



NATIONAL COMPANY LAW TRIBUNAL
COURT-V, MUMBAI BENCH

2. IA/294/2024 C.P. (IB)/1088(MB)2020

IN THE MATTER OF

Punjab National Bank International Limited

Vs

Topsgrup Services and Solutions Limited

U/s 7 of the Insolvency and Bankruptcy Code, 2016

Order Delivered on 10.10.2025

CORAM:

SH. MOHAN PRASAD TIWARI
MEMBER (J)

SH. CHARANJEET SINGH GULATI
MEMBER (T)

Appearance through VC/Physical/Hybrid Mode:

For the Petitioner:

For the Respondent:

ORDER

IA/294/2024: The above IA is listed for pronouncement of the order. The same is pronounced in open court, vide a separate order.

Sd/-
CHARANJEET SINGH GULATI
Member (Technical)
//Rahul//

Sd/-
MOHAN PRASAD TIWARI
Member (Judicial)



**IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT – V**

IA No. 294/2024

Under section 42 of the Insolvency and
Bankruptcy Code, 2016;

IN

CP (IB)/1088 (MB)/2020

IN THE MATTER OF

Instakart Services Private Limited

Block A, 3rd Floor, Embassy Tech Village,
Outer Ring Road, Devarabessanahalli,
Bengaluru - 560103

... Appellant/Operational Creditor

Versus

Mr. Anshul Gupta

A liquidator of the TopsGrup Services and
Solutions Limited

410, 4th Floor, Blue Industrial Estate, Near
Metro Mall, Borivali East, Mumbai – 400066

... Respondent/ Liquidator

IN THE ORIGINAL MATTER OF

Punjab National Bank International Limited

... Financial Creditor

Versus

TopsGurp Services and Solutions Limited

... Corporate Debtor

Order Dated: 10.10.2025



Coram:

Sh. Mohan Prasad Tiwari, Hon'ble Member (Judicial)

Sh. Charanjeet Singh Gulati, Hon'ble Member (Technical)

Appearance through VC/Physical/Hybrid Mode:

For the Appellant: - Adv. Aditya Mehta a/w Adv. Vrigil Breganza i/b JSA

For the Respondents: - Adv. Prakash Shinde a/w Niyati Merchant i/b MDP
Legal for Liquidator /Respondent

ORDER

IA NO. 294 OF 2024

1. M/s Instakart Services Private Limited ("**Appellant/Operational Creditor**") has filed this Appeal under Section 42 of the Insolvency and Bankruptcy Code, 2016 ('**IBC**'/ '**Code**') read with Section 60(5) of the Code, against the decision of Liquidator ("**Respondent**") of M/s. TopsGrup Services and Solutions Limited ("**Corporate Debtor**"), seeking the following reliefs:

- i. *Direct the Liquidator to admit the Appellant's entire claim of Rs. 86,60,659/- (Rupees Eighty-Six Lakh Sixty Thousand Six Hundred Fifty-Nine Only);*
- ii. *Any other relief(s) as deemed fit in the interest of Justice*

Brief Facts of the Case:

2. The Adjudicating Authority vide order dated 19.02.2021, admitted the Company Petition bearing number C.P. (IB) NO. 1088 of 2020 under Section 7 of the Insolvency and Bankruptcy Code, 2016 ("**the Code**") filed by Punjab National Bank International Limited ("**Financial Creditor**") for initiation of Corporate Insolvency Resolution Process ("**CIRP**") of the M/s TopsGurp Services and Solutions Limited ("**Corporate Debtor**") which



culminated in the passing of liquidation order dated 21.09.2022 and appointed Mr. Anshul Gupta as the Liquidator (“**Respondent**”) for conducting Liquidation proceedings of the Corporate Debtor.

3. The Respondent invited claims from the creditors and issued a public announcement on 29.09.2022, fixing 21.10.2022 as the last date for filing claims. The Appellant, upon learning of the liquidation initiated on 21.09.2022 and the appointment of the Respondent as Liquidator, filed its proof of claim (Form G) via email on 03.11.2022 under Regulation 20 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
4. The Appellant filed IA 3008 of 2023 before this Tribunal under Section 60(5) of the Code, seeking a direction for the Liquidator to admit the claim due to the absence of any decision. By order dated 10.10.2023, the Tribunal directed the Liquidator to finalize the claim within two weeks. However, the Tribunal dismissed the IA on 14.12.2023, as the Liquidator had already rejected the claim on 13.12.2023.
5. The present Company Appeal, dated 26.12.2023, has been filed under Section 42 of the Code by M/s Instakart Services Private Limited (“the Appellant”), seeking admission of the entire claim against the Corporate Debtor by the Liquidator.

