

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH
COURT NO. III

IA- 1009/2022
in
(IB)-1768(ND)2018

In The Matter Of
Sanjay Malik & Ors

Celestial Estate Private Limited.

versus

.....Financial Creditor

And

....Corporate Debtor

In The Matter Of
Rakesh Duggal & Anr.

versus

.....Applicant

M/s H.S. Oberoi Buildtech Pvt. Ltd.

.....Resolution Applicant/Respondent

Order reserved on: 13.04.2022
Order pronounced on: 24.05.2022

Coram:

Sh. Bachu Venkat Balaram Das : Member (Judicial)
Sh. Virendra Kumar Gupta : Member (Technical)

Appearances (via videoconferencing):

For Applicant : Mr. Gagan Narang, Advocate

ORDER

Per : *Sh. Virendra Kumar Gupta, Member (Technical)*

1. This application has been filed by the applicants seeking direction from this Adjudicating Authority to direct the respondent i.e the resolution applicant to consider the admit the claim of the applicant of Rs. 14,22,880/-.
2. The facts, in brief, are that the applicants is a financial creditor who have given advance of Rs 14,22,280/- an unit in the project of "Earth Iconic" of the Earth

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Infrastructure Limited (“ EIL”) against whom theinsolvency proceedings had been initiated vide order dated 06.06.2018 and claims were invited from the Creditors. There after this Adjudicating Authorityvide order dated 11.12.2019 directed that the claims pertaining to the ‘Earth Iconic’ project shall be transferred from the RP of EIL to the RP of Celestial Estate Private Limited (“CEPL”).RP of CEPL invited/ collated/ finalized the claims, invited Resolution Plans for the ProjectFurther the resolution plan of M/s H.S. Oberoi Buildtech Pvt. Ltd. in regard to the resolution of the corporate debtor i.e. was approved by Committee of Creditors (“COC”) as well as by this Adjudicating Authority vide order dated 15.03.2021.

3. It is submitted that ‘Clause 6.13 4 (c) of the approved resolution plan provides that the Resolution Applicant shall admit and allow claims of unitholders who failed to file their claim before the RP at any time after 6 months of submission of the Resolution Plan subject to the said unitholder(s) paying a penalty of Rs. 900 (Rs. 700 + Rs. 200) per square foot for their unit.
4. It is further submitted that the Applicants could not file their claims before the RP of EIL or CEPL earlier due to the fact that IRP has not made the public announcement in the area were corporate debtor conduct material operation so applicant was unaware of the fact of initiation of CIRP off the corporate debtor, thus claim was filed belatedly.
5. We have considered the submissions made by the applicants and material on record.
6. In this case, it is the admitted fact the claim was not filed by the applicants within time specified and the same was rejected by the resolution applicant on the ground of delay. As the resolution plan of the corporate debtor was approved by the Adjudicating Authority on 15.3.2021 and the resolution applicant has taken over the said project . Further on perusal of the ‘Clause 6.13 4 (c) of the approved resolution plan which is produced below:

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IN (IB)-1368(ND)2018

Section/ Regulation/ Terms of the Plans	H.S. Oberoi Buildtech Ltd
Claims	Clause 6.5 HSOB proposes to satisfy all the claims filed by the unit buyers in project ICONIC irrespective of whether the claim has been filed with RP of EIL or CEPL. Clause 6.13 4 c) HSOB is required to accommodate any additional unit holders for which claims have not been filed up to the last date of submission of the resolution plan, either with the RP of CEPL or EIL, then HSOB shall charge additional Rs. 700/- (Seven Hundred) per Sq. Ft. for which HSOB is required to accommodate any additional unit holders for which claims have not been filed up to six months of late date of 5 submission of resolution plan, then HSOB shall charge additional Rs. 200/- per Sq. Ft. for unit.

We note that it is clearly mentioned in the resolution plan that the resolution applicant will satisfy all the claims filed by the unit buyers in project ICONIC irrespective of the fact that the claim has been filed with RP of EIL or CEPL and additional charges will be imposed for the same.

7. We further note that the approved resolution plan deals specifically deals with the claims filed by the unit holders belatedly, therefore, the Resolution applicant is directed to consider the claim of the applicants in accordance with the provisions of law and the

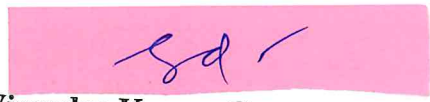
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applicants are also directed to pay the additional charge as required for consideration of their claims in accordance with the plan.

8. In the result, this IA No.1009/2022, stands allowed and disposed of in terms indicated above.
9. Urgent certified copies of this order be issued, if applied for, subject to usual formalities.


Bachu Venkat Balaram Das
Member (Judicial)


Virendra Kumar Gupta
Member (Technical)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH
COURT NO. III**

**IA- 991/2022
in
(IB)-1768(ND)2018**

In The Matter Of
Sanjay Malik & Ors

...Financial Creditor

versus

Celestial Estate Private Limited.

....Corporate Debtor

And

In The Matter Of
Rakesh Duggal & Anr.

.....Applicant

versus

M/s H.S. Oberoi Buildtech Pvt. Ltd.

.....Resolution Applicant/Respondent

**Order reserved on: 13.04.2022
Order pronounced on: 24.05.2022**

Coram:

Sh. Bachu Venkat Balaram Das : Member (Judicial)
Sh. Virendra Kumar Gupta : Member (Technical)

Appearances (via videoconferencing):

For Applicant : Mr. Gagan Narang, Advocate

ORDER

Per : Sh. Virendra Kumar Gupta, Member (Technical)

1. This application has been filed by the applicants seeking direction from this Adjudicating Authority to direct the respondent i.e the resolution applicant to consider the admit the claim of the applicant of Rs. 29,07,506/-.
2. The facts, in brief, are that the applicants is a financial creditor who have given advance of Rs 29,07,506/- an unit in the project of "Earth Iconic" of the Earth



Infrastructure Limited (“ EIL”) against whom the insolvency proceedings had been initiated vide order dated 06.06.2018 and claims were invited from the Creditors. There after this Adjudicating Authority vide order dated 11.12.2019 directed that the claims pertaining to the ‘Earth Iconic’ project shall be transferred from the RP of EIL to the RP of Celestial Estate Private Limited (“CEPL”).RP of CEPL invited/ collated/ finalized the claims, invited Resolution Plans for the Project Further the resolution plan of M/s H.S. Oberoi Buildtech Pvt. Ltd. in regard to the resolution of the corporate debtor i.e. was approved by Committee of Creditors (“COC”) as well as by this Adjudicating Authority vide order dated 15.03.2021.

3. It is submitted that ‘Clause 6.13 4 (c) of the approved resolution plan provides that the Resolution Applicant shall admit and allow claims of unit holders who failed to file their claim before the RP at any time after 6 months of submission of the Resolution Plan subject to the said unit holder(s) paying a penalty of Rs. 900 (Rs. 700 + Rs. 200) per square foot for their unit.
4. It is further submitted that the Applicants could not file their claims before the RP of EIL or CEPL earlier due to the fact that IRP has not made the public announcement in the area where corporate debtor conduct material operation so applicant was unaware of the fact of initiation of CIRP off the corporate debtor, thus claim was filed belatedly.
5. We have considered the submissions made by the applicants and material on record.
6. In this case, it is the admitted fact the claim was not filed by the applicants within time specified and the same was rejected by the resolution applicant on the ground of delay. As the resolution plan of the corporate debtor was approved by the Adjudicating Authority on 15.3.2021 and the resolution applicant has taken over the said project . Further on perusal of the ‘Clause 6.13 4 (c) of the approved resolution plan which is produced below:

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NEW DELHI BENCH
COURT NO.III

IA- 991/2022
IN (IB)-1368(ND)2018

Section/ Regulation/ Terms of the Plans	H.S. Oberoi Buildtech Ltd
Claims	Clause 6.5 HSOB proposes to satisfy all the claims filed by the unit buyers in project ICONIC irrespective of whether the claim has been filed with RP of EIL or CEPL. Clause 6.13 4 c) HSOB is required to accommodate any additional unit holders for which claims have not been filed up to the last date of submission of the resolution plan, either with the RP of CEPL or EIL, then HSOB shall charge additional Rs. 700/- (Seven Hundred) per Sq. Ft. for which HSOB is required to accommodate any additional unit holders for which claims have not been filed up to six months of late date of 5 submission of resolution plan, then HSOB shall charge additional Rs. 200/- per Sq. Ft. for unit.

We note that it is clearly mentioned in the resolution plan that the resolution applicant will satisfy all the claims filed by the unit buyers in project ICONIC irrespective of the fact that the claim has been filed with RP of EIL or CEPL and additional charges will be imposed for the same.

7. We further note that the approved resolution plan deals specifically deals with the claims filed by the unit holders belatedly, therefore, the Resolution applicant is directed to consider the claim of the applicants in accordance with the provisions of law and the



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applicants are also directed to pay the additional charge as required for consideration of their claims in accordance with the plan.

8. In the result, this IA No.991/2022, stands allowed and disposed of in terms indicated above.
9. Urgent certified copies of this order be issued, if applied for, subject to usual formalities.

-Sd-

Bachu Venkat Balaram Das
Member (Judicial)

-Sd-

Virendra Kumar Gupta
Member (Technical)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH
COURT NO. III**

**IA- 609/2022
in
(IB)-1768(ND)2018**

In The Matter Of
Sanjay Malik & Ors

.Financial Creditor

versus

Celestial Estate Private Limited.

....Corporate Debtor

And

In The Matter Of
Inderjit Singh & Anr.

