



S.No.15

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1
VC AND PHYSICAL (HYBRID) MODE
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
29-01-2025 AT 11:00 AM**

CP (IB) No. 295/9/HDB/2022
u/s. 9 of IBC, 2016

IN THE MATTER OF:

M/s. Largess Engineering

...Operational Creditor

AND

M/s. Power Mech Projects Ltd

...Corporate Debtor

C O R A M:-

**DR. VENKATA RAMAKRISHNA BADARINATH NANDULA, HON'BLE MEMBER (JUDICIAL)
SH. CHARAN SINGH, HON'BLE MEMBER (TECHNICAL)**

ORDER

Orders pronounced, recorded vide separate sheets. In the result, **this Company Petition is admitted**. CIRP is initiated against the CD and Moratorium is imposed, as per the terms of the order, Interim Resolution Professional is appointed.

Sd/-

MEMBER (T)

Sd/-

MEMBER (J)



**IN THE NATIONAL COMPANY LAW TRIBUNAL,
HYDERABAD BENCH - I, HYDERABAD**

C.P. (IB) No.295/9/HDB/2022

Under Section 9 of The Insolvency and Bankruptcy Code, 2016

IN THE MATTER OF

M/s. Largess Engineering

14-1-28/9, Vaijyanthi Cinema Centre,

Mogaltur Road, Royapeta, Narsapur,

West Godavari District, Andhra Pradesh – 534275.

...OPERATIONAL CREDITOR

VERSUS

M/s. Power Mech Projects Limited

Mundra-Kandla LPG Pipeline, Plot No.77,

Jubilee Enclave, Opp. Hitex, Madhapur,

Hyderabad, Telangana - 500081.

...CORPORATE DEBTOR

Date of Order: 29.01.2025

Coram:

DR. VENKATA RAMAKRISHNA BADARINATH NANDULA

HON'BLE MEMBER (JUDICIAL)

SHRI CHARAN SINGH, HON'BLE MEMBER (TECHNICAL)



Parties/Counsels present:

For Operational Creditor : Ms. Mohana Sharda, Counsel
For Corporate Debtor : Mr. Anil Vydy, Counsel

PER BENCH

ORDER

1. This is a Petition filed by 'M/s. Largess Engineering' (hereinafter referred as 'Operational Creditor') under Section 9 of 'The Insolvency and Bankruptcy Code, 2016' (hereinafter referred as 'IBC') seeking initiation of 'Corporate Insolvency Resolution Process' (hereinafter referred as 'CIRP') of 'M/s. Power Mech Projects Limited' (hereinafter referred as 'Corporate Debtor'). It was alleged that the Corporate Debtor defaulted the following operational debt to be paid towards the Operational Creditor (Calculation Table at Page 126 Annexure 5) as on 15.05.2022:

Principal Amount	:	Rs.6,26,25,632/-
Interest @ 3 times Bank Rate	:	Rs.3,11,06,826/-.
Total Amount	:	Rs.9,37,32,458/-.
Alleged date of default	:	15.12.2019

2. The Operational Creditor is a Partnership Firm and also an MSME registered under the MSMED Act, 2006. The Operational Creditor is



engaged in the business of construction activities and the Corporate Debtor is a Private Limited Company incorporated under The Companies Act, 1956.

3. The Corporate Debtor sub-contracted two work orders to the Operational Creditor vide Work Order No. 6000019779 dated 01.05.2019 (hereinafter referred as Work Order I) and Work Order No. 6000022873 dated 21.02.2020 (hereinafter referred as Work Order II) for laying 20' Dia LPG Pipeline for Mundra Kandla Pipeline Project. It was also submitted that these work orders were amended periodically.

CASE OF THE OPERATIONAL CREDITOR

4. It was submitted that in accordance with the terms and conditions of the work orders issued by the Corporate Debtor, the Operational Creditor rendered services and accordingly, invoices were raised periodically on the Corporate Debtor for the services provided. It was submitted that the Corporate Debtor made some adhoc payments on these invoices raised by the Operational Creditor.
5. It was further submitted that apart from the services mentioned in the work order, the Operational Creditor also supplied Manpower and Services to the Corporate Debtor on behalf of 'Jai Shakti Engineering



& Construction' ('Jai Shakti') and invoices were raised by the Operational Creditor for the services provided by Jai Shakti to the Corporate Debtor.

