



THE NATIONAL COMPANY LAW TRIBUNAL

COURT VI, NEW DELHI

I.A. 2069/ND/2023

IN

Company Petition No. (IB) – 321/ND/2021

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

IN THE MATTER OF:

MS. SHIVANI GUPTA

.... PETITIONER

VERSUS

M/S H L BUILDWELL PVT. LTD.

..... RESPONDENT

AND IN THE MATTER OF-

MR. ASHOK GOYAL

.... APPLICANT

VERSUS

MR. VINAY KUMAR
RESOLUTION PROFESSIONAL

...RESPONDENT NO 1

MR. HEMANT JINDAL
FOUNDER PROMOTOR OF THE CORPORATE DEBTOR



...RESPONDENT NO 2

CORAM:

**SHRI. BACHU VENKAT BALARAM DAS, HON'BLE MEMBER
(JUDICIAL)**

**SHRI RAHUL BHATNAGAR, HON'BLE MEMBER
(TECHNICAL)**

For the Applicant: Mr. Kamal Agarwal

ORDER

PER- RAHUL BHATNAGAR, MEMBER (TECHNICAL)

Order Pronounced on: 17.08.2023

1. This application has been filed under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the National Company Law Tribunal Rules, 2016 praying for direction to the Resolution Professional to admit the claim of the Applicant/ Financial Creditor.

The applicant in the present application has prayed for the following reliefs: -

- a) *Direct the respondent resolution professional to admit the claim of the applicant as a financial creditor of the corporate debtor;*



- b) Direct the respondent resolution professional to allot voting rights in the committee of creditors in proportion to his claim;*
- c) Direct the respondent resolution professional to share the minutes of all the CoC meetings and copy of applications filed so far;*
- d) Pass any other order(s)/ directions(s) as this Hon'ble Tribunal may deem fit and proper in the interest of justice*

2. Briefly stated the facts of the case as mentioned in the instant application, which are necessary for adjudication, are as follows: -

- i. That the applicant filed its claim as Financial Creditor in Form C along with the details 18.05.2022. However, the Resolution Professional vide e-mail dated 01.06.2022 rejected the claim on the sole ground that it was filed after expiry of the period of 90 days from the insolvency commencement date.
- ii. It is pertinent to mention here that the claim was not rejected on merits and hence except for the reason of delay in filing of the claim. The Applicant contended that the RP ought to have decided if the claim is to be admitted treating the applicant to be a Financial Creditor and the debt is a Financial Debt.



- iii. Therefore, the applicant is constrained to file the present application before this Tribunal as grave prejudice will be caused to the applicant in the event of non-admission of claim. Further, in the event of resolution of the Corporate Debtor, the resolution applicants would not contemplate the financial debt of the applicant while submitting a resolution plan as the information memorandum inviting the resolution plan may not have any mention about the claim of the applicant.
- iv. That the brief facts which entitles the applicant to claim the amount paid by him to the corporate debtor as a financial debt are as under: -
- a. In the month of March 2021, the Respondent no 2 i.e., Mr Hemant Jindal, promoter of the corporate debtor approached the applicant and offered him 1,85,825 number of Equity Shares (being 50.22% of the total paid-up capital) in one of his other controlled company M/s AHR City Projects Private Limited @Rs. 100 per Equity Share. and the total investment amount was stated to be 1,85,82,500/-



(Rs One Crore Eighty Five Lakhs Eighty Two Thousands and Five Hundred).

b. It was further stated that the total investment amount of Rs 1,85,82,500/- was to be paid to the account of the following persons who were stated to be the shareholders of M/s AHR City Projects Private Limited on the basis of their shareholdings:

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SI No	Name of Shareholders	Equity Shareholding	Amount to be paid
1	HL Buildwell Private Limited. (formerly known as Homeland Buildwell Private Limited) -Corporate Debtor	146850	1,46,85,000
2	Abhay Jindal S/o Hemant Jindal	24625	24,62,500
3	Sanya Jindal (Daughter in law of Hemant Jindal)	9300	9,30,000
4.	Suvarna Jindal (Daughter in law of Hemant Jindal)	3400	3,40,000
5	Diamond Traexim Private Limited	1650	1,65,000
	TOTAL	1,85,825	1,85,82,500



c. The applicant accepted the offer and made payment in the respective accounts of the shareholders including the corporate debtor, However, till date except for the equity share held by Mr. Abhay Jindal s/o Sh. Hemant Jindal, no other equity shares has been transferred in the name of the applicant by Mr. Hemant Jindal including the equity shares held by the corporate debtor, in AHR City Projects Private Limited.

v. The Applicant through present application is praying to direct the Resolution Professional to admit the claim of the applicant.

3. The Resolution Professional of the Corporate Debtor has not filed any reply to the averments of the applicants.

4. We have gone through the application and arguments advanced by counsels for both the parties.

5. The Ld. Counsel for the Successful Resolution Applicant (SRA), Mr. Sunil Chaudhary appeared before this Tribunal on hearing dated 06.06.2023 and submitted that SRA will file an



affidavit stating that the shares of the Applicant held by the Corporate Debtor will be transferred to the Applicant after the approval of the Plan to the extent of the consideration given. The Counsel for the Applicant was also present and does not object to the same. Therefore, this Tribunal directed the SRA to file an affidavit in this regard. Accordingly, the SRA has filed an affidavit dated 10.06.2023 wherein SRA undertakes to transfer/ return 1,46,850 equity shares held by the Corporate Debtor Company of M/s. AHR City Projects Pvt. Ltd. to Sh. Ashok Goyal, (the applicant herein) after approval of the resolution plan by this Adjudicating Authority.

6. Hence, we do not see any reasons to interfere in the matter.

Accordingly, the IA 2069/ND/2023 stands disposed off in terms of the above.

SD/-

(RAHUL BHATNAGAR)
MEMBER (TECHNICAL)

SD/-

(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)