

**IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI, COURT III**

**CA-25/2021
In
IB-979(ND)/2019**

Appeal under Section 42 of IBC, 2016 read with Rule 11 of NCLT Rules,
2016.

IN THE MATTER OF:

Punjab National Bank

..... **Financial Creditor**

Versus

M/s. Gupta Marriage Halls Private Limited

..... **Corporate Debtor**

AND IN THE MATTER OF:

M/s. Dev Agencies

..... **Applicant**

Versus

Mr. Nitin Narang (Liquidator)

..... **Respondent**

Pronounced On: 19.10.2023

CORAM:

**SHRI ATUL CHATURVEDI
MEMBER (TECHNICAL)**

**SHRI BACHU VENKAT BALARAM DAS
MEMBER (JUDICIAL)**

PRESENT:

For the Applicant : Ms. Swaralipi Deb Roy for the Appellant in CA
25/2021, Adv.
For the Respondent : Mr. Abhishek Anand, Mr. Mohak Sharma, Adv. for
Liquidator

ORDER

PER: BACHU VENKAT BALARAM DAS, MEMBER (JUDICIAL)

1. This appeal has been filed under Section 42 of IBC, 2016 read with Rule 11 of NCLT Rules, 2016 seeking a direction to the Liquidator to admit the claim of the Applicant.
2. It is submitted that the CIRP was initiated vide order dated 03.09.2019 passed by this Adjudicating Authority in an application under Section 7 of IBC by Punjab National Bank (Financial Creditor) against the M/s. Gupta Marriage Halls

Private Limited (Corporate Debtor). Mr. Mahesh Bansal was appointed as Interim Resolution Professional.

3. The Respondent/Liquidator published an advertisement on 07.01.2021 inviting claims. The last date for submitting the claim was 03.02.2021. The Applicant submitted its claim for an amount of Rs. 3,24,18,528/- with the Liquidator on 02.02.2021. It is submitted that the Liquidator vide email dated 12.02.2021 asked the Applicant to submit certain documents which were submitted vide letter dated 13.02.2021. It is further submitted that the Applicant submitted a copy of the ledger, a copy of the invoices which are the subject matter of the claim and a copy of audited financial statements of the Applicant along with its claims. The Liquidator rejected the claim of the Applicant on 08.03.2021 on the following grounds:

- a) *“That the Liquidator refers cheques dated 30.11.2016 and 30.12.2016 amounting to Rs. 3,24,18,528/- issued by the Corporate Debtor were not present in bank for encashment and rejected the claim on the ground mentioned in Para 6 ‘moreover two cheques dated 30.12.2016 (it should be 30.11.2016) and 30.12.2016 out of total cheques are also barred by limitation.*
- b) *Mischievously, the Liquidator in Para 6 did not mention that the cheques dated 30.11.2016 and 30.12.2016 were replaced by the Corporate Debtor, the details of which are mentioned in Para 4(c) and 4(d) dated 15.03.2018 and 30.03.2018 both cheques are amounting to Rs. 3,24,18,528/- and therefore, it is incorrect on part of Liquidator to state that the cheques issued by the Corporate Debtor barred by limitation for the purpose of the admission of claim.*
- c) *The plea taken by the Liquidator that invoices raised by the Appellant were not supported by the purchase order to which it was stated by the Appellant that no formal purchase orders were ever issued by the Corporate Debtor and the same cannot be ground for rejection of claim of the Appellant.”*

4. It is submitted by the Applicant that the Liquidator has rejected the claim on frivolous grounds even though he has not raised any dispute about the business transaction.
5. The Respondent/Liquidator in its reply affidavit has submitted that the Respondent via email dated 12.02.2021 sought for the following information:
 - a) *“Copy of ledger account since the commencement of transactions with Gupta Marriage Halls Private Limited.*
 - b) *Copies of invoices.*
 - c) *Any memo from banks for returning cheques issued to you.*
 - d) *Copy of audited balance sheets for the year in which transactions were carried out and the latest audited balance sheet.*
 - e) *Any other documents which may be helpful in the determination of your claim.”*
6. The Respondent/Liquidator also required certain other documents from the Applicant vide email dated 22.02.2011, which are as follows:
 - a) *“Purchase orders issued by Gupta Marriage Halls Private Limited.*
 - b) *Proof of dispatch/receipt of goods.*
 - c) *Balance confirmation given by Corporate Debtor, if any.*
 - d) *Copy of the Bank statements where payments have been received from the Corporate Debtor.*
 - e) *Details of any legal proceeding pending/adjudicated initiated by you against the Corporate Debtor.”*
7. It is submitted that the Applicant in response to the above emails sent a reply to the Liquidator vide email dated 05.03.2021 stating therein that no purchase orders are available since the orders were placed verbally. The Liquidator further submitted that the Applicant’s claim as Operational Creditor could not have been admitted, since, the Applicant failed to establish the same by producing the relevant documents. The Liquidator submitted

