IN THE NATIONAL COMPANY LAW TRIBUNAL, DIVISION BENCH – I, CHENNAI

IA(IBC)/388(CHE)/2022 in CP/IB/603/2017

(Filed under Rule 11 of NCLT Rules, 2016)

Along with

IA(IBC)/400(CHE)/2022 in CP/IB/603/2017

(Filed under Section 42 and 60(5) of the Insolvency and bankruptcy Code, 2016)

*In the matter of **M/s. Anandram Developers Private Limited***

The Assistant Commissioner of CGST & Central Excise
Vadapalani Division, Chennai South Commissionerate
Newry Towers, Ground Floor, Plot No. 2054, I Block,
2nd Avenue, 12th Main Road, Anna Nagar,
Chennai – 600 040

.. .. .. *Appellant*

-Vs-

Rajashree Santhanam
Liquidator
Anandram Developers Private Limited
23, Lake Area, 3rd Cross Street,
Nungamabakkam, Chennai – 600 034

.. .. .. *Respondents*

Present:

For Applicant	:	*H. Siddarth, Standing Counsel for CBIT*
For Respondent	:	*B. Dhanraj, Advocate*

CORAM:

SANJIV JAIN, MEMBER (JUDICIAL)
VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

*Order Pronounced on **22nd November 2023***

ORDER

(hearing conducted physical mode)

IA(IBC)/388/CHE/2022 is an Application filed by the Applicant under Rule 11 of NCLT Rules, 2016, seeking relief as follows;

(i) *The Hon'ble Tribunal may be pleased to condone the delay of 384 days in filing the Application for admission of revised claim and accept the same on file and thus render justice.*

(ii) *Pass such further or other orders, as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case and render justice.*

2. IA(IBC)/400/CHE/2022 is an Application filed by the Applicant under Section 42 and 60(5) of the Insolvency and Bankruptcy Code, 2016 seeking relief as follows;

(i) *Condone the delay of 336 days in filing the claim before the Respondent and consequently direct the Respondent to admit the revised Claim Form submitted by the Applicant in Form – G dated 15.02.2021 for Rs.4,30,29,651/- (Rupees Four Crore Thirty Lakhs Twenty Nine Thousand Six Hundred Fifty One Rupees Only); and*

(ii) *Pass such further or other orders, as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case and render justice.*

3. The Corporate Insolvency Resolution Process in respect of the Corporate Debtor viz. Anandram Developers Private Limited was initiated by this Tribunal vide its order dated 06.06.2018 and one Mr. Gopala Krishna Raju was appointed the Interim Resolution Professional. The Applicant filed their claims with the IRP in accordance with the Regulations for a sum of Rs.3,38,30,728/- vide Claim Form dated 26.09.2018 which was admitted by the Resolution Professional.

4. Thereafter, this Tribunal vide its order dated 11.02.2020 passed in MA/463/2019 ordered for Liquidation of the Corporate Debtor and appointed the Respondent herein as the Liquidator. The Respondent caused a public announcement on 14.02.2020 under Regulation 12 of the Liquidation Process Regulations, 2016. The stakeholders were required to file the claim on or before 15.03.2020.

5. It is stated that the Respondent was well aware of the various orders passed by the Applicant and the Demand Notice issued against the Corporate Debtor, however despite the same, the Respondent did not intimated the Applicant that the Corporate Debtor has been ordered for Liquidation.

6. It is stated that in the meantime, the Applicant came to know about the Liquidation process of the Corporate Debtor. It took steps to immediately file the Revised Claim before the Respondent on 15.02.2021 for a sum of Rs.4,30,29,651/-. It is stated that the revised claim was filed taking into account the demand made in terms of

a. Order in Original No.45-48/2015 dated 25.01.2016
b. Order in Original No.24/2018 dated 04.04.2018 and
c. Order in Original No.30/2020 (C) dated 29.12.2020 (passed pursuant to orders of Hon'ble CESTAT's Final order dated 12.06.2017 directing re-quantification of demand

7. It is stated that after receipt of the Claim Form, the Respondent vide letter dated 25.02.2021 intimated the Applicant that since the Revised Claim Form was received after a period of 30 days from the date of filing the claim, the same was liable to be rejected.

8. It is stated that this Tribunal vide order dated 22.12.2021 in an Application filed by the Respondent under Section 230 of the Companies Act, 2013 for a Scheme of Compromise under Liquidation, has ordered for the meeting of the Creditors of the Company to be held on 12.02.2022. It is stated that upon perusal of the Scheme of Compromise, it was

ascertained that there were certain discrepancies pertaining to the amount payable to the Applicant.

9. It is stated that the Applicant is an Arm of Union of India, Ministry of Finance and is vested with the responsibility of collection of duties / taxes and also is in charge of carrying out other administrative functions in the assigned jurisdiction. It is stated that since the Applicant is in charge of large number of assesses and also administrative work owing to that the Applicant could not complete the process of filing the claim within the stipulated time period.

10. The Respondent has filed the counter. The Learned Counsel for the Respondent submitted that this Tribunal vide its order dated 15.07.2021 had directed the Liquidator to effect Paper Publication inviting Scheme under Section 230 of the Companies Act, 2013 for maximization of the assets of the Corporate Debtor. Pursuant to the same, vide order dated 26.11.2021, this Tribunal in CA(CAA)/05/2021 directed the Liquidator to convene the meeting of the Stakeholders for considering the Scheme under Section 230 of the Companies Act, 2013. In the interregnum, an Appeal was filed and the Hon'ble NCLAT vide its order dated 07.02.2022

passed in Company Appeal (AT)(Ins) No. 41, 42 and 87 of 2022 stayed the meeting of the stakeholders of the Corporate Debtor.

