



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

IA (IBC) /687 (CHE) /2024

IN

CP (IB) /40 (CHE) /2023

*(Filed under Section 60(5) of Insolvency & Bankruptcy Code, 2016 read with
Regulation 31A of IBBI (Liquidation Process) Regulations, 2016 & Rule 11 of the
NCLT Rules, 2016)*

In the matter of Hamon Research Cottrell India Private Limited

Hamon Research Cottrell (Shanghai) Compnay Limited,
Room 1801 – 0, Mingshen Businss Plaza,
No. 400, Caobao Road, Shanghai, China – 200 233,
Represented by constituted attorney,
Mr. Durai Rajan D

... Applicant/ Operational Creditor

Versus

Hamon Research Cottrell India Private Limited,
A Company incorporated under Companies Act, 1956,
Registered office at Pacifica Tech Park, Block – 1,
1st Floor, Core – 2, Module No.1G & 1H
Survey No.76, No.23, Rajiv Gandhi Salai (OMR),
Navalur, Kancheepuram District, Tamil Nadu.

... Respondent/ Corporate Debtor

Order Pronounced on 11th July 2025

CORAM

**SHRI JYOTI KUMAR TRIPATHI, MEMBER (JUDICIAL)
SHRI RAVICHANDRAN RAMASAMY, MEMBER (TECHNICAL)**

Present

For Applicant : Mr. Bharadwaj Ramasubramaniam, Ms. Shrinithi, Advocates

*For Respondent : Mr. Pawan Jhabakh, Mr. Ashwin Raman & Mr. Vishnu Jayaram,
Advocates*

ORDER

(Heard through Hybrid Mode)

1. The present Application preferred under Sec 60(5) of the IBC, 2016 seeks the following as below,



”

a. To permit the Applicant/ Operational creditor herein to produce the aforementioned documents, viz. copies of annual returns in Form AoC-4, along with corresponding financial statements; as filed by the corporate debtor with the Ministry of Corporate Affairs, for the years 2018 – 2019, 2019 – 2020, 2020 – 2021 and 2021 – 2022 as additional documents and marked as ANNEXURE VIII (Collectively), which documents were already filed by the Applicant herein vide Memo dated 08.12.2023 under Diary No.5023 for proper adjudication of the present petition.

b. To pass any other order(s) as this Hon'ble Tribunal may deem fit in the facts and circumstances of the present case.”

Brief Facts

Applicant Submissions

2. It is stated that, the applicant herein is an Operational Creditor of the Respondent Company and has preferred the main petition under Section 9 of the IBC, 2016 which is numbered as CP(IB)/40(CHE)/2023.
3. Applicant stated that, Respondent failed to make payment towards the invoices raised by the Applicant between 10.07.2018 and 18.12.2020. The total due outstanding as on the date of the main company petition was Rs.17,31,91,392.71/- or USD.21,34,186.99/-.
4. Applicant averred that, during the hearing on 21.11.2023, the respondent stated that the majority invoices involved in the present issue are barred by limitation, which is completely against the email acknowledgement dated 03.11.2023 in respect of debts and its admission. Further, stated that the Applicant examined the annual reports and balance sheets of the Respondent with the RoC for the Financial Years 2018 – 2022 which records the debts owed to the applicant.
5. Applicant stated that, it has filed the said documents before this Tribunal along with Written Submissions on 08.12.2023 vide SR. No. 5023. The documents include statutory filings filed under AoC-4 along with Financial Statements for the FYs 2018 - 2019 to 2021 – 2022, which were secured from the



Online portal of the Ministry of Corporate Affairs, Government of India, which were authored by the Respondent.

6. The Applicant stated that, the above documents are important to prove the debt and default, primarily aims to counter the consistent denial of the debts by the Respondent.
7. The Applicant tries to place the documents, from where it claims to prove the acknowledgement of debts/ liabilities by the Respondent and aims to counter the technical objection raised by the Respondent Hamon (India) with regard to aspect of limitation.
8. The applicant relied on following decisions,
 - *Dena Bank V. Shivakumar Reddy & Another [(2021) 10 SCC 330] – Hon'ble Supreme Court of India.*
 - *Asset Construction Company (India) Limited V. Tulip Star Hotels Limited and Others [(2022) SCC OnLine SC 944]*

Respondent Submissions

9. The Respondent in this application filed their Counter on 16.04.2024. It is stated that, the respondent challenged the very maintainability of the CP(IB)/40/2023. It is averred that, 19 out of 21 invoices which is the basis of the claim under the main petition were either barred by limitation or by Section 10A of the Code and the remaining invoices falls short of the threshold requirements.
10. It is stated that, the after completion of pleadings in the main CP, the applicant once again filed the written arguments and list of authorities on 07.12.2023. Further vide memo dated 07.12.2023, the applicant attempted to bring on record various additional documents.
11. The respondent alleged that, the applicant through this interim application is attempting to make those documents on record of the main CP, which were already rejected by this tribunal when introduced through a memo dated 07.12.2023, during the earlier hearings vide order dated 21.03.2023.



