

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

**IA(IBC)/977(CHE)/2020**

**In**

**CP(IB)/129(CHE)/2018**

(Under Section 42 of the Insolvency and Bankruptcy Code, 2016  
read with Rule 11 of the National Company Law Tribunal, Rules,  
2016)

In the matter of **M/S. Nathella Sampath Jewelry Pvt. Ltd.**

**Mr. T.S. PARTHASARATHY,**

Flat No.2, Ground Floor,  
B-Block, Varalakshmi Villa,  
No.82/83, Konnur High Road,  
Ayanavaram,  
Chennai – 600 023

*... Applicant*

- Vs -

**Mr. S. Palaniappan,  
Liquidator,**

For Nathella Sampath Jewelry Private Limited  
B5, Patteswarar Park North Block,  
Dr. Ramasamy Layout,  
Velandipalayam,  
Coimbatore – 641 025

*... Respondent / Liquidator*

*Order Pronounced on 29<sup>th</sup> March, 2022*

CORAM:

**Justice (Retd.) S. RAMATHILAGAM, MEMBER (JUDICIAL)  
ANIL KUMAR B, MEMBER (TECHNICAL)**

**ORDER**

***Per: ANIL KUMAR B, MEMBER (TECHNICAL)***

Under Consideration is an application filed by the applicant viz., T S Parthasarathy against the order of rejection of claim by the Liquidator/Respondent seeking the following reliefs:

- i. To set-aside the rejection order passed by the liquidator on 27.09.2020 and accept the claim of the Applicant; and*

ii. *To grant such further reliefs which this Hon'ble Tribunal may deem fit and proper in the circumstance of this case and in the interest of justice and thus render justice.*

2. The Learned Counsel for the Applicant submitted that the Corporate Debtor viz., M/s. Nathella Sampath Jewellery Private Limited (under liquidation) had advertised their gold scheme through televisions and social media's as well as through their regular customers. Believing the said scheme to be true, the Applicant had joined a "*Nathella Double Protection - Zero % Jewelry Purchase Plan - Group - PUND P 1401*" on 06.11.2016, and was regularly paying a sum of Rs.5,000/- (Rupees Five Thousand Only) as per the above said plan for a period of 11 months from 06.11.2016 till 16.09.2017. A copy of the passbook along with the endorsement is annexed along with the application filed.

3. The Learned Counsel for the Applicant further submits that, the Corporate Debtor/Respondent Company had issued an Order Form dated 15.10.2017 vide Invoice No: PU12341718 for 20.00 grams of gold in the name of the Applicant herein.

4. The Learned Counsel for the Applicant submitted that, the Corporate Debtor had filed a Section 10 (1) Application under the Insolvency and Bankruptcy Code, 2016 seeking initiation of Corporate Insolvency Resolution Process subsequent to

which an order dated 23.04.2018 was passed by this Adjudicating Authority. On becoming aware of the same, the applicant had filled his claim before the IRP appointed.

5. The Learned Counsel for the Applicant submits that, on 03.01.2020 this Adjudicating Authority had passed a liquidation order appointing the Respondent herein as the Liquidator of the Corporate Debtor and a public announcement was made on 14.01.2020 to that effect. Thereafter, this Applicant had filed his claim within the stipulated period before the Liquidator on 29.01.2020.

6. The Learned Counsel for the Applicant submitted that the Liquidator had rejected the claim filed by the Applicant vide email dated 27.09.2020 citing the following:

*"The claimed amount not appeared in the books of Nathella Sampath Jewellery Private Limited (Corporate Debtor) for which the undersigned person is the liquidator. From the claim documents, it was observed that, the scheme/claim pertains to Nathella Sampath Chetty & Co., hence requested to approach the said concern".*

7. The Learned Counsel for the Applicant further submits that, having left with no other option the Applicant is constrained to approach this Adjudicating Authority challenging the rejection of the claim by the liquidator herein.

8. The Learned Counsel for the Respondent by way of a Counter has submitted that the application is not maintainable

in law nor in facts whereas the applicant's claim is pertaining to the other group concern of the Corporate Debtor i.e. "Nathella Sampathu Chetty & Co.," a Partnership Firm but whereas the applicant has approached this Adjudicating Authority to take undue advantage of the liquidation process that the application is liable to be dismissed in limine.

9. The Learned Counsel for the Respondent has submitted that upon verification of the Claim of the Applicant, the respondent had rejected the claim of the applicant on the ground that the claim has been lodged wrongly with the Liquidator instead of having been raised before the Partnership Firm namely "Nathella Sampathu Chetty & Co" wherein the chit payments have been made by the applicant. Moreover, the applicant did not place any material evidencing the monthly chit payment was paid to the CD for admission of claim, further the applicant has paid the monthly chit to the Nathella Sampathu Chetty & Co account i.e. partnership firm. The copy of the chit passbook submitted by the applicant, under the payment options clearly indicates that chit payment **"Cheque/DD should be drawn in favour of Nathella Sampathu Chetty & Co"**. Pursuant to Section 40 of the code, the Liquidator can reject claims or a part thereof provided the grounds for such rejection are clearly stated in writing. Therefore, the respondent/Liquidator rejected the

claim of the Applicant (Chit Subscriber) who has paid the amount to the Nathella Sampathu Chetty & Co, a partnership firm.

