

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**AHMEDABAD**  
**DIVISION BENCH**  
**COURT - 2**

ITEM No.303  
IA/681(AHM)2022  
in  
CP(IB) 164 of 2017

**Order under Section 60(5) IBC**

**IN THE MATTER OF:**

Commercial Tax Department Government of Rajasthan Through .....Applicant  
Joint Commissioner

V/s

.....Respondent

Parag Sheth Liquidator For Sai Infosystem (India) Ltd

**Order delivered on 22/12/2023**

**Coram:**

Mrs. Chitra Hankare, Hon'ble Member(J)

Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)

**ORDER**

The case is fixed for pronouncement of order. The order is pronounced in open Court, vide separate sheet.

-SD-

**DR. V. G. VENKATA CHALAPATHY**  
**MEMBER (TECHNICAL)**

-SD-

**CHITRA HANKARE**  
**MEMBER (JUDICIAL)**

**BEFORE THE ADJUDICATING AUTHORITY  
NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
COURT-2**

**IA No. 681 of 2022**

**In**

**C.P. (IB) No. 164 of 2017**

**In the matter of:**

**Commercial Taxes Department**

Government of Rajasthan  
Through Joint Commissioner  
State Tax, Circle – C, Jaipur – II,  
Rajasthan,

**.....Applicant**

**VERSUS**

**Parag Sheth**

**Liquidator of M/s. SaiInfosystem (India)Ltd.**

404, Sachet – II, Opp. GLS University,  
Maradia Plaza Lane, C.G. Road,  
Ahmedabad, Gujarat – 380006.

**.....Respondent**

**Order pronounced on : 22.12.2023**

**Coram:**

**MRS. CHITRA HANKARE  
HON'BLE MEMBER (JUDICIAL)**

**DR. VELAMUR G VENKATA CHALAPATHY  
HON'BLE MEMBER (TECHNICAL)**

**Present:**

For the Commercial Tax Department : Mr. VidhanVyas, Adv along with  
Mr. Syed Haider Shah, Adv.

For the Liquidator: Mr. Nipun Singhvi, Adv, along  
with Mr. Mayur Jugtawat, Adv.

**JUDGMENT**

1. The present application is filed by the applicant above named under Section 60 (5) of the Insolvency and Bankruptcy Code, 2016 (IBC) thereby praying for quashing and setting aside of the impugned order/communication dated 18.04.2022 passed by the respondent/liquidator whereby the said respondent/liquidator has rejected the claim of the applicant as time-barred having been filed with a delay.
2. The facts of the case as stated in the application and presented by the learned counsel for the Applicant are summarized here as under: -
  - I. The appellant is a Commercial Tax Department of State of Rajasthan. The Appellant states the GST has been implemented in the State from 01.07.2017 having a dual Tax System in which CGST and RGST are to be charged on every transaction. The Parliament had passed 101<sup>st</sup> Constitution Act, 2017 through which certain Acts have subsumed. That at present the Appellant department is administering Rajasthan Goods & Service Tax Act, 2017 and The Rajasthan Value Added Tax, 2003.
  - II. That it is submitted that the assessing authority passed an Orders of Assessment against the Corporate Debtor for

payment of Tax under the provision of Rajasthan Value Added Tax Act, 2003 (hereafter RVAT) and in default, it can be recovered under the provision of RVAT. The Appellant submits that based on the returns filed by the Corporate Debtor for various financial years, assessment orders were passed by the assessing authority and accordingly demands were raised for various financial years.

III. The appellant has submitted a Claim (Form C) to the liquidator on 13.04.2022. However, vide the impugned order dated 18.04.2022 the respondent/liquidator has rejected the claim of the applicant department as filed on 13.04.2022 beyond the last date of submission i.e. 23.10.2019.

IV. It is submitted that the appellant department was unaware of the liquidation, name of the liquidator and was unable to reach out the detail of the liquidator. Appellant made several attempts about the developments of proceedings but all efforts had been in vain. Furthermore, the apparent advertisement taken out by the Liquidator with respect to the submission of the claim has not been made in the place/jurisdiction/base of Appellant department or the concerned officer and neither any email nor notice was provided to the Appellant. It is submitted that the claim of

the department is nothing but revenue and assessment orders imposing a tax on the Corporate Debtor were passed under the CST & RVAT Acts.

- V. It is further submitted that the delay in filing of the claim before the liquidator is on account of circumstances beyond the control of the applicant department. That even otherwise the liquidation process is at the stage where assets have not been distributed and no prejudice would be caused to anyone by the admission of the above stated claim of the applicant department, in consonance with various judgment of this Hon'ble Tribunal (Kolkata Bench) in CA (IB) No. 31/KB/2018 in CP(IB) no. 03/KB/2017 in UCO Bank vs. Nicco Corporation Ltd (in liquidation).
- VI. The appellant submits that the State Government has the first charge as per the Rajasthan Sales Tax Act and Rajasthan Value Added Tax and therefore the Claim of the department shall be accepted.

3. The filed reply stating as under:

- I. That applicant filed its claim for an amount of Rs. 3,13,81,450/- (Rs. Three Crores Thirteen Lakhs Eighty-One Thousand Four Hundred and Fifty only) as an operational creditor in form C on 13.04.2022.

- II. On 18.04.2022 liquidator replied to applicant through mail that 'As per Regulation 16 of the IBBI (Liquidation Process) Regulations, 2016, the claim should have been submitted on or before the last date mentioned in the public announcement i.e, 23.10.2019. Hence, liquidator shall not be in position to recognize& admit claim at this stage i.e. almost after the lapse of 2.5 years.
- III. Therefore, as per Regulation 12(2)(b) of the IBBI (Liquidation Process), Regulation, 2016 stakeholders have to submit their claim within thirty days of the Public Announcement. In present case liquidator made Public Announcement on 23.09.2019 and as per the Public Announcement last date for submission of claim by stakeholders was 23.10.2019. However, Applicant after expiry of 903 days from the last date for submission of claim, has filed its claim before Respondent liquidator on 13.04.2022.
- IV. Respondent submit that in view of the above stated provisions and as per Regulation 12 (2) (b) of the IBBI (Liquidation Process) Regulations, 2016 stakeholders has to submit their claims within 30 days from the commencement of the liquidation of the Corporate Debtor and liquidator cannot entertain any claim submitted after the expiry of prescribed time limit. As Applicant has submitted its claim before Respondent liquidator

on 13.04.2022. therefore, liquidator rejected the claim of the applicant

- V. Respondent/Liquidator denied the allegation made by the applicant that advertisement for liquidation was not made in the place of appellant as false and bogus because liquidator made public announcement as per Regulation 12(3) of IBBI (Liquidation Process) Regulations, 2016 in Economics Times English and Sandesh Gujarati Newspaper published in all over Gujarat, for inviting claims from the Stakeholders of the Corporate Debtor.

**ORDER**

4. We have heard the Counsel for the both the parties and perused the available record.
5. The Corporate debtor was admitted into CIRP on 30.11.2017 and the order of liquidation was passed on 22.08.2019. The last date of submission of claim as per the advertisement was 23.10.2019 whereas the present applicant submitted its claim on 13.04.2022 which beyond the prescribed time limit. As per Regulation 12(2)(b) of IBBI (Liquidation) Regulation, 2016 stakeholder has to submit their claim within 30 days from the commencement of the Liquidation of the Corporate Debtor and Liquidator cannot

entertain any claim submitted after the expiry of prescribed time limit.

6. On 16.08.2023 counsel for applicant states that he will file an application for condonation of delay, till today no application to this effect received by this Adjudicating Authority.
7. In view of above discussions, we do not find any merit in the present application to interfere at this belated stage for consideration of the claim of the Applicant.
8. Accordingly, the present IA/681(AHM)2022 is hereby dismissed and rejected with no order as to cost.

-SD-

**DR. V. G. VENKATA CHALAPATHY**  
**MEMBER (TECHNICAL)**

-SD-

**CHITRA HANKARE**  
**MEMBER (JUDICIAL)**

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