IN THE NATIONAL COMPANY LAW TRIBUNAL
JAIPUR BENCH

CORAM: SHRI DEEP CHANDRA JOSHI,
HON'BLE JUDICIAL MEMBER

SHRI RAJEEV MEHROTRA,
HON'BLE TECHNICAL MEMBER

IA (IBC) No. 514/JPR/2023
In CP No. (IB)- 21/9/JPR/2021

IN THE MATTER OF:

M/S AIREN COPPER PRIVATE LIMITED

...OPERATIONAL CREDITOR

VERSUS

M/S FATEHPURIA TRANSFORMERS AND SWITCHGEARS PVT. LTD.

...CORPORATE DEBTOR

MEMO OF PARTIES

IA No. 514/JPR/2019:

M/S AIREN COPPER VT. LTD.
F-728, Road No. 9F/2,
Vishwakarma Industrial Area,
Jaipur- 302013 (Rajasthan)

...Applicant/ Operational Creditor

VERSUS

M/S FATEHPURIA TRANSFORMERS AND SWITCHGEARS PVT. LTD.
P.O. Machwa, Kalwar Road,
Jaipur (Rajasthan)

...Respondent/ Corporate Debtor

FOR THE APPLICANT(S) : Ajay Atolia, CA
FOR THE RESPONDENT(S): Aman Kacheria, Adv.

Order Pronounced On: 22.12.2023

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ORDER

Per: Shri Rajeev Mehrotra, