

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH – 1**

ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON  
**26-09-2022** AT 10:30 A.M. THROUGH VIDEO CONFERENCE.

**IA (IBC) 552/2021 in CP(IB) No.665/7/HDB/2018**

U/s 7 of IBC, 2016

**IN THE MATTER OF:**

State Bank of India

**...Financial Creditor**

Vs

Meena Jewellers Diamonds Pvt Ltd

**...Corporate Debtor**

**C O R A M:-**

**DR. VENKATA RAMAKRISHNA BADARINATH NANDULA, HON'BLE MEMBER (JUDICIAL)  
SH. VEERA BRAHMA RAO AREKAPUDI, HON'BLE MEMBER (TECHNICAL)**

**ORDER**

**IA (IBC) 552/2021:-**

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

**Sd/-**

**MEMBER (T)**

**Sd/-**

**MEMBER (J)**

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH, HYDERABAD**

IA (IBC)/552/2021  
In CP (IB) No. 665/7/HDB/2018

**IN THE MATTER OF M/s MEENA JEWELLERS & DIAMONDS  
PRIVATE LIMITED**

**Between:**

M/s Subhanjali Chit Fund Private Limited,  
R/o. 8-3-320/1/3/4, Sai Pariwar,  
Sai Saradhi Nagar, Behind Saradhi Studio,  
Yellareddyguda, Ameerpet,  
Hyderabad- 500073, Telangana

**... Applicant**

And

Mr. Kambhammettu Sri Vamsi,  
Liquidator of M/s Meena Jewellers & Diamonds  
Private Limited, A85, Flat DX4,  
Sri VarasiddiNivas, Level-2, Road No. 11, Film Nagar,  
Jubilee Hills, Hyderabad-500033, Telangana

**... Respondent/Liquidator**

**Date of Order: 26.09.2022**

**CORAM:**

Dr. Venkata Ramakrishna Badarinath Nandula, Hon'ble Member (Judicial)  
Shri. Veera Brahma Rao Arekapudi, Hon'ble Member (Technical)

**PARTIES/COUNSELS PRESENT:**

For the Applicant: Mr. P. Vikram, Advocate  
For the Respondent/Liquidator: Mr. V V S N Raju, Advocate

**PER BENCH**

1. This Application is filed by the M/s Subhanjali Chit Fund Private Limited (*Hereinafter referred as Applicant*) under Section 42 of the Insolvency and Bankruptcy Code, 2016 (*Hereinafter referred as IBC*) read with Rule 11 of NCLT Rules, 2016 seeking direction to the Liquidator (*Hereinafter referred as Respondent*) to admit the claim of Rs. 2,53,13,000/- which was duly rejected.
2. **The gist of the contentions put forth by the Applicant in its Application are:**
  - 2.1. It is submitted that this Adjudicating Authority had vide its order dated 26.11.2019 admitted Meena Jewellers and Diamonds Private Limited (*Hereinafter referred as Corporate Debtor*) into Corporate Insolvency Resolution Process (*Hereinafter referred as CIRP*) and thereafter on 26.04.2021 passed Liquidation Order and currently the Corporate Debtor is undergoing Liquidation.
  - 2.2. It is submitted that the Corporate Debtor entered into a Chit Fund Agreement dated 17.12.2014 with Applicant where Applicant is subscriber vide ticket No.28 in respect of the Chit Group No. MT9S, run by Applicant.
  - 2.3. It is submitted that as per the above said agreement the total subscription is for Rs. 1,00,00,000/- to be subscribed at Rs.2,50,000/- per month and the total period of said chit is 40 months commencing from 11.07.2014 till July, 2017. It is further submitted that the Corporate Debtor participated in auction held on 15.02.2015 and the Corporate Debtor was declared as successful bidder for an amount of Rs.60,00,000/-. The said amount of 60,00,000/- was acknowledged and further a demand promissory note was executed on dated 30.03.2015 in favour of the

Applicant. The Corporate Debtor having availed the said bid amount paid the monthly subscription amounts for few months and later on committed default.

