

**IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH, PRAYAGRAJ**

IA No.286/2022 IN CP No.128/ALD/2019

*(An application under Section 42 R/W Section 60(5) of the Insolvency
and Bankruptcy Code, 2016)*

IN THE MATTER OF:

IDBI Bank Limited,

Having Its Registered Office At:-

Videocon Tower, First Floor,

E/1 Jhandewalan Extension

New Delhi, 110055.

.....Applicant

Versus

Mr. Chanchal Dua Liquidator for K.K. Milk Fresh India Ltd.

Having Its Registered Office At:-

5/36, 1st Floor, Ramesh Nagar, New Delhi-110015

.....Respondent

AND IN THE MATTER OF:

Smt. Anuradha Devi

.....Applicant/ Operational Creditor

Versus

K K Milk Fresh India Limited

..... Corporate Debtor

Order pronounced on: 14th May, 2024

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CORAM:

Sh. Praveen Gupta : Member (Judicial)
Sh. Ashish Verma : Member (Technical)

Appearances:

Sh. Krishna Kant Tiwari : For the Applicant
Sh. Karan Kohli with
Sh. Abhishek Anand, Adv. : For the Respondent/Liquidator Mr.
Chanchal Dua present in person

ORDER

1. This Application has been filed by the IDBI Bank under Section 42 of the Code challenging the decision of the Liquidator rejecting the claim of the Applicant filed on 08.07.2022.
2. It has been averred in the application that the Applicant is a Financial Creditor regarding the account of the Corporate Debtor and has provided a sanctioned credit facility to M/s Samprash Foods Ltd. via a sanction letter dated 22.09.2024, which was renewed on 12.07.2016, and for which the Corporate Debtor provided its corporate guarantee to the Applicant to secure the credit facility of Rs.10 Crore sanctioned to M/s Samprash Food Ltd. The Applicant joined the consortium led by the Union Bank of India in 2014 by

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sanctioning a fund-based working capital limit of Rs.10 Crore to the Corporate Debtor. The facility was renewed by the IDBI Bank in 2015 and 2016 without any enhancement. The facility was, inter alia, secured by the corporate guarantee of the Corporate Debtor. It has been stated that, by an order dated 06.10.2021, the Liquidator was appointed, and the Applicant filed its claim on 8.07.2022 via Form D, amounting to Rs.22,18,25,681.25/-, in terms of their communication of the said date. However, the Liquidator has rejected the Applicant's claim, as per an email communication dated 14.07.2022, on the ground of lapse of the time limit as prescribed in the public announcement.

4. Along with the present application, a condonation of delay application has also been filed for an alleged delay of about 26 days in filing the present application, as it has been filed after the 14 days stipulated under the Code. A response has been filed to the aforementioned application by the Liquidator, primarily objecting to the maintainability of the application on the ground of being barred by limitation for not having put up the claim in time, as well as for not having filed the present appeal as stipulated under the Code.

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However, the said delay was condoned by order dated 07.02.2024 by this Tribunal.

5. The CIRP of the Corporate Debtor was initiated *vide* an order dated 24.09.2019 passed by this Adjudicating Authority. In pursuance thereof, the public announcements were issued on 01.10.2019 for inviting claims from all concerns. The last date for submissions of proof of claims was 12.10.2019.
6. Later on, the Corporate Debtor went into liquidation pursuant to an order dated 06.10.2021, and further publications were made on 11.10.2021, specifying the last date for submission of claims as 05.11.2021. It is again submitted that though the present Applicant lodged their claims following this publication, the said claim was belatedly filed only on 08.07.2022. Since the claims were filed after the closure of the last submission date stipulated in the publication of 11.10.2021, wherein the deadline was set as 05.11.2021, the Liquidator's counsel submits that the claim was rejected on 14.07.2022.
7. It has been further submitted on behalf of the Liquidator that the present application has been filed on 23.08.2022, which

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is again barred by Section 42, as a period of only 14 days is provided for the purpose of filing an appeal against any rejection made by the Liquidator with respect to the claim lodged by the Applicant.

- 8.** We have heard both the parties and perused the record.
- 9.** It is an admitted case of the Applicant that no claims had been filed, when initially the publication was made on 11.10.2021 in pursuance of the admission order dated 24.09.2019. The Applicant therefore, did not file the claim, which was invited by the Resolution Professional providing the last date for submission of the claims in the publications itself.
- 10.** The Applicant submits that they had no knowledge of the announcement published by Liquidator and therefore could not file the claim under Regulation 18 Form D before the Liquidator within the stipulated time period. Thereafter, when it came to the knowledge of the Applicant the claim was filed before the Liquidator under Regulation 9 of the Code.
- 11.** The Applicant filed a written submission on 06.02.2024 pursuant to the order dated 02.01.2024 wherein it is

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reiterated that the delay in filing of the claim within stipulated time period as published by the Respondent was inadvertent. Further, the Liquidation process of the Corporate Debtor has not been finalised and therefore the claim of the Applicant can be entertained by the Liquidator.

12. The Respondent has also filed written submission on 22.01.2024 pursuant to the order dated 02.01.2024 wherein it is stated that the Applicant has failed to demonstrate sufficient cause in filing the claim belatedly after the stipulated date which is 05.11.2021 as published in the public announcement. Further, the Applicant has also failed to show any sufficient cause and has not stated any cogent reasons for explaining the inordinate delay in filing the claim. The rest of the contentions are reiterated and therefore not repeated herein for the sake of brevity.

13. As mentioned above we have condoned the application IA No. 342/2022 for seeking condonation of delay of 26 days in filing the present application, which is accompanying the main application i.e. IA No.286/2022.

14. In the backdrop of the above factual aspect, the Applicant has failed to file the claim firstly during the CIR Process when the

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publication was issued by the RP and thereafter, even when the Liquidator has made the publication inviting claims from all concerned. The applicant had submitted belatedly its claim in pursuance of this publication for which the closure date was 5th November, 2021 and the applicant filed its claim only on 8th July, 2022. Thus, in our view, the Liquidator has rightly rejected the claim belatedly filed by the applicant and meanwhile, the entire liquidation proceedings have already been concluded.

- 15.** We are not inclined to entertain the present application, which is hereby dismissed.

-Sd-

(Ashish Verma)
Member (Technical)

-Sd-

(Praveen Gupta)
Member (Judicial)

Dated :14th May, 2024