(6)

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

IA/851/IB/2020 IN MA/175/2019 IN CP/(IB)/283/(CB)/2018

(Filed under Sec. 60(5) of the Insolvency & Bankruptcy Code, 2016

In the matter of ***Unicare Pharma Limited***

State Tax Officer ,
Kumbakonam (Rural) Assessment Circle,
Kumbakonam

... Applicant

-Vs-

Mr.S.Rajagopal,
Liquidator ofthe Corporate Debtor,
Unicare Pharma Limited,
No.43,44,Mehta Nagar Extn,
Pallavaram Road, Kundrathur,
Chennai – 600 069

... Respondent

Present:

For Applicant	:	*Mr.B.Vijay, Advocate*
For Respondent	:	*Ganesh V Arnala, Advocate*

CORAM:

JUSTICE RAMALINGAM SUDHAKAR, Hon'ble PRESIDENT
SAMEER KAKAR, MEMBER (TECHNICAL)

Order Pronounced on ***09th December 2022***

ORDER

***Per:* SAMEER KAKAR, MEMBER (TECHNICAL)**

This IA/851/IB/2020 is an Application filed on 21.09.2020 by an Applicant under Section 60(5) of the Insolvency and Bankruptcy Code, 2016seeking relief as follows;

a. *To set aside the orders dated 31.08.2020 passed by the Respondent and direct the Respondent to receive and collect all the documents relating to the claim filed by the Petitioner.*

FACTUAL MATRIX OF THE CASE:

2. It was averred in the Application that the Corporate Insolvency Resolution Process (CIRP) was initiated against the Corporate Debtor viz. Unicare Pharma Limited by this Tribunal on 11.06.2018and subsequently Liquidation was ordered by this Tribunal vide Order dated 13.03.2019. Pursuant to that the Liquidator caused Paper Publication dated 21.03.2019 and the last date for submission of claim was fixed on 12.04.2019.

3. It was averred in the application that the Corporate debtor is assessed and reassessed for the Assessment Year 2012-2013 on 14.08.2018 under TNVAT and found that the Corporate Debtor is liable to pay a sum of Rs.2,43,24,337/-.

4. It was averred in the application that the Applicant had submitted its claim in Form-C on 12.08.2020 to the Respondent/Liquidator. Thereafter, upon receiving the claim on 31.08.2020, the Liquidator rejected the claim on the ground of time barred and the extracts are hereunder:

> *I acknowledge receipt of your claim in Form-C received in this office on 17.08.2020 for an aggregate amount of Rs.2,43,24,337/- together with annexures.*

I advise that the Hon'ble National Company Law Tribunal (NCLT), Chennai by Order dated 13.03.2019 (Copy attached) placed Messrs Unicare Pharma Limited under liquidation. In pursuance of the above said order an announcement was made by Publication in English and Tamil Newspapers in Form B (Copy attached) which is also hosted on the portal of Insolvency & Bankruptcy Board of India (IBBI) inviting claims against the Corporate Debtor. The last date for submission of claims was 12.04.2019.

It is observed that you have submitted Claim after the last date stipulated in the publication. There is no provision in the IBC Code or related Regulations to entertain any claim beyond the last date mentioned in the publication.

Accordingly, I request your claim is not maintainable.

REPLY FILED BY THE RESPONDENT :

5. The Learned Counsel for the Respondent filed the counter wherein it was stated that vide letter dated 31.08.2020 the said claim was rejected in view of the delay in filing the claim which is more than a year , in view of the fact that the last date for submission of claim was 12.04.2019.

FINDINGS OF THIS TRIBUNAL:

6. Heard the submissions made by the parties and perused the pleadings placed on record. At the outset, the present application filed by the Applicant is not maintainable on two grounds. Firstly, the Application filed by the Applicant should be under Section 42 and not under Section 60(5) of the Insolvency and Bankruptcy code, 2016, since the corporate Debtor is under liquidation.

Secondly, the applicant had nowhere placed pleadings relating to the reason of rejection of claim rather by quoting the legal provisions of GST.

7. Taking in to account the provisions of Section 238 of IBC, 2016 which overrides the provisions of any other act and also keeping in mind that the IBC, 2016 is 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 IA/851/IB/2020 stands **dismissed,** however without costs.

-Sd-

SAMEER KAKAR
MEMBER (TECHNICAL)

-Sd-

JUSTICE RAMALINGAM SUDHAKAR
PRESIDENT

Sriram Ananth .V