

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH**

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**IA No. 1028 of 2020 in
CP (IB) No. 1414/MB/2018**

Under Section 9 of Insolvency and Bankruptcy Code, 2016

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**In the matter of
International Marine & Energy DMCC
Vs.
Great Unison Contractors Pvt. Ltd.
(formerly Unison Engineering and Construction Pvt. Ltd.)**

Between

Geostar Surveys India Pvt. Ltd.
Geostar Sadan, Plot no. 46, Sector 19C
Vashi, Navi Mumbai - 400703

... Petitioner/Operational Creditor

And

Great Unison Contractors India Pvt. Ltd.
(formerly Unison Engineering and Construction Pvt. Ltd.)
Unit No. 6&7, A wing, Art Guild House,
Behind Phoenix City Mall, Off LBS Marg, Kurla (West)
Mumbai – 400070

... Corporate Debtor/Respondent

Date of Order: 28.09.2020

CORAM:

Hon'ble Janab Mohammed Ajmal, Member Judicial

Hon'ble Ravikumar Duraisamy, Member Technical

Appearance:

For the Applicant: Mr. Rajeev N Kumar, Advocate

For the Respondent: Ms. Deepti Mehta (Liquidator)

Per: Janab Mohammed Ajmal (Member Judicial)

ORDER

This is an Application filed by one of the Operational Creditors of the Corporate Debtor (Respondent) seeking direction to the Liquidator to admit its claim.

2. Brief facts leading to the Application may be stated as follows. The Corporate Debtor undertook inland and overseas contracts for various third parties. It placed orders with other parties for the purpose of executing contracts as well as supply of goods and services. One International Marine and Energy DMCC of Dubai, UAE brought in an Application [CP (IB) 1414/(MB)/2018] under Section 9 of the Insolvency and Bankruptcy Code (the Code) alleging default of an operational debt to the tune of US\$ 4,69,598 (=Rs. 3,02,51,882/-). This Tribunal by order dated 8th January, 2019 admitted the Petition initiating Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor. It appointed Mr. Gaurav Sharma as the Interim Resolution Professional (IRP). Subsequently by an order dated 19th February, 2019 in MA No. 605 of 2019 one Ms. Dipti Mehta was appointed as the RP. Despite all possible steps taken, no viable Resolution Plan was received and accepted by the Committee of Creditors (COC).
3. The COC by its meeting held on 20th November, 2019 by 100 per cent voting share resolved to liquidate the Company as a non-going concern. The RP accordingly made an Application in MA No. 3699 of 2019 before this Tribunal seeking orders for liquidation of the Corporate Debtor. This Tribunal by an order dated 23rd January, 2020 directed that the Company to be liquidated and appointed the RP Ms. Dipti Mehta as the Liquidator. The Liquidator on 14th February, 2020 made a public announcement in Form B under Regulation 12 of the Insolvency and Bankruptcy (Liquidation Process) Regulations 2016 (the Regulations) seeking claims from the stakeholders on or before 11th March, 2020.
4. The present Applicant was another Operational Creditor of the Corporate Debtor. The Corporate Debtor had issued orders for execution of the following works.
 - a. Barge and Tug Positioning with TMS systems services contract for installation of Riser Balcony in Iran vide order no. U-10004-PO-007 R1, dated 15th July, 2016.
 - b. “Barge Positioning and Pile Positioning Survey” contract for Basrah Gas Terminal Umm Qasr Jetty – Iraq vide Work

Order No. LO18/03.15/UNISON/GEO/I001/SC/jj dated 10th March, 2015; and

- c. “Geophysical Survey and Marine Geotechnical Investigation” for Reliance Industries Ltd. India Project as per scope of work attached with vide work/purchase order No. I0013-PO-001, dated 13th February, 2019.
5. The Corporate Debtor had executed the projects. An amount of US\$133,735.08/- remained outstanding towards the projects in Iran and Iraq (a & b) and an amount of Rs. 8,75,248/- (Eight Lakh Seventy-Five Thousand Two Hundred Forty-Eight) remained outstanding against the project at sea (Indian Project).
6. Meanwhile the Applicant came to know about the initiation of the CIRP of the Corporate Debtor. On 3rd June, 2020 the Applicant by an email submitted its claim before the Liquidator for payment of its dues. The Liquidator by an email of the even date declined to entertain the claim, the same having been filed beyond the time limit prescribed for it.
7. Thereafter, the Applicant filed the present Application. It is submitted in the Application that the Applicant was not aware of the public advertisement its failure to submit its claim before the Liquidator was thus neither deliberate nor intentional. It accordingly made the following prayers:

In view of the facts mentioned above, the petitioner prays Hon’ble President & Members of NCLT to condone the delay in filing the claim before IRP and request you to kindly direct the Resolution Professional to admit and consider the claim.
8. The Liquidator in her reply submitted that since the claim by the Applicant was made after the stipulated date, she could not accept the same. She however, would consider the same if the Tribunal so directs.
9. The Corporate Debtor has been put under liquidation. The liquidation process has not been completed. Considering the subsequential claim of the Applicant it would not be inappropriate to direct the Liquidator to consider the claim of the Applicant as per law. Besides no prejudice thereby would be caused to any side. Hence ordered.

ORDER

The Application be and the same is allowed on contest. The delay in submitting the claim by the Applicant with the Liquidator is condoned. The Applicant is directed to submit its claim in proper form within a period of two weeks hence. On receipt of the claim the Liquidator shall verify and consider the same in terms of the provisions of the Code and Regulations made there under. The Liquidator shall deduct Rs. 1,00,000/- (Rupees One Lakh only) from the admitted claim, if any, towards the cost of this Application and credit it to the account of the Corporate Debtor.

**Sd/-
(MOHAMMED AJMAL)
MEMBER JUDICIAL**

**Sd/-
(RAVIKUMAR DURASAMY)
MEMBER TECHNICAL**

Ankit