



INSOLVENCY & BANKRUPTCY

NCLT Kolkata Dismisses GST Consultant's Fee Claim: Reasonability and Proportionality as the Touchstone for CIRP Cost Recognition

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PUBLISHED 24 June 2026

The determination of what constitutes legitimate “Insolvency Resolution Process Costs” under the Insolvency and Bankruptcy Code, 2016 remains a fertile ground for judicial scrutiny, particularly where informal professional engagements during the Corporate Insolvency Resolution Process are sought to be retrospectively clothed with statutory priority. A significant ruling on this subject was delivered by the National Company Law Tribunal, Kolkata Bench, in *Prateek S Jain & Associates v. Pratim Bayal and Anr.*, I.A. No. 69/KB/2026 in C.P. (IB) No. 1377/KB/2020, decided on 12 June 2026 by a Division Bench comprising Ms. Bidisha Banerjee, Judicial Member, and Commodore Siddharth Mishra (Retd.), Technical Member. The Tribunal dismissed the application filed by a GST consultant seeking payment of outstanding professional fees, holding that while the services rendered may, in principle, fall within the ambit of Section 5(13) of the IBC, the fees claimed were exorbitant and failed the test of reasonability mandated by the statutory framework.

The Corporate Debtor, Nandini Impex, was admitted into CIRP on 20 September 2022. The Tribunal appointed Mr. Shantanu Bhattacharjee as the Interim Resolution Professional, who was subsequently confirmed as the Resolution Professional by the Committee of Creditors. Thereafter, Mr. Pratim Bayal replaced Mr. Shantanu Bhattacharjee as the Resolution Professional by a subsequent order of the Tribunal. The Applicant, Mr. Prateek Jain, was engaged as a GST Consultant for the Corporate Debtor even prior to the commencement of the insolvency proceedings and continued to render professional services throughout the CIRP period from September 2022 until September 2024. The scope of engagement included GST compliance, filing of returns, and the provision of summaries and compliance data necessary for statutory filings. The total professional fees allegedly incurred during this period amounted to ₹12,88,000, out of which the erstwhile Resolution Professional had made partial payments aggregating to ₹6,40,000 through the designated CIRP account, leaving an outstanding balance of ₹6,48,000.

The Applicant raised invoices for the work undertaken during the CIRP, which were acknowledged by the erstwhile IRP through official CIRP email correspondence. However, the successor Resolution Professional, Mr. Pratim Bayal, declined to recognise the balance claim as a legitimate CIRP cost. Consequently, the Applicant filed the instant application seeking a declaration that the professional services rendered during the CIRP constitute “Insolvency Resolution Process Costs” under the IBC, and a direction to the Respondents to pay the outstanding amount of ₹6,48,000 on a priority basis in accordance with the statutory waterfall, along with interest at the rate of 12 per cent per annum.

The Applicant contended that he was engaged as a GST Consultant prior to the CIRP and continued to render services during the insolvency proceedings with the full knowledge, consent, and approval of the Resolution Professional. It was argued that the absence of a formal appointment letter or a CoC resolution did not defeat the claim, as the erstwhile RP had consistently communicated through the official CIRP email ID, received invoices without demur, never raised objections to the filings or the quantum of fees, and made partial payments through the designated CIRP account. These acts, the Applicant submitted, constituted de facto approval and an implied contract by the willful conduct of the erstwhile RP, which was further impliedly approved by the Committee of Creditors. The Applicant further argued that the fee levied was reasonable and commensurate with the nature and volume of work involved, and that the erstwhile RP was duty-bound to place these costs before the CoC for ratification. The Applicant could not be prejudiced by the RP’s administrative failure to secure such ratification. Invoking the doctrine of estoppel and waiver, the Applicant contended that the present RP could not accept the benefit of the services rendered and deny payment therefor, and that a successor Resolution Professional could not resile from an obligation validly incurred by the predecessor RP.

