

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Company Appeal (AT) (Insolvency) No. 429 of 2023

&

I.A. No. 1426 of 2023

IN THE MATTER OF:

Regional P.F. Commissioner

...Appellant

Versus

Vivek Raheja & Anr.

...Respondents

Present:

For Appellant: Advocate B.B. Pradhan.

For Respondent: Mr. Karan Kohli, Advocate for R-1
Mr. Abhishek Anand, Advocate for R-2

ORDER

19.04.2023: Heard Learned Counsel for the Appellant and Respondent-RP.

2. This Appeal has been filed against the Order dated 25th January, 2023 by which order the Adjudicating Authority has approved the Resolution Plan.

3. The CIRP commenced against the Corporate Debtor on 01st March, 2019. The Publication was issued by the IRP on 07th March, 2019. The Resolution Plan was approved by the Committee of Creditors on 17th January, 2020. The Appellant for the first time submitted its claim on 21.12.2021, by that date the Resolution Professional already filed an application before the

Adjudicating Authority for approval of the Resolution Plan which was ultimately approved on 25th January, 2023.

4. Learned Counsel for the Appellant submits that IRP did not send any communication regarding the claims which was submitted on 21.12.2021. On 08th December, 2022 it is informed that next date of hearing is 09th January, 2023. Learned Counsel for the Appellant submitted that RP never responded about the claim of the Appellant.

5. Learned counsel for the RP submits that Appellant did not file the claim within time and his claim was filed almost two years after the approval of the plan by the Committee of Creditors on 17th January, 2020. The RP having already filed the Application in the year 2020 for approval of the plan the claim filed by the Appellant was beyond time and could not have been entertained. Learned Counsel for the RP submits that Appellant never filed any application before the Adjudicating Authority for seeking any direction for admission of the claim whereas with regard to the claim of the EPFO, Gurgaon Office, the claim has been filed and considered in the Resolution Plan.

6. Learned Counsel for the Appellant has lastly relied on affidavit filed by the Resolution Applicant dated 30th December, 2022. Learned Counsel for the RP has explained that said affidavit was with regard to the claim of the EPFO which was filed regarding the Gurgaon Office which was dealt with in the Resolution Plan and the Affidavit of the Resolution Applicant filed for the amount of EPFO shall be payable as per law till the date of imputation of CIRP.

Said affidavit in no manner help the Appellant since the Affidavit can not be read with regard to the Appellant.

7. The Appellant having not filed his claim within time, and the belated claim filed was after approval of plan by the Committee of Creditors, we do not find any ground to interfere with the order of the Adjudicating Authority approving the resolution plan.

8. Since no ground has been made to interfere with the Impugned Order, the Appeal is dismissed.

[Justice Ashok Bhushan]
Chairperson

[Mr. Barun Mitra]
Member (Technical)

Basant/nn