

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**AT CHENNAI**  
**(APPELLATE JURISDICTION)**  
**Company Appeal (AT) (CH) (Ins) No.86/2025**  
**(IA Nos. 246 & 282/2025)**

**In the matter of:**

**GK ISPAT PRIVATE LIMITED**

Registered Office:

2, NC Dutta Sarani

Kolkata – 700 001, West Bengal

Branch Office:

No 44, Brigade Business Suites

5th Floor, T Mariyappa Road, 2<sup>nd</sup> Block

Jayanagar, Bangalore – 560 011

Represented by:

Rohan Agarwal, Director and Authorised Signatory

... APPELLANT

**V**

**PANKAJ SRIVASTAVA**

Resolution Professional, Katerra India Pvt Ltd

No 5, 5th Cross, Navya Nagar

Jakkur, Bengaluru – 560 064

...RESPONDENT

**Present :**

For Appellant : Mr. Pranav Gopalakrishnan, Advocate

For Respondent : Mr. R. Kiran & Mr. Bibhas V. Kittur, Advocates

**JUDGMENT**

**(Hybrid Mode)**

**[Per: Justice Sharad Kumar Sharma, Member (Judicial)]**

By virtue of the instant company appeal, the Appellant, who happens to be the Operational Creditor of the Corporate Debtor, M/s. Katerra India Private Limited, expresses his anguish, being aggrieved against the impugned order dated 03.12.2024 that, has been rendered by the Ld. NCLT, Bengaluru Bench, while collectively adjudicating upon number of interlocutory applications including the application, being **IA No 750/2024** that was preferred in CP(IB)

No 74/BB/2023. The instant company appeal would be confined to the issue of adjudication, pertaining to the determination of the claim of the Appellant as raised by virtue of invocation of provisions contained under Section 60 of the I & B Code to be read with Rule 11 of the NCLT Rules, 2016, which he invoked for filing of IA No 750/2024.

2. The brief facts that engages consideration are that, the Appellant contends that, he has been the supplier of building and construction material, during the period in between 15.03.2016 to 15.03.2022, he claims to have supplied certain building materials to the Corporate Debtor by virtue of various purchase orders and invoices; He submits, that, as against the said invoices the Appellant has submitted the claim by way of Form B as filed on 09.12.2023, as per the contentions raised by the Appellant in the said claim, as preferred on 09.12.2023, the Appellant contended that during the said period, i.e., between 15.03.2016 to 15.03.2022, certain amount has fallen due to be paid, according to the Appellant, the total amount, which was actually payable by the Corporate Debtor was assessed by the Appellant was amounting to the tune of Rs. 12,91,57,698/- (Rupees Twelve Crores Ninety one Lakhs Fifty-seven Thousand Six Hundred and Ninety-eight Only). He submits that, on the basis of the various invoices and the purchase orders, which he had appended along with, IA No 750/2024, he contended that it's based upon the said documents on record, he would be entitled to receive the said amount, which according to the

Appellant has fallen due to be payable by the Corporate Debtor, and since having not being remitted the same within the stipulated timeframe, in terms of the governing conditions of the transactions covered by the purchase order and the invoices, that were carried in between the aforesaid period of business transactions of 15.03.2016 to 15.03.2022, the Appellant claimed that there will be an additional amount of interest that would be payable to the Appellant at the rate of 2% as agreed to be made payable on account of the delayed payment.

3. It is on the basis of the aforesaid facts and claim of the Appellant, it is an admitted case of the Appellant that on 13.02.2023, the Appellant had already filed a commercial suit being **Com OS No 249/2023** before the Ld. Additional City Civil and Sessions Judge, Bengaluru, for the aforesaid unpaid amount and that is still pending consideration, at the stage when IA No 750/2024 came up for consideration before the Ld. Tribunal. The Corporate Debtor was already directed to be admitted into CIRP process by an order passed by the Ld. NCLT on 08.09.2023, as an order passed in CP(IB) No 74/BB/2023. The Resolution Professional upon being appointed as such, is shown to have issued a public announcement by way of publication carried on 14.09.2023, giving an announcement of the initiation of the CIRP of the Corporate Debtor and consequently by virtue of the said publication, the claims were submitted by the Creditors of the Corporate Debtor, which were placed before the Resolution Professional, to be considered in accordance with the provisions contained

under Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (herein after to be called as the Regulations of 2016). On 09.12.2023, the Appellant too had submitted his claim, for the unpaid Operational Debt to the Respondent i.e., (Resolution Professional) along with the supporting documents and records to substantiate the same.