6. It was submitted that the Operational Creditor provided the services to the Corporate Debtor as mentioned in the work orders and the Corporate Debtor never raised any objection regarding the quality of the services provided by the Operational Creditor. It was submitted that on each invoice, a Security Deposit of 7.5% was deducted by the Corporate Debtor and that a total of this deposit now stands at Rs.99,84,199/-. It was submitted that this Security Deposit is payable after the acceptance of invoice which were not released by the Corporate Debtor.
7. It was submitted that though the Operational Creditor enclosed 19 (nineteen) invoices in support of its case but relied only on 5 (five) invoices remaining unpaid pertaining to the period of 2019-2020 alleging debt and default of Corporate Debtor. It was submitted by the Operational Creditor, by way of an application vide I.A. (IBC) NO. 649 of 2024, wherein a memo was annexed therein stating that all the invoices raised by the Operational Creditor were cleared by the Corporate Debtor excepting five invoices which were mentioned in the



calculation table at Page 126 of the Petition. It was submitted that these five invoices were raised prior to Covid-19 and subsequently, the Project Director of the Corporate Debtor resigned without clearing these bills. That these bills were left unpaid and hence, the present claim is based on these uncleared invoices.

8. It was submitted that all the invoices were raised only after the Corporate Debtor being satisfied with the work done and that these invoices were acknowledged and accepted by the Corporate Debtor. That even after acknowledging the invoices, the Corporate Debtor defaulted in making the payments towards the Operational Creditor on these five invoices since 15.12.2019. It was submitted that the principal amount due till 15.05.2022 stands at Rs.6,26,25,632/- and the compound interest calculated at 3 times the Bank Rate comes to Rs.3,11,06,826/-. That the total outstanding amount to be paid by the Corporate Debtor towards Operational Creditor stands at Rs.9,37,32,458/- as on 15.05.2022.
9. It was submitted that even though the Principal Employer who issued contract to the Corporate Debtor have already made payments, the



Corporate Debtor is withholding the payments of Operational Creditor and committed a default.

10. On failure of the Corporate Debtor to make payments, the Operational Creditor issued a Demand Notice dated 15.05.2022 in Form-3 under Section 8 of IBC asking the Corporate Debtor to make payments of outstanding dues and that the same was received by the Corporate Debtor. That on failure of Corporate Debtor to make payments even after receiving the demand notice, the present Petition was filed seeking initiation of CIRP of the Corporate Debtor.

REPLY OF THE CORPORATE DEBTOR

11. It was submitted that the total amount of work to be done by the Operational Creditor including all the amendments made under Work Order I is Rs.11,63,82,903/- and under Work Order II is Rs.11,28,0,033/-, both totalling to Rs.22,92,12,936/- and that the work should be completed within 45 days from the date of issuance of Work Order.
12. It was submitted that as per the terms of work order, the Corporate Debtor has already paid Rs.9,33,57,976/- as on 03.07.2021 to the Operational Creditor. It was submitted that subsequent to this payment,



the Operational Creditor issued a Letter to the Corporate Debtor and that a reply was given to the same by the Corporate Debtor vide Ref No. PMPL/CO/F.No.02/D.No.27/02 dated 04.09.2021 (hereinafter referred as “Reply Letter” – At Page 136 of Petition) wherein the Corporate Debtor clarified the Operational Creditor regarding the payments made by the Corporate Debtor.

13. It was submitted that in this Reply Letter, it was clarified by the Corporate Debtor that an amount of Rs.1,90,46,983/- stands outstanding on behalf of Corporate Debtor towards Operational Creditor and that the Operational Creditor is in an accepted debt of Rs.3,59,63,118/- towards the Corporate Debtor. It was further submitted that the Operational Creditor owes to Corporate Debtor, a debt amounting to Rs.74,02,075/- which includes all the materials left out and reworks carried out by the Corporate Debtor and that this amount of debt is pending for acceptance of the Operational Creditor.
14. It was submitted that the Operational Creditor was not executing the works satisfactorily and was also warned regarding the same. That on non-completion of the works as per the scope of the work order, the Corporate Debtor was forced to short-close the sub-contract issued to



the Operational Creditor. It was submitted that the Corporate Debtor being the prime contractor, carried out on its own the pending works and rectification of defects in the works completed by the Operational Creditor and that this resulted in loss of money and time to the Corporate Debtor. It was further submitted that the Operational Creditor was warned that the project being at final stage, various testing activities are to be carried out and if any defects are found while testing the works carried on, the Operational Creditor has to bear the costs.

