

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 134

IA/499(AHM)2021 in CP(IB) 561 of 2018

Order under Section 60(5) IBC,2016

IN THE MATTER OF:

Arrow Digital Pvt Ltd

.....Applicant

V/s

Arvind Gaudana RP of Vrundavan Ceramic Pvt Ltd

.....Respondent

Order delivered on ..13/09/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)

Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant :

For the IRP/RP :

For the Respondent :

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open court vide separate sheet.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT-I**

**IA/ 499(AHM) 2021 in
C.P.(IB) 561/NCLT/AHM/2018**

[An Application under Section 60(5) of the Insolvency and Bankruptcy Code, 2016]

In the matter of:

M/s Arrow Digital Pvt. Ltd.
1005-06, Aditya,
Nr. Sardar Patel Seva Samaj,
Navrangpura, Ahmedabad-380009.

.... Applicant

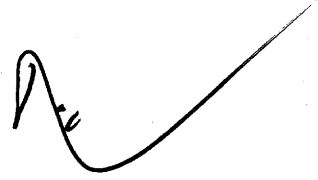
Versus

Mr. Arvind Gaudana,
RP of M/s Vrundavan Ceramic Pvt. Ltd.,
8-A, National Highway,
B/h Gangotri Glazed Tiles,
Village Dhrva, Ta: Vankaner,
Morbi, Gujarat-363622.

...Respondent

**Order reserved on 07th September, 2021
Order delivered on 13th September, 2021**

**Coram: MADAN B. GOSAVI, MEMBER (J)
 VIRENDRA KUMAR GUPTA, MEMBER (T)**



Appearance...

For the Applicant : Advocate, Garima Malhotra.
For the Respondent/RP : Advocate, Mr. Ravi Pahwa.

ORDER

[Per : VIRENDRA KUMAR GUPTA, MEMBER (T)]

- 1) In this application it is prayed that a direction may be issued to Resolution Professional to accept the claim of the Applicant which has been rejected on account of delay in filing.
- 2) The facts of the case, in brief, are that Applicant is an Operational Creditor to whom Corporate Debtor owes a Sum of Rs. 2,21,62,058/- which includes interest of Rs. 1,36,37,821/-. Such person lodged claim with the Resolution Professional on 02.07.2021 which was rejected by Resolution Professional vide E-mail dated 09.07.2021. It is claimed that the said amount is due on account of supply is made during November, 2012 to March, 2015. It is also claimed that a summary suit in Civil Court has been filed for recovery of principal amount which is still pending. Four separate complaints under Section 138 of Negotiable Instruments Act

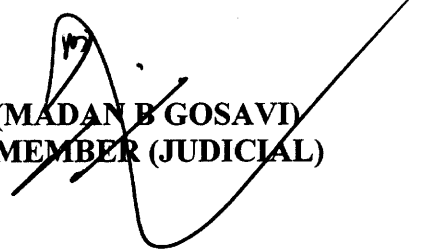
are also pending against the Corporate Debtor. However, the same are not being proceeded due to imposition of Moratorium under Section 14 of IBC, 2016. It is claimed that if this application is not allowed irreparable loss would be cost to the Applicant.

- 3) The learned counsel for the Applicant appeared and narrated these facts and contended that the matter deserves to be decided in favour of the Applicant.
- 4) We have considered the submissions made by the Applicant and material on record. It is noted that there is delay of 398 days in filing of the claim by the Applicant. It is noted that the Corporate Debtor was admitted into CIRP on 21.01.2020, hence, it cannot be said that the Applicant is not aware of the Application of provisions of Section 14 of IBC, 2016 on Court proceedings. Thus, the claim of the Applicant that it came to know about such implication only in July, 2021 cannot be considered as plausible. Further, such delayed action indicates that the Applicant is not vigilant in pursuing its

cause and such long delay has remained unexplainable otherwise also. If such delayed claims are admitted then it would seriously prejudice the legitimate claims of other vigilant stakeholders/creditors and also derail the sanctity of timelines, being essence of IBC, 2016 as well. Accordingly, we reject this claim of the Applicant.

- 5) In the result, this Application stands dismissed and disposed of.
- 6) Urgent certified copy of this order, if applied for, be issued to all concerned parties upon compliance with all requisite formalities.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B GOSAVI)
MEMBER (JUDICIAL)