

**IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI, COURT-III**

IA-5463/2022
In
IB-02(PB)/2017

IN THE MATTER OF IB-02(PB)/2017:

Nikhil Mehta & Sons (HUF) & Ors.

..... **Financial Creditors**

Versus

M/s. AMR Infrastructures Limited

..... **Corporate Debtor**

AND IN THE MATTER OF IA-5463/2022:

Mr. Krishan Kumar

..... **Applicant**

Versus

Mr. Vikram Bajaj

Resolution Professional of the Corporate Debtor

..... **Respondent**

Order Pronounced On: 09.04.2024

CORAM:

**SHRI ATUL CHATURVEDI
MEMBER (TECHNICAL)**

**SHRI BACHU VENKAT BALARAM DAS
MEMBER (JUDICIAL)**

PRESENT:

For the Applicant : Ms. Kanika Kimothi, Adv.

For the Respondent : Mr. Mohak Sharma, Mr. Supriyo Banerjee, Mr. A.
Anand Advs.

For the NOIDA : Mr. U. N. Singh, Adv.

ORDER

PER: ATUL CHATURVEDI, MEMBER (TECHNICAL)

1. The present Application has been filed by Mr. Krishan Kumar, the Applicant under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the National Company Law Tribunal Rules, 2016 before this Adjudicating Authority. The Applicant seeks the following reliefs:

“i. Direct the Respondent to provide requisite ledger/documents pertaining to the applicant in the name of statement of account of Mr. Krishan Kumar-AM5518;

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ii. Direct the respondent to admit the claims of applicant to the tune of Rs. 1,17,00,000/- (Rupees One Crore Seventeen Lakh Only);

III. Direct the respondent to reconstitute the COC and proceed further with the meeting thereupon;

And, Or;

iv. Pass any such further order or direction as this Hon'ble Tribunal may deem fit, just and proper in the interest of justice.”

2. Brief Background of the Case:

The facts that are relevant for the determination of the issues involved in this application are stated as under:

- i.** An application under Section 7 of the Insolvency and Bankruptcy Code, 2016 ("IBC") was filed by the Financial Creditors i.e. Nikhil Mehta & Sons (HUF) & Ors., against the Corporate Debtor i.e. M/s. AMR Infrastructures Limited and the said application was admitted by this Adjudicating Authority vide order dated 10.05.2018 and a moratorium was declared including the appointment of Mr. Vikram Bajaj as an Interim Resolution Professional. Subsequently, the present Respondent namely Mr. Vikram Bajaj was confirmed as Resolution Professional in terms of Section 22 of IBC.
- ii.** Thereafter, the Resolution Plan was submitted jointly by Mr. Surender Kumar Singhal, Mr. Rajat Singhal, Mr. Raman Aggarwal which was approved by the CoC in its 7th meeting dated 20.05.2019 by 74.44% voting share in respect of the CIRP of the Corporate Debtor after considering its feasibility and viability. Thereafter, Mr. Vikram Bajaj, the Resolution Professional of the Corporate Debtor filed CA-1069-(ND)-2019 to seek approval of the Resolution Plan under Section 30(6) read with Section 31 of IBC,

2016 on 27.05.2019, which is pending adjudication before this Adjudicating Authority.

3. Submissions of the Applicant:

- i.** It is the case of the Applicant that the Applicant was serving as one of the directors of the Corporate Debtor. The Applicant resigned from the directorship of the Corporate Debtor with effect from 31.03.2016.
- ii.** After initiation of the CIRP of the Corporate Debtor, the Applicant vide email dated 12.09.2018, filed his claims in Form-F with the Respondent. Vide email dated 17.10.2018, the Respondent replied and acknowledged regarding receipt of claims filed by the Applicant. The Respondent vide email dated 10.08.2021 asked the Applicant to file its claims in Form-C. Accordingly, the Applicant filed its claims in Form-C vide email dated 16.08.2021.
- iii.** Vide email dated 02.09.2021, the Respondent rejected the claims of the Applicant by citing the reason which is as follows:

"Please note that as per the accounts of AMR there is no amount outstanding towards the unsecured loan of Mr. Krishan Kumar accordingly no claim is admissible."
- iv.** The Applicant has not received the amount of Rs. 1,17,00,000/- from the Corporate Debtor but the document pertaining to it has not been provided by the Respondent till date despite repeated reminders on various occasions sent by the Applicant.