The current Resolution Professional, Mr. Pratim Bayal, resisted the application on multiple grounds. It was submitted that upon assuming charge, he had undertaken a detailed assessment of the Corporate Debtor’s financial and operational condition. In the interest of conserving the value of the Corporate Debtor and minimizing CIRP costs, several corrective measures were initiated, including the rationalisation of employee strength and the reduction of salary expenditure. The Respondent asserted that the Applicant had deliberately attempted to portray a private, unapproved, and inflated fee demand as a “CIRP cost”, in complete violation of Section 5(13) of the IBC and Regulations 33 and 34 of the CIRP Regulations. It was emphasised that only CoC-approved and ratified costs can qualify as CIRP costs. The RP maintained that the Applicant was never formally appointed as a professional under the CIRP framework in accordance with the IBC or the IBBI Regulations. There existed no appointment letter, no engagement agreement, no approval through a CoC resolution, and no engagement through any Insolvency Professional Agency. The Respondent further contended that the fees now claimed were ex facie excessive, arbitrary, and grossly disproportionate to the negligible business activity of the Corporate Debtor during the CIRP, where GST compliances involved almost exclusively Nil returns, with no operational complexity or volume of work to justify the claimed amount. It was also submitted that the erstwhile RP had lost confidence in the Applicant’s professional efficiency and consequently ceased to rely

upon him, thereafter undertaking the filing of GST returns and allied compliances internally through his own office without engaging the Applicant further. The Respondent argued that the Applicant, having accepted the partial payments without protest at the relevant time, was estopped from raising an afterthought monetary claim.

The Tribunal framed the primary issue as whether the professional fees claimed by the Applicant for GST consultancy services rendered during the CIRP fell within the ambit of “Insolvency Resolution Process Costs” under Section 5(13) of the IBC, and if so, whether the quantum claimed was reasonable and proportionate. The Tribunal observed that the invoices raised by the Applicant, coupled with the partial payments made by the erstwhile RP and the email correspondences between the parties from June 2023 to January 2025, demonstrated a subsisting professional relationship. The services rendered pertained to GST compliance and were essential for the smooth functioning of the business operations of the Corporate Debtor during the CIRP. In this view, the Tribunal held that such professional services would squarely fall within the ambit of Section 5(13)(c) of the IBC, which includes “any costs incurred by the resolution professional in running the business of the corporate debtor as a going concern.”

However, the Tribunal cautioned that the inclusion of such fees in the Insolvency Resolution Process Costs is not automatic. A conjoint reading of IBBI Circular No. IBBI/IP/013/2018 dated 12 June 2018 and Regulation 27 of the IBBI (Insolvency Professionals) Regulations, 2016 indicates that there exists a statutory duty upon the Resolution Professional to exercise commercial prudence while incurring expenses during the CIRP. The main object is to ensure that only legitimate and reasonable costs are treated as Insolvency Resolution Process Costs. The Tribunal referred to Annexure B of the Circular, which enumerates parameters for determining the reasonability of costs, requiring that costs be directly related to the CIRP, necessary for meeting its objectives, proportional to the work required to be done and the assets of the Corporate Debtor, and determined on an arms’ length basis.

Applying these parameters to the facts, the Tribunal noted that while the services were essential for statutory compliance, the Corporate Debtor had negligible business activities during the CIRP, and the GST compliances involved almost exclusively Nil returns. The Tribunal found that charging a hefty sum of ₹2,500 per month per State towards the filing of Form GST-3B and Form GSTR-1, where Nil returns were required, was unreasonable and resulted in unnecessary depletion of the assets of the Corporate Debtor. Upon careful consideration of the invoices placed on record and the volume of work undertaken by the Applicant, the Tribunal concluded that the fees claimed were exorbitant compared to the volume of work done and did not satisfy the test of reasonability as envisaged under the scheme of the IBC.

In the ultimate analysis, the Tribunal dismissed the application. The decision reinforces the principle that while professional services rendered for statutory compliance during the CIRP may, in principle, qualify as Insolvency Resolution Process Costs under Section 5(13)(c) of the IBC, the reasonability and proportionality of such costs are subject to strict judicial scrutiny. The Resolution Professional bears a statutory obligation to ensure that CIRP costs are not excessive and are commensurate with the actual work undertaken and the financial condition of the Corporate Debtor. An informal engagement, even if partially acknowledged through payments and email correspondence, does not override the requirement that the fees must satisfy the test of reasonableness prescribed under the IBC framework and the IBBI Regulations. The judgment serves as a salutary reminder that the statutory priority attached to CIRP costs cannot be invoked to justify inflated or disproportionate fee claims, and that the burden of demonstrating reasonability rests firmly upon the claimant.

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