

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
COURT HALL NO: II**

Hearing Through: VC and Physical (Hybrid) Mode

CORAM: SHRI. RAJEEV BHARDWAJ, HON'BLE MEMBER (J)

CORAM: SHRI. SANJAY PURI, - HON'BLE MEMBER (T)

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
HYDERABAD BENCH, HELD ON 04.10.2024 AT 10:30 AM**

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA (IBC)/1320/2024, IA (IBC)/1317/2024, Intervention Petition (IBC)/16/2024, IA (IBC)/625/2024 in Company Petition IB/296/7/2022
NAME OF THE COMPANY	Manjeera Retail Holdings Pvt Ltd
NAME OF THE PETITIONER(S)	Catalyst Trusteeship Limited
NAME OF THE RESPONDENT(S)	Manjeera Retail Holdings Pvt Ltd
UNDER SECTION	7 of IBC

ORDER

IA (IBC)/1320/2024 and IA (IBC)/1317/2024

Orders pronounced, recorded vide separate sheets. In the result, these applications are dismissed.

Intervention Petition (IBC)/16/2024

Accordingly, this application has become infructuous.

IA (IBC)/625/2024

Orders pronounced, recorded vide separate sheets. In the result, this application is dismissed.

Sd/-
MEMBER (T)

Sd/-
MEMBER (J)

IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH - II

**IA No.625 of 2024 &
IA No.16 of 2024 (Intervention) in
IA (IBC) (Plan) No.8 of 2024 in
CP (IB) No.296/07/HDB/2022**

In the matter of
M/s Catalyst Trusteeship Limited, Financial Creditor
vs.
M/s Manjeera Retail Holdings Private Limited, Corporate Debtor

Between:

Manjeera Majestic Commercial Owners Association,
Unit 605B, Manjeera Majestic Commercial,
JNTU-Hitech City Road, Kukatpally,
Hyderabad – 500 0-72,

....Applicant

And

1. M/s. Manjeera Retail Holdings Private Ltd.,
#711, Manjeera Trinity Corporate,
Beside Manjeera Mall,
JNTU-Hitech City Road, Kukatpally,
Hyderabad – 500 072.
2. Mr Birendra Kumar Agrawal,
Resolution Professional for
M/s. Manjeera Retail Holdings Private Ltd.,
711, Manjeera Trinity Corporate,
JNTU-Hitech City Road, Kukatpally,
Hyderabad – 500 072.

....Respondents

Date of order : 04.10.2024

CORAM:

Sri Rajeev Bhardwaj, Hon'ble Member (Judicial)
Sri Sanjay Puri, Hon'ble Member (Technical)

Counsels present:

For the Applicant : Mr Mohammed Omer Farooq
For the Respondents : Mr VVSN Raju

Per : Sanjay Puri, Member (Technical)

O R D E R

1. This application has been filed by an association of purchasers of units in Manjeera Majestic Commercial, a building developed by M/s Manjeera Retail Holdings Pvt Ltd, the Corporate Debtor (**CD**) at Kukatpally, Hyderabad. During the Corporate Insolvency Resolution Process (**CIRP**) process, the Applicant association made certain claims before the Resolution Professional (**RP**) of the CD.
2. Apart from admitting the claim of pending amount of Rs 1,23,31,078 towards corpus fund, all other claims made by the Applicant association have been rejected by the RP. Hence, the present application.
3. Both the Applicant and the RP have presented their arguments and counterarguments regarding the rejected claims. However, before proceeding further, we find it necessary to refer to the relevant sections of the IBC and applicable Regulations regarding claims by operational creditors and the responsibilities of the RP in verifying such claims.
4. Under **Section 18(b)** of IBC, the RP is to “*receive and collate all the claims submitted by creditors to him, pursuant to the public*

announcement”, and in this regard, the operational creditor under **Regulation 7(1)** is expected to “*submit claim with proof*” to the RP in Form-B, and establish “*existence of debt due to the operational creditor*” under **Regulation 7(2)** on the basis of record available with an information utility or other relevant documents.

