

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH – 1  
VC AND PHYSICAL (HYBRID) MODE  
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON  
10-05-2024 AT 10:30 AM**

**CP(IB) No. 17/9/HDB/2020  
AND  
IA(IBC) 85/2024 & IA (IBC) No: 999/2024 in IA (IBC) 85/2024 in IA (IBC) 57/2023 in  
CP(IB) No. 17/9/HDB/2020  
u/s. 9 of IBC, 2016**

**IN THE MATTER OF:**

Thirumala Logistics Pvt Ltd

**...Operational Creditor**

**AND**

Sathavahana Ispat 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(IBC) 85/2024**

Orders pronounced. In the result, **this application is dismissed. No costs.**

**IA (IBC) No: 999/2024 in IA (IBC) 85/2024 in IA (IBC) 57/2023**

In the light of the orders passed in IA No 85/2024, this application becomes infructuous.

Accordingly, **this application is disposed of as infructuous.**

**Sd/-**

**MEMBER (T)**

**Sd/-**

**MEMBER (J)**

IA (IBC) No. 85 of 2024  
IN IA (IBC) No. 57 of 2023  
IN  
CP (IB) No.17/9/HDB/2020

D.O.O:10.05.2024

IN THE HON'BLE NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD

IA (IBC) No. 85 of 2024  
IN  
IA (IBC) No. 57 of 2023  
IN  
CP (IB) No.17/9/HDB/2020

Between:

Kommineni Venkata Krishan Rao

R/o: Al, Lalitha Avenue, H No 3-6-674, Street No 10,  
Himayatnagar, Hyderabad-500 029

...Applicant

**Versus**

Bhuvan Madan (RP of M/s. Sathavahana Ispat Limited)

R/o: Flat No 505, 5<sup>th</sup> Floor, Block -1,

Divyashakthi Complex, Ameerpet, Hyderabad — 500 016.

... Respondent / Resolution Professional

**Date of Order : 10.05.2024**

**Corum:**

Dr. Venkata Ramakrishna Badarinath Nandula, Hon'ble Member (Judicial)

Shri Charan Singh, Hon'ble Member (Technical)

D.O.O:10.05.2024

**Appearance:**

**For applicant:** Mr.V.Venkata Rami Reddy, Counsel

**PER BENCH**

**ORDER**

This Application is filed under section 60(5) of Insolvency and Bankruptcy Code, 2016 r/w 11 of the NCLT Rules,2016 by an ex-employee of the Corporate Debtor, seeking the following directions as against the Respondent herein;

- i. To comply with the order dated 07.07.2023 of the Hon'ble Appellate Tribunal in the Appeal filed by the Appellant/ Applicant herein bearing CA (AT) (CH) (Ins) 181 of 2023,
- ii. And to pass such further orders as this Hon'ble Tribunal may deem fit in the interests of justice and equity.

1. The application averments are;

That the Applicant was employed with the Corporate Debtor as General Manager — Finance since 01.01.1997 and on 30.05.2018, the Nomination and Remuneration Committee ("**NRC**") of Sathavahana Ispat Limited ("**Corporate Debtor**") recommended to the Board of Directors ("**BoD**") that a superannuation benefit of Rs 1.85 crores be declared in favor of the Applicant for his services of 20 years and the same is irrevocably sanctioned by the BOD.

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2. It is averred that Applicant held two key positions as the Chief Financial Officer and the Company Secretary and relieved from service due to his age and health ailments.
3. It is averred that at the 18<sup>th</sup> meeting of the NRC, held on 12.11.2018, recommended that the "superannuation benefit" given to the Applicant at the meeting held on 30.05.2018 be modified to read "ex gratia benefit".
4. It is averred that Applicant was relieved from this employment by a relieving certificate dated 30.11.2018 and despite several reminders, the Applicant was not paid, inter alia, his salary for the month of the November 2018, leave encashment, gratuity, and the superannuation/ ex gratia benefit which was given in his favor by the Board of Directors.
5. It is averred that applicant issued a demand notice on 11.09.2020 to the Corporate Debtor under the provisions of the IBC for his claim of Rs 2,22,61,283/- along with interest Rs 95,29,049/- and the Corporate Debtor responded on 19.09.2020 denying the liability and falsely claiming that the resolution passed at the Meeting of the BoD held on 30.05.2018 was revoked by a subsequent resolution passed at the Meeting of the BoD held on 12.11.2018. Thus, the Applicant herein was constrained to file CP(IB) No 387/9/HDB/2020 against the Corporate Debtor before the Ld. Adjudicating Authority("NCLT") seeking for the payments due to the Applicant herein.
6. It is averred that CIRP was initiated qua the Corporate Debtor vide an order dated 28.07.2021 in an Application bearing CP(IB) No 17/9/HDB/2020,

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preferred by M/s Thirumala Logistics, hence on 06.08.2021, the Application filed by the Applicant herein came to be disposed of with a direction to the Applicant to approach the then IRP, Respondent herein for filing its claim against the Corporate Debtor.

