

**^NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
Comp. App. (AT) (Ins.) No. 1200 of 2023**

In the matter of:

**Engineering Mazdoor Parishad Devas Through Its
General Secretary** **....Appellant**

Vs.

**Teena Saraswat Pandey, Resolution Professional of S
& H Gears Pvt. Ltd.** **...Respondent**

For Appellant: Present but not marked appearance.

**For Respondent: Mr. Sumesh Dhawan, Ms. Vatsala Kak, Mr. Shaurya
Shyam, Mr. Raghav Dembla, Advocates for RP**

Comp. App. (AT) (Ins.) No. 1124 of 2023

In the matter of:

**Engineering Mazdoor Parishad Devas Through its
General Secretary** **....Appellant**

Vs.

**Teena Saraswat Pandey, Resolution Professional of S
& H Gears Pvt. Ltd.** **...Respondent**

For Appellant: Present but not marked appearance.

**For Respondent: Mr. Sumesh Dhawan, Ms. Vatsala Kak, Mr. Shaurya
Shyam, Mr. Raghav Dembla, Advocates for RP**

ORDER

14.09.2023: These two Appeals have been filed by the same Appellant-
'Engineering Mazdoor Parishad Devas Through Its General Secretary'. In
Company Appeal (AT) (Insolvency) No. 1200 of 2023, the Appellant has
challenged the order dated 10.07.2023 passed in IA No.1300 of 2022 filed by
the Appellant praying for direction to the Resolution Professional for
considering and settling the claim of the Appellant workers. In Company

Appeal (AT) (Insolvency) No. 1124 of 2022, the order challenged is order dated 10.07.2023 by which Adjudicating Authority has allowed the IA No.81 of 2022 filed by the Resolution Professional for approval of the Resolution Plan.

2. Learned Counsel for the Appellant submits that the Appellant has filed claim in the Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor of Rs.12 Crores and odd which was revised to Rs.26 Crores subsequently but the Resolution Professional has only admitted the claim of Rs.96 lakhs and odd which was not in accordance with law. It is submitted that the Appellant thereafter filed the Application before the Adjudicating Authority seeking a direction to Resolution Professional to settle the claim. It is submitted that the Resolution Professional has not given any basis and reason for accepting the claim of Rs.96,83,497/- whereas a chart was given by the Appellant where the claim for salary and other dues was mentioned.

3. Learned Counsel for the Respondents submits that the Appellant did not substantiate its claim, hence, the Resolution Professional on the basis of balance sheet of the Corporate Debtor admitting the claim of Rs.96,83,497/- which was reflected as dues of the workmen in the balance sheet of the Corporate Debtor.

4. We have considered the submissions of the Counsel for the Appellant and perused the record.

5. The Adjudicating Authority after hearing the Application of the Appellant has returned following findings in paragraph 34:

“34. Having heard the Counsel for the parties, we are of the considered view, that the IA is without any merit. It has been claimed that there were outstanding dues of workmen amounting to Rs. 26.87 Crores. However, the Applicant has not substantiated this part of the claim by way of any supporting document. On the contrary, it is the definite case of the Respondent/Resolution Professional that after verifying the records of the Corporate Debtor a sum of Rs. 96,83,497/- was found to be due towards the outstanding dues of the workmen and the erstwhile RP admitted the claim to that extent. Without any substantive record, it cannot be said that workmen dues of Rs. 26.87 Crores were outstanding which has been left out. It has also been pointed by the Counsel for the Respondent/Resolution Professional that the Corporate Debtor had declared a lay off in the year 2016 following which, only a handful employees were left in the Corporate Debtor. Therefore, it cannot be said that claims of Rs. 26.87 Crores has not been considered and have been wrongly rejected by the Respondent/RP.”

6. Learned Counsel for the Appellant has submitted that the Appellant was not given opportunity nor heard so that they can substantiate the claim.

7. It is the responsibility of the Claimant to bring all relevant record to substantiate the claim. The Resolution Professional having admitted the claim of Rs.96 lakhs and odd on the basis of balance sheet of the Corporate Debtor, no error can be said to have been committed by the Resolution Professional

for accepting the claim of Rs. 96 lakhs and odd. The Adjudicating Authority also held that there are no documents filed to support the claim of the workmen. We, thus, are of the view that there is no error in the order of the Adjudicating Authority rejecting IA No.1300 of 2022.

8. Now coming to the second order by which Resolution Plan has been approved. The entire claim which was admitted of the workmen has been proposed to be paid i.e. Rs.96,83,497/-. We do not find any ground to interfere with the order of the Adjudicating Authority approving the Resolution Plan.

9. Both the Appeals are dismissed.

**[Justice Ashok Bhushan]
Chairperson**

**[Barun Mitra]
Member (Technical)**

Anjali/nn