

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 479 of 2021

IN THE MATTER OF:

New Boilers Engineering

A partnership firm situated at
Engineering Block – 499,
Kallar P.O., Idukki District,
Represented by Reghunath TA,
S/o Sreedharan Pillai,
Kallar P.O. Idukki District
Kerala State – 685 552.

...Appellant

Versus

IDBI Bank Limited

2nd Floor, A, B & C Wings, Mittal Court,
Nariman Point,
Mumbai.
Pin – 400 021.

...Respondent No. 1

EPC Construction India Limited,

(Formerly M/s Essar Projects India Limited)
Represented by its Auth. Signatory,
KRA-46A, Opposite Thiruvankulam
Higher Secondary School,
Kadungamangalam,
Ernakulam District.
Kerala – 682 305.

...Respondent No. 2

Bharat Petroleum Corporation Limited (BPCL) Kochi,

Represented by its General Manager,
Ambalamugal P.O.,
Ernakulam District,
Kerala – 682 302.

...Respondent No. 3

For Appellant: Mr. Abraham Mathews, Advocate.

For Respondents:

Cont'd/

ORDER
(Virtual Mode)

13.07.2021: This Appeal has been filed by the Appellant claiming to be 'Operational Creditor' against impugned order dated 25th November, 2019 passed by the Adjudicating Authority (National Company Law Tribunal), Mumbai Bench in M.A.315 of 2019 in CP No.1832/I&BC/MB/MAH/2017 vide which order Resolution Plan has been approved. The impugned order shows that 'IDBI Bank Ltd.' had filed a petition under Section 7 against the Corporate Debtor – 'EPC Constructions India Ltd.' which was admitted on 29th December, 2017. In the course of Corporate Insolvency Resolution Process (CIRP), Resolution Plan of 'Royale Partners Investment Fund Ltd.' (RPIFL) was received which has been approved by the impugned order dated 25th November, 2019.

2. The present appeal has been filed on 9th April, 2021. The Appeal should have been filed within the period of one month as per Section 61 of the Insolvency and Bankruptcy Code, 2016 ('IBC' for short). This Tribunal can condone period of 15 days beyond period of Appeal under Section 61(2) of the IBC. Counsel for the Appellant states that although the lockdown started somewhere on 23rd March, 2020 still reason given is that the Appellant was not aware of passing of such order. The Delay Condonation Application does not reveal date of knowledge. We find that the appeal is time barred.

3. Even if the Appeal was to be entertained to look into the Appellant's claim that the Appellant had filed claim with the Resolution Professional, no document

is filed to show what claim was filed. There is only Annexure – A/7 which points out an entry at Sl. No. 191 which shows that the amount claimed was rejected. The Counsel for the Appellant is unable to show as to what was the date of this document. The document does not bear any signature and no date of document is there. It is admitted position that in the Resolution Plan which is approved the Appellant was not included. When there was no appeal filed during the course of CIRP when the claim was rejected, this present belated effort of filing this Appeal cannot succeed.

4. There is no substance in the Appeal and we decline to admit the Appeal. The Appeal is disposed of as not admitted.

**[Justice A.I.S. Cheema]
The Officiating Chairperson**

**[Dr. Alok Srivastava]
Member (Technical)**

Archana/gc.