

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI

COURT-V

(Division Bench)

Item No.-508

IB-11/ND/2021

IA/3477/2023, IA/902/2024, IA/4760/2022, IA/5357/2022, IA/1248/2023,
IA/1825/2023, IA/1826/2023, IA/1920/2023, IA/3792/2023, IA/6373/2023

IN THE MATTER OF:

Skystep Trading Ltd.

....Applicant

Vs.

Sanco Industries Ltd.

.....Respondent

SECTION

U/s 9 IBC

Order delivered on 26.04.2024

CORAM:

**SHRI MAHENDRA KHANDELWAL,
HON'BLE MEMBER (JUDICIAL)**

**Dr. SANJEEV RANJAN,
HON'BLE MEMBER (TECHNICAL)**

PRESENT:

For the Applicant : Ms. Sushila Narang, Adv. for GST Dept. in
IA/3792/2023, IA/6373/2023

For the Respondent : Mr. Vikas Kakkar, Mr. Dilip Kumar Rana, Ms. Anshika
Dubey Advs. in IA/1920/2023
Mr. Anubhav Goel, Ms. Preeti Goel, Ms. Priyanka
Dhyani, Advs. for R- 21 in IA/1920/2023

For the SRA : Mr. Adhish Srivastava, Mr. Sumant Batra, Mr. Sarthak
Bhandari, Advs. in IA/3477/2023
Mr. Mohd Nazim Khan, PCS in IA/3477/2023

For the RP : Mr. Nikhil Jha, Mr. Milan Negi, Ms. Aditi Sharma,
Advs.
Mr. Vinod Chaurasia, Adv.

For the Suspended : Ms. Honey Satpal, Ms. Nandini Choudha, Advs.

For the Union Bank : Mr. Vishnu Jaysaval Adv. along with Mr. Adarsh Raj
Singh Ms. Priyanka Singh, Mr. Samarendra Kumar,
Advs. in IA/4760/2022

HYBRID HEARING (PHYSICAL & VC)

ORDER

IA/3792/2023:-

This is an application filed by the Central GST Department under Section 60(5) of the IBC, 2016 read with Rule 11 of the NCLT Rules, 2016 seeking condonation of delay in filing their claim before the Resolution Professional. Heard the submissions made by Ld. Counsel on behalf of Applicant and Ld. Counsel on behalf of Resolution Professional. Ld. Counsel on behalf of Applicant submitted that the assessment proceeding of the Corporate Debtor was going on and the Resolution Professional had attended the assessment proceeding on 21.02.2023 and the assessment order was passed on 29.03.2023 and the Applicant has filed their claim before the Resolution Professional on 12.04.2023. Ld. Counsel on behalf of Applicant further submitted that the amount of the claim was crystallized only in March 2023 and they could not file their claim before the Resolution Professional before that date. It is the contention of the Ld. Counsel on behalf of RP, that in terms of the provisions contained in the IBC and Regulations made thereunder, they have no authority to admit any claim which is filed after the stipulated period and therefore, they had rejected their claim on the ground of delay. Ld. Counsel also submitted that Resolution Plan has already been approved by the CoC and the same is pending before this Adjudicating Authority for approval and therefore requested that at this stage, delay should not be condoned. We have perused the content of the application and arguments advances by the parties. The contention of the Applicant is that they could not file the claim within the stipulated period because the assessment proceeding was going on and RP was also aware of that fact and he had also participated in the assessment proceeding. Therefore, there is a valid reason for filing the claim belatedly. There appears to be a justifiable ground for filing the claim before the RP belatedly. In view of the facts and circumstances of the case, we condone the delay in filing the claim by the Applicant before the Resolution Professional and the Resolution Professional is directed to examine the claim and take an appropriate decision in this regard. Since the application for approval of Resolution Plan is pending, Resolution Professional is expected to verify the claim and take appropriate decision within a period of 1 week. After verification of the claim, Resolution Professional is directed to apprise about the same to the

SRA and take their views on affidavit in respect of further liability if, arises. With these observations, the present application i.e. IA/3792/2023 **is disposed off.**

