

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
SPECIAL BENCH
COURT - 1

ITEM No. 201 – IA(Plan.)21(AHM)2024
ITEM No. 202 – IA/809(AHM)2024
In
C.P.(IB)/335(AHM)2022

Proceedings under Section 7 IBC

IN THE MATTER OF:

The Cosmos Co.Op.Bank Ltd
V/s
SPS Autotubes Pvt Ltd

.....Applicant

.....Respondent

Order delivered on: 23/07/2024

Coram:

Mr. Praveen Gupta, Hon'ble Member(J)
Mr. Sameer Kakar, Hon'ble Member(T)

PRESENT:

For the Applicant : Mr. Nipun Singhvi, Advocate
For the Respondent :

ORDER
(Hybrid Mode)

IA(Plan.)21(AHM)2024

Be placed before regular bench for physical hearing on 29.07.2024.

Meanwhile, learned Counsel is directed to file convenience compilation through E-mode as well as through physical.

IA/809(AHM)2024

This is an application filed by the applicant under Section 60 (5) (c) of IBC, 2016 r/w. Rule 11 of NCLT Rules, 2016 r/w. Regulation 13 (1B)(II) and 13 (2) (D) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 seeking following relief.

- a) *Your lordships may be pleased to allow the present application and condone the delay of 147 days in filing of modification of list of creditor;*
- b) *Your lordships may be pleased to allow the modified list of creditors updated as on 03.05.2024 under Section 60 (5) (c) of Insolvency and Bankruptcy Code, 2016 read with Rule 11 of NCLT Rules, 2016 and Regulation 13 (1B)(ii) and 13 (2) (D) of CIRP Regulations, 2016 in the interest of creditors;*

- c) Your lordship may be pleased to pass an appropriate order/direction taking on record the list of creditor as updated on 03.05.2024;
- d) Your Lordship may be pleased to grant any other relief or relief as may deem fit in the interest of justice.

It is stated by the RP that 6th CoC meeting was held on 06.04.2024, minutes of meeting are attached at page 37 and at page No. 40, CoC has discussed about claims as far as regarding the belated claims from the employees. The following discussion is recorded.

“The CoC members approved the claims amounting to Rs. 17,35,968/- as per the Order of the Hon. Labour Court, Ahmedabad and the same was also intimated to the Successful Resolution Applicant, who were also attending the meeting regarding acceptance of the claim amounting to Rs. 17,35,968/- and rejection of claim amounting to Rs. 62,15,537/-. The RP suggested the CoC members that an appeal should be filed before the appropriate forum for challenging the order of Hon'ble Labour Court, to which the CoC members agreed. The RP further informed the members of the CoC and the Resolution Applicants that the accepted claims amounting to Rs. 17,35,968/- are pertaining to more than 2 years old period from CIRP commencement date, those claims will be categorized under the head Operational creditors. The PRA's also took note of the same.”

Subsequent to the same, CoC with 100% majority directed the RP to file the present application and the relevant resolution is appended on page 58 & 59 of the application.

As claim of the workman emanating from an order of Labour Court and as the CoC has already with 100% majority approved the claims amounting to Rs. 17,35,968/-, we hereby allow prayer (A) to (C) and accordingly, this application is allowed and is disposed of.

-sd-

SAMEER KAKAR
MEMBER (TECHNICAL)

-sd-

PRAVEEN GUPTA
MEMBER (JUDICIAL)