

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**CHANDIGARH (COURT – II)**  
***(Through Hybrid Mode)***

**Item No. 3**

**IA(I.B.C)/2283(CH)2023, IA(I.B.C)/792(CH)2023**  
**IA(I.B.C)/1320(CH)2023, IA(I.B.C)/1326(CH)2023**  
**IA(I.B.C)/373(CH)2023, IA(I.B.C)/2156(CH)2023**  
**IA(I.B.C)/2671(CH)2023, IA(I.B.C)/2672(CH)2023**  
**IA(I.B.C)/2673(CH)2023, IA(I.B.C)/761(CH)2024**  
**IA(I.B.C)/501(CH)2024, IA(I.B.C)/502(CH)2024**  
**IA(I.B.C)/503(CH)2024, IA(I.B.C)/866(CH)2024**  
**IA(I.B.C)/771(CH)2024, IA(I.B.C)/774(CH)2024**

**In**  
**C.P. (IB)/94(CH)2020**  
**(Admitted)**

**IN THE MATTER OF:**

**M/s. Siri IN FIN Lease Pvt. Ltd.**

**...Petitioner-Financial Creditor**

**Versus**

**M/s. Arkin Creations Pvt. Ltd.**

**...Respondent Corporate Debtor**

**Under Section: 7,30, 60(5), 45 (1), 66(1), 43(1) r/w44 (1) IBC 2016**

**Rule: 11 of NCLT, 2016**

**Order delivered on 30.04.2024**

**CORAM:**

**SHRI. SATYA RANJAN PRASAD,  
HON'BLE MEMBER (T)**

**SHRI. P.S.N. PRASAD,  
HON'BLE MEMBER (J)**

**PRESENT:**

**For the RP-applicant in**

**IA No.2283(CH)2023, IA No.792(CH)2023, IA  
No.1320(CH)2023, IA No.1326(CH)2023  
IA No.373(CH)2023, IA No.2671(CH)2023  
IA No.2672(CH)2023, IA No.2673(CH)2023  
IA(I.B.C)/761(CH)2024,IA(I.B.C)/501(CH)2024,  
IA(I.B.C)/502(CH)2024, IA(I.B.C)/503(CH)2024,  
IA(I.B.C)/866(CH)2024, IA(I.B.C)/771(CH)2024,  
IA(I.B.C)/774(CH)2024**

**: Satyendra Sharma  
RP in person with  
Mohd Nazim Khan,  
Authorized  
Representative of  
RP along with Mr.  
Harshit Sikka, Mr.  
Mohd. Ishar and  
Mr. Ashish Gupta,  
Advocates**

**For the Respondent in IA(I.B.C)/373(CH)2023**

**: Mr. GS Sarin, PCS**

**For the applicant in IA(I.B.C)/2156(CH)2023**

**: Ms. Ankita  
Malhotra, Advocate**

**For the respondent in IA(I.B.C)/792(CH)2023** : Mr. Sarad K. Sunny,  
Advocate

**ORDER**

**IA(I.B.C)/2156(CH)2023**

**(Employees Provident Fund Organization Vs. Resolution Professional)**

The present application has been filed under Rule 11 of the NCLT Rules, 2016 r/w Sections 30 and 60(5) of IB Code. The applicant is Employees Provident Fund Organization-EPFO through the Regional Provident Fund Commissioner, the applicant filed the present application on 12.09.2023 and prayed for allowing the present application and sought a direction to RP to accept the claim dated 31.05.2023 filed by the applicant and release the payment as mentioned in the claim form.

Further, the counsel for the applicant has drawn/invited the attention of this Adjudicating Authority to the RP email communication dated 01.07.2023 wherein RP has stated that the submission of claim was completed in all respects on 21.06.2023, whereas, the applicant has to submit the claim latest by 05.10.2022. RP has further stated that pursuant to Regulation 12 of IBBI CIRP Regulations, 90 days for submission of claim is granted. Therefore, claim should have been submitted on or before 05.01.2023. Thus, the applicant has submitted the claim with delay of 167 days and RP has objected the claim, RP has advised the applicant to approached this Adjudicating Authority for condonation of delay. Therefore, the present application has been made by the applicant.

