

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**MUMBAI BENCH, COURT-II**

**IA No. 616/2021**

**In**

**CP (IB) 1414/MB/ of 2018**

Under Section 60 (5) of the Insolvency and  
Bankruptcy Code, 2016

**Geostar Surveys India Pvt Ltd**

(Geostar Sadan, Plot No. 46, Sector 19 C

Vashi, Navi Mumbai – 400 703

**... Applicant**

Vs

**Dipti Mehta**

(IRP of Great Unison Contractors India Pvt  
Ltd) 201-206, Shiv Smriti, 2<sup>nd</sup> Floor, 49A Dr.

A. B. Road Worli, Mumbai-400 018.

**... Respondent/IRP**

**SMSR & Co LLP**

(Great Unison Contractors India Pvt Ltd)

A-005, Western Edge II, Western Express

Highway, Borivali (E)

Mumbai – 400 066.

**... Auditors**

**IN THE MATTER OF**

**International Marine & Energy DMCC**

**... Operational Creditors**

V/s

**Great Unison Contractors India Pvt Ltd**

**... Corporate Debtor**

**Order delivered on :- 08.02.2024**

**Coram:**

**Anil Raj Chellan**

**Member (Technical)**

**Kuldip Kumar Kareer**

**Member (Judicial)**

**Appearances:**

For the Applicant

: Adv. Rajeev Kumar

**ORDER**

***Per: - Anil Raj Chellan, Member (Technical)***

1. The present Application is filed by Geostar Surveys India Pvt. Ltd. under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 ('the Code') for issuing directions to the Resolution Professional to admit the claim submitted by the Applicant.

**Facts of the case:-**

2. Great Unison Contractors India Pvt. Ltd. ('the Corporate Debtor') was admitted to Corporate Insolvency Resolution Process ('CIRP') pursuant to an order passed by this Tribunal dated 08.01.2019 and Mr. Gaurav Sharma was appointed as the Interim Resolution Professional. Subsequently by an order dated 19.02.2019, Ms. Dipti Mehta, the Respondent herein was appointed as Resolution Professional.
3. As no viable Resolution Plan was received and accepted by the Committee of Creditors ('CoC'), this Tribunal vide its order dated 23.01.2020 directed that the Corporate Debtor is to be liquidated and Ms. Dipti Mehta was appointed as the Liquidator.
4. The Applicant, on the basis of the work orders dated 15.03.2015, 15.07.2016 and 13.02.2019 issued by the Corporate Debtor, executed projects in Iran, Iraq and India. An amount of USD 133735.08 remained outstanding towards the projects in Iran and Iraq, and an amount of Rs. 8,75,248 /- against India project.
5. The Applicant stated that it knew about commencement of CIRP very late and hence could submit its claim only on 03.06.2020 before the Liquidator. The claim was rejected by Liquidator on account of delay, and, therefore, the Applicant preferred I.A No. 1028 of 2020 before this Tribunal. The Tribunal vide order dated 28.08.2020 condoned the delay in filing the claim and directed the Liquidator to consider the claim of Applicant and deduct an amount of Rs. 1,00,000/- from the admitted claim towards the cost of the application.

6. As per order dated 28.08.2020, the Liquidator admitted claim of USD 9006.59 (equivalent to Rs. 6,42,350/- after deduction of Rs. 1,00,000 as per order). The present Application is filed for modification/revision of the claim admitted by the Liquidator.

**Submissions of the Applicant:-**

7. The Applicant submits that it is an MSME falling under small category with registration no. MH33E0136623.
8. The Applicant submits that an amount of USD 133735.08 for Iran and Iraq projects and Rs. 8,75,248/- is remaining due from the Corporate Debtor. The Applicant had raised a confirmation of balance as on 31.03.2017 with details of invoices raised and the amount received towards repayment of invoices and sent to the statutory auditors of the Corporate Debtor. The Applicant states that it did not receive any query from the statutory Auditors M/s.SMSR & Co LLP and hence treated the amount of USD 197015.39 as the correct amount payable by the Corporate Debtor.
9. The Applicant further states that the Applicant being an MSME is entitled to interest as per Section 15 of the Micro, Small and Medium Enterprises Act, 2006 ('MSME Act').
10. The Applicant, therefore, sought admission of entire claim including interest as per MSME Act.

**Submissions of the Liquidator/Respondent:-**

11. The Respondent submits that the accounts of the Corporate Debtor for FY ending 31.03.2019 could not be finalized earlier and it was not

possible for the Respondent to verify or ascertain the claim of the Applicant.

12. Subsequently, the Financial Statement for FY ending 31.03.2019 of the Corporate Debtor was finalized on 21.03.2022. Based on the same, the Respondent admitted the revised claim of USD 130934.45 as against the claim of USD 133735.08 with respect to foreign projects and entire claim of INR. 8,75,245/- with respect to India project were admitted.
13. The Respondent, therefore, submits that the Application is liable to be dismissed.

**Analysis and finding:-**

14. We have heard the counsels for the parties and perused the documents on record.
15. The Applicant seeks admission of entire claim of USD 133735.08 on the basis of its ledgers and information submitted to the Statutory Auditors before initiation of CIRP against the Corporate Debtor. The Applicant considers the said amount as correct for the reason that no query had been received from the statutory Auditor of the Corporate Debtor. At the same time, the Respondent states that initially the financial statement for the FY ending 31/03/2019 was not available but on finalization of Audited statements for the FY ending 31.03.2019, the admitted claim was revised at USD 130934.45 and INR 8,75,248/-. Though the Applicant has not submitted any evidence or additional documents to prove its claim it is the case of the Applicant that no query had been received from the statutory Auditor of the Corporate Debtor, and hence it is correct. This argument cannot be accepted as a valid reason to disregard the amounts stated in the duly audited financial

statement of the Corporate Debtor. It is further observed that partial rejection of the claim is to the extent of USD 2800.63 which is in accordance with the duly audited financial statement of the Corporate Debtor and no evidence has been produced by the Applicant to substantiate its claim quo the rejected part. Given such facts, we cannot countenance the stand of the Applicant that the Respondent ought to have admitted the entire claim of the Applicant.

16. As regards the interest claimed, we notice that there is no agreement between the Applicant and the Corporate Debtor for payment of interest, and the MSME Act is not applicable for the purpose of determining the claim made under the Code even if the creditor is an MSME.

17. For the forgoing reasons, we are of the considered view that IA No. **616 of 2021** is devoid of merits and is accordingly **dismissed with no costs.**

Sd/-  
**ANIL RAJ CHELLAN**  
Member (Technical)

Sd/-  
**KULDIP KUMAR KAREER**  
Member (Judicial)