IA/6373/2023:-

This is an application filed by the Central GST Department under Section 60(5) of the IBC, 2016 read with Rule 11 of the NCLT Rules, 2016 seeking condonation of delay in filing their claim before the Resolution Professional. Heard the submissions made by Ld. Counsel on behalf of Applicant and Ld. Counsel on behalf of Resolution Professional. Ld. Counsel on behalf of Applicant submitted that the assessment proceeding of the Corporate Debtor was going on and the Resolution Professional had attended the assessment proceeding on 09.03.2023 and the assessment order was passed on 04.09.2023 and the Applicant has filed their claim before the Resolution Professional on 12.09.2023. Ld. Counsel on behalf of Applicant further submitted that the amount of the claim was crystallized only in September 2023 and they could not file their claim before the Resolution Professional before that date. It is the contention of the Ld. Counsel on behalf of RP, that in terms of the provisions contained in the IBC and Regulations made thereunder, they have no authority to admit any claim which is filed after the stipulated period and therefore, they had rejected their claim on the ground of delay. Ld. Counsel also submitted that Resolution Plan has already been approved by the CoC and the same is pending before this Adjudicating Authority for approval and therefore requested that at this stage, delay should not be condoned. We have perused the content of the application and arguments advances by the parties. The contention of the Applicant is that they could not file the claim within the stipulated period because the assessment proceeding was going on and RP was also aware of that fact that he had also participated in the assessment proceeding. Therefore, there is a valid reason for filing the claim belatedly. There appears to be a justifiable ground for filing the claim before the RP belatedly. In view of the facts and circumstances of the case, we condone the delay in filing the claim by the Applicant before the Resolution Professional and the Resolution Professional is directed to examine the claim and take an appropriate decision in this regard. Since the application for approval of Resolution Plan is pending, Resolution Professional is expected to verify the

claim and take appropriate decision within a period of 1 week. After verification of the claim, Resolution Professional is directed to apprise about the same to the SRA and take their views on affidavit in respect of further liability if, arises. With these observations, the present application i.e. IA/6373/2023 **is disposed off.**

IA/1248/2023:-

This is an application filed by the Applicant under Section 60(5) of the IBC seeking condonation of delay of 34 days in filing their claim before the Resolution Professional. Heard the submissions made by Ld. Counsel on behalf of Applicant, who submitted that the claim could not be filed before the Resolution professional due to medical emergency of the Counsel for the Applicant, detail of which is given in Para 7 of the application. Ld. Counsel for the Applicant also submitted that there is only a delay of 34 days. Ld. Counsel for the Resolution Professional submitted that he could not have admitted the claim in view of the provisions contained in IBC and Regulations made thereunder. In view of the fact, that the Applicant is an individual and due to the medical grounds mentioned in Para 7 of the application, we condone the delay in filing the claim by the Applicant before the RP subject to payment of cost of Rs. 10,000/- to be paid by the Applicant to the RP and the said amount shall be utilized by the RP in the CIRP proceedings. RP may examine the claim and take appropriate decision as per the law. Since the plan has already been approved by CoC, RP may communicate their decision to SRA also, take their views and file an affidavit in this regard in the plan approval application. With these observations, the present application i.e. IA/1248/2023 is **disposed off.**

IA/902/2024:-

This is an application filed by the Resolution Professional seeking deletion of the names of Respondent Nos. 8 to 51 from the Array of Parties in the application being IA/1825/2023. Heard the submissions made by Ld. Counsel on behalf of RP, who submitted that IA/1825/2023 filed by the RP under Section 66 of the IBC. It is also the contention of the RP that, in view of the judgment of the Hon'ble Supreme Court dated 19.05.2023 in the matter of Gluckrich Capital Pvt. Ltd. Vs. State of West Bengal and Ors. 2023 SCC Online SC 1187, wherein

the Hon'ble Supreme Court agreed with the views of Tripura High Court that the parties cannot be impleaded in Section 66 application. We have considered the matter and in view of the judgment of the Hon'ble Supreme Court, liberty is granted to the Applicant to delete the names of Respondent Nos. 8 to 51 in IA/1825/2023. The amended memo of parties has already been heard and the same is taken on record with just exceptions. With these observations, the present application IA/902/2024 is **disposed off**.

**IA/3477/2023, IA/4760/2022, IA/5357/2022, IA/1825/2023,
IA/1826/2023, IA/1920/2023:-**

List all these applications on **04.06.2024**.

Sd/-

**(Dr. SANJEEV RANJAN)
MEMBER (T)**

Sd/-

**(MAHENDRA KHANDELWAL)
MEMBER (J)**