4. Submissions of the Respondent:

- i.** The Respondent has filed a reply affidavit denying the allegations made by the Applicant and stated that the Applicant initially filed his claim in Form F vide email dated 12.09.2018 with the Respondent. Thereafter, the Applicant vide email dated 22.06.2021

forwarded the ledger account of the Corporate Debtor for the year 2010-2014 and the Bank statement of Applicant maintained with Bank of Baroda with the Respondent in order to further substantiate his claim. After perusing the form filed by the Applicant, the Respondent requested the Applicant to file his claim in Form C for proper adjudication.

- ii.** It is submitted by the Respondent that after perusing the claim form C filed by the Applicant, the Respondent requested the Applicant to provide a copy of the Memorandum of Understanding or Allotment Agreement in order to further verify the claim. However, the Applicant did not provide the same.
- iii.** The Respondent vide email dated 29-09-2021 after due verification replied to the query of the Applicant that the Respondent has checked the audited balance sheet of the Corporate Debtor and no unsecured loan was reflected.
- iv.** It is further submitted that the Respondent vide email dated 02.09.2021 intimated to the Applicant regarding the rejection of his claim and also informed that as per the books of accounts of the Corporate Debtor, there is no outstanding amount towards the unsecured loan of the Applicant. Moreover, the Applicant was also provided with the account statement for reference and perusal.

5. Analysis and Findings:

- i.** We have heard the submissions of Ld. Counsel appearing for the Applicant as well as Ld. Counsel appearing for the Respondent. We have also perused the records.
- ii.** Admittedly, the Respondent has verified the records of the Corporate Debtor whereby, the Audited Balance Sheet reflects an unsecured loan of related parties to the tune of Rs. 87,44,055/-

however, as per the trial balance, the same could not be verified against the name of the Applicant namely Mr. Krishan Kumar.

- iii.** The Respondent vide email dated 02.09.2021 intimated to the Applicant regarding the rejection of the claim and also informed that as per the books of account of the Corporate Debtor, there is no outstanding amount towards the unsecured loan of the Applicant namely, Mr. Krishan Kumar. Moreover, the Applicant was also provided with the account for reference and perusal.
- iv.** Hence, we find that the rejection of the claim was not ultra vires by the Respondent/Resolution Professional and the same has been done in compliance with the provisions of the Code and CIRP Regulations therein. The Respondent is a court-appointed officer and is only undertaking its duties under the Code. Furthermore, the Respondent has within its powers as bestowed upon it by the Code and is only acting in furtherance of its duties to achieve the purpose of the Code.
- v.** Hence, we are of the view that the Resolution Professional has not committed any illegality or irregularity w.r.t. the rejection of the claim of the Applicant.
- vi.** It is an admitted fact that the CIRP of the Corporate Debtor is on the verge of conclusion since the Resolution Plan is pending final adjudication before this Adjudicating Authority.
- vii.** Coming to the factual matrix of the present Application, it is a settled law that once the Resolution Plan has been approved by the CoC, the Adjudicating Authority can't go back to look into the nittygritty's involved in the CIRP of the Corporate Debtor. Therefore, this Adjudicating Authority cannot entertain the present Application which is not sustainable.

6. In view of the above facts and circumstances and the foregoing discussion. It is accordingly ordered as follows:

- i. The Application bearing **IA-5463/2022** filed by the Applicant is **dismissed**.
- ii. The Registry is directed to send a copy of this order to the Insolvency and Bankruptcy Board of India for their record.

No order as to costs.

Sd/-
(ATUL CHATURVEDI)
MEMBER (TECHNICAL)

Sd/-
(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)