5. The RP under **Regulation 10** “*may call for such other evidence or clarification as he deems fit from a creditor for substantiating the whole or part of its claim*” and “*shall verify every claim, as on the insolvency commencement date*” under **Regulation 13(1)**. Where the amount claimed by a creditor is not precise, **Regulation 14(1)** requires the RP to “*make the best estimate of the amount of the claim based on the information available with him*”.
6. The term ‘claim’ is defined in **Section 3(6)** to mean

“(a) *a right to payment, whether or not such right is reduced to judgment, fixed, disputed, undisputed, legal, equitable, secured or unsecured;*

b) right to remedy for breach of contract under any law for the time being in force, if such breach gives rise to a right to payment, whether or not such right is reduced to judgment, fixed, matured, unmatured, disputed, undisputed, secured or unsecured;”

and ‘debt’ is defined in **Section 3(11)** to mean

“*...a liability or obligation in respect of a claim which is due from any person and includes a financial debt and operational debt;*”

Definition of ‘operational debt’ is provided in **Section 5(21)** to mean

“*...a claim in respect of the provision of goods or services including employment or a debt in respect of the [payment]*

of dues arising under any law for the time being in force and payable to the Central Government, any State Government or any local authority;

7. A combined reading of these sections suggests that the operational creditor must submit its claims with proof to establish the debt owed by the corporate debtor. The RP is responsible for receiving and verifying these claims, during which he may request additional evidence or clarification from the operational creditor to substantiate the claim. If the claim is imprecise for any reason, the RP is required to make the best estimate of the claim amount based on the information available to him.
8. These provisions have also been interpreted by different benches of NCLAT/NCLT to state that in collating and verifying the claim submitted by a creditor, the duties and functions of the RP are administrative and not adjudicatory in nature, and that he has to prima-facie satisfy himself about that claim from the documents submitted¹. The task of the RP is limited to confirming that the claims received by him are true and correct, without enquiring into the rights and liabilities of the parties². Verification of claim by the RP is a process of establishing truth, accuracy or validity of the claim, and he is not meant to be passing judgement or making of a decision on the quantum of the claim³. This verification by the RP cannot be treated as an adjudicatory exercise⁴.

¹ Ome Prakash Verma v. Amit Jain, 2022 SCC OnLine NCLAT 491 (para 9)

² Ramakant Suryanath Pande v. CS Prakash K. Pandya, 2019 SCC OnLine NCLT 4814 (para 9-11)

³ BMW India (P) Ltd. v. Sathiq Buhari, 2021 SCC OnLine NCLT 20952 (paras 17-21)

⁴ S.S. Natural Resources (P) Ltd. v. Ramsarup Industries Ltd., 2021 SCC OnLine NCLAT 583 (para 139)

9. In the light of the aforesaid legal position, we now proceed to examine the rejected claims, and the reasoning of the RP in doing so.

I-Corpus Fund

10. The Applicant has claimed an outstanding corpus fund principal along with interest, amounting to **Rs 1,75,83,503**. It is contended that, as purchasers of units in the commercial building developed by the CD, they contributed towards the corpus fund upon taking possession of the units. The Applicant has referred to a letter⁵ issued by the CD on 29.10.2019, which indicates that the total corpus fund amount was Rs 1,66,01,100. Along with the interest of Rs 9,82,403, the pending corpus fund amount is Rs 1,75,83,503, which they argue should be admitted as part of their claim.
11. The RP however, has referred to the records maintained by the CD, stating that the balance of the corpus fund in the CD's books is Rs 1,16,92,750, with interest of Rs 6,38,328, totalling Rs 1,23,31,078. This is the amount admitted by the RP and has insisted on confirmation from the CD regarding the amounts claimed by the Applicant.
12. The Applicant's claim primarily relies on a letter issued by the CD in October 2019. In contrast, the RP's stance is based on more recent records that became available after the initiation of CIRP on 18.07.2023, nearly four years later. The Applicant's claim does not address the utilization of the corpus fund during this four-year interval. As a result, the RP's position on this matter is justified and

⁵ Pages 226 to 232 of the application

cannot be faulted.

II-GHMC Property Tax

13. The Applicant made a claim for **Rs 4,47,161**, seeking reimbursement of GHMC property tax related to a temporary office accommodation provided by the CD. In support of this claim, the Applicant submitted⁶ copies of the GHMC property tax demand notices and proof of payment for various units. They have also included letters⁷ sent to the previous management of the CD, requesting reimbursement of the property tax paid by them.
14. The RP has denied this claim for the reason that the Applicant “has failed to place on record any acknowledgement duly acceding-to for undertaking to make payment towards payment of alleged tax arrears”.
15. The documents submitted by the Applicant only show their repeated requests to the CD for reimbursement of property tax payments they made. However, these communications do not indicate that the CD acknowledged or accepted these requests. The RP's role is not to adjudicate on the validity of these requests, but to determine the amount of debt based on the evidence provided by the claimant. In this case, the evidence provided by the Applicant is in the form of proof of payment to GHMC for the property tax, but there is no proof that the CD had accepted any obligation to reimburse this payment, despite the Applicant's repeated requests. Under the circumstances,

⁶ Pages 282 to 336 of the application

⁷ Pages 305, 310, 3011, 313, 314, 317, 318, 320 & 327 of the application

the RP was justified in rejecting this claim.

