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**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH - I, CHENNAI**

IA(IBC)/986(CHE)/2022 IN IBA/73/2020

(Filed under Section 60(5) of the Insolvency & Bankruptcy Code, 2016)

In the matter of Sical Logistics Limited

Bafna Auto Carriers

Represented by its Partner/Authorised Representative
Sanjay Gulab chand Bafna
Having office at No. 280/1, Mahatma Phule Peth,
Timber Market Road,
Pune-42

... Applicant / Operational Creditor

-Vs-

Resolution Professional

Mr. Sripatham Venkatasubramaniam
IBBI/IPA-002/IP-N01015/2020-2021/13292
RP of Sical Logistics Limited
Having Office at:
No. 73, Aremenian Street,
Chennai-600 001

... Respondent

Order pronounced on 29th November 2022

CORAM

**JUSTICE (RETD.) RAMALINGAM SUDHAKAR, PRESIDENT
SAMEER KAKAR, MEMBER (TECHNICAL)**

*For Applicant: Mr. Pramodkumar Chopda,
Mr. Kumarpal Chopra, Advocates*
*For Respondent: Mr. Rahul Balaji, Advocate for
Mr. Anant Merathia Advocate*

ORDER

Per: SAMEER KAKAR, MEMBER (TECHNICAL)

Under adjudication is this Application filed by the Applicant/
Operational Creditor on 12.09.2022 under Section 60(5) r/w
Section 24 of the IBC, 2016 seeking the following reliefs:

(i) The Applicant submits that in view of the present circumstances of the matter, it is essential that this Hon'ble Tribunal exercise its powers as under the Code and discretion to:

(ii) Direct the Resolution Professional/Respondent to Consider the Claim Form filed under Regulation 7 of the Insolvency Bankruptcy Board of India Regulations, 2016 on 06.08.2022.

2. The submissions relevant to decide this Application on merits are listed hereunder:-

APPLICANT'S SUBMISSIONS

(i) A vehicle Hire Agreement was entered between the Applicant herein and the Corporate Debtor on 20.10.2016 where the Applicant intended to take the vehicles on hire to render the Logistic Services and the transportation of the Automobiles.

(ii) The Corporate Debtor was admitted to Insolvency by an order of this Tribunal 10.04.2021.

(iii) It is also stated that the Special Summary Suit numbered as *Spl. Sum. Suit No. 28 of 2020* is pending before the Hon'ble City Civil Judge, Pune. The Applicant herein filed a claim for a sum of Rs.99,83,410/- (Rupees

Ninety Lakhs Eighty-Three Thousand and Four Hundred Ten Rupees only) comprising of Principal Amount of Rs. 64,39,105/- (Rupees Sixty Four Lakhs Thirty-Nine Thousand One Hundred Five Rupees only) and Interest amount of Rs. 35,44,305/- (Rupees Thirty-Five Lakhs Forty-Four Thousand Three Hundred Five Rupees only).

(iv) It is also stated that a special summary suit is pending before the Hon'ble City Civil Judge, Pune for the said claimed amount Rs. 99,83,410/-.

(v) The Resolution Professional vide order dated 25.08.2022 communicated to the Applicant herein that the claim was not verified as it was not submitted within the time frame.

3. The Respondent/Resolution Professional in this matter has filed that counter/reply statement before this Tribunal in SR No.5553 dated 11.10.2022.

RESPONDENT'S SUBMISSIONS

(i) Per contra to the averments made supra, the Ld. RP in the reply statement has stated that public announcement was made on 13.03.2021, and the last date for submission of claim was 10.08.2021 which includes exclusion of 63 days due to COVID lockdown by the order of this Tribunal.



(ii) That, the Resolution Plan has already been voted upon between 21.02.2022 to 18.03.2022 and Application for approval of the Resolution Plan was filed before this Tribunal on 26.03.2022 under IA/366/2022.

(iii) That, the Applicant herein has filed Form-B which is dated 06.08.2022 i.e. after the delay of 362 days. As the claim was submitted belatedly and **after the approval** of the resolution plan by the CoC of the Corporate Debtor the Respondent herein has rejected the claim of the Applicant herein.

(iv) That, the Respondent has further relied on the judgment of Hon'ble Supreme Court in the matter of "*Arcelor Mittal India Private Limited V. Satish Kumar Gupta and Ors. (Civil Appeal No. 9402-9405 of 2018)* held that such timelines under IBC are required to be adhered to as closely as possibly by all authorities concerned. The relevant portion of the said judgment is reproduced herein for the ease of reference of this Hon'ble Bench.

"...

74. Regulation 40A of the CIRP Regulations presents a model timeline of the corporate insolvency

resolution process, on the basis that the time available is 180 days. It states as follows:

...

It is of utmost importance for all authorities concerned to follow this model time line as closely as possible.

..."

(v) Further Ld. Counsel for the RP submitted that even after taking into account the judgment of the Hon'ble Supreme Court in the matters of ***GPR Power Solutions Private Limited V. Mr. Suprio Chaudhury (Civil Appeal No. 6553 of 2021)*** and ***In Re: Cognizance for Extension of Limitation (M.A. No. 21 of 2022)***, the Appellant herein is allowed for a period of 90 days starting from 01.03.2022 which ends on 30.05.2022.

(vi) Further despite considering the extension of limitation by the Hon'ble Supreme Court as mentioned *Supra*, the Applicant herein is still barred by limitation by period of 69 days. Thus the Ld. Counsel for the Respondent submitted that this present Application is liable to be dismissed *in liminie*.

3. Heard both the parties and pleadings placed before us, and the arguments advanced during the hearing. It is categorically clear to us that the Applicant herein has filed the claim before the Ld. RP much beyond the limitation period as prescribed under the Code and its Regulation.

4. Moreover, the COC voted on the Resolution Plan with respect to the Corporate Debtor and further approved the same on 18.03.2022. The claim of the Applicant was received only on 06.08.2022 and hence the Resolution Professional/ Respondent was right in rejecting the claim of the Applicant herein.

5. In view the above position, **IA/986(CHE)/2022** is hereby **dismissed**. No cost.

— Sd —

SAMEER KAKAR
MEMBER (TECHNICAL)

— Sd —

JUSTICE RAMALINGAM SUDHAKAR
PRESIDENT