

**IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI  
COURT - VI**

**I.A No. 6381/2023  
In  
C.P. (IB) No. 2628/(ND)/2019**

**IN THE MATTER OF:**

PUNJAB NATIONAL BANK

.... Financial Creditor

**Versus**

SARAYA INDUSTRIES LTD.

.... Corporate Debtor

**AND IN THE MATTER OF-**

WORKERS/EMPLOYEES OF  
SARAYA INDUSTRIES LTD.  
(Through authorised representative  
Rajkumar vishwakarma)

.... Applicant

**Versus**

MR. SHRAVAN KUMAR VISHNOI  
(Resolution Professional for  
SARAYA INDUSTRIES LIMITED LTD.)

...Respondent

**CORAM:**

**(MS.ANU JAGMOHAN SINGH)  
HON'BLE MEMBER (TECHNICAL)**

**(JUSTICE JYOTSNA SHARMA)  
HON'BLE MEMBER (JUDICIAL)**

**PRESENT:**

For the Applicant : Adv. Karuna Nidhi

For the Respondent : Adv. Abhishek Anand, Adv. Karan Kohli, Adv.  
Ridhima Mehrotra and Dr. Shравan Kumar  
Vishnoi, R.P. in person

## **ORDER**

**ORDER DELIVERED ON: 15.07.2025**

1. The present application is filed by the authorized representative of 49 workmen/employees of M/s Saraya Industries Ltd. under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (IBC), read with Rule 11 of the NCLT Rules, 2016, seeking the following reliefs:
  - a. *Pass an appropriate Order to condone the delay by allowing this present Application;*
  - b. *Pass an appropriate Order directing the Interim Resolution Professional to accept the claim from filled by the applicant.*
  - c. *Pass further order(s)/ direction(s) and other relief(s) as this Hon'ble Adjudicating Authority may deem fit and proper in the facts and circumstances of the present case and in the interest of justice.*
2. The applicant has made the following brief submissions: -
  - a) CIRP against Saraya Industries was admitted on 17 May 2022 and an IRP was appointed. The Applicants were employed as workers of the Corporate Debtor and continued their employment until August 2022.
  - b) The applicants are economically disadvantaged and illiterate, and were thus unaware of the requirement to file claims during the Corporate Insolvency Resolution Process (CIRP). The Insolvency proceedings came to the knowledge of the applicants only in September 2023 when they visited the office of the Corporate Debtor.
  - c) Due to their illiteracy and lack of resources, they were unaware of the initiation and progress of the insolvency proceedings. Consequently, they were unable to file their claim petitions within the prescribed deadline during the CIRP. Upon becoming aware of the public announcement inviting claims, the Applicants immediately took steps and subsequently they sent their claim form dated 10.10.2023 to the Respondent via E-Mail on 31.10.2023.
  - d) The IRP rejected the claim vide E-Mail dated 03.11.2023 on the ground that, it was filed after the deadline of May 31, 2022, and beyond the 90-day period permitted under

Regulation 12(2) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

- e) The applicant argues that Regulation 12(2) does not specify the status of creditors who file their claims post the 90-day deadline, leaving ambiguity about whether the timeline is mandatory or directory.
- f) Reliance has been placed on ***Twenty-First Century Wire Roads Ltd, Edelweiss Asset Reconstruction Co. Pvt. Ltd. vs. Adel Landmarks Ltd*** and ***State Bank of India v. ARGL Ltd*** where the principal bench observed that it is immaterial whether the claim was formally submitted or not, as statutory dues owed to government authorities are generally recorded in the books of accounts of the Corporate Debtor. Accordingly, it was held that the Resolution Professional (RP)/Interim Resolution Professional (IRP) is obligated to take cognizance of such dues based on the entries in the books of accounts, irrespective of any formal claim being filed.

3. The Respondent, RP has made the following submissions in his Reply:

- a) The Corporate Insolvency Resolution Process (CIRP) for Saraya Industries Limited commenced pursuant to an order dated May 17, 2022, following a petition filed by Punjab National Bank under Section 7, and a public announcement was made on May 22, 2022
- b) The last date for submitting claims was May 31, 2022. Additionally, under Regulation 12(2), claims could be submitted up to the 90th day from the insolvency commencement date, i.e., August 15, 2022, however No claim was received from the applicant by either of these deadlines.
- c) The RP issued the request for resolution plans on March 30, 2023.
- d) The RP received the applicant's claim, much beyond the initial deadline (May 31, 2022), the 90-day extended period (August 15, 2022), and the issuance of the request for resolution plans (March 30, 2023).
- e) The Committee of Creditors (CoC) approved a resolution plan on July 11, 2023, during its 19th meeting, in

accordance with Section 30 of the IBC and applicable regulations.

