

**THE NATIONAL COMPANY LAW TRIBUNAL  
CHANDIGARH BENCH, CHANDIGARH  
(Exercising powers of Adjudicating Authority under  
the Insolvency and Bankruptcy Code, 2016)**

**IA No.1779/2022  
in  
CP (IB) No.227/Chd/PB/2019**

**Under Rule 11 of NCLT Rules, 2016**

**In the matter of:**

**Stone World** .....Petitioner/Operational Creditor

**Vs**

**Adarsh Super Construction Private Limited.**  
...Respondent/Corporate Debtor

**In the matter of IA No. 1779/2022:**

Adarsh Super Construction Private Limited  
having its registered office at  
Plot No. E-328, Phase 8-A,  
Industrial Area (Opposite Judicial Complex)  
Mohali-160070 ...Applicant

**Vs.**

M/s. Stone World  
Through its partner Sh. Ajay Gupta,  
having its registered office at  
Near G.M. Resorts,  
Patiala Road, Zirakpur, SAS Nagar-140603,  
...Respondents

**Order delivered on: 15.05.2023**

**Coram: HON'BLE MR. HARNAM SINGH THAKUR, MEMBER (JUDICIAL)  
HON'BLE MR. SUBRATA KUMAR DASH, MEMBER (TECHNICAL)**

**Present:**

For the Applicant in  
IA No. 1779/2022 : Dr. Rajansh Thukral, Advocate  
For the respondent in  
IA No. 1779/2022 : Mr. Nahush Jain, Advocate

**Per: Subrata Kumar Dash, Member (Technical)**

**ORDER**

The present application is filed by M/s Stone World (herein referred to as 'Applicant') against Adarsh Super Construction Private Limited (herein referred to as 'Respondent') under Rule 11 of NCLT Rules, 2016, praying for amendment of the reply.

2. It is submitted by the applicant that a petition under section 9 of IBC, 2016, has been filed against the Applicant/Corporate Debtor. The applicant/Corporate Debtor has already filed a reply to the main petition, but several important facts have not been placed on record due to the lack of professional advice, and the matter cannot be properly adjudicated without placing the same before this tribunal bench. The amended reply has been attached as Annexure- A of Dairy No. 02635 dated 17.10.2022.

3. The following submissions have been made in the original reply filed by Dairy No. 4576 dated 04.09.2019:-

- i) The respondent has submitted that they have filed a reply dated 24.4.2019 to the demand notice dated 08.02.2019. The said reply has been sent to the petitioner, which was duly received, as evident from the postal receipt and tracking report attached with the reply.
- ii) The respondent has made averments about the intimation of defective material of Invoice No. 85 of 30.06.2017 to the petitioner. After such intimation, the petitioner has inspected the material,

and with the consent of the petitioner, a debit Voucher No. 58 for Rs.1,46,350 was issued to the petitioner.

- iii) Another submission made by the respondent is that there is no agreement for payment of interest as per invoices attached by the petitioner at Annexure 5.
- iv) There is no sale of the material to the respondent by Bill number 80 of 30.6.2017. Hence the same is disputed one.
- v) It is admitted that Rs. 1,62,495/- is due as per account books from the respondent/corporate debtor to the petitioners.

4. The following submissions have been made by the applicant in the amended reply, which is filed as Annexure- A of Dairy No. 02635 dated 17.10.2022.

- i) It is averred that no amount is due or payable by the respondent company, and all alleged invoices and documents are false and fabricated.
- ii) It is contended that the interest does not form part of the operational debt, and the present petition is filed in order to recover the alleged amount. The applicant has not placed on record any acknowledgement or admission of liability, and the respondents have also not availed credit of GST in respect of the alleged goods. No eBay bills have also been placed on record showing the delivery of the goods.

5. Reliance is placed by Applicant on the Judgement of Hon'ble Supreme Court in the matter of ***Dena Bank (now Bank of Baroda) Vs. C. Shivkumar***

**Reddy and Anr** Appeal No. 1650 of 2020 decided on 04.08.2021 in para 144 of the judgement held as under:

*"144. There is no bar in law to the amendment of pleadings in an application under Section 7 of the IBC, or to the filing of additional documents, apart from those initially filed along with application under Section 7 of the IBC in Form-1. In the absence of any express provision which either prohibits or sets a time limit for filing of additional documents, it cannot be said that the Adjudicating Authority committed any illegality or error in permitting the Appellant Bank to file additional documents. Needless however, to mention that depending on the facts and circumstances of the case, when there is inordinate delay, the Adjudicating Authority might, at its discretion, decline the request of an applicant to file additional pleadings and/or documents, and proceed to pass a final order. In our considered view, the decision of the Adjudicating Authority to entertain and/or to allow the request of the Appellant Bank for the filing of additional documents with supporting pleadings, and to consider such documents and pleadings did not call for interference in appeal."*

(Emphasis Supplied)

6. The respondent has filed a reply by Diary no. 02635/01 Dated 21.02.2023 stating that the present application is cross-abuse of law. The notice in the present petition was issued on 30.05.2019, and the reply was filed by the respondent in August 2019. However, the present application for amendment was filed on 27.10.2022 with the intention to drag the proceedings. Moreover, the respondents are presenting an entirely different case through its amended reply. The judgement of **Dena Bank (now Bank of Baroda) Vs. C. Shivkumar Reddy and Anr. (Supra)** was completely misinterpreted by the applicant as in the aforesaid case, the amendments were allowed at the very beginning of section 7 of IBC proceedings, whereas the applicant is seeking amendment at the argument stage.

7. We have heard the Learned counsel for Applicant and Respondent and have pursued the records carefully.

8. We note that in the present case, the applicant has substantially revised its submissions in the present application on the ground that the earlier submissions are made when the applicant did not have access to proper legal advice. The Hon'ble Apex Court, in the case of ***Dena Bank (now Bank of Baroda) Vs. C. Shivkumar Reddy and Anr. (Supra)*** has given reasonable discretion to the adjudicating authority to decide on the issue of admitting any such revised submission. After going through the facts of the case, we hold that in the interest of justice, the applicant should be allowed to amend the reply subject to the payment of the cost of Rs. 10,000/- to be deposited in "The Company Law Tribunal Bar Association" Chandigarh. In the result, the amended reply dated 24.08.2022 filed as Annexure A of Diary No. 02635 dated 17.10.2022 is taken on record. However, taking on record the amended reply would not be construed as an expression on merits.

9. In view of the above discussion, the present application is allowed as above.

Sd/-  
**(Subrata Kumar Dash)**  
**Member (Technical)**

Sd/-  
**(Harnam Singh Thakur)**  
**Member (Judicial)**

May 15, 2023  
SA