



**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT NO. I
KOLKATA**

I.A. (IB) No. 1600/KB/2023

In

Company Petition (IB) No. 23/KB/2019

IN THE MATTER OF:

ASSET RECONSTRUCTION COMPANY (INDIA) LIMITED

... Financial Creditor.

Versus

CORPORATE POWER LIMITED

... Corporate Debtor.

*An Application under Regulation 17 and 30 of the Insolvency and
Bankruptcy Board of India (Liquidation Process) Regulations, 2016,
read with Rule 11 of the National Company Law Tribunal Rules,
2016.*

IN THE MATTER OF:

Hindustan Electric House

... Applicant/ Operational Creditor.

Versus

Mr. Pankaj Dhanuka

... Liquidator/ Respondent.

Date of Pronouncement: July 07, 2025.

CORAM:

SMT. BIDISHA BANERJEE, HON'BLE MEMBER (JUDICIAL)

CMDE. SIDDHARTH MISHRA, HON'BLE MEMBER (TECHNICAL)

Appearances:

For the Liquidator:

Ms. Manju Bhuteria, Sr. Adv.

Mr. Anupam Prakash, Adv.

Ms. Kirti Talreja, Adv.

Mr. Pankaj Dhanuka, Liquidator

For the Appellant in

APPEAL (IBC)/1(KB)2025:

Mr. Rohit Das, Adv.

Ms. Kishwan Rahman, Adv.

Mr. Vishesh Pandey, Adv.

For the PF Authorities in

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I.A. (I.B.C)/2335(KB)2024

and

I.A. (I.B.C)/162(KB)2025:

Mr. S.C. Prasad, Adv.

Mr. Avijit Tiwari, Adv.

For the Eastern Railway:

Mr. Ajay Chaubey, Adv.

Ms. Hema Mukherjee, Adv.

Ms. Prity Panja, Adv.

For the Respondent No.1

(DG, CISF):

Ms. Sumita Sarkar, Adv.

For SPP, ED:

Mr. Adil Rashid, Adv.

ORDER

Per Cmde. Siddharth Mishra, Member (Technical):

1. The Court congregated through a hybrid mode.
2. Heard the Learned Counsels for the parties.
3. This application has been preferred under Regulation 17 and 30 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, read with Rule 11 of the National Company Law Tribunal Rules, 2016, by Hindustan Electric House, hereinafter referred to as "Applicant" against Mr. Pankaj Dhanuka, the Liquidator of the Corporate Power Limited (Corporate Debtor), hereinafter referred to "Respondent", praying for a direction upon the liquidator to admit the claim of the applicant to the tune of Rs. 22,78,227.64/- which has been rejected by the liquidator.
4. The applicant contends that a sum of Rs. 39,22,599.64/- submitted by the applicant before the liquidator after the public announcement made by the liquidator on

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18.10.2021. The liquidation has been commenced on 08.10.2021 and the last date of submission of claim was 10.11.2021.

5. The Liquidator on 18.12.2021 by way of an email informed the application that out of the total claim, an amount of Rs. 16,44,372/- has been admitted and the rest amount has been rejected quoting a reason that the claimed amount has been admitted based on the supporting documents provided and the amount rejected pertains to interest charged and dues against the group entity and accordingly was not admissible.

6. At page 10 of the Affidavit in Reply filed by the Liquidator on 03.11.2023, provides the details of claim amount submitted by the applicant and the reasons for rejection of the same, bifurcated as under:

Particulars	Amount Claimed (INR)	Amount Admitted (INR)	Amount Rejected (INR)	Reason for rejection
Principal Amount	18,30,600	16,44,372	1,86,228	Amount due to the group entity (Abhijit Projects Limited) not admissible.
Interest (at rate of 12% for a period of 8 years and 191 days)	20,91,999.64	0	20,91,999.64	No documentary proof for the interest amount claimed.
Total	39,22,600	16,44,372	22,78,228	

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7. Arguably, the application would be rejected as the same has been preferred under wrong provision. At this juncture, to consider the issue, we would rely on the judgment rendered by the Hon'ble Delhi High Court in **Sh Rajeev Shukla v. Sh Gopal Krishna Shukla** reported on 2025: DHC: 12, wherein it has been held that:

