

**THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-I**

I.A. 3932 OF 2023

Under Section 60(5) of Insolvency &
Bankruptcy Code, 2016

Surendra Kumar Tiwari

...Applicant

Vs.

Shri Rajesh Sureshchandra Sheth

... Respondent/Resolution
Professional

In the matter of

C.P.(IB) No. 4578/MB/2018

Nitin Suresh Satghare & 99 others

Financial Creditor

Vs.

Pancard Clubs Limited

Corporate Debtor

Order delivered on: 17.10.2023

Coram:

Shri Prabhat Kumar
Hon'ble Member (Technical)

Justice Shri V.G. Bisht
Hon'ble Member (Judicial)

Appearances

For the Applicant : Ms. Maya Majumdar, Advocate
For the Respondent/RP : Mr. Vidit Divya, Advocate

ORDER

Per: V.G. Bisht, Member (Judicial)

1. This is an Application IA 3932 of 2023 filed 24.08.2023 by Mr. Surendra Kumar Tiwari, the Applicant seeking condonation of delay of 244 days in submitting the proof of claim before the Respondent Mr. Rajesh Sureshchandra Sheth (Resolution Professional) in the Corporate Insolvency Resolution Process of M/s Pancard Clubs Limited (Corporate Debtor).
2. M/s Pancard Clubs Ltd. was put into CIRP by this Hon'ble Court vide an order dated 09.09.2022 passed in CP 4578 of 2018 and Sri Rajesh Sureshchandra Sheth was appointed as the Resolution Professional for the Corporate Debtor.
3. The Applicant lodged its claim amounting to Rs. 2,17,839/- (Rs. 50,500/- Principal + Rs. 1,67,339/- Interest from 18.05.2009 to 08.11.2022) through e- mail as Financial Creditor to the Corporate Debtor on 25.05.2023 and in prescribed format through e-mail on 07.06.2023 before the Respondent Resolution Professional.
4. The Respondent rejected the claim of the Applicant on 25.05.2023 as being time barred stating that the last date to file

the claim expired on 12.09.2022 and the 90 days period for filing claim as stipulated in terms of Regulation 12 (2) of the CIRP Regulations, 2016 expired on 08.12.2022.

5. We heard the Ld. Counsel and perused the materials available on _____ record.

From the other Applications filed in CP 4578/2018, we find that voting line for approval of the CoC to the Resolution Plan were to close on 28.08.2023, and the Applicant had filed its claim prior to approval of the plan by the CoC. We also find therefrom that the plan was under consideration before CoC during the month of June 2023 onwards.

5.1. We find that a belated claim is not permissible after approval of the Plan by the CoC even if such plan is under consideration before the Adjudicating Authority for its approval. However, the claim can be admitted at the belated stage if the claimants amounts are appearing in the accounts book of the Corporate Debtor and if such claim is filed before the approval of a Resolution Plan by the CoC in terms of the decision of Hon'ble NCLAT in case of *Puneet Kaur, through her Attorney Amrit Pal Singh vs. K V Developers Private Limited Company Appeal (AT) (Insolvency) No. 390 of 2022*. Following the said principal we find that the delay may be condoned as the Applicant is a depositor and has produced the evidence of the deposit of money with the Corporate Debtor which must have been recorded in the books of the Corporate Debtor.

5.2. In view of forgoing we condone the delay and direct the Resolution Professional to verify the claim and deal with the Application on merits.

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I.A. 3932 OF 2023
In
CP (IB)4578(MB)/2018

6. Accordingly, I.A. 3932/2023 is partly allowed.

Sd/-
Prabhat Kumar
Member (Technical)

Sd/-
Justice V.G. Bisht
Member (Judicial)