

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**JAIPUR BENCH**

**CORAM: MR. AJAY KUMAR VATSAVAYI,**  
**HON'BLE JUDICIAL MEMBER**  
**MR. RAGHU NAYYAR,**  
**HON'BLE TECHNICAL MEMBER**

**IA No. 27/JPR/2019**  
**IA No. 28/JPR/2019**  
**IA No. 29/JPR/2019**  
**In IA No. 01/ JPR/2019**  
**In CP No. (IB)- 35(ND)/2018**  
**TA No. 118/2018**

(Under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 Read with Rule 11 of the National Company Law Tribunal Rules, 2016)

**IN THE MATTER OF:**

**CP No. (IB)- 35(ND)/2018**

**SARDAR SINGH**

**...Operational Creditor**

**VERSUS**

**ANIL SPECIAL STEEL INDUSTRIES LIMITED**

**...Corporate Debtor**

**AND IN THE MATTER OF:**

**IA No. 27/JPR/2019**

**Rajendra Sharma**  
R/o- 28, Ganga Sagar-B,  
Vaishali Nagar, Jaipur- 302021

**...Applicant**

Sardar Singh  
Versus  
Anil Special Steel Industries Limited

**VERSUS**

**1. COC through Resolution Professional  
for Anil Special Steel Industries Limited**

313a, Vardhman North- Ex Plaza  
Netaji Subhash Place, Pitamura, Delhi- 110034

**...Respondent No. 1**

**2. SGSMT Ispat Rolling Mills Private Limited**

House No. 99, Basement Palam  
Gurgaon Road, VPO Samalkha,  
New Delhi South West- 110097

**...Respondent No. 2**

**For the Applicant** : Harish Kumar Tripathi, Adv.  
**For the Respondent** : Abhishek Anand, Adv. (For RP)  
Susshil Daga, Adv (For R2)

**AND**

**IA No. 28/JPR/2019**

**Mr. O. P. Vyas & Ors.**

**Representing ex-employees of Anil Special Steel Industries Ltd.**

Add: Plot No. 7A, Scheme 12C,  
Shri Ram Nagar Extension, Jhotwara,  
Jaipur- 302012

**...Applicant**

**AND**

**IA No. 29/JPR/2019**

**1. Sardar Singh**

**Representing the Workmen (No. 207 in the main Petition)**

Add: Plot No. 2, Manu Vatika -III, Near Basant Nagar,  
Bajri Mandi Road Pachyavala Jaipur - 302034

**2. Rashtriya Anil Special Steel Mazdoor Sangh**

Sardar Singh  
Versus  
Anil Special Steel Industries Limited

**Also Representing Workmen in terms of Resolution dated 14.09.2018**

Add: Shramik Ekta Kendra, SD 137,  
Shanti Nagar, Opp. NBC, Hatvada Road,  
Jaipur, Rajasthan- 302006

**...Applicants**

**IN IA No. 01/JPR/2019**

**Mr. Vikram Bajaj**

**Resolution Professional for Anil Special Steel Industries Ltd.**

313A, Vardhman North- Ex Plaza  
Netaji Subhash Place, Pitamura, Delhi- 110034

**... Applicant**

**VERSUS**

**1. SGSM Ispat Rolling Mills**

House No. 99, Basement Palam Gurgaon Road  
VPO Samalkha, New Delhi-110097

**2. Prudent ARC Limited**

611, Sixth Floor, D Mall, Plot No. A-1,  
Netaji Subhash Palace, Pitampura,  
New Delhi-110034

**3. Allahabad Bank**

M.I Road Branch, Jaipuria Mansion,  
Panchbatti Circle, Jaipur-302001

**4. Bank of Maharashtra**

M.I Road, Plot No. E-2, K.J. City Tower,  
Ashok Market, C-Scheme,  
Jaipur-302001

**5. State Bank of India**

Stress Asset Recovery Branch  
Matrix Mall, 3<sup>rd</sup> Floor, Sector-4, Jawahar Nagar,  
Jaipur-302004

Sardar Singh

Versus

Anil Special Steel Industries Limited

**6. Indian Overseas Bank**

Regional Office

SB-57, 1<sup>st</sup> Floor, Ridhi Tower,

Opposite SMS Standum, Tonk Road, Jaipur-302015

**7. Jindal Aluminium Limited**

Jindal Nagar, Tumkar Road,

Bangalore-560073

**...Respondents****For the Applicant in IA No. 28 &29** : Gaurav Bharadwaj, Adv.**For the Respondent in IA No. 28 &29:** Abhishek Anand, Adv. (For RP)

Shivam Goel, Adv. (For R2

in IA 01/JPR/2019)

