



IN THE NATIONAL COMPANY LAW TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

Company Petition No.: IB 300(PB)/2020

IA – 2409/2023

IN THE MATTER OF:

**M/s ASSET CARE AND RECONSTRUCTION ENTERPRISES LIMITED
...Financial Creditor**

VERSUS

**M/s SARE GURUGRAM PRIVATE LIMITED
... Corporate Debtor**

AND

IN THE MATTER OF IA 2409/2023:

Under Section 60 (5) r/w Section 31 of IBC, 2016, objecting the Resolution Plan

Mr. ASHISH SINGHAL **...Applicant**

VERSUS

Mr. AJIT GYANCHAND JAIN

Resolution Professional of Sare Gurugram Private Limited

...Respondent No. 1

Consortium of KGK Realty (India) Pvt Ltd. and Dhoot Infrastructure
Private Limited

...Respondent No. 2

Pronounced on: 21.08.2023

CORAM:

SHRI RAMALINGAM SUDHAKAR, HON'BLE PRESIDENT

SHRI AVINASH K SRIVASTAVA, HON'BLE MEMBER (TECHNICAL)



Present:

- For the Applicant : Mr. Kartikay Yadav & Mr. Tavish B. Prasad, Advocates
- For Monitoring Committee : Dr. Pankaj Garg, Sr. Adv. Ms. Nitika, Advocates.
- For the SRA : Ms. Wamika Trehan, Advocate

ORDER

1. The present interlocutory application bearing IA No.2409 (PB) 2023 is moved on behalf of Mr. Ashish Singhal, as an Allottee in one of the unfinished projects 'Green Parc' of the Corporate Debtor Sare Gurugram Private Limited located in Village Wazirpur and Mewka, Residential Sector - 92, Gurugram, Haryana having an allotted Unit No. 1201 in Tower 6 in Green Parc ('Corporate Debtor') and seeking following reliefs:

- a) *Pass an order directing the Resolution Professional/Respondent No. 1 of the Corporate Debtor to verify and thereupon include the claim of the Applicant in the list of financial creditors;*
- b) *Pass an order condoning the delay, inadvertently, caused by the Applicant in filing their claim before the Resolution Professional of the Corporate Debtor; and*
- c) *Direct Respondent No. 2 to recognise the valuable right of the Applicants over the said Unit and accommodate the Applicants within the scheme of the resolution plan.*
- d) *Direct the Resolution Professional to reflect the claim of the Applicants in the liability column of the Information Memorandum under the provisions of the Insolvency and Bankruptcy Code, 2016;*



e) Any other Order(s)/Direction(s) which this Hon'ble Adjudicating Authority may deem fit and proper in the present matter.

2. On perusal of the facts of the case, it is seen that the Resolution Professional made a public announcement on 12.03.2021 and the last date of submission of claims was 24.03.2021. However, the Applicant submitted the claim before the RP on 02.04.2023 (*attached as Annexure A-3 to the Application*) and the same was rejected by the RP on the grounds of belated submission of claim.
3. The reason for this delay as submitted by Ld. Counsel for the Applicant is that the Applicant along with his spouse had relocated and were residing in Singapore since July, 2015 and came to know about the commencement of the CIRP of Corporate Debtor at a much later point in time and thereupon acted swiftly to register the claim with the Resolution Professional. The Non-Resident status of the Applicant contributed to the delay in filing the claim with the RP.
4. We are aware of the Judgment passed by Hon'ble NCLAT in the matter of "Puneet Kaur v/s K V Developers". The benefit of the same has been granted by this Adjudicating Authority to all those allottees whose claims have been rejected by the RP on the ground that it has been filed belatedly and further applications against the rejection had been listed for hearing before this Adjudicating Authority up to 12.12.2022. However, the delayed claims of home-buyers cannot be considered endlessly as this is beyond the reasonable time-lines. If



such claims are allowed, then this Adjudicating Authority will continue to receive further such applications and the case will never reach resolution. Further, it will also cause a hurdle to the Successful Resolution Applicant in executing the Resolution Plan.

5. While the principles of natural justice and fairness are of paramount importance, in insolvency proceedings, it is equally crucial to uphold the principle of finality and closure in such proceedings. Allowing delayed claims to be considered indefinitely goes beyond reasonable time-lines and undermines the efficacy and purpose of the insolvency resolution process. A delay of around 739 days is beyond the reasonable grounds of condonation.
6. It is pertinent to mention that the Resolution Plan of the Corporate Debtor has already been approved by this Adjudicating Authority vide its order dated 24.04.2023. At this juncture, such an application cannot be entertained by this Adjudicating Authority as it would squarely violate the 'Clean-Slate Principle' as laid down by the Hon'ble Supreme Court in the case of ***Ghanashyam Mishra & Sons versus Edelweiss Asset Reconstruction Company Limited Through the Director & Ors*** Civil Appeal No. 1554 of 2021, the relevant paragraph is as extracted below.

“86.After CoC approves the plan, the Adjudicating Authority is required to arrive at a subjective satisfaction, that the plan conforms to the requirements as are provided in sub-section (2) of Section 30 of the I&B Code. Only thereafter, the Adjudicating Authority can grant its



approval to the plan. It is at this stage, that the plan becomes binding on Corporate Debtor, its employees, members, creditors, guarantors and other stakeholders involved in the Resolution Plan. The legislative intent behind this is, to freeze all the claims so that the resolution applicant starts on a clean slate and is not flung with any surprise claims. If that is permitted, the very calculations on the basis of which the resolution applicant submits its plans, would go haywire and the plan would be unworkable.”

7. In light of the aforementioned reasons and the judgment of Hon'ble Apex Court, this Adjudicating Authority is of the opinion that this application which seeks condonation of an inordinate delay of around 739 days and for passing directions to the Resolution Professional to include the claim of the Applicant in List of Financial Creditors, etc., cannot be allowed and is liable to be dismissed.
8. Accordingly, **IA-2409(PB)/2023** stands **dismissed**.

Sd/-
RAMALINGAM SUDHAKAR
PRESIDENT

Sd/-
AVINASH K. SRIVASTAVA
MEMBER (TECHNICAL)