

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
30-10-2023 AT 10:30 AM**

**IA (IBC) 33/2021 & IA (IBC) 35/2021 in
CP (IB) No. 111/7/HDB/2017
u/s. 7 of IBC, 2016**

IN THE MATTER OF:

IDBI Bank Limited

...Financial Creditor

VS

Lanco Infratech LimitedSun (Inox) Steels Pvt Ltd

...Corporate Debtor

C O R A M:-

**DR. VENKATA RAMAKRISHNA BADARINATH NANDULA, HON'BLE MEMBER (JUDICIAL)
SH. CHARAN SINGH, HON'BLE MEMBER (TECHNICAL)**

O R D E R

IA No 33&35 of 2021

IA No 33 of 2021 is filed as an appeal under section 42 of the IBC,2016 against the decision of the answering respondent rejecting applicant's claim of Rs 25, 59, 32,500/- and IA No 35 of 2021 is filed under section 60(5) of the Code seeking condonation of delay in filing IA No 33 of 2021. The respondent has submitted that both these applications are not maintainable and barred by limitation by virtue of section 238A read with Section 42 of IBC, 2016.

As per Section 42 of IBC, 2016 "A creditor may appeal to the Adjudicating Authority against the decision of the liquidator (ACCEPTING OR) rejecting the claims within fourteen days of the receipt of such decision." Accordingly, the period for challenging the decision dated 12.12.2018 of the liquidator expired on 26.12.2018, whereas IA no 33 has been filed on 10.10.2020 i.e., after a delay of approximately 2 years. The applicant has also not submitted any cogent reason for the delay except contending that e mail rejecting the claim went into spam folder and he could not notice it for such a long period.

Liquidator further submits that total amount claimed includes rental dues of PRE -CIRP period (August 2016 to July 2017) and also for CIRP period and total dues of CIRP period are duly paid by liquidator as CIRP expenses. Therefore, the part of the claim pertaining to CIRP period stands extinguished and satisfied.

We have gone through the facts submitted by both the parties and find that appeal against the rejection of the claim is time barred by virtue of section 238A read with Section 42 of IBC, 2016 and the delay in filing the appeal is approximately 2 years as against a time period of 14 days allowed as per IBC. Further, part of the claim pertaining to CIRP period already stands extinguished and satisfied.

In view of CIRP being a time bound process, we cannot accept such inordinate delay as if such delays are allowed, it can derail the whole process of CIRP. Further, the Acquisition Plan is already approved in this case. Hence, **we dismiss both these IAs**, however without any cost.

Sd/-

MEMBER (T)

Sd/-

MEMBER (J)