



IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT – IV

I.A. No. 1784 of 2025

IN

C.P. (IB) No. 116/MB/2024

*[Under Section 60(5) of the Insolvency and
Bankruptcy Code, 2016 read with Rule 11 of the
NCLT Rules, 2016.]*

Securities and Exchange Board of India

... Applicant

Versus

**IPE- NPV Insolvency Professionals Private
Limited**

... Respondent

In the matter of

Reliance Commercial Finance Limited

...Financial Creditor

Versus

Medybiz Private Limited

...Corporate Debtor

Pronounced on: 14.10.2025

CORAM:

**SHRI ANIL RAJ CHELLAN
HON'BLE MEMBER (TECHNICAL)**

**SHRI K. R. SAJI KUMAR
HON'BLE MEMBER (JUDICIAL)**

Appearances: Hybrid

For the Applicant : Sr. Adv. Shiraz Rustom Jee, Adv. Nishit Dhruva,
Adv. Khusbhu Chajjed, Adv. Niyati Merchant &
Adv. Khushbu Trivedi



For the Respondent : Adv. Mily Ghoshal a/w Adv. Shweta Thanekar

ORDER

Per: Anil Raj Chellan, Member (Technical)

1. This Application has been filed by Securities and Exchange Board of India (SEBI), a Statutory Authority established under the provisions of the Securities and Exchange Board of India Act, 1992 (SEBI Act) challenging the decision of Resolution Professional (RP) of Medybiz Private Limited (Corporate Debtor) rejecting the claim of Rs.25,00,00,000/- plus interest at 1% per month as per the claim with proof filed in Form B on 24.10. 2024. The Applicant prays for the following reliefs:

“a. The Hon’ble Tribunal be pleased to set aside the decision of the Respondent vide email dated November 04, 2024 rejecting the Form -B, Proof of Claim with further directions to the Respondent to admit the claim along with interest @ 1% per month on the penalty amount of Rs.25,00,00,000/- (Rupees Twenty-Five Crores Only) from the date of the Order passed by the Applicant (August 22, 2024) in the Show Cause Notice proceedings till the admission of the present Claim;

b. Any further and other orders as this Hon’ble Tribunal may deem fit and proper in the given case and circumstances of the matter”.

2. Factual Background

- 2.1 The Applicant is a statutory body established under the Securities and Exchange Board of India Act, 1992 (SEBI Act) to protect the interests of investors in the securities market, to promote the development of and to regulate the securities market, and for matters connected therewith or incidental thereto.



- 2.2 The Applicant was in receipt of multiple complaints/reports alleging diversion/siphoning of funds of Reliance Home Finance Limited. As a result, an investigation was undertaken by the Applicant as per the SEBI Act and other allied Regulations.
- 2.3 Based on the investigation, an Interim Order cum Show Cause Notice dated 11.02.2022 was issued to the Corporate Debtor. In response to the same, the Corporate Debtor filed its reply to the Show Cause Notice on 27.01.2023, and a personal hearing was granted on 06.07.2023.
- 2.4 Pursuant to an Order dated 08.05.2024 passed by this Tribunal on a Company Petition filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 (Code) by Reliance Commercial Finance Limited, the Corporate Insolvency Resolution Process (CIRP) in respect of the Corporate Debtor was initiated, and the Respondent was appointed as the Interim Resolution Professional of the Corporate Debtor. Subsequently, the Respondent was appointed as the Resolution Professional (RP) of the Corporate Debtor.
- 2.5 After initiation of CIRP, the Respondent issued a public announcement on 11.05.2024 in Form A, calling upon the creditors to file their claims before the Respondent. The last date specified for submitting claims was 22.05.2024.
- 2.6 The Applicant passed its final order on 22.08.2024 in respect of the Show Cause Notice issued earlier against the Corporate Debtor and imposed a penalty of Rs.25,00,00,000/- under section 15HA of the SEBI Act and SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003 (SEBI Regulations). The Corporate Debtor was provided 45 days to remit the amount of the penalty. Subsequently, SEBI issued a corrigendum dated 30.08.2024. The said orders attained finality.
- 2.7 Since the Corporate Debtor was undergoing CIRP, the Applicant filed its claim with proof on 24.10.2024 with the Respondent for an amount of Rs.25,75,00,000/-.



2.8 The Respondent *vide* its email dated 04.11.2024 requested the Applicant for cessation of any ongoing claims or enforcement actions to remain in compliance with the moratorium declared under Section 14 of the Code and rejected the claim filed by the Applicant.

