



SL. No.2

**NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH  
COURT HALL NO: II**

**PHYSICAL HEARING**

**CORAM: JUSTICE TELAPROLU RAJANI- HON'BLE MEMBER (J)  
CORAM: SHRI. CHARAN SINGH - HON'BLE MEMBER (T)**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,  
HYDERABAD BENCH, HELD ON 09.08.2023, At 02:30 PM**

<b>TRANSFER PETITION NO.</b>	
<b>COMPANY PETITION/APPLICATION NO.</b>	<b>IA (IBC)/114/2023 in CP (IB) No.224/9/HDB/2021</b>
<b>NAME OF THE COMPANY</b>	<b>Cura Technologies Ltd</b>
<b>NAME OF THE PETITIONER(S)</b>	<b>Alphasoft Technologies, Inc</b>
<b>NAME OF THE RESPONDENT(S)</b>	<b>Cura Technologies Ltd</b>
<b>UNDER SECTION</b>	<b>9 of IBC</b>

**ORDER**

**IA (IBC)/114/2023**

This application is allowed, vide separate orders.

**Sd/-  
MEMBER (T)**

**Sd/-  
MEMBER (J)**



**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**HYDERABAD BENCH - II**

**IA No.114/2023 in**  
**CP(IB) No. 224/9/HDB/2021**  
**U/s. 60(5) of IB Code, 2016**

**Between:**

Union Bank of India,  
Stressed Assets Management Branch,  
Andhra Bank Building,  
3<sup>rd</sup> Floor, Sultan Bazar, Koti,  
Hyderabad – 500 001.

.... Applicant

Vs

Mr. M. Madhusudhana Reddy,  
MMR Lion Corp, 4<sup>th</sup> Floor,  
HSR Eden, Beside Cream Stone,  
Road No.2, Banjara Hills,  
Hyderabad – 500 034.

.... Respondent/RP

**In the matter of:**

M/s. Alphasoft Technologies INC,  
Plot No.202, Gensis Apartment,  
Street No.4, Nallakunta,  
Hyderabad – 500 044.

.... Operational Creditor

Vs.

M/s. Cura Technologies Limited,  
#12, Software Units Layout,  
Cyberabad,  
Hyderabad – 500 081.

.... Corporate Debtor

**Date of order: 09.08.2023**

**CORAM:**

Hon'ble Justice Smt. Telaprolu Rajani, Member (Judicial)

Hon'ble Sri Charan Singh, Member (Technical)



**Counsels present:**

For the Petitioner : Mr. P.B.A. Srinivasan, Advocate

For the Respondent : Mr. Y. Suryanarayana, Advocate

Heard on : 24.07.2023

**[PER: BENCH]  
ORDER**

1. This application is filed by the Applicant, Union Bank of India, seeking to condone the delay in submitting the claim to the Insolvency Resolution Professional (IRP) in response to the public announcement and to direct the IRP to admit the claim of the Applicant Bank.
2. The reasons for the delay as stated in the application are;
  - a. That the Applicant came to know about the Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor (CD) approval of Resolution Process by CoC and its pendency with the Adjudicating Authority for approval, through Shri Gopu Bal Reddy, one of the Directors of it, when they came to discussion on OTS, on 05.11.2022. On receipt of information from said Shri Gopu Bal Reddy, the Applicant Bank immediately submitted its claim for



Rs.8,73,86,796.81 as on 16.03.2022 together with applicable interest, penal interest and other charges, in Form C.

- b. The IRP, vide letter dated 15.11.2022, informed that the claim of the Applicant Bank was rejected, as it was received after the period of 90 days from the date of commencement of CIRP in terms of Regulation 12(2) or after the approval of Resolution Plan.
- c. The public announcement for initiation of CIRP and inviting claims from creditors was published in the Financial Express and Nava Telangana on 12.04.2022, both of which do not have wide circulation in Hyderabad and the public announcement was never communicated to the Applicant by the IRP. IRP failed in his duty to inform the Applicant Bank that the CD was admitted into CIRP, thereby causing grave prejudice. After admission of CIRP, IBC, 2016 casts upon the IRP an inherent duty to inform the Financial Creditors of the CD regarding initiation of CIRP.
- d. As per Section 17(d) of IBC, the financial institutions maintaining the accounts of the CD shall act on the instructions of the IRP in relation to such accounts and furnish all information relating to the CD available with them to the IRP. Section 18(1)(a) casts upon the IRP duty to collect all information relating to the assets,



finances and operations of the CD for determining the financial position of the CD, including information relating to financial and operational payments for the previous two years.

