



NATIONAL COMPANY LAW TRIBUNAL
COURT-V, MUMBAI BENCH

1. IA/1466/2025 C.P. (IB)/1152(MB)2023

IN THE MATTER OF

Vivriti Capital Limited

Vs

Green Soul Ergonomics Private Limited

Section 7 of the Insolvency and Bankruptcy Code, 2016

Order Delivered on 11.07.2025

CORAM:

SH. SUSHIL MAHADEORAO KOCHEY
MEMBER (J)

SH. CHARANJEET SINGH GULATI
MEMBER (T)

Appearance through VC/Physical/Hybrid Mode:

For the Applicant: - Adv. Rohit Mahajan, Adv. Radhika Raval i/b Adv. Kranti
Sawant (PH)
For the RP:- Adv. Vishal Jain (VC)
For the Respondent:- Adv. Tanmay Kelkar i/b Adv. Aniruth Purushothaman
(VC)

ORDER

IA/1466/2025:- The above IA is listed for pronouncement of the order. The same is pronounced in open court, vide a separate order.

Sd/-

CHARANJEET SINGH GULATI
Member (Technical)
/Anmol/

Sd/-

SUSHIL MAHADEORAO KOCHEY
Member (Judicial)



**NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT - V**

I.A. 1466/2025

IN

C.P. NO. 1152(IB)/MB/2023

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

**Department of Goods and Services,
Government of Maharashtra.**

Through its Authorized Officer Mr. Hemant Babhulkar, Joint Commissioner of State Tax

Having Office Address at:

1st Floor, Gandhi Tower, Opposite D-Mart, Near K.C. Gandhi School, Kalyan (West), Thane-421301, Maharashtra, India.

.... Applicant

Versus

Green Soul Ergonomics Private Limited

Through its Resolution Professional Mr. Vishal Jain (IBBI/IPA-002/IP 00337/20172018/10941)

Having Address at:

1003, 10th Floor, Satra Plaza, Sector 19D, Palm Beach Road, Vashi, Navi Mumbai, Maharashtra-400703.

Also Having Registered Address at:

D-1902, Palm Beach Residency, Amey CHS Ltd., Plot No. 24-29, Sector-4, Nerul West, Navi Mumbai, Maharashtra-400706.

.... Respondent



In the matter between:

Vivriti Capital Limited

.... Petitioner

Versus

Green Soul Ergonomics Private Limited

.... Corporate Debtor

Order Pronounced on: 11.07.2025

Coram:

Hon'ble Sh. Sushil Mahadeorao Kochey, Member (Judicial)

Hon'ble Sh. Charanjeet Singh Gulati, Member (Technical)

Appearances:

For Applicant: Adv. Rohit Mahajan, Adv. Radhika Raval i/b Adv. Kranti Sawant (PH)

For RP: Adv. Vishal G. Jain (VC)

For Respondent: Adv. Tanmay Kelkar i/b Adv. Aniruth Purusothaman (VC)

ORDER

I.A. NO. 1466/2025

1. This I.A. is filed on behalf of the **Department of Goods and Services, Government of Maharashtra ('the Applicant')** under section 60(5) of the Insolvency and Bankruptcy Code, 2016 (**'the Code'**) read with Rule 11 of the National Company Law Tribunal Rules, 2016 (**'NCLT Rules'**), with following prayers:

- a) *Direct the matter to list high on board for early hearing of the matter;*
- b) *Direct the Respondent to accept and admit the claim of Applicant to the tune of Rs. 2,49,59,566/- (Rupees Two Crore Forty-Nine Lakh Fifty-Nine Thousand Five Hundred Sixty-Six Only) as submitted by the applicant on 05th February, 2025.*



c) *Pass such order and further order(s) and direction(s) as this Hon'ble Tribunal may deem fit and proper.*

Brief Facts as per the Application:

