



**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT NO. II
KOLKATA**

**I.A. (IB) No. 2375 of 2024
I.A. (IB) No. 2376 of 2024
In
C.P. (IB) No. 346 of 2021
C.P. (IB) No. 346 of 2021**

**IN THE MATTER OF:
Subhadra Commercial Private Limited**

... Operational Creditor

Versus

Purulia Metal Casting Private Limited

... Corporate Debtor

I.A. (IB) No. 2375 of 2024

***An application under Section 60(5)(c) along with Rule 11 of the
National Company Law Tribunal Rules, 2016.***

**IN THE MATTER OF:
Chittaranjan Sah (Proprietor of M/s. Ritu Rani Enterprises)**

... Applicant

Versus

**Pratim Bayal, Resolution Professional of Purulia Metal Casting
Private Limited**

... Respondent

I.A. (IB) No. 2376 of 2024

***An application under Section 60(5) (c) along with Rule 11 of the
National Company Law Tribunal Rules, 2016.***

IN THE MATTER OF:

**Sunil Kumar Jaiswal (Authorised Representative of Ganpati Steel
Enterprise)**

... Applicant

Versus

**Pratim Bayal, Resolution Professional of Purulia Metal Casting
Private Limited**

... Respondent

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Date of Pronouncement: 1st of January 2025

CORAM:

SMT. BIDISHA BANERJEE, MEMBER (JUDICIAL)

SHRI. D. ARVIND, MEMBER (TECHNICAL)

APPEARANCE:

Mr. Akash Sharma, Adv.] **For the Applicant
in IA(I.B.C)/2376(KB)2024
IA(I.B.C)/2375(KB)2024**

Mr. Shaunak Mitra, Adv.] **For the Resolution
Mr. Siddhanth Makkar, Adv.** **Professional**

ORDER

Per: D. Arvind, Member (Technical):

1. The Court congregated through hybrid mode.
2. Heard Ld. Counsels for the parties.

I.A. (IB) No. 2375 of 2024:

3. This application has been preferred by one **Mr. Chitaranjan Sah**, Proprietor of M/s. Ritu Rani Enterprises (hereinafter referred as **“Applicant/Operational Creditor/OC”**) against the Resolution Professional **Mr. Pratim Bayal** of Purulia Metal Casting Private Limited (hereinafter referred as **“Resolution Professional/Respondent/RP”**) seeking following reliefs:
 - a) *Direction to condone the delay of 341 days in filing of claims before the respondent;*
 - b) *Direction to Pratim Bayal (RP) for acceptance of the claim of the operational creditor;*
 - c) *Pass any other Orders as this Tribunal may deem fit and proper.*

Brief facts of the case:

4. The Corporate Insolvency Resolution Process was initiated against the corporate debtor Purulia Metal Casting Private Limited on

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18.10.2023. Mr. Pratim Bayal the respondent herein was appointed as Resolution Professional on 20.02.2024.

5. Public announcement inviting claims was made on 20.10.2023. The applicant became aware of CIRP only in September 2024 and accordingly, filed Form B on 30.09.2024. The RP denied the claim on 17.10.2024 stating that the CIRP is at an advance stage with CoC having approved the resolution plan. Henc, this application seeking reliefs mentioned in Para No. 3 hereinabove.

Ld. Counsel for Applicant:

6. Ld. Counsel for applicant submits that the operational creditor supplied raw materials worth of Rs. 2,45,90,284/- between 01.04.2021 to 31.03.2022. The corporate debtor has paid Rs. 1,89,30,999/- leaving an outstanding balance of Rs. 56,33,612/-.
 7. When the applicant filed complaint in Civil Court for non-payment of dues, partial payments were made, reducing the outstanding amount to Rs. 49,59,285/-. The applicant believed that the matter would be resolved amicably and moment the applicant became aware of CIRP proceedings in September 2024, promptly filed claim in Form B on 30.09.2024.
 8. Ld. Counsel for applicant submits that the delay in filing Form B is *bona fide* and attributable to circumstances beyond the applicant's control. The applicant was actively pursuing legal remedies for the recovery of outstanding dues through on going proceedings before the Learned Chief Judicial Magistrate, Jamshedpur and subsequently compromises made between the parties which cast
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reasonable believes that the outstanding due should be resolved amicably.

- 9.** In view of above, Ld. Counsel for applicant submits that delay may please be condoned and direction may be issued to the respondent to accept the claim of the applicant.

Ld. Counsel for respondent:

- 10.** Heard Ld. Counsel for Resolution Professional, the respondent herein, who submits that the resolution plan has been approved by CoC which is pending before this Adjudicating Authority for approval. The question of entertaining the claim of the applicant at this stage does not arise and therefore, the application needs to be dismissed.

