is not sustainable as the debt which is duly reflected in the financial statements of the Corporate Debtor, when resolution professional takes charge of the books of accounts of the Corporate Debtor in order to ascertain the liabilities of the Corporate Debtor.

Submissions made by the Respondent:

6. The Respondent submits that he had intimated the Applicant on 30.12.2020 that only part of the claim amounting to Rs.31 Crore is admitted at full value. Since the said dues were crystallized and reflected as outstanding in the records of the Corporate Debtor as on the Insolvency Commencement Date being 01.10.2020. The RP submits that the balance claim amount of Rs.943 Crore was disputed as on Insolvency Commencement Date, therefore the same was admitted at a nominal value of Rs.1 only.
7. The Respondent submits that out of the balance claim amount Rs.280 Crores represents disputed amount pending adjudication before various tax forums pursuant to appeals/rectifications filed by the Corporate Debtor before commencement of CIRP.
8. The Applicant passed three review orders in respect of assessment periods 2012-2013, 2013-2014 and 2014-2015 under Section 25 of the

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MVAT Act read with Section 9 of Central Sales Tax Act, 1956 for dues aggregating to Rs.181,94,87,059/- (Rupees One Hundred and Eighty-One Crore Ninety Four Lakh Eighty Seven Thousand and Fifty-Nine Only). Pursuant to which, the Applicant issued three Demand Notices.

9. The Respondent in reply to the said demand notices vide letter dated 20.04.2021 stated that review orders and the demand notices are in contravention of the moratorium imposed under Section 14 of the Code.
10. In accordance with the said Demand Notices, the Applicant filed a revised claim form in Form B on 23.04.2021 claiming Rs.181,94,87,059/- (Rupees One Hundred and Eighty-One Crore Ninety-Four Lakh Eighty-Seven Thousand and Fifty-Nine Only).
11. The Respondent submits that on 09.05.2021 he received the Resolution Plan, the same was approved by the CoC members on 02.06.2021. The said plan is pending adjudication before this bench in IA No.1271 of 2021.
12. In view of the moratorium imposed, the Respondent assailed the review orders and demand notices before the Hon'ble Bombay High Court in Writ Petition being WP(L) 11870 of 2021 on 14.05.2021 seeking quashing of the review orders and demand notices. The Hon'ble Bombay High Court vide its order dated 20.05.2021 granted interim protection to the Respondent thereby restraining the Applicant from

taking coercive actions pursuant to the review orders and demand notices.

Findings

13. We have perused the records and heard the parties.
14. We observe that claim to the extent of 31 Crore is admitted by the RP being part of the Corporate Debtors books of accounts, balance amount is disputed. Therefore, the RP is allocated notional value of Rs.1 to the disputed claim.
15. Another aspect of this Application that review orders and demand notices were passed during the period in which moratorium is in place. These actions of the Applicant are contrary to the Code. It is settled law once the moratorium is imposed no authority can take any actions against the Corporate Debtor. The present application is filed after approval of the Resolution Plan by the CoC dated 02.06.2021, therefore at this juncture we cannot turn clock back in time.
16. It is also observed in the present case that the claims were filed after the last date for filing the claims and the same is admitted by the Applicant.
17. Hence, in view of the above circumstances, the actions of RP were justified in admitting the part of claim to the tune of Rs.31 Crore and allocating notional value to the disputed claim. Till date the said disputed claims are pending assessment/adjudicating before various

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fora.

18. In the above backdrop, **IA No. 1744 of 2021 in CP(IB) No. 920 of 2020**
is disposed of as dismissed.

Sd/-

SHYAM BABU GAUTAM
Member (Technical)
14.10.2022
SAM

Sd/-

JUSTICE P. N. DESHMUKH
Member (Judicial)