

**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
MUMBAI BENCH-I**

**IA No. 2135/MB/C-I/2020**

**In**

**C.P (IB) No.3025/MB/C-I/2019**

An application under Section 60(5) of the Insolvency and  
Bankruptcy Code, 2016  
Filed by

**Commercial Tax & G.S.T. Officer, C.T. & G.S.T.  
Circle, Bhubaneswar -III, Bhubaneswar, Odisha**

In the matter of  
**State Bank of India**

**...Financial Creditor**

Versus

**Reliance Communication Infrastructure Limited**

**... Corporate Debtor**

**Order Pronounced on: 08.09.2023**

***Coram:***

Hon'ble Member (Judicial) : Justice V. G. Bisht (Retd.)  
Hon'ble Member (Technical) : Mr. Prabhat Kumar

***Appearances:***

For the Applicant : Mr. Anand Daj, Advocate  
For the Respondent : Mr. Rishab Jasani, Advocate.

**ORDER**

***Per: Justice V.G. Bisht, Member (Judicial)***

1. The present Application is filed by Commercial Tax & G.S.T. Officer, Bhubaneswar, Odisha. The following reliefs are sought by the Applicant:
  - i. Condonation the delay in filing proof of claim in Form B with the Resolution Professional.
  - ii. Direct the Resolution professional to process the claim submitted by the Applicant Tax Department.

**Backdrop of facts**

2. The Corporate Debtor (Reliance Communication Infrastructure Limited) was admitted in CIRP vide Order dated 25.09.2019 and Mr. Anish Nanavaty i.e. the Respondent herein was appointed as the Resolution Professional. Subsequently, the Resolution Professional made a public announcement on 28.09.2019 in newspapers in terms of Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons), 2016. In the said public announcement, the last date for submission of claims by creditors was 12.10.2019.
3. The Applicant submits that as per the Orissa Entry Tax Act, 1999 and Orissa Value Added Tax Act, 2004 the Corporate Debtor was assessed for the period from 01.04.2005 to 31.03.2008 and tax demands were raised. The assessment orders and demand notice passed by the tax

authorities are both dated 31.03.2010. Further, the Corporate Debtor preferred an appeal against the assessment orders which was rejected by the office of the Additional Commissioner of Commercial Taxes (Appeal), South Zone, Berhampur vide Order dated 28.07.2016.

4. The Applicant submits that the outstanding liabilities of the Corporate Debtor amounts to Rs.28,85,622/-. The Applicant submits that various demand notices in the year 2019 were issued, however no payment was made. Subsequently, the Applicant assessing officer once again vide notices dated 03.12.2019 and 10.06.2020 demanded payment of the outstanding tax dues.
5. The Applicant has filed its claim in Form B on 10.08.2020 along with application explaining reasons for delay. The resolution professional has not replied either admitting or rejecting the claim.
6. The reasons assigned by the applicant for delayed submission of claim is that they came to know about CIRP proceedings against the Corporate Debtor sometime in July,2020. The Applicant submits that the Corporate Debtor conducts material business operations in Odisha and the Resolution Professional should have made public announcement in regional newspapers in Odisha.
7. The Applicant states that on 23.03.2020 nation-wide lockdown was imposed due to Covid-19 pandemic, the normal functioning of the office of the Applicant was affected and accordingly, the applicant could not

submit the claim within time.

8. The Resolution Professional has neither replied to the proof of claim submitted by the Applicant nor has he admitted the claim. Hence, the present application is preferred by the Applicant.
9. The Respondent/Resolution Professional has not filed affidavit-in-reply to the present Application. Accordingly, we are deciding the matter on the basis of the records available with us and the arguments advanced by the Ld. Counsel for both sides.

**Findings and Directions:**

10. Upon perusal of records, it is observed that the claim is filed on 10.08.2020 by the Applicant. As per Regulation 12(2) of CIRP Regulations, 2016 the maximum time available for submission of claim is till ninetieth day from insolvency commencement day. It is undisputed that the plan was approved by the CoC on 30.08.2021 and the Application for approval of resolution plan was filed before this Tribunal on 31.08.2021.
11. It is pertinent to note that the assessment orders passed by the Tax Authorities are dated 30.03.2010 for the tax periods 2005-2006. Moreover, the demand notices are also dated 31.03.2010 which is clearly before the initiation of CIRP of the Corporate Debtor. Further, show cause notice dated 03.12.2019 bearing reference no 8850/CT for payment of withheld of entry tax along with revised interest was sent to

the Corporate Debtor.

12. Further, the Corporate Debtor has assailed the assessment orders before Additional Commissioner of Commercial taxes, (Appeal), south zone, Behrampur, the said assessment orders were confirmed and the appeal was dismissed vide order dated 28.07.2016.
13. It is observed that the tax dues for the period of 2004-2005 were assessed in the year 2010, which is much before the CIRP was initiated. The said dues ought to have appeared in the books of accounts of the Corporate Debtor under the head of contingent liability. The Resolution Professional was duty bound to include the dues owed to tax department in the information memorandum and ensure that their dues get due treatment under the Resolution Plan.
14. However, the resolution professional has failed to considered statutory tax dues which have arisen prior to the CIRP of the Corporate Debtor. Therefore, to secure the ends of justice the Resolution Professional is directed to examine the claim of the Applicant from the books of accounts of the Corporate Debtor. If the details are reflected in the record of the Corporate Debtor, then Resolution Professional shall forward the claim of the Applicant to the Resolution Applicant, on the basis of which Resolution Applicant shall prepare an addendum to the Resolution Plan, which may be placed before the CoC for consideration.

15. The addendum along with the minutes of CoC meeting shall be placed before this tribunal at the time of approval of plan.
16. With the aforesaid observation, **IA No. 2135 of 2020 in CP(IB) No. 3025/MB/C-I/2019** stands disposed of as **allowed**.

**Sd/-**

**PRABHAT KUMAR**  
**MEMBER (TECHNICAL)**

08.09.2023

Priyal

**Sd/-**

**JUSTICE V.G. BISHT**  
**MEMBER (JUDICIAL)**