IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI
COURT-IV

I.A. 1558/ND/2021
in
C.P. (IB) 2552/ND/2019

Under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the National Company Law Tribunal Rules, 2016

IN THE MATTER OF:

M/s Nivedan Fin-Invest Lease Ltd.

...Applicant

Versus

CA Vineet Aggarwal
Resolution Professional for JBK Developers Pvt. Ltd.

...Respondent

AND IN THE MAIN MATTER OF:

Creative Infraheights Pvt. Ltd.

... Operational Creditor

Versus

JBK Developers Pvt. Ltd

...Corporate Debtor

CORAM:

SHRI MAHENDRA KHANDELWAL
HON'BLE MEMBER (JUDICIAL)

SHRI ATUL CHATURVEDI
HON'BLE MEMBER (TECHNICAL)

Order delivered on: 08.09.2026

PRESENT:

For the Applicant: Mr. Pankaj Agarwal, Mr. Shashwat Srivastava, Advocates

For the Respondent: Mr. Harish Taneja, Mr. Aakash Bhatt, Advocates

ORDER

PER: MAHENDRA KHANDELWAL, MEMBER (JUDICIAL)

1. The present Interlocutory Application I.A. 1558/ND/2021 in C.P. (IB) No. 2552/ND/2019 has been filed on 30.03.2021 under section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the NCLT Rules, 2016 by Nivedan Fin-Invest Lease Limited ("Applicant") against CA Vineet Aggarwal, Resolution Professional for JBK Developers Private Limited ("Corporate Debtor") against the rejection of claim of applicant by the Resolution Professional ("RP").

2. The Applicant has made the following prayers in this application:

"(a) Allow the present Application and condone the delay in filing the claim by Applicant before Respondent / Resolution Professional.
(b) Issue appropriate directions to the Resolution Professional / Respondent to admit the claim of the Applicant, and modify the constitution of COC accordingly.
(c) In the meantime during the pendency of the adjudication of the present application, direct the Resolution Professional / Respondent not to hold and convene any meeting of Committee of Creditors.
(d) Pass any other or further order of any nature, direction as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the present case."

3. **Contentions of the Applicant**

Brief facts of the case and contentions of the Applicant as mentioned in the instant application are as follows:

i. The present application has been filed through the Director and Authorized Representative of the Applicant company – Mr. Shrey Gupta. Applicant company is a Non-Banking Financial Company ("NBFC").

ii. The Corporate Debtor was developing a project of private residences branded as "GREEN AVENUE". The Corporate Debtor approached the applicant for seeking a loan facility for construction and development of the said project.

iii. The Applicant and Corporate Debtor entered into a loan agreement dated 27.03.2015, whereby the applicant agreed to provide the loan facility to corporate debtor. The Corporate Debtor issued the Loan Bond dated 27.03.2015, in favour of the Applicant and the directors of Corporate Debtor executed the Guarantee Agreement dated 27.03.2015 with the Applicant.

iv. Further, the Corporate Debtor executed and issued the Irrevocable Power of Attorney dated 27.03.2015 in favor of Applicant. The applicant paid and transferred all the funds to the bank account of Corporate Debtor.

v. The Corporate Debtor had also given/mortgaged 42 units in favor of Applicant as security and issued the receipt dated 30.03.2015 detailing the unit nos. given/mortgaged to the

Applicant. The Corporate Debtor repaid several instalments to the Applicant and a total sum of Rs. 5,90,25,000/- (Rupees Five Crores Ninety Lakhs Twenty-Five Thousand Only) has been repaid by Corporate Debtor to Applicant, subsequently the Corporate Debtor defaulted the Payments.

vi. Pursuant to public announcement made by the IRP/RP, the Applicant, in the capacity of a Financial Creditor, had filed its claim against the Corporate Debtor dated 25.01.2021 in FORM-C for an amount of Rs. 1,38,04,61,745/- (Rupees One Hundred Thirty-Eight Crores Four Lakhs Sixty-One Thousand Seven Hundred Forty-Five Only).

vii. On 10.03.2021 the RP wrote an email to Applicant rejecting their claim, stating it to be a delayed claim. The RP in its email dated 10.03.2021 sent to Applicant stated that:

