NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

Application for Intervention and for seeking appropriate directions u/s 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 14 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016

I.A. NO. 1511 of 2021
Filed by

Tata Capital Financial Services Limited
registered office at:
Tower A, 11th Floor, Peninsula Business Part, Ganpatrao Kadam Marg, Lower Parel, Mumbai – 400 013

…Applicant

versus

1. **Santanu T. Ray**
Resolution Professional, having his office at:
A-301, BSEL Tech Park, Sector 30A,
Opp. Vashi Railway Station, Vashi,
Navi Mumbai – 400 705

…Respondent No. 01

2. **Committee of Creditors of Zicom Sass Private Limited**
Through its authorized signatory

…Respondent No. 02

In the matter of

C.P. (IB) No. 219 OF 2019

Punjab National Bank
Asset Recovery Management Branch,
C-9, PNB Pragati Tower, G Block, Bandra Kurla Complex, Bandra (East), Mumbai-400 051

…Financial Creditor

versus

Zicom Sass Private Limited
501, Silver Metropolis, Western Express Highway, Goregaon (E), Mumbai - 400 063
...Corporate Debtor

Order Pronounced on: 02.09.2021

Coram:

SHRI H.V. SUBBA RAO, MEMBER (J)
SHRI CHANDRA BHAN SINGH, MEMBER (T)

Appearance:

For the Resolution Professional: Mr. Rohit Gupta, Advocate
For the Applicant: Mr. Shyam Kapadia, Advocate
For the CoC: Mr. Kunal Mehta

Per: Shri. H.V. Subba Rao, Member (Judicial)

ORDER

1. This is an application filed by Tata Capital Financial Services Limited, a Non-Banking Finance Company (NBFC) registered under Reserve Bank of India and incorporated under the provisions of Companies Act, 1956. The applicant herein is an Operational Creditor of Zicom Sass Private Limited (hereinafter called as the 'Corporate Debtor') and has filed this application against Resolution Professional (RP) of the Corporate Debtor Mr. Santanu T. Ray. This application has been filed u/s 60(5) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the 'Code') read with Rule 14 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (hereinafter called as the 'CIRP Regulations'). The Respondent No. 02 is the Committee of Creditors (CoC) of the Corporate Debtor and represented through its authorized representative.

2. The present application has been filed by the applicant seeking the following reliefs:

"In the above circumstances, the Applicant prays that:

(a) that pending hearing and final disposal of this application, the Respondent No. 2 be directed to stay the voting and approval of Resolution Plan submitted by Resolution Applicants in respect of the Corporate Debtor;

(b) that, pending hearing and final disposal of this application, this Hon'ble Tribunal be pleased to direct the Respondents to reserve the said outstanding amount claimed by the applicant in the manner of a contingency fund alongwith the ongoing Lease Rentals, interest, delayed interest, delayed payment charges, penalties, costs etc. payable by the Corporate Debtor to the Applicant under the terms of the said Agreement;

(c) that pending hearing and final disposal of this application this Hon'ble Tribunal be please to restrain the Respondent from repatriating, dealing with and/or disposing off any amounts out of the assets of the Corporate Debtor as a going concern;

(d) this Hon'ble Tribunal be pleased to condone the delay of 78 days of the Applicant in lodging the revised claim with the Respondent;

(e) this Hon'ble Tribunal be pleased to direct the Respondent No. 1 to admit the revised claim of the Applicant aggregating to Rs.12,49,19,520/- (Rupees Twelve Crores Forty-Nine Lakhs Nineteen Thousand Five Hundred Twenty only) due and payable by the Corporate Debtor to the Applicant as on 30th June, 2021 in terms of the said Agreement and under the provisions of the IB Code, 2016 and the said regulations;

(f) ad-interim in terms of prayer clause (a) to (c) above;

(g) for such further and necessary orders as this Hon'ble Tribunal may deem fit and proper;

(h) costs of this application be provided for."

3. The counsel for the applicant submitted that CP 219 of 2019 was filed by Punjab National Bank (hereinafter called as the 'Financial Creditor') against the Corporate Debtor and the same was admitted by this Tribunal vide its Order dated 18.03.2020. Accordingly, the Respondent No. 1 was appointed as the Interim Resolution Professional (IRP) and Corporate Insolvency Resolution Process (CIRP) was initiated against the Corporate Debtor.

