

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 2

ITEM No307
IA/55(AHM)2022
in
CP(IB) 586 of 2019

Order under Section 60(5) IBC

IN THE MATTER OF:

Kolmar Group AG

.....Applicant

V/s

Vikas Gautamchand Jain RP of Sona Alloys Pvt Ltd

.....Respondent

Order delivered on 31/07/2023

Coram:

Mr. Shammi Khan, Hon'ble Member(J)

Mr. Ajai Das Mehrotra, Hon'ble Member(T)

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open Court vide separate sheet.

-Sd-

**AJAI DAS MEHROTRA
MEMBER (TECHNICAL)**

-Sd-

**SHAMMI KHAN
MEMBER (JUDICIAL)**

IN THE NATIONAL COMPANY LAW TRIBUNAL

AHMEDABAD (COURT NO.II)

IA No. 55 / NCLT / AHM / 2022

IN

CP(IB) No. 586 / NCLT / AHM / 2019

Application Under Section 60(5) of the IB Code, 2016

IN THE MATTER BETWEEN

Kolmar Group AG **Applicants**

Versus

Sona Alloys Private Limited **Respondent**

IN THE MATTER OF

**Nobel Resources International
Pvt. Ltd.**

... Applicant / Operational Creditor

Versus

Sona Alloys Pvt. Ltd. **Respondent/Corporate Debtor**

Order pronounced on :31/07/2023

Coram:

**SHAMMI KHAN,
HON'BLE MEMBER (JUDICIAL)
AJAI DAS MEHROTRA
HON'BLE MEMBER (TECHNICAL)**

MEMO OF PARTIES**Kolmar Group AG**

Through: Mr. Sahil Bhatia
Constituted Atteroney,
C-206, Vikaspuri,
New Delhi-110018

... Applicant**Versus****Sona Alloys Private Limited**

Through its Resolution Professional
Mr. Vikash Gautamchand Jain

... Respondent**Present:**

For the Applicant : Mr. Raju Kothari, Adv.
For the Respondent : Mr. Jaimin Dave, Adv.

ORDER

1. This application has been filed by the applicant regarding partial rejection of its claim by the Resolution Professional during Corporate Insolvency Resolution Process of Corporate Debtor Sona Alloys Private Ltd. As against the claim of Rs.56,12,48,775/-, Resolution Professional had admitted claim of Rs.31,35,22,981/-.
2. We have gone through the submissions of the applicant and respondent. It is apparent from the record that Resolution Professional had allowed the claim based on the audited books of accounts of the Corporate Debtor. In his reply, Resolution Professional had brought out that there was a debit note on 31.03.2014, duly recorded in the books of accounts of the Corporate Debtor, which has been ignored by the applicant while filing its claim. He has also submitted that as far back as 2016, applicant had agreed and accepted to receive an amount of USD 40,00,000/- against total outstanding dues.
3. The resolution plan has been approved by the Adjudicating Authority vide its order dated 06.02.2023.

4. The claim has been admitted by the Resolution Professional based on the records of the Corporate Debtor, including audited books of accounts. It has been held by the Hon'ble Supreme Court in the case of **Swiss Ribbons Pvt. Ltd. & Another vs. Union of India & Ors.** (Civil Original / Appellate Jurisdiction Writ Petition (Civil) No.99 of 2018) that Resolution Professional is given administrative as opposed to quasi-judicial powers. Relevant portion of the said judgement is extracted below:

“59... It is clear from a reading of these Regulations that the Resolution Professional is given administrative as opposed to quasi-judicial powers. In fact, even when the Resolution Professional is to make a determination under Regulation 35A, he is only to apply to the Adjudicating Authority for appropriate relief...”

5. Resolution Professional had admitted the claim of Rs. 31,35,22,981/- based on the records and audited books of accounts of the Corporate Debtor and his action in doing so cannot be faulted with.
6. As sequel to the above discussion, application is rejected and disposed of.

**-Sd-
AJAI DAS MEHROTRA
MEMBER (TECHNICAL)**

**-Sd-
SHAMMI KHAN
MEMBER (JUDICIAL)**

Prakash - Steno