



**IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD**  
**DIVISION BENCH**  
**COURT - 1**

ITEM No.144  
C.P.(IB)/233(AHM)2021

**Proceedings under Section 10 IBC**

**IN THE MATTER OF:**

Mota Layja Gas Power Company Ltd

.....Applicant

.....Respondent

**Order delivered on ..20/06/2022**

**Coram:**

Madan B. Gosavi, Hon'ble Member(J)  
Kaushalendra Kumar Singh, Hon'ble Member(T)

**PRESENT:**

For the Applicant :  
For the Respondent :

**ORDER**

The case is fixed for pronouncement of order. The order is pronounced in open Court vide separate sheet.

-SD-

**KAUSHALENDRA KUMAR SINGH**  
**MEMBER (TECHNICAL)**

-SD-

**MADAN B GOSAVI**  
**MEMBER (JUDICIAL)**



**BEFORE THE ADJUDICATING AUTHORITY  
NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
COURT-1**

**CP (IB) No. 233/NCLT/AHM/2021**

[Application under Section 10 of Insolvency & Bankruptcy Code, 2016 r.w. Rule 7 of IBBI (Application to Adjudicating Authority) Rules, 2016]

**In the matter of:**

**M/s. Mota Layja Gas Power Company Limited,**

CIN: U40106GJ2013PLC077551

Having its registered office at:

301-303, Kaivanna Complex,

Panchwati, Ahmedabad-380006.

**....Applicant/Corporate Applicant**

**Order reserved on 10.05.2022**

**Order pronounced on 20.06.2022**

**Coram: MADAN B. GOSAVI, MEMBER (JUDICIAL)**

**KAUSHALENDRA KUMAR SINGH, MEMBER (TECHNICAL)**

**Appearance:**

For Corporate Applicant: Ld. Adv. Mr. Nandish Chudgar

**ORDER**

1. The present application has been filed by the Corporate Applicant- M/s. Mota Layja Gas Power Company Limited through its Director- Mr. Feby Koshy, under Section 10 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the “**IBC, 2016**”) read with Rule 7 of the Insolvency and Bankruptcy



(Application to Adjudicating Authority) Rules, 2016 for initiation of the Corporate Insolvency Resolution Process (hereinafter referred to as **“CIRP”**) in respect to the Corporate Applicant i.e. M/s. Mota Layja Gas Power Company Limited (hereinafter referred to as **“Corporate Applicant”**) on the ground that the Corporate Applicant has committed the default of Rs. 3,16,14,638/-.

2. The Corporate Applicant, which is a wholly-owned subsidiary of IL&FS Energy Development Company Limited (in short **“IEDCL”**) which in turn is a subsidiary of the Infrastructure Leasing & Financial Services Ltd. (in short **“IL&FS”**), was incorporated on 19<sup>th</sup> November 2013 under the Companies Act, 1956 to operate a 2000 MW gas-based power plant which was developed by Nana Layja Company Limited. The registered office of the Corporate Applicant is situated at 301-303, Kaivanna Complex, Panchwati, Ahmedabad, Gujarat-380006. Hence, this Adjudicating Authority has jurisdiction to adjudicate this application.

3. It is submitted that since inception, the Corporate Applicant did not commence any business and there is no operation in the Corporate Applicant. No divestment process has been undertaken



by the Board. The Resolution Consultant to the Board, Alvarez and Marshal India Private Limited (“A&M”) vide its e-mail dated 16.12.2020 has recommended for closure of the Corporate Applicant by filing an application for initiating the CIRP under Section 10 of the IBC, 2016. On the recommendation of the Resolution Consultant, the Board of Directors of the Corporate Applicant on 29.12.2020, resolved for filing an application to initiate the CIRP subject to the approval of the Board of IL&FS, IEDCL, and Hon'ble Justice (Retd) Mr. D. K. Jain, who was appointed to supervise the resolution of group companies of IL&FS by the Hon'ble NCLAT vide its order dated 04.02.2019.

