

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
COURT – IV

ITEM No.423

IA/6142/ND/2022, IA/4009/ND/2020 IN IB/1525/ND/2019

IN THE MATTER OF:

M/s Dynamic Security	...	Applicant
Versus		
M/s Ajit Automotive Services Pvt Ltd	...	Respondent

Order under Section 9 of IBC, 2016.

Order delivered on 18.05.2023

Coram:

Mr. P.S.N. PRASAD,
HON'BLE MEMBER (JUDICIAL)

DR. BINOD KUMAR SINHA,
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For Applicant in IA No.6142	: Mr. Shivanath Mahanta, Adv.
For the Applicant/Liquidator	: Mr. Shashwat Anand, Adv., Mr. Shashwat Parikar, Adv., Mr. Adiya Singh, Adv. & Mr. Dhruva Vig, Adv.
For the Respondent	: Ms. Riya, proxy Counsel

ORDER

IA/4009/ND/2020

Heard the submissions made by the Ld. Counsel for the Applicant/Liquidator. The proxy Counsel for the Respondent is present and submitted that the main Counsel could not attend the Tribunal due to bereavement in his family. Therefore, let the matter be fixed for hearing on **05.07.2023**.

IA/6142/ND/2022

Heard the submissions made by the Ld. Counsel for the EPFO as well as the Ld. Counsel for the Liquidator. The Applicant i.e. Regional P.F. Commissioner (R.O.Noida) has prayed for condoning the delay of 235 days in filing the claim before the Respondents which are the pre-dues assessed against the establishment.

We have heard the submissions made by the Ld. Counsel for the EPFO. These dues are pertaining to the pre-CIRP and the dues of pre-

CIRP are now being claimed at the stage of liquidation by seeking condonation of delay of 235 days. The Ld. Counsel for the Liquidator has placed reliance in ***The Regional Provident Fund Commissioner Employees Provident Fund Organisation Vs. Mr. Vasudevan Resolution Professional & Liquidator of M/s Titanium Tantalum Products Limited in Company Appeal (AT) (CH) (INS) No.182 of 2022*** dated 11.07.2022 wherein Hon'ble NCLAT has categorically stated that *“Speed’ is the essence of I & B Code, 2016. ‘Time Wasted’/’Lost’ cannot be revisited/regained. The process of Liquidation is time bound, to be completed within one year in the teeth of the I & B Code, 2016. Undoubtedly, the Code is an inbuilt and self-contained one and the object of the I & B Code, 2016, is that, a time barred ‘Debt’ cannot be resurrected or given a fresh tenure of life, as opined by this ‘Tribunal’”*.

In paragraph No.47, the Appellate Tribunal has concluded that the view arrived at by the Adjudicating Authority (NCLT), Division Bench, Court-I, in dismissing the IA/442/CHE/2021 (in condoning the delay of 936 days in claiming the EPF & MP Act dues) in TCP/413/IB/CB/2017, through its impugned order dated 17.12.2021 is free from ‘legal infirmities’. Resultantly, the ‘Appeal’ fails.

In view of the above, the application filed under Section 60 (5) of IBC Code, 2016 cannot be entertained more particularly at this stage of the matter. Therefore, the present application i.e. IA/6142/ND/2022 stands ***dismissed***.

Sd/-
DR. BINOD KUMAR SINHA,
MEMBER (TECHNICAL)

Sd/-
P.S.N. PRASAD,
MEMBER (JUDICIAL)