

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
Comp. App. (AT) (Insolvency) No. 152 of 2022**

In the matter of:

Sar Parivahan Pvt. Ltd.

....Appellant

Vs.

Hindustan Paper Corporation Ltd.

...Respondent

For Appellant: Mr. Nishant Kumar, Mr. Animesh Kumar, Ms. Shweta Singh, Mr. Rishabh Gupta, Advocates.
For Respondent: Mr. Rahul Sharma, Advocate for Liquidator

ORDER

(Through Virtual Mode)

08.03.2022: Heard Learned Counsel for the Appellant.

2. This Appeal has been filed against the order dated 22.10.2021 passed by the Adjudicating Authority (National Company Law Tribunal), New Delhi, Court-II, by which the Appeal filed by the Appellant under Section 42 of the Insolvency and Bankruptcy Code, 2016 ("Code" for short) has been rejected as barred by time. Before the Liquidator, the Appellant has filed his claim for an amount of Rs. 1,09,32,838/-. Liquidator on 19.08.2019 has communicated that his claim to the extent of Rs. 67,78,450/- is admitted. It was also noticed in the e-mail that as per the confirmation from the Corporate Debtor, the payable amount is only Rs. 66,42,796/-. After the aforesaid order, the list of stakeholders was uploaded on 21.07.2020. The Appellant filed an Appeal under Section 42 of the Code on 20.09.2021. The Appeal came to be dismissed by the Adjudicating Authority on the ground that the Appeal ought to have

been filed within 14 days as per Section 42 and Appeal is beyond time and is rejected.

3. Learned Counsel for the Appellant submits that in the Memorandum of Appeal, which he has filed, he has referred to both the orders dated 19.08.2019 and 21.07.2020 when the list of stakeholders was uploaded. He further submits that the communication of the Liquidator was not final since he has communicated that the Corporate Debtor has intimated that his amount is Rs. 66,42,796/-. He submits that due to the above, his Appeal is not barred by time. He has placed reliance on the judgment of the Hon'ble Supreme Court in *Suo Moto Writ Petition (Civil) No. 03 of 2020*.

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

5. The communication which was made by the Liquidator on 19.08.2019 in response to the claim of the Appellant is as follows:-

"Dear Sir,

We are in receipt of your letter dated 08.08.2019 regarding admission of claim amount of Rs. 1,09,32,838/-. Accordingly clarification has been sought from the officials of Corporate Debtor for the same. In this regard the official of corporate debtor is replied in the below trailing mail. Further adding that the official of the corporate debtor is also provided certain copies of clarification for confirmation of claim

in the separate mail. The copies of the same is also attached for your ready reference.

In the stakeholder list uploaded in the website of Hindustan Paper Corporation Limited we have admitted an amount of Rs. 67,78,450/-. However as per the confirmation from the Corporate Debtor the payable amount to the party is Rs.66,42,796/-. The same will be rectified and upload in the next updated stakeholders list. Also request you to please go through the documents provided to us by corporate debtor which have been shared with you and let us know in case you require any clarification in this regard. The same were also shared by officials of corporate debtor with you.”

6. The Liquidator has, thus, clearly indicated that he has admitted his claim of only Rs.67,78,450/-. The cause of action arose to the Applicant to question the said order since part of claim was rejected. The mere fact that the list of stakeholders was uploaded on 21.07.2020 did not give any cause of action since what was uploaded was the same claim which was admitted by the Liquidator amounting to Rs.67,78,450/- along with other details.

7. We are of the view that the Adjudicating Authority has rightly held that the Appeal was barred by time. Appellant cannot claim any limitation from 21.07.2020 since his claim stood partly rejected on 19.08.2019. Insofar as the submission of the Counsel for the Appellant that the communication of the Liquidator was not final, suffice it to say that only query raised was that confirmation from the Corporate Debtor is an amount of Rs. 66,42,796/-

which was a lesser amount to which claim was admitted. In the final list, the amount admitted is the same i.e. Rs.67,78,450/-, hence, the order of the liquidation in no manner has been modified. We, thus, are of the view that no error has been committed by the Adjudicating Authority rejecting the Application being barred by time. There is no merit in the Appeal. The Appeal is dismissed. It is further to be noticed that the judgment of the Hon'ble Supreme Court in *Suo Moto Writ Petition (Civil) No. 03 of 2020* shall not come to the aid of the Appellant since his limitation expired much before 15.03.2020.

**[Justice Ashok Bhushan]
Chairperson**

**[Dr. Alok Srivastava]
Member (Technical)**

Anjali/nn