.....Applicant

versus

M/s H.S. Oberoi Buildtech Pvt. Ltd.

.....Resolution Applicant/Respondent

**Order reserved on: 13.04.2022
Order pronounced on: 24.05.2022**

Coram:

Sh. Bachu Venkat Balaram Das : Member (Judicial)

Sh. Virendra Kumar Gupta : Member (Technical)

Appearances (via videoconferencing):

For Applicant : Mr. Gagan Narang, Advocate

ORDER

Per : Sh. Virendra Kumar Gupta, Member (Technical)

1. This application has been filed by the applicants seeking direction from this Adjudicating Authority to direct the respondent i.e the resolution applicant to consider the claim of the applicants of Rs. 23,19,563/- and to further amend the list of the financial creditors and to allow the applicants to participate in the further process for unit booked in iconic projects in light of successful Resolution plan.



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2. The facts, in brief, are that the applicants have purchased an unit in the project of "Earth Iconic" of the Earth Infrastructure Limited (" EIL") against whom the insolvency proceedings had been initiated vide order dated 06.06.2018 and claims were invited from the Creditors. There after this Adjudicating Authority vide order dated 11.12.2019 directed that the claims pertaining to the 'Earth Iconic' project shall be transferred from the RP of EIL to the RP of Celestial Estate Private Limited ("CEPL"). RP of CEPL invited/ collated/ finalized the claims, invited Resolution Plans for the Project Further the resolution plan of M/s H.S. Oberoi Buildtech Pvt. Ltd. in regard to the resolution of the corporate debtor i.e. was approved by Committee of Creditors ("COC") as well as by this Adjudicating Authority vide order dated 15.03.2021.
3. It is submitted that 'Clause 6.13 4 (c) of the approved resolution plan provides that the Resolution Applicant shall admit and allow claims of unitholders who failed to file their claim before the RP at any time after 6 months of submission of the Resolution Plan subject to the said unitholder(s) paying a penalty of Rs. 900 (Rs. 700 + Rs. 200) per square foot for their unit.
4. It is further submitted that the Applicants could not file their claims before the RP of EIL or CEPL earlier due to the fact that Applicant No.1 is a senior citizen and is father of the Applicant No.2 and both of them had shifted to New Zealand in 2012- 13 and has not visited India ever since, so the Applicants were unaware of the fact the CIRP has been initiated against the corporate debtor and , therefore were unable to file their claim before the RP at the initial point of time and when they came to know about the fact they met Mr. M.S. Oberoi of CEPL and also mailed letter via speed post requesting the resolution applicant to include the names of both the Applicants in the list of claimants. And also stated that they are willing to pay the penalty for delay in filing of Claim in accordance with the Resolution Plan but despite verification and acknowledgement of the Applicants' documents, the Resolution applicant has rejected the claims of the applicants vide email dated 13.10.2021.

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5. We have considered the submissions made by the applicants and material on record.
6. In this case, it is the admitted fact the claim was not filed by the applicants within time specified and the same was rejected by the resolution applicant on the ground of delay. As the resolution plan of the corporate debtor was approved by the Adjudicating Authority on 15.3.2021 and the resolution applicant has taken over the said project and on perusal of the 'Clause 6.13 4 (c) of the approved resolution plan which is produced below:

Section/ Regulation/ Terms of the Plans	H.S. Oberoi Buildtech Ltd
Claims	Clause 6.5 HSOB proposes to satisfy all the claims filed by the unit buyers in project ICONIC irrespective of whether the claim has been filed with RP of EIL or CEPL. Clause 6.13 4 c) HSOB is required to accommodate any additional unit holders for which claims have not been filed up to the last date of submission of the resolution plan, either with the RP of CEPL or EIL, then HSOB shall charge additional Rs. 700/- (Seven Hundred) per Sq. Ft. for which HSOB is required to accommodate any additional unit holders for which claims have not been filed up to six months of late date of 5 submission of resolution plan, then HSOB shall charge additional Rs. 200/- per Sq. Ft. for unit.

We note that it is clearly dealt in the resolution plan that the resolution applicant will satisfy all the claims filed by the unit buyers in project ICONIC irrespective of the fact that the claim has been filed with RP of EIL or CEPL and additional charges will be imposed for the same.

7. Subsequently, the payment receipt has also been attached by the applicant, therefore, the Resolution applicant is directed to consider the claim of the applicants in accordance with the provisions of Code and Regulations made thereunder and the applicants are also directed to pay the additional charge as required for consideration of their claims in accordance with the plan.
8. In the result, this IA No.609/2022, stands allowed and disposed of in terms indicated above.
9. Urgent certified copies of this order be issued, if applied for, subject to usual formalities.

-Sd/-

Bachu Venkat Balaram Das
Member (Judicial)

-Sd/-

Virendra Kumar Gupta
Member (Technical)