



**IN THE NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH-II**

**IA.No. 496 of 2024 in  
CP (IB) No. 332/9/HDB/2021**

*[Under Rule 11 and 55 of the National Company Law Tribunal Rules, 2016]*

**In the matter of M/s. Karvy Stock Broking Limited**

**M/s. Karvy Stock Broking Limited,**  
Registered Office at Karvy Millennium,  
Plot No. 31 Financial District,  
Nanakramguda, Gachibowli,  
Hyderabad-500032.

**...Applicant/ Respondent**

**And**

**Kapston Facilities Management Limited,**  
Registered Office at # 287, MIG-2, IX Phase,  
Kukatpally Housing Board (KPHB),  
Hyderabad.

**...Respondent/ Petitioner**

**Date of Order:10.09.2024**

**CORAM:**

Sri Rajeev Bhardwaj, Hon'ble Member (Judicial)

Sri Sanjay Puri, Hon'ble Member (Technical)

**Counsel/Parties present:**

For the Applicant : Mr. Avinash Desai, Senior Advocate

For the Respondent : Mr. Lokesh Agarwal, Company Secretary



**Per: Rajeev Bhardwaj, Member (Judicial)**

**ORDER**

1. The present application has been filed by the Applicant/Corporate Debtor (CD) under Rule 11 and 55 of the National Company Law Tribunal (NCLT) Rules, 2016, seeking to take on record an additional affidavit filed by the Applicant for the proper adjudication of the main petition CP(IB) No. 332/9/HDB/2021.
2. **Applicant's Case:**
  - i. The Respondent, an Operational Creditor (OC), initiated the Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor (CD) under Section 9 of the Insolvency and Bankruptcy Code (IBC), alleging an operational debt amounting to Rs. 1,07,63,333/-.
  - ii. The Applicant has submitted the present application along with an additional affidavit, highlighting 85 invoices listed in Annexure 12 of the application, which may be statutorily barred under Section 10A of the IBC, thereby precluding the initiation of CIRP.
  - iii. The Applicant further contends that the additional affidavit is necessary for a complete and just adjudication of the main petition and it is submitted that a significant portion of the debt claimed by the Respondent is barred by Section 10A of the IBC, as the invoices in question fall within the period from March 25, 2020, to March 24, 2021.



**3. Respondent's Case:**

- i. The Respondent contends and contests all the averments made in the application. It is submitted that initially default occurred on October 1, 2019, which is prior to the Section 10A period, and that the default has been ongoing continuously since then.
  - ii. In cases of multiple invoices, the date of default should be the date of the first default, which, in this matter, is October 1, 2019. The CD had made last payment of Rs. 2,00,000/- on January 11, 2021 and the said amount was adjusted against earlier invoices, i.e., the first invoice dated July 31, 2019, leading to the default date of October 1, 2019.
  - iii. The CD has acknowledged its failure to pay the operational debt on multiple occasions, as evidenced by emails enclosed to company petition. Therefore, the CD cannot claim protection under section 10A as the initial default i.e., October 1, 2019, clearly falls outside the section 10A period.
  - iv. In support of its contentions, the Respondent has relied on the judgments of the Hon'ble NCLAT in the cases of *Beetel Teletech Ltd. vs. Arcelia IT Services Pvt. Ltd.* and *Narayan Mangal vs. Vatsalya Builders & Developers Pvt. Ltd.*, to argue that Section 10A does not apply to defaults that occurred before the specified period and continued thereafter.
4. We have heard both the Counsels and have perused all the documents placed on record. Undisputedly, in the main petition all the pleadings completed on 04.09.2023.



5. For filing additional pleadings and documents, there is Rule 11 & 55 of the NCLT Rules, 2016, which says:

**“Rule 55. Pleadings before the Tribunal.** – No pleadings, subsequent to the reply, shall be presented except by the leave of the Tribunal upon such terms as the Tribunal may think fit.”

**“Rule 11. Inherent Powers.** - Nothing in these rules shall be deemed to limit or otherwise affect the inherent powers of the Tribunal to make such orders as may be necessary for meeting the ends of justice or to prevent abuse of the process of the Tribunal.

6. It is thus clear that this Authority has discretion to allow the filing of additional pleadings or documents if it deems it necessary for the just and proper adjudication of the matter. Further, to determine whether the additional affidavit filed by the applicant can be considered a pleading, for that it is essential to refer to Rule 2(19) of the NCLT Rules, 2016, which states as follows:

Rule 2(19) “pleadings” means and includes application including interlocutory application, petition, appeal, revision, reply, rejoinder, statement, counter claim, **additional statement supplementing the original application and reply statement under these rules and as may be permitted by the Tribunal;**

7. In the present case, although the Applicant referred to the document as an "additional affidavit," the correct term should be "Additional Statement Supplementing the Original Reply Statement" (Additional Reply) as per the relevant rule. However, the incorrect nomenclature of the document is not critical.



8. Whatever documents the Applicant wants to produce are material to determine the controversy in question. It is important to note that the operational debt in the main petition is based on invoices with various dates mentioned in Annexure 12 of application and the Applicant, through the additional affidavit, merely seeks to emphasize certain relevant facts and contentions that are already on record, which may aid this Authority in properly adjudicating the main petition. Thus, we are of the considered view that the additional affidavit is necessary for the proper adjudication of the main petition.
9. In light of the above observations and findings, this Authority accepts the additional affidavit filed by the Applicant as an additional reply from the Corporate Debtor. Accordingly, the present application is allowed and disposed of.

**Sd/-**  
(SANJAY PURI)  
MEMBER (TECHNICAL)

**Sd/-**  
(RAJEEV BHARDWAJ)  
MEMBER (JUDICIAL)