15. With respect to the provision of manpower and services through Jai Shakti, it was submitted that it is a sub-vendor of the Operational Creditor and on account of failure of the Operational Creditor to make timely payments, this sub-vendor approached the Corporate Debtor for payments.
16. In respect of deduction of 7.5% payment as security deposit, it was submitted that the same is done as per the terms of the work order and that this Security Deposit shall be released after DLP of the Corporate Debtor.
17. It was submitted that the Corporate Debtor never acknowledged the debt and stated that mere acceptance of invoices does not amount to



acknowledgment of debt. It was further submitted that the Corporate Debtor was informing the Operational Creditor that the bills raised were not as per the scope of the work, but that some major payments were made by the Corporate Debtor to keep the work in progress and that the invoices were always in dispute.

18. It was submitted that the invoices raised by the Operational Creditor and the amount to be paid by the Corporate Debtor were always in dispute and that the Operational Creditor approached MSME authorities for settlement of dispute between the Operational Creditor and Corporate Debtor.

19. That as per Clause 9 of the Work Order, any dispute between the parties were to be referred to arbitrator and that the Operational Creditor, instead of doing the same, filed the present Petition. It was submitted that the Corporate Debtor is having sufficient funds and is ready to pay the balance amounts if the dispute is resolved through Arbitrator.

REJOINDER OF THE OPERATIONAL CREDITOR

20. The Operational Creditor, by way of Rejoinder, reiterated the contentions put forth in the Petition. In addition, it was submitted that



the total amount payable under both the work orders is Rs. 22,36,00,855/- and not Rs. 22,92,12,936/-

21. It was submitted that the period of completion of work is as per HOWE Regulations and not within 45 days period from the date of issuance of work order. It was also submitted that the Corporate Debtor only made a payment of Rs.9,15,07,760/- and not Rs.9,33,57,976/- as on 03.07.2021.
22. With respect to the Reply Letter of the Corporate Debtor dated 04.09.2021, it was submitted that the billings provided therein were fabricated and false and that a reply to the same was issued by the Operational Creditor by way of email dated 09.09.2021.
23. It was submitted that the Operational Creditor completed the works to the satisfaction of the Corporate Debtor and that the same was acknowledged by the Corporate Debtor by way of email dated 07.07.2020. It was further submitted that in the Reply Letter dated 04.09.2021 issued by the Corporate Debtor, it was clearly admitted by the Corporate Debtor under subheading No.3 titled "Balance Work" wherein it was stated that the Operational Creditor Stopped the work with the reason of payment and not for reason of incapability.



24. It was submitted that the Corporate Debtor acknowledged all the invoices raised by the Operational Creditor and never raised any dispute at any point of time. It was submitted that an application was filed before the MSME Council on 01.07.2022 and the same does not amount to a pre-existing dispute so as to reject the present Petition as this application with MSME council was filed post issuance demand notice for filing of this petition.

25. Both the parties filed written synopsis reiterating the contentions put forth by them and also relied on the rulings of different Judicial Authorities in respect of the contentions raised. The Operational Creditor also filed a Reply to the Synopsis of the Corporate Debtor.

26. In the light of the contest put forth by both the parties herein, the points that emerge for our consideration are:

1. Whether there is an operational debt and default of an amount exceeding Rupees One Crore by the Corporate Debtor towards the Operational Creditor?

2. Whether there is a pre-existing dispute between the Operational Creditor and the Corporate Debtor prior to issuance of Demand Notice with respect to the claim raised in the present Petition?