3. Submissions of the Applicant

3.1 It is submitted that the claim of the Applicant has arisen as a penalty pursuant to the violation of the SEBI Act and SEBI Regulations. Therefore, the claim is a statutory due.

3.2 The Applicant, being a quasi-judicial authority, has only passed an order determining the penalty for the violation of various provisions of the SEBI Act and SEBI Regulations. It is further submitted that during the moratorium, the authorities can take steps to determine the tax, interest, fines, or any penalty which is due and rely on the decisions of the Hon'ble Supreme Court in ***Sundaresh Bhatt, Liquidator of ABG Shipyard v. Central Board of Indirect Taxes and Customs [2022 SCC Online SC 1101]***. The Applicant submits that he has not taken any steps to enforce the claim for recovery of penalty due during the period of moratorium under Section 14 of the Code. Therefore, the RP has an obligation to ensure that the said penalty is included under the claim against the Corporate Debtor.

3.3 As per IBBI Circular No. IP/002/2018 dated 03.01.2018, which, *inter alia*, stipulates that a Corporate Debtor undergoing CIRP needs to comply with the provisions of the applicable laws (Acts, Rules and Regulations, Circulars, Guidelines, Orders, Directions, etc.) during such process. Thus, the RP is duty-bound to comply with the SEBI Act and the regulations framed thereunder. In case the RP is aggrieved by the order, he should have filed an appeal before the Securities Appellate Tribunal, but he has failed to do so, and the order of the Applicant has attained finality.



- 3.4 The Applicant submits that it will suffer irreparable loss and injury if the present application is dismissed.
- 3.5 The non-inclusion of the claim of the Applicant is bad in law as the same does not meet the requirements of Section 30(2) of the Code and will be contrary to the principle laid down in the case of ***Sales Tax Officer (1) v. Rainbow Papers Limited [2022 SCC Online 1162]***. Consequently, the Applicant seeks dismissal of the Resolution Plan submitted by the Respondent for approval.
- 3.6 It is also contended that the Resolution Professional has no adjudicatory powers to accept or reject the claim. His duty is only to receive, verify, and collate the claims, and hence rejection of the claim of the Applicant is unsustainable in law and on the facts. It is also submitted that the Applicant issued the Show Cause Notice on 11.02.2022, i.e., way before the initiation of CIRP on 08.05.2024. Thus, the corporate Debtor was completely aware of the ongoing proceedings under the Show Cause Notice.
- 3.7 The Applicant, by way of its additional affidavit dated 13.05.2025, submits that the Applicant filed the claim against the Corporate Debtor with a delay of 63 days. As per the order dated 22.08.2024, the Applicant had provided 45 days to the Corporate Debtor to remit the penalty amount. It is only when the RP failed to file an appeal against the order that the same became final and binding on the Corporate Debtor, i.e., on or before 08.10.2024. Subsequently, the Applicant filed the claim on 24.10.2024. Thus, it is evident that the claim with proof was filed within 17 days after the expiry of the aforesaid 45 days.
- 3.8 As regards the filing of this Application, it is submitted it was filed 133 days after rejection of the claim. It is submitted that this delay occurred on account of the multi-level managerial and administrative authorisations and finalisation of documents in the filing of legal proceedings. There is no specific period prescribed for filing the Application, and the Applicant, therefore, prayed for condoning the delay in the matter.



4. Submissions of the Respondent / RP

- 4.1 The Respondent has filed affidavit in reply dated 20.05.2025. It is submitted that the CIRP in respect of the Corporate Debtor was initiated, and the moratorium under Section 14 of the Code came into effect on 08.05.2024. However, the Penalty Order was passed by the Applicant on 22.08.2024, i.e., after the CIRP had commenced on 08.05.2024.
- 4.2 Any proceedings or penalty that culminates in a financial liability or penal consequence during the moratorium stands in clear breach of this statutory embargo. It is well established that actions taken in defiance of a statutory prohibition are nullities in law. As per the legal maxim *actus curiae neminem gravabit*, the orders passed without jurisdiction are *non-est* and can be ignored for all purposes. In other words, the order passed by the Applicant during the moratorium period is void *ab initio* and without jurisdiction.
- 4.3 The Applicant seeks to assert a claim based on a penalty order dated 22.08.2024, whereas the CIRP had commenced on 08.05.2024. As on the CIRP commencement date, the penalty had not been adjudicated, determined, or quantified. Consequently, it cannot be construed as a pre-existing debt or claim within the meaning of the Code. Thus, the regulatory penalties do not *ipso facto* qualify as operational debt under Section 5(21) of the Code. It neither qualifies as a 'debt' existing as on the insolvency commencement date nor as an 'operational debt' under Section 5(21), and cannot be considered as a valid claim for the purpose of CIRP. A claim that has not matured into a debt or was not in existence as on the commencement date cannot attain finality by mere passing of time or by operation of a post-commencement adjudication.
- 4.4 The Code is a complete code in itself, intended to provide a comprehensive and time-bound framework for insolvency resolution of corporate entities. To this end, Section 238 of the Code provides overriding effect to the provisions of the Code, notwithstanding anything inconsistent therewith contained in any other law for the