4. At this stage we make it very clear that, as for the own case of the Appellant, after the admission of the Corporate Debtor into the CIRP process by virtue of an order passed on 08.09.2023, and issuance of a public announcement on 14.09.2023 itself, which has to be taken as to be the cut-off for the purposes of invitation of claims of the Creditors of the Corporate Debtor and admittedly in between the cut-off period as prescribed, in view of the public announcement of 14.09.2023, no claim was submitted by the Appellant in accordance with the timeframe stipulated under Regulation 7 of Regulations of 2016, which prescribes for the modalities for the purposes for the submission of the claim and it also prescribes the time period, within which the claim should have been raised by the Operational Creditor as the provisions contained under Regulation 7 of Regulations of 2016, which is to be read along with Regulation 9A of Regulations of 2016.

5. For the purposes of substantiating the claim as it stood submitted by the Appellant on 09.12.2023, in the shape of Form B, Appellant claimed a total

amount, which was stated to be payable was to the tune of Rs. 16,97,05,959/- (Rupees Sixteen Crores Ninety-seven Lakhs Five Thousand Nine Hundred and Fifty-nine Only). Upon the receipt of 'Form B' by the Resolution Professional from the Appellant, since because the stage of process of verification of claim as contemplated under Regulation 13 of Regulations of 2016 was being resorted to by the Resolution Professional, the Resolution Professional found that, the claims could not be verified on the basis of the proof of submission of claim, as it was submitted by the Appellant in the light of the provisions contained under Regulation 13 of Regulations of 2016. The Resolution Professional, by virtue of the communication made to the Operational Creditor, the Appellant herein, on 15.12.2024, has asked for furnishing of certain additional information in order to justify the consideration of claim as it has been submitted in the claim 'Form B' on 09.12.2023. However, the information as solicited by the aforesaid communication of 15.02.2024 by the Resolution Professional, the same were never supplied by the Appellant, for the purpose of availing verification of claim as contemplated under Regulation 12 of Regulations 2016.

6. Hence, owing to the aforesaid fact, the name of the Appellant was not included amongst the list of Creditors, which were to be considered at the stage of consideration of the claim by the Resolution Professional. Consequently, the Resolution Professional, in the absence of there being any response submitted by the Appellant in lieu of the communication made on 15.02.2024, when the

same was not responded, the Resolution Professional has published the list of Creditors that was uploaded on the website of the Resolution Professional, which obviously was not including the name of the Appellant, owing to the fact that, he was unable to satisfy the proof of claim as it was raised by him in submission of Form B dated 09.12.2023.

7. However, since the Resolution Professional, had failed to receive any response from the Appellant, to the information solicited by the Resolution Professional by its correspondence dated 15.12.2024, the Resolution Professional once again reiterated the same seeking information by sending an email communication on 20.02.2024 on the email address of the Appellant, but this mail too was not responded. Consequently, based upon a non-substantiation of the claim raised by the Appellant in his claims as furnished Form B and the information sought by the communication of 15.02.2024 by the Resolution Professional, it was informed to the Appellant that there was no amount payable to the Appellant, as it were never attempted to be established to be due to be paid.

8. If the contents of the said communication are taken into consideration, the Resolution Professional, has specifically made an assertion that in the absence of there being a proof of claim as contemplated under Regulation 12 of Regulations 2016, which was required to be satisfied, for the purposes of consideration of the claim of the Operational Creditor, since there was no

response received despite the public announcement and repeated emails the Resolution Professional rejected the claim by making an observation that, in the absence of the Appellant having provided the breakup claim under two heads, i.e., the claim against the unpaid invoices and the claim against the interest, and secondly, on account of failure to provide the supporting documents highlighting the terms and clauses of the charging interest, as agreed by the Corporate Debtor. Since those communications were not supplied to the Resolution Professional in pursuance to followup communication of 15.02.2024, of the Resolution Professional, where he observed that on corresponding scrutiny of the claim of the Appellant could be made to be established along with the books of accounts of the Corporate Debtor.