Submissions of the Appellant, in brief:

6. The Appellant, a package and freight delivery company providing logistical support services, entered into a service agreement with the Corporate Debtor dated 14.11.2016 (as amended on 08.11.2017, 09.04.2018, and 12.10.2018). Under the agreement, the Corporate Debtor was hired to provide security, guarding, and related support services for the Appellant and its affiliates. The Appellant agreed to pay the Corporate Debtor a fee as specified in the agreement, which was the



amount after deducting all applicable taxes and statutory payments, whether existing at the time or arising in the future.

7. The Service Agreement stated that the Corporate Debtor was responsible for paying taxes, including Goods and Services Tax (“**GST**”). However, the Corporate Debtor failed to fulfil its statutory obligations and has an outstanding GST liability of Rs. 86,60,659/-. A list of invoices for which GST has been incorrectly filed or not filed has been reproduced below: -

Invoice No.	Invoice Date	GST Default Value	GST Default Type
BA17100002A	31-Jul-17	3,98,654	Not Filed
BE17100042	26-Aug-17	7,22,622	Not Filed
CH17100044A	26-Aug-17	1,25,455	Not Filed
VI17100077A	31-Aug-17	3,41,533	Not Filed
VI17100079	31-Aug-17	26,320	Not Filed
VI17100077	31-Aug-17	2,17,470	Not Filed
BA17100069A	26-Aug-17	3,88,295	Not Filed
AH17100019	30-Sep-17	2,60,786	Incorrectly Filed
AN17000016	31-Oct-17	2,98,902	Incorrectly Filed
AN17000026	30-Nov-17	1,71,621	Incorrectly Filed
AN17000034	31-Dec-17	2,03,708	Incorrectly Filed
AN17000042	31-Jan-18	1,88,330	Incorrectly Filed
AN17000050	28-Feb-18	1,63,818	Incorrectly Filed
AN18000017	25-Jun-18	2,52,765	Incorrectly Filed
KA18000027	25-Aug-18	54,690	Incorrectly Filed
M218100065	25-Aug-18	59,513	Not Filed
M218100064	25-Aug-18	1,35,647	Not Filed
M218000353	25-Sep-18	66,767	Incorrectly Filed
AN18000030	25-Oct-18	4,96,064	Incorrectly Filed
AN18000038	25-Nov-18	4,46,078	Incorrectly Filed
AN18000043	25-Dec-18	3,80,955	Incorrectly Filed
AH18100118	25-Feb-19	86,882	Incorrectly Filed
AN18000054	25-Feb-19	1,37,367	Incorrectly Filed
M219000037	25-Apr-19	38	Incorrectly Filed
M219000040	25-Apr-19	625	Incorrectly Filed
AH19100009	25-Apr-19	1,27,887	Not Filed
AH19100011	25-Apr-19	49,219	Not Filed
AH19100010	25-Apr-19	1,36,921	Not Filed
M219000048	25-May-19	16,643	Not Filed
AH19100025	25-May-19	1,31,647	Not Filed
AH19100026	25-May-19	48,729	Not Filed
M219000046	25-May-19	1,48,256	Not Filed
M219000051	25-May-19	3,25,862	Not Filed
AH19100024	25-May-19	1,24,836	Not Filed



M219000049	25-May-19	35,990	Not Filed
M219000047	25-May-19	1,05,831	Not Filed
M219000050	25-May-19	1,32,423	Not Filed
M219000059	25-Jun-19	3,59,974	Not Filed
M219000060	25-Jun-19	1,48,028	Not Filed
M219000061	25-Jun-19	38,740	Not Filed
M219000063	25-May-19	1,14,659	Not Filed
M219000064	25-Jun-19	1,46,777	Not Filed
M219000070	25-Aug-19	3,62,896	Not Filed
AH19100035	25-Jun-19	1,36,709	Not Filed
M219000071	25-Aug-19	1,47,323	Not Filed
AH19100036	25-Jun-19	1,39,224	Not Filed
M219000063	25-Aug-19	17,106	Not Filed
M219000072	25-Aug-19	40,076	Not Filed
	Total	86,60,659	