12. Respondent stated that, by the said way the applicant tries to reverse the order passed which is against the principle of Res Judicata. Further averred that, applicant in this IA, did not make out any valid grounds to take those documents on record and conveniently attempts to abuse the process of law indirectly.
13. Respondent also stated that, the present IA is to overcome the order of this Tribunal dated 21.12.2023 in the main CP(IB)/40/2023 and sought for dismissal of this Application on the above allegations.
14. The respondent relied upon the decision of "*Greater Noida Industrial Development Authority V. Prabhjit Singh Soni & Another (2024 SCC OnLine SC 122).*"

Observations

15. This Tribunal during the hearing on 21.12.2023 has taken on record, the Written Arguments filed in the memo dated 07.12.2023 vide SR. No. 5023 while rejecting the additional documents filed together and reserved the CP(IB)/40/2023. The relevant extract is hereunder;

"Ld. Counsel Mr. R. Bharadwaja Ramasubramaniam for the Petitioner. Ld. Counsel Mr. Pawan Jhabakh for the Respondent.

Pleadings are complete and arguments have already been heard.


Parties were directed to submit the synopsis along with the summary of the arguments.

Written submissions have been filed by the Respondent.

Ld. Counsel for the Respondent submitted that Petitioner had filed written arguments but submitted along with it three volumes of documents. Ld. Counsel for the Respondent states that the additional documents could not be filed post the pleadings as the hearing had already been completed in the case.

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Therefore, the same could not be taken on record.



Heard.

Order Reserved.

16. Pursuant to the above order, the Petitioner/ Operational Creditor, Hamon (Shanghai) Co. Ltd., preferred two interim applications namely, IA(IBC) No. 222/2024 and IA(IBC) No. 687/2024 on 08.01.2024, before this Tribunal.

17. The reliefs prayed in both the IA's are extracted as below,

“

In IA(IBC) No. 222/2024

a) To recall the order dated reserving CP (1B) No.40 of 2023 for orders and reopen CP(1B) No. 40 of 2023 Hamon Research-Cottrell (Shanghai) Co. Ltd vs. Hamon Research Cottrell India Pvt Ltd for further adjudication;

b) To pass such other further orders, as this Hon'ble Tribunal may deem and appropriate and thus render justice.

&

In IA(IBC) No. 687/2024

a) To permit the Applicant /Operational creditor herein to produce the aforementioned documents, copies of annual returns in Form AOC-4 along with corresponding financial statements; as filed by the Corporate Debtor with the Ministry or Corporate Affairs, for the years 2018-2019, 2019-2020, 2020-2021, and 2021-2022 as additional documents and marked as ANNEXURE VIII (Collectively), which documents were already filed by the Applicant herein vide Memo dated 08.12.2023 under Diary No. 5023 for the proper adjudication of the present Petition.

b) To pass such other further orders, as this Hon'ble Tribunal may deem and appropriate and thus render justice.

18. After hearing both the IA's this Tribunal vide common order dated 31.05.2024, allowed the Interim Applications and disposed of as follows,

