

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
COURT-V
(Division Bench)

Item No.-511

(IB)-1757(PB)/2018

IA/3769/2020, IA/1157/2024, IA/1343/2024, IA/6699/2023, IA/5570/2020,
IA/3604/2021, CA/1711/2019, CA/2614/2019, CA/2889/2019,
CA/2712/2019, IA/6685/2023, IA/4478/2023, IA/4590/2023,
IA/4274/2023, IA/5988/2023, IA/3636/2020, IA/3887/2020, IA/3908/2020,
IA/3946/2020, IA/4157/2020, IA/4691/2020, IA/4820/2020, IA/4828/2020,
IA/5373/2020, IA/5368/2020, IA/5538/2020, IA/5387/2020, IA/708/2021,
IA/819/2021, IA/3212/2021, IA/4214/2021, IA/4249/2021, IA/4326/2021,
IA/53/2022, IA/511/2022, IA/1180/2022, IA/2341/2022, IA/4557/2022

IN THE MATTER OF:

Sonia Rani and Ors.

.....Applicant

Vs.

KST Infrastructure Ltd.

.....Respondent

SECTION

U/s 7 of (IBC) CIRP

Order delivered on 05.07.2024

CORAM:

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

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

HYBRID HEARING (PHYSICAL & VC)

PRESENT:

For the Applicant

: Mr. Aditya Madaan, Mr. G P Madaan, Mr. Aishwarya Adlakha, Advs. in IA/5570/2020
Mr. Vaibhav Garg, Adv. in IA/4828/2020
Ms. Riddhi Jain, Adv. in IA/6685/2023
Mr. Neeraj Sharma, Ms. Meghna Verma, Advs. in IA/3212/2021
Mr. Surya Kant, Adv. IA/5988/2023
Ms. Monalisa Kosaria, Adv. in IA/4557/2022
Mr. Siddharth Sangal, Ms. Richa Mishra, Advs. (SBI) in IA/708/2021 & IA/ 819/2021
Mr. Yashasvi Virendra, Mr. Anany Virendra Mishra, Ms. Gitika Dixit, Advs. in IA/2341/2022
Mr. Siddharth Sharma, Adv. in IA/3908/2020

Mr. Nikhil Verma, Adv. in IA/4157/2020
For the Respondent :
For the SRA : Mr. Saurabh Kalia, Mr. Prakhar Dixit, Advs.
For the Secured : Mr. Sanjay Dewan, Mr. Santosh Kr., Mr. S. Abhinav,
Creditors : Advs. in IA/1343/2024
For the Intervenors : Mr. Vaibhav Garg, Adv. in IA/5570/2020
For the RP : Mr. Anuj Malhotra, Adv., Mr. Sandeep Chandna, IRP in
IA/4157/2020
For the IT Deptt. : Mr. Gaurav Gupta, Sr. St. Counsel, Mr. Shivendra
Singh, Jr. St. Counsel, Mr. Yojit Pareek, Jr. St.
Counsel, Mr. Namit Gupta, Adv.
For the Banks : Mr. Rajive R Raj, Adv, Mr. Bikash Sinha, Proxy
Counsel for (IDBI Bank, SBI, UCO Bank) in
IA/511/2022
For the Axis Bank : Mr. Sharad Tyagi, Ms. Archana Tyagi, Ms. K. Gayatri,
Mr. Samarth Gogia, Advs. in IA/5387/2020

ORDER

IA/1157/2024:-

Ld. Counsel on behalf of the Applicant is present and submitted that they have filed their rejoinder to the reply filed by the R-1 and R-2. However, the rejoinder is not reflected on the e-portal. Ld. Counsel on behalf of R-2 is present. In view of this, list this application on **13.08.2024**.

IA/1343/2024:-

List the matter on **13.08.2024**.

IA/6699/2023:-

Ld. Counsel on behalf of the Applicant is present and submitted that they have filed amended memo of parties. However, no application seeking liberty for amendment in the memo of the parties has been filed. Ld. Counsel sought time to file the same. Time prayed for is granted. List this application on **13.08.2024**.

**IA/6685/2023, IA/5988/2023, IA/3636/2020, IA/3887/2020,
IA/3908/2020, IA/5373/2020, IA/3212/2021, IA/4249/2021,
IA/4326/2021, IA/53/2022, IA/2341/2022 & IA/4557/2022:-**

These are application filed by the Home-Buyers, seeking condonation of the delay in filing the claim before the Resolution Professional. Heard the submissions made by the Ld. Counsels on behalf of the Applicants and Ld. Counsel on behalf of the Resolution Professional. Ld. Counsel on behalf of the Resolution Professional submitted that Resolution Plan has already been approved by the CoC and the same is pending for consideration before this Adjudicating Authority and therefore, at this belated stage their claim may not be considered. However, keeping in view the fact that the Applicants are the Home-Buyers and the Hon'ble NCLAT in K. V. Developers case has already considered the matter of Home-Buyers, and stated Home-Buyers matters can be considered separately from the other class of the creditors, due to the variety of the reasons mentioned in the judgment of the Hon'ble NCLAT, we have also perused the relevant paragraph of the Resolution Plan which also provides for the treatment of the claim which was filed belatedly before the Resolution Professional and where the delay has been condoned by this Adjudicating Authority. Ld. Counsel on behalf of the Resolution Professional has also relied upon the judgment of the Hon'ble NCLAT in the matter of Pooja Mehra vs. Nilesh Sharma and Ors. The said judgment of the Hon'ble NCLAT can be distinguished from the facts of the present case on the basis that in the case before the Hon'ble NCLAT, there was no separate provision for delayed claim in the Resolution Plan and the Hon'ble NCLAT has also taken note of the fact that it was not clear whether the Applicants are the actual Home-Buyers or not and therefore, present case is distinguishable from the facts of the case which has been relied upon by the Ld. Counsel on behalf of the Resolution Professional. Keeping in view the provisions contained in the Resolution Plan, keeping in view of the fact that the matter relates to the Home-Buyers and keeping in view of the fact that the judgment of the Hon'ble NCLAT, we condone

the delay in filing the claim by the Applicants before the Resolution Professional subject to payment of cost of Rs. 10,000/- to be paid by the each Applicant to the Resolution Professional and the said amount shall be utilized by the Resolution Professional in the CIRP proceeding. The Resolution Professional may verify the claim and take appropriate decision on it. With these observations, all these applications i.e. IA/6685/2023, IA/5988/2023, IA/3636/2020, IA/3887/2020, IA/3908/2020, IA/5373/2020, IA/3212/2021, IA/4249/2021, IA/4326/2021, IA/53/2022, IA/2341/2022 & IA/4557/2022 are **disposed of**.

Sd/-
(Dr. SANJEEV RANJAN)
MEMBER (T)

Sd/-
(MAHENDRA KHANDELWAL)
MEMBER (J)