

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 132 of 2019

IN THE MATTER OF:

Manish Sukhani

...Appellant

Vs

MTK Tooling & Engineering Pvt. Ltd. & Anr.

...Respondents

Present:

For Appellant: Mr. Sunil Fernandes, Mr. Siddharth Sharma and Mr. Darpan Sachdeva, Advocates.

**For Respondents: Mr. Divyanshu Rai, Advocate for R-1.
Mr. Adhavi Nalluri and Mr. TVS Raghavendra Sreyas, Advocates for R-2.**

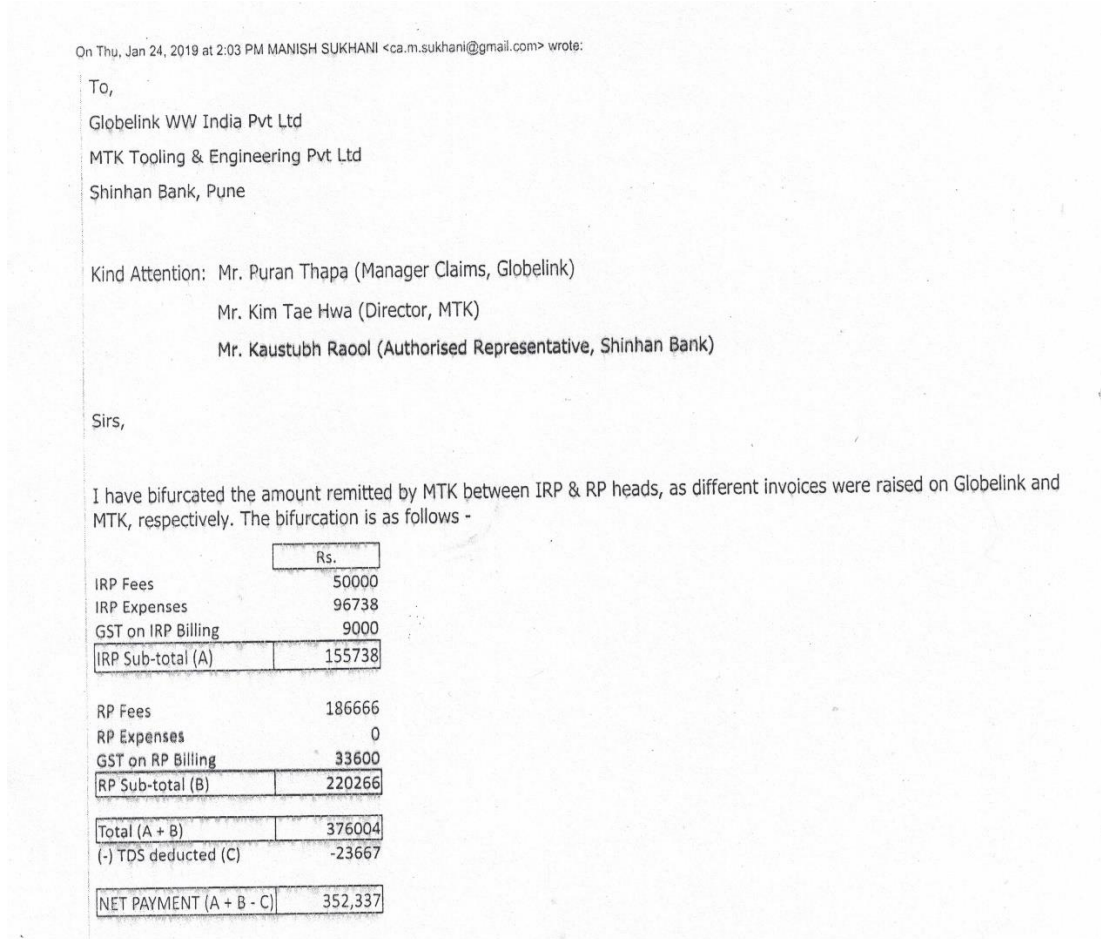
ORDER

23.04.2019: This appeal has been preferred by Interim Resolution Professional, who also worked as Resolution Professional till he was replaced, against order dated 24th December, 2018 passed by Adjudicating Authority (National Company Law Tribunal), Mumbai Bench in the Miscellaneous Application preferred by the Resolution Professional relating to fees and expenses incurred by him.

2. Learned counsel for the Appellant – Resolution Professional submitted that the Corporate Debtor has paid less amount of Rs.3,76,000/- against the claim of Rs.10,41,000/-, which according to the Appellant was approved in the first meeting of the Committee of Creditors.