8. The Appellant submits that, the non-compliance related to GST filing were brought to the Corporate Debtor's attention through multiple emails, but no action was taken. The Appellant was entitled to claim Input Tax Credit ("ITC") on GST paid to the Corporate Debtor under Section 16 of the CGST Act. However, due to the Corporate Debtor's default, the Appellant has been denied ITC, and the liability to pay GST has fallen on the Appellant.
9. It is stated that, vide order dated 19.02.2021, CIRP was initiated against the Corporate Debtor by NCLT, Mumbai Bench. The IRP, via email dated 13.05.2021, stated that Rs. 79,74,169/- was due from the Appellant. In response, vide email dated 17.06.2021, the Appellant clarified that Rs. 40,77,497/- was owed, while Rs. 86,60,659/- was recoverable from the Corporate Debtor due to GST defaults. Therefore, after set-off the Corporate Debtor is liable to pay the Appellant the remaining amount and further to the email, IRP never issued any response to the Appellant.
10. The Appellant submits that upon learning of the liquidation commencement on 21.09.2022 and the appointment of the Respondent as Liquidator, the Appellant filed its proof of claim (Form G) via email on 03.11.2022, having been unaware of the public announcement dated 29.09.2022, as its registered office is in Bengaluru. It is stated that, as



per Section 39 of the Code and Regulation 30 of the Liquidation Process Regulations, 2016, the Liquidator must verify claims within 30 days of receipt and, in case of rejection or admission, provide written reasons within seven days. In February 2023, the Appellant observed on the IBBI website that multiple stakeholder lists had been uploaded by the Liquidator, but its name was absent, despite including claims filed on 02.11.2022.

11. It is submitted that, the Appellant sought updates from the Liquidator via emails dated 14.02.2024 and 08.07.2023 but received no response. Therefore, the Liquidator thus failed to communicate any decision, violating procedures under the Code and 2016 Regulations. In the absence of a decision, the Appellant filed an application under Section 60(5) on 15.07.2023. Later, the Liquidator informed on 31.07.2023 that the claim was under verification and requested clarifications on 23.08.2023. The Liquidator, vide email dated 13.12.2023, alleged that the Appellant had failed to submit the documents requested on 31.07.2023 asserting that without these documents, the claim was unsubstantiated. The Liquidator also noted that no GST notice or claim had been received against the Appellant.
12. It is further stated that, vide email dated 13.12.2023, the Appellant's counsel informed the Liquidator that on 20.07.2023, the Appellant submitted Form G with supporting documents, including a ledger showing GST defaults. The Liquidator then requested a GST notice without justification.
13. The Appellant submits that no notice was received from the GST Department regarding the claim, and this was informed to the Respondent via email dated 23.08.2023. However, on 11.12.2023, the Office of the Deputy Commissioner of State Tax, Bhiwandi, Kalyan issued a notice for the Corporate Debtor's default, stating the Appellant is



ineligible for ITC, now treated as a tax liability with interest under Section 50(3) of the GST Act.

14. It is further stated that the Liquidator's counsel informed the Tribunal that the Appellant's claims had been rejected. Therefore, vide order dated 14.12.2023, the Tribunal granted the Appellant liberty to file a fresh application for admission of its claims on merits.
15. Accordingly, the Appellant filed the present IA, stating that its claims are bona fide and arise out of the Service Agreement. The Appellant will suffer irreparable harm and injury if the present application is not allowed.

Reply on behalf of the Respondent, in Brief;

16. Pursuant to the order dated 19.02.2021 passed by the Tribunal in C.P. (IB) NO. 1088 of 2020 initiating the CIRP of the Corporate Debtor, Mr. Rajendra Bhutta was appointed as Interim Resolution Professional. Thereafter, vide order dated 27.07.2021, the Respondent was appointed as the Resolution Professional ("**RP**") of the Corporate Debtor.
17. The Respondent submits that, via email/letter dated 13.05.2021, the Appellant was informed to pay the outstanding amount of Rs. 79,74,691/- due to the Corporate Debtor. The Appellant replied on 17.06.2021, admitting that Rs. 40,77,497/- was payable to the Corporate Debtor.
18. The Respondent further submits that, vide order dated 21.09.2022 passed by the Tribunal, initiated the Liquidation Process of Corporate Debtor and appointed Respondent as the Liquidator of the Corporate Debtor; pursuant to which, the Respondent caused public announcement on 29.09.2022, wherein, the last date for filing of claims was 21.10.2022 However, the Appellant filed its proof of claim on



03.11.2022 and said claim was incomplete and without supporting particulars and documents. Despite multiple requests via emails on 20.07.2023, 31.07.2023, and 13.12.2023 for supporting documents i.e., DRC-03, DRC -14, GSTR-3B, any notices received from GST Department and Bank Certificate against GST payment but, the Appellant failed to provide them.