9. The Resolution Professional informed the Appellant vide its communication of 15.04.2024 that on the scrutiny of the proof of claim, as it was required to be undertaken in the light of the provisions contained under Regulation 12 of Regulations of 2016, and because of there being a lack of proof of claim, sought by the communication of 15.04.2024, the Resolution Professional informed that since there was no proof of claim, to be made payable as per the books of accounts of the Corporate Debtor, the claim was rejected. That the communication of 15.04.2024, which was made by the Resolution Professional informing the Appellant that, based on the material which was supplied by the Appellant in the shape of Form B, when the same

was collated with the records it reflected, that no amount was falling due to be paid as per the accounts of the Corporate Debtor, is a fact which has not been denied nor any assertion has been made to the contrary by the Appellant qua the correspondence made by the Resolution Professional of that of 23.08.2024.

10. After the communication of 15.04.2024, the Resolution Professional, vide its communication of 20.02.2024, intimated to the Appellant that, upon the receipt of the 'Form B' as submitted by the Appellant, owing to the fact that since there was a lack of response to the communication of 15.02.2024, as well as that of 20.02.2024, during the intervening period since the Resolution Plan of the Corporate Debtor as already been approved by the CoC and the same has been filed before the Ld. NCLT Bengaluru, seeking an approval of the Resolution Plan, the Resolution Professional declined to consider any claim of the Appellant owing to the changed circumstances that had taken place subsequently.

11. The Resolution Professional in the mail sent on 23.08.2024 assigned the following reasons:

*"As it was intimated to you earlier, that as per the record of the Corporate Debtor, there is no outstanding appearing in the ledger of G K Ispat Pvt. Ltd. Additionally, during verification of your claim, the undersigned asked for certain additional information from you, however the same was not provided. Therefore, your claim has not been admitted.*

*Furthermore, please be informed that the resolution plan received from the resolution applicant has already been approved by the CoC and the same has been filed with the Hon'ble National Company Law Tribunal, Bangalore Bench, seeking approval for the resolution plan."*

12. In the entire memorandum of appeal, or the grounds, which has been taken by the Appellant herein, he had not raised any contentions in contradiction to the logic, which has been assigned by the Resolution Professional in its decision taken on 23.08.2024 for rejecting of the claim because of lack of verification and because of the stage at which the claim was solicited to be considered by the Appellant and that was denied to be considered because the plan was already placed before the Ld. Adjudicating Authority for its consideration for approval.

13. Hence, the logic, which has been assigned by the Resolution Professional that since the claim in itself was a belated claim and besides due to non-satisfaction of the supporting evidence which was required to be furnished in accordance with the stipulations contained under the regulations, the same was denied to be considered. What could be culled out is that, in the absence of the Appellant not making any averments or any contradiction to the reason assigned in the communication of 15.04.2024, nothing much could be averred by the Appellant, while contesting the instant company appeal, as against the impugned order of rejecting the application IA No 750/2024.

14. The Appellant in the instant memorandum of appeal, while questioning the rejection of claim had submitted that the impugned order of rejection of the claim dated 03.12.2024 could not stand in the test of eyes of law for the reason being that, according to the contention of the Appellant, he submitted that the reason, which has been assigned by the Ld. Tribunal on the basis of the stand taken by the Resolution Professional before the Ld. NCLT that, the Appellant had not been able to supply the necessary information, as it was sought for by the Resolution Professional before the time period as prescribed, and since the information was not supplied before the close of the window for admission of claims, the claim of the Appellant was declined to be accepted.

15. However, the ground, which has been taken by the Appellant observing thereof that the finding qua the closure of window of admission of claim due to the expiry of the time period prescribed for the invitation of the claim is erroneous and contrary to the facts, in fact it is a very vague ground, which has been taken by the Appellant without the same being substantiated by any sustainable grounds or evidence on the record, even at the appellate stage no attempt has been made by the Appellant as to how, after the closure of the window for admission of the claim, how the claim of the Appellant, could still be admitted, which is quite apparent from the pleadings that the claim of the Appellant was considered and by the communications of 15.02.2024 and that of 20.02.2024 which were not responded by the Appellant within the prescribed

timeframe and thus the test required to be satisfied in the light of the provisions contained under Regulation 13(1-B) were not satisfied by the Appellant, which prescribed that in the event that the claims that are received after the period as specified under Regulation 12 (1) and up to seven days before the date of meeting of the Creditors for voting of the Resolution Plan, or initiation of liquidation proceeding, the same should not be acceptable to be considered.