10. The Learned Counsel for the Respondent further submitted that the respondent has communicated his decision of rejection of the claim of the applicant through statement dated 27.09.2020, as per sections 38,39,40 and 41 of the Insolvency and Bankruptcy Code 2016 read with regulations 16 to 30 of the IBBI (Liquidation Process) Regulations 2016 with clearly mentioning the reasons for rejection that "The claimed amount not appeared in the books of Nathella Sampath Jewelry Private Limited (Corporate Debtor) for which the undersigned is the liquidator. From the claim documents, it was observed that, it pertains to Nathella Sampathu Chetty & Co., hence requested to approach the said concern".

11. The Learned Counsel for the Respondent submits that, from the extract of list of chit subscribers of the Partnership Firm "Nathella Sampathu Chetty & Co" produced by the Suspended Directors of the CD, the applicant's name appears in the said list of the Partnership Firm as one of the customers with chit principal outstanding of Rs.55,000/-.

12. The Learned Counsel for the Respondent further submits that, the respondent Corporate Debtor had admittedly issued

an order form dated 15.10.2017 vide Invoice No:PU12341718 for 20 grams of gold in the name of the applicant for manufacturing of the Gold but the same can be executed upon receipt of an amount from "Nathella Sampathu Chetty & Co". It is pertinent to note that, the Order form indicates that the total balance due will be shown as "0.00 -Nil-". However, in this case the Corporate Debtor did not receive any amount from the partnership firm upon verification of the ledger.

13. The Learned Counsel for the Respondent has submitted that the applicant had filed an application against the decisions of the Liquidator u/s 42 of the Code, seeking for admission of the claim of the Partnership Firm which is not maintainable in law nor in facts to accept his claim. Hence the application is liable to be dismissed in limine. It is pertinent to mention that the Liquidator has verified the books of the Corporate Debtor and that the records do not reflect any payment having been made by the Applicant to the Corporate Debtor for the chit as pleaded in the Claim form or in the above said Application.

14. The Learned Counsel for the Respondent submits that as a measure of abundant caution, the Respondent made efforts to procure information regarding the said partnership firm "Nathella Sampathu Chetty & Co" had sought information from

the suspended directors of the Corporate Debtor. From which he has come to know that Mr. Nathella Prapanna Kumar, one of the suspended Directors and a partner of the said partnership firm had shared certain documents that demonstrate that the said partnership firm continues to be in existence and is different from the Corporate Debtor.

15. The Learned Counsel for the Respondent further submits that the Respondent deems it necessary and pertinent to submit that out of 1089 claims processed by the Respondent Liquidator, 444 claims were pertaining to the said partnership firm and they were all uniformly rejected communicating the same with the reason that the claimed amount does not appear in the books of the Corporate Debtor, M/s. Nathella Sampath Jewelry Private Limited..

16. The Learned Counsel for the Respondent further submitted that the depositors/creditors of the said Partnership firm have formed an association called Nathella Sampathu Chetty Victimized Depositors Welfare Association and had preferred a writ petition before the Hon'ble High Court of Madras by including the Respondent Liquidator as one of the Respondents seeking their monies to be returned from all the group entities including the said Partnership Firm and the Corporate Debtor among others. In in event, the respondent

is praying to dismiss the instant Application as not maintainable neither in law nor in facts and thus render justice.

17. Heard the submissions and perused the documents on record including the written submissions filed. In view of the facts as discussed above it is apparent that the Respondent/Liquidator had rejected the claim of the Applicant on the ground that *(1) the claim amount is not reflected in the books of the corporate debtor; (2) that the infusion is made to M/s. Nathella Sampath Chetty & Co. which is a different entity.*

18. In the light of the averments made by the applicant that the Order form reflects the name of the Corporate Debtor does not significantly satisfy this Adjudicating Authority while the ledger of the Corporate Debtor does not hold such entry as confirmed by the Respondent/Liquidator. Further, the allegation to prove the liability of the Corporate Debtor is bereft of sufficient documentary evidence. While on the other hand the copy of the scheme-passbook holds the name of M/s. Nathella Sampathu Shetty and Co. which in itself is self-explanatory that the Corporate Debtor has no nexus with the same. Therefore, it is evident that the amount paid by the Applicant on the gold scheme was not collected by the



corporate debtor and that no sufficient evidence as to show the diversion of funds into the Corporate Debtor have been carried out. Under the said circumstances this Adjudicating Authority finds it deems fit to dismiss the instant application for bereft of evidence.

19. Accordingly, **IA(IBC)/977(CHE)2020** stands **Dismissed.**

-Sd-  
**B. ANIL KUMAR**  
MEMBER (TECHNICAL)

  
*Ks/Mohanpriya*

-Sd-  
**Justice (Retd.) S. RAMATHILAGAM**  
MEMBER (JUDICIAL)