Analysis and Findings:

- 11.** We find that the CIRP of the corporate debtor Purulia Metal Casting Private Limited commenced on 18.10.2023. Public announcement inviting claims were made on 20.10.2023, whereas applicant had filed the claim only on 30.09.2024, which is after a delay of nearly 341 days.
- 12.** As per CIRP Regulation 2016, a creditor will have to submit claim with proof on or before the last date mentioned in the public announcement.
- 13.** In this case, public announcement was made on 20.10.2023, and the last date for accepting the claim was 30.10.2023, whereas the claim has been filed on 30.09.2024, which is 341 days after the last date. As per Regulation 2012, of CIRP Regulation, a creditor can still file claim up to the date of issue of request for resolution plan under
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Regulation 36B of the CIRP Regulations or 90 days from the insolvency commencement date whichever is later.

- 14.** In case in hand, at the time of filing claim with RP, the resolution plan has been received and approved by the CoC and consequently, even this regulation cannot come to the rescue of the operational creditor.
- 15.** CIRP is timebound process and we will not be able to allow the claim of the operation creditor coming at a stage after the approval of resolution plan as the same will delay the Corporate Insolvency Resolution Process further. Therefore, we find **no merit** in this application and accordingly, we **dismiss** this **I.A. (IB) No. 2375 of 2024**.

I.A. (IB) No. 2376 of 2024:

- 16.** This application has been filed by **Mr. Sunil Kumar Jaiswal**, Authorised Representative of Ganpati Steel Enterprises (hereinafter referred as **“Applicant/Operational Creditor/OC”**) against **Mr. Pratim Bayal**, Resolution Professional of Purulia Metal Casting Private Limited (hereinafter referred as **“Resolution Professional/Respondent/RP”**) seeking following reliefs:

- “a)** *Direction to condone the delay of 334 days in filing the claims before RP;*
- b)** *Direction to Mr. Pratim Bayal, the Resolution Professional for acceptance of the legitimate claim of the applicant;*
- c)** *Pass such Order which this Tribunal may deem fit and proper in the facts and circumstances of the case.”*

Brief facts of the case:

- 17.** The applicant being operational creditor claims that he was unaware of the initiation of Corporate Insolvency Resolution Process against the corporate debtor on 18.10.2023.
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18. The applicant claims that directors of the corporate debtor fully aware of ongoing proceedings in the Jamshedpur Court against the corporate debtor for non-payment of dues to the tune of Rs. 74,89,826/-. The applicant claims that he became aware of CIRP only in September 2024 and therefore, filed Form B on 30.09.2024, after delay of 334 days and hence, this application.

Ld. Counsel for Applicant:

19. Ld. Counsel for applicant submits that he was pursuing legal remedy for non-payment of dues by the corporate debtor in Jamshedpur Civil Court in case No. 1543 of 2022.

20. The Ld. Counsel further submits that the applicant became aware of CIRP of the corporate debtor only in September 2024 and consequently proof of claim was filed on 30.09.2024, which was rejected by the RP cited that the resolution plan of the corporate debtor has been approved by the CoC and at this stage it is not possible to accept any claim.

21. Ld. Counsel also submits that a genuine claim of the operational creditor will have to be accepted, after condoning the delay under the facts and circumstances of the case.

Analysis and Findings:

22. We find that the CIRP of the corporate debtor Purulia Metal Casting Private Limited commenced on 18.10.2023. Public announcement inviting claims were made on 20.10.2023, whereas applicant had filed the claim only on 30.09.2024, which is after a delay of nearly 341 days.

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- 23.** As per CIRP Regulation 2016, a creditor will have to submit claim with proof on or before the last date mentioned in the public announcement.
- 24.** In this case, public announcement was made on 20.10.2023, and the last date for accepting the claim was 30.10.2023. Whereas the claim has been filed on 30.09.2024, which is 341 days after the last date. As per Regulation 2012, of CIRP Regulation, a creditor can still file claim up to the date of issue of request for resolution plan under Regulation 36B of the CIRP Regulations or 90 days from the insolvency commencement date whichever is later.
- 25.** The case in hand, at the time of filing the claim with RP, the resolution plan has been received and approved by the CoC and consequently, even this regulation cannot come to the rescue of the operational creditor.
- 26.** CIRP is timebound process and we will not be able to allow the claim of the operation creditor coming at a stage after the approval of resolution plan as the same will delay the Corporate Insolvency Resolution Process further. Therefore, we find **no merit** in this application and accordingly, we **dismiss** this **I.A. (IB) No. 2376 of 2024**.
- 27.** Certified copy of this order, if applied for with the Registry be supplied to the parties in compliance with all requisite formalities.

**D. Arvind
Member (Technical)**

**Bidisha Banerjee
Member (Judicial)**

Signed on this, the 1st day of January 2025.

PH[PS]
