

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL  
COURT-V, MUMBAI BENCH**

**I.A. 2105 OF 2021**

**In**

**CP (IP) 3703 of 2019**

Under Section 60 (5) of the Insolvency and Bankruptcy Code, 2016 Read with Rule 11 of the National Company Law Tribunal Rules, 2016

**M/s. Rani Agro Private Limited**

..... Applicant

*Versus*

**Ms. Teen Saraswat Pandey**

... Respondent No. 1/ Resolution  
Professional

**Bank of Baroda**

... Respondent No. 2

**M/s. S and H Gears Private Limited**

... Respondent No. 3/ Corporate Debtor

**In the matter between**

**M/s. Rani Agro Private Limited**

..... Petitioner

*Versus*

**M/s. S and H Gears Private Limited**

.... Corporate Debtor

**Order Pronounced On: 10.07.2023**

**Coram:**

Hon'ble Shri Kuldip Kumar Kareer, Member (Judicial)  
Hon'ble Smt. Anuradha Sanjay Bhatia, Member (Technical)

**Appearances**

**For the RP:** Mr. Kunal Kanungoo, Ms. Tanushree Sogani and  
Mr. Atishay Jain Ms. Teena Saraswat Pandey

**For the CoC:** Mr. Akshaya Purthran

**For the Respondent:** Ms. Rathina Maravarman (R2)

***Per: Shri Kuldip Kumar Kareer, Member (Judicial)***

**ORDER**

1. The above captioned I.A. was filed by M/s. Rani Agro Private Limited (herein after referred to as "**Applicant/ Original Petitioner**") against Ms. Teena Saraswat Pandey (herein after referred to as "**Respondent No. 1/ Resolution Professional**"), Bank of Baroda (hereinafter referred to as "**Respondent No. 2/Bank**") and M/s. S and H Gears Private Limited (hereinafter referred to as "**Respondent No.3/ Corporate Debtor**").
2. The applicant in the present I.A. has prayed for the following reliefs:
  - a. That the Resolution Professional should be directed to admit the claim of the Bank, only to the extent acknowledged by the Corporate Debtor.

- b. The Bank should be directed to re-submit a revised claim only to the extent acknowledged by the Corporate Debtor.
- c. To declare that the Claim of the Bank is barred by the laws of limitation except to the extent acknowledged by the Corporate Debtor.

**FACTS OF THE CASE**

- 3. The Applicant had initiated Corporate Insolvency Resolution Process (“**CIRP**”), against the Corporate Debtor under Section 7 of the Code. The Applicant submits that the vide Order dated 09.01.2020 of this Bench, the Corporate Debtor was admitted in CIRP. Pursuant to the said Order the Interim Resolution Professional (“**IRP**”) had issued a Public Announcement inviting claims from the creditors of the Corporate Debtor. Consequently, the Respondent No. 2 (i.e. Bank of Baroda) as per Form-C filed its claim dated 31.06.2020 of an amount of Rs. 6,41,11,708/-. Later on, the Bank revised and resubmitted and revised its claim from Rs. 6,41,11,708/- to Rs. 8,51,87,112/-. Thereafter, the Bank further revised its claim from Rs. 8,51,87,112/- to Rs. 10,87,19,774.
- 4. The Applicant submits that the claim of the Bank is barred by time. The Bank had provided loans to the Corporate Debtor vide Sanction letter dated 18.12.1989 and the account of the Corporate Debtor was classified as a Non-Performing Asset (“**NPA**”) with effect from 31.03.2007. Moreover, to recall the said loan facility, the Bank had issued the first demand notice dated 04.06.2011 and, therefore, the Corporate Debtor was liable to repay its dues on or before 03.08.2011. The period of limitation had begun to run from 04.08.2011 and the same got expired on 03.08.2014. Hence, the Bank has lost the right to make any claim for

recovery of its dues on 03.08.2014. Therefore, the claim made is barred by the law of limitation.

5. The Applicant further submits that as per balance sheets of the Corporate Debtor, the outstanding amount with respect to the said loan provided by the Bank is around Rs.1,39,66,631/. Therefore, the claim of the Bank is ought to be considered only to the extent of abovesaid amount acknowledged in the Balance Sheets of the Corporate Debtor. This was intimated by the Applicant to the Resolution Professional and to the members of the CoC vide letters dated 14.06.2021 and 17.06.2021 but neither the CoC nor the Resolution Professional considered the objections raised by the Applicant in the CoC meeting held on 13.08.2021. Therefore, the present claim made by Bank ought to be rejected. Hence the application.

