



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

IA 1726 of 2024

Under Section 60(5) of Insolvency and Bankruptcy
Code, 2016

Union of India

Through its Secretary, Department of
Telecommunication

...Applicant

V/s

Anish Niranjana Nanavaty

...Respondents

In the matter of

C.P.(IB) NO. 1387 OF 2017

Ericsson India Pvt Ltd

V/s

Reliance Communications Limited

...Corporate Debtor

Order delivered on: 01.07.2025

Coram:

Shri Prabhat Kumar
Hon'ble Member (Technical)

Justice Shri V.G. Bisht
Hon'ble Member (Judicial)

Appearances:

For the Applicant : Adv. Ashish Mehta a/w Adv. Seema Gupta.

For Respondent / RP : Adv. Kriti Kalyani a/w Adv. Ansh Kumar



ORDER

1. This Application IA No.1726 of 2024 is filed on 03.04.2024 by Union of India Through its Secretary, Department of Telecommunication (DOT/Applicant) under Section 60(5) of Insolvency and Bankruptcy Code, 2016 in the Corporate Insolvency Resolution Process (CIRP) of Reliance Communications Limited (Corporate Debtor) for admission of its claim. The Applicant has made following prayers:

- a. *Pass an order directing the Resolution Professional of the Corporate Debtor to include the claim of the Applicant in addition to the claim already filed;*
- b. *Pass an order condoning the delay by the Applicant in filing its claim before the Resolution Professional;*
- c. *Pending the hearing and final disposal of this application, direct that the Corporate Insolvency Resolution Process and the Resolution Plan, if any, approved by the Committee of Creditors of the Corporate Debtor may not be proceeded with;*
- d. *To pass any such Order or Orders as this Hon'ble Tribunal may deem fit and expedient;*

2. In this case CIRP was commenced on 15.05.2018 however, Hon'ble NCLAT had stayed the CIRP commencement vide order dated 30.05.2018. The said stay came to be vacated on 30.04.2019 upon withdrawal of Appeal by the Suspended Board. Thereafter, this Tribunal directed to Interim Resolution Professional to proceed the CIRIP vide order dated 07.05.2019. Consequently, the public announcement was made on 07.05.2019 inviting claims from the Creditors of the Corporate Debtor as on 07.05.2019 and the last date of submission of proof of claim was 21.05.2019. Pursuant to the process under the Code, on 4th March, 2020, the COC, by a majority vote of



100% have approved the resolution plan ("Resolution Plan") submitted by UV Asset Reconstruction Company Limited and the Respondent Resolution Professional filed an Application IA 873 of 2020 on 06.03.2020 for approval of the resolution plan of the RA.

3. The Applicant filed an additional claim of Rs. 2638,17,26,682 (Rupees Two Thousand Six Hundred Thirty-Eight Crores Seventeen Lakhs Twenty Six Thousand Six Hundred and Eighty Two only) on 16.10.2023 with the Resolution Professional. The said claim pertains to CAF, EMR penalties, EMF Test fees and MNP A/T fees levied by the DOT upto cutoff dates. The Respondent Resolution Professional vide email dated 25.08.2023 rejected the claim stating that "*The undersigned has now received your latest claim form much after the expiry of the timelines specified under Regulation 12 of the CIRP Regulations*".
4. Aggrieved by said rejection of claim, the Applicant has filed present Application.
5. It stated by the Applicant that the different wings of DOT were involved in filing of claims and there was no SOP for dealing the cases related to Insolvency. To avoid such type of delays in future, Department has recently issued SOP regarding realization of Government dues and handling of Corporate Insolvency Resolution Process wherein it is mentioned that claims pertaining to LSAs along with proof of claims are required to be filed in the required format to the Insolvency Resolution Professional (IRP) Official Liquidator (OL). It is further stated that the applicant had issued several demand notices to the Corporate Debtor in this regard, well before the commencement of CIRP, in which some of the demands were challenged by the Corporate Debtor before the Hon'ble TDSAT. Therefore, the said dues of applicant may be well within the books or records of the Corporate Debtor at the time of CIRP and the Respondent / RP may be well aware of the said dues. Therefore, the RP/Respondent is liable to consider the said dues of the



applicant and cannot simply reject the same as per grounds stated therein in the order / letter dated 25/08/2023. It is also contended that the delay in filing of the claim was due to circumstances beyond the control of the Applicant such as collating the information from all over India and procedural requirement and the same is not an intentional one.


6. The Respondent Resolution Professional has submitted that an amount of INR 452.03 crores towards CAF is reflecting in the books of the accounts of the Corporate Debtor as on 7th May 2019 as contingent liabilities. The amounts towards CAF pertain to address verification Penalties. Further, an amount of INR 7.41 crores towards EMR penalty is reflecting in the books of accounts of the Corporate Debtor as on 7th May 2019 as contingent liabilities. The amounts towards EMR penalty pertain to delayed submission of self certification and revised penalty on radiation/signage.
7. Heard the Counsel and perused the material on record.
8. Regulation 12 of CIRP Regulations provides that

“12. (1) A creditor shall submit claim with proof on or before the last date mentioned in the public announcement.

Provided that 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 date.]

(2)[***]]



(3) Where the creditor in [sub-regulation (1)] is [a financial creditor under regulation 8], it shall be included in the committee from the date of admission of such claim:

Provided that such inclusion shall not affect the validity of any decision taken by the committee prior to such inclusion.”.

9. The proviso to Regulation extends the period for filing of claim upto later of the date of issue of request for resolution plans or 90 days from the Insolvency commencement date. Undisputedly, both of these periods had expired in 2019 itself i.e. prior to approval of the Resolution Plan by the Committee of Creditors on 04.03.2020. The CIRP Process is a time bound process and any delay in filing of the claim particularly beyond approval of the Resolution Plan is not condoned by the under the provisions of Code. However, we note that Resolution Professional has admitted that an amount of INR 452.03 crores towards CAF and an amount of INR 7.41 crores towards EMR penalty is reflecting as contingent liability in the books of Corporate Debtor as on cut off date and the Resolution Plan has yet not been approved by this Tribunal in this case. The Applicant has relied upon the decision of Principal Bench of this Tribunal in the case of State Bank of India Vs ARGL Limited (IB)-531(PB)/2019 wherein it was held that *“It is strange situation which is adopted by the RP because in the books of accounts the governmental dues are always reflected. It is nowhere stated as to how the claims which are to be filed alone are to be collated in terms of Section 21. First of all, as a matter of fact as the first step the IRP / RP has to prepare the list in accordance with the books of accounts and then invite the claims otherwise the dues reflected in the books of accounts would be rendered completely meaningless. It is only in case there is any discrepancy in the books of accounts that the claim needs to be modified or additions are required to be made”*. Nonetheless, we are also of the considered view that the Respondent Resolution Professional ought to have verified from the Creditors in relation to debt acknowledged in the books of accounts of the



Corporate Debtor as on Insolvency commencement date. Accordingly, we direct the Respondent Resolution Professional to admit the amount as reflecting in the books as contingent liabilities. As regards remainder of the claim this Tribunal cannot pass any order relaxing the provisions of Regulations in relation to claim timelines in view of trite law that the claims of the Creditors stands frozen on the approval of the Resolution Plan by the Committee of Creditors. However, it is made clear that claim of the Applicant may be considered in case the CIRP Process is reinitiated for some reasons later on.

10. In view of the foregoing, IA 1726 of 2024 is partly allowed and disposed of.

-Sd/-
Prabhat Kumar
Member (Technical)

-Sd/-
Justice V.G. Bisht
Member (Judicial)