> *"In view of the late receipt of the claim i.e. after submission of the addendum to the Information memorandum and submission of the resolution plan, we are unable to entertain your claim at this stage."*

viii. The Resolution Professional whilst rejecting the claim of the Applicant ignored the fact that Corporate Debtor has mortgaged 42 units in favor of Applicant in the same project for which this said loan facility was availed and failed to

appreciate the fact that in the Agreement dated 27.03.2015 it was assured by the Corporate Debtor to the Applicant that the said units are free from all charges and encumbrances.

ix. The Applicant submits that it is the duty of the IRP/RP to collate all the claims filed before him and to verify the same, and nowhere the Code provides that the IPR/RP has any power to reject the claim filed by the Claimant/Applicant.

x. The Applicant has relied on Swiss Ribbons Pvt. Ltd & Ors. vs. Union of India & Ors. AIR 2019 SC 739 stating that it is evidently clear that the Resolution Professional has only administrative power and has no power to adjudicate the claim filed by the Applicant.

"58. It is clear from a reading of the Code as well as the Regulations that the resolution professional has no adjudicatory powers.

59. Under the CIRP Regulations, the resolution professional has to vet and verify claims made, and ultimately, determine the amount of each claim.

It is clear from a reading of these Regulations that the resolution professional is given administrative as opposed to quasi-judicial powers. In fact, even when the resolution professional is to make a determination under Regulation 35A, he is only to apply to the Adjudicating Authority for appropriate relief.

61. Unlike the liquidator, the resolution professional cannot act in a number of matters without the approval of the committee of creditors under Section 28 of the Code, which can, by a two-thirds majority, replace one resolution professional with another, in case they are unhappy with his performance.

Thus, the resolution professional is really a facilitator of the resolution process, whose administrative functions are overseen by the committee of creditors and by the Adjudicating Authority."

4. **Contentions of the Respondent**

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

i. The Respondent submits that the applicant has not presented the complete facts and circumstances of the case and that has led to rejection of his claim on the ground of delay.

ii. The Application for CIRP was admitted by Adjudicating Authority on 17.08.2020 and on 23.12.2020, the Form G was published in newspapers namely Financial Express (English) and Jansatta (Hindi) inviting Expression of Interest (EOI) from interested and eligible Prospective Resolution Applicants ("PRA") to submit Resolution Plans. The last date of receipt of EOI was notified as 07.01.2021 and last date of submission of Resolution Plans was 13.02.2021.

iii. On 14.01.2021, Information Memorandum (IM) was prepared by the respondent with all the information and documents available with him and based on the all claims received by him from all the creditors and shared with the

resolution applicants along with Evaluation Matrix for Resolution Plans and Request for Resolution Plan.

iv. The 180 days' time of CIRP was going to expire on 13.02.2021, the date on which the resolution applicants were supposed to submit their resolution plans and therefore approval to extend the CIRP by 90 days was sought from COC. On 11.02.2021, an application was filed before this Adjudicating Authority seeking extension of CIRP by 90 days beyond 180 days which was granted vide order dated 22.02.2021.

v. Even after submission of claims with the Information Memorandum ("IM"), the RP received numerous calls inquiring about submission of claims. The RP verified and collated new claims so that no homebuyers suffer any financial loss.

vi. On 09.02.2021, the respondent prepared an addendum to IM with all the claims received till 08.02.2021 i.e. adding all the new claims received after sharing of IM on 14.01.2021.

vii. On 12.02.2021, a request was received from one of the Resolution Applicants seeking an extension of 10 days for submission of the Resolution Plan. The Resolution agenda for Approval of Extension of time for Submission of the

Resolution Plan was passed by the CoC with absolute majority and the last date for submission of the resolution plan was extended to 23.02.2021.

viii. RP was unable to admit the claim of the applicant in view of the email dated 02.02.2021 because of the following reasons:

a) The email was just an intimation of the claim and not the actual claim and not actual submission.

b) By that email, the applicant only informed the RP that they had lent secured loans of Rs. 10 crores to CD.

c) The claim was not filed in proper format (FORM C) by the applicant.