4. The counsel for the applicant submitted that when the public notice inviting claims was published by the RP, the applicant herein had submitted its Proof of Claim with the Respondent alongwith the necessary supporting documents. However, the applicant had wrongly submitted its proof under Form C (Financial Creditor) on 17.11.2020 before the RP and the applicant was advised to file its proof of claim under Form B (Operational Creditor) as the applicant was falling under the category of 'Operational Creditor' and not 'Financial Creditor'. Accordingly, the applicant vide its email dated 13.01.2021 submitted its proof of claim under Form B with the RP amounting to Rs.1,05,71,482.26. Upon verification and after the applicant affording several clarifications, the RP was pleased to admit the Proof of Claim of the Applicant to the extent of Rs.95,18,542.21/- out of the claim of Rs. 1,05,71,482.26.

5. The counsel for the applicant further submitted that since the applicant had very limited access to its documents pertaining to the Corporate Debtor, as the Applicant's office was shut at all times on account of the continuous lockdowns imposed by the Government because of the ongoing pandemic, it was unable to attend office and access to the Lease Summary Schedules and invoices pertaining to the account of the Corporate Debtor in order to reconcile the accounts of the corporate Debtor so as to assess the actual outstanding amount due and payable by the Corporate Debtor. As a

consequence of this, a substantial portion of the Applicant's actual claim aggregating to Rs.11,79,81,158.21/- could not be calculated at the time of the initial submission of Form B.

6. The counsel for the applicant submitted that upon easing of the lockdown restrictions by the Government and upon their officials intermittently attending office and thereby having access to the Lease Summary Schedules and Invoices pertaining to the account of the Corporate Debtor, the applicant was able to access the actual amount due and payable by the Corporate Debtor. He stated that therefore, upon calculation of the actual claim amount, the applicant vide its Email dated 23.04.2021 addressed to the RP, submitted its revised proof of claim under Form-B under Regulation 7 of the Regulations aggregating to Rs.11,79,81,158.21 as on 31.03.2021 which comprised of Rs.8,65,06,092/- as on insolvency commencement date i.e. 11.08.2020 and a sum of Rs.3,14,81,158.91/- as on 31.03.2021.

7. The counsel for the applicant further submitted that upon receipt of the applicant's revised Proof of Claim dated 23.04.2021, the RP vide its email dated 26.04.2021 addressed to the applicant had informed the applicant that the claims are verified and admitted until the last date of submission i.e. until 04.02.2021 and therefore, the RP cannot admit the applicant's revised/modified Proof of Claim submitted vide applicant's email dated 23.04.2021 at this stage of the process as the RP had received Resolution Plans from the prospective Resolution Applicants.

8. The counsel for the applicant further submitted that in reply to RP's email dated 28.04.2021, the applicant vide its email dated 28.04.2021 addressed to the RP had brought to the notice of the RP that as per Regulation 14(2) of the CIRP Regulations, the RP has the power and is obligated to revise the amounts of claims already

admitted as and when the RP comes across such additional information warranting such revision. It was also brought to the notice of the RP that between the time period of RP's reminder dated 01.02.2021 until the date of receipt of RP's email dated 26.04.2021, the RP neither informed the applicant that the last date of submission of proposed Resolution Plan by a Resolution Applicant was 04.02.2021 nor was the proposed Resolution Plan put forth before the Committee of Creditors for approval in terms of Section 30(3) of the Code and in view thereof the applicant had requested the RP to allow the applicant for modification of claim as per revised claim submitted vide applicant's email dated 23.04.2021.

9. The counsel for the applicant submitted that the RP addressed an email dated 21.05.2021 informing the applicant that the proposed Resolution Plans are in consideration before the CoC and he (RP) will not be in a position to verify and admit the revised claim submitted by the applicant vide email dated 23.04.2021.

10. The counsel for the RP on the other hand has denied all the contentions and averments raised by the applicant and submitted that the application is not maintainable and deserves to be dismissed. The counsel submitted that the applicant had submitted his claim wrongly and upon scrutiny, the same was intimated to the applicant. Accordingly, the applicant had submitted his claim in proper format i.e. Form B on 13.01.2021 amounting to Rs.1,05,71,482.25 out of which an amount of Rs. 95,18,542.21 was admitted after scrutiny of all the documents.