#### **REPLY OF THE RESPONDENTS**

6. The Resolution Professional and the Bank has filed an affidavit in reply controverting the allegations made in the Application.
7. The Resolution Professional in her reply has stated that the captioned application has been filed at a belated stage more particularly pursuant to publication of Form-G. Therefore, by way of the present application, the Applicant is attempting to derail the CIRP of the Corporate Debtor. The Resolution Professional further submits that the Interim Resolution Professional, has after examining the forms submitted and documents on record and by exercising his administrative powers and duties, admitted the claims of the Creditors of the Corporate Debtor.
8. On the other hand, the Respondent no. 2 (i.e. Bank of Baroda) in its reply has stated that the Bank had advanced the loan facility to the Corporate Debtor to the tune of Rs. 435 lacs against execution of several transaction documents. After initiation of the CIRP against the Corporate

Debtor, the Bank had initially submitted its claim of Rs. 6,41,11,708/- on 31.03.2020 as prescribed under Form – C to the Interim Resolution Professional which was admitted by the then Resolution Professional. Since the loan component was not calculated properly by the Bank, it had submitted a revised claim of Rs. 8,51,87,112/- and the said claim was finally revised to Rs. 10,87,19,774 and was submitted to the Resolution Professional. It is further stated that the Corporate Debtor had acknowledged its debt continuously from 2016 till 2020. Even though the account of the Corporate Debtor was classified as a Non-Performing Asset (“**NPA**”) on 31.03.2007 by the Respondent Bank, the SARFAESI Notice has been issued under Section 13(2) on 04.06.2009 and the Bank ever since has been pursuing measures under the SARFAESI Act. In addition to this, the Corporate Debtor had acknowledged only a part of the loan amount advanced by the Bank amounting to Rs. 1,08,60,164.20/- which is only a part of the outstanding. The Respondent submits that the outstanding interest amount w.e.f. 31.03.2007 was never crystallised by the Corporate Debtor in its Balance Sheets. Therefore, the claim amount submitted to the IRP/RP was based upon principal and interest outstanding in accordance with the loan documents.

### **FINDINGS**

9. We have heard the parties and perused the records.
10. The present Application was filed by the Applicant challenging the admission of the claim of Bank of Baroda of Rs. 10,87,19,774.78/- by the Resolution Professional. The CIRP of Corporate Debtor was initiated vide Order dated 09.01.2020 of this Bench. By way of the said Order, an IRP was appointed. Thereafter, the members of CoC resolved to appoint the Respondent no. 1 as the Resolution Professional of the Corporate

Debtor. Pursuant to that, the Respondent No.2 had submitted its claim initially for a sum of Rs. 6,41,11,708/-. The Respondent no.2 had revised its claim amount on two occasions from Rs. 6,41,11,708/- to Rs. 8,51,87,112/-. The claim was further revised from Rs. 8,51,87,112/- to Rs. Rs. 10,87,19,774/-. In this regard the Applicant had raised objections vide letters dated 14.06.2021 and 17.06.2021, was also objected to by the Applicant in the CoC meeting dated 13.08.2021.

11. On the other hand, the Resolution Professional has contended that the Applicant by filing the present Application is only trying to derail the CIRP of the Corporate Debtor. Furthermore, the Interim Resolution Professional had duly examined the documents and only thereafter admitted the claim of the Bank. Responding to the Application, the Ld. Counsel for the Respondent No. 2 i.e. the Bank of Baroda has pointed out that the acknowledgements issued by the Corporate Debtor pertained only to the principal amount which did not include the interest and, therefore, the claim of the Bank has been rightly accepted by the Resolution Professional.
12. Upon perusal of the record, it can be seen that it is an undisputed fact that the Bank had advanced loan facility to the Corporate Debtor in respect of which the default has been committed by the latter. It is a settled proposition of law that after the receipt of the claims, it is the duty of the Resolution Professional to verify the claims with regard to the exact amount due and in case, the RP comes across any fresh document or evidence, he can definitely vary or revise the amount of the claim admitted accordingly. In this regard, a reference can be made to Regulation 14(2) of the IBBI (Resolution Process for Corporate Persons) Regulations 2016.

13. Primarily, the grievance of the Applicant is that the claim amount of Bank of Baroda has been wrongly enhanced as the claim was time barred and the same was liable to be rejected. However, the Applicant has not been able to display or substantiate as to how the entire claim of the Bank admitted by the Resolution Professional was beyond the period of limitation. On the contrary, the Bank of Baroda in its reply has referred to and relied upon letters of acknowledgement of debt executed by the Corporate Debtor on 30.06.1997, 05.04.2000, 23.02.2001, 18.04.2003, 31.03.2006, 25.09.2008, 29.07.2011 and 31.03.2014 which have been annexed as Annexure-A with the reply by the Respondent No. 2. Considering the fact that the debt was acknowledged by the Corporate Debtor from time to time, it cannot be said by any stretch of imagination that the Resolution Professional has wrongly admitted or enhanced the claim of the Bank despite the debt being time barred. Even otherwise, the Applicant has no locus to maintain the IA at such belated stage especially when the Plan has already been approved by the CoC.
14. In view of the above discussion, we are of the considered opinion that the above captioned Interlocutory Application cannot be allowed and is accordingly **dismissed** being devoid of any merit.

**Sd/-**  
**Anuradha Sanjay Bhatia**  
**Member (Technical)**

**Sd/-**  
**Kuldip Kumar Kareer**  
**Member (Judicial)**