

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
PRINCIPAL BENCH

ITEM No. 2
(IB)-449(PB)/2019

IN THE MATTER OF:

Oriental Bank of Commerce

.... Petitioner

Vs

M/s. Piyush Colonisers Ltd. & Ors.

.... Respondent

Order under Section 7 of Insolvency & Bankruptcy Code, 2016 CIRP

Order delivered on 15.07.2024

CORAM:

JUSTICE RAMALINGAM SUDHAKAR
HON'BLE PRESIDENT

SH. AVINASH K. SRIVASTAVA
HON'BLE MEMBER (TECHNICAL)

HYBRID HEARING (PHYSICAL & VC)

PRESENT:

For the Applicant : Mr. Sunil Fernandes, Sr. Adv., Mr. Sanchit Garga, Ms. Diksha Dadu, Mr. Rajshree Chaudhary, Advs. in IA-5625/2021 and IA-6358/2023
Ms. Varsha Banerjee, Adv.
Mr. Gulshan Kumar Sachdev, Proxy Counsel for Mr. Jagannath Prasad, Adv. In IA-171/2024
Mr. Sougat Sinha, Mr. R. Gayathri Manasa, Advs. in IA-1253/2023
Mr. Abhishek Devgan, Adv. In IA-1418/2024
Mr. Rajiv Mangla, Mr. Pradeep Kumar Kaushik, Ms. Monika, Mr. Hrithik Jarodia, Advs. in IA-1265/2024, IA-1266/2024
Mr. Shyam Singh Negi, Adv. In IA-6488/2023
Mr. Raghu Vasishth, Adv. In IA-895/2024
Mr. Pankaj Jain, Mr. Sarthak Dugar, Advs. in IA-1575/2024
Ms. Smriti Dua, Adv. In IA-2895/2024
Mr. Manmohan Asopa, Adv. In IA-202/2024
Ms. Khushboo Kumari, Ms. Purnima Saini, Advs. in IA-1468/2024, IA-1769/2024, IA-2725/2024, IA-2841/2024
Mr. Nidish Gupta, Mr. Dhananjay Bhardwaj, Advs. in IA-369/2024
Ms. Geetanjali Setia, Adv. in IA-809/2024
Ms. Khyati Jain, Adv. In IA-3987/2021
Mr. Shashwat Anand, Mr. Shashwat Parihar, Ms. Deepanshu Badiwal, Ms. Gunjan Rathore, Advs. in IA-2472/2024

For the RP : Mr. P. Nagesh, Sr. Adv., Mr. Abhishek Anand, Mr. Karan Kohli, Mr. Ishaan Dhingra, Mr. Akshay Sharma, Mr. Shourya Aditya, Advs. along with Mr. Ashish Singh, RP in person
For the SRA : Mr. Rachit Mittal, Mr. Parish Mishra, Mr. Adarsh Srivastava, Advs.
For the Homebuyers : Mr. Rahul Mangla, Adv. In IA NO.3525/2024
For the Respondent : Mr. Arun Aggarwal, Mr. Shivam Saini and Mr. Praful Rawat, Advs. in CA-2861/2020
Mr. Sharad Tyagi, Ms. Archana Tyagi and Mr. K. Gayatri, Advs. for R-4 in IA-2423/2024
For the HDBFS : Ms. Usha Singh, Adv.

ORDER

IA-369/2024, IA-1265/2024, IA-1266/2024, IA-895/2024, IA-1468/2024, IA-1575/2024, IA-1595/2024, IA-1769/2024, IA-2725/2024, IA-2841/2024,

1. The prayer in IA-369/2024 is as follows:

*“a) allow the present application preferred by the Applicants herein condone the delay in filing of the claim with the direction to the Respondent RP to accept the claim of the Claimant qua the Unit bearing No. 23 situated in Piyush Galleria part of Piyush city Bhiwadi, Rajasthan, or/and;
b) Dispose off the present application by directing the Respondent/RP to examine the claim of the Applicant with reference to the books of the CD in terms of the judgment passed by the Hon'ble NCLAT in Puneet Kaur vs. K.V. Developers Pvt. Ltd. & Ors.;
c) Pass any such further or other order as this Hon'ble Tribunal may deem fit and in the interest of justice.”*

2. The prayer in IA-1265/2024 is as follows:

*“a) To pass an order thereby condoning the delay in filing the claim and to direct the Resolution Professional to accept & consider the Applicant's Claim of Rs. 19,41,636/- at par with other stakeholders of the same class; and
b) To pass any other order or further relief; which this Hon'ble Tribunal may deems fit and proper in the interest of justice.”*

3. The prayer in IA-1266/2024 is as follows:

*“(a) To pass an order thereby condoning the delay in filing the claim and to direct the Resolution Professional to accept and consider the Applicant's Claim of Rs. 17,21,039/- at par with other stakeholders of the same class; and
(b) Pass any other order or further relief; which this Hon'ble Tribunal may deems fit and proper in the interest of justice.”*

4. The prayer in IA-895/2024 is as follows:

“1. Allow the present application;

2. To condone the delay in submitting the claim and pass appropriate directions to the Resolution Professional to consider and accept the claim of the Applicant/Financial Creditor Homebuyer against the Corporate Debtor;

AND/OR

Pass such order(s) or further order(s) as this Hon'ble Tribunal may deemed fit and proper under the: facts and circumstances of the present application.”

