

NATIONAL COMPANY LAW TRIBUNAL

COURT ROOM NO. 1,

MUMBAI BENCH

Item No. 29

IA 1304/2024 IN C.P. (IB)/1387(MB)2017

CORAM:

SH. PRABHAT KUMAR

JUSTICE V.G. BISHT (Retd.)

HON'BLE MEMBER (TECHNICAL)

HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF THE HEARING ON **20.06.2024**

NAME OF THE PARTIES: **ERICSSON INDIA PRIVATE LIMITED V/s
RELIANCE COMMUNICATIONS LIMITED**

Section 9 Sec 60(5) of the Insolvency and Bankruptcy Code, 2016

ORDER

CS Nitish Bangera for the Applicant is present. Adv. Kriti Kalyani i/b Adv. Shardul Amarchand Mangaldas & Co. for the Resolution Professional present.

1. This is an Application filed by Southern Power Distribution Company of Telangana Limited under Section 60(5) of the Insolvency and Bankruptcy Code r/w Regulation 12(2) of the Insolvency and Bankruptcy Board of India (IRPCP) Regulation 2016 and seeking following relief –
 - a. To condone delay of 1122 days in filing of my claim form.
 - b. Direct the Resolution Professional to accept my claim form.
2. The Tribunal on May 17, 2018 admitted the Application to initiate corporate insolvency resolution process against the Corporate Debtor. Interim Resolution Professional issued Public announcement on May 8, 2019.
3. The Applicant had approached Resolution Professional on June 16, 2022 as regards its claim of Rs.1,16,55,452, and it is submitted that from June 8, 2022 to March 20, 2023 the applicant had continuously sent reminder emails to the

Resolution professional for submission of claim form.

4. On March 23, 2023 the Resolution Professional rejected the claim stating as per Regulation 12(2) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate persons) Regulation 2016, the timeline for submission of claim was expired.
5. The Applicant has pleaded that it was not aware of the CIRP order passed by the NCLT and came to know about the order at a very later date. Also, subsequently due to worldwide pandemic it could not submit the claim form on time. Accordingly, the Applicant has prayed for condonation of delay of 1122 days.
6. Heard the Counsel and perused the material on record.
7. In this case the Resolution Plan has approved by the Committee of Creditors of the Corporate Debtor on 02.03.2020 and this claim was intimated to the Resolution Professional first time on 16.06.2022.
8. By order dated 02.05.2024 this Tribunal has directed the Resolution Professional to place on record the status of outstanding dues of the Corporate Debtor towards the Applicant, if any, as per the books of accounts of the Corporate Debtor. The Resolution Professional has filed affidavit dated 19.06.2024 stating that the outstanding balance towards the Applicant was 'nil' and accordingly the purported outstanding dues of the Applicant (as claimed in the Form B (Exhibit C to the Application) are not reflected in the books of the Corporate Debtor. It is further submitted by the Resolution Professional that an amount of Rs. 3,84,358 is reflecting as outstanding balance towards the Applicant as on 6th June 2024 i.e. corporate insolvency resolution process period, which would be treated as corporate insolvency resolution process cost ("CIRP Dues") towards electricity dues. The said CIRP dues will be paid in priority over the other stakeholders. However, the present Application has been filed for pre-CIRP

dues and does not relate to the CIRP dues of the Applicant.

9. Since no amount in relation to the period upto the cut off date for admission of claims from the creditors is outstanding as due to the Applicant in the books of the Corporate Debtor and the applicant has filed the claim before the Resolution Professional after approval of the plan by the CoC, we have the considered view the delay cannot be condoned as no claim can be allowed to be admitted after the approval of the plan by the Committee of Creditors. Accordingly, the Application is **dismissed** as disposed of **accordingly**.

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PRABHAT KUMAR
MEMBER (TECHNICAL)

Rehan Shaikh

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JUSTICE V.G. BISHT
MEMBER (JUDICIAL)