

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
DIVISION BENCH
COURT - 1



ITEM No.6

IA/533(AHM)2021 in CP(IB) 563 of 2018

Order under Section 60(5) r.w rule 11 of NCLt rules 2016

IN THE MATTER OF:

SKIL Shipyard Holdings Pvt Ltd

.....Applicant

V/s

Chandra Prakash Jain RP of E-complex Pvt Ltd

.....Respondent

Order delivered on: 18/10/2023

Coram:

Mr. Shammi Khan, Hon'ble Member(J)

Mr. Kaushalendra Kumar Singh, Hon'ble Member(T)

PRESENT:

For the Applicant :

For the Respondent :

ORDER

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

-SD-

KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)

-SD-

SHAMMI KHAN
MEMBER (JUDICIAL)



BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH

COURT-1

IA/533(MP)2021
in

[CP(IB)/563/9/AHM/2018]

IA/533(MP)2021

(An application under Sec. 60(5) of IBC, 2016 r.w. Rule 11 of the NCLT Rules, 2016)

SKIL Shipyard Holdings Pvt Ltd

SKIL House, 209, Bank Street Cross Lane
Fort, Mumbai-400 023.

...Applicant

Versus

Mr. Chandra Prakash Jain

Interim Resolution Professional of
E-Complex Private Limited,
D-501, Ganesh Meridian,
Opp. Gujarat High Court,
S.G. Road, Ahmedabad-380 060.

.....Respondent No. 1

In the main matter of: [CP(IB)/563/9/AHM/2018]

(Under Section 9 of the Insolvency and Bankruptcy Code, 2016)

AP Securitas Private Limited,

Building No. 10, DDA Commercial Complex,
Nangal Raya, New Delhi-110 046.

..... Operational Creditor

Versus

E-Complex Private Limited,

Survey No. 658, Village: Rampara II,
Taluka Rajula, Gujarat 363 560.

..... Corporate Debtor

Order Pronounced On:18.10.2023



Coram: Sammi Khan, Member (J)
Kaushalendra Kumar Singh, Member (T)

Appearance:

For Applicant : Mr. Saurabh Soparkar, Sr. Adv. a/w Mr. Monaal Davawala, Adv. Mr. Maulik Nanavati, Adv. (Sr. No. 117-118)

For Respondent: Ms. Hirva Dave, Adv. for Mr. Jaimin Dave, Adv.

For the CoC : Mr. Manish Bhatt, Sr. Adv. a.w.
Mr. Yuvraj Thakore Adv.

For the RA : Mr. Rashesh Sanjanwala, Sr. Adv. a.w. Mr. Kunal Vaishnav Adv.

ORDER

1. The present application has been filed by the applicant **SKIL Shipyard Holdings Pvt Ltd** against the rejection of its claim amounting to Rs 9,90,30,500/- in entirety by the Resolution Professional (**'RP'**) of E-Complex Private Limited. The break-up of the claim as mentioned in the application is under:

Sr. No.	Nature of Claim	Amount
1.	On account of long-term borrowings to the Corporate Debtor for the year (2015-2016)	30,00,000
2.	On account of unsecured loan made to the Corporate Debtor for the year (2015-2016)	9,50,00,000
3.	On account of reimbursement of stamp duty paid	10,30,500
	Total:	9,90,30,500

2. The applicant is one of group companies of SKIL Group which were erstwhile promoters of Reliance Naval and Engineering Ltd (**'RNEL'**) (then known as Pipavav Defense & Offshore Engineering Ltd) and its 100 % of subsidiaries including the corporate debtor herein. As such the applicant is a related party of the corporate debtor.

3. It is submitted that the applicant is entitled to recover its dues amounting to Rs 9,90,30,500/- with interest @ 16 % per annum from the date of payment by the applicant until realisation; that its claim is reflected in the



books of accounts of the corporate debtor, which are duly audited by the statutory auditor. It is also submitted that the Respondent/RP has failed to give any cogent reasons whatever for rejecting its claim. In the context, the applicant is seeking relief praying for quashing and setting aside the letter of rejection dated 3rd July 2021 issued by the Respondent/RP and to allow and admit its entire claim as financial debt and to direct the Respondent/RP to re-constitute the CoC by assigning the proportionate voting share to the applicant.

