

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI
COURT-IV
Company Appeal 01/ND/2022
in
C.P. (IB) 2690/ND/2019

Under Section 42 of The Insolvency & Bankruptcy Code, 2016

IN THE MATTER OF:

M/s Ganpati Construction Company
Through its proprietor – Mr. Satish Chand

...Appellant

Versus

Mr. Aishwarya Mohan Gahrana
Liquidator of VGA Developers Private Limited

...Respondent

AND IN THE MAIN MATTER OF:

Syndicate Steel Traders

...Operational Creditor

Versus

VGA Developers Private Limited

...Corporate Debtor

CORAM:

SHRI MANNI SANKARIAH SHANMUGA SUNDARAM
HON'BLE MEMBER (JUDICIAL)

SHRI ATUL CHATURVEDI
HON'BLE MEMBER (TECHNICAL)

Order delivered on: 01.06.2026

PRESENT:

For the Appellant: Mr. Ashish Mishra, FCS & Mr. Tapas Gaur, Advocates

For the Liquidator: Mr. Ahsan Ahmad, Mr. Rachit Ranjan, Mr. Aayush
Kumar, Mr. Akshat Gautam, Advocates along with Mr.
Aishwarya Mohan Gahrana, Liquidator

ORDER

PER: MANNI SANKARIAH SHANMUGA SUNDARAM, MEMBER (JUDICIAL)

1. The present Company Appeal 01/ND/2022 in C.P. (IB) No. 2690/ND/2019 has been filed on 06.01.2022 under Section 42 of the Insolvency and Bankruptcy Code, 2016 by M/s Ganpati Construction Company through its proprietor – Mr. Satish Chand (“Appellant”) against Mr. Aishwarya Mohan Gahrana, the Liquidator of VGA Developers Private Limited (“Corporate Debtor”) against the rejection of the claim of Rs.49,45,995.09/- by the Liquidator dated 01.01.2022 filed by the Operational Creditor.

2. The Appellant has made the following prayers in this appeal:

- “a) Allow the Appeal and condone the delay of 90 days in the filing the claim with the liquidator;*
- (b) Direct the respondent to admit the claim of the Appellant for the INR 4,945,995.09/-;*
- (c) Any other relief, order or direction, which this Adjudicating Authority may deem just and proper in the facts and circumstances of the case may also be passed in favour of the Appellant.”*

3. Contentions of the Appellant

Brief facts of the case and contentions of the Appellant as mentioned in the instant appeal are as follows:

- i. The present appeal is filed challenging the order of rejection of the Claim of the Appellant by the Respondent/Liquidator advising the Appellant to approach the NCLT, New Delhi

Bench for condonation of delay in filing claim vide its Email communication/order dated 01.01.2022.

- ii. Appellant is an Operational Creditor within the Provision of Section 5(20) of IBC and was supplying aggregate and coarse sand at Jaypee Sports City, NOIDA, Uttar Pradesh prior to the initiation of Corporate Insolvency Resolution Process of the Corporate Debtor and the Last payment was received on 05.06.2018.
- iii. The appellant states that it was not aware about initiation of the CIR Process of Corporate Debtor hence did not file the claim under Corporate Insolvency Resolution Process and being a layman it was also not aware the Liquidation order even after expiry of last date of filing claim in Liquidation.
- iv. Once the appellant visited the Project site, the guards informed him about the NCLT hearing and Liquidation Process of Corporate Debtor. Therefore, the appellant discussed about the Commencement of Liquidation Process of Corporate Debtor with his counsel.
- v. The Appellant herein expeditiously filed the claim of INR 4,945,995.09/- on 30.12.2021 before the Respondent through E-mail.

- vi. After submission of the claim on 30.12.2021, the Appellant herein received an Email from the Liquidator on 01.01.2022 wherein the respondent rejected the claim by stating that *“the last date of filing of claims under liquidation process was 01.10.2021. Please seek condonation of delay in filing the claim from the Hon'ble National Company Law Tribunal, Court - IV, New Delhi and the Liquidator has no power to condone the delay”*. Therefore, the Appellant is constrained to file the present appeal to condone the delay of 90 days.

4. Contentions of the Respondent

The averments of the Respondent as contained in the reply on behalf of the Respondent Liquidator are as follows:

- i. The Respondent received the order of liquidation on 07.09.2021 and duly made public announcement on 09.09.2021 inviting all the claimant/ stakeholders to submit their claim or update their claims submitted during the CIRP and the last date of the submission of the claim was 30 days from the date of Order i.e 01.10.2021.
- ii. The Appellant failed to duly abide and respect the timeline of the Liquidation Process and failed to submit its claim before the Liquidator on or before the last date of filing of claim i.e. 01.10.2021. The appellant has filed the claim in Form C on

30.12.2021 which is 90 days from the last date of submission of claim.

- iii. Thus, as the Appellant has failed to submit the claim as per the provision of Regulation 12(2) of the IBBI Liquidation Process Regulation, 2016, the Liquidator is duty bound to reject the claim, as such an explanation was also provided to the appellant for the rejection of the claim vide email dated 01.01.2022 by the Liquidator.
- iv. The Liquidator while rejecting the time barred claim informed the appellant about the reasons pertaining to rejection of claim and also advised the appellant to seek direction from the Hon'ble Adjudicating Authority for the submission of the claim and seek condonation under section 42 of IBC.

5. We have gone through the documents on record filed by the Parties as well as heard the arguments advanced by counsels of the Appellant and the Respondents.

6. This Adjudicating Authority deem it fit and proper to condone the delay of 90 days as prayed by the Appellant in filing of the claim to ensure a fair opportunity to all the stakeholders of the Corporate Debtor. Accordingly, this application is allowed to the extent of condoning the delay with respect to filing of the claim before the Liquidator.

7. Further, the Liquidator is directed to consider the claim of the Appellant based on merits of the case and proceed further in accordance with the provisions of the Code and the Regulations made thereunder within a period of 30 days from passing of this order.

8. Accordingly, the **Company Appeal No. 01/ND/2022 in C.P. (IB) 2690/ND/2019** stands **allowed** and disposed of.

Sd/-

(ATUL CHATURVEDI)

MEMBER (TECHNICAL)

Sd/-

(MANNI SANKARIAH SHANMUGA SUNDARAM)

MEMBER (JUDICIAL)