
(2022) 03 NCLT CK 0054

National Company Law Tribunal, Chandigarh Bench

Case No: I.A No.17/2021 In CP (IB) No.122/Chd/HP/2019

Central Bank of India

APPELLANT

Vs

Luni Power Company
Pvt. Ltd

RESPONDENT

Date of Decision: March 21, 2022

Acts Referred:

- Insolvency & Bankruptcy Code, 2016 - Section 7, 12, 24(3)(c), 31, 60(5)
- National Company Law Tribunal Rules, 2016 - Rule 11
- Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 - Regulation 7(1), 12(2), 13, 14, 40A

Hon'ble Judges: Harnam Singh Thakur, Member J; Subrata Kumar Dash, Member, T

Bench: Division Bench

Advocate: Raghav Kakkar, Balwinder S Kalsi, Sidhhanth Makkar

Final Decision: Dismissed

Judgement

DATE,DESCRIPTION

March 20,

2020", "Applicant", submits, claims, before, the, Resolution, Professional (Page No. 183

of the Application).

Mode, of, communication, by, an, Email, dated, March, 20, 2020 (Page No. 184 of the Application)

Proof of registered post receipt dated March 21, 2020 (Page No. 185 of the Application).

July 9,

2020- July

23, 2020", "Applicant, sends, multiple, reminders, to the Respondent (Page No. 186 of the

Application).

Proof of registered post receipt dated July 9, 2020 (Page No. 185 of the Application).

Proof, of, delivery, stated, in, the, tracking, report, is, July, 16, 2020

(Page No. 187 of the Application).

August 10,

2020", "This, Hon'ble, Tribunal, removed, the, erstwhile, Resolution

Professional on account of arrest by CBI (Page No. 191 of the Application) and allowed the

Application bearing I.A. 271 of 2020 (Page No. 189-193 of the Application).

October 27,

2020", "Email, dated, October, 27, 2020, Applicant, sends, another

reminder to the Respondent. (Page No. 194 of the Application). Proof, of, registered,

post, receipt, dated, October, 28, 2020 (Page No. 196 of the Application).

Proof, of, delivery, stated, in, the, tracking, report, is, November, 4, 2020

(Page No. 195 of the Application).

November 13, 2020", "Respondent for the first time replied to the Applicant stating the Resolution plans are to

be submitted by 17.11.2020, accordingly sought relevant documents supporting the claim.

(Page No. 197 of the Application).

November 16, 2020", "The Applicant, submitted, all, the, relevant, documents, vide Email dated

November 16, 2020. Attaching the google link, as the files being voluminous in nature. (Page No. 198 of the Application).

November 20, 2020", Respondent, rejects, the, claim, of, the, Respondent, to, be, time barred.

December 11, 2020", This Hon'ble Tribunal extends the time line of CIRP process for another 90 days.

January 1,

2021", The Applicant files an application before this Hon'ble Tribunal.

January 25,

2021", "This Hon'ble Tribunal, recording, the, prayers, of, the, Applicant

issues notice to the Respondent.

Date, Event

23-12-2019, Initiation of CIRP

26-12-2019, Public Announcement in Form A calling for claims from creditors.

05-01-2020, "Last day to submit claims as per the public announcement.

No claim received from the applicant.

25-03-2020, "Last day to submit claims as per the regulation 12(2) of CIRP regulations.

No claim as stipulated under Law received from the applicant.

17-10-2020, "Issue of Information Memorandum having the list of creditors to the Resolution applicant.

17-11-2020, "Resolution application submits the resolution plan to be put to CoC for its approval.

18-11-2020, "Claim in accordance to Regulation 7(1) submitted by the applicant vide email.

Kindly refer to Annexure C (Page No.19) of Affidavit in Opposition.

of 330 days, in that event the corporate debtor would be compelled to go for liquidation.",

22. Further, if this application is allowed, then, there is every likelihood that the Resolution Applicants may withdraw their plan, as it will be a burden",

with other huge claims of the creditors, which they might have not planned earlier, while working out the resolution plan based on the Information",

Memorandum. Thus, under such situation, the corporate debtor may be pushed for liquidation.",

23. The Hon'ble Supreme Court in the matter of Arcelor Mittal India Private Limited Vs. Satish Kumar Gupta & Ors. (2019)2SCC,1",

unequivocally held that the entire time period within which the CIRP ought to be completed is strictly mandatory in nature and cannot be extended. It,

relied on the primary objective of the Code, which is to ensure a timely resolution process for the CD and principles of statutory interpretation to hold",

that the literal language of Section 12 mandates strict adherence to the time frame it lays down. To enable this adherence to the outer time limit,

provided in the Code, the Code also held that the model timeline provided in Regulation 40A of the CIRP Regulations should be followed "as",

closely as possible",

24. Keeping in view the objective of the I&B Code, 2016, which is meant for resolution of the corporate debtor in time bound manner to maximize",

value, if such request of applicant is accepted the purpose of I&B Code, 2016 would be defeated.",

25. In the light of the discussion foregoing, we do not find any merit in the application. Accordingly, IA No. 17/2021 stands dismissed.",