19. It is stated that the Appellant filed IA No. 3008 of 2023, seeking similar relief. However, vide email dated 13.12.2023, the Respondent rejected the Appellant's claim. Subsequently, vide order dated 14.12.2023, the Tribunal dismissed the said IA as infructuous.
20. It is submitted that, the Corporate Debtor paid GST and filed returns with GST Department and no statutory liability due towards the GST as alleged. There's no question of any amount of Rs. 86,60,659/- is due and payable by the Corporate Debtor. It is further stated that, GST Department filed its claim with the Liquidator of Rs. 17,69,25,165 /- and same has been accepted and admitted. The Corporate Debtor has paid the GST, filed returns time to time.
21. It is further submitted that the properties of the Corporate Debtor have already been sold as a "going concern," and the sale proceeds are in the process of being distributed to the Corporate Debtor's stakeholders. Therefore, the belated claim cannot be accepted. The claim pertains to invoices dated 31.07.2017 and it cover period till 25.08.2019. Thus, the claim is time barred. The Corporate Debtor prays for dismissal of the Appeal with cost, as the claim is barred by the law of limitation and due to delay in filing the claim and also, direct the Appellant to pay Rs. 79,74,691/-, with interest @ 18% from the date amount due till payment and/or realisation.



Rejoinder of the Appellant, in Brief;

22. The present Affidavit-in-Rejoinder (“**Rejoinder**”) is filed to the Respondent’s Reply dated 02.05.2024.
23. It is submitted that the claim made by the GST Department is independent of the Appellant’s claim. In the Rejoinder, the Appellant contends that the Corporate Debtor was required to file monthly GSTR-1 returns, detailing all outward supplies along with invoices and debit notes. Such filing is essential, as it enables automatic reflection of corresponding details in the Appellant’s GSTR-2A, which forms the basis for availing Input Tax Credit (ITC). The buyer subsequently claims ITC through GSTR-3B, which must be reconciled with the data in GSTR-1 and GSTR-2B. Hence, the Appellant’s entitlement to ITC is dependent on the supplier’s timely and accurate filing of GSTR-1. In the present case, the Corporate Debtor’s failure to comply with this obligation resulted in the denial of ITC to the Appellant for the GST already paid. Consequently, the Appellant submits that an amount of Rs.86,60,659/- is due and payable by the Corporate Debtor, and since liquidation proceedings have been concluded, the question of the Appellant paying Rs.79,74,691/- does not arise.
24. It is further stated that the Appellant filed its claim with a delay of 11 days. Vide order dated 10.10.2023, the Tribunal directed the Liquidator to consider and adjudicate the Appellant’s claim within two weeks. Therefore, the Respondent cannot be now allowed to take delay in filing the claim as reason to defeat it, especially since delay was not cited as a reason when the claim was earlier rejected. It is submitted that the Appellant’s claim is not time barred, as various correspondence via email were made by the Appellant to the Corporate Debtor regarding the GST default.



Analysis and Findings

25. We have heard the Ld. Counsels of the parties and perused the documents available on record. We have given our thoughtful consideration to the matter before us.
26. This present Appeal has been filed by the Appellant under Section 42 of the Code against the rejection of the claim by the Liquidator.
27. Vide order dated 19.02.2021, the Company petition bearing number C.P. (IB) NO. 1088 of 2020 filed by the Financial Creditor for initiation of CIRP of Corporate Debtor was admitted which culminated in the passing of Liquidation order dated 21.09.2022 against the Corporate Debtor. The Appellant prayed for admission of its claim of Rs. 86,60,659/- on account of the Corporate Debtor's default to file and/or incorrectly filing GST returns. Several reminder emails dated 29.08.2020 and 25.09.2020 were sent to the Corporate Debtor regarding such non-compliance. It is contended that, due to the Corporate Debtor's default, the liability to pay GST has fallen on the Appellant and was not able to claim the Input Tax Credit.
28. The Appellant submitted that after initiation of CIRP on 19.02.2021, the Respondent sent an email dated 13.05.2021 to the Appellant seeking payment of Rs.79,74,691/- outstanding towards the Corporate Debtor. In response, the Appellant, vide email dated 17.06.2021, admitted liability of Rs.40,77,497/-. The Appellant filed its claim on 03.11.2022 after learning that the Corporate Debtor had been admitted into liquidation by order dated 21.09.2022, though the last date for filing claims was 21.10.2022.
29. It is seen from the documents placed on record that, the Respondent issued a Public Announcement on 29.09.2022, fixing 21.10.2022 as the



last date for filing claims. The Applicant submitted its claim belatedly on 03.11.2023.

30. Per contra, the Respondent submits that the Appellant submitted its claim under Form G on 03.11.2023, under Regulation 20 of the Liquidation Process Regulations, 2016, with a delay of 11 days. The claim was rejected as time-barred and incomplete due to non-submission of the requisite documents. Additionally, the Appellant is liable to pay outstanding dues of ₹79,74,169/- with interest @ 18% to the Corporate Debtor. The Respondent further, submitted that the GST Department had already filed its separate claim of ₹17,69,25,165/-, which was accepted and admitted.
31. The Appellant further submitted that the Office of the Deputy Commissioner of State Tax, Bhiwandi, Kalyan, issued a notice dated 11.12.2023 for the Corporate Debtor's default of Rs. 1,36,51,140/-, declaring the Appellant ineligible for ITC, which has now been treated as a tax liability with interest under Section 50(3) of the GST Act. The Appellant stated that, due to the Corporate Debtor's default, the GST liability has shifted to it and the claim is not time-barred.
32. It can be seen from the Appellant's submissions that, due to the Corporate Debtor's failure to file the GSTR-1 Form, the Appellant was denied Input Tax Credit (ITC), which has now been treated as a tax liability under Section 50(3) of the GST Act.
33. Further, it can be seen from the Respondent's submissions that the Appellant's claim was not admitted due to non-submission of the documents sought by the Liquidator, including the GST Department's liability notice. Additionally, the claim was filed with a delay of 11 days, and significant progress had already been made in the liquidation process as the assets of the Corporate Debtor had been sold as a 'going concern'. Moreover, a separate claim for the GST liability of Rs.



17,69,25,165/- had already been filed by the GST Department, which was duly accepted and admitted by the Respondent.

34. We further observe from the correspondence between the Appellant and the Respondent that there was a lapse on the part of the Appellant in providing the documents requested by the Liquidator at the time of submitting its claim. It is also noted that no notice had been issued by the GST Department at that stage in respect of any liability arising from the Corporate Debtor's default. The Appellant's denial of liability for the outstanding dues of Rs.79,74,169/- is based solely on the non-filing of GSTR-1 and GSTR-3B by the Corporate Debtor. However, as reflected in the email dated 17.06.2021, the Appellant expressly acknowledged its liability of Rs.40,77,497/- towards the Corporate Debtor. In view of the submissions and documents placed on record, if the Liquidator intends to initiate any further proceedings regarding the outstanding dues payable by the Appellant, he may do so in accordance with law.
35. In this context, it is further noted that, as the Appellant is claiming Input Tax Credit (ITC), it is a prerequisite that the corresponding GSTR-1 form be duly filed by the supplier in order to avail such credit. However, in this case, the Corporate Debtor has failed to file the requisite GSTR-1 form. The Corporate Debtor failed to remit the GST amount that was collected as part of the payment received from the Appellant for the services rendered and was obligated to deposit the same with the Government. Consequently, it is for the GST Department to pursue recovery or initiate appropriate proceedings or the imposition of penalty, against the defaulting Corporate Debtor.
36. Upon perusal of the documents placed before us, it may be the case that there was a default on the part of the Corporate Debtor in filing the requisite GST returns. Further, under the provisions of the GST law, it is the statutory duty of the supplier to remit to the Government the GST



collected from the recipient of goods or services. However, since the GST Department has already filed its claim, which has been duly, there is no justification for the Appellant to file a separate claim before the Liquidator towards the GST liability of the Corporate Debtor.

37. In light of the facts and circumstances of the case and the discussion hereinabove, the claim filed by the Appellant for Rs.86,60,659/- towards GST liability arising from the Corporate Debtor's default cannot be admitted. Therefore, the Appeal is liable to be **dismissed**. Accordingly, IA No. 294/2024 is **dismissed** and **disposed of**. No orders as to costs.

Sd/-

Charanjeet Singh Gulati

Member (Technical)

/Saumya - L.R.A/

Sd/-

Mohan Prasad Tiwari,

Member (Judicial)