**Order Pronounced On: 16.07.2021****ORDER****In IA No. 27/JPR/2019, IA No. 28/JPR/2019 & IA No. 29/JPR/2019****Per: Mr. Raghu Nayyar, Technical Member**

1. Applications bearing IA No. 27/JPR/2019, I.A. No. 28/JPR/2019 and I.A. No. 29/JPR/2019, being disposed of by this common order, are filed by representatives of employees / ex-employees and workmen i.e. Mr. Rajendra Sharma, Mr. O.P. Vyas and Rashtirya Anil Special Steel Mazdoor Sangh ('Applicants') respectively in IA No. 01/JPR/2019 under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 ('IBC'/ 'Code') read with Rule 11 of the National Company Law Tribunal Rules, 2016 with identical principal prayer to implead the Applicants in IA No. 01/JPR/2019. IA No.

Sardar Singh

Versus

Anil Special Steel Industries Limited

01/JPR/2019 is filed by Mr. Vikram Bajaj, Resolution Professional for Anil Special Steel Industries Ltd. ('Corporate Debtor') for approval of resolution plan.

2. The application for initiation of CIRP of the Corporate Debtor filed by Sardar Singh on behalf of Workmen (207 in no.) was admitted vide order dated 05.03.2018 and as a consequence thereof Mr. Brij Kishore Sharma was appointed as Interim Resolution Professional ('IRP') and moratorium was declared in relation to the Corporate Debtor. The IRP was replaced by Mr. Vikram Bajaj as the RP vide order dated 14.05.2018.
3. As per the Applicants, upon initiation of CIRP of the Corporate Debtor, the Applicants in respective IAs had filed their claim before the IRP and the same was admitted. Later the CoC had approved a resolution plan and the same was filed before the Adjudicating Authority for approval. It is further stated that the Applicant has the statutory right as well as in equity and is entitled to know as to whether their claim has been admitted or not by the Resolution Professional ('RP') and CoC in the resolution plan approved, and also as to whether the total amount claimed by them was actually less than 10% of the total claim filed against the Corporate Debtor.
4. The RP has filed identical reply in the IAs under consideration and submits that the prayer made by the Applicants are not only beyond the provisions of the Code but the same is also not tenable in law. Further the CoC has

unanimously approved the resolution plan as submitted by the resolution applicant, subject to determination of the resolution plan to be compliant with the Code by the Adjudicating Authority.

5. Respondent No. 2 in IA No. 01/JPR/2019, Prudent ARC Limited, has filed identical reply in IA No. 28 & 29 on 30.05.2019. It is submitted that the identity of the ex-employees / workmen represented by the Applicants in IA No. 28 & 29 are unknown. It is further submitted that as per Regulation 13 of IBBI (Insolvency Resolution Process for Corporate Persons) Regulation, 2016 ('CIRP Regulations'), the list of creditors is available for inspection to all claimants and is also displayed on the website of the Corporate Debtor. Therefore, the Applicant's contention that they are unaware of the percentage of claim is frivolous.
6. The Applicant in IA No. 28/JPR/2019 has filed written synopsis on 03.12.2020 and submits that the instant Application was filed owing to the fact that the RP had filed an IA No. 32/JPR/2019 for determination of liabilities of the workers and employees and other liabilities pertaining to unit 1 of the Corporate Debtor which was auctioned under SARFAESI Act prior to insolvency commencement date. It is further stated that the present Applicant, who are the ex-employees, had worked under the Corporate Debtor and not with the subsequent auction purchaser i.e. M/s Tarun International Limited, were never made a party to said IA.

7. As per the Applicant, in IA No. 32/60/JPR/2019 this Adjudicating Authority had allowed the impleadment of Mr. Rajendra Sharma representing 77 employees, who continued to work with auction purchaser. Further no order has been passed in said IA with respect to liabilities of the Applicant, even though the prayer sought in said IA pertains to “all workers and employees and other liabilities pertaining to Unit One sold under SARFAESI Act”.
8. The Respondent No. 2 in its identical written submissions filed on 18.12.2019 in IAs under consideration has submitted that after the order dated 01.10.2019 in IA No. 32/JPR/2018, the Applicants (ex-employees & workmen), who worked in Unit-I, no longer have any claim against the Corporate Debtor. Further out of the 93 employees shown in Form E annexed with IA 27/JPR/2019, it includes the claim of Mr. O.P. Vyas (representing 16 employees in IA No. 28/JPR/2019) at serial no. 8.
9. Further the RP as well as Respondent No. 2 has relied on following citations:
  - a. *The order of Hon’ble NCLAT in CA (AT) (Insolvency) No. 211 of 2018 dated 24.08.2018 (Madhya Gujrat Vij Company Ltd. vs. M/s Kalptaru Alloys Pvt. Ltd & Ors.)*
  - b. *The order of Hon’ble NCLAT in CA (AT) (Insolvency) No. 206 of 2017 dated 09.10.2017 (Falcon Tyres Ltd. vs. Belthangady Taluk Rubber Growers Marketing & Processing Cop. Society Ltd. & Anr.)*
  - c. *The order of Hon’ble NCLT, Mumbai Bench in CP (IB) - 1262/(MB)/2017 dated 08.01.2019 (Kotak Mahindra Bank Ltd. vs. Parekh Aluminex Ltd.)*