- 2.4. It is submitted that in view of the defaults committed by the Corporate Debtor, the Applicant as per said chit agreement dated 17.12.2014 has invoked Arbitration proceedings and filed Arb. No.216 of 2017 before Deputy Registrar of Chits/Arbitrator Erragadda, Hyderabad South against the Corporate Debtor and others under section 64 and 66 of the Chits Funds Act, 1982, for recovery of Rs.79,69,450/- together with interest @18% per annum till realization, together with costs and the said Arbitration case, is pending Adjudication.
- 2.5. It is submitted that the Corporate Debtor has entered into another Chit agreement dated 17.12.2014 with the Applicant as subscriber vide ticket No. 27 in the respect of the Chit Group No. MT 9S, run by the Applicant. The total subscription of the said amount is Rs. 1,00,00,000/- to be subscribed at Rs.2,50,000/- per month and the total period of said chit is 40 months commencing from 11.07.2014 till July, 2017. It is further submitted that the Corporate Debtor participated in auction held on 21.12.2014 and the Corporate Debtor was declared as successful bidder for an amount of Rs.60,00,000/- and the said amount of 60,00,000/- was acknowledged and further a promissory note was executed on 28.02.2015 in favor of the Applicant. The Corporate Debtor having availed the said bid amount has paid monthly subscription amounts for few months and later committed default.
- 2.6. It is submitted, in view of the defaults committed by the Corporate Debtor, the Applicant as per chit agreement dated 17.12.2014 has invoked Arbitration proceedings and filed Arb No. 215 of 2017 before Deputy Registrar of Chits/Arbitrator Erragadda, Hyderabad South against the

Corporate Debtor and others under section 64 and 66 of the Chits Funds Act, 1982, for recovery of Rs.79,69,450/- together with interest @18% per annum till realization, together with costs and the said Arbitration case is pending Adjudication.

- 2.7. It is submitted that in respect of both the above mentioned agreements, the Corporate Debtor has acknowledged the debt and in discharge of its liability has issued cheques pertaining to its sister concern and on presentation of the cheques, the same were dishonoured. The Applicant has thereafter filed criminal cases under section 138 of the Negotiable Instruments Act, 1881 vide CC No.534/2018 and same are pending adjudication.
- 2.8. It is submitted that after liquidation order was passed, the Respondent has issued public notice inviting claims from stakeholders. Thereafter, the Applicant being an Operational Creditor has submitted its claim dated 21.05.2021 under Form-C of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 (*Hereinafter referred as Liquidation Regulations*) to the Respondent. The Respondent has rejected the claim by his letter dated 05.07.2021.
- 2.9. It is submitted that the Respondent unduly and unjustly, without due consideration of the grounds upon which the claim so made, rejected the claims made by the Applicant through a letter dated 05.07.2021 by reasoning "*The claim amount relating to the chit subscription dues claimed has not been recorded in the audited financial statements of the Corporate Debtor and other records made available to the Liquidator*". It is submitted, that such a rejection is not only arbitrary but also contrary to the procedure laid down by the provisions of the IBC.

2.10. It is submitted that aggrieved by the rejection of the claim, the present application is filed by the Applicant before this Adjudicating Authority praying to direct the Respondent to accept the Claim submitted by the Applicant in Form-C dated 21.05.2021.

3. **The gist of the contentions put forth by the Respondent in its Counter are:**

3.1. It is submitted that as part of the Liquidation Process, the Respondent invited claims from the stakeholders in accordance with section 35 (j) of the IBC and Regulation 12 of Liquidation Regulations.

3.2. It is submitted further that the Applicant claiming to be an Operational Creditor has submitted a claim for an amount of INR 2,53,13,900/- inclusive of interest vide Form-C dated 21.05.2021 before the Respondent for verification and admission of the same.

3.3. It is submitted that the claim so filed and documents so submitted have been examined by the Respondent with reference to records of the Corporate Debtor under Liquidation. After Examination it is observed that the claim is in respect of Chits allegedly bid by the Corporate Debtor. The Chit particulars are as follows.

