

DIVISION BENCH

ITEM NO.3

NATIONAL COMPANY LAW TRIBUNAL

ALLAHABAD BENCH

PRAYAGRAJ

IA NO.251/2024 IN CP (IB) No.38/ALD/2022

CORAM:

**1. SHRI PRAVEEN GUPTA,
HON'BLE MEMBER (JUDICIAL)**

**2. SHRI ASHISH VERMA,
HON'BLE MEMBER (TECHNICAL)**

Date of Order: 15th May, 2024

Attendance-Cum-Order Sheet of the Hearing.

NAME OF THE COMPANY	TATA CAPITAL FINANCIAL SERVICES LTD V/S SHANTI REFRIGRATION INDUSTRIES PVT. LTD.
UNDER SECTION	7 IBC (IN CIRP)

COUNSEL APPEARED THROUGH PHYSICAL/ VIRTUAL HEARING:

Sh. Vishal Ganda, Adv.

: For the Applicant/ RP

ORDER

IA NO.251/2024

Ld. Counsel representing the Applicant is present through VC.

1. The present application has been filed by the RP *inter alia* seeking relief of condonation of delay of approximately 124 days in filing the claim by the Financial Creditor namely Northern Arc Capital Pvt. Ltd., in terms of Regulation 13(1C)(b)(ii) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, and allow the Applicant to admit and accept the claim made by the aforesaid Financial Creditor.
2. As per the averments made in the application and the submissions made by the Ld. Counsel representing the RP, there has occurred a delay of 124 days in filing the claim by the aforesaid Financial Creditor, as a result of which, even though the claim of the said Financial Creditor was categorized as 'acceptable', however was not considered/ adjudicated by the CoC.
3. It has been stated that the CIRP in the present case was initiated in terms of an order dated 01.09.2023, and accordingly thereafter the publications were

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issued in the newspapers, for which the last date for submission of the claim was 15.09.2023. After collation of the information, ultimately the two Financial Creditors, whose claims have been filed until then, were considered, which comprised of State Bank of India as well as the Tata Financial Services Ltd. to the extent of 82% and 18% respectively.

4. It has been averred in the application *vide* para nos.6 and 7 that as per the FORM – C made by Northern Arc Capital Pvt. Ltd. i.e. the Financial Creditor, the applicant through email dated 20.02.2024 categorized the claim of the respondents i.e. the Financial Creditor as ‘acceptable’. However, by then there was already a delay of 124 days, and therefore, the claim could not be considered unless the condonation of delay was permitted in terms of the aforesaid provisions of Regulation, 2016, as stated in para 11 of the present application.
5. Ld. Counsel representing the RP has taken us through the minutes of the CoC considered by it in the meeting held on 26.02.2024, where the CoC had considered the proposals from the different representatives to act on behalf of the CoC. The said proposal was not considered and approved by the CoC, as stated in page no.117.
6. The RP has filed a supplementary affidavit *vide* diary no.1040 dated 15.05.2024, which is taken on record. Filing of the present supplementary affidavit was necessitated in view of the fact that the previous representative, who was not accepted by the CoC, was however further considered in the next CoC meeting held on 11.03.2024, wherein the present counsel representing the RP was approved by the CoC to act on its behalf, as per the resolution passed in the meeting held on 11.03.2024 *vide* voting result placed at page no.29 of this supplementary affidavit.
7. The Ld. Counsel representing the RP has also stated that even though there is a prayer made *inter alia* seeking allowing the applicant to admit and accept

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the claim made, he would not be insisting about this part of the prayer in view of the fact that the claim of the said Financial Creditor is to be ultimately adjudicated and to be accepted or otherwise by the CoC including the amount of the claim.

8. That being so, the present application is allowed to the extent of condonation of delay of 124 days in submission of the claim by the Financial Creditor i.e. the Northern Arc Capital Pvt. Ltd., the claim of the said Financial Creditor shall be considered by the CoC in accordance with law.
9. With the aforesaid directions, the present IA No.251/2024 is allowed, and the same stands disposed off accordingly.
10. The matter to come up on the date already fixed i.e. on 31st May, 2024.

-Sd-
(Ashish Verma)
Member (Technical)

-Sd-
(Praveen Gupta)
Member (Judicial)

15th May, 2024

Kavya Prakash Srivastava
(Stenographer)