

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 134

IA/487(AHM)2021 in CP(IB) 72 of 2018

Order under Section 60(5) IBC,2016

IN THE MATTER OF:

Sidmark Sales Synergy LLP

V/s

Kailash Shah RP of Sterling LAM Ltd

.....Applicant

.....Respondent

Coram:

Madan B. Gosavi, Hon'ble Member(J)

Virendra Kumar Gupta, Hon'ble Member(T)

Order delivered on ..14/09/2021

PRESENTS:

For the Applicant :

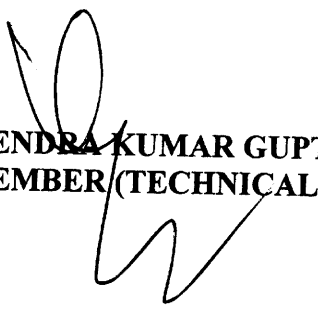
For the IRP/RP :

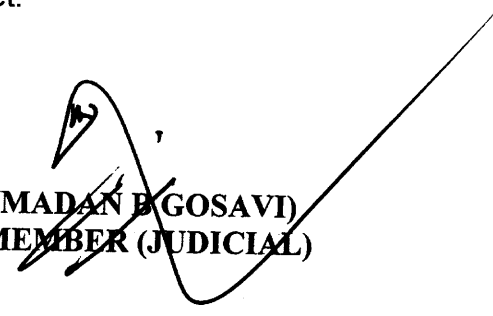
For the Respondent :

ORDER

The order is fixed for pronouncement of order.

The order is pronounced in the open court vide separate sheet.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B. GOSAVI)
MEMBER (JUDICIAL)

**BEFORE THE ADJUDICATING AUTHORITY
(NATIONAL COMPANY LAW TRIBUNAL)
AHMEDABAD BENCH
COURT-1**

IA No. 487 of 2021

In

C.P. No.(IB) 72 of 2018

(An application under Section 60(5) of the IBC, 2016)

In the matter of:

**Sidmark Sales Synergy LLP
Having Registered office at
5, Atur House,
Dr. Annie Besant Road,
Worli, Mumbai-4000018**

...Applicant

Versus

**Resolution Professional of
Sterling LAM Limited
Mr. Kailash Shah, CA,
Having its registered office at
505, 21st Century Business Centre,
Nr. World Trade Centre,
Ring Road, Surat, Gujarat- 395002.**

...Respondents

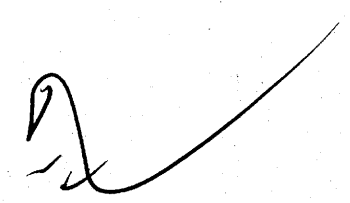
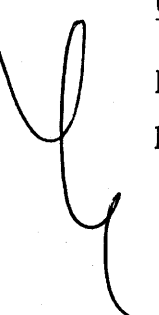
Order delivered on 14.09.2020

Order Reserved on 07.09.2021

Coram:

Mr. Madan Bhalchandra Gosavi, Member (J)

Mr. Virendra Kumar Gupta, Member (T)



Appearance:

Mr. Nilesh Udernanu, Adv. for the applicant.

Mr. Vinod Kumar Shah, PCS for the Respondent.

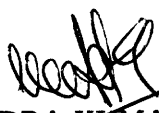
ORDER

[Per: Virendra Kumar Gupta, Member (T)]

1. Through this application the direction is being stated from this authority to admit the claim of the applicant.
2. The facts, in brief, are that the Corporate Debtor was admitted in to CIRP orders of this Authority date 10.11.2020. Form G was published on 30.01.2021 and claims were invited from the Borrowers and the stakeholders. The RP did not admit the claim due to delay in filing. Aggrieved by this, the applicant is before us. The Outstanding dues is Rs. 33,39,561/-.
3. It has been claimed by the applicant that due to lockdown in Maharashtra there was a delay in submissions of Form B which was filed with the RP on 09.06.2021 and through E-mail on 24.06.2021. Hence, considering the fact that the applicant's business has been severely suffered due to lockdown, and there being no other faults, this application may be allowed.
4. The Learned Counsel for the applicant appeared and narrated these facts and argued the matter at length for giving direction to the RP for admitting the claim of the applicant after condoning the delay.
5. On behalf of the RP it has been submitted that the IRP had published Form B on 20.11.2020 and details were supplied as per the provisions of IBBI (Insolvency Resolution Process for Corporate Persons) regulations, 2016. As per Regulation 12(2) the creditor is required to file his claim within 90 days of the commencement of the CIRP period which is mandatory and such period expires on 08.02.2021. It is also pleaded that the Expression of Interest has been published and the CoC considered the resolution plan so received. Hence, at such

belated stage if such claims are accepted, then resolution plan already received would become futile.

6. We heard both sides and considered the arguments and the documents placed on record. The IBC is a time bound process. All the Creditors are required to take note of such process being initiated against the concerned CD.
7. It is also to be noted that the time lines are mandatory For IRP/RP.
8. In the present case, admittedly, the claim has been filed belatedly and no plausible explanation has been given except ground of lockdown. In our view such plea is not valid, as online facilities/communications were going on and outstanding amount is definite and pertains to earlier period.
9. Further, Resolution Plan has already been received which is being considered by the CoC.
10. In these circumstances if such belated claims are permitted to be accepted then it would prejudice not only the interests of other creditors but may also provide opportunity to resolution applicants to withdraw from such process. Hence, the whole objects of IBC 2016 would get defeated. Accordingly, we reject this application.
11. This application is dismissed and disposed of accordingly.
12. Certified copy of this order, if applied, be issued to all the concerned parties upon compliance with all requisite formalities.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B. GOSAVI)
MEMBER (JUDICIAL)