Sr. No.	Chit Fund Agreement Dated	Ticket No.	Chit Series No.	Outstanding Amount	Interest @18% p.a	Total Amount including 18% interest
1 & 2	17.12.2014	27 & 28	MTS 9S	1,25,00,000	1,28,13,900	Rs. 2,53,13,000
<b>Total</b>						Rs. 2,53,13,000

3.4. It is submitted that the alleged promissory notes mentioned in the Application were executed on 30.03.2015 and 28.02.2015. It is further

submitted that in case of a promissory note the limitation period of three years commences on the date of the promissory note for enforcement. In the instant case, the promissory notes are time barred and not enforceable in a court of law. Therefore, the claim even otherwise also is a time barred claim.

- 3.5. It is submitted that mere execution of promissory notes and cheques without receiving any consideration under the said instruments do not make the Corporate Debtor liable to pay any amount to the Applicant. Moreover, the Demand Promissory notes were time barred by the time the CIRP commenced on 26.11.2019 in respect of the Corporate Debtor under Liquidation. It is false to state that the funds were utilized for the development of the Corporate Debtor under Liquidation. There is no whisper in the records of the Corporate Debtor about the funds and their utility. Therefore, all the contentions of the Applicant are false and liable to be rejected.
- 3.6. It is further submitted that upon thorough verification of Corporate Debtor's record it is found that the Corporate Debtor did not receive any amount in respect of the said chits and the Corporate Debtor never acknowledged the liability. Therefore, the Corporate Debtor is not liable to pay any amount to the Applicant. Hence, the Respondent came to the conclusion that the Liquidation estate of the Corporate Debtor could not be burdened for the claim made by the Applicant and therefore rightly rejected the claim.
- 3.7. It is submitted that proceedings under Section 138 of the Negotiable Instruments Act, 1881 and also arbitration proceedings are pending. In

view of the settled legal position the proceedings are liable to be kept in abeyance in so far as the Corporate Debtor under Liquidation is concerned. The Respondent would initiate appropriate steps in this regard.

3.8. It is submitted that therefore the instant claim was rightfully rejected by the Respondent for the reasons above mentioned and a contingent claim cannot be admitted in the absence of any decree or order from the concerned authorities ascertaining the debt due to the Applicant. Moreover, as mentioned above, the claims even otherwise are time-barred and cannot be admitted.

3.9. It is submitted that the Respondent in his letter dated 05.07.2021, advised the Applicant in accordance with the Regulation 31(3) of Liquidation Regulations that the Respondent may modify the list of stakeholders in case any new information is made available.

3.10. It is further submitted that Respondent prayed to Adjudicating Authority to dismiss the Application with exemplary costs.

4. In light of the pleadings as above the following point emerges for consideration by this Adjudicating Authority.

5. **Whether the rejection of Claim by Liquidator is sustainable?**

We have heard Shri. P. Vikram learned Counsel for the Applicant and Shri. V V S N Raju Learned Counsel for the Respondent and perused the record.



- 5.1. We have gone through the record. It is the case of Applicant herein that the Corporate Debtor has subscribed 2 chits as detailed in the paragraph 3.3 above and the Corporate Debtor had participated in the Auction held for the chit amounts as described in the table and won the same and declared as successful bidder for all the 2 chits on the dates mentioned in the Chit Fund Agreement as detailed in the paragraph 3.3 as mentioned. However, after being declared as Successful Bidder and received the amounts the Corporate Debtor has failed to make further payments as regards to outstanding amounts due.
- 5.2. The Applicant herein has filed their claim for Rs. 2,53,13,000 under Section 42 of the IBC read with Rule 11 of the NCLT Rules, 2016 seeking direction to Respondent to admit their claim as it was unduly rejected by the Respondent.
- 5.3. The Applicant has also submitted that the Corporate Debtor has issued cheques for repayment of outstanding amounts. However, those cheques were dishonored. In light of the above Applicant herein has prayed for giving direction to Respondent for admitting their claim.
- 5.4. In the Counter filed by Respondent it has brought to the notice of Tribunal that Respondent invited claims from the Stakeholders in accordance with Section 35J and Regulation 12 of Liquidation Regulations. Pursuant to this the Applicant herein has submitted claim as Rs. 2,53,13,000 including interest vide Form C dated 21.05.2021 submitted by Applicant. However, the Respondent after careful examination of the books of accounts of the Corporate Debtor had rejected the claims made by the Applicant herein on the following grounds.