3. Learned counsel appearing on behalf of the Committee of Creditors submitted that whatever the amount i.e. Rs.3,76,000/- which was ratified in the meeting of the Committee of Creditors has already been paid. An email dated

24th January, 2019 in respect to the invoices filed by the Appellant has been enclosed whereby bifurcation of the amount remitted by the Appellant has been shown. The relevant portion of which reads as follows:-



4. Learned counsel for the Appellant submits that Appellant is entitled for a claim of Rs.7.70 Lakh professional fee but in place of that the Committee of Creditors arbitrarily fixed it at Rs.50,000/- per month. He further submits that the Resolution Professional engaged number of persons in view of the instructions of the Committee of Creditors.

5. From the record we find that the Appellant submitted invoice for expenditure incurred by him, which is as follows:-

EXPENSES INCURRED BY RP, CA MANISH SUKHANI					
Period: 15.05.2018 to 24.07.2018					
Date(s)	Particulars	With Bill	W/o Bill	GST Credit Available	Reference
1	16.05.18 - Visit to CD				
	17.05.18 Car Rentals	5,890			} Bill of Satguru
	Toll Charges	595			} Tours & Travels, Toll Slips
	Lodging & Boarding	2,062		204	Hotel Amruta Garden (b/no. 1285)
	En route expenses	68	20		Bikaner Sweets (b/no. 417)
2	23.05.18 - Visit to CD by Team				
	25.05.18 Car Rentals (including toll charges)	9,250			} Bill of Satguru
	Toll Charges	675			} Tours & Travels, Toll Slips
	Lodging & Boarding	5,868		408	Hotel Amruta Garden (b/no. 1318, 1323), Hotel Rajawat (B/no 51)
	En route expenses	390	230		Regent Bhairavi; C/Memo 2276, 2177), Express In (1425, 1428, 1445)
3	22.05.18 Meeting Room with V/c recording facility for 29.05.18 Meeting	15,134		2,309	Inv No. ISX51303 of InstaSpaces
4	23.05.18 Postal expenses for sending Notice of 2nd CoC Meeting	266	30		India Post
5	01.06.18 Speed post charges (to Mr Ryoo)	41	30		India Post
6	08.06.18 Expenses incidental to filing of Minutes of 2nd CoC Meeting		1,000		
7	08.06.18 - Visit to CD				
	09.06.18 Car Rentals	6,500			} Bill of Satguru
	Toll Charges	640			} Tours & Travels, Toll Slips
	Lodging & Boarding	2,135		204	Hotel Amruta Garden (b/no. 1411)
	En route expenses		140		
8	23.06.18 Meeting Room with V/c recording facility for 04.07.18 Meeting	9,440		1,440	Inv No. ISX51420 of InstaSpaces
9	26.06.18 Postal expenses for sending Notice of 3rd CoC Meeting	266	30		India Post
10	09.07.18 Expenses incidental to filing of Minutes of 3rd CoC Meeting & Progress Report dated 07.07.18		1,000		
11	09.07.18 - Visit to CD				
	10.07.18 Car Rentals	6,500			} Bill of Satguru
	Toll Charges	640			} Tours & Travels, Toll Slips
	Lodging & Boarding	2,119		204	Hotel Amruta Garden (b/no. 1518)
	En route expenses		105		
12	11.07.18 Meeting Room with V/c recording facility for 14.07.18 Meeting	8,496		1,296	Inv No. ISX51420 of InstaSpaces
13	14.07.18 Meeting Room with V/c recording facility for 20.07.18 Meeting	8,968		1,368	Inv No. ISX62669 of InstaSpaces
14	22.07.18 Meeting Room with V/c recording facility for 27.07.18 Meeting, subsequently cancelled	8,496		1,296	Credits for balance after Cancellation Charges of Rs.2500 provided t new RP
15	24.07.18 Expenses incidental to filing of Minutes of 4th CoC Meeting		1,000		
	Sub-Total	94,439	3,585	8,729	
	GRAND TOTAL		98,024		
	Less: GST Credit Available		(8,729)		
	Basic Amount to be reimbursed		89,295		
	Add: GST thereupon @ 18%		16,073		
	Gross Reimbursement		105,368		
	Less: Amount Received from CD, CoC		-		
	BALANCE RECEIVABLE		105,368		

6. Out of Rs.1,05,368/-, the Committee of Creditors have ratified expenses of Rs.96,738 plus provided for GST of Rs.42,600/-. We find no error in the ratification with regard to the actual expenses. Claim against Professional Fee of Rs.7.70 Lakh is excessive for actual working is of 16 days, though period has been counted as four and half months. We find no reason to interfere with the same. In fact, this Appellate Tribunal cannot decide as to what should be the fee for a Resolution Professional which depends on various factors including asset and liability of the Corporate Debtor, amount of default and actual time taken and performance of the Resolution Professional, which can be decided by the Committee of Creditors and not by the Adjudicating Authority (National Company Law Tribunal) nor by the Appellate Tribunal (National Company Law Appellate Tribunal). The appeal is accordingly dismissed. No costs.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice A. I. S. Cheema]
Member (Judicial)

(Kanthi Narahari)
Member (Technical)

am/gc