d) No documents in support of the loans given to Corporate Debtor was attached with the email on which the RP could rely and admit the claim.

ix. Thereafter the claim of the applicant in the FORM-C dated 25.01.2021 along with other documents was received by the respondent on 19.02.2021 via email. Upon checking the FORM-C, the respondent found that the total amount claimed by the applicant is almost 14 times the amount informed via email dated 02.02.2021. That with the FORM-C, the applicant submitted a claim of Rs. 1,38,04,61,745/-

with the respondent. It is also submitted that the applicant was aware of the total claim amount when the intimation was sent to the respondent over email on 02.02.2021 despite the fact, the applicant did not claim the actual amount and claimed only the principal amount.

x. By the time claim in proper format was submitted before the respondent, the respondent had already collated all the claims received till 08.02.2021 and shared with the RAs as an addendum. The resolution applicants were already in the process of preparation of the resolution plans based on the details of claims provided to them in the IM and in the addendum to IM.

xi. Two Resolution Plans which were compliant with the provisions of IBC, out of total 3 plans received by the RP, were shared with the CoC members for consideration and after a series of discussion and negotiation, the CoC on 11.04.2021 approved and passed one resolution plan with overwhelming majority of 85% of total voting.

xii. It is submitted that as per Section 15(1)(C) of IBC, 2016 and Resolution Regulations, Regulation 6(2)(C) of IBBI (Insolvency Process for Corporate Persons) 2016, the Creditors are required to submit their claims within 14 days

from the date of appointment of Interim Resolution Professional. In the present case, the due date of submission as per FORM-A was 02.09.2020. Further, as per regulation 12(2) IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the Creditors who fails to submit the claims with proof within 14 days can submit their claims within 90 days from the Insolvency Commencement date, which was not complied with and there is delay of about 94 days in the present case.

xiii. On 28.04.2021, the Adjudicating Authority had directed the RP to bring clarity about admission of the claim after verifying the documents submitted with it. In compliance with the direction of this Bench dated 28.04.2021, the respondent verified the claim and is of the opinion that a claim of the applicant to the tune of Rs. 2.0306 crores only is partly admissible for the following reasons:

a) In the Balance Sheet of 2019-2020, showing balances on 31.03.2020 and signed on 25.12.2020, the applicant has shown the loan advanced to the Corporate Debtor as only Rs. 2.0306 crores.

b) As the books and balance sheet of Corporate Debtor are unavailable, the balance outstanding in the books

of applicant has been relied upon for verification of claim, which are audited and also signed by the applicant. However as against amount of Rs 2.0306 crores outstanding in the books of claimant itself it has filed a claim of Rs.138.05 Crores which besides being absurd shows the intention of the applicant to corner a substantial voting power of CoC and derail the CIRP.

c) Insolvency proceeding commenced on 17.08.2020, and the provisions for bad debt/ NPA was made in the ledger much earlier in the year ending 31.03.2020.

xiv. The RP submits that the Loan Agreement in question was executed on 27.03.2015. However, it is pertinent to note that the Applicant filed its claim in Form C dated 25.01.2021, i.e., nearly six years after the date of the loan agreement. In the absence of any acknowledgment of debt under Section 18 of the Limitation Act, 1963, or any payment made towards the said debt within the prescribed limitation period, the claim is ex-facie barred by limitation. The right to initiate recovery proceedings or to assert the said claim had become time-barred well before the commencement of the Corporate Insolvency Resolution Process.

5. This Adjudicating Authority vide order dated 01.07.2026 recorded that no averment regarding sufficient cause of delay is explained by the applicant and therefore directed the Applicant to file an affidavit explaining the reasons for delay in filing the claim.

