

NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-II

2. IA 1769/2024 In C.P. (IB)/1269(MB)2021

CORAM:

SHRI ANIL RAJ CHELLAN
HON'BLE MEMBER (T)

MS. LAKSHMI GURUNG
HON'BLE MEMBER (J)

**ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE
NATIONAL COMPANY LAW TRIBUNAL ON 18.04.2024**

NAME OF THE PARTIES: - Mds Digital Media Private Limited
V/s

**Popat Mayur Rajendrakumar Resolution
Professional for Richfeel Health and
Beauty Private Limited**
IN THE MATTER OF
Rajul Mehta and Others

V/s
Richfeel Health and Beauty Pvt Ltd

Section: 60(5), 7 of the Insolvency and Bankruptcy Code, 2016

ORDER

IA.No.1769/2024: - Adv. Prerak Talati appeared for the Applicant through VC. Adv. Shyam Kapadia appeared for the RP/ Respondent. This application has been filed by the Applicant seeking issuance of suitable directions to RP for the purpose of adjudication of its claim submitted to the Resolution Professional appointed in respect of the Corporate Debtor. The case of the applicant is that it had rendered services to the Corporate Debtor and raised invoices from June, 2019 to March 2020 aggregating to Rs.3,46,253/- and interest accrued thereon at the rate of 16.20% amounted to Rs. 1,15,866/- (total of Rs. 4,81,121/-) which is outstanding against the Corporate Debtor. Since the Corporate Debtor defaulted in

making payments, the Applicant issued various e-mails and Advocate notice dated 08.04.2022.

Corporate Insolvency Resolution Process (CIRP) was initiated against the Corporate Debtor pursuant to an order of this Tribunal dated 16.06.2023 and the Applicant submitted its claim in Form-B to the RP vide email dated 28.03.2024 which was rejected by the RP the Respondent herein vide email dated 29.03.2024 on the ground that the date for submission of claim is already over and that the Committee of Creditors (CoC) has approved the plan submitted by the Resolution Applicant and an IA for approval of the Resolution Plan is pending before the Tribunal. RP, therefore, informed the applicant that it is not feasible for the RP to update claim list at this stage unless and until delay is condoned by this Tribunal for which the applicant will have to file an application with the Tribunal. The applicant, therefore, filed the present application.

It is observed from the submissions that the claim was filed by the applicant long after the date notified for submission of claims against the company and by the time the claim was filed by the applicant, Resolution Plan had already been approved by the CoC. In support of the submission made by the applicant the counsel relied on the order passed by coordinate Bench of NCLT at Ahmedabad in ***Vishal Saxena and Ors. Vs. Swami Deen Gupta and Ors. in CA.No.12/2020 in CP.No.(IB)322/ALD/2018*** wherein the belated claim of applicant, who was not aware of the public announcement, was directed to be considered.

The RP has not filed any written/reply to the application. However, the Ld. Counsel appearing for the Respondent submitted that the NCLT Mumbai Bench-III in IA.No.3996/2023 in CP No. 4359/2019 took a view

that the applicant ought to have been vigilant enough to find out that the Corporate Debtor was undergoing CIRP and should have filed his claim in due time accordingly. The Ld. counsel also relied on the decision of the Hon'ble Supreme Court in ***RPS Infrastructure Ltd Vs. Mukul Kumar & Anr.*** wherein it was observed that the mere fact that the Adjudicating Authority has not yet approved the Plan does not imply that the Plan can go back and forth, thereby making the CIRP an endless process. The Hon'ble Court cautioned against allowing claims after the Resolution Plan has been accepted by the CoC.

In the present case, the applicant has filed its claim much after approval of the Resolution Plan by the CoC and no reasons have been stated for such long delay. Considering the facts of the case, we are of the view that no sufficient reason has been made out by the applicant for condoning the delay and any directions to the RP at this stage to consider the claim would unnecessarily jeopardize the Resolution Plan already approved by the CoC and hence, the **IA.No.1769/2024 is dismissed.**

Sd/-
ANIL RAJ CHELLAN
Member (Technical)

JAGDISH

Sd/-
LAKSHMI GURUNG
Member (Judicial)