III-Cost of Integrated Building Management System

16. The Applicant claimed **Rs 63,09,500** as "damages in lieu of" the CD's failure to provide an Integrated Building Management System (IBMS). To substantiate this claim, the Applicant association has obtained a quotation for Rs 63,09,500 from an "established service provider" for the installation of the system. It is argued that since the CD failed to install the IBMS, it is liable to compensate the Applicant association for the cost of setting up the system.
17. The Applicant's claim is based solely on a demand made to the suspended management on 26.05.2023⁸, which was followed up on 05.10.2023⁹, after the commencement of the CIRP on 18.07.2023. However, there is no evidence to show that this demand was ever acknowledged or accepted by the CD. Therefore, this demand by itself cannot be considered a claim of the debt due from the CD. The RP was justified in rejecting this claim.

IV-Reimbursement of Maintenance Expenses

18. This claim pertains to expenses amounting to **Rs 9,15,447**, which the Applicant association claims to have incurred between June 2019 and November 2023 for the salaries of housekeeping and security staff, as well as electricity charges for the basement B1 parking in 'Manjeera Majestic Commercial,' a commercial building developed by the CD. The Applicant contend that the CD retained control of this

⁸ Page 343 of the application

⁹ Page 337 of the application

parking space, licensed it to a third party, and has been receiving license fees since the initiation of the CIRP, while the Applicant has been bearing the costs of maintenance, salaries, and electricity charges. The RP has denied this claim, stating there is no record of it being admitted by the CD.

19. To support their claim, the Applicant has submitted a copy of an agreement¹⁰ between M/s ATC Property Maintenance Private Limited (Licensor) and Ms. Kodimela Santoshi (Contractor) for the maintenance of the parking space in the 'Manjeera Majestic Commercial' complex. Additionally, documents evidencing the payment of electricity bills and salaries have been enclosed. However, it is noted that no contract exists between the CD and the Applicant that obligates the CD to maintain the parking space for which these expenses were incurred. Therefore, the Applicant's claim against the CD lacks a clear basis, and the RP's rejection of the claim is justified.

V-Exhaust Pipes Installation Cost

20. This claim concerns **Rs 1,84,080** incurred by the Applicant for installing exhaust pipes for diesel generators that were provided as power back-up in the building developed by the CD. The Applicant contends that the installation of exhaust pipes is mandatory for the operation of diesel generators, which the CD failed to provide. As a result, the Applicant was compelled to install them at their own expense, and now seeks reimbursement. The RP rejected this claim, citing the lack of any acknowledgment or commitment from the CD

¹⁰ Page 350-354 of the application

to cover these costs.

21. This claim is similarly based on a demand made by the Applicant association in a letter¹¹ dated 26.05.2023 addressed to the ex-management of the CD, which has never been acknowledged at any point. A mere demand for a facility, no matter how legitimate, does not automatically translate into a claim for a debt owed in the event that such a demand is not fulfilled. The RP was justified in rejecting this claim too.

VI-Maintenance-Office Cost

22. A sum of **Rs 2.0 crores** has been claimed by asserting that there was “a positive obligation” on part of the CD “to provide for a permanent accommodation/office space for the Applicant”, as maintenance office. It is argued that “in lieu of providing such permanent office space, the Corporate Debtor is liable to make good the cost of such office space to the Applicant Association”, which is estimated to be Rs 2.0 crores.
23. The RP has denied this claim, as according to him “the same is non-est in the eyes of law”. We agree with the RP that such a claim does not constitute a debt owed by the CD. Apart from the minutes¹² of a meeting and a letter¹³, in which the Applicant association requested for a 'suitable accommodation' for the maintenance team and management committee from the ex-management, there is no evidence on record to establish any liability or obligation on the part

¹¹ Page 345 of the application

¹² Pages 270 to 274 of the application

¹³ Pages 275 to 277 of the application

of the CD towards the Applicant. The RP's rejection of this claim is therefore justified.