27. Heard the Ld. Counsel Ms. Mohana Sharda for the Operational Creditor and Ld. Counsel Mr. Anil Vydyia for the Corporate Debtor, perused the record and the written submissions.
28. Before advertng to the points, we would like to refer to some of the events that took place during the course of proceedings in the present Petition. On 29.01.2024, this Tribunal reserved the present case for pronouncement of orders. After perusing the records submitted by both the parties, this Tribunal sought clarification pertaining to the invoices enclosed by the Operational Creditor. The Operational Creditor, though enclosed 19 (nineteen) invoices in support of its case, relied only on 5 (five) invoices pertaining to the period of 2019-2020 alleging debt and default of Corporate Debtor. An explanation was sought by this Tribunal pertaining to the same by filing a memo of compliance.
29. The Operational Creditor, by way of an application vide I.A. (IBC) NO. 649 of 2024, sought condonation of delay in filing the compliance memo in terms of the order of this Tribunal dated 09.02.2024. This Tribunal allowed the said application and condoned the delay, thereby taking the memo of compliance filed by the Operational Creditor on record. The operational creditor clarified in the memorandum that only



these five invoices are pending for payments and other invoices are paid, hence the petition is based on these 5 invoices.

POINT 1:

Whether there is an operational debt and default of an amount exceeding Rupees One Crore by the Corporate Debtor towards the Operational Creditor?

SUBMISSIONS

30. Ld. Counsel for the Operational Creditor submits that the Corporate Debtor issued a sub-contract to the Operational Creditor under two work orders viz., Work Order I on 01.05.2019 and Work Order II on 21.02.2020 for laying pipeline for Mundra Kandla Project. Ld. Counsel submits that payments for the works done by Operational Creditor are to be made after raising invoices on the Corporate Debtor.
31. Ld. Counsel submits that the Operational Creditor raised periodical invoices for the works done under the work orders and the same were received by the Corporate Debtor without any objection. That as per the terms, payments in respect of these invoices are to be made within 45 days from the date of invoice. In addition, a Security Deposit of 7.5% was to be deducted by the Corporate Debtor on the invoice amount and the same is to be paid to the Operational Creditor after the defect liability period.



32. Ld. Counsel for Operational Creditor submits that even after acknowledging the invoices, the Corporate Debtor defaulted in making payments on five invoices raised between 11.07.2019 to 31.10.2019. Ld. Counsel submits that these five invoices were raised prior to Covid-19 and the same were not cleared by the project director of the Corporate Debtor. That just few days prior to Covid-19, the project director of the Corporate Debtor resigned and these five invoices were kept pending by the Corporate Debtor without making any payments. Ld. Counsel submits that the last defaulted invoice was raised on 31.10.2019 and the payment was to be made by 14.12.2019, the date of default was taken as 15.12.2019.
33. Ld. Counsel for Operational Creditor submits that on failure of Corporate Debtor to make payments on these invoices, a Demand Notice in Form-3 was issued to Corporate Debtor on 15.05.2022, but the Corporate Debtor failed to make payments even after receipt of Demand Notice.
34. Ld. Counsel for Operational Creditor submits that the detailed calculation of the defaulted amounts of Corporate Debtor was annexed at Page 126 of the Petition and these amounts also include the



compound interest @3 times the bank rate as the Operational Creditor herein is an MSME entity. Ld. Counsel submits that the total principal amounts of these invoices come to Rs. 6,26,25,632/- and interest comes at Rs.3,11,06,826/-. That the total amount as claimed by Operational Creditor as on 15.05.2022 is Rs.9,37,32,458/-.

35. On the other hand, Ld. Counsel for Corporate Debtor contended that mere serving of the invoices does not amount to acknowledgment of debt and that since beginning, the Operational Creditor was informed by the Corporate Debtor that the bills raised were not as per the scope of the work.

36. Ld. Counsel for Corporate Debtor submits that there is no operational debt and default by Corporate Debtor towards the Operational Creditor of an amount exceeding rupees one crore.

OUR ANALYSIS & FINDINGS

37. The Operational Debt claimed to be due in the present Petition arose out of the Work Order No. 6000019779 dated 01.05.2019, which was amended subsequently without change in the terms and conditions. The terms of this work order do not speak anything about the mode of acknowledgment of the invoices raised. Clause 3.b of this work orders



state that 92.5% payment will be done after the successful completion of work, but does not talk at all with respect to the acknowledgment of invoices as a pre-requisite to make the payments.

