

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

MA/122/2020 in CP/381/IB/2018

(Filed under Section 42 of IBC, 2016)

In the matter of M/s. Tirupura Chits Private Limited

M/s. IDFC First Bank Limited

Rep. by its Authorized officer

S. Maheshbabu, Manager,

Amarasri Building, 1st Floor, No.455,

Anna Salai, Teynampet,

Chennai – 600 018

.. .. . Applicant

-Vs-

J. Manivannan

Liquidator

M/s. Tirupura Chits Pvt. Ltd.

Plot No.53B, 8/220, Vishalakshi Nagar,

Santhosapuram,

Chennai – 600 073

.. .. . Respondent / Respondent

Present:

For Applicant : K. R. Pranav, Counsel

For Respondent : J. Manivannan, Counsel

CORAM :

R. VARADHARAJAN, MEMBER (JUDICIAL)

ANIL KUMAR B, MEMBER (TECHNICAL)

Order Pronounced on 11th March, 2020

ORDER

Per: ANIL KUMAR B, MEMBER (TECHNICAL)

1. The MA/122/2020 is an Application filed by M/s. IDFC First Bank Limited, seeking relief as follows;



- (i) Condone of the delay of 140 days from the last date of submission in filing the proof of claim with the Respondent.*
- (ii) Direct and order the Respondent to allow and accept the Proof of Claim filed by the Applicant*
- (iii) Direct and order the Respondent to verify the Proof of Claim and permit the Applicant to realize its claim by enforcing the security interest.*
- (iv) To pass any other directions and / or orders as this Tribunal may consider as necessary and proper in the interest of justice.*

2. The Learned Counsel for the Applicant submitted that the Corporate Debtor viz. M/s. Tirupura Chits Private Limited approached the Applicant during 2015 to 2016 for availing various loan facilities for the Corporate Debtor's financial requirements and based on the same, the Applicant has disbursed various loan facility to the Corporate Debtor from the year 2015 and in order to secure the loan, the Corporate Debtor had executed various documents including Memorandum of Deposit of Title Deeds. It was submitted that during the pendency of the loan period, the insolvency proceedings in relation to the Corporate Debtor was initiated which



was subsequently followed by a Liquidation Order passed by this Authority vide order dated 09.07.2019 in MA/454/2019.

3. The Learned Counsel for the Applicant submitted that in furtherance of the same, the Respondent was appointed as the Liquidator of the Corporate Debtor and he has caused public announcement on 21.07.2019 in Dinamani (Chennai Edition – Tamil) and Financial Express (Chennai Edition – English) calling upon the stakeholder to submit their proof of claim with the liquidator on or before 15.08.2019. It is submitted that the Applicant, being a Financial Creditor has submitted its proof of claim before the liquidation for a sum of Rs.5,64,30,526.95/- on 02.01.2020 i.e. after the delay of 140 days and on account of the delay in filing the proof of claim, the Respondent vide his email dated 07.01.2020 rejected the proof of claim on the ground that he is not empowered to accept the proof of claim beyond the last date of submission.

4. The Learned Counsel for the Applicant submitted that the Applicant Company was undergoing amalgamation during the period September 2018 and March 2019 and all the customer details and the loan details was undergoing huge data transfers over several computer servers and the employees of the applicant also had to



convert their login accounts in to the new computer server after the amalgamation had taken place and this process was undergoing across several branches of the Applicant throughout a period of time and the Applicant was unable to access and procure the data on time for filing the proof of claim with the liquidator and as a result of which a delay of 140 days has occurred in filing the claim before the liquidator.

5. The Learned Counsel for the Respondent has filed counter and has stated that the Corporate Insolvency Resolution Process in relation to the Corporate Debtor was initiated on 17.09.2018 and the Applicant has not submitted the claim with either during the CIR Process or in the Liquidation Process.

6. Heard the submissions made by the parties. The delay of 140 days in preferring the claim before the Liquidator was due to the reasons that the Applicant Bank was undergoing amalgamation during the period September 2018 and March 2019 and all the customer details and the loan details were undergoing huge data transfers over several computer servers. However, we are unable to accept the reasons stated by the Applicant for the delay in filing the claim before the Liquidator. 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 and the same is also required to be communicated to the Applicant. 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.



7. It may also be seen that the Applicant during the CIRP period also has not filed any claim before the IRP / RP and has preferred the claim only at the time of liquidation and that too at a belated stage, more particularly after expiry of a period of 140 days.

8. 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 has 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 his proceedings within one year.

9. Further, it may be noted that under Regulation 44(1) of the IBBI (Liquidation Process) Regulations, 2016, the Liquidator is directed to liquidate the Corporate Debtor within one year from the date of commencement of the liquidation proceedings and 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 is being made accountable and required to explain, if there is any delay caused in the liquidation process.

10. Further, 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. 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 MA/122/2020 stands **dismissed**, however without costs.

-SD-
(ANIL KUMAR B)
MEMBER (TECHNICAL)

-SD-
(R.VARADHARAJAN)
MEMBER (JUDICIAL)

Raymond