

TDS paid on interest payable cannot be considered as acknowledgment in writing of the liability by the corporate debtor.

CASE TITLE	P.M. Cold Storage Pvt. Ltd. v. Goouksheer Farm Fresh Pvt. Ltd. and Ors. ¹
CASE CITATION	Company Appeal (AT) (Insolvency) No. 615 of 2020
SECTIONS/REGULATION	Regulations 13 and 14 of CIRP Regulations.
DATE OF ORDER	14.09.2022
COURT/ TRIBUNAL	NCLAT, Delhi

Brief of the case:

The Appellant has stated that the claim filed by NHSH was suspicious because of various discrepancies in the documents filed with Form C. He has also stated that the IRP being aggrieved by the action of the Appellant for his replacement went on to admit this doubtful claim of NHSH to the detriment of the Appellant, and aggrieved by this action of the RP, he filed an application, which was dismissed by the Impugned Order dated 17.6.2020, whereupon aggrieved by this order, the appellant has preferred this appeal.

The main issue that arises in this appeal is whether the claim submitted by NHSH is under limitation based on the documents submitted alongwith the claim in Form C, and whether the RP has looked into the veracity and genuineness of the said claim in the light of provisions of IBC and regulations 13 and 14 of CIRP Regulations.

Decision:

Hon'ble NCLAT dismissed the appeal held that,

"The fact that the corporate debtor has paid TDS on interest payable cannot be considered as acknowledgment in writing of the liability by the corporate debtor and therefore, such TDS payment will not have any effect of being an acknowledgment of said debt.

We also find that rule 13 of CIRP Regulations, which is regarding verification of claims by the IRP/RP, enjoins on the IRP/RP the responsibility of verifying every claim submitted and maintain a list of creditors for inspection by members and other stakeholders in the CIRP. We are, therefore, of the view that since the voting share in the CoC is extremely relevant and important element in the CIRP insofar as the insolvency resolution of the CD is concerned. It was the duty of the RP to exercise necessary care and diligence in verifying the claims and scrutinise the documents submitted with Form C for genuineness and authenticity. Such exercise does not appear to have been done by the RP in the present case. We would, therefore, urge the Insolvency and Bankruptcy Board of India to investigate this matter further regarding the conduct of RP and take necessary action under the regulation."



QR CODE FOR FULL ORDER/JUDGEMENT:

¹https://efiling.nclat.gov.in/nclat/order_view.php?path=L05DTEFUX0RvY3VtZW50cy9DSVNfRG9jdW1lbnRzL2NhczVkb2Mvb3JkZXJzL0RFTeHJlZlwmjltMDktMTQvY291cnRzLzQvZGFpbHkvMTY2MzEzODc4MTE5OTExNzY2MTg2MzlxN2JkZDNmMGY4LnBkZg==