Having heard the submissions made by the RP, this Adjudicating Authority has condoned the delay in filing the claim. The application bearing IA(I.B.C)/2156(CH)2023 regarding the delay in filing the claim is condoned.

RP may take necessary steps for collating the claim and do the needful as per law.

**IA(I.B.C)/792(CH)2023**

**(RP Vs. M/S JSL Lifestyle Limited and other)**

This application has been by the RP under Section 60(5) (b) of the I&B Code, 2016 seeking direction to respondents i.e. M/S JSL Lifestyle Limited and others to repay the total amount of claim of Rs.44,99,807.00/- (Rupees Forty-Fourt Lakh Ninety-Nine Thousand Eight Hundred and Seven Rupees only) along with interest @18% till date and litigation cost of Rs.50,000/- (Rupees Fifty Thousand only) in the bank account of the corporate debtor and given details of the respondent-corporate debtor bank account.

In prayer B of the application the applicant sought for issuance ofailable/non-bailable warrants against the respondents in case the respondents or their authorized representative are absent for hearing. Since the respondent is actively represent by his counsel who vehemently opposed allowing the present application, the relief prayed in Prayer B is now become infructuous.

In the application, in prayer C the applicant has also sought for passing an order of decree in case the respondent fails to repay the entire amount of Arbitral Award; and in Prayer D the applicant has sought for any other order that the Hon'ble Tribunal may deem fit in the facts and circumstances of the case. As the applicant made application under provisions of IBC, 2016 the relief prayed in Prayer C i.e. for passing an order of decree in case the respondent fail to repay the entire amount of Arbitration Award is also beyond

the provisions of IB Code, 2016. Therefore, the said relief prayed for is now not considered by this Adjudicating Authority.

We have heard the Resolution Professional as well as counsel for the respondents i.e. M/S JSL Lifestyle Limited and others. We also carefully gone through the pleadings and written submissions submitted by the respective parties. The I&B Code, 2016 aims at promoting investments as well as resolution of insolvency of corporate persons, forms and individuals in a time bound manner and the Act provides for designating the NCLT and DRT as Adjudicating Authorities. The I&B Code separates commercial aspects of insolvency and bankruptcy proceedings from judicial aspects. The Resolution Professional who replaces the erstwhile Board of Directors is expected to achieve resolution in a time bound manner by working on war footing basis.

In this matter, arbitration award was passed in the year 2017 in favour of applicant (corporate debtor 7 petition) represented by RP, currently the applicant-RP is running business affairs of the erstwhile corporate debtor has moved the present application for recovery of the amount specified in the award.

The Respondents' counsel has also stated that applicant is an MSME and the provisions of MSME Act provides that for execution of award by the Arbitral Tribunal, the procedure laid down under Section 36 of Arbitration and Conciliation Act., 1996 has to be followed. The legal decisions submitted by the counsel for the respondent have been carefully considered apart from other points argued by him.

We need to appreciate that IBC, 2016 is a legislation which codifies the existing insolvency and bankruptcy laws and aims at doing business with

