

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH - II, CHENNAI**

IA(IBC)/1019(CHE)/2021

In

IBA/243/2019

*(filed under Section 42 of Insolvency and Bankruptcy Code, 2016 r/w
NCLT Rules, 2016)*

In the matter of **THIRU AROORAN SUGARS LIMITED**

INTEGRATED SERVICES PRIVATE LIMITED,

Represented by its General Manager,

Having its Office at:

6C, 6th Floor, Gaiety Palace, 1/L, Blackers Road,
Chennai – 600 002.

... Applicant

-Vs-

MR. RAMAKRISHNAN SADASIVAN,

Liquidator of Thiru Arooran Sugars Limited,

IBBI/IPA-001/IP-P00108/2017-18/2015,

Old No.22, New No.28, Menod Street,

Purasaiwalkam, Chennai – 600 007.

... Respondent

Order Pronounced on **08th May 2023**

CORAM


**SANJIV JAIN, MEMBER (JUDICIAL)
SAMEER KAKAR, MEMBER (TECHNICAL)**

*For Petitioner: Mr.Agil Vatchalam,
For Respondent: Mr.R.Sadasivan, Advocate
Mr.B.Dhanraj, Advocate
Mr.Umar, Advocate*

ORDER

***Per:* SANJIV JAIN, MEMBER (JUDICIAL)**

This application has been filed by **INTEGRATED SERVICES
PRIVATE LIMITED** under Section 42 of the Insolvency Bankruptcy
Code, 2016 r/w Rule 11 of NCLT Rules, 2016 seeking the following
reliefs,



i) To set aside the order passed by the Respondent Liquidator dated 11.09.2021 rejecting the Applicant's claim.

ii) To direct the Respondent, admit/accept the Applicant's claim in Form-C sent on 08.09.2021 within a time frame fixed by this Adjudicating Authority.

2. It is averred that CIRP in respect of the Corporate Debtor was initiated on 07.06.2019. Subsequently, the Tribunal vide order dated 08.04.2021 ordered liquidation of the Corporate Debtor and the Respondent herein was appointed as the Liquidator.

3. It is stated that the Applicant had submitted claim of Rs.9,24,60,895/- in Form-C before the Respondent on 08.09.2021 and the Liquidator rejected the claim on the ground that it was filed with a delay of 123 days.

4. It is further stated that during the CIRP of the Corporate Debtor, the claim submitted by the Applicant was partially admitted by the Resolution Professional to the tune of Rs.2.77 crores. It is pleaded that due to severe COVID-19 restrictions and ignorance about the liquidation, it could not file its claim on time and has thus sought interference from this Adjudicating Authority to direct the Respondent to consider its claim.

5. *Per contra*, the Respondent submitted that the Liquidator had rejected the claim of the Applicant on 11.09.2021, by that time, the liquidator had filed the list of stakeholders before this





Adjudicating Authority on 30.06.2021 and published the same in newspapers on 07.07.2021.

6. Subsequently, the Liquidator caused a paper publication inviting EoI calling for the scheme under Section 230-232 of the Companies Act, 2013 on 14.07.22021. In the 3rd meeting of the SCC (Stakeholders Consultation Committee) held on 18.10.2021, the Scheme Proposed by one KALS was considered by the members of the SCC. The said Scheme was approved by this Tribunal vide order dated 02.05.2022 in CP(CAA)/30(CHE)/2022.

7. It is further submitted that considering the claim which was filed 123 days after the last date the entire process would completely ruin.

8. Having heard the parties and perusal of records, it is seen that the Liquidation of the Corporate Debtor was ordered on 08.04.2021. In Form-B, published by the Liquidator last date of submission of the claim was fixed as 08.05.2021. The applicant in its plea has clearly stated that the claim was filed on 08.09.2021 with a delay of 123 days.

9. Regulation 12(1) & (2) of IBBI (Liquidation Process) Regulation, 2016 (extracted below),

"Regulation 12. (1) *The liquidator shall make a public announcement in Form B of Schedule II within five days of his appointment.*



(2) The public announcement shall-

(a) call upon stakeholders to submit their claims or update their claims submitted during the corporate insolvency resolution process, **as on the liquidation commencement date;** and

(b) provide the last date for submission or updation of claims, which **shall be thirty days from the liquidation commencement date.**"

stipulates that a claim during liquidation should be submitted within 30 days from the liquidation commencement date.

10. Since the Applicant had earlier filed the claim before Resolution Professional during CIRP of the Corporate Debtor, the reason stated by the Applicant that it is unaware of the Liquidation of the Corporate Debtor, is unacceptable.

11. Further, the Hon'ble Supreme Court in ***Gaurav Hargovindbhai Dave –Vs- Asset Reconstruction Company (I) Ltd. & Another*** in Civil Appeal No. 4952 of 2019, has sternly reiterated the well-established and well-settled principle that *"there is no equity about limitation', we are unable to entertain this Application/Appeal."*

12. In the instant case, a Scheme was approved by this Tribunal vide order dated 02.05.2022 during the liquidation process. Moreover, in the Scheme only 1% of claim amounting to Rs.8.75 lakhs have been agreed to be settled to the 'Operational Creditors-Suppliers', the relevant extract from the Scheme is reproduced below.



(6) Settlement to Operational Creditors - Suppliers:

The Settlement to all the Suppliers of the Corporate Debtor, as mentioned in the Details provided by the Liquidator, shall be 1% of their claim amount which comes to Rs 8.75 Lakhs. The Settlement to the Suppliers is hereunder:

Payment Days starting from "Effective Date"	% of total Settlement	Total Settlement Amount in Rs Lacs
0-90 Days	100%	8.75

All Payments will be due & payable at the end of the respective Intervals given above. To clarify,

Since, the applicant would have fallen in the category of suppliers, considering the claim of the applicant on equitable grounds at this stage will not bear any fruit and it will derail the entire Liquidation process which is already over. Since the liquidation is time bound process, the time to file the claim should be kept alive only for a period fixed by law to achieve the object of the Code.

13. In view of the above discussion, we conclude that this application IA(IBC)/1019(CHE)/2021 fails and is accordingly, rejected and **disposed of**.

-Sd-

SAMEER KAKAR
MEMBER (TECHNICAL)

-Sd-

SANJIV JAIN
MEMBER (JUDICIAL)

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