4. In the reply furnished by the RP, it has been stated that following the initiation of CIRP of the corporate debtor vide Adjudicating Authorities order dated 09.12.2020 in CP(IB) 563 of 2018, the RP had made a public announcement and invited claims from various class of creditors of the corporate debtor. The RP submits that on 18.02.2021, he did receive a claim from the applicant amounting to Rs 9,90,30,500/- along with 16% interest thereon. However, the due clarification, which was sought as per his letter dated 14.04.2021 was not given by the applicant. The major three issues on which clarifications they sought were as under:

(i) *As per the ledger received from E Complex Pvt. Ltd. for FY 2014-15, there is loan given by your company amounting to Rs 9.50 Crores and balance outstanding as on 31.03.2015 is Rs 9.50 Crores. But in FY 2015-16 you have made another Payment of Rs 10,30,500/- which as claimed by you is reimbursement of stamp duty expenses, but the amount is not shown in the books of accounts of the company.*

(ii) *Also in FY 2015-16, as per the ledger provided by E Complex Pvt Ltd on 28.12.2015 there is payment of Rs. 69.70 Crores passed by Journal entry and again on 31.12.2015 there is receipt of Rs. 70 Crores, thus the net receipt of Rs. 0.30 crore is included in the loan balance as on 31.03.2016 as per books of E Complex Pvt. Ltd outstanding to you is Rs. 9.80 Crores. But as per ledger provided by you balance as on 31.03.2016 is Rs. 9.60 Crores. Please clarify the difference.*

(iii) *As per Ledger provided by E Complex Pvt Ltd for FY 2016-17 there is no transaction in the FY 2016-17 and the balance as on 31.03.2017 is Rs 9.80 Crores only. But as per Ledger of FY 2016-17 provided by you the journal entry of Dec-2015 is passed in your books in Sep-16 and Mar-17. Please clarify the difference.*



The RP submits that the applicant vide its letter dated 25.05.2021 had provided clarification only with regard to point no. (i) & point no. (iii) and conveniently ignored the major issue as mentioned in point no. (ii) regarding, the adjustment of Rs 0.30 crores done through passing the journal entries. The RP also submits that vide reminder letter dated 29.05.2021, he had again sought clarification with regard to the issue in point no. (ii), since it was a high-value transaction entered into between the applicant and the corporate debtor. In the context, it is stated that as per the ledger provided by the suspended management, it was found that the corporate debtor had made an adjustment by journal entry on 29.12.2015 by the loan account of the applicant with Rs 69.70 crores seemingly against old dues outstanding towards borrowed unsecured loans; and therefore, immediately on 30.12.2015, another journal entry of Rs 70 crores was found crediting the loan account of the applicant; and thereupon, he had sought the nature of such transaction entry in order to understand and estimate the amount claimed as an unsecured loan of the applicant.

5. The RP also submits that the applicant, **(SKIL Group)** remained the promoter of the corporate debtor till 18.01.2016 and the aforementioned transaction was entered during the said period; and for that reason he insisted on thorough clarification before admissions of its claim. However, no reply to the said letter has been provided by the applicant.

6. We have heard learned sr. counsels of both sides. It is noted that the applicant had not given due clarification as regards the nature of debit entry amounting to Rs 69.70 crores and credit entry of Rs 70 crores as referred to in point no. (ii) above. In the absence of due clarification, it would be appropriate to reject the claim of the applicant to the extent of balancing figure i.e. Rs 30,00,000/- only. However, there is no cogent reason to deny the claim in entirety. At the most another claim of Rs 10,30,500/- could also be rejected as the same was not shown in the books of account of the corporate debtor. But the claim of Rs 9,50,00,000/- ought to have been admitted. Having considered the entire facts of the case, we direct the RP to consider the claim of the applicant to the extent of Rs 9,50,00,000/-.



7. Thus, the applicant was the erstwhile promoter of the **RNEL** & its 100% subsidiaries companies including corporate debtor and held substantial shares of **RNEL** and corporate debtor even after, the control was shifted to **Reliance Group** at the relevant time. Moreover, the loan was taken when the **SKIL Group** was promoter. Thus, the applicant, is to be treated as a related party, and we agree with the view of the RP in that regard. As such the applicant being a related party cannot be taken as a member of the CoC.

8. Accordingly, **IA 533 of 2021** stands partly **allowed** and **disposed of**.

-SD-

Kaushalendra Kumar Singh
Member (Technical)

-SD-

Shammi Khan
Member (Judicial)

Neeraj Gupta/Steno