time being in force. In the light of the above provision, any action or proceedings initiated by the Applicant must yield to the Code in the event of any conflict or inconsistency between the two statutes. Therefore, the regulatory powers of the Applicant must be exercised in a manner consistent with the ongoing CIRP and the limitations imposed by the Code. In other words, SEBI's jurisdiction to impose post-commencement penalties or enforce claims during CIRP is subordinate to the overriding scheme of the Code.

- 4.5 The Respondent submits that he has acted strictly within the bounds of the statutory powers and duties conferred upon him under the Code. Therefore, the Respondent rightly declined to admit the claim of the Applicant on the basis that:
- (a) The claim was not adjudicated, determined, or crystallized as of the insolvency commencement date;
 - (b) The penalty arose from post-commencement regulatory action, thereby falling afoul of the moratorium under Section 14;
 - (c) The claim was in violation of the temporal cut-off and nature-based criteria prescribed by the Code for admissible debts.

The email communications between the Applicant and the Respondent demonstrate that the Respondent, on a timely basis, has responded to the communications of the Applicant. Thus, the Respondent has acted lawfully, judiciously, and strictly within the scope of his powers under the Code.

- 4.6 It can also be observed that there was no direct lending done by the Applicant to the Corporate Debtor. It is submitted that the Application is devoid of any merit and liable to be dismissed.

5. Analysis and decision

- 5.1 We have heard both the Ld. Counsel for the parties and perused the documents on record.
- 5.2 Recapitulating the facts of the present case, it is indisputable that the moratorium had come into play with effect from 08.05.2024, and the last date specified for



filing claims by the creditors was 22.05.2024. Subsequently, an order was passed by SEBI on 22.08.2024 based on a Show Cause Notice issued on 11.02.2022 and imposed a penalty of Rs. 25 Crore on the Corporate Debtor, which was to be paid within 45 days from the date of the said order. As the RP had neither preferred an appeal against the order nor paid the penalty amount, the Applicant filed its claim on 24.10. 2024, which the RP rejected.

5.3 The Applicant asserted that the authorities, such as SEBI, can take steps during the moratorium to determine the tax, interest, fines, or any penalty which is due, and relied on the decision of the Hon'ble Supreme Court in **Sundaresh Bhatt (supra)**. On the contrary, the Respondent/RP maintains that no proceedings can be initiated or continued by any person against the corporate debtor that culminates in a financial liability or penal consequence, during the moratorium. Therefore, the order passed by SEBI is without jurisdiction and is void *ab initio*.

5.4 In the case of **Sundaresh Bhatt (supra)**, the Hon'ble Supreme Court held as *under*:

“44. Therefore, this Court held that the authorities can only take steps to determine the tax, interest, fines, or any penalty which is due. However, the authority cannot enforce a claim for recovery or levy of interest on the tax due during the period of moratorium. We are of the opinion that the above ratio squarely applies to the interplay between the IBC and the Customs Act in this context.

45. From the above discussion, we hold that the respondent could only initiate assessment or reassessment of the duties and other levies. They cannot transgress such boundary and proceed to initiate recovery in violation of Sections 14 or 33(5) of the IBC. The interim resolution professional, resolution professional or the liquidator, as the case may be, has an obligation to ensure that assessment is legal and he has been provided with sufficient power to question any assessment, if he finds the same to be excessive.”

5.5 In view of the above decision, the real issue arising for our consideration is not the permissibility of the assessment during the moratorium, but the effect of the penalty imposed on the Corporate Debtor during the moratorium imposed by the Adjudicating Authority under Section 14 of the Code.