11. It is submitted that the paper publication made by the Liquidator was for the public at large. The Respondent vide her letter dated 19.02.2020 had informed the Statutory Authorities including the Applicant about the Liquidation of the Corporate Debtor and called for submission of the claim on or before 15.03.2020. However, the Applicant did not prefer the claim before the Liquidator within the timeline.

12. It is submitted that the claim form filed by the Applicant refers to order dated 29.12.2020 passed by the Office of the Commissioner of GST and Central Excise, Chennai South. It is stated that the claim has to be filed as on the Liquidation commencement date i.e. 11.02.2020 and that the order dated 29.12.2020 post the liquidation commencement date cannot be considered for substantiating the claim of the Applicant. Under such circumstances, the Learned Counsel for the Respondent has sought dismissal of the present Application.

13. Heard the submissions made by the Learned Counsel for the parties and perused the record.

14. The Liquidation in respect of the Corporate Debtor was ordered on 11.02.2020. The public announcement was given on 14.02.2020 and the last date for submission of the claim was 15.03.2020. The Hon'ble NCLAT in the matter of **Girish Baduni –vs- Punjab National Bank & Anr.** in Company Appeal (AT)(Ins) No. 290 of 2020 has held as follows;

> *30. ....We note that the IRP made a public announcement on 1.11.2019 as per Rule 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution for Corporate Persons) Regulations, 2016. In this Public Announcement the name of the Corporate Debtor, Insolvency commencement date in respect of corporate debtor, Corporate Identification No. of corporate debtor etc. is given. This public announcement is for public at large. Even if it is presumed that the appellant was not served at the correct address or at the correct email, this public announcement is made known to each and every citizen of country and the appellant cannot deny it. Therefore, the appellant should have filed the appeal within 45 days from the date of public announcement i.e 01.11.2019*

15. It is also seen that the Respondent / Liquidator vide her letter dated 19.02.2020 had informed the Statutory Authorities including the Applicant about the Liquidation of the Corporate Debtor and called for submission of the claim on or before 15.03.2020. In spite of the Public announcement and also the intimation letter dated 19.02.2020, the Applicant did not prefer to file its claim before the Liquidator.

16. Be that as it may, the Applicant filed the claim before the Liquidator belatedly on 15.02.2021, i.e. almost with a delay of 336 days. Thereafter, the Liquidator rejected the claim of the Applicant on 25.02.2021. The Applicant remained indolent for a period of one year and thereafter only on 01.04.2022, it filed the present Application seeking to *set aside t*he rejection order passed by the Respondent / Liquidator.

17. As per the provisions of the IBC, 2016, the Applicant is required to submit the claim to the Liquidator in such form and in such manner along with such supporting documents as specified by the Board. Thereafter, upon submission of the claim, the Liquidator is required to verify the claims within the time limits specified by the Board and in this connection referring to the relevant Regulations namely, IBBI (Liquidation Process) Regulations, 2016 and more specifically under Regulation 30, the Liquidator is required to verify the claim submitted within a period of 30 days from the last date of receipt of the claims and may either admit or reject in whole or part as the case may be of such claim. Section 40 of the I&B Code, 2016 mandates the Liquidator to record the reason in writing for rejection of the claim. In relation to his decision of admission or rejection, the Liquidator is required to communicate to both the creditors

and the Corporate Debtor within seven days of such admission or rejection of the claim. As against the rejection of the claim, Section 42 of I&B Code, 2016 provides for a time window of 14 days upon receipt of such decision to the creditor to file an appeal to the Adjudicating Authority against the said decision of the Liquidator.

18. It may also be seen that the Applicant during the CIRP period had filed the claim before the IRP / RP. So it cannot feign ignorance for not filing the claim the before the Liquidator.

19. This Tribunal is also persuaded by the decision of the Hon'ble NCLAT in the matter of **The Deputy Commissioner Commercial Taxes (Audit), Raichur –Vs- Surana Industries Ltd. (In Liquidation) & Anr.** in *Company Appeal (AT) (Insolvency) No. 1525 of 2019* dated 07.02.2020, wherein the Hon'ble NCLAT dismissed the application filed by the Applicant in relation to the Appeal against the order of the liquidator and also held that liquidation process is a time bound process and the Liquidator has to conclude the proceedings within one year.

20. Under Regulation 44(1) of the IBBI (Liquidation Process) Regulations, 2016, the Liquidator has been directed to liquidate the Corporate Debtor within one year from the date of commencement of the liquidation proceedings. Regulation 44(2) stipulates that, after the expiry of one year, the liquidator shall file an application to the Authority to continue the liquidation period along with a report and explain why the liquidation has not been completed. Thus, it can be seen that the Liquidation is a time bound process and the Liquidator being made accountable is required to explain if there is any delay caused in the liquidation process.

21. The Hon'ble Supreme Court in **Gaurav Hargovindbhai Dave –Vs- Asset Reconstruction Company (I) Ltd. & Another** *in Civil Appeal No. 4952 of 2019*, in relation to the aspect of limitation has restated the well-established and well settled principle that *"there is no equity about limitation"*, we are unable to entertain this Application/Appeal.

22. In view of the IBC, 2016 being a time bound process as well as the Learned Liquidator being under a compulsion to complete the liquidation process within a period of one year from the date of commencement of

liquidation, the IA(IBC)/388(CHE)/2022 and IA(IBC)/400(CHE)/2022 stand **dismissed,** however without costs.

-Sd-

VENKATARAMAN SUBRAMANIAM
MEMBER (TECHNICAL)

-Sd-

SANJIV JAIN
MEMBER (JUDICIAL)

Raymond