“



14. *It is clear that the issue in the application IA(IBC)/687(CHE)/2024 seeking direction to file Financial Statements of Corporate Debtor is answered by the judgements supra. Since, we have to follow the verdict and observation passed in the judgements of Hon'ble Apex Court we take the Financial Statements filed by the Applicant in the IA(IBC)/687(CHE)/2024 on record. Accordingly, IA(IBC)/ 687(CHE)/2024 is allowed. Registry is directed to place the Financial Statements filed by the Applicant in the main petition CP(IB) No. 40 of 2023.*
15. *In so far as prayer in IA(IBC)/222(CHE)/2024 concerned, as a consequence of allowing IA(IBC)/687(CHE)/2024, it becomes indispensable to allow IA(IBC)/222(CHE)/2024 and re-open the main petition CP(IB) No. 40 of 2023 in order to accord opportunity to the Corporate Debtor to make their submission in main petition.*
17. *In view of the above judgement and in the interest of justice, we recall order passed by this Tribunal on 21.12.2023 in CP(IB) No.40 of 2023 consequently the main petition is re-opened for hearing both the parties. Registry is directed to list the main petition CP(IB) No.40 of 2023 on 10.06.2024.*
18. *With the aforesaid directions IA(IBC)/687(CHE)/2024 and IA(IBC)/222(CHE)/2024 are allowed and disposed of."*
19. The Respondent Hamon (India) preferred an appeal against the order dated 31.05.2024 (Impugned Order) passed by this Tribunal before the Hon'ble NCLAT, Chennai. The Hon'ble NCLAT in the said Company Appeal (AT)(CH)(Ins) No. 221/2024 vide order dated 01.07.2024 set aside the order of this Tribunal and remitted back both the Interim applications to decide afresh on merits and pass separate orders in both IAs. The relevant portion is extracted as below,
- “
- 12) Heard the Learned Counsel for the parties. Both the Counsels agreed that in case the matter is decided and disposed of finally today itself, they may not have any grievances.*



13) Owing to the aforesaid statement as made by the respective Counsels for the parties, we venture into deciding the case now itself. We are in disagreement with the pattern adopted by the learned Adjudicating Authority for deciding the IA(IBC)/222(CHE)/2024, that is first allowing the IA(IBC)/687(CHE)/2024 for taking the documents on record and then deriving the reasoning of the same as to be the basis of consequent order on the recall application IA(IBC)/222(CHE)/2024 which is impermissible under procedural law. Hence, the Impugned Order would stand quashed. The matters would stand remitted back to the Learned Adjudicating Authority [National Company Law Tribunal, Division Bench, Chennai] for the purposes of reconsidering the respective IAs exclusively on merit and it goes without saying that in view of what has been observed IA(IBC)/222(CHE)/2024 will have to be independently decided first before taking a call on IA(IBC)/687(CHE)/2024 filed by the Respondent for taking the documents on record.”

20. Upon the knowledge of the remission during the hearing dated 22.07.2024, in line with the findings of the Hon’ble NCLAT, Chennai as above, this Tribunal listed both the IAs, IA(IBC) No. 222/2024 and IA(IBC) No. 687/2024 on 12.08.2024 for “De novo” adjudication separately on merits.
21. After hearing the matter in detail, this tribunal reserved the IA(IBC) No. 222/2024 for orders on 02.01.2025. On 22.04.2025, this Tribunal after considering the facts and circumstances of the case and as per the Hon’ble NCLAT decision in the appeal proceedings adjudicated the said IA separately and allowed the prayer to recall the order dated 21.12.2023 in CP(IB)/40(CHE)/2023 which reserved the company petition for orders. The relevant extracts of the Order dated 22.04.2025 in IA(IBC) No. 222/2024 is as follows,

“



4.9 The issue before us is appropriate process of taking the documents on record before passing an order in CP(IB)/40(CHE)2023. The contention of applicant for recalling the order dated 21.12.2023 reserving for orders in CP(IB)/40(CHE)2023 is to take on record the additional documents produced by him and thereafter adjudicate the CP(IB)/40(CHE)2023 on merits. Even though we did not consider the additional documents to be taken on record after the pleadings are completed, we did take a view IA.222/2024 in IA.687/2024 wherein we passed an order on 31.5.2024 stating clearly as under.

'In the interest of justice, we recall order passed by this Tribunal on 21.12.2023 in CP(IB) No.40 of 2023 consequently the main petition is re-opened for hearing both the parties. Registry is directed to list the main petition CP(IB) No.40 of 2023 on 10.06.2024.'

4.10 However the direction the Hon'ble NCLAT is to consider the respective IA's exclusively on merit and decide IA.222/2024 independently before taking a call on IA.687/2024. Therefore IA.222/2024 has been examined independently and we find that additional document produced by the Applicant needs due consideration before adjudication of CP(IB)/40(CHE)2023.

4.11 Hence we are of considered opinion that though no documents can be to be taken on record after the pleadings are completed, After considering the submission and various case laws relevant in the matter we are of the view that the prayer of the application in IA(IBC)/222/2024 seeking to consider certain crucial documents such as Annual Returns/Balance Sheets filed by Respondent before ROC for the period for 2018 - 2022 to determine the debt owed to the applicant has merit in their contention. Therefore, we find it is fit and proper to exercise powers under Rule 11 of NCLT Rules, 2016 in this case and De-reserve CP(IB)/40(CHE)2023 which has been reserved for orders on 21.12.2023.