- f) Accepting the applicant's claim at this stage would disrupt the CIRP and the approved resolution plan.

### **ANALYSIS & FINDINGS**

4. We have heard the Learned Counsel(s) and perused the records.
5. It is an admitted and undisputed fact that the CIRP of the Corporate Debtor commenced on 17.05.2022. According to the public announcement the last date for submission of claim was 31.05.2022 and the Resolution Plan has been approved by the Committee of Creditors on 11.07.2023.
6. Pertaining to the facts of the present case, it is noted that the Applicants submitted their claim to the Resolution Professional on 31.11.2023. The Applicants took a plea that they received the information as to the Insolvency of the Corporate Debtor in September 2023.
7. On perusal of statement of outstanding amounts payable to the employees and workmen of the Corporate Debtor (as submitted by the applicants and annexed to the application as *Annexure-B*), it is observed that a major segment of the claim pertains to Gratuity and Provident Fund liabilities, as detailed there in.
8. Vide order dated 19.05.2025, the Resolution Professional was directed to examine the records of the Corporate Debtor and clarify whether the applicants are employees of the Corporate Debtor, and whether the payments due to them are reflected in the Corporate Debtor's books of account. Subsequently an affidavit dated 29.05.2025 has been filed by the respondent/Resolution Professional wherein it has been stated, "*Applicants are Employees of the Corporate Debtor as per the Register records of the Corporate Debtor available with the Deponent*" and that, "*Deponent is unable to verify the payment due to the Applicants as per the accounts of the Corporate Debtor however the Deponent may admit the claim of the Applicant, subject to verification of the documents and records furnished by the Applicant*".
9. **Sub-section 4 of Section 36 of the Insolvency and Bankruptcy Code, 2016** provides for the list of assets not to be included in the *Liquidation Estate*.

**Section 36(4)(a) reads as follows:**

*"36(4) The following shall not be included in the liquidation estate assets and shall not be used for recovery in the liquidation: —*

(a) assets owned by a third party which are in possession of the corporate debtor, including—  
(i) assets held in trust for any third party;  
(ii) bailment contracts;  
**(iii) all sums due to any workman or employee from the provident fund, the pension fund and the gratuity fund;”**

10. At this juncture, it is pertinent to refer to the decision of the Hon’ble National Company Law Appellate Tribunal (NCLAT) in the case of **Jet Aircraft Maintenance Engineers Welfare Association vs. Ashish Chhawchharia Resolution Professional of Jet Airways (India) Ltd. & Ors., [Company Appeal (AT) (Insolvency) Nos. 752, 643,792, 801 915 of 2021, 361, 771 & 987 of 2022] decided on 21.10.2022**, wherein, the Hon’ble NCLAT has held that the workmen and employees are entitled to receive the amount of provident fund and gratuity in full since they are not part of the liquidation estate under Section 36(4)(b)(iii). The relevant extract of the decision of the Hon’ble NCLAT in the aforesaid order dated 21.10.2022 is reproduced hereunder:

**“133. In view of forgoing discussions, we have found that non-payment of full provident fund amount to the workmen and employees and the gratuity payment till the insolvency commencement date amounts to noncompliance of provisions of Section 30(2)(e) of the Code.....”**

11. In light of the foregoing discussion, judicial precedents, and the Resolution Professional’s statement confirming that the applicants are employees of the Corporate Debtor as per the Register of Records available with the Resolution Professional, the Resolution Professional is hereby directed to verify the claims of the applicants and take appropriate decision as per the law. We make it clear that we have not examined the merits of the claim.

12. Consequently, in view of the above, IA No. 6381/2023 stands allowed and accordingly disposed of.

-SD/-  
**(MS.ANU JAGMOHAN SINGH)**  
**MEMBER (TECHNICAL)**

-SD/-  
**(JYOTSNA SHARMA)**  
**MEMBER (JUDICIAL)**