38. The Operational Creditor raised various invoices in respect of the works done in pursuance of the work orders received from the Corporate Debtor. The Operational Creditor also produced a Calculation Table at Page No.126 of the Petition stating as to how the Operational Debt as claimed by the Operational Creditor was arrived at. This Calculation Table mentions only 5 invoices pertaining to the period between 11.07.2019 to 31.10.2019 and the total claim under these invoices amounts to Rs.9,14,90,888/- (which is beyond the threshold limit of One Crore rupees). The compliance memo filed by the Operational Creditor vide I.A. (IBC) NO. 649 of 2024 states that though several invoices were raised by the Operational Creditor, the bills pertaining to the five invoices raised during the Financial Year 2019-20 were not cleared by the Project Director of the Corporate Debtor and subsequently, the said Project Director resigned from the Corporate Debtor. In lieu of these circumstances, the payments on these five invoices remained due to be paid by the Corporate Debtor and these are



the invoices which are shown in the Calculation Table at Page No.126 of The Petition.

39. On perusal of the invoices and the calculation table provided by the Operational Creditor, we observe that the total amount claimed on the invoices, after deducting the payments already made and also excluding the compound interest, comes to Rs. 6,10,01,736/- which is beyond the threshold limit of one crore rupees as prescribed by Section 4 of IBC. All these invoices pending for payment pertains to the work done under Work Order I. The Work Order I state that payments are to be made on monthly RA Bills (Page 38 of the Petition). Admittedly, no payments were made in respect of these invoices which were raised between 11.07.2019 to 31.10.2019.

40. We also perused the Reply Letter dated 04.09.2021 written by Corporate Debtor to the Operational Creditor wherein the Corporate Debtor agreed that total amount payable to the Operational creditor works out to Rs.2,93,02,840/-. But Corporate Debtor contended in the same letter that some recoveries of Rs.2,68,32,410/- is due from the Operational Creditor, hence the net amount payable to the Operational Creditor works out only Rs.24,74,431/-. On perusal of details of these



recoveries as contended by the Corporate Debtor, we find that a penalty amounting to Rs.1,36,74,477/- on 10% of the billed value is shown as recovery from the bill of the Operational Creditor for which no explanation is given. We also find that these invoices pertain to mainly initial works like row clearing and grading, transportation of coated pipes & stringing, welding, completion of radiography, trenching and field joint coating etc and are covered under Work order no I. We also observe from the records that the first dispute was raised by the Corporate Debtor on 04.09.2020 and by that time, Work Order No. 6000019779 dated 01.05.2019 wherein these invoices were raised, was closed and Work Order No. 6000022873 dated 21.02.2020 was in operation. Therefore, we cannot accept the contention of Corporate Debtor for imposing a penalty of Rs.1,36,74,477/- and bring the net amount payable to the Operational Creditor below the threshold value of Rs.1 crore. Therefore, in the above backdrop, if we exclude this penalty amount of Rs.1,36,74,477/-, even by admission of Corporate Debtor through its letter dated 04.09.2021, the amount due is more than Rs.1 crore. The relevant extract of the letter of corporate Debtor is reproduced hereunder:



Overall Billing Summary			
S.No	Description	Amount	Remarks
A	Billing Details		
1	PO Value	22,92,12,937	
2	Billed Value including Taxes	16,13,58,830	A
3	Payable value including Taxes after Debits	11,24,04,959	B
4	Paid till Date	9,33,57,976	C
5	Balance Payable value	1,90,46,983	D=B-C
6	SD Amount	1,02,55,858	E
	Total Payable value	2,93,02,840	F=D+E
B	Recoveries		
1	Balance Debitable value with 5% Over Heads	74,02,075	G
2	Penalty of 10% on the Billed Value	1,36,74,477	H
3	Till Now Risk & Cost works executed by PMPL	57,55,858	I
	Total Debit Value	2,68,32,410	J=G+H+I
	Net Outstanding as on date	24,70,431	K=F-J

41. In the above backdrop, we hereby hold that there is an operational debt and default of an amount exceeding Rupees One Crore by the Corporate Debtor towards the Operational Creditor.

