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NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH - I
CHENNAI

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI
NATIONAL COMPANY LAW TRIBUNAL, HELD AT 10.30 AM ON 28-02-2020

PRESENT: SHRI R.VARADHARAJAN, MEMBER-JUDICIAL
SHRI ANIL KUMAR B, MEMBER - TECHNICAL

APPLICATION NUMBER : IA/(IB)/143/2020 IN
PETITION NUMBER : CP/39/IB/2018
NAME OF THE PETITIONER(S) : GIMPEX PVT LTD
NAME OF THE RESPONDENT(S) : TIFFIN'S BARYTES ASBESTOS & PAINTS LTD
UNDER SECTION : SEC 60(5) (A) & (B) OF IBC

S.No.	NAME (IN CAPITAL)	DESIGNATION	SIGNATURE
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REPRESENTATION FOR WHOM

1)	K. Moorthy	Counsel for RP	V
2)	Revathi R. Mannivan	Counsel for petitioners	Ant

ORDER

An Application filed in IA(IB)/143/2020 in CP/39/IB/2018 by the Applicant seeking for the following relief:-

“To condone the delay of 57 days in filing the claim form by M/s. Gimpex Private Ltd before the Resolution Professional under Section 60 (5) (a) and (b) of IBC and thus render justice.”

The Application filed in IA(IB)/145/2020 in CP/39/IB/2018 by the Applicant seeking for the following relief:-

“To direct the Resolution Professional to consider the claim dated 24.10.2019 filed by M/s. Gimpex Private Ltd before the Resolution Professional under Section 60 (5) (a) and (b) of IBC and thus render justice.”

Both the Applications are in relation to the claim as made by the Applicant seeking for the direction that the Resolution Professional to consider the same and to condone the delay in filing the claim. During the course of submissions made by Counsel for the Applicant, it is represented by Learned Counsel for the Applicant that the Applicant in the above Applications had not been sent with the notice either by the Corporate Debtor or by the IRP appointed by this Tribunal of the fact of the initiation of the CIRP in relation to the Corporate Debtor, the Applicant failed to lodge the claim with the RP. However, by the time it came to know that the CIRP has been initiated in relation to the Corporate Debtor, it found that the Resolution Plan has been approved for the Resolution of the insolvency of the Corporate Debtor. It is



also brought to the notice of this Tribunal that during the course of submissions by Learned Counsel for the Applicant that even though the Resolution Plan has been approved by this Tribunal, the same stands stayed by the Hon'ble NCLAT in the matter which is pending before the Hon'ble NCLAT and hence the claim can be accepted.

Learned Counsel for the RP is also present and takes notice of these Applications, It is represented by Learned Counsel for the RP that it is unnecessary for the IRP / RP to put an individual notice about the initiation of the CIRP to the Creditors concerned, as a public notice has already been issued upon admission of this Petition as required under the provisions of IBC, 2016 which acts as a notice to all concerned and hence an individual notice is not required to be served. It is also represented that the date of commencement of the CIRP is from the date of admission of the Petition by this Tribunal and by virtue of the publication of notice as brought to the notice of this Tribunal under the specific provision for the IRP calling for lodging of the claim which the Applicant has failed to do within time and in view of, particularly Resolution Plan approved by the Committee of Creditors and also thereafter approved by the Tribunal, a hydra head cannot be allowed to pop up at this late stage as held by the Hon'ble Supreme Court of India in the matter of Committee of Creditors of Essar Steel India Limited Versus Satish Kumar Gupta & Ors. in the Civil Appeal No.8766-67 OF 2019 Diary No.24417 of 2019 and hence in relation to the late claims lodged which have not been factored by the RP prior to the approval of the Resolution Plan by the successful Resolution Applicant. *cannot be entertained.*



In the circumstances, taking into consideration the facts and now well established position of Law we are not in a position to entertain the Applications for the reliefs as sought for in the Applications and hence constrained to **dismiss** these Applications, however, without cost.

-SD-

(ANIL KUMAR B)
MEMBER (TECHNICAL)

-SD-

(R.VARADHARAJAN)
MEMBER (JUDICIAL)