



INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

(Company formed by ICAI under Section 8 of the Companies Act 2013)

IBC Case Law Capsule

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**Mr. K Lakshma Reddy Vs. Telangana State Rajiv Swagruha
COMPANY APPEAL (AT) (CH) (Ins) NO. 96/2024, IA No.265/2024
NCLAT Judgement dated April 01, 2024**

Facts of the Case: -

The Present Appeal is filled by Mr. K. Lakshma Reddy in the capacity of Operational Creditor (hereinafter referred as 'Appellant') against the M/s Telangana State Rajiv Swagruha Corporate Ltd./CD (hereinafter referred as 'Respondent') after being aggrieved by the impugned order dated 07.12.2023 issued by the AA. This appeal challenges the dismissal of the 'Company main Petition' u/s 9 of the IBC 2016 by the AA citing lack of merits.

The Respondent had invited tenders for the competitive bidding for carrying out construction project at Ramagundam in Karimnagar District, under the Rajiv Swagruha Scheme (Package II) and after doing all the necessary work the Appellant emerged as 'Successful bidder' and entered into an Agreement with the Respondent. The 'Appellant' procured construction material as per the terms of the 'Original Agreement' dated 29.10.2009. However, a dispute arose with the 'Forest Department' and the Corporate Debtor regarding land ownership, causing construction to halt until December 2010 when the issue was resolved. Subsequently, work resumed upon receipt of drawings from the 'Respondent', albeit with multiple revisions and newer agreements, leading to additional delays. Despite completing the first and second milestones as per the original agreement, bills raised by the 'Appellant' were not finalized by the 'Respondent', causing further delay and hindrance to the project progress.

Despite various contractual agreements from 2009 to 2015, conflicts arose over changes, delays, and alleged non-payment. Financial troubles faced by the Respondent led to governmental intervention, including loan sanctioning. However, pending bills remained unpaid, prompting the 'Appellant' to issue a demand notice u/s 8 of the IBC, 2016.

The AA's observation, particularly in paragraph 33 of the impugned order dated 07.12.2023, questioned the basis for price adjustments and the lack of evidence supporting the 'Appellant's claims. The 'Appellant' argues that the AA's order is erroneous and fails to address the controversies properly. It highlights the contractual history, delays due to land ownership disputes, and changes in scope of work. Despite several agreements and revisions, payment issues persisted, leading to the 'Appellant's demand notice.



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NCLAT Observations: -

The Appellate Tribunal noted the 'Respondent's assertion that the claim is outside IBC's jurisdiction, asserting it as both factually and legally untenable, including that the claim is time-barred and that all dues were settled as early as August 21, 2014. Despite the 'Appellant' citing a letter addressed to the Chief Minister in December 2014, the Appellate Tribunal asserts that this does not supersede the contractual agreement or the provisions of the IBC 2016.

The Appellate Tribunal also noted that the limitation period for the claim has expired since the initiation of the insolvency proceedings in February 2022. Furthermore, the Appellate tribunal highlights the Respondent's acknowledgment of excess payment, disputing the claim's illusory nature and emphasizing pre-existing disputes between the parties. Despite the 'Appellant' claiming operational debt exceeding ₹1 crore.

The Appellate Tribunal also emphasizes that the insolvency process is not a means of debt enforcement indeed the proceedings of the IBC are summary in nature and that claims within its purview are not determined like that of regular civil suits being filed in law courts, and that disputed claims require detailed examination of evidence, which the 'Appellant' has failed to provide, the Appellate Tribunal deems the main Company Petition not maintainable, citing disputes raised by the 'Respondent' prior to filing.

Order/Judgement: The Appellate Tribunal upholds the AA's impugned order dated 07.12.22, dismissing the Main Company Petition, finding no legal flaws.

Case Review: 'Appeal' is dismissed, with no costs. Connected pending I.A. No 265 of 2024 is closed.