11. The counsel for the RP submitted that at the time of submitting the said claim on 13.01.2021, the applicant did not state or even whisper about the difficulties faced by it in accessing the documents and the RP was unaware that the applicant would be submitting the revised

claim subsequently. There were various clarifications sought from the applicant by the RP despite of which the applicant failed to provide necessary clarifications within the timelines. The counsel for the RP alleged that due to the above, the contentions of the applicant appear to be merely an afterthought.

12. The counsel for the RP further submitted that despite the fact that as per the published Form, the last date for submission of the resolution plan was 14.01.2021, it was extended during the 5th CoC meeting upon requests made by the Prospective Resolution Applicants and the last date was made to be 04.02.2021. Accordingly, on 04.02.2021, the RP received Resolution Plans from two of the Resolution Applicants. On 06.02.2021, during the 7th CoC meeting, both the Resolution Plans were opened and on 17.02.2021, during the 8th CoC meeting, the said plans were discussed in detail by the CoC. In the said meeting, both the Resolution Applicants were requested to submit their modified financial bid which was submitted by them in the 11th CoC meeting and in the 12th meeting, the plans were discussed and the plan submitted by 'Khemani Distributors and Marketing Limited' was finally approved. This final resolution plan which was approved was thereafter modified on request of the CoC members and the same was approved vide e-voting on 11.06.2021.

13. The counsel for the RP submitted that it is pertinent to note that the claims were finalized and crystallized before the final date for submission of the resolution plans as decided by the CoC i.e. before 04.02.2021 and the Resolution Applicants had submitted their final bids based on the information that was available and the Resolution Plan was approved by majority of CoC members.

14. The counsel for the RP alleged that the applicant deliberately have conceded the fact that on 01.02.2021, a reminder email was sent by

the RP to the applicant. The counsel for the RP stated that the applicant was given enough opportunity to submit its claim and also alleged that the applicant was aware of the timelines of the CIRP but it chose to not comply with the requisitions. All the communications were not paid heed to by the applicant.

15. The counsel for the RP submitted that firstly the CIRP is a time-bound process and the RP is obligated with the duty to complete the same in a time-bound manner. He stated that secondly, the applicant was given enough opportunity to submit its claim within the time for submission of the claims. Thirdly, the applicant itself failed to take note of the reminders of the RP and comply with the requests contained therein. Therefore, there is no cause of occasion for the applicant to now raise all the contentions for the purpose of belatedly considering the claims. Even otherwise, looking at the advanced stage of the CIRP and the Resolution Plan having being approved by the CoC after deliberations on the financial bids and now pending before the Tribunal for approval, the applicant is precluded from derailing the entire CIRP process.

16. The counsel for the RP submitted that in all likelihood, if the application of the applicant is allowed at such a belated stage, then there is a possibility that after considering the revised claim of the applicant, no resolution applicant would come forward for the resolution of the Corporate Debtor and that may push the Corporate Debtor into liquidation. This would be prejudicial to the interest of all the stakeholders and detrimental to the objects of the Code. Similar submissions have also been made by the CoC and has opposed this application in its reply.

FINDINGS

17. We have heard all the parties and perused all the documents submitted by them. The applicant's claim has arisen from a Master Lease Agreement dated 14.05.2015 whereby certain security systems and related assets manufactured by Honeywell International were leased to the Corporate Debtor for monthly lease rentals. The various goods and rentals are described in the schedules to the Master Lease Agreement. The ownership of the goods is with Tata Capital Financial Services Ltd.

    The RP and the CoC have filed their replies in this matter opposing the approval of this application. We have taken their submission into account and perused all the documents submitted by them.

18. The applicant's claim is of Rs.11.79 Crores which is divided under the following two heads:
    a. Rs.8,65,06,092/- as arrears as on the insolvency commencement date (of which Rs.95.15 lakhs has already been admitted by the RP); and
    b. Rs.3,14,81,158/- towards the charges incurred during the CIRP period for running the business of the Corporate Debtor as an ongoing concern.

19. The applicant has prayed for condonation of delay which itself shows that there is admittedly a delay in filing the claim by the applicant with the RP. But we believe that the CIRP is a time bound process in which every step is to be completed in specific timelines.

20. The RP has submitted that at this stage of the process if this Tribunal considers this application and directs the RP to pay the applicant an

amount of Rs.3,84,13,428/- as a part of the CIRP cost, then it will at last place the burden on the shoulder of the Successful Resolution Applicant whose Plan has been approved by the CoC and is now pending approval of this Bench. This might even result in withdrawal of the Resolution Plan by the Successful Resolution Applicant and consequently, in failure of the CIRP, which cannot be permissible in any case.

21. The RP has relied on Regulation 12(2) of the Notification No. IBBI/2018-19/GN/REG031 dated 03.07.2018 (w.e.f. 04.07.2018) which runs as follows:

> *"12. Submission of proof of claims.*
> *…[(2) A creditor, who fails to submit claim with proof within the time stipulated in the public announcement, may submit the claim with proof to the interim resolution professional or the resolution professional, as the case may be, on or before the ninetieth day of the insolvency commencement date.]"*

The Regulation 12(2) contemplates a scenario where claim is not filed within the time stipulated in the public announcement. It is in this scenario this regulation permits filing of the claim on or before 90th day of insolvency commencement date. Prior to amendment, the extended term to file claim was till the approval of resolution plan by the committee of creditors. This time limit was curtailed and restricted to 90 days from the insolvency commencement date, vide the said amendment of 2018. Therefore, Regulation fixes the outer limit for filing of the claim if it is filed after delay.

22. The counsel for the RP has relied on the judgment of the Hon'ble Appellate Tribunal in the matter of ***Office of the Asst. State Tax Commissioner State Tax Department, Government of Maharashtra v/s. Shri Parthiv Parikh, Resolution Professional, M/s Jaihind Projects Ltd. & Ors. (Company Appeal (AT) (Ins) No. 583 of 2020).*** The following are the findings by the Hon'ble NCLAT:

"12. Regulation 36 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 outlines the process for submission of the Information Memorandum and contents to be included therein to each member of the Committee of Creditors within two weeks of IRP's appointment. It is to be noted that Regulation 36(2)(d) mentions that the Information Memorandum shall contain 'a list of creditors containing the name of creditors, the amounts claimed by them, the amounts of their claims admitted and the security interest, if any, in respect of such claims;' among other particulars.

13. Further, in the same Regulations, very clear timeline has been prescribed under Regulation 12(2) for submission of claim with proof by financial and corporate debtor, quite obviously to enable the potential resolution applicants to submit realistic and workable resolution plans after due diligence, and which can be taken up further for finalisation. The relevant regulation is reproduced hereunder:

Company Appeal (AT) (Ins) No.583 of 2020 "12. Submission of proof of claims. -

xxxxxx (2) A creditor, who fails to submit claim with proof within the time stipulated in the public announcement, may submit the claim with proof to the interim resolution professional or the resolution *professional, as the case may be, on or before the ninetieth day of the insolvency commencement date. Xxxxx "*

The purpose of issuing public notice is to make all the interested parties/stakeholders aware of the initiation of the CIRP of the Corporate Debtor and the information memorandum which is issued subsequently, after the collection and collation of claims of the operational and financial creditors is to provide the Resolution Applicant all relevant information so that the applicant can make a legally and financially sound Resolution Plan for the Corporate Debtor as is required under Section 29 of the IBC. Such Resolution Plan has to be submitted to the Resolution Professional under Section 30 of IBC, which is considered by the Committee of Creditors for approval and the final approval of the Resolution Plan is provided by the Adjudicating Authority under Section 31 of the IBC. It is quite logical to say that these actions have to be taken Company Appeal (AT) (Ins) No.583 of 2020 with alacrity so that the successful Resolution Applicant, if any, can take the reins of the management of the Corporate Debtor in good time for its proper management and consequent revival.

….

….15. Thus, it is clear that much water had flown under the bridge from the date of issue of public notice (on 02.11.2018) and the extended time period of ninety days as provided under Regulation Company Appeal (AT) (Ins) No.583 of 2020 12(2) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and the Resolution Plan as approved by the COC was submitted to the Adjudicating Authority for necessary approval under Section 30. Any interruption in the CIR Process at this stage by including a delayed claim/s would have meant setting the clock back and sending matter back to COC & RP.

It cannot be ruled out that if the claim of the Operational Creditor State Tax Department, Government of Maharashtra was accepted at such a late stage, there could have been other such applicants too, who would have demanded accommodation on the same ground allowing late submission of their claims once this window would have opened. It would be trite to emphasise the fact that this would have meant complete disruption of the CIRP and the timelines stipulated therein. Delay would defeat Resolution as this would have resulted in the CIRP and approval of successful Resolution Plan to continue for an indefinite period of time, which is certainly not the intention of IBC. A real hazard in such an event could be liquidation, and corporate death, of an otherwise functional and corporate debtor, with which Resolution Plan approved is set to come out of the Red Company Appeal (AT) (Ins) No.583 of 2020

....