5. The prayer in IA-1468/2024 is as follows:

“a) To condone the delay in filing of the claim and pass appropriate directions to Resolution Professional to accept the claim of the applicant and include them in the COC.

b) Pass such order(s) or further order(s) as this Hon'ble Tribunal may deemed fit and proper under the facts and circumstance of the present application.”

6. The prayer in IA-1575/2024 is as follows:

“1. Direct the Resolution Professional Mr. Ashish Singh or the Resolution Applicant (whose Resolution Plan is approved by the CoC) to admit the claim of Applicant Home Buyer of Rs. 27,52,000/ and add the name of Applicant to the list of creditors prepared by the RP in the CIRP of Corporate Debtor and under the Resolution Plan.

ii. Alternatively direct the RP/RA/SRA to register the Plot bearing No. F61 in ("Piyush City" at Palwal) in the name of the Applicant;

iii. Direct the RP or the successful Resolution Applicant to pay the outstanding dues of Rs. 27,52,000/- of the Applicant in terms of the Resolution Plan or otherwise as may be payable in accordance with law.

iv. To pass any other order as may deem fit and necessary in the interest of justice.”

7. The prayer in IA-1595/2024 is as follows:

*“1. Direct the Resolution Professional to admit the Claims of the Applicant as stated in the present Application
2. Pass such order or further orders as this Hon’ble Tribunal may deem fit and proper in the facts and circumstances of the present case and in the interest of justice.”*

8. The prayer in IA-1769/2024 is as follows:

*“a) To condone the delay in filing or the claim and pass appropriate directions to Resolution Professional to accept the claim of the applicant and include them in the CoC.
b) Pass such order(s) or further order(s) as this Hon'ble Tribunal may deemed fit and proper under the facts and circumstance of the present application.”*

9. The prayer in IA-2725/2024 is as follows:

*“a) To condone the delay in filing or the claim and pass appropriate directions to Resolution Professional to accept the claim of the applicant and include them in the CoC.
b) Pass such order(s) or further order(s) as this Hon'ble Tribunal may deemed fit and proper under the facts and circumstance of the present application.”*

10. The prayer in IA-2841/2024 is as follows:

*“a) To condone the delay in filing or the claim and pass appropriate directions to Resolution Professional to accept the claim of the applicant and include them in the CoC.
b) Pass such order(s) or further order(s) as this Hon'ble Tribunal may deemed fit and proper under the facts and circumstance of the present application.”*

11. When the above matters were called, Ld. Counsels were present physically and through VC.

12. We have heard Ld. Sr. Counsel Mr. P. Nagesh appearing on behalf of the RP and Ld. Counsel Mr. Rachit Mittal appearing on behalf of the SRA.

13. In relation to the claims of Homebuyers/allottees which are belated, the SRA undertook by way of an affidavit dated 15.06.2024 to consider these claims in the following manner:

*“7. That despite the delay, the deponent is ready to accommodate the claims filed by said Claimants subject to the verification of their claim by Resolution Professional and in respect of the said claim, Claimant had filed an application before this Hon'ble Adjudicating Authority on or before 27.05.2024, i.e. the cause list dated 27.05.2024 of this Hon'ble Tribunal (herein after referred to as "Cut Off Date"). Copy of cause list for 27.05.2024 is marked and annexed herewith as **ANNEXURE -1**. In terms of the same the deponent herein submit that the said Claimants / Applicants shall be categorized and treated in the same manner as provided in Resolution Plan approved by the COC with 86.26% of voting in the 37th COC meeting and application for approval of the resolution plan is pending before this Hon'ble Tribunal. List of home buyers whose IA's are pending for consideration before this Hon'ble Tribunal are annexed herewith and marked as **ANNEXURE - 2**.*

8. it is hereby clarified that the IA's filed by the home buyers before the Cut off date, i.e 27.05.2024, will also be considered by the deponent in same manner as mentioned in Para 7.”

14. In IA-369/2024, IA-1265/2024, IA-1266/2024, IA-895/2024, IA-2841/2024, Ld. Sr. Counsel for the RP states that the RP has verified the claim, the SRA vide affidavit dated 15.06.2024 undertakes that the claims will be admitted and they will be considered in accordance with the provisions of the Plan.

15. In so far as IAs No. IA-1468/2024, IA-1575/2024, IA-1595/2024, IA-1769/2024, and IA-2725/2024 are concerned, the claim of these Applicants will be considered subject to verification of the claim by the RP in accordance with the provisions of the Code and thereafter the rights will be decided in terms of the approved plan. Taking note of the above, we are inclined to dispose

of all the above IAs in accordance with the affidavit filed by the SRA contents of which have already been extracted above.

16. Accordingly, the IA-369/2024, IA-1265/2024, IA-1266/2024, IA-895/2024, IA-1468/2024, IA-1575/2024, IA-1595/2024, IA-1769/2024, IA-2725/2024, IA-2841/2024 stand disposed of.

17. If there are any more IAs of this nature, RP is directed to give the list of same before 23.07.2024.

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At request and with consent of the parties, list the matter along with other pending applications for a physical hearing on **23.07.2024.**

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**(RAMALINGAM SUDHAKAR)
PRESIDENT**

-sd-

**(AVINASH K. SRIVASTAVA)
MEMBER (TECHNICAL)**

15.07.2024
Vinod Arora