2. The Adjudicating Authority vide order dated 01.05.2024, admitted the Company Petition bearing number CP(IB)1152(MB)/2023 filed by Vivriti Capital Limited ("**Financial Creditor**") for initiation of Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor and appointed the Respondent as Interim Resolution Professional (IRP) for conducting CIRP of the Corporate Debtor.
3. Applicant issued Order for Determination of Dues dated 30.08.2024, to the Corporate Debtor u/ s 73(5) of the SGST Act, 2017 r/w Rule 142 of SGST Rules and its was directed to pay amount of INR 29,11,506/- (Rupees Twenty-Nine Lakh Eleven Thousand Five Hundred Six Only) within a period of 90 days. On 05.02.2025, another notice u/s 73 of the SGST Act, 2017 was issued upon the Corporate Debtor making demand of INR 2,18,23,000 (Rupees Two Crore Eighteen Lakh Twenty-Three Thousand only) as tax liability for the FY 2022-2023.
4. The Applicant vide email dated 05.02.2025 filed its claim (**Form B**) before RP on coming to know that CIRP is initiated against the Corporate Debtor and Respondent has been appointed as RP to conduct CIRP.
5. Vide email dated 06th February, 2025, the Respondent informed the Applicant that the claim of the Applicant could not be considered since CoC has approved the Resolution Plan of the Corporate Debtor. On 13th February, 2025, the Applicant, vide email, sought details of new GST Registration number which the RP was bound to apply as per Notification No. 11/ 2020 dated 21st March, 2020 issued by Central Board of Indirect Taxes and Customs.



6. Vide email dated 14.02.2025, the Respondent denied having taken any such registration number.
7. The present IA dated 20.03.2025 has been filed under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (the "**Code**") read with Rule 11 of the NCLT Rules, 2016 by the Department of Goods and Services, Government of Maharashtra ("**Applicant**") to seek directions from this Tribunal to direct the Respondent (the "**Resolution Professional**") to admit the claim amount of INR 2,47,34,506/- (Rupees Two Crore Forty Seven Lakh Thirty-Four Thousand Five Hundred Six Only) of the Applicant in the CIRP of the Corporate Debtor.

Submissions of the Applicant:

8. Applicant submits that, the Respondent ought to have considered the fact the Corporate Debtor was registered under the SGST Act, 2017 and hence taxpayer with liability to pay tax dues under the SGST Act, 2017 to the Applicant. The Respondent was duty bound to examine books of accounts in which pending GST dues of the Taxpayer (Corporate Debtor) are reflected and hence ought to have considered the claim of the Applicant at the time of preparation of the Information Memorandum.
9. It is case of the Applicant that, nonpayment of Statutory dues (GST dues in the present application) reflects financial position of the Corporate Debtor and hence forms part of relevant information under section 29 of the IBC and the Corporate Debtor has disputed the tax liability of the Applicant which is also covered under the explanation of relevant information. Further, in terms of Notification No. 11/2020 dated 21.03.2020, respondent was bound to take new GST number which the respondent failed to do.
10. Applicant submits that, the timelines mentioned in the Code are only directory in nature and not mandatory and the Resolution Plan is still pending approval of the Adjudicating Authority. Non-admission of the



claim of the applicant in the CIRP of the Corporate Debtor shall have effect of extinguishment of claim of the Applicant which will have effect on state exchequer.

11. In view of the abovementioned submissions, it is prayed that the Tribunal may direct the Respondent to accept and admit the claim of Applicant to the tune of Rs. 2,49,59,566/- (Rupees Two Crore Forty-Nine Lakh Fifty-Nine Thousand Five Hundred Sixty-Six Only) as submitted by the applicant on 05.02.2025.

