

Learning Curve-1035

April 09, 2024

The timelines set forth under IBC need to be considered as of directory nature and not as mandatory in nature.

CASE TITLE	Vikram Laxman Pawar Vs. Mr. Sripatham Venkatasubramaniam Ramkumar
CASE CITATION	Comp. App. (AT) (Ins) No. 1537 of 2023 & I.A. No. 5520, 5521 of 2024
DATE OF ORDER	April 05, 2024
COURT/ TRIBUNAL	NCLAT, New Delhi

BRIEF FACTS:

Respondent RP rejected the claim of the Appellant being delayed claim. The Appellant filed an application before the AA for his claims which was dismissed by the AA on the ground that the claim has been filed by the Appellant beyond 90 days in terms of Regulation 12 of CIRP Regulations, 2016.

DECISION:

The Hon'ble NCLAT, New Delhi allowed the appeal and held that,

“It is reiterated that Appellant has been perusing for his claim from time to time and has filed the claims much before the approval of Resolution Plan of the SRA and much before the approval of Resolution Plan by the Adjudicating Authority....

We also take into account that the Appellant is only a workman empowered with limited resources, professional and legal background, unlike other Financial Creditors who are fully equipped to defend their claims.

We also observe that it is the duty of the IRP under Section 18 of the Insolvency & Bankruptcy Code, 2016 (in short 'Code') to collate of the claims and since the Respondent had access to all the letters and claims filed by the Appellant the Resolution Professional should have included the said claims of the Appellant although it was beyond the stipulated 90 days but before his finalising the list of Creditors and the Respondent should have put up for consideration of the CoC.

It may also be worth considering that although the timeline as stipulated in the Code are sacrosanct and important and sometime critical for resolution of the Corporate Debtor in order to achieve the maximization of value of all the stakeholders, the timelines need to be considered as of directory nature and not as mandatory in nature.”