

IBC DOSSIER

Bulletin on Landmark Judgments under IBC, 2016



M/s RPS Infrastructure Limited Vs. Mukul Kumar & Anr.

Brief Facts

In the present case, RPS Infrastructure and KST Infrastructure Pvt. Ltd. (Corporate Debtor) entered into an arrangement with the appellant for the development of licenced property. There were disagreements over project advertising, therefore, arbitration proceedings were begun. The RPS Infrastructure was awarded the contract. The award was challenged in court. KST Infrastructure Pvt. Ltd. was declared bankrupt while the appeal was pending. RPS Infrastructure made a claim 289 days late. The Resolution Plan had previously been approved and submitted to the NCLT for approval at the time the claim was filed. RP rejected the claim due to the delay.

The RPS Infrastructure filed an application with the NCLT seeking admission of its claim. The NCLT granted the application because the claim would have appeared in the books of account. If a claim does not show in the books of account, the RP is obligated to obtain them and verify the financial condition. RPS Infrastructure may have overlooked a public notice.]

An appeal was filed with the NCLAT against the NCLT's decision. The NCLAT overturned the order because the Respondent provided proper service through public announcement in accordance with

IBBI norms. The Respondent also filed an Application under Section 19 to obtain certain records. Depending on the facts of each situation, IBBI regulations can be directive. The Resolution Plan adopted by the CoC will be jeopardised for new claims.

Decision

The Supreme Court determined that the Respondent had committed no error. The Respondent tried everything possible to get the Corporate Debtor's records, including filing an application under Section 19 of the IBC. The Supreme Court further stated that Appellant's public disclosure would entail considered knowledge. Because the Adjudicating Authority has not authorised the plan, it does not mean that it can be changed.

The court further observed that the fact that the Adjudicating Authority has not yet accepted the plan does not indicate that it can be resubmitted, making the CIRP a perpetual procedure. This would result in the reopening of the entire problem, especially given the possibility of other such individuals jumping on the bandwagon. As previously stated, the Court in Essar Steel advised against accepting claims after the resolution plan was agreed by the COC.

As a result, the NCLAT's impugned judgement cannot be criticised for reopening the chapter at the request of the appellant. We're having trouble unleashing the hydra-headed monster of unresolved claims on the resolution applicant.

Therefore, the court held that once the Resolution Plan has been submitted, fresh claim cannot be admitted and hydra headed monster of undecided claims cannot be unleashed on the Resolution Applicant.

Link of the Order

<https://ibbi.gov.in/uploads/order/fb4703f2861b68829de6b02822195a8f.pdf>



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