VII-Execution of Registered Sale Deeds

24. According to the Applicant, the CD is liable to execute registered sale deeds in favor of the members of the Applicant association, which has been pending for more than 10 years. It is pleaded that the RP be directed to include complete particulars of the obligations of the CD to register sale deeds in favor of members of the Applicant's association, in the Information Memorandum established by him. It is further prayed that the RP be directed to inform any Potential Resolution Applicant about the said obligation of the CD.
25. In response, the RP has submitted that the dispute in relation to registration has been pending due to ongoing litigation between the CD and Telangana Housing Board due to which, registration of the flats/units has been pending. It is further submitted by the RP that the facts about the contractual arrangements in this regard have already been disclosed in the Information Memorandum, as outlined below:

“The projects MMC, MTC and MMH have been developed by the Corporate Debtor wherein certain units are sold and are currently occupied by the customers and certain units are unsold. However, the final registration of sale deeds for the units are pending due to ongoing disputes of the Corporate Debtor with Telangana Housing Board. (Refer Annexure 5 for details on litigation). As per the existing contractual arrangements of the Corporate Debtor and subject to payment of the balance receivables (as applicable), it is the responsibility of the Corporate Debtor to facilitate registration of such units”.

26. In view of these submissions of the RP, no further directions are needed on the prayer with regard to the registration of flats/units claimed to be purchased by the members of the Applicant association.

With the foregoing remarks on the claims/prayers of the Applicant, the application **No. IA (IBC) No. 625 of 2024** is dismissed.

**Intervention Application No.16 of 2024
in IA (IBC) (Plan) No.8 of 2024**

This Intervention Application was filed to intervene in IA (IBC) (Plan) No.8 of 2024 and sought directions for the clubbing of IA No.625 of 2024 with IA (IBC) Plan No.8 of 2024. It was further requested that the claims and reliefs sought in IA No.625 of 2024 be considered within IA (IBC) Plan No.8 of 2024.

As IA No.625 of 2024 has now been dismissed, this Intervention Application has become infructuous and is accordingly disposed of.

**Sd/-
(SANJAY PURI)
MEMBER (TECHNICAL)**

**Sd/-
(RAJEEV BHARDWAJ)
MEMBER (JUDICIAL)**

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IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH - II

**I.A. Nos.1317 & 1320 of 2024 in
IA(IBC) (Plan) No. 8 of 2024 in
CP (IB) No.296/07/HDB/2022**

In the matter of

M/s Catalyst Trusteeship Limited, Financial Creditor

vs.

M/s Manjeera Retail Holdings Private Limited, Corporate Debtor

Between:

Telangana Housing Board,
Rep. by its Vice Chairman and
Housing Commissioner,
Gruhakalpa, 1st floor,
M.G. Road, Nampally,
Hyderabad – 500 001.

....Applicant

And

1. Mr. Birendra Kumar Agarwal,
Resolution Professional of
M/s. Manjeera Retail Holdings Private Ltd.,
#711, Manjeera Trinity Corporate,
Beside Manjeera Mall,
JNTU-Hitech City Road, Kukatpally,
Hyderabad – 500 072.
2. M/s Lulu International Shopping Malls Pvt Ltd,
34/1000, NH-47, Edappally,
Kochi – 682 024.
3. The Committee of Creditors for
M/s. Manjeera Retail Holdings Private Ltd.,
Represented by Lead Creditor Catalyst
Trusteeship Limited.

Respondents

Date of order : 04.10.2024

CORAM:

Sri Rajeev Bhardwaj, Hon'ble Member (Judicial)

Sri Sanjay Puri, Hon'ble Member (Technical)

Counsels present:

For the Applicant : Mr Sudharshan Reddy, Advocate General
for the State of Telangana - for Mr. PVL Bhanu
Prakash, Standing Counsel for Telangana
Housing Board (Applicant)

For the Respondents : Mr Abhijeet Sinha, Senior Counsel along with
Mr VVSN Raju, Advocate for Respondent No.1
Mr Pradeep Joy for Respondent No.2
Mr Palash Taing & Mr Mayank Kumar,
Advocates for Respondent No.3

Per : Sanjay Puri, Member (Technical)

ORDER

1. In 2006, the Andhra Pradesh Housing Board (**APHB**), the predecessor of the Telangana Housing Board (**the Applicant**), entered into agreements dated 06.10.2006 and 22.11.2006 with M/s Manjeera Constructions Limited (**'Project Company'**) for the development of commercial infrastructure in Kukatpally, Hyderabad. Subsequently, on 31.07.2007, through additional agreements, APHB conferred the necessary powers and authority to M/s Manjeera Retail Holdings Private Limited (**'Developer Company'**) and the Corporate Debtor (**CD**) in relation to the agreements previously signed with the Project Company. The Applicant had stepped into the shoes of APHB in 2016 after creation of Telangana State.

