

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

**Company Appeal (AT) (Insolvency) No. 362 of 2024**

**IN THE MATTER OF:**

**Paresh Govindbhai Hirpara & Anr.**

**...Appellants**

**Versus**

**Prabhat Jain**

**Resolution Professional of Vikas Procon Pvt. Ltd.**

**...Respondent**

**Present:**

**For Appellant** : Mr. Palash S. Singhai and Mr. Harshal Sareen,  
Advocates

**For Respondent** : Mr. Ravi Raghunath, Mr. Aditya Sharan and Mr. Pratik  
Pandey, Advocates

**ORDER**  
**(Hybrid Mode)**

**05.09.2024** Heard Learned Counsel for the Appellant as well as  
Learned Counsel for the Resolution Professional.

This Appeal has been filed against the order passed by Adjudicating Authority dated 06.12.2023 by which I.A. No.3991 of 2023 filed by the Appellant for accepting the claim in the CIRP of the Corporate Debtor has been rejected.

The brief facts of the case are that the CIRP against the Corporate Debtor commenced on 19.04.2023. The Appellant's case is that amount of total Rs.40 lakhs was given to Corporate Debtors, which is reflected by the Bank transaction of HDFC Bank. After the commencement of CIRP initially claim form was filed in Form 'C' claiming of Rs. 40 lakhs as financial debt with interest. RP acknowledged the receipt of the claim form and RP by letter dated

03.07.2013 called upon the Applicant No.2 to file its claim in an appropriate form format.

On 08.07.2023, Appellant No.2 vide its email forwarded the agreement dated 01.09.2022 and police complaints to the RP and thereafter claim was filed in CA. The amounts which were transferred in favour of the Corporate Debtor was remitted by Applicant No.2. Whereas the MoU mentions the allotment of a shop bearing No. G-34 in the favour of the Applicant No.1. The RP having not admitted their claim, I.A. was filed before the Adjudicating Authority seeking a direction to accept the claim which stands rejected.

Learned Counsel for the Appellant submits that the RP having not denied the receipt of Rs. 40 lakhs and there was no occasion to reject the claim. It is submitted that earlier claim submitted in Form 'C' cannot be reason to reject the claim which was submitted in Form CA with appropriate materials to show that Shop G-34 was allotted. It is submitted that the Appellant was Allottee, who got the amount paid from the Appellant No.2 who is a relative Brother-in-Law. Hence, there no dispute could be raised with regard to Appellant being allottee. Counsel for the RP submitted that earlier the Appellant filed a claim in Form CA claiming to be financial debt i.e. loan given to the Corporate Debtor and subsequently in Form CA they are claiming as a allottee. It is submitted that in view of inconsistent case taken by the Appellant, RP did not commit in error in rejecting the claim. It is however, submitted that the receipt of the amount of Rs.40 lakhs is not denied by the

RP which is reflected in the record of the Corporate Debtor. It is submitted that there was a delay in submitting Form CA.

We have considered submissions of Learned Counsel for the parties and perused the record.

The CIRP in the present case commenced on 19.04.2023 and Appellant after coming to know about the CIRP filed its claim on 09.06.2023 in Form C. Claim in Form CA was subsequently filed on 31.07.2023 and second Form CA was filed on 09.08.2023. In view of the above dates, we are of the view that it cannot be said that there was any such delay in the claim to be rejected on the ground of delay. Form A was published on 04.05.2023 and claim in Form C was filed on 09.06.2023. Therefore, we do not find any substance in the submissions of the counsel for the Respondent that there was a delay in filing the claim. Now, coming to the two claim form i.e. Form C and Form CA. It is well settled that merely format of the claim is not decisive. The first Form C where amount was claimed as financial debt, there is no other material on record to indicate that any kind of loan was given neither there is a loan agreement or ledger entry to show any amount of loan. Form CA, which was filed by the Appellant jointly was supported by an MoU which was executed by Ex-directors and signed by the Ex-directors and where the unit number was also mentioned.

We do not find any justification on the decisions of the RP in rejecting the claim filed in Form CA when the payment is not disputed and in the claim form Shop No. G-34 was claimed, which is also reflected in the MoU entered

between the Applicant and signed by the Directors of the Corporate Debtor. There is no reason to disbelieve the claim of the Appellant that they are allottee. We thus, are of the view that Adjudicating Authority committed error in not accepting the claim of the Appellant. The order impugned is set aside. The I.A. No. 3991 of 2023 is allowed and the Appellants are held to be allottee of the unit G-34.

**[Justice Ashok Bhushan]**  
**Chairperson**

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

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

*pks/nn*