that the Applicant supplied fabric to the tune of Rs. 14,33,26,578/- during the 4th quarter of the Financial Year 2015/16. However, the amount due to the Applicant by the Corporate Debtor as on date was found to be Rs. 3,24,18,528/-. Therefore, the Liquidator requested the Appellant to provide information with regard to an amount of Rs. 11,09,08,050/-. However, the Appellant could provide the Bank statement to the tune of Rs. 4,04,78,050/- and no explanation or information was provided with regard to the balance amount of Rs. 7,00,00,000/- . Further, the Appellant failed to provide any explanation with regard to the non-encashment of the cheques purportedly given by the Corporate Debtor. The details of the cheques are as follows:

- a) *Cheque No. 104518 dated 30.11.2016 for Rs. 180,00,000/- drawn on Allahabad Bank, Karol Bagh, New Delhi – 110005.*
- b) *The Liquidator has therefore submitted that the claim submitted by the Appellant could not be admitted due to the reasons stated above.*

8. Having heard the rival submissions made by the Learned Counsel for the parties and after perusal of the records we find that the Liquidator has examined in detail, the claim submitted by the Appellant along with documents and taken a conscious decision and rejected the claim. Moreover, the Appellant has failed to prove on what basis he has submitted the claim.
9. We direct the Liquidator to consider the claim admitted w.r.t. to the Appellant as seen from the Form-C dated 02.02.2021 amounting to Rs.3,24,18,528/-.
10. Therefore, the present appeal is **disposed of**, in view of the above.

Sd/-
(ATUL CHATURVEDI)
MEMBER (TECHNICAL)

Sd/-
(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
COURT-III

ITEM No. 321
CA-871/2019, IA-3588/2021
In
IB-979(ND)/2019

IN THE MATTER OF:

Punjab National Bank

.... Petitioner/Applicant

Vs.

M/s. Gupta Marriage Halls Pvt. Ltd.

.... Respondent

Order under Section 7 of the IBC, 2016

Order delivered on 19.10.2023

CORAM:

SHRI BACHU VENKAT BALARAM DAS
HON'BLE MEMBER (JUDICIAL)

SHRI ATUL CHATURVEDI
HON'BLE MEMBER (TECHNICAL)

HEARING THROUGH VC AND PHYSICAL MODE

PRESENT:

For Liquidator : Mr. Abhishek Anand, Mr. Mohak Sharma, Ms. Rasveen Kaur Kapoor Advs.
For Respondent : Mr. Vikas Mehta, Ms. Rashi Rampal, Mr. S.C. Das, Mr. Ashish Choudhury, Mr. Abhishek Arora Advs.
For Ex-Mngmnt : Mr. Rakesh Kumar, Ms. Preeti Kashyap, Mr. Ankit Sharma, Mr. Yash Dhawan, Mr. Varun Pandit Advs.

ORDER

CA-871/2019

The reply affidavit filed by the Respondent No. 1 and 2 are on record. Ld. Counsel appearing for the Respondent No. 3 is directed to upload the reply within two days.

List the matter for further arguments **on 10.11.2023** on the **top of the board.**

IA-3588/2021

The reply affidavit filed by the Respondent No. 1 and 2 is on record. Ld. Counsel appearing for the Respondent No. 3 is directed to upload the reply within two days.

List the matter for further arguments **on 10.11.2023** on the **top of the board.**

-Sd-

(ATUL CHATURVEDI)
MEMBER (TECHNICAL)

ANAND DUBEY

-Sd-

(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)