- 5.6 To arrive at our view, we need to first consider the scheme of the Code. Once an application for initiating the corporate insolvency resolution process is admitted, the Adjudicating Authority shall declare moratorium as per Section 14, and appoint an interim resolution professional who shall immediately make a public announcement of corporate insolvency resolution process with the last date for submission of claims by the creditors, as specified by IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP Regulations). Regulation 13 provides that the interim resolution professional or the resolution professional, as the case may be, shall verify every claim, **as on the insolvency commencement date**, within seven days from the last date of the receipt of the claims.
- 5.7 On receipt of claims, the interim resolution professional constitutes committee of creditors (CoC) and prepares information memorandum, which serves as a comprehensive document conveying significant information about the corporate debtor, including its assets and liabilities **as on the insolvency commencement date**, as are generally necessary for ascertaining their values. The resolution applicant then submits a resolution plan to the resolution professional, prepared on the basis of the information memorandum.
- 5.8 Although the statutory framework allows for the filing of claims after the time specified in the public announcement, only the liabilities that exist as on the insolvency commencement date are recognised. The insolvency commencement date refers to the date when the Adjudicating Authority admits an application to initiate the corporate insolvency resolution process. Therefore, any assessment/ determination of tax, interest, fines, or any penalty, that occurs after the commencement of the insolvency resolution process, regardless of whether it was initiated beforehand or pertains to a period prior to the insolvency commencement date, will not have a bearing on the resolution process of the corporate debtor under the Code.
- 5.9 In the present case, it is evident that SEBI passed an order on 11.02.2022 imposing a penalty of Rs. 25 Crore on the Corporate Debtor during the CIRP and the moratorium declared under Section 14 of the Code. As a result, the penalty



arose from regulatory action taken after the commencement of CIRP, which began on 08.05.2024, and does not impact the ongoing process.

- 5.10 Another aspect of this case that requires consideration is that the Applicant filed the claim on 24.10.2024 after approval of a resolution plan by the CoC on 08.10.2024. Although the claim was filed with a delay of 155 days from the date specified, the Applicant contended that the proof of claim was filed within 17 days after the 45 days specified under SEBI's order had expired, and the present Application was filed 133 days after the rejection of the claim. It is further submitted that this delay occurred due to the multi-level managerial and administrative authorisations, as well as the time required to finalise documents related to the filing of legal proceedings, which constitute sufficient grounds, as there is no specific period prescribed for filing the application.
- 5.11 The reasons stated by the Applicant for condoning the delay need to be considered in the light of the potential consequences of allowing such a belated claim. It has been observed that a resolution applicant has submitted a resolution plan based on the claims disclosed in the information memorandum, which has already received approval from the CoC. The resolution plan is presently pending approval of this Adjudicating Authority. A similar situation came up for consideration of the Hon'ble Supreme Court in *RPS Infrastructure Vs. Mukul Kumar and Ors.* [(2023INSC816)], wherein the following was held:
- "21. The mere fact that the Adjudicating Authority has yet not approved the plan does not imply that the plan can go back and forth, thereby making the CIRP an endless process. This would result in the reopening of the whole issue, particularly as there may be other similar persons who may jump onto the bandwagon. As described above, in Essar Steel, the Court cautioned against allowing claims after the resolution plan has been accepted by the COC."*
- 5.12 Applying the ratio of the above judgment to the facts of the present case, if any additional claims are allowed to be admitted, it would sabotage the entire CIRP, which is already complete. The resolution of the corporate debtor cannot be allowed to be derailed by a belated claim.



- 5.13 As a result, we are of the considered view that assessment / determination of tax, interest, fines, or any penalty, by any authority after commencement of the insolvency resolution process, will not have a bearing on the resolution process already initiated under the Code. Any claims arising from the proceedings that take place post commencement of CIRP cannot be considered as existing on the insolvency commencement date and do not impact the ongoing resolution process under the Code. Additionally, a belated claim cannot be admitted without considering the potential consequences it may have on the resolution process under the Code.
- 5.14 In view of the above, we do not find any merit in the Application, and there is no error in the decision of the Respondent rejecting the claim of the Applicant.
- 5.15 Accordingly, **IA. No. 1784/2025** is **rejected** and stands disposed of. No order as to costs.

Sd/-
ANIL RAJ CHELLAN
MEMBER (TECHNICAL)

Sd/-
K. R. SAJI KUMAR
MEMBER (JUDICIAL)