Submissions on behalf of Respondent:

12. Pursuant to the order dated 01.05.2024 passed by the tribunal in CP No. 1152 of 2023 for initiation of the CIRP of the Corporate Debtor. The respondent caused Public Announcement on 04.05.2024, wherein, the last date for filing of claims was 15.05.2024. Further, it is submitted that, the Applicant submitted the claim on 05.02.2025 with a delay of 262 days in the submission.
13. In the 12th meeting held on 09.12.2024, the CoC of the Corporate Debtor with a majority of 82.06% voted in favor of the approval of the Resolution Plan which was submitted by a consortium comprised of Wafi Investments Limited, OTP Ventures Fund Scheme 1 and Mr. Suhail Sameer, and IA bearing no. 6 of 2025 has been filed on 11.12.2024 seeking approval of Resolution Plan.
14. It is submitted that, as per the Regulation 12 of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the creditor shall submit its claim with proof on or before the last date as is mentioned in the public announcement in Form A, published under Regulation 6 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, however the proviso to Regulation 12, sub regulation 1, states that the creditor who fails to submit its claim in accordance with timeline stipulated in Form A published, shall submit its claim with proof to the Interim Resolution Professional or Resolution



Professional up to the date of issue of Request for Resolution Plan under Regulation 36B of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 or ninety days from date of commencement of CIRP of Corporate Debtor, whichever is later and the creditor submitting its claim later than ninety days from commencement of CIRP in respect of Corporate Debtor, shall provide reasons for delay in submitting claim beyond the period of ninety days.

15. Regulation 13 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 provides that the IRP/RP of the Corporate Debtor shall in respect of claims submitted beyond the timeline stipulated in Regulation 12 of the IBBI (Insolvency Resolution Process of Corporate Persons) Regs., 2016 but seven days prior to the date of meeting wherein the Resolution Plan shall be voted upon or Liquidation of Corporate Debtor shall be initiated, verify all such claims and categorize them as acceptable or nonacceptable for collation. Categorization of such claim shall be communicated to the respective creditor within a period of seven days and to the Committee of Creditors, if the said claim is accepted, in the upcoming meeting for their recommendation for inclusion in list of creditors and its treatment in resolution plan received and the said claim if accepted shall further submitted to the Adjudicating Authority for condonation of delay.
16. The regulations mandate the creditors to file their claim in the CIRP within the prescribed period and neither the Insolvency and Bankruptcy Code, 2016 nor the Insolvency and Bankruptcy Regulations, 2016 permits the Resolution Professional to consider a claim received after the mandated timeline and therefore even at such a belated stage of CIRP where, the Application for approval of the Resolution Plan is already pending adjudication before this Tribunal.
17. Further, the dues for the F. Y. 2019-2020 were determined post the Insolvency Commencement Date i.e., 01.05.2024 which is not



permitted as the Corporate Debtor was protected under the Moratorium under Section 14 of the IBC, 2016.

18. The Respondent has relied on following judgments:

1. *Harish Polymer Product vs. Geroge Samuel & Anr. [Company Appeal (AT) (Ins.) No. 420/2021].*
2. *M/s. RPS Infrastructure Ltd. versus Mukul Kumar and Anr. Civil Appeal No. 5990 of 2021.*
3. *Employees' Provident Fund Organization Regional Office, Vashi, Navi Mumbai through Regional PF Commissioner-II Legal v/s. Jaykumar Pesumal Arlani Resolution Professional of M/s. Decent Laminates Pvt. Ltd. Company Appeal (AT) (Ins.) No. 1062 of 2024.*
4. *Regional Provident Fund Commissioner Employees Provident Fund Organisation, RO, Thane South v/s. Mr. Jayesh Sanghajka Resolution Professional for Nirmal Lifestyle Realty Private Limited Company Appeal (AT) (Ins.) NO. 2100 of 2024.*
5. *Department of State Tax v/s. Shop CJ Network Pvt. Ltd. and Anr. Company Appeal (AT) (Ins.) No. 679 of 2023.*

19. Accordingly, it is prayed to dismiss the present Interlocutory Application filed by the Applicant with costs.

Analysis and Findings

20. We have heard the Ld. Counsels of the parties and perused the documents available on record.

21. Vide order dated 01.05.2024, the Company Petition bearing number CP(IB) 1152(MB)/2023 filed by the Financial Creditor for initiation of CIRP of the Corporate Debtor was admitted. Pursuant to the voting in favor of approval of the Resolution Plan, an IA No. 6 of 2025 was filed on 11.12.2024 seeking approval of the Resolution Plan and it is pending



before the Tribunal. In the meanwhile, present Interlocutory Application dated 20.03.2025 was filed seeking directions to admit claims by the Resolution Professional.