....20. In the light of the aforementioned discussion, we find that Adjudicating Authority has dealt with the issue of approval of the resolution plan submitted by the Resolution Professional and, inter alia, rejecting the claim of the Appellant in accordance with the requirements of the statute, and in keeping with the overall objective and scheme of the IBC. The order of the Adjudicating Authority provides sufficient and cogent reasons for dismissing IA Company Appeal (AT) (Ins) No.583 of 2020 NO. 154/2020 filed by the Appellant under Section 60(5) on 21.02.2020. It has, thereafter, gone ahead with the approval of successful resolution Plan by passing order in IA No.593/2019 in CP(IB) (172)/2018 while considering all the legal provisions and facts of the case. We, therefore, find no ground and reason for interfering with the Impugned Order and consequently dismiss the appeal."

23. The counsel for the RP submitted that it is now settled law that the outer timeline is 90 days from the date of insolvency commencement which in the present case expired on 09.11.2020. The present claim in fact is filed as per Applicant itself with a further delay of 78 days (calculated from 04.02.2021 i.e. the last date of resolution plan submitted) and as per the Resolution Professional with a further delay of 165 days (viz. 5 months and 14 days) beyond the said period of 90 days and that too after receipt of resolution plan, when the same was under consideration of the CoC.

24. The counsel for the CoC has also made submission opposing the application. The CoC submitted that no sufficient cause has been made out for seeking condonation of delay by the applicant and the reasons for it are vague and therefore, cannot be relied on. The CoC stated that this shows that the applicant has been negligent in submitting its claim and has slept over its rights and therefore, the IA is ought to be rejected. The CoC has further contended that if the applicant's claim of Rs.11,79,87,250/- is considered, the Resolution Plan will be defeated and the company will go into liquidation.

25. The applicant has submitted that despite the provisions of Regulation 12(2) which require a creditor to file his proof of claim before the ninetieth day, the resolution professional himself has the power to revise amounts of the admitted claims if he comes across additional information warranting the same as per provisions of Regulation 14(2) of the CIRP Regulations on which the claim of Pre-CIRP charges is based. Regulation 14(2) runs as follows:

> *"(2) The interim resolution professional or the resolution professional, as the case may be, shall revise the amounts of claims admitted, including the estimates of claims made under sub-regulation (1), as soon as may be practicable, when he comes across additional information warranting such revision."*

In the present case, it is admitted that the applicant had filed his claim and the same was substantially admitted. However, further information then became available and Tata Capital Financial Services Ltd. sought a revision of the additional amount on the basis of additional information. But the RP has refused the consider this additional information which has been brought to his attention on the sole ground of delay.

26. Here, the decision dated 13.04.2021 of the Hon'ble Supreme Court of India in the matter of ***Ghanashyam Mishra v. Edelweiss ARC [Civil Appeal No. 8129 of 2019]*** becomes relevant wherein the Hon'ble Court has categorically held that claims are only frozen on the approval of the resolution plan by the NCLT. Until then, it is possible for claims to be revised and/or altered (paras 86, 95, 130).

> *"86.As discussed hereinabove, one of the principal objects of I&B Code is, providing for revival of the Corporate Debtor and to make it a going concern. I&B Code is a complete Code in itself. Upon admission of petition under Section 7, there are various important duties and functions entrusted to RP and CoC. RP is required to issue a publication inviting claims from all the stakeholders. He is required to collate the said information and submit necessary details in the information memorandum. The resolution applicants submit their plans on the basis of the details provided in the information memorandum. The resolution plans undergo deep scrutiny by RP as well as CoC. In the negotiations that may be held between CoC and the resolution applicant, various modifications may be made so as to ensure, that while paying part of the dues of financial creditors as well as operational creditors and other stakeholders, the Corporate Debtor is revived and is made*

an ongoing concern. After CoC approves the plan, the Adjudicating Authority is required to arrive at a subjective satisfaction, that the plan conforms to the requirements as are provided in subsection (2) of Section 30 of the I&B Code. Only thereafter, the Adjudicating Authority can grant its approval to the plan. It is at this stage, that the plan becomes binding on Corporate Debtor, its employees, members, creditors, guarantors and other stakeholders involved in the resolution Plan. The legislative intent behind this is, to freeze all the claims so that the resolution applicant starts on a clean slate and is not flung with any surprise claims. If that is permitted, the very calculations on the basis of which the resolution applicant submits its plans, would go haywire and the plan would be unworkable.

