



NCLT INDORE BENCH
IA 94 OF 2025
In
CP(IB) 3 OF 2024
Dated: 12.12.2025

NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH
COURT NO. 1

ITEM No.203
IA(IB)/94(MP)2025
in
CP(IB)/3(MP)2024

Order under Section Sec 60(5) r.w Rule11

IN THE MATTER OF:

Kamlesh Agrawal

.....Applicant

V/s

Chaya Gupta RP M/s Greater Kailash Hospitals Pvt Ltd

.....Respondent

Coram:

Mr. Brajendra Mani Tripathi, Hon'ble Member(J)

Mr. Man Mohan Gupta, Hon'ble Member(T)

PRONOUNCEMENT ORDER

Delivered on 12/12/2025

The case is fixed for pronouncement of the order. The order is pronounced in open Court *vide* separate sheet.

Sd/-

MAN MOHAN GUPTA
MEMBER (TECHNICAL)

Neeraj

Sd/-

BRAJENDRA MANI TRIPATHI
MEMBER (JUDICIAL)



NCLT INDORE BENCH
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THE NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH

IA 94 OF 2025
in
CP(IB) 3 OF 2024

(An application under section 60(5) (c) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the NCLT RULES, 2016)

IN THE MATTER OF:

Kamlesh Agrawal

24, Yashwant colony, opposite
Yashwant Club, Indore

.....Applicant

Versus

Chaya Gupta,

RP of M/s Greater Kailash Hospitals Pvt. Ltd.
1, Bima Nagar, 202 Almas Dreams Apartment
Near Anand Bazar, Indore, M.P

..... Respondent

CORAM:

Hon'ble Shri Brajendra Mani Tripathi, Member (J)
Hon'ble Shri Man Mohan Gupta Member (T)



Appearance:

For the Applicant: Mr. Pratik Tripathi, PCS

For the RP: Mrs. Chaya Gupta (RP-in-Person)

For the Respondent: Ms. Rhytham Bhatt,

JUDGEMENT

Deliver on: 12.12.2025

1. The Present Interlocutory application has been under section 60(5)(c) of the Insolvency and Bankruptcy Code, 2016, seeking directions to the Resolution professional of the Corporate Debtor to consider and admit the claim submitted by the applicant.

Facts of the case:

2. The Applicant's case in brief:

- a) The averments of the applicant are that he had advanced a sum of Rs.5,00,000/- to the Corporate Debtor in June 2018 and that Cheque bearing number 800567 dated 07.02.2022 was issued by the Corporate Debtor towards the repayment of the said amount. It is further averred that upon presentation the Cheque was dishonored, following which Notice dated 24.02.2022 was issued to the Corporate Debtor but the Corporate Debtor failed to make payment so complaint no. SCNIA/2258/2022 under section 138 of the Negotiable Instrument Act was filed before the Hon'ble district court, Indore.



- b) It is further averred that during the said NI proceedings, the Corporate Debtor requested settlement and Demand Draft No. 000056 dated 20.02.2024 for Rs. 50,000/- was handed over towards part payment and thereafter a further Demand draft of Rs. 30,000 was also deposited and taken on record in the order sheet of Complaint no. SCNIA/2258/2022.
- c) The Applicant states that CIRP was initiated against the Corporate Debtor on 30.07.2024 and that he filed his claim in Form-C on 03.10.2024 along with supporting documents. The grievance of the Applicant is that his name was not reflected in the list of creditors uploaded on the website of the Insolvency and Bankruptcy Board of India and the status of his claim was not shown as accepted, rejected or under verification. It is further stated that, vide email dated 13.02.2025, the Respondent finally replied to the applicant's email dated 12.02.2025 that “there is no existing claim” of the Applicant against the Corporate Debtor.
- d) the Applicant reiterates that the Cheque was issued by the Corporate Debtor towards repayment of the loan and that during the District Court proceedings the Corporate Debtor itself sought settlement, thereby confirming the liability. It is urged that the rejection of the claim by the



erstwhile RP was erroneous and that the claim ought to be taken on record under the CIRP.

- e) During the pendency of the proceedings, the applicant amended the memo of the parties to reflect the substitution of the Resolution Professional from Mangesh Vitthal Kekre to Chaya Gupta, the amended memo is on record.

3. **REPLY BY RESPONDENT:**

- a) The Respondent has filed a reply opposing the Application. It is submitted that the public announcement stipulated 15.08.2024 as the last date for submission of claims whereas the Applicant lodged his Form-C only on 03.10.2024; therefore, the claim is delayed and, according to the Respondent, hit by Regulation 12(2) of the CIRP Regulations.
- b) The Respondent further submits that, even as per the Applicant's own version, the amount was paid in cash to the suspended director, Mr. Anil Bandi, in his personal capacity and not to the Corporate Debtor and that there is no document showing authorization by the Corporate Debtor to the said director to receive such amounts on its behalf. It is submitted that upon verification of the books of account, audited financial statements for the financial year 2023–24 annexed as Annexure R-1,



the ledger/creditor list and Tally data annexed as Annexure R-2, and the bank statements of the Corporate Debtor, no entry in the name of the Applicant exists.