22. It is the case of the Applicant that, the timelines mentioned in the Code are only directory in nature and not mandatory and the Resolution Plan is still pending approval of the Adjudicating Authority. Hence, directions should be issued to the Respondent to admit the claim amount of INR 2,47,34,506/- (Rupees Two Crore Forty-Seven Lakh Thirty-Four Thousand Five Hundred Six Only) of the Applicant in the CIRP of the Corporate Debtor.
23. Per contra, Ld. Counsel for the Respondent has submitted that, the Applicant failed on his part to submit its claim within the stipulated time period and the submissions made by the Applicant that the stipulated timelines are merely directory is vehemently refuted, and that these timelines are mandatory, designed to ensure procedural integrity and prevent undue delay and the Applicant's failure to adhere to the prescribed timelines for filing claims is inexcusable and devoid of any legitimate justification.
24. It is seen from the documents placed on record that the respondent caused Public Announcement dated 04.05.2024 in Form A wherein the last date for filing of claims was 15.05.2024. The CoC of the Corporate Debtor has approved the Resolution plan on 09.12.2024 with voting of 82.06%. It is pertinent to note that, the Applicant filed its claim with the RP in Form B vide email dated 05.02.2025.
25. There is a substantial delay of 262 days in the submission of the claims, the Resolution plan was approved by the CoC on 09.12.2024, and an IA No. 6 of 2025 was filed on 11.12.2024 seeking approval of the Resolution Plan and it is pending before the Tribunal. Therefore, allowing the present Interlocutory Application would be contrary to the time-bound framework mandated under the Insolvency and Bankruptcy Code, 2016.



26. In our considered opinion, in the facts of present case, the judgment of Hon'ble Apex Court in ***M/s. RPS Infrastructure Ltd. versus Mukul Kumar and Anr. Civil Appeal No. 5990 of 2021*** is squarely applicable in the present case, wherein it was held that:

*“21. The second question is whether the delay in the filing of claim by the appellant ought to have been condoned by respondent no. 1. The IBC is a time bound process. There are, of course, certain circumstances in which the time can be increased. The question is whether the present case would fall within those parameters. **The delay on the part of the appellant is of 287 days. The appellant is a commercial entity. That they were litigating against the Corporate Debtor is an undoubted fact. We believe that the appellant ought to have been vigilant enough in the aforesaid circumstances to find out whether the Corporate Debtor was undergoing CIRP.** The appellant has been deficient on this aspect. The result, of course, is that the appellant to an extent has been left high and dry.*

*23. **The mere fact that the Adjudicating Authority has yet not approved the plan does not imply that the plan can go back and forth, thereby making the CIRP an endless process. This would result in the reopening of the whole issue, particularly as there may be other similar persons who may jump onto the bandwagon. As described above, in Essar Steel, the Court cautioned against allowing claims after the resolution plan has been accepted by the COC.**”*

[Bold for Emphasis]

27. Additionally, while the Applicant is vested with the authority to assess the dues, however, such assessment if carried out, the consequent claim should be made before the Resolution Professional strictly within the timelines prescribed under the Code.