4. It is stated that IL&FS is a parent company of IEDCL and IEDCL is the parent company of the Corporate Applicant. Further, IEDCL and IL&FS vide their resolution dated 03.01.2021 and 09.01.2021 respectively have accorded their consent to the Board of Directors of the Corporate Applicant to initiate the CIRP subject to the approval of Hon'ble Justice (Retd.) Mr. D. K. Jain who in turn has granted his approval vide letter dated 11.02.2021 for initiation of the CIRP of the Corporate Applicant subject to approval of NCLT. The Hon'ble NCLAT vide its order dated 12.03.2020 in *Company Appeal (AT) No. 347 of*



*2018 in the case of Infrastructure Leasing and Financial Services Ltd vs. Union of India & Ors* had held that the management of the Corporate Applicant would get clearance from Hon'ble Justice (Retd.) Mr. D. K. Jain, who is supervising the resolution of the group companies of IL&FS. The relevant para of the aforesaid judgment is reproduced hereunder:

“...6. Taking into consideration the fact that the matter relates to more than 302 Group Companies apart from IL&FS, by order dated 4th February, 2019, this Appellate Tribunal allowed the Union of India and IL&FS to engage Hon'ble Justice (Retd.) D.K. Jain to supervise the operation of the resolution process. We allowed the management to get clearance from Hon'ble Justice (Retd.) D.K. Jain who is supervising the resolution process of different Group Companies....”

5. It is submitted that IL&FS filed an application, bearing C.A. No. 136 of 2021 in Company Petition No. 3638 of 2018 before the NCLT, Mumbai Bench seeking approval to initiate the CIRP of the Corporate Applicant under Section 10 of the IBC, 2016. The NCLT, Mumbai vide its order dated 15.09.2021 granted its approval for initiation of CIRP with respect to this Corporate Applicant. Since the registered office of the Corporate Applicant is situated in Ahmedabad, this application is filed before this Adjudicating Authority for necessary directions.



6. It is submitted that as on 31.10.2021 there are four Operational Creditors and four Financial Creditors; and Rs. 2,29,060/- and Rs. 3,13,85,578/- are owed to those Operational Creditors and Financial Creditors respectively (Annexed as Exhibit-A1 colly at page nos. 5 to 14 of the additional affidavit dated 06.05.2022).

7. It is also submitted that the Corporate Applicant has proposed the name of Insolvency Professional Ms. Prajakta Menezes, having Reg No. IBBI/IPA-001/IP-P01349/2018-19/12016 to act as an Interim Resolution Professional (“IRP”) and the proposed IRP has also given her consent to act as an IRP wherein the proposed IRP has stated that no disciplinary proceedings are pending against her.

8. We heard the learned counsel for the Corporate Applicant and perused the material available on record. It is noted that the Corporate Applicant is a wholly-owned subsidiary of IEDCL, which is a subsidiary of IL&FS. The Corporate Applicant has committed the default in paying the debts, borrowed from the Financial Creditors and Operational Creditors to the tune of Rs. 3,16,14,638/-.



9. It is noted that on the recommendation made by the Resolution Consultant-A&M, the Board of Directors of the Corporate Applicant on 29.12.2020 resolved to initiate the CIRP subject to the approval of the Board of IEDCL, IL&FS, and Hon'ble Justice (Retd.) Mr. D. K. Jain, who was appointed to supervise the resolution of group companies of IL&FS by the Hon'ble NCLAT vide its order dated 04.02.2019. The Board of IEDCL (holding company of Corporate Applicant) and IL&FS (holding company of IEDCL) on 03.01.2021 and 09.01.2021 respectively accorded their consent to the Board of Directors of the Corporate Applicant for initiating the CIRP with respect to the Corporate Applicant under Section 10 of the IBC, 2016. Hon'ble Justice (Retd.) Mr. D. K. Jain has also granted his approval for initiation of the CIRP of the Corporate Applicant and winding up of other subsidiary companies of IL&FS subject to the approval of the NCLT. Thereafter, the NCLT, Mumbai Bench has also allowed the application filed by the IL&FS for initiation of the CIRP of the Corporate Applicant and winding up/liquidation of the other subsidiary companies of IL&FS.



10. The Corporate Application has also served a copy of this application to the IBBI in Form 1A. The name of the IRP has also been proposed as per Section 10(3)(b) of the IBC, 2016.