The point is answered accordingly.

POINT 2:

Whether there is a pre-existing dispute between the Operational Creditor and the Corporate Debtor prior to



**issuance of Demand Notice with respect to the claim raised
in the present Petition?**

SUBMISSIONS

42. Ld. Counsel for the Operational Creditor submits that there is no dispute between the Operational Creditor and the Corporate Debtor in respect of the work done under the 5 invoices. Ld. Counsel submits that any objections on the works performed by the Operational Creditor were to be raised right away and that the Corporate Debtor never raised any objections as to the quality and completion of works done by the Operational Creditor pertaining to these invoices till date.
43. Ld. Counsel for Operational Creditor contended that since the Operational Creditor is an MSME registered under the MSMED Act, 2006, any complaint made after 15 days of delivery of goods or deemed acceptance, is invalid and that the Corporate Debtor herein raised no objections within 15 days of the completion of the works by the Operational Creditor.
44. On the other hand, Ld. Counsel for Corporate Debtor submits that the Operational Creditor was informed by the Corporate Debtor that the bills raised were not as per the scope of the work. Ld. Counsel submits that the Corporate Debtor cleared some of the major amounts to the



Operational Creditor so as to keep the work in progress and that the invoices raised were always in dispute.

45. Ld. Counsel for the Corporate Debtor contended that the Reply Letter dated 04.09.2021 issued by the Corporate Debtor makes it clear that only an amount of Rs.24,70,431/- is due on behalf of the Corporate Debtor towards the Operational Creditor. That in the said reply, it was mentioned that there are shortcomings in the works performed by the Operational Creditor and the same amounts to a pre-existing dispute as the demand notice was issued subsequent to this Reply Letter. Hence, the present Petition is liable to be rejected.

OUR ANALYSIS & FINDINGS

46. It is pertinent to note that all the five invoices relied on by the Operational Creditor pertain to the period between 11.07.2019 to 31.10.2019, whereas the Corporate Debtor issued a letter vide Ref No. PMPL/CO/F.No.02/D.No.27/02 dated 04.09.2021/Reply Letter (**which is almost 2 years after the date of invoices relied on by the Operational Creditor**) to the Operational Creditor (Page 136 of The Petition). In this letter, the Corporate Debtor made calculations and stated that the total outstanding as on date i.e., as on 04.09.2021 is



Rs.24,70,431/- which is to be paid by the Corporate Debtor to the Operational Creditor.

47. It is to be noted that the Corporate Debtor did not dispute the issuance/submission of 5 invoices raised and relied on by the Operational Creditor pertaining to the Financial Year 2019-20 (Page 106 to 110 of the Petition). Moreover, the Corporate Debtor also did not dispute the validity of these invoices but only took the plea that acceptance of invoices itself does not amount to acknowledgment of debt and these invoices were always in dispute.

48. In respect of these invoices, this Tribunal by an order dated 09.08.2024 directed the Corporate Debtor as follows:

“let the corporate debtor clarify whether there is any record to show that in respect of the five bills namely to July-October 2019, any “dispute” has been raised by the corporate debtor before 07.07.2020. Clarification shall be filed within one week”.

49. Even after the direction of this Tribunal, no record/material was filed by Corporate Debtor pertaining to dispute in respect of these five invoices raised by Operational Creditor basing on which the present Petition was filed.

50. Earlier, the Operational Creditor filed an application vide I.A. No. 1003 of 2023 in C.P. (IB) No. 295/9/HDB/2022 to take on record the



documents annexed to the Application. The said application was allowed by an order of this Tribunal dated 23.06.2023. Among the documents filed therein, we have perused the abstract of payments to be made pertaining to invoice RA Bill number 1, 2 & 3 annexed at Page No.10, 25 & 38 of Application in I.A. (IBC) No.1003 of 2023. For RA Bill No.4 & RA Bill No.5, the Operational Creditor only submitted the copies of emails wherein the bills were forwarded to the Corporate Debtor. Therefore, we could not peruse the details of work done as mentioned in RA Bill No.4 & RA Bill No.5. All the RA Bills referred herein pertain to the five invoices basing on which the present Petition was filed claiming an Operational Debt of an amount above One Crore. However, on perusal of three RA Bills dated 25.08.2019, 28.09.2019 and 13.10.2019 respectively, we found that the respective invoices have been raised only for the initial works like row clearing and grading, transportation of coated pipes & stringing, welding, completion of radiography, trenching and field joint coating and covering.

