

**THE NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH, CHANDIGARH
(through web-based video conferencing platform)**

**CA Nos. 259/2019, 261/2019 & 650/2019
In
CP (IB) No. 35/Chd/HP/2018
(Admitted Matter)**

**Under Section 60(5) of the Insolvency
and Bankruptcy Code, 2016**

In the matter of:-

Phoenix Arc Pvt. Ltd. ...Operational Creditor

Vs.

GPI Textiles Ltd. ...Corporate Debtor

And in the matter of CA No. 259/2019:-

TDB Spinners Pvt. Ltd. ...Applicant

Vs.

Jalesh Kumar Grover
Resolution Professional of
GPI Textiles Ltd. ...Respondent

And in the matter of CA No. 261/2019:-

M/s M.K. Cotex ...Applicant

Vs.

Jalesh Kumar Grover
Resolution Professional of
GPI Textiles Ltd. ...Non-Applicant-Respondent

And in the matter of CA No. 650/2019:-

M/s Tanmay Pure Spun ...Applicant

Vs.

Jalesh Kumar Grover
Resolution Professional of
GPI Textiles Ltd. ...Non-Applicant-Respondent

Order delivered on: 06.10.2021

**Coram: HON'BLE MR. AJAY KUMAR VATSAVAYI, MEMBER (JUDICIAL)
HON'BLE MR. RAGHU NAYYAR, MEMBER (TECHNICAL)**

Present through Video Conferencing:-

For the applicant in CA Nos. : 1). Mr. Rishabh Gupta, Advocate
259/2019, 261/2019 & 2). Mr. Vishav Bharti Gupta,
650/2019 Advocate

For the non-applicant- : 1). Mr. Abhishek Anand, Advocate
respondent-Resolution 2). Mr. Viren Sharma, Advocate
Professional in CA Nos. 3). Mr. Jalesh Kumar Grover,
259/2019, 261/2019 & Resolution Professional in
650/2019 person

Per: Ajay Kumar Vatsavayi, Member (Judicial)

ORDER

CA No. 259/2019

1. M/s TDB Spinners Pvt. Ltd., an operational creditor of the respondent-corporate debtor M/s GPI Textiles Limited filed the instant CA under Section 60(5) of IBC 2016 challenging the action of the respondent-Resolution Professional in rejecting its claim.

2. Corporate Insolvency Resolution Process (**CIRP**) proceedings were initiated against the corporate debtor M/s GPI Textiles Limited when CP (IB) No. 35/Chd/HP/2018 filed by M/s Phoenix Arc Pvt. Ltd., a financial creditor was admitted by this Adjudicating Authority on 06.07.2018 when an IRP was appointed on 12.07.2018. The applicant submitted its claim to the respondent-Resolution Professional in the prescribed Form B on 24.06.2018. When the

applicant came to know from the website of the corporate debtor about rejection of its claim, it has filed the instant CA.

3. Heard Mr. Rishabh Gupta, the learned counsel for the applicant and Mr. Abhishek Anand, the learned counsel for the respondent-Resolution Professional and perused the pleadings on record.

4. The applicant submits that since the respondent-corporate debtor failed to pay the dues, it has obtained an award dated 26.11.2014 from the Madhya Pradesh Micro and Small Enterprises Facilitation Council, Bhopal vide award dated 26.11.2014. The petition filed by the respondent-corporate debtor under Section 34 of the Arbitration and Conciliation Act, 1996 challenging the said Award is pending as on date and that no stay of the award was granted in the said petition filed by the respondent-corporate debtor. The applicant submits that inspite of the award of the MSME Facilitation Council in its favour and that though there was no stay on the said award, the respondent-Resolution Professional illegally and arbitrarily rejected its claim. On the other hand, the respondent-Resolution Professional while not disputing the existence of the award passed by the MSME Facilitation Council in favour of the applicant and the pendency of appeal under Section 34 of the Arbitration and Conciliation Act, 1996 and the fact of non-granting of any stay against the award of the MSME Facilitation Council however, submits that since as per the books of the corporate debtor no due was shown against the applicant, it was not entitled for admission of its claim.

5. It is to be seen that once it is shown that the claim of the applicant is backed by an award passed by the MSME Facilitation Council and that there was no stay against the same either in the appeal filed under Section 34 of the

Arbitration and Conciliation Act, 1996 or from any other court, the action of the Resolution Professional in rejecting the claim of the applicant on the ground that there was no due shown in the books of the corporate debtor against the applicant is unsustainable. Award passed by the MSME Facilitation Council is a public document and on the face of it the rejection of the claim of the applicant is not tenable.

6. In these circumstances and for the aforesaid reasons, the instant CA No. 259/2019 is allowed and the respondent-Resolution Professional is directed to consider the claim of the applicant, in accordance with the Code and Regulations made thereunder.

7. Accordingly, CA No. 259/2019 is disposed of.

CA No. 261/2019

8. M/s M.K. Cotex, an operational creditor of the respondent-corporate debtor filed the instant CA under Section 60(5) of IBC 2016 questioning the action of the respondent-Resolution Professional in rejecting its claim.

9. When this matter was taken up for hearing, the learned counsel appearing for both sides are *ad idem* that the facts and law involved in the instant CA is identical to that of CA No. 259/2019 and hence, the instant CA may be disposed of in terms of the orders passed in CA No. 259/2019, wherein both of them have advanced elaborate arguments.

10. In view of the submissions made by both the counsels, the instant CA No. 261/2019 is allowed and the respondent-Resolution Professional is directed to consider the claim of the applicant, in accordance with the Code and Regulations made thereunder, in terms of the order passed today in CA No. 259/2019.

11. Accordingly, CA No. 261/2019 is disposed of.

CA No. 650/2019

12. M/s Tanmay Pure Spun, an operational creditor of the respondent-corporate debtor M/s GPI Textiles Limited filed the instant CA under Section 60(5) of IBC 2016 questioning the action of the respondent-IRP in rejecting its claim.

13. Heard Mr. Rishabh Gupta, the learned counsel for the applicant and Mr. Abhishek Anand, the learned counsel for the respondent-Resolution Professional and perused the pleadings on record.

14. The applicant questions the rejection of its claim on the ground that it has obtained an award from the MSME Facilitation Council however, no copy of the award is filed either with its claim or with the instant CA. However, the applicant has given the details such as the number and date of the award. Though the applicant in the claim Form at Sr. No. 11 mentioned that the Arbitral Award dated 26.11.2014 in MSMEFC No. 502/2013 was enclosed to the claim but even when the respondent in its reply to the CA specifically contended that no copy of any such award was enclosed to the claim, the applicant has not chosen to file the copy of the award by filing any rejoinder by enclosing the copy of the said award.

15. The respondent while submitting that the applicant failed to furnish a copy of the award said to have been passed by the MSME Facilitation Council in its favour further submitted that the claim of the applicant was belated and hence, there is no illegality in its action in rejecting the claim.

16. In view of the settled principle of law that the time prescribed for submission of the claims is not mandatory whereas it is only directory, we are inclined to direct the respondent-Resolution Professional to consider the claim of

the applicant, in accordance with law. It is also to be seen that the delay in submission of the claim of the applicant cannot be treated as abnormal.

17. Though in normal circumstances, it is the duty of any claimant to furnish all the required documents but since the applicant furnished the details of the award i.e. number and date and since the non-submission of the copy of the award is the main reason for rejection of its claim, we dispose of this CA permitting the applicant to furnish the copy of the award passed in its favour by the MSME Facilitation Council within two weeks from today, to the respondent-Resolution Professional and if the applicant submits the copy of the award within the said specified period, the respondent shall consider the same in accordance with the Code and Regulations made thereunder.

18. In these circumstances and for the aforesaid reasons, the instant CA No. 650/2019 is disposed of permitting the applicant to submit the copy of award passed by the MSME Facilitation Council in its favour within two weeks from today to the Resolution Professional and in such an event the Resolution Professional shall consider the claim of the applicant, in accordance with the Code and Regulations made thereunder.

19. Accordingly, CA No. 650/2019 is disposed of.

Sd/-
(Raghu Nayyar)
Member (Technical)

Sd/-
(Ajay Kumar Vatsavayi)
Member (Judicial)

October 06th, 2021
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