….

….

CONCLUSION

95.In the result, we answer the questions framed by us as under: (i) That once a resolution plan is duly approved by the Adjudicating Authority under subsection (1) of Section 31, the claims as provided in the resolution plan shall stand frozen and will be binding on the Corporate Debtor and its employees, members, creditors, including the Central Government, any State Government or any local authority, guarantors and other stakeholders. On the date of approval of resolution plan by the Adjudicating Authority, all such claims, which are not a part of resolution plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim, which is not part of the resolution plan; (ii) 2019 amendment to Section 31 of the I&B Code is clarificatory *and declaratory in nature and therefore will be effective from the date on which I&B Code has come into effect; (iii) Consequently all the dues including the statutory dues owed to the Central Government, any State Government or any local authority, if not part of the resolution plan, shall stand extinguished and no proceedings in respect of such dues for the period prior to the date on which the Adjudicating Authority grants its approval under Section 31 could be continued.*

….

…..

130. In the foregoing paragraphs, we have held, that 2019 amendment to Section 31 of I&B Code is clarificatory and declaratory in nature and therefore will have a retrospective operation. As such, when the resolution plan is approved by NCLT, the claims, which are not part of the resolution plan, shall stand extinguished and the proceedings related thereto shall stand terminated. Since the subject matter of the petition are the proceedings, which relate to the claims of the respondents prior to the approval of the plan, in the light of the view taken by us, the same cannot be continued. Equally the claims, which are not part of the resolution plan, shall stand extinguished."

27. We believe that the RP has refused to consider the charges incurred during the CIRP period amounting to Rs.3.14 Crores even when:
    a. The business of the Corporate Debtor was kept running as an ongoing concern;
    b. The leased assets continued to be in the possession and use of the Corporate Debtor; and
    c. The Master Lease Agreement was never terminated and assets were never returned by the Corporate Debtor

Considering the above factors, we believe it is just and correct to allow the amount of Rs. 3,14,81,158/- as claimed by the applicant to be included in the CIRP cost because the applicant's assets were used by the Corporate Debtor during the course of CIRP period. The Corporate Debtor has enjoyed the assets of the applicant during the entire CIRP period and therefore, Regulation 12(2) would not apply here because these are the charges incurred during the CIRP of the Corporate Debtor and hence the bar of filing it within 90 days does not apply to the same.

Also, according to Regulation 14, the RP was to revise the amounts of claims admitted. Further as per the decision, rightly relied on by the applicant, passed by the Hon'ble Supreme Court in the matter of *Ghanashyam Mishra v. Edelweiss ARC* makes it clear that the claims can be revised till the Adjudicating Authority approves the Resolution Plan and in this matter, the Resolution Plan is yet to be approved by this Bench as the Interlocutory Application bearing No. 1300 of 2021 filed under Section 30(6) is pending before this Bench.

Thus, we direct that the amount incurred by the applicant during the CIRP period is to be computed in the CIRP cost and the RP, CoC and the Resolution Applicant are directed to take necessary steps for including the said amount of Rs. 3,14,81,158 in the Resolution Plan before its approval by this Bench.

28. Now, the only question remains is regarding the pending amount of Rs.8,65,06,092/-. But regarding this amount, we believe that the applicant is at fault in submitting the claim after the expiry of the stipulated time and therefore, the RP, the CoC and the Resolution Applicant cannot be compelled to admit the same because here, Regulation 12(2) will be applicable and the applicant cannot be allowed to submit its claim beyond 90 days. It is also evident from the record that the RP has time and again cooperated with the

applicant and reminded it to submit the claim. Thus, this amount cannot be computed at this belated stage and therefore, only the cost incurred during CIRP of an amount of Rs. 3,14,81,158/- can be allowed and not otherwise.

29. With the above directions and observations, this application bearing No. I.A. 1511 of 2021 is partially allowed to the above extent by rejecting the rest of the prayers.

Sd/-	Sd/-
CHANDRA BHAN SINGH	**H.V. SUBBA RAO**
MEMBER (TECHNICAL)	**MEMBER (JUDICIAL)**