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

**MA/27(CHE)/2021in CP/872/IB/2018**  
(Filed under Sec. 60(5) of the Insolvency & Bankruptcy Code, 2016)

***In the matter of Victory Electricals Limited***

**Employees State Insurance Corporation**

Represented by Social Security Officer  
No. 143, Sterling Road, Nungambakkam,  
Chennai – 600034

*... Applicant / Operational Creditor*

-Vs-

**Chinnam Poorna Chandra Rao**

Liquidator of Victory Electricals Limited  
Flat No.101, TVS Mahathi Apartments,  
Lanco Hills Raod, Opposite to Sampoorna  
Super Market, Behind SR Digi School,  
Manikonda, Hyderabad – 500 089

*... Respondent / Liquidator*

Present:

For Applicant : S. P. Srinivasan, Advocate  
For Respondent : A.G.Sathyannarayana, Advocate

CORAM:

**R. SUCHARITHA, MEMBER (JUDICIAL)**  
**SAMEER KAKAR, MEMBER (TECHNICAL)**

*Order Pronounced on 25<sup>th</sup> April, 2022*

**ORDER**

***Per: SAMEER KAKAR, MEMBER (TECHNICAL)***

This MA/27/2021 is an Application filed by an Applicant under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 seeking relief as follows;

- a. *Set aside the order of rejection communicated by email dated 17.02.2021 passed by the Respondent/Resolution Professional of M/s Victory Electricals Ltd., Mr. Chinnam Poorna Chandra Rao.*
- b. *Direct the Respondent/Resolution Professional to consider the claim of the Applicant submitted to him by letter dated 15.02.2021 in Form C for Rs. 37,82,461 along with supporting documents and also by waiving/condoning the delay in filing the claim within cutoff date dated 28.12.2019 for submission of claim and treat the applicant on par with other Operational Creditors as per Section 53 (1) (e) of IBC code, and pass such other orders or orders as may be deemed fit and thus render justice.*


2. It is averred in the Application that vide order dated 09.11.2019 in MA No. 1144 of 2019, Liquidation was ordered and Respondent herein was appointed as Liquidator.

3. It was further averred in the application that the Applicant had submitted its claim in Form C on 17.02.2021 to the Respondent/Liquidator for an amount of Rs. 37,82,461. The claim pertains to the period from 06/01 to 8/01 till 12/12 to 04/13 comprising various periods wherein contribution, interest, further interest and damages were included. The Liquidator vide email dated 17.02.2021 rejected the claim stating that the last date for submission of claim expired on 28.12.2019.

4. It was further averred in the application that the reason for belated submission of claims is that, Applicant was not aware about the advertisement and liquidation of the Corporate Debtor.

5. The Learned Counsel for the Applicant relies on the order by New Delhi Bench in the matter of Edelweiss Asset Reconstruction Co. Pvt. Ltd. Vs. Adel Landmarks Ltd. MM Cargo Container Line Pvt. Ltd., State Bank of India vs. ARGL Ltd., Principal Bench, NCLT Delhi, Swiss Ribbons Pvt. Ltd. & Anr. VS Union of India Writ Petition (Civil) Appeal No. 88 of 2018.

6. The Learned Counsel for the Respondent filed counter on 20.09.2021. The Respondent has averred that no claim was filed by the Applicant during the CIRP process. The present claim was not even filed in proper form which as per Regulations, whereas claim was filed in Form G. The same is filed belatedly with delay of 416 days and Applicant has failed to comply with Regulation 16 of IBBI (Liquidation Process) Regulation, 2016. No separate application for condoning delay was ever filed before this Tribunal. The Respondent further averred that Applicant has not even given any proper reasoning and explanation for such inordinate delay and that the claim of the Applicant cannot be accommodated even



if so admitted it will be prejudicial to the functioning of the liquidation process.

7. Heard the submissions made by the parties. The delay of 416 days in preferring the claim before the Liquidator was due to the reasons that the Applicant did not have knowledge and for administrative reasons. However, we are unable to accept the reasons stated by the Applicant for the delay in filing the claim before the Liquidator. As per the provisions of the IBC, 2016, the Applicant is required to submit the claim to the Liquidator in such form and in such manner along with such supporting documents as specified by the Board. In the present case the Form used by the Applicant was incorrect. Thereafter, upon submission of the claim, the Liquidator is required to verify the claims within the time limits specified by the Board and in this connection referring to the relevant Regulations namely, IBBI (Liquidation Process) Regulations, 2016 and more specifically under Regulation 30, the Liquidator is required to verify the claim submitted within a period of 30 days from the last date of receipt of the claims and may either admit or reject in whole or part as the case may be of such claim. Section 40 of the I&B Code, 2016 mandates the Liquidator to record the reason in writing for rejection of the claim and the same is also required to be communicated to the Applicant. In



relation to his decision of admission or rejection, the Liquidator is required to communicate to both the creditors and the Corporate Debtor within seven days of such admission or rejection of the claim. As against the rejection of the claim, Section 42 of I&B Code, 2016 provides for a time window of 14 days upon receipt of such decision to the creditor to file an appeal to the Adjudicating Authority against the said decision of the Liquidator.

8. It may also be seen that the Applicant during the CIRP period also has not filed any claim before the IRP / RP and has preferred the claim only at the time of liquidation and that too at a belated stage, more particularly after expiry of a period of 416 days without making any application for condonation of delay in filing the present application is filed.

9. This Tribunal is also persuaded by the decision of the Hon'ble NCLAT in the matter of **The Deputy Commissioner Commercial Taxes (Audit), Raichur –Vs-Surana Industries Ltd. (In Liquidation) &Anr.** in *Company Appeal (AT) (Insolvency) No. 1525 of 2019* dated 07.02.2020, wherein the Hon'ble NCLAT has dismissed the application filed by the Applicant in relation to the Appeal against the order of the Liquidator and also held that



liquidation process is a time bound process and the Liquidator has to conclude his proceedings within one year.

10. Further, it may be noted that under Regulation 44(1) of the IBBI (Liquidation Process) Regulations, 2016, the Liquidator is directed to liquidate the Corporate Debtor within one year from the date of commencement of the liquidation proceedings and Regulation 44(2) stipulates that, after the expiry of one year, the liquidator shall file an application to the Authority to continue the liquidation period along with a report and explain why the liquidation has not been completed. Thus, it can be seen that the Liquidation is a time bound process and the Liquidator is being made accountable and required to explain, if there is any delay caused in the liquidation process.

11. Further, the Hon'ble Supreme Court in **GauravHargovindbhai Dave -Vs- Asset Reconstruction Company (I) Ltd. & Another** in Civil Appeal No. 4952 of 2019, in relation to the aspect of limitation has restated the well-established and well settled principle that "*there is no equity about limitation*", we are unable to entertain this Application/Appeal.



12. Hence extraordinary delay of 416 days in submission of claim by applicant, is devoid of merits. Further in interest of Justice also we could not condone the delay as sought for. If such extraordinary delay is condoned, it shall defeat the very purpose of the IBC, 2016.

13. In view of the reasons mentioned *supra* and also keeping in mind that the IBC, 2016 is a time bound process as well as the Learned Liquidator being under a compulsion to complete the liquidation process within a period of two year from the date of commencement of liquidation, the MA/27/2021 stands **dismissed**, however without costs.



-Sd-

**SAMEER KAKAR**  
MEMBER (TECHNICAL)



-Sd-

**R. SUCHARITHA**  
MEMBER (JUDICIAL)