- e. Regulation 6A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 provides that;

*“IRP shall send a communication along with a copy of public announcement made under Regulation 6, to all the creditors as per the last available books of accounts of the CD through post or electronic means wherever the information for communication is available.”*

The legislative intent of the said provision is, to ensure that the creditors are not deprived of their legitimate claim, which is essential for the revival of the CD.

- f. The Applicant is a Public Sector Bank and as such is a guardian and depository of public money, hence its interests also furthers the spirit and objective of IBC. Hence, this application.
3. The Respondent filed Counter, contending that the Application is not maintainable and further contending that the CoC has approved the Resolution Plan which was submitted for approval before this Tribunal. The RP has complied with making paper publication, but the Applicant is not vigilant. The Applicant had sent an email to the Resolution Professional enclosing Form C, on



10.11.2022 and the same was received after the approval of the Resolution Plan by the CoC Members and after filing the Application before this Tribunal.

- a. As per Regulation 12(2) of the CIRP, a creditor may file the claim before the RP on or before ninetieth day from the insolvency commencement date. Hence, the RP has rightly rejected the claim. The Applicant Bank has a dedicated team of Officers for attending matters pertaining to Insolvency and Bankruptcy Code.
  - b. Regulation 6A came into effect from 16.09.2022, hence, it is not applicable to this case, as the CIRP was initiated on 16.03.2022. The RP has duly followed the provisions of the Code, hence, the Application is liable to be dismissed.
4. A rejoinder is filed by the Applicant contending that, according to the judgement of the Hon'ble NCLAT, the extinguishment of claim of creditors shall happen only after approval of Plan by the Adjudicating Authority and there is no extinguishment of claim of creditors on approval of Plan by the CoC. Regulation 12 of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 is only directory and not mandatory. The other contents are the reiteration of the Application.



5. Heard both the Counsel. The fact remains that the publication for EoI was made in Newspapers which do not have wide circulation. As per the Audit Bureau of Circulations, the papers in which the publication was carried out in this case are not in the list of highly circulated newspapers. The contention of the Counsel for the Respondent is that, an email was also sent to the Bank, for which, the Counsel for the Applicant submits that, since a merger took place between the Andhra Bank and the Union Bank and as this Account pertains to Andhra bank, they could not look at the email and the process of merger was going on, due to which, the Officers could not know about the email. The other contention of the Counsel is that, according to Regulation 6A, the RP has to inform all the Financial Creditors and get information from them.
  
6. The Counsel for the Respondent submits that, as per the statement as on 02.11.2012, the brought forward balance was zero in respect of the Applicant Bank and hence, he did not inform the Applicant. But, the Bank Statement furnished by the Respondent would show that, there were transactions even subsequent to 02.11.2012, for which, the Counsel for the Respondent submits that there was no credit balance. He also



contends that Regulation 6A is not applicable, since it came into effect subsequent to the date of commencement of CIRP. Even if Regulation 6A was not there on the date of CIRP, the RP as a part of his duty to get complete information from all the Creditors, is expected to inform all the Creditors, about whom he has knowledge, in order to have an effective CIRP. As rightly contended by the Counsel for the Applicant, the approval of the CoC with regard to the Resolution Plan cannot be a ground to reject the Application.

7. Considering all the above facts and circumstances, we are inclined to condone the delay of the Applicant in submitting his claim to the RP. The RP shall receive the claim and collate and admit in accordance with Law.

**Sd/-**

**(CHARAN SINGH)  
MEMBER (TECHNICAL)**

**Sd/-**

**(JUSTICE TELAPROLU RAJANI)  
MEMBER (JUDICIAL)**

**VL**