11. The default amount meets the threshold limit as prescribed under Section 4 of the IBC, 2016. The default claimed in the application is well within the limitation period to initiate the CIRP proceeding. The application is otherwise complete and defect-free. Hence, we admit the present application and order as under:

### **ORDER**

- I. The Corporate Applicant - M/s. Mota Layja Gas Power Company Limited is admitted in Corporate Insolvency Resolution Process under Section 10 of the Insolvency and Bankruptcy Code, 2016.
- II. The moratorium under Section 14 of the Insolvency and Bankruptcy Code, 2016 is declared for prohibiting the following in terms of Section 14(1) of the Code.
  - a. the institution of suits or continuation of pending suits or proceedings against the corporate applicant including execution of any judgment, decree (s) or order (s) in any court of law, tribunal, arbitration panel or other authority;
  - b. transferring, encumbering, alienating or disposing of by the corporate applicant any of its assets or any legal right or beneficial interest therein;



- c. any action to foreclose, recover or enforce any security interest created by the corporate applicant in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
- d. the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate applicant.

III. The order of moratorium shall have effect from the date of this order till the completion of the Corporate Insolvency Resolution Process or until this Adjudicating Authority approves the Resolution Plan under sub-section (1) of Section 31 or passes an order for liquidation of Corporate Applicant Company under Section 33 of the Insolvency & Bankruptcy Code, 2016, as the case may be.

IV. We hereby appoint **Ms. Prajakta Menezes, having Registration No. IBBI/IPA-001/IP-P01349/2018-19/12016**, address: 416, Crystal Paradise, Dattaji Salvi Marg, Off Veera Desai Road, Andheri West, Mumbai-400053, **e-mail: [prajakta@prmlegal.in](mailto:prajakta@prmlegal.in)**, to act as an IRP under Section 13(1)(c) of IB Code. He shall conduct the Corporation Insolvency Resolution Process as per the provision of Insolvency and Bankruptcy Code, 2016 r.w Regulation made there-under.



- V. The IRP shall perform all his functions as contemplated, inter-alia, under Sections 17, 18, 20 & 21 of the Code. It is further made clear that all personnel connected with the Corporate Applicant, its Promoter or any other person associated with management of the Corporate Applicant are under legal obligation under Section 19 of the Code extending every assistance and cooperation to the Interim Resolution Professional. Where any personnel of the Corporate Applicant, Promoter or any other person required to assist or co-operate with IRP, does not assist or Co-operate, the IRP is at liberty to make the appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.
- VI. This Adjudicating Authority directs the IRP to make a public announcement for initiation of the Corporate Insolvency Resolution Process (CIRP) and call for submission of claims under Section 15 and Section 13(1)(b) of the I.B Code.
- VII. It is further directed that the supply of goods/services to the Corporate Applicant Company, if continuing, shall not be terminated or suspended or interrupted during the moratorium period.



VIII. The IRP shall be under duty-bound to protect and preserve the value of the property of the 'Corporate Applicant Company' and manage the operations of the Applicant Company as a going concern as a part of the obligation imposed by Section 20 of the Insolvency & Bankruptcy Code, 2016. The Corporate Applicant is directed to pay an advance of **Rs. 1,00,000/- (Rupees One Lakh Only)** to the IRP within two weeks from the date of this order for the purpose of smooth conduct of the Corporate Insolvency Resolution Process ("CIRP") and IRP to file proof of receipt of such amount to this Adjudicating Authority along with First Progress Report. Subsequently, IRP may raise further demands for Interim funds, which shall be provided as per Rules.

IX. The Registry is directed to communicate a copy of this order to the Corporate Applicant/Operational Creditors/Financial Creditors, Interim Resolution Professional, and the concerned Registrar of Companies, after completion of necessary formalities, within seven working days and upload the same on the website immediately after pronouncement of the order.



12. Accordingly, the present C.P. (IB) No. 233/NCLT/AHM/2021 is allowed.

-SD-

**KAUSHALENDRA KUMAR SINGH  
MEMBER (TECHNICAL)**

-SD-

**MADAN B. GOSAVI  
MEMBER (JUDICIAL)**

Rajeev Sen/Stenographer