10. In order to decide the instant Application, it is imperative to see the operative part of the Order dated 01.10.2019 passed by this Adjudicating Authority in IA No. 32/60/JPR/2018:

*“25. A perusal of all the above pleadings, the Judgements and Annexures thereon clearly reveals that the Respondent No. 3 made it very clear to the Respondent No. 2 to acquire the Unit No. 1 of the Corporate Debtor on “AS IS WHERE IS BASIS, AS IS WHAT IS BASIS, WHATEVER THERE IS BASIS” which implies that it shall also acquire all the liabilities thereon.*

*26. Under these circumstances, the following orders are issued by this Tribunal: -*

- a. The Respondent No. 2 shall bear all the claims of the Respondent No. 1 and Respondent No. 5.*
- b. In the event any money which has been deducted towards statutory dues of EPF and is still lying with the Corporate Debtor, the RP shall forthwith credit the same to the appropriate accounts of the concerned Authority.*
- c. For recovery of the claims of any statutory dues it is open for the Respondent Nos. 1 and 5 to proceed against the Respondent Nos. 2 and 3.*
- d. So far, the Corporate Debtor is concerned it cannot be fastened with any of the liabilities of Unit No. 1 which was sold under the SARFAESI Act, 2002 by the Respondent No. 3 except with regard to the statutory dues of EPF in case, if it is lying still with the Corporate Debtor as stated afore at (b).”*

11. In the instant petition a similar IA No. 263/JPR/2019 and IA No. 264/JPR/2019, filed by ex-employees of the Corporate Debtor for

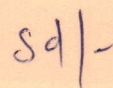
impleadment in an Application for approval of resolution plan was disposed of by this Adjudicating Authority vide order dated 12.12.2019. In view of order in IA No. 32/60/JPR/2018, the Applicants in said IA No. 263 & 264 of 2019 were directed to approach and lodge their claim before M/s Tarun International Ltd.

12. It is noteworthy that Respondent No. 1 in IA No. 32/60/JPR/2018 is Rashtirya Anil Special Steel Mazdoor Sangh representing workmen of Anil Special Steel Industries Ltd., who is the Applicant in IA No. 29/JPR/2019. Also, Respondent No. 5 in IA No. 32/60/JPR/2018 is Rajendra Sharma (representing 77 former employees), who is the Applicant instant IA No.27/JPR/2019 representing 93 employees as per Form-E at Annexure II of the IA no. 27/JPR/2019.
13. On perusal of the records, it is seen that Applicants in IA No. 28 and 29 have failed to provide the list of employees / workmen who they represent. However, the Applicant in IA No. 29/JPR/2019 has submitted that Section 9 Application was filed by the present set of workmen (207 in No.) through their then representative Mr. Sardar Singh. Further it is not clear whether the claim of 77 employees represented by Mr. Rajendra Sharma as Respondent No. 5 in IA No. 32/60/JPR/2019 are included in the list of employees annexed with IA No. 27/JPR/2019.

14. In view of all the facts and circumstances and order dated 01.10.2019 of this Adjudicating Authority the Applicants are directed to approach and lodge their claim (excluding the employees and if any represented by Respondent No. 5 and Respondent No. 1 in IA 32/60/JPR/2019, who had already filed claim in view of order dated 01.10.2019) to M/s Tarun International Limited, the purchaser of Unit-1 of the Corporate Debtor, M/s Anil Special Industries Limited, who will examine the same and determine the entitlement for respective claims. In case any statutory deductions/provisions including EPF, Gratuity, etc. have been made from their salary or on their behalf in/from the accounts of the Corporate Debtor, the same shall be credited to the applicable/relevant folio with the appropriate authority/entity/agency handling the same.
15. In view of the foregoing directions, Applicant's claim does not have any bearing in the application (IA No. 01/JPR/2019) for approval of resolution plan of Corporate Debtor. Thus IA No. 27/JPR/2019, IA No. 28/JPR/2019 and IA No. 29/JPR/2019 are dismissed and accordingly disposed of. Copy of the order be served to the parties.



**Mr. Raghu Nayyar,  
Member (Technical)**



**Mr. Ajay Kumar Vatsavayi,  
Member (Judicial)**