7. It is averred that Applicant submitted his claim by filing his Form for a sum of Rs. 3,17,90,332/- on 11.08.2021 but only Rs 22,57,105/- was admitted by the Respondent while the remainder of Rs 2,95,33,227/- had been rejected without any reasons.
8. It is averred that the Application bearing IA No 57 of 2023 filed by Applicant prayed that the decision of the RP be set aside, which came to be dismissed on 16.01.2023 vide the impugned order which also imposed a cost of Rs 25,000 /- on the Applicant herein and was challenged in the Appeal bearing CA (AT) (CH) (Ins) 181 of 2023.
9. It is averred that the Hon'ble Appellate Authority, vide order dated 07.07.2023 in CA (AT) (CH) (Ins) 181 of 2023 had set aside the impugned order as well cost imposed by this Ld. Adjudicating Authority and directed the Applicant herein to approach the Respondent herein and present his case with relevant documents as regards the admission of his claim within 1 week of the order and the same have been complied and addressed an email to the Respondent herein on 12.07.2023.
10. It is averred that Respondent replied via email dated 15.07.2023, stating that the Applicant had brought forth a fresh claim and that the same could not be

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entertained whereas, the Applicant had issued a new form to bring on record the proceeding before the Hon'ble Appellate Tribunal and the claim amount remains the same as before and relied on his email dated 20.09.2022 which was rejected by Respondent without adducing reasons.

11. It is averred that the Respondent in his email stated that since the Resolution Plan had been approved, he was not in a position to entertain the Applicants claim. Further averred that it is the duty of the Respondent as a Resolution Professional, to prepare the information memorandum as per Section 29 of the Insolvency and Bankruptcy Code, 2016 along with Regulation 36 of the CIRP Regulations and all relevant details as regards claims as received in response to the public notice are to be included in it which the Resolution professional failed.
12. It is averred that the Applicant had mentioned that the claim of Rs 17,32,777/- was in pursuance of earned leave and Rs 18,50,538/- arose towards the Gratuity and Rs.1,77,968/- towards unpaid salary for the month of November, 2018 under the Retirement Benefit Obligations. No question arises as regards any agreement towards chargeability of interest since it is in line with principles of natural justice. An amount of Rs.95,29,049/- on account of interest for non-payment of terminal dues of Rs.2,21,61,283/- for a period of 651 days from 30.11.2018 to 11.09.2020 the date on which the Applicant herein preferred his claim before the Hon'ble NCLT, Hyderabad.
13. It is averred that the Respondent herein replied vide email dated 24.07.2023, whereby he now came to agree now that the claim form submitted on

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12.07.2023 is not a fresh claim, however, since there was no judicial order that entitled the Applicant to his claim amount, the same could not be entertained by the Respondent. In fact, the Hon'ble Appellate Authority vide 07.07.2023 order, had held that the claim ought to be entertained in light of the evidences submitted by the Applicant herein.

14. We have gone through the entire record and have also heard learned counsels for both the parties.

15. This is an application filed by an employee of the Corporate Debtor for admitting his claim of Rs. 3,17,90,332/-. The claim for the same amount was filed before the RP earlier but Resolution Professional admitted only Rs. 22,57,105/-. Against this order of RP, admitting claim in part, applicant filed an IA 483/2022 which was dismissed by this tribunal vide order dt:29/07/2022. The applicant aggrieved with this order again filed an IA 57/2023 to set-aside order in IA no. 483/2022. This IA too was dismissed on 16.01.2023 by this Adjudicating authority with a cost of Rs.25,000/-.

16. The applicant approached NCLAT against the order passed in IA 57/2023 and the Hon'ble NCLAT on 07.07.2023 set aside the order on cost and directed applicant to present his case before RP within a week.

17. The Resolution plan was already approved on 31.03.2023, even before the order dated 07.07.2023 of Hon'ble NCLAT but this fact nowhere was recorded in the NCLAT order.

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18. As per order of Hon'ble NCLAT the applicant again resubmitted his claim to RP within a week and resolution professional again rejected the claim on merits as well as on the plea that Resolution Plan is already approved and no claim can be accepted at this stage.

19. The applicant filed this IA 85/2024 against the Resolution Professionals decision rejecting his claim.

20. We have carefully perused the order of Hon'ble NCLAT and relevant portion of the order is reproduced hereunder

“To prevent the aberration of 'Justice and having regard to the fact that vide one of the reliefs sought for in LA No. 57 of 2023, the Applicant/Appellant had challenged the Order dated 20/09/2022, this 'Tribunal' is of the earnest view that the Cost imposed may be set aside. Without delving deep into the merits of the matter, a last and final opportunity be given to the Appellant herein to present his case before the Resolution Professional along with all relevant documentary evidence within a week from the date of pronouncement of this Order. Needless to add, the said decision is to be taken in a dispassionate manner, uninfluenced by any observations made in this Appeal. At the cost of repetition, this is the last opportunity being given to the 'Appellant' herein and it is made clear that no further 'Applications' / 'Memos' filed by the Applicant/Appellant herein would be entertained by the 'Adjudicating Authority.’”

21. Thus, from the order above it very much clear that a last opportunity was given to the applicant to present his case before RP and the applicant was not given any opportunity to approach adjudicating authority on the decision of RP. The order of Hon'ble NCLAT says in very clear terms “....no further 'Applications' / 'Memos' filed by the Applicant/Appellant herein would be entertained by the 'Adjudicating Authority.’”



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22. Therefore in the light of our discussion as above, and in view of the fact that the Resolution plan has already been approved, we hereby dismiss this application.

23. In the result, Application IA No.85 of 2024 is hereby dismissed however, without costs.

**Sd/-**  
Charan Singh  
Member (Technical)

**Sd/-**  
Dr.Venkata Ramakrishna Badarinath Nandula  
Member (Judicial)

*Chennu Bhargavi/pavani*