2. Over time, several disputes arose between the Applicant and both the Project Company and the Developer Company, leading to the determination of certain amounts payable by both companies, which were contested. Litigation ensued, and these cases remain pending at various levels.
3. In the meantime, in July 2023, the CD was admitted into the Corporate Insolvency Resolution Process (**CIRP**). Subsequently, on 01.08.2023, the Applicant submitted its claim, (later revised on 28.12.2023), before the Resolution Professional (**RP**) of the CD for an amount of Rs 134.02 crores, in Form-F, in the capacity of 'creditors other than Financial or Operational Creditors.
4. In both applications under consideration, a plea has been made to direct the RP to "act on the claims" of the Applicant by "admitting the same". The Applicant has then prayed that until the it's claim is admitted, "all proceedings in IA(IBC) (Plan) No. 8 of 2024", which has been filed for the approval of the Final Resolution Plan and is currently pending before this Authority, be stayed.
5. We have gone through both applications and the replies of the Respondents. As both applications raise similar pleas and prayers, they are addressed together in the discussion below.
6. With respect to the claim of the Applicant concerning the CD, the RP has indicated that it is "Under Verification" as the issues regarding the dues payable by the CD to the Applicant are still in litigation and remain sub-judice. However, the Applicant's claim, although disputed, was disclosed to all Prospective Resolution Applicants (**PRAs**) during the CIRP and has been considered by the Successful Resolution

Applicant (**SRA**), as reported by the RP in his response to the present applications. Since the Applicant's claim (though contested by the CD) is already under consideration and has been taken into account in the resolution process, no further directions are needed.

7. Regarding the Applicant's assertion to be treated as a Financial Creditor, this contention is misplaced. We concur with the RP's position that since there was no disbursement of funds by the Applicant to the CD, nor is there any involvement of time value for money in the Applicant's claim, the claim does not constitute a Financial Debt as defined under Section 5(8) of the IBC. Furthermore, it is noted that the Applicant itself had submitted its claim to the RP under the category of "creditors other than Financial or Operational Creditors".
8. Here we can also usefully refer to the case of Mukesh N. Desai¹ decided by Hon'ble NCLAT where it was held that:

“16. The MoU entered into is an Agreement of reciprocal rights and obligations. We are of the earnest view that both parties being ‘Joint Development Partners’ who entered into a consortium of sorts for developing the subject land and for any breach of terms of the contract, Section 7 Application filed under the Code would not be maintainable as the amount cannot be construed as ‘Financial Debt’ as there is no sum(s) i.e., owed, assigned or transferred to in compliance of the provisions of Section 5(8) of the Code. To reiterate, being a profit share owner, who in the event of the success of the Project would receive the residual gain, the amount invested in the land cannot be said to be a ‘Financial Debt’ as defined under Section 5(8) of the Code.”

¹ Mukesh N. Desai v. Piyush Patel, 2022 SCC OnLine NCLAT 78

9. In the present case also, the Applicant entered into an agreement for development of land² with Manjeera Constructions Limited, and assigned necessary power and authority to the CD as a Developer of the Project to be executed by the former. Any claim arising out of breach of these agreements cannot be treated as 'Financial Debt' as there was no amount of money was owed, assigned or transferred to the CD which could be brought under the provisions of Section 5(8) of the Code.
10. To summarize therefore, while the Applicant's claim, though disputed, is currently under consideration by the RP, the Applicant cannot be treated as a Financial Creditor in the absence of a financial debt, and therefore, cannot be included in the Committee of Creditors (**CoC**) as pleaded. Furthermore, as one of the 'other creditors', the Applicant lacks the locus-standi to intervene in the approval process of the Resolution Plan pending before this Authority in IA(IBC) (Plan) No. 8 of 2024.

Consequently, both applications IA Nos.1317 & 1320 of 2024, being without merit, are dismissed.

Sd/-
(SANJAY PURI)
MEMBER (TECHNICAL)

Sd/-
(RAJEEV BHARDWAJ)
MEMBER (JUDICIAL)

VL

² 5.08 acres in S-2 in Survey No. 1050(P) of Kukatpally village, Hyderabad