- 5.5. It was found out by the Respondent that the claims in respect of the chits allegedly bid by Corporate Debtor.
- 5.6. The Respondent has brought to our notice that 2 chits namely MT 9S-28 and 27 are in the name Corporate Debtor and underlying agreement between the Applicant and Corporate Debtor. The Respondent further averred that as per the Corporate Debtor records it was found that the Corporate Debtor did not receive any amounts in respect of the said chits and Corporate Debtor never acknowledged its liability. Therefore, he contended that the Corporate Debtor is not liable to pay any amount to the applicant herein.
- 5.7. The records of the Corporate Debtor do not also reflect any such transaction and the chit auction amount was never received by the Corporate Debtor under Liquidation and accounted for in its books.
- 5.8. It is the case of the Respondent that promissory notes mentioned in the Application were executed on 30.03.2015 and 28.02.2015 and therefore Respondent contended that promissory notes are time barred and not enforceable in court of law. Respondent further pointed out that mere issuance of Cheques without any consideration does not make Corporate Debtor liable to pay any amount to the Applicant herein.
- 5.9. Further even the Demand Promissory Note submitted were otherwise time barred even before the CIRP process commenced on 26.11.2019. He also contended that it is totally false to say that funds were utilized for development of Corporate Debtor under Liquidation. There is no whisper

in the records of the Corporate Debtor about the receipt of funds nor their utility.

- 5.10. Therefore, for the reasons stated above Respondent submitted that Liquidation estate of the Corporate Debtor could not be burdened for the false claims made by the Applicant herein. It is also brought to our knowledge that present Applicant herein has initiated proceedings under Section 138 of the Negotiable Instruments Act, 1881 and Arbitration proceedings which are pending.
- 5.11. The Respondent further contended that as per records of the Company these claims were neither recorded as contingent liabilities nor any acknowledgement of the liability was furnished by the Corporate Debtor in its books. Therefore, in light of the above submissions the Respondent prayed for dismissal of the Application with costs.
- 5.12. We have gone through the records before us as well as the submissions made by parties. We found that Demand Promissory Note as well as the Agreement entered into for the chits were never signed on behalf of the Corporate Debtor and also the purported bid amounts were never accounted for in the books of the Corporate Debtor. The purported Demand Promissory Notes were also time barred.
- 5.13. In the absence of any concrete evidence that the Corporate Debtor has entered into the agreements and being the successful bidder, the amounts received were utilized for the benefit of Corporate Debtor operations were never proved.

- 5.14. Further proceedings under the Negotiable Instruments Act, 1881 and Arbitration proceedings pending which were initiated by the Applicant herein. In light of the above factual position, we are of the view that claim submitted by Applicant herein cannot be construed to belong to the Corporate Debtor which is under Liquidation now. The Applicant herein has failed to submit any proof to support his claim.
- 5.15. We are of the considered view that the claim submitted by the Applicant herein is not sustainable and also not reflecting in the financial records of Corporate Debtor which is under Liquidation. We therefore conclude that the claim is not sustainable. In light of the above we dismiss the Application without costs. Accordingly, IA No. 552 of 2021 is disposed.

**Sd/-**

**VEERA BRAHMA RAO AREKAPUDI**

**MEMBER (TECHNICAL)**

**Sd/-**

**DR N.V. RAMAKRISHNA BADRINATH**

**MEMBER (JUDICIAL)**

*Rohit (LRA)*