51. We have also perused the work order, work flow given by the corporate debtor to the operational creditor, synopsis with dates filed by the Corporate Debtor on 20.10.2023 and various amendments filed by



Operational Creditor from Page No. 37-105 of the Petition and some of the salient factual points as extracted from these documents are given in the subsequent paragraphs.

52. The Work Order I was issued on 01.05.2019 for mainline quantity of 15 kms of length. Thereafter amendment one was carried on with respect to final BBU (Billing breakup) and another amendment was carried out on 14.08.2019 wherein the mainline length was increased from 15 km to 47.5 kms. Again on 19.09.2019 another amendment was carried out by adding rock trenching, rock shielding and sand padding activities. One more amendment was further carried out on 29.11.2019 by revising total quantity of rock trenching and rock shielding activities.
53. Subsequently, this Work Order I was closed (S.No.6 at Page No.2 of synopsis with dates filed by corporate debtor) and a fresh Work Order II i.e., Work Order No. 6000022873 was issued on 21.02.2020 by revising the quantity executed earlier.
54. As per the Work Order I, the payment was to be released by Corporate Debtor against monthly RA Bills (Page No. 38 of the Petition). The RA Bills raised by Operational Creditor on which the present claim is based are also raised on monthly basis viz., 25.08.2019, 28.09.2019,



30.10.2019, 14.11.2019 and 15.12.2019. As per the terms of payment under Work Order no I , Corporate Debtor was to release 92.5% of the payment of the invoice after the successful completion of work and 7.5% payment will be deducted as Security Deposit which will be released after DLP (Defect Liability Period). From these terms, it is clear that the Corporate Debtor is bound to make 92.5% payments after receipt of RA Bills from Operational Creditor, which admittedly and undisputedly was not made by Corporate Debtor in respect of the five invoices under consideration. We also find that **none of the invoices under consideration mentions billing for any hydrotest activity of pipeline, for which the corporate debtor has shown a dispute.**

55. The Work Order II which was issued on 21.02.2020 was amended on 01.06.2020 by adding 90 kms of hydrotest activity to the works mentioned therein. We find that, after this amendment, hydrotest was successfully completed for 22.5 kms of stretch on 07.07.2020. In this regard, the Corporate Debtor even addressed a congratulating mail to the Operational Creditor for the successful completion of hydrotest (*Page No.224 in I.A. No.1003 of 2023 and Page No.165 of the Petition*).



56. On the basis of the above work completion dates and synopsis of order execution summary, we find that these five invoices pertain to the initial Work Order i.e., Work Order I issued on 01.05.2019 which was for 15 kms of length. We also observe that the Work Order I was already closed and Work Order II was issued on 21.02.2020. We do not find any record of dispute raised by Corporate Debtor in respect of the work done, on quality of work or timelines in respect of Work Order I.
57. We further observed that as per the terms of the Work Order I, the hydrotest activity is to be carried on by Corporate Debtor i.e., Power Mech Projects Limited (*Term 4(c) of Work Order I-Page 39 of Petition*) and it is only after the Work Order II, the hydrotest activity was assigned to the Operational Creditor for 90 kms of pipeline.
58. We find that the payments claimed by Operational Creditor on the works done is not linked to hydrotest activity. Even viewed logically, payments cannot be linked with hydrotest activity as this activity is carried out at the last leg of the project after completion of laying of pipes whereas as per the terms of work order, payments are to be made on monthly basis.



59. We also observe that the Corporate Debtor has entered into with the Operational Creditor for various amendments of the work order and has granted additional work from time to time even beyond the period during which these invoices were issued. When viewed logically also, we come to a conclusion that there was no pre-existing dispute between the Operational Creditor and the Corporate Debtor in respect of these invoices, since no person of ordinary prudence will go for assigning fresh work to a person who already had a dispute on quality/timely completion of the work. The fact that many bills raised after these five invoices have already been paid by the Corporate Debtor without raising any dispute also clearly establishes that there was no dispute at the time of the due date of the payment of these five invoices, or even till the end of Work Order I.