- c) It is further stated that the alleged advancement does not satisfy the requirements of a financial debt under Section 5(8) of the Code, as there is no agreement, no interest component and no material evidencing consideration for time value of money, and that the alleged cash transaction is also stated to be in breach of the provisions of the Income-tax Act, 1961 regarding high-value cash transactions, in respect of which the Respondent has prayed that the matter be referred to the Income Tax Department. It is stated that reasons for non-acceptance of the claim were communicated to the Applicant through email dated 13.02.2025, wherein it was informed that there is “no existing claim” of the Applicant against the Corporate Debtor. On these grounds, it is submitted that the present Application is devoid of merit and liable to be dismissed.
- d) The Respondent has also placed reliance on the judgment of the Hon’ble Supreme Court in Pioneer Urban Land & Infrastructure Ltd. v. Union of India, (2019) 8 SCC 416, to submit that a financial debt must involve a commercial borrowing carrying an element of time value of



money, which, according to the Respondent, is absent in the alleged cash transaction.

- e) It is further submitted that the Corporate Debtor and its directors are distinct legal entities, and that a private financial transaction with a director cannot bind the Corporate Debtor in the absence of authorization or ratification by its Board. Reliance is placed on Salomon v. A. Salomon & Co. Ltd., (1897) AC 22 (HL), and on the judgment of the Hon'ble Supreme Court in State of Rajasthan v. Gotan Lime Stone Khanji Udhyog Pvt. Ltd., (2016) 4 SCC 469, in support of this contention.
- f) The Respondent also submits that the claim is delayed under Regulation 12(2) of the CIRP Regulations, placing reliance on the decision of the Hon'ble NCLAT in RP of Ashok Magnetics Ltd. v. Vinay Kumar Mittal, Company Appeal (AT) (Ins) No. 262 of 2020, to contend that delayed claims cannot be entertained unless the delay is condoned by the Adjudicating Authority.
- g) It is additionally submitted that the alleged cash payment of ₹5,00,000/- violates Section 269ST of the Income Tax Act, 1961, and reliance is placed on the judgment of the Hon'ble Supreme Court in P. Mohan raj & Ors. v. Shah Brothers Ispat Pvt. Ltd., (2021) 6 SCC 258, to submit



that insolvency proceedings cannot be used to validate or recover illegal or unproven cash transactions.

ISSUE:

Whether the claim submitted by the Applicant is liable to be admitted in the CIRP of the Corporate Debtor, and if so, under which category.

Analysis & Observation:

4. We have perused the documents and submissions placed on record. It is evident that Cheque No. 800567 dated 07.02.2022 was issued in favour of the Applicant and that a demand draft of ₹50,000/- dated 20.02.2024 was issued during settlement proceedings before the District Court and the order sheet placed on record also mentions a subsequent deposit of Rs. 30000/- dated 23.07.2024 towards the same liability. Once the issuance of a Cheque is shown, a statutory presumption arises under Section 139 of the Negotiable Instruments Act that it was issued in discharge of a liability unless rebutted; reference may be made to Rangappa v. Sri Mohan, (2010) 11 SCC 441.
5. At the same time, the RP has relied upon the audited financial statements, ledger/Tally data and bank records of the Corporate Debtor, none of which reflect the Applicant as a creditor. No document authorizing the suspended



director to receive funds on behalf of the Corporate Debtor has been shown.

These matters go to the nature and classification of the alleged debt.

6. On the aspect of delay, it is noted that although the Form-C was submitted on 03.10.2024, beyond the last date mentioned in the public announcement, it was filed within ninety days from the Insolvency Commencement Date (30.07.2024). In view of the first proviso to Regulation 12(2) of the CIRP Regulations, the claim cannot be rejected solely on the ground of delay.
7. As regards the submission that the alleged cash transaction may attract the bar under Section 269ST of the Income Tax Act, 1961, it is observed that such aspects fall outside the scope of determination in the present proceedings. This Tribunal is only concerned with whether the claim can be admitted under the CIRP and any issue arising under the Income-tax Act may be dealt with by the competent authority in accordance with law.
8. At this stage, the material placed before the Tribunal is not sufficient to conclusively determine whether the amount in question constitutes a “financial debt” under Section 5(8) of the Code or otherwise. Accordingly, the Tribunal considers it appropriate to leave this issue to the wisdom of the RP, who shall decide the claim after granting reasonable opportunity of hearing to the Applicant and upon examination of the entire record.



ORDER

9. In view of the above discussion, the Interlocutory Application is allowed with a direction to the Resolution Professional shall reconsider the Applicant's claim afresh after granting a reasonable opportunity of hearing to the Applicant and upon examining all documents placed on record, including those relating to the District Court proceedings.
10. Upon such reconsideration, the Resolution Professional shall record the reasons for acceptance, rejection, or classification of the claim and shall communicate the same to the Applicant in terms of Regulation 13 of the CIRP Regulations, 2016.
11. Accordingly, **IA No. 94 of 2025** in CP IB 3 of 2024 is **allowed** and disposed of.

Sd/-

MAN MOHAN GUPTA
(MEMBER TECHNICAL)

Deepthi LRA

Sd/-

BRAJENDRA MANI TRIPATHI
(MEMBER JUDICIAL)