“Mentioning wrong Section of law in an application by a party is typically not considered “fatal” to the case, provided the substance of the application is clear and no prejudice is caused to the opposite party or the court. **The courts generally prioritize substance over form, especially if the intention and relief sought by the party are apparent. If incorrect Section does not mislead the court or the other party and no prejudice is caused, the mistake is treated as a “curable defect”.**”

(Emphasis Added)

8. In the present case in hand, however, the application has been preferred under wrong provision, but the application does not devoid the merits as the applicant is an operational creditor and has properly filed its claim before the liquidator and the liquidator has admitted a part of the total claim of the applicant.

9. Notably, the applicant may avail reliefs under proper provision of the I&B Code, i.e., Section 42 which says that a creditor may appeal to the Adjudicating Authority against the decision of the liquidator accepting or rejecting the claims within fourteen days of the receipt of such decision. We would note that the liquidator intimated his decision to the applicant on 18.12.2021 and the

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present application has been filed on 25.08.2023, long after two years. Since the applicant failed to file the application under proper provision as well as within the prescribed time period, this application is liable to be dismissed on the face of its maintainability.

10. However, on merits, we would note that the documents substantiating the claim submitted by the applicant before the liquidator cater to that out of the total claimed amount, a Rs. 16,44,372/- is due and payable by the corporate debtor towards the applicant by virtue of the purchase orders vide no. 4800013238 and 4800017643, which is evident from the 'List of outstanding invoices details' furnished by the applicant, annexed at page 19 to the Affidavit in Reply. Further, all the other invoices submitted by the applicant were in the name of another separate entity, i.e., Abhijit Projects Limited and are thus not an obligation/ liability to be discharged by the corporate debtor.

11. Further, pertaining to the interest amount claimed as Rs. 20,91,999.64/-, we find no document or agreement containing a specific clause for levying of interest. As the applicant's claim is an operational debt and thus, sans having any clause of payment of interest in an explicit agreement, the interest element cannot be clubbed with the principal amount claimed to be in default and accordingly, the same cannot be treated as a debt under Section 5(21) of the I&B Code. To fortify our view, we would rely on the judgment rendered by the Hon'ble NCLAT in ***Shitanshu Bipin Vora Suspended Director of Exclusive Linen Fabrics Pvt. Ltd. v. Shree Hari Yarns Pvt. Ltd.*** in Company Appeal (AT) (Insolvency) No. 2204 of 2024, wherein it has been held that:

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*“41. [...] The Adjudicating Authority has not delved into the issue of the payment of interest with respect to the **operational debt** as defined in the code and has relied on the invoices which contains an interest clause of 18% on account of delayed payment. We find that the Respondent No 1 is relying upon the unilaterally formulated condition regarding charging of interest, when no such agreement exists between the parties. Furthermore, the delayed interest clause being relied upon by the Respondent No1 is nonspecific and vague as the same does not state the period for the rate of interest as alleged in the invoice. We also agree with the contention of the Appellant that the Code does not provide the Adjudicating Authority with the power to interpret a document as in the instant case the Adjudicating Authority has gone ahead to interpret the alleged delayed interest clause from “18%” to “18% per annum”. We are inclined to agree with the argument of the Appellant that the Code does not provide the AA with the power to interpret a document as in the facts and circumstances of the case. **In the absence of any agreement between the parties, the calculation of interest cannot be agreed by us and the claim with respect to interest on pending invoices is not sustainable.**”*

(Emphasis Added)

12. Thus, in view of the above, we find no infirmity committed by the liquidator in rejecting the claim in partial of the applicant and accordingly, the application is **dismissed**.



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13. Certified copy of the orders, if applied for with the Registry, be supplied to the parties upon compliance with all requisite formalities.

**Cmde. Siddharth Mishra
Member (Technical)**

**Bidisha Banerjee
Member (Judicial)**

This Order is signed on the 07th Day of July 2025.

Bose, R. K. [LRA]