6. The Applicant filed an affidavit stating the following reasons for delay in filing claim:

i. Extraordinary and unprecedented circumstances arising due to the COVID-19 pandemic, which had severely disrupted normal commercial activities and office functioning throughout the country due to stringent lockdowns, containment measures, travel restrictions and health protocols imposed by the government.

ii. The entire period during which the claim ought to have been filed, namely from 02.09.2020 till 22.03.2021, falls within the COVID-19 pandemic period. During this period, access to the Applicant's office premises, books of accounts, financial records, loan documents and other supporting documents was substantially restricted.

iii. The claim involved reconciliation and verification of substantial financial transactions involving voluminous records and documents. This process could not be completed within stipulated timeline due to disruptions because of the pandemic.

iv. The Applicant has relied on ***In Ref. Cognizance for Extension of Limitation, Suo Motu Writ Petition (Civil) No. 3 of 2020*** to

reiterate that the Hon'ble Supreme Court has recognized the extraordinary hardship faced by litigants throughout the country due to the pandemic. The Applicant has also relied on ***Essar Steel India Limited vs. Satish Kumar Gupta & Ors., (2020) 8 SCC 531***, to assert that one of the primary objectives of the Insolvency and Bankruptcy Code is maximization of the value of assets and equitable treatment of all stakeholders.

FINDINGS AND ANALYSIS

7. We have gone through the documents on record filed by the Parties as well as heard the arguments advanced by counsels of the Applicant and the Respondent.

8. On perusal of the records it is clear that last date of filing claim as per Public Announcement in Form A was 02.09.2020. The Applicant filed claim with the IRP/RP only on 19.02.2021. The Applicant in the prayer has sought for condonation of delay in filing the claim and for it be recognised as a Financial Creditor.

9. It is admitted that the Resolution Plan was approved by the members of the CoC by 85% votes in its COC meeting held on 11.04.2021 (after filing claim by the Applicant) and an application for approval of resolution plan is pending before this Adjudicating Authority.

10. The RP rejected the claim vide email dated 10.03.2021 primarily on the ground of delay.

11. As per the reply by the RP, an amount of Rs. 2.0306 Crores is reflecting in the balance sheet of the Applicant for the year 2019-2020. However, the RP has raised an issue of limitation.

12. As regards the question of delay, the reasons furnished by the Applicant are particularly the difficulties occasioned on account of the COVID-19 pandemic and the consequent disruption in access to records and documents. There appears to be a justifiable ground for delay in filing the claim. Moreover, the Applicant had submitted its claim in Form-C on 19.02.2021, whereas the resolution plan was approved by the Committee of Creditors only on 11.04.2021 i.e. the claim was submitted before the approval of plan by the COC.

13. This Adjudicating Authority has dealt with similar applications previously and passed the following order dated 11.09.2025:

ORDER

IA/3467/ND/2025 IA/2429/ND/2024 & IA/2716/ND/2024

This Tribunal vide order dated 12.06.2024 had condoned the delay in filing the application on a similar matter and had directed the RP to consider claims based on the merits of each case and proceed further in accordance with the CIRP. In a Company Appeal No. 1381/2024 filed against this order before the Hon'ble NCLAT, the Appellate Authority vide order dated 25.07.2024 has directed as follows:

"This is an application praying for impleadment of 206 claimants as necessary party to the appeal. Application is allowed.

Let amended memo of parties be filed within three days.

Issue Notice.

Let Reply-Affidavit be filed within two weeks and Rejoinder, if any, may be filed within two weeks, thereafter.

In the meantime, it shall be open for the Resolution Professional to verify the claim of the respondent homebuyers which shall be abide with the result of the appeal."

Reply filed by the Resolution Professional is on board.

In view of above direction on Hon'ble NCLAT, RP is also directed to verify the claim of above application as well which will also be admitted subject to direction passed in above mentioned Company Appeal pending before the Hon'ble NCLAT.

14. Accordingly, as per the above stated reasons, the delay in filing the claim before the Resolution Professional is hereby **condoned.** However, it will be subject to the outcome and directions in the above stated Company Appeal by the Hon'ble NCLAT.

15. It is made clear that we have not expressed any decision on the merit of the claim. In the meantime, the RP may examine the claim and take appropriate decision in accordance with law.

16. Accordingly, the **I.A. No. 1558/ND/2021 in C.P. (IB) 2552/ND/2019** stands **disposed of.**

Sd/-

(ATUL CHATURVEDI)

MEMBER (TECHNICAL)

Sd/-

(MAHENDRA KHANDELWAL)

MEMBER (JUDICIAL)