

**NATIONAL COMPANY LAW TRIBUNAL  
BENGALURU BENCH  
COURT NO.1**

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,  
BENGALURU BENCH, BENGALURU, HELD ON 11.09.2019

**CAUSE LIST - 2**

PRESENT: 1. Hon'ble Member (J), Shri Rajeswara Rao Vittanala  
2. Hon'ble Member (T), Dr Ashok Kumar Mishra

CP/CA No.	Purpose	Sec	Name of Petitioner	Petitioner Advocate	Name of Respondent	Respondent Advocate
CP(IB)No. 66/BB/2017	For hearing IA 297/19 , IA 383/19 & IA 426/19	Sec 7 of I&B code 2016	Axis Bank Ltd	Cyrl Amarchand Mangaldas Sanjay Kumar Mishra, Liquidator	Lotus Shopping Centres Pvt. Ltd.	Thiru & Thiru, Advocates Maneesha Kongovi advocate for RP

ADVOCATE FOR PETITIONER/s:

  
SINDHU RAO

FOR CYRIL AMARCHAND MANGALDAS  
(Petitioner)

ADVOCATE FOR RESPONDENT/s:

MANEESHA KONGOVI FOR LIQUIDATOR

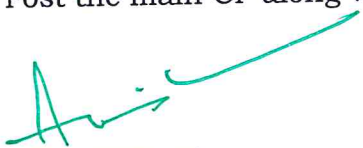
FOR MANEESHA  
KONGOVI  
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**ORDER**

Heard Ms. Sindhu Rao, learned Counsel for Petitioner, Shri H. B. Shah, learned Counsel for Applicant in I.A.No.426 of 2019 and Ms. Maneesha Kongovi, learned Counsel for Liquidator.

I.A.No.426 of 2019 in C.P.(IB)No.66/BB/2017 is disposed of by separate order.

Post the main CP along with IAs on 17.10.2019.



**MEMBER(T)**

Puja



**MEMBER(J)**

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
BENGALURU BENCH**

I.A.No.426 of 2019 in  
C.P.(IB)No.66/BB/2017  
U/s 60 (2) and Section 42 of the IBC, 2016

**In the matter of:**

**Omega Elevators**

*through Shri Subramanian S.*  
5-C Archana Industrial estate,  
Opp. Ajit Mill Char Rasta, Rakhial,  
Ahmedabad – 380 023.

- Applicant

**Versus**

**Mr. Sanjay Kumar Mishra**

*Liquidator of M/s. Lotus  
Shopping Centres Pvt. Ltd.*  
Dreams Complex, 4C-1605,  
LBS Marg, Bhandup West,  
Mumbai – 400 078.

- Respondent/Liquidator/Opponent

**Date of Order: 11<sup>th</sup> September, 2019**

**Coram:** 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)  
2. Hon'ble Dr. Ashok Kumar Mishra, Member (Technical)

**Parties/Counsels Present:**

For the Applicant : Shri H.B. Shah

For the Respondent/Liquidator : Ms. Maneesha Kongovi

**ORDER**

**Per:** Rajeswara Rao Vittanala, Member (J)

1. I.A.No.426 of 2019 in C.P.(IB)No.66/BB/2017 is filed by Omega Elevators through Shri Subramanian S. (hereinafter referred to as 'Applicant') under Section 60(2) and Section 42 of the IBC, 2016, by inter alia, seeking to direct the Liquidator



to condone the delay of 22 days in filing Form C in the interest of justice etc.

2. Brief facts of the case, as mentioned in the Application, are as follows:

- 1) Omega Elevators is engaged in the business of manufacturing and installation of various kinds of lifts and escalators in India and outside India, having its registered and head office at Ahmedabad, Gujarat.
- 2) It is stated that the Applicant and M/s.Lotus Shopping Centres Private Limited entered in to contract for the installation and commissioning of 25 escalators wherein M/s.Lotus Shopping Centres Pvt. Ltd. had purchased/imported goods from outside. The Applicant has successfully installed all 25 escalators at the site. Applicant could not complete assembly of glass balustrade, testing and commissioning works remain due to uncomplete Civil Work by Lotus Shopping Centres Pvt. Ltd. in all escalators. The Applicant received information about the insolvency proceeding of Lotus Shopping Centres Private Limited so the Applicant had filed Form-B with all necessary documents under Regulation 16 of the Insolvency and Bankruptcy Code of India Regulation, 2017 through email dated 11.09.2018 and through speed post.
- 3) It is also stated that the Respondent had accepted Applicant's Form-B and further asked for the documents through email dated 12.09.2018. So the Applicant had submitted all documents through email dated 20.09.2018 as well as speed





post. Thereafter, the Applicant issued email dated 09.02.2019 and email dated 07.06.2019 through his advocated asking stage and status of the Applicant's claim. The Respondent had circulated such email in their internal communication through one email dated 08.06.2019. The Applicant received email dated 08.06.2019 from the Respondent stating from one, Shri Sundaresh Bhat that he is no longer working as RP in this matter and he has resigned 8 months ago. At that time, the Respondent issued an email dated 10.06.2019 stating that an application for the liquidation has been filed in the NCLT, Bengaluru Bench, wherein they are awaiting further direction from the NCLT, Bengaluru Bench and the Respondent had given assurance that accordingly the claims of the Applicant will be treated as per the liquidation process.

- 4) In this way, the Applicant issued email dated 09.02.2019 and email dated 07.06.2019 through his advocate asking stage and status of the Applicant's claim. The Respondent had given reply through email dated 10.06.2019 stating that an application for the liquidation has been filed in the Adjudicating Authority, and they are awaiting further direction from the Bench, the Respondent had given assurance that accordingly the claims of Applicant will be treated as per the liquidation process. The Applicant received information and knowledge about the public announcement for submission of Form-C under Regulation 17 of the Insolvency and Bankruptcy Code of India



(Liquidation Process) Regulation, 2016 and received information about the time limit from 18.06.2019 to 18.07.2019 for submission of Form-C.

- 5) The Applicant filed Form-C immediately on receiving information and knowledge about the public announcement on dated 10.08.2019 through email and also send hard copy through speed post to the Respondent. The Applicant had issued reminder email dated 17.08.2019 on Opponent to get the status of Form-C, wherein it is also mentioned that reasons for delay of 22 days are explained in email dated 10.08.2019. The Applicant received information about the public announcement on date 09.08.2019 through Respondent's officer's mobile call and immediately on the next date 10.08.2019. The Applicant had form -C with all documents so, counting of delay starts from the date of information and knowledge.
3. Heard Shri H. B. Shah, learned Counsel for the Applicant in I.A.No.426 of 2019 and Ms. Maneesha Kongovi, learned Counsel for Liquidator. We have carefully perused the pleadings of both the parties and extant provisions of the Code.
4. Learned Counsel for the Applicant filed Form C to the Liquidator and has submitted claims on 10.08.2019 after the paper publication given by the Liquidator. However, there is due to some miscommunication between the Liquidator and the Applicant and also various communications by emails as mentioned in the application. The Liquidator rejected the claims of the Applicant filed on 10.08.2019 by inter alia stating that there is a delay in filing the claims. Therefore, we are convinced with the reasons given by Applicant for the delay.

5. In the result, I.A.No.426 of 2019 in C.P.(IB)No.66/BB/2017 is disposed of by directing the Liquidator to consider the claims of the Applicant. No order as to costs.

  
**(ASHOK KUMAR MISHRA)**  
**MEMBER, TECHNICAL**

  
**(RAJESWARA RAO VITTANALA)**  
**MEMBER, JUDICIAL**

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