

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 2

ITEM No309
IA 458 of 2020
in
CP(IB) 586 of 2019

Order under Section 60(5) IBC r.w Rule 11 of NCLT Rules, 2016

IN THE MATTER OF:

Pani Trading Corporation
(Through Its Proprietor Ritesh M Jain)

.....Applicant

V/s

.....Respondent

Jagadishchandra B Mistri IRP for Sona Alloys Pvt Ltd

Order delivered on 31/07/2023

Coram:

Mr. Shammi Khan, Hon'ble Member(J)
Mr. Ajai Das Mehrotra, Hon'ble Member(T)

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open Court vide separate sheet.

-Sd-

**AJAI DAS MEHROTRA
MEMBER (TECHNICAL)**

-Sd-

**SHAMMI KHAN
MEMBER (JUDICIAL)**

IN THE NATIONAL COMPANY LAW TRIBUNAL

AHMEDABAD (COURT NO.II)

IA No. 458 / NCLT / AHM / 2020

IN

CP(IB) No. 586 / NCLT / AHM / 2019

Application Under Section 60(5) of the IB Code, 2016

IN THE MATTER BETWEEN

M/s. Pani Trading Corporation **Applicant**

Versus

Mr. Jagadishchandra B Mistri **Respondent**

IN THE MATTER OF

Nobel Resources International Pvt. Ltd.
... **Applicant / Operational Creditor**

Versus

Sona Alloys Pvt. Ltd.
... **Respondent/Corporate Debtor**

Order pronounced on :31/07/2023

Coram:

**SHAMMI KHAN,
HON'BLE MEMBER (JUDICIAL)
AJAI DAS MEHROTRA
HON'BLE MEMBER (TECHNICAL)**

MEMO OF PARTIES

M/s. Pani Trading Corporation

Through its proprietor
Ritesh M Jain
Shree Shantkrupa Niwas,
Nr. Savatamali Temple,
Lonand, Taluka – Khandala,
Dist: Satara,
Maharashtra

... Applicant

Versus

Mr. Jagadishchandra B Mistri

(Interim Resolution Professional of
Sona Alloys Private Limited)
Bungalow No.2,
New Day Park Society,
Opp: Chandrapuri Apartments,
Behind Sarkari Vasahat,
Vastrapur, Ahmedabad - 380052

... Respondent

Present:

For the Applicant : Mr. Karan Sanghani, Adv.
For the Respondent : Mr. Rasesh Sanjanwala, Sr. Adv.

ORDER

1. The present application is filed against the rejection of the claim of the applicant by the Resolution Professional (RP). The applicant had made two claims before the Resolution Professional. First claim was as a Financial Creditor of Rs.4,62,14,949/- and the second claim was as an Operational Creditor of Rs.2,28,51,680/-. Resolution Professional had rejected both the claims.
2. We have gone through the records and submissions made by both sides. It is admitted fact that there is no written loan agreement between the applicant and the Corporate Debtor. The applicant had explained that the claim was based on ledger account given on page 37 & 38 of the application.
3. Learned Senior Counsel Mr. Rasesh Sanjanwala for the Resolution Professional pointed out that as per the ledger account submitted by the

applicant itself, interest was paid in earlier years and no entry regarding interest is made in the later years. The applicant had suddenly, on the initiation of Corporate Insolvency Resolution Process, raised interest of multiple years in its ledger account. Learned Senior Counsel for the Resolution Professional further explained that interest was paid in earlier years and in lieu of the loan, the Corporate Debtor had issued Rs.28,60,000/- share of Rs.10 each to the applicant and this was the reason that in the subsequent ledger account, no interest was provided by the applicant. Learned Senior Counsel further submitted that in fact as per the audited books of account of the Corporate Debtor, no amount is payable to the applicant and the Corporate Debtor has to recover Rs.3.55 Crores from the applicant. Learned Senior Counsel further submitted that this being summary proceeding, cross claims cannot be adjudicated in the summary jurisdiction of this Tribunal.

4. It has been held by the Hon'ble Supreme Court in the case of Swiss Ribbons Pvt. Ltd. & Another vs. Union of India & Ors. (Civil Original / Appellate Jurisdiction Writ Petition (Civil) No.99 of 2018 that Resolution Professional is given administrative as opposed to quasi-judicial powers. Relevant portion of the said judgement is extracted below:

“59... It is clear from a reading of these Regulations that the Resolution Professional is given administrative as opposed to quasi-judicial powers. In fact, even when the Resolution Professional is to make a determination under Regulation 35A, he is only to apply to the Adjudicating Authority for appropriate relief...”

5. Resolution Professional had rejected the claim of the applicant based on the records and audited books of accounts and his action in doing so cannot be faulted with.
6. As sequel to the above discussion, application is rejected and disposed of.

-Sd-

**AJAI DAS MEHROTRA
MEMBER (TECHNICAL)**

Prakash - Steno

-Sd-

**SHAMMI KHAN
MEMBER (JUDICIAL)**