

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI**

Company Appeal (AT) (Insolvency) No. 1398 of 2024

In the matter of:

Capriso Finance Ltd. & Anr.

....Appellants

Vs.

Trishul Dream Homes Ltd.

...Respondent

For Appellant

**Mr. Rakesh Kumar, Ms. Deepali Aggarwal,
Advocates.**

For Respondent

ORDER

(Hybrid Mode)

21.08.2024: Heard Learned Counsel for the Appellant.

2. This Appeal has been filed against the order dated 25.04.2024 passed by the Adjudicating Authority (National Company Law Tribunal), Chandigarh (Court-II) in IA No. 2790 of 2023. Resolution Professional has accepted the claim of the Appellant/ Financial Creditor but has not allowed the interest against which IA No.2790 of 2023 was filed. Adjudicating Authority after hearing the Appellant held that the Financial Creditor has failed to place any document which entitles for the alleged interest and the Resolution Professional could admit the amount which is principal amount only.

3. Counsel for the Appellant challenging the order submits that under the Interest Act, 1978, the entitlement is there although he submits that no document could be filed for claiming interest. Section 3 of the Interest Act on which reliance is placed is as follows:-

“3. Power of court to allow interest.- (1) In any proceedings for the recovery of any debt or damages or in any proceedings in which a claim for interest in respect of any debt or damages already paid is made, the court may, if it thinks fit, allow interest to the person

entitled to the debt or damages or to the person making such claim, as the case may be, at a rate not exceeding the current rate of interest, for the whole or part of the following period, that is to say,-

(a) if the proceedings relate to a debt payable by virtue of a written instrument at a certain time, then, from the date when the debt is payable to the date of institution of the proceedings;

(b) if the proceedings do not relate to any such debt, then, from the date mentioned in this regard in a written notice given by the person entitled or the person making the claim to the person liable that interest will be claimed, to the date of institution of the proceedings:

Provided that where the amount of the debt or damages has been repaid before the institution of the proceedings, interest shall not be allowed under this section for the period after such repayment.

(2) Where, in any such proceedings as are mentioned in sub-section (1), —

(a) judgment, order or award is given for a sum which, apart from interest on damages, exceeds four thousand rupees, and

(b) the sum represents or includes damages in respect of personal injuries to the plaintiff or any other person, or in respect of a person's death,

then, the power conferred by that sub-section shall be exercised so as to include in that sum interest on those damages or on such part of them as the court considers appropriate for the whole or part of the period from the date mentioned in the notice to the date of institution of the proceedings, unless the court is satisfied that there are special reasons why no interest should be given in respect of those damages.

3) Nothing in this section,-

(a) shall apply in relation to-

(i) any debt or damages upon which interest is payable as of right, by virtue of any agreement, or

(ii) any debt or damages upon which payment of interest is barred, by virtue of an express agreement;

(b) shall affect-

(i) the compensation recoverable for the dishonour of a bill of exchange, promissory note or cheque, as defined in the Negotiable Instruments Act, 1881 (26 of 1881); or

(ii) the provisions of rule 2 of Order II of the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908);

(c) shall empower the court to award interest upon interest.”

4. There cannot be any dispute to the statutory provision of Section 3 which empowers the Court to allow the interest. In the present case, it was the Resolution Professional who had to collate the claim and allow the interest. Present was not a case where Section 3 is applicable and it was only claim to be admitted in the CIRP process, hence, reliance on Section 3 is misplaced. We are of the view that no error has been committed by the Adjudicating Authority. Appeal is dismissed, accordingly.

**[Justice Ashok Bhushan]
Chairperson**

**[Barun Mitra]
Member (Technical)**

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

Anjali/nn