

IN THE NATIONAL COMPANY LAW TRIBUNAL
CUTTACK BENCH
CUTTACK

IA (IB) No. 67/CB/2021
In
CP (IB) No. 23/CTB/2019

In the matter of:
Insolvency and Bankruptcy Code, 2016.

-And-

In the matter of:

An application by an Operational Creditor under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule-11 of the National Company Rules, 2016;

-And-

In the matter of:

Suraj Products Limited

... Operational Creditor

-Versus-

Krishna Ferro Products Limited

... Corporate Debtor

-And-

Joint Commissioner of Commercial Taxes & G.S.T., C.T. & G.G.T. Circle,
Rourkela-II, Odisha.

... Applicant

-Versus-

Mr. Manish Jain

... Resolution Professional

Coram:

Shri P. Mohan Raj : Member (Judicial)

Shri Satya Ranjan Prasad : Member (Technical)

Appearances (through video conferencing)

For the Applicant : Mr. Sidharth Padhy, Adv.

Sd

Sd

IN THE NATIONAL COMPANY LAW TRIBUNAL
CUTTACK BENCH

IA (IB) No.167/CB/2021

In

CP (IB) No.23/CTB/2019

In res: Joint Commissioner of Commercial Taxes & G.S.T. V. Mr. Manish Jain

For the Respondent : Mrs. Meenakshi Manot, Adv.
Mrs. Sherya Choudhary, Adv.
Mr. Manish Jain, (RP)

Order reserved on: 11.11.2021

Order pronounced on: 17.11.2021

ORDER

Per: Satya Ranjan Prasad Member (Technical)

1. The present application IA (IB) No. 67/CB/2021 under consideration has been filed by the Joint Commissioner of Commercial Taxes & G.S.T., C.T. & G.G.T. Circle, Rourkela-II, Odisha, seeking condonation of delay in approaching Resolution Professional to submit their claim as per the provisions of the Code.
2. It is stated that the Corporate Debtor i.e., Krishna Ferro Products Ltd was carrying on its business activities within the State of Odisha and was registered within the jurisdiction of the applicant under the erstwhile Orissa Value Added Tax Act, Orissa Entry Tax Act, 1999 as well as Central Sales Tax (Orissa) Rules, 1957. The Corporate Debtor has been assessed under the Orissa Sales Tax Act, Orissa Value Added Tax Act, Orissa Entry Tax Act, 1999 and Central Sales Tax (Orissa) Rules, 1957 for various tax periods from 2000 to 2016 and tax demands were raised. The Corporate Debtor has assailed some of those orders of assessment and some payment. In the manner stated above, the outstanding tax liabilities of the Corporate Debtor under the aforesaid taxing statutes stood at ₹ 75,35,372/-.
3. For the said outstanding tax liabilities the applicant states that they issued various demand notices to the declared place of business of the Corporate Debtor situated at Sundergarh, Odisha during 2013-19, which though received but no payment was made. Similarly, recovery proceedings have also been initiated and orders of attachment passed against the Corporate

Sd

Sd

IN THE NATIONAL COMPANY LAW TRIBUNAL
CUTTACK BENCH

IA (IB) No.167/CB/2021

In

CP (IB) No.23/CTB/2019

In res: Joint Commissioner of Commercial Taxes & G.S.T. V. Mr. Manish Jain

Debtor. The applicant-Assessing Officer has lastly issued notice dated 22.10.2020 to the declared place of business of the Corporate Debtor at Sundergarh, Odisha demanding payment of the outstanding Tax dues. However, the said letter dated 22.10.2020 returned un-served from the declared place of business where after the applicant conducted a local enquiry and came to know sometime during the last week of December 2020 that the present Corporate Insolvency Resolution Process (CIRP) has been initiated against the said Corporate Debtor.

4. Further, that it has also come to the notice of the applicant that the RP has earlier issued the Public Announcement inviting claims on 10.10.2019 fixing the last date of submission as 18.10.2019 and 90 days therefrom expired on 02.01.2020. Applicant states that the said Public Announcement dated 10.10.2019 was not within the knowledge of the applicant in spite of his repeated pursuance with the recovery of arrear tax demand from the Corporate Debtor. Further, Shutdown and Lockdown was declared throughout India including in the State of Odisha on account of COVID-19 pandemic since 23.03.2020. Owing to such restrictions, the normal functioning of the offices of the applicant has also been affected. Such factor has led to the present proceeding under the IBC not coming within the knowledge of the applicant.
5. The Applicant had lodged its claim with the RP on 15.01.2021 along with supporting documents when there was a delay of around 452 days of submitting the claim, the Respondent/RP has refused to consider the same on the grounds of delay as the same was submitted beyond the cut-off date.
6. This Tribunal has noted that the RP has no objection if the delay is condoned.
7. In view of the facts and circumstances of the case, Covid-19 pandemic and corresponding lockdowns etc. and more particularly in the interest of revenue

Sd

Sd

IN THE NATIONAL COMPANY LAW TRIBUNAL
CUTTACK BENCH

IA (IB) No.167/CB/2021

In

CP (IB) No.23/CTB/2019

In res: Joint Commissioner of Commercial Taxes & G.S.T. V. Mr. Manish Jain

of the Exchequer, as a special case this Adjudicating Authority is inclined to **allow** this appeal and condoned the delay of 452 days in lodging the claim by the Applicant, namely, Joint Commissioner of Commercial Taxes & G.S.T., C.T. & G.G.T. Circle, Rourkela-II, Odisha.

8. The Resolution Professional is hereby directed to adjudicate the claim on merits, uninfluenced by the fact that the delay has been condoned by this Adjudicating Authority.
9. With these directions, IA (IB) No.67/CB/2021 in CP (IB) No. 23/CTB/2019 is disposed of accordingly.
10. The Registry is hereby directed to communicate this Order to the petitioner and respondent.
11. Let the certified copy of the Order be issued upon compliance with the requisite formalities.



Satya Ranjan Prasad
Member (Technical)



P. Mohan Raj
Member (Judicial)

Signed this 17th day of November, 2021.

Ravijeet_P.S.