

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**NEW DELHI**

**Review Application No. 26 of 2019**

**IN**

**Company Appeal (AT) (Insolvency) No. 568 of 2018**

**IN THE MATTER OF:**

**R.G.G. Vyapaar Pvt. Ltd.**

**...Applicant/Appellant**

**Versus**

**Arun Kumar Gupta & Anr.**

**...Respondents**

**Present:**

**For Appellant: Mr. Abhijeet Sinha Advocate, Mr. Arjun Ashthana  
Advocate, Ms. Sreenita Ghosh Advocates**

**For Respondent: Mr. Ranjan Kr. Pandey, Mr. Sandeep Bisht and Mr. Anuj  
Tiwari, Advocates**

**ORDER**

**04.02.2020** The 'Review Application' has been preferred by 'R.G.G Vyapaar Pvt. Ltd.' – Applicant (Appellant in the main appeal) for review of the order dated 25<sup>th</sup> November, 2019.

2. Mr. Abhijit Sinha, learned counsel for the Applicant (Appellant) submitted that there was an error in the 2<sup>nd</sup> paragraph of the judgment, which resulted in dismissal of the appeal. According to him, the claim of the Appellant was rejected by the 'Resolution Professional' on the ground that the Applicant (Appellant) is a 'related party' to the 'Corporate Debtor'. Such issue has not been decided by this Appellate Tribunal whether on such count the claim of the Applicant (Appellant) can be rejected.

3. It is further submitted that there is an error holding that this appeal was preferred beyond the period of limitation.

4. Referring to paragraph 8 of the judgment, it is submitted that the cause of action before the Adjudicating Authority and before this Appellate Tribunal is not the same.

5. From Paragraph 5 of the impugned judgment, we find that the Appellant had not filed the claim by 6<sup>th</sup> September, 2017 and after about 130 days i.e. after 4 ½ months, the claim was filed on 15<sup>th</sup> January, 2018.

6. According to the learned counsel for the Applicant (Appellant,) the claim could have been filed within 180 days, but we are not inclined to accept the same as 180 days is the maximum period of completion of the process i.e. the last day of 180 days. No person can say that he has a right to file a claim. If an 'Operational Creditor' or 'Financial Creditor' is not vigilant and does not file the claim within the prescribed period, such 'Operational Creditor'/'Financial Creditor' cannot claim the right of collation and parity with the other claimants, who had filed the claim within the time.

7. The fact that the 'Resolution Professional' has collated the claim, even if accepted, that cannot be a ground for interference by the 'National Company Law Tribunal' (NCLT) or 'National Company Law Appellate Tribunal' (NCLAT), having not been empowered to look into such issue at the time of approval of the plan.

8. For the reasons aforesaid, while we are not deliberating on the issue whether the Applicant (Appellant) is a 'related party' or not, we are not inclined to interfere with the impugned order dated 13<sup>th</sup> March, 2018, which was impugned in the appeal.

The 'Review Application stands disposed of.

[Justice S.J. Mukhopadhaya]  
Chairperson

[ Justice Bansilal Bhat ]  
Member (Judicial)

/ns/RR/