4.12 For the above-mentioned reasons and contentions IA(IBC)/222(CHE)/2024 is Allowed and Disposed of.”

22. The Present IA(IBC) No. 687/2024 was kept in abeyance as requested by the Ld. Counsels for both the parties till adjudication of IA(IBC) No. 222/2024 was complete. After passing of orders in IA(IBC) No. 222/2024 on 22.04.2024, this IA(IBC) No. 687/2024 has been taken for final adjudication.
23. The issues for consideration before this Tribunal is hereunder,
- *Whether the additional documents introduced after completion of pleadings and at the time of filing written submissions is permissible?*

Findings

24. Heard the Ld. Counsels appeared on behalf of the parties and perused the documents on record.
25. The Current position of the case is that, the Main Company Petition, CP(IB)/40(CHE)/2023 has been de-reserved by the order dated 22.04.2025 in IA(IBC) No. 222/2024. Now it is to decide on whether the additional documents submitted by the applicant after the completion of pleadings in main petition is permissible or not.
26. Before going into the respondents objection under res judicata, it is necessary to go through the following,

“

Section 11 of Code of Civil Procedure, 1908

Res Judicata.

No Court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a Court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court.”



27. It is observed that, doctrine of Res Judicata restricts any court from trying a suit or issue subsequently, where the direct and substantial material of an issue has already been a direct and substantial material in a earlier proceedings/ adjudication between the same parties either directly or through any claimants under same title has heard and finally decided by a competent court.
28. It is clear during the hearing dated 21.12.2023, this tribunal reserved the main CP and parallely observed the statement of the respondent that the additional documents could not be filed post the pleadings as the hearing had already been completed in the case and therefore the same could not be taken on record.
29. The above observation is nothing but a judicial observation and the same shall not be considered as Judicial Adjudication of an issue. Further, it is to be noted that, even the order dated 21.12.2023 has been recalled vide order dated 22.04.2025. Therefore there is no legal bar on adjudicating the present application afresh and separate as per the directions of the Hon'ble NCLAT.
30. This Tribunal observed earlier, in the case of ***“Union Bank of India V. Dinakar T Venkada Subramaniam & Ors. [(2021) 10 SCC 330]”***, that the Hon'ble Surpeme Court of India has held that, *there is no express provision in IBC, which either prohibits or sets a time line for filing of additional documents in hearing the Section 7 Petition.* The relevant extract of the same is as follows,

“142. There is no bar in law to the amendment of pleadings in an application under Section 7 IBC, or to the filing of additional documents, apart from those initially filed along with application under Section 7 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."

31. Also observed from the case of *"Asset Reconstruction Company (India) limited Vs. Tulip Star Hotels Limited and others (2022 SCC OnLine SC 944)"* where Hon'ble Supreme Court has held that, No fault could be found in allowing the creditor to file the Financial Statements of Corporate Debtor to substantiate the acknowledgement of debt after completion of pleadings.
32. It is apparent from the above decisions, that the rejection to take on additional documents on record is a discretion available with Adjudicating Authority which is to be exercised rationally depending upon the facts and circumstances prevailing at that point of time.
33. This tribunal observes the grounds on which the applicant sought to introduce the additional documents,
 - Inability to produce the documents was not wilful
 - Time delay was due to process going through the records
 - To establish the acknowledgement of debts and liabilities
 - The documents are Public records of the Respondent which has been filed with the regulatory bodies.
34. At this juncture, we are of the considered opinion that, the additional documents which the applicant sought to be considered for adjudication were public documents of the Respondent Company upon which applicant rely for establishment and acknowledgement of debt due by the Respondent Company, Hamon (India) as fair, reasonable and permissible. Therefore, this Tribunal decides the question in issue in favour of the applicant and inclined to take the Annual Returns and Financial Statements of the Respondent Company in issue, filed by the applicant herein, on the record of the main CP.



35. Further, the Registry is directed place the above permitted documents on the record file of Main CP. The Respondent is directed to file response if any to the additional documents submitted within 4 weeks.
36. Accordingly, *IA (IBC)/687(CHE)/2024 is allowed and disposed with above directions.*
37. *List the CP (IB)/40(CHE)/2023 for further hearing on 21.07.2025*

-Sd/-
RAVICHANDRAN RAMASAMY
MEMBER (TECHNICAL)

-Sd/-
JYOTI KUMAR TRIPATHI
MEMBER (JUDICIAL)

Prabhu