

IBC: Rejection of Claims Need Evaluation

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n case any corporate debtor defaults in making payment to its creditor(s), a corporate insolvency resolution process ("CIRP") may

be initiated against such corporate debtor. Once CIRP is initiated, claim(s) may be invited by interim resolution professional ("IRP") from creditor(s) for ascertaining the actual liability pertaining to such corporate debtor so that such creditor(s) may recover their dues upon revival or liquidation of such corporate debtor to the extent allowed. Upon receipt of such claim(s), IRP / resolution professional ("RP") is required to verify the same from books of account of the corporate debtor or other available documents. Section 3(6) of the Insolvency and Bankruptcy Code, 2016 ("IBC") contains a wide definition of 'claim'. There were several instances wherein IRP had rejected the claim(s) of creditor(s) due to various reasons, which were later allowed by NCLT / higher courts.

In the matter of Export Import Bank of India and Ors. Vs. Resolution Professional JEKPL Private Limited and Ors. [CA No. 304 of 2017, 16 of 2018 and 302 of 2017] and Andhra Bank Vs. M/s. F.M Hammerle Textiles Ltd. [Company Appeal (AT) (Insolvency) No.61 of 2018], IRP rejected claims of the banks since the same were not matured at the time of commencement of CIRP against the corporate debtor.

Thereafter, NCLT reaffirmed the decision of IRP. In appeal, the National Company Law Appellate Tribunal inter alia held that any person, who has a right to claim payment under Section 3(6) of IBC, can file its claim irrespective of the fact whether the same is matured or not at the time of commencement of CIRP.

In another matter, CIRP was going on against the principal debtor as well as the guarantor simultaneously. ICICI Bank ("ICICI") filed its claim with RP of the principal debtor as well as the guarantor (both). RP of the guarantor rejected the claim of ICICI since the same had already been admitted by RP of the principal debtor and if such claim is admitted then the recovery amount may exceed the total claimed amount of ICICI which may be prejudicial to others. However, NCLT allowed the said claim since it falls within the definition of financial debt and RP is not allowed to raise objection contrary to the provisions of the guarantee agreement [ICICI Bank Vs CA Ritu Rastogi, CA 366 (PB)/2017 and (IB)-102(PB)/2017].

It cannot be denied that acceptance of claim(s) by IRP / RP may involve subjectivity in some cases. In order to deal such cases, there must be some criteria or guidelines as may be followed by IRP / RP while accepting or rejecting the claims. In the absence of same, issues may crop up resulting into litigation(s) and delay in CIRP or liquidation process.



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