

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

I.A.No.13/2021 in
C.P. (IB) No: 228/BB/2018
U/s. 60(5) of the I&B Code, 2016
R/w Rule 11 NCLT Rules, 2016.

Between:

**M/s. Modern Veer Rays Security Force
(India) Private Limited**

6th Floor, Atlanta Centre,
Sonawala Road, Goregaon (E)
Mumbai 400 063.

... Applicant

AND

Mr. Shivadutt Bannanje,
Resolution Professional of
M/s. Bhuwalka Steel Industries Limited.

No.71, IIrd Cross, Residency Road,
Bengaluru - 560 025

... Respondent/ RP

Date of Order: 01st February, 2021

- Coram:** 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)
2. Hon'ble Shri Ashutosh Chandra, Member (Technical)

Parties/Counsels Present (through Video Conference):

For the Applicant : Mr. George Philip

The Respondent : Mr. Shivadutt Bannanje

ORDER

Per: Rajeswara Rao Vittanala, Member (J)

1. I.A.No.13/2021 in C.P. (IB) No.228/BB/2018 is filed by M/s Modern Veer Rays Security Force (India) Pvt Ltd ('Applicant'), U/s. 60(5) of the I&B Code, 2016, R/w Rule 11 of NCLT Rules, 2016 by inter-alia seeking to set aside the E-mail dated 17th March 2020 issued by the Respondent expressing inability to consider the claim of the Applicant and to condone the delay of the Applicant in filing the Claim before the Respondent and to direct the Respondent to consider the claim of the Applicant.
2. Brief facts of the case, which are relevant to the issue in question, are as follows:
 - (1) Initially, the main Petition bearing C.P. (IB)No.228/BB/2018 filed M/s. Indu Corporation Pvt Ltd (hereinafter referred as Petitioner) against M/s. Bhuwalka Steel Industries Ltd (hereinafter referred as Corporate Debtor), U/s. 9 of IBC, 2016 R/w Rule 6 of I&B (AAA) Rules 2016, was admitted by the Adjudicating Authority, vide its Order dated 08.04.2019, by initiating CIRP in respect of the Corporate Debtor, appointing the Applicant as IRP, imposing moratorium etc.
 - (2) The Applicant Company entered into an Agreement dated 01.10.2011 with Corporate Debtor and as per the terms of the Agreement deployed security personnel's at the locations specified by Corporate Debtor. As per the Agreement dated 01.10.2011, the Applicant raised invoices in the name of the Corporate Debtor which were being received by them. However, payments thereafter came to be constantly delayed and several invoices were left unpaid, thus forcing the Applicant to stop services as per the terms of Agreement dated 01.10.2011. The Corporate debtor, after taking services, has failed to make payments to the Applicant. The Applicant issued notice dated



24.05.2018 calling upon Bhuwalka Steel Industries Ltd to clear their outstanding dues of Rs.13,30,398/- at the earliest failing which the Applicant would initiate legal proceedings for non-payment of dues.

- (3) The Applicant approached the Micro and Small Enterprise Facilitation Council (MMR) (hereinafter referred to as "MSEFC") and filed an Application before the said Authority which came to be numbered as Application No. MH18E0007052/S/00001. While the case was pending, the Authorities informed the Applicant that they had received the letter dated 30.05.2019 from the Bhuwalka Steel Industries Ltd informing them it is under CIRP. The Applicant contend that it is not aware of the proceedings before this Tribunal and thus they could not file their claim for the amount. The Respondent without considering the actual facts issued an email dated 17.03.2020 to the Applicant stating that the claim of the Applicant could not be considered by the Respondent.
- (4) It is also submitted that due to the COVID-19 situation and lockdowns across the country could not approach this Hon'ble Tribunal as right from February, 2020 various states especially Maharashtra were on partial lockdown. Further, the public notice regarding the initiation of CIRP proceedings against the Corporate Debtor was taken out in Financial Express as well as Vishwavani Newspapers, Karnataka edition inviting the claims from the Creditors. These Newspapers are not in wide circulation and are not commonly read thus missing the attention of various creditors.
3. Heard Mr. George Philip, learned Counsel for the Applicant and Mr. Shivadutt Bannanje, RP through Video Conference. We have

Carefully perused the pleadings of Parties and also extant provisions Code and the also extant provisions of the Code and Rules made thereunder.

9. Shri George Philip, while reiterating various pleadings made in the Application, has further submitted that allowing the Application would not cause prejudice to any party. Therefore, he has urged the Tribunal to consider the case sympathetically.
10. Shri Shivadutt Bannaje submit that due process of law has been followed during CIRP, and a Resolution plan is likely to be considered by COC soon, and allowing this Applicant would not serve any purpose.
11. It is true that allowing the instant Application at the belated stage would not serve any purpose, as the assets of Corporate Debtor would hardly satisfy even secured Creditors. Since the Applicant has satisfactorily explained the reasons for delay, it would be just and proper to condone the delay so as to verify the claim, as per merits by the Respondent.
12. In the result, **I.A.No.13 of 2021** in C.P.(IB) No.228/BB/2018 is hereby disposed of by directing the Respondent verify the claim of Applicant, as per its merits , by ignoring the delay, and take a decision and communicate the same to the Applicant within a period of two weeks from the date of receipt copy of this order. However, this order would not come in the way of Resolution process to be concluded. No order as to costs.

(ASHUTOSH CHANDRA)
MEMBER, TECHNICAL

(RAJESWARA RAO VITTANALA)
MEMBER, JUDICIAL