

**THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-I**

I.A. 2148 OF 2020

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

**Employee State Insurance Corporation
(ESIC) Sub Regional Office,
Telangana.**

...Applicant

Vs.

Liquidator of
Gupta Global Resources Pvt. Ltd.

...Respondent

In the matter of

C.P.(IB) No. 1239/MB/2017

Gupta Global Resources Pvt. Ltd.

...Corporate Applicant

Order delivered on: 05.12.2023

Coram:

Shri Prabhat Kumar
Hon'ble Member (Technical)
Appearances

Justice Shri V.G. Bisht
Hon'ble Member (Judicial)

For the Applicant : None
For the Respondent : Mr. Rakesh Gupta, Advocate

ORDER

Per: V.G. Bisht, Member (Judicial)

1. This Interlocutory Application 2148/2020 is filed in C.P. (IB) 1239/MB/2017 by M/s Employees State Insurance Corporation of India (“Applicant”) in the Liquidation Process of M/s Gupta Global Resources Pvt Ltd. (“Corporate Debtor”) seeking condonation of delay in submitting the proof of claim, and direction to the Liquidator of the Corporate Debtor to admit the applicant’s claim.
2. By an Order dated 28th August, 2018 (pronounced on 21st August, 2018) passed by this Hon'ble Tribunal, the Respondent was appointed as Liquidator of Gupta Global Resources Pvt. Ltd. and liquidation process of Gupta Global Resources Pvt. Ltd. was commenced. As per the public notice dated 30th August, 2018 issued by the Respondent - Liquidator, the last date of submission of proof of claims by creditors was 27th September, 2018.
3. It is the case of the Applicant that the Corporate Debtor, having filed monthly details of contribution, have not actually paid the contribution for the period September, 2016 till February, 2019, accordingly, the Applicant issued statutory notices under the Employees' State Insurance Act, 1948 on 24th June, 2019. However, nobody represented the Corporate Debtor.
 - 3.1. Since there was no response to these notices, the Applicant issued recovery notices on 7th January, 2020. The Respondent Liquidator replied to the said recovery notice dated 7th January, 2020 on 19th March, 2020 stating that claims cannot be accepted since the company is under liquidation and that the last date for submission of such claims was 27th September, 2018.

- 3.2. The Applicant has pleaded that the nation was under lockdown from 21 March, 2020 due to the COVID-19 pandemic. On 16th September, 2020 this Hon'ble Tribunal extended the liquidation process by 60 days. The Applicant has thereafter on 30th September, 2020 filed the proof of claim with the Respondent and the Respondent vide his email dated 2nd October, 2020 has rejected the same on the ground that the last date for submission of such claims was 27th September, 2018.
- 3.3. The Applicant has also submitted that it had not filed the claim with the Interim Resolution Professional also, as it had no knowledge the CIRP process having begun.
4. We have heard the Counsel and perused the material available on record.
- 4.1. We find that, admittedly no claim has been filed by the Applicant and it is merely on the basis of its Recovery certificate, the Applicant is claiming admission of their Claim. The Liquidation Process Regulations mandates the creditors to file the claim within the time prescribed which is 30 days from the date of commencement of liquidation under Regulation 12(2)(b) of the IBBI (Liquidation Process) Regulations, 2016. The Applicant has pleaded the relaxation on ground of limitations caused by COVID-19 pandemic.
- 4.2. It is trite law that the public announcement made by the Liquidator tantamount to putting every creditor to notice to file claim and no individual notice(s) are required. However, considering that the Corporate Debtor has filed the returns for ESIC dues but failed to pay the same, it can not be said that such dues could not have been found accounted in the books of accounts of the Corporate Debtor. Accordingly, we are of considered view that the Liquidator ought to have taken notice of that.
- 4.3. The Applicant has also pleaded that ESIC Act, 1948 is a social security legislation intended to provide full medical health care to cover

workmen and their family members as well as financial assistance in the form of various cash benefits to the covered workmen in the event of sickness, injury etc. The funds required for the administration of this scheme are generated by way of contributions payable by the employers. Accordingly, the Applicant has pleaded grave injustice to the covered workmen, if the claim of Rs. 77,352/- is not admitted.

4.4. Since, the Liquidation process is time bound and claim based process and the applicant has not yet filed any claim before the Liquidator, we do not find it appropriate to make the liquidation process endless exercise in so far as collation of claims is concerned. Accordingly, we are of considered view that the present application deserves to be dismissed.

5. In view of the foregoing, IA 2148/2020 is disposed of as dismissed.

Sd/-

Prabhat Kumar
Member (Technical)

Sd/-

Justice V.G. Bisht
Member (Judicial)