16. The grounds taken by the Appellant qua the implications contained under Regulation 12(1) and Regulation 13(1-B), in fact, according to the datas, which are available on record, the Appellant has to shoulder the responsibility upon himself for not responding and furnishing the details of the claim in order to enable the Resolution Professional to verify the same in accordance with the provisions contained under Regulation 13 of Regulations of 2016, as to enable to verify the same and more particularly, when the claim raised by the Appellant in his Form B, as submitted on 09.12.2023, the same could not be collated with the books of account of the Corporate Debtor, which could have substantiated the entitlement of the Appellant in the capacity of him being the Operational Creditor entitling him to receive the claim as raised by him in Form B.

17. Having heard the Ld. Counsel for the Appellant and peruse the records, we find that the Appellant in the entire memorandum of appeal has not raised any contentions to the contrary qua the rejection of claim as made by the communication of 23.08.2024, as well as, has not raised any plea or produced

any evidence to the contrary, as to whether he had timely responded to the communication, as furnished to him by the Resolution Professional on 15.02.2024 calling upon the Appellant to furnish the additional documents in order to facilitate the Resolution Professional to substantiate the claim raised by the Appellant in Form B, along with the evidence on record, which was required to be tested with the contents of the claim, which was expected to be reflected in the books of accounts of the Corporate Debtor. Since the same was not shown to have been established and performed by the Appellant, failure to perform his duty within the time period as prescribed therein, and raising a very vague assertion that the finding recorded by the Ld. Tribunal in the impugned order that the claim could not be collated owing to the fact that the document itself was received at a belated stage because by that time the window was closed, that itself would have incapacitated the Ld. Adjudicating Authority to consider the claim of the Appellant.

18. Even if we go through the findings, which has been recorded by the Ld. Tribunal in the impugned order the Ld. Tribunal has rather, while considering the IA No 750/2024, which is subject matter of consideration in this company appeal, had submitted that the claim raised by the Appellant qua the interest was too not substantiated by the Appellant in any manner whatsoever and in the absence of there being response received by the Resolution Professional, and further the Ld. Tribunal rightly recorded that in the follow-up mails submitted

by the Resolution Professional since they were not responded, the rejection of the same cannot be said to be illegal, as no claim could have been entertained after the closure of time when the window of accepting the claim was closed.

19. In that eventuality, the reason which has been assigned by the Ld. Tribunal by rejecting the claim cannot be said to be in violation of any of the procedural law contemplated, under the Regulations of 2016, which mandatorily requires for resorting to the various steps for the purposes of acceptance, collation and verification of the claims to attach fairness in consideration of claims, and most of the pleading raised qua the procedural flaw at the hands of the Appellant, since have not been denied nor has been controverted by the Appellant during the course of his argument, the same cannot be accepted and thus the logic, which has been assigned by the Ld. Tribunal that at the matured stage of the proceedings when the Resolution Plan has already been processed through the Committee of Creditors and has been placed before the Ld. Adjudicating Authority for its approval, no claim which was submitted by the Appellant without satisfaction of the provisions contained under Regulation 13 of Regulations of 2016, could at all have been considered by the Resolution Professional and the rejection of the claim was justified in the eyes of law. And for any reason for rejection of the claim, it was the Appellant who was to blame himself for his own inaction and not responding to the process, which was mandatory in nature and particularly when it is governed by

the time factor of regulating the entire process of carrying out the CIRP up to the stage of submission of the Resolution Plan, which is strictly governed by the timeframe, which is the essence of the entire provisions of the I & B Code. Thus, the rejection of the claim by the Ld. Tribunal by the impugned order of 03.12.2024 does not suffer from any apparent error in the eyes of law, which would call for any interference by this Appellate Tribunal in the exercise of our appellate jurisdiction under Section 61 of the I & B Code.

20. Consequently, the 'company appeal' lacks 'merit', and the same is 'dismissed'. All pending interlocutory applications, if any, would stand closed.

**[Justice Sharad Kumar Sharma]**  
**Member (Judicial)**

**[Arun Baroka]**  
**Member (Technical)**

**09/04/2026**  
SN/MS/AK