

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT-II**

IA. No. 2904/2021

In

CP(IB)No. 434/MB/C-II/2018

**Application filed under section 60(5), of the
Insolvency & Bankruptcy Code, 2016 read with
Rule 11 of National Company Law Tribunal Rules,
2016 (Rules).**

Quantum Urja Private Limited
Through its Authorized Representative,
Mr. Dharesh Mandloi
Reg off :- 401, Sapphire House,
Sapna Sangeeta Road,
Indore – 452001.

...Applicant

In the matter of

Punjab National Bank

...Financial Creditor

Versus

Mittal Corp Limited

...Corporate Debtor

Order Pronounced on: - 18.10.2023

Coram:

**Anil Raj Chellan
Member (Technical)**

**Kuldip Kumar Kareer
Member (Judicial)**

Appearances -

For the Applicant : Adv. Vidit Kumar

For the Respondent : Adv. Shweta Dubey a/w Adv. Ishita Srivastava

ORDER

Per: Kuldip Kumar Kareer, Member Judicial

1. The present Interlocutory application is filed by the Applicant M/s Quantum Urja Private Limited through its Authorized Representative who is the Operational Creditor of the Corporate Debtor herein. The Application has been filed by the Applicant seeking direction against the Resolution Professional of the Corporate Debtor to accept and admit the claim of the Applicant in totality.
2. The Applicant is in the business of trading of furnace oil and industrial fuel oil. On demand of the Corporate Debtor, the Applicant had supplied furnace oil at the plant of the Corporate Debtor in Pithampur, Madhya Pradesh. The Applicant had supplied the said goods and raised several invoices for which the Corporate Debtor have made payments and the same is reflected in the ledger account of the Corporate Debtor. However, the Corporate Debtor failed to make payment for the following invoices: -

Sr. No.	Date	Invoice No.	Amount
1.	04.10.2018	QUPL/GST/0140	9,48,592/-
2.	13.10.2018	QUPL/GST/0144	9,50,970/-

IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT II

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In

C.P. (IB) No. 434/MB/C-II/2018

3.	15.10.2018	QUPL/GST/0146	9,52,393/-
		Total	28,51,955/-

3. Pursuant to the initiation of the Corporate Insolvency Resolution Process vide Order dated 10.11.2021 by an application filed by the Financial Creditor, Punjab National Bank, the Interim Resolution Professional (IRP), published public announcement in Form-A on 12.11.2021 wherein the last date for submission of the claim was mentioned as 24.11.2021.
4. The Applicant in the capacity of the Operational Creditor filed its claim through email dated 18.11.2021 in Form B with the IRP to the tune of Rs. 44,53,370/- (Rupees Forty-Four Lakhs Fifty-Three Thousand Three Hundred Seventy Only) wherein Rs. 28,51,955/- (Rupees Twenty-Eight Lakhs Fifty-One Thousand Nine Hundred Fifty-Five Only) was outstanding on account of the above invoices and Rs. 30,723/- (Rupees Thirty Thousand Seven Hundred and Twenty - Three Only) on account of unpaid balance against the bill no. 51,52 and debit note no. 53 and Rs. 15,70,692/- (Rupees Fifteen Lakhs Seventy Thousand Six Hundred Ninety-Two Only) on account of interest.
5. The IRP vide its email dated 25.11.2021 partly accepted the claim of the Applicant and denied the interest component in absence of any mutual Agreement between the parties. In response to the said email of the IRP, the Applicant clarified its reasons and justification for

charging the interest. The IRP again vide its email dated 26.11.2021 denied the claim of the Applicant.

6. The Applicant once again vide its email dated 27.11.2021 reiterated its submissions and also pointed out the interest clause mentioned in the invoice. However, no response was received from the IRP.
7. The Applicant is supplying the goods to the Corporate Debtor since 2016 and the Corporate Debtor has accepted the goods without any dispute and the Corporate Debtor has also been making the payment of the said goods to the Applicant herein as reflected from the ledger account. The Applicant in the terms and conditions of the invoices have specifically mentioned that non -payment of the invoice would attract interest @ 18% p.a. and hence the claim of the Applicant was wrongly rejected by the IRP.

Reply by the Resolution Professional

8. The Resolution Professional has filed its reply dated 28.09.2022 thereby denying to the averments as made by the Applicant.
9. The claim of the Applicant was rejected by the Respondent on the ground of absence of any mutual agreement between the parties. The Respondent in its email dated 26.11.2021 stated that in the purchase order of the Corporate Debtor it was clearly mentioned that no interest shall be paid on delayed payment and without any mutual agreement between the parties, the interest component cannot be admitted.

10. The Respondent stated that the claim form as submitted by the Applicant was based on the purchase orders issued by the Corporate Debtor. The purchase order issued by the Corporate Debtor does not mention that the interest will be levied in case of delayed/non-payment of the dues of the supplier and the same was accepted by the Applicant on which the goods were supplied, and invoices were issued.
11. The Respondent has also stated that the balance confirmation and schedule of payment dated 30.09.2021 as executed between the erstwhile management and the Applicant was to be implemented from November 2021 till June 2022, however, the CIRP was admitted against the Corporate Debtor on 10.11.2021 and the therefore same has no bearing over the claim filed. Thus, in absence of any mutual contract regarding the payment of interest in case of delayed payments, the interest claim cannot be admitted.
12. The Operational debt along with interest must be arisen out of a contract and in absence of any terms providing for interest on delayed payment, the claim made by the Applicant is beyond the terms of the contract/understanding of the parties. The debit notes amounting to Rs. 30,723/- was raised by the Applicant and also an amount of Rs. 28,51,955 was duly admitted as a claim of the Applicant however, in absence of any mutual agreement between the parties pertaining to the interest component, the amount claimed as interest was rejected.

FINDINGS

13. We have heard both the parties and have perused the available records.
14. On perusal of the Purchase Order produced on record dated 01.10.2018 annexed to the Application, under the head of Special instructions, point no 6 specifically states that no interest or penalty would be charged for any delayed payment. The Respondent herein has admitted the Applicants claim to Rs. 28,51,955 and interest on the delayed payment amounting to Rs. 15,70,692/- is rejected as there was no agreement between the parties to pay the interest and moreover the purchase order categorically provides that no interest shall be paid on the delayed payment. Therefore, merely because there is a stipulation condition in the invoice with regard to payment of interest, no interest can be said to be payable especially when in the purchase order there is a stipulation that no interest will be payable on delayed payments. Hence it is seen that the Corporate Debtor herein had not assented to pay the interest amount at the time of issuing the Purchase Order on the basis of which the goods were supplied.
15. Thus, the Respondent herein has rightly rejected the claim.
16. In view of the above, **IA 2904 of 2021 is dismissed being devoid of merits.**

Sd/-

**ANIL RAJ CHELLAN
MEMBER TECHNICAL**

Sd/-

**KULDIP KUMAR KAREER
MEMBER JUDICIAL**