28. In this regard, in the judgment of Hon'ble Apex Court in **Sundaresh Bhatt vs Central Board of Indirect Taxes and Customs, civil appeal No. 7667 of 2021**, though the larger issue dealt is in respect of whether the provisions of the IBC would prevail over the Customs Act, and if so, to what extent and whether the customs department could claim title over goods etc., but in conclusion the Hon'ble Supreme Court have observed as under:

“54. On the basis of the above discussions, following are our conclusions:

i) Once moratorium is imposed in terms of Section 14 or 33(5) of the IBC as the case may be, the respondent authority only has a limited jurisdiction to assess/determine the quantum of customs duty and other levies. The respondent authority does not have the power to initiate recovery of dues by means of sale/confiscation, as provided under the Customs Act.

*ii) **After such assessment, the respondent authority has to submit its claims (concerning customs dues/operational debt) in terms of the procedure laid down, in strict compliance of the time periods prescribed under the IBC, before the adjudicating authority.***

iii) In any case, the IRP/RP/liquidator can immediately secure goods from the respondent authority to be dealt with appropriately, in terms of the IBC.”

[Bold for Emphasis]

Accordingly also, in terms of above observations, the assessment authority have to submit their claim in strict compliance of time period provided under IBC.

29. Accordingly, and in view of the facts and circumstances of the case, rejection by the Respondent to admit claim of the Applicant is found to be justifiable and therefore, no interference of Tribunal is warranted in the same.



30. However, for the purpose of completeness we are inclined to examine the decisions relied upon by the Applicant and their applicability to the facts of the present case. The Applicant has relied upon the following precedents:

(a) State Tax Officer Vs Rainbow Papers Limited [Supreme Court of India Civil Appeal No. 1661 of 2020], the Applicant has relied on para 41, 43, 45, 48 which deal with RP's duty to examine the Resolution Plan submitted and there is no mention as to the delay in filing of claim and condonation thereof.

The Applicant has also referred to Para 52, where in it has been observed that, if the Resolution Plan ignores the statutory demands payable to any State Government or a legal authority, altogether, the Adjudicating Authority is bound to reject the Resolution Plan, however, in the present case dues of the Applicant are not being ignored but has been rejected due to delay in the filing of claim.

The Applicant has also referred to Para 54, wherein it was held that, the Committee of Creditors, which might include financial institutions and other financial creditors, cannot secure their own dues at the cost of statutory dues owed to any Government or Governmental Authority or for that matter, any other dues. Whereas, it is pertinent to note that, claims arising out of such dues are to be submitted to the RP within the stipulated timeline and the case relied by the Applicant does not deal with the question as to whether delayed claim should be admitted or not.

(b) Ghanshyam Mishra & Sons (P) Ltd. v. Edelweiss Asset Reconstruction Co. Ltd (2021) 9 SCC 657

In this case, Hon'ble Supreme Court held that, all the dues including the statutory dues owed to the Central Government, any State Government or any local authority, if not part of the resolution plan, shall stand extinguished and no proceedings in respect of such dues for



the period prior to the date on which the adjudicating authority grants its approval under Section 31 could be continued, it was further held that, it would be impossible to promptly resurrect the CD if fresh claims keep coming up. Accordingly, the present case does not support the contentions advanced by the Applicant, but rather operates to their detriment.

(c) *Ebix Singapore Private Limited v. Committee of Creditors of Educomp Solutions Limited and Another (2021) 9 SCC 657*

In this case, Hon'ble Supreme Court held that, no withdrawals or alterations will be allowed once a resolution plan has received approval from the Committee of Creditors. In the present case, the issue pertains to the delay in the filing of the claim beyond the prescribed limitation period. Accordingly, the precedent relied upon by the Applicant does not help case of the Applicant.

31. In view of the facts and circumstances of the case and discussion hereinabove, the contentions and submissions made on behalf of the Applicant are not found to be acceptable and are accordingly rejected. The IA 1466 of 2025 is accordingly, **dismissed** and **disposed of**.

Sd/-

Charanjeet Singh Gulati
Member (Technical)

/Omkar/

Sd/-

Sushil Mahadeorao Kochey
Member (Judicial)