ease. Section 424 (1) of the Companies Act, 2013 prescribes that the Tribunal and the Appellate Tribunal shall not, while disposing any proceeding before it or, as the case may be, an appeal before it, be bound by the procedure laid by of Code of Civil Procedure Code, 1908 (5 of 1908), but shall be guided by the principles of natural justice, and, subject to other provisions of the Companies Act, 2013 or IBC, 2016 and of any rules made thereunder, the Tribunal and the Appellate Tribunal shall have power to regulate their own procedure. Therefore, *prima facie*, we do not see any reason why this application made under Insolvency & Bankruptcy Code, 2016 cannot be entertained by this Adjudicating Authority. The award is based on the “*outstanding dues*” which were supposed to be received by the corporate debtor for the “*services*” provided by the erstwhile Corporate debtor, presently represented by the Resolution Professional. These being the legitimate dues arising out of “*services rendered*” by Corporate Debtor to the respondent the RP is entitled to receive consideration for the services rendered. Further, the same is crystalized in the form of an award. Therefore, this Adjudicating Authority directs the respondents to pay the amount indicated in the award along with interest and other amounts awarded in the Arbitration Award. The award treated as a “*documentary proof*” of indebtedness of the respondents irrespective of any other consideration. This application is filed in way back in 2023 and today we are in 2024 and resolution process has to be completed expeditiously therefore, the deficit of the stamp duty, if any, may be paid by the Resolution Professional being the applicant. Resolution Professional is entitled to claim the said stamp duty amount from the respondents as legitimate amount spent for on the award passed by the Arbitrator. It seen

that the Arbitrator has only paid stamp duty of Rs.100/- and remaining stamp duty has to be met by the person who is now filed an application for recovery of the amounts indicated in the award.

Dasti of this order is allowed.

The application bearing IA(I.B.C)/792(CH)2023 stands allowed.

**IA(I.B.C)/2283(CH)2023, IA(I.B.C)/1320(CH)2023,IA(I.B.C)/1326(CH)2023, IA(I.B.C)/373(CH)2023, IA(I.B.C)/2156(CH)2023, IA(I.B.C)/2671(CH)2023, IA(I.B.C)/2672(CH)2023, IA(I.B.C)/2673(CH)2023, IA(I.B.C)/761(CH)2024**

List on 28.05.2024.

**IA(I.B.C)/501(CH)2024**

The present application has been filed under Rule 11 of the NCLT Rules, 2016 for placing on record the 28<sup>th</sup> progress report for the period 24.11.2023 to 08.12.2023. The same is taken on record subject to just exceptions. Thus, IA(I.B.C)/501(CH)2024 stands allowed.

**IA(I.B.C)/502(CH)2024**

The present application has been filed under Rule 11 of the NCLT Rules, 2016 for placing on record the 30<sup>th</sup> progress report for the period 24.12.2023 to 07.01.2024. The same is taken on record subject to just exceptions. Thus, IA(I.B.C)/502(CH)2024 stands allowed.

**IA(I.B.C)/503(CH)2024**

The present application has been filed under Rule 11 of the NCLT Rules, 2016 for placing on record the 29<sup>th</sup> progress report for the period 09.12.2023 to 23.12.2023. The same is taken on record subject to just exceptions. Thus, IA(I.B.C)/503(CH)2024 stands allowed.

**IA(I.B.C)/866(CH)2024**

The present application has been filed under Rule 11 of the NCLT Rules, 2016 for placing on record the 31<sup>st</sup> progress report for the period 08.01.2024 to 22.01.2024. The same is taken on record subject to just exceptions. Thus, IA(I.B.C)/866(CH)2024 stands allowed.

**IA(I.B.C)/771(CH)2024**

The present application has been filed under Rule 11 of the NCLT Rules, 2016 for placing on record the 33<sup>rd</sup> progress report for the period 07.02.2024 to 21.02.2024. The same is taken on record subject to just exceptions. Thus, IA(I.B.C)/771(CH)2024 stands allowed.

**IA(I.B.C)/774(CH)2024**

The present application has been filed under Rule 11 of the NCLT Rules, 2016 for placing on record the 32<sup>nd</sup> progress report for the period 23.01.2024 to 06.02.2024. The same is taken on record subject to just exceptions. Thus, IA(I.B.C)/774(CH)2024 stands allowed.

Sd/-

**(SATYA RANJAN PRASAD)  
HON'BLE MEMBER (T)**

Sd/-

**(DR. P.S.N. PRASAD)  
HON'BLE MEMBER (J)**