60. It is the plea of the Operational Creditor that after these invoices were raised, the Project Director of Corporate Debtor who looked after the payments of bills was changed and hence, these five invoices remained unpaid. Though the Petitioner has not filed any evidence to that effect, it appears to be a *bona fide* explanation as we do not see any other reason coming from the Corporate Debtor as to why these bills were not



paid, except raising the plea of dispute which is not tenable and was raised much after raising of these bills.

61. In view of the above facts, we hold that the issue of pre-existing dispute does not pertain to Work Order No.6000022873 for which these bills/invoices have been raised, but the disputes whatever are raised by Corporate Debtor, if any, about timely completion of the project or hydro test activity may pertain to Work Order No.6000019779. Therefore, the contention of the Corporate Debtor that there is pre-existing dispute is not tenable.

62. In lieu of the above discussion and findings, we hold that there is no pre-existing dispute between the Operational Creditor and the Corporate Debtor in respect of these five invoices on the basis of which this Petition has been filed by the Operational Creditor.

The point is answered accordingly.

63. In lieu of the above discussion, this Tribunal is satisfied that the Petitioner has successfully established the operational debt of a sum exceeding Rupees One Crore and its default by the Corporate Debtor. It is found that there is no pre-existing dispute in respect of the claim made in the present Petition. It is also found that the present Company



Petition is in order. Therefore, it is a fit case to put the Corporate Debtor into Corporate Insolvency Resolution Process (CIRP).

64. Accordingly, the Company Petition is admitted and the Corporate Debtor is put in CIRP forthwith.

65. Hence, the Adjudicating Authority admits this Petition under Section 9 of Insolvency & Bankruptcy Code, 2016, declaring moratorium for the purposes referred to in Section 14 of the Code, with following directions:

(A) Corporate Debtor, **M/s. Power Mech Projects Limited** having CIN:

L74140TG1999PLC032156 is admitted in Corporate Insolvency Resolution Process under Section 9 of IBC.

(B) The Bench hereby prohibits institution of suits or continuation of pending suits or proceedings against the Corporate Debtor including execution of any judgment, decree or order in any court of law, Tribunal, Arbitration Panel or any other authority; transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein; any action to foreclose, recover or enforce any security interest created by the Corporate Debtor in respect of its property including any action



under Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002); the recovery of any property by an owner or lessor where such property is occupied by or in possession of the corporate Debtor;

- (C) That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
- (D) Notwithstanding anything contained in any other law for the time being in force, a license, permit, registration, quota, concession, clearances or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license, permit, registration, quota, concessions, clearances or a similar grant or right during the moratorium period.



- (E) That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- (F) That order of moratorium shall have effect from the date of this order till completion of the Corporate Insolvency Resolution Process or until this Bench approves the Resolution Plan under Sub-Section (1) of Section 31 or passes an order for liquidation of Corporate Debtor under Section 33, whichever is earlier.
- (G) That public announcement of initiation of Corporate Insolvency Resolution Process shall be made immediately as prescribed under section 13 of Insolvency and Bankruptcy Code, 2016.
- (H) That this Bench hereby appoints **Mr. K. Vatsa Kumar**, having Registration No. IBBI/IPA-002/IP-N00922/2019-2020/12980 as **Interim Resolution Professional**, whose contact details are:

Falt No.101, 1st Floor,
AS Rao Enclave, Road No.2,
Snehapuri Colony, Nacharam,
Hyderabad, Telangana – 500076.
Email Id: kvkumar.ip@gmail.com
Mobile No: 9061640003



to carry out the functions as mentioned under the Insolvency &
Bankruptcy Code, 2016.

66. Registry of this Tribunal is directed to send a copy of this order to the Registrar of Companies, Hyderabad for marking appropriate remarks against the Corporate Debtor on website of Ministry of Corporate Affairs as being under CIRP.

Accordingly, this Petition is admitted.

Sd/-

Charan Singh
Member (Technical)

Sd/-

Dr. Venkata Ramakrishna Badarinath Nandula
Member (Judicial)

Anil