

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 140 of 2024 & I.A. No. 445 of 2024

IN THE MATTER OF:

Kotak Mahindra Bank Ltd.

...Appellant(s)

Versus

Sandeep Goel RP for Sarvottam Realcon Pvt Ltd.

...Respondent(s)

Present:

For Appellant :

For Respondents : Mr. Ankur Mittal, Yashika Sharma, Yamini Naruka,
Advocates for RP
Sandeep Goel, RP

O R D E R
(Hybrid Mode)

19.01.2024: Heard Learned Counsel for the parties.

2. This Appeal has been filed against the Order dated 21.11.2013 passed by the Adjudicating Authority by which order the Adjudicating Authority has rejected the Application filed by the Kotak Mahindra Bank Limited for admission of its claim and for condonation of delay of 738 days in filing the claim and for direction to RP to admit the claim.

3. In the present case, CIRP commenced on 09th July, 2021 and thereafter public announcement was made on 14th July, 2021. The Resolution Plan was received and was approved by the Committee of Creditors on 24.12.2022.

4. The Appellant's case is that he took assignment from earlier PNB Housing with whom one flat was already mortgaged by the one home-buyer. In the records of the Corporate Debtor, payments received from home-Buyer,

Atul Jaidka was already reflected but RP did not notice the claim nor mentioned in the Information Memorandum. The Adjudicating Authority relying on the Judgment of Hon'ble Supreme Court in **M/s. RPS Infrastructure Limited Vs. Mukul Kumar, Civil Appeal No. 5590 of 2021** has rejected the Application of the Appellant.

5. Learned Counsel for the Respondent submits that Appellant is claiming his right on basis of assignment dated 04th March, 2023 from PNB. Appellant is not a financial creditor in a class and he ought to have due diligence prior to taking assignment since by that time resolution plan was already approved.

6. In the facts of the present case, when the Resolution Plan was already approved on 24.12.2022 and claim was filed by the Appellant only in August, 2023, we see no error in the order of the Adjudicating Authority rejecting the application. There is no merit in the Appeal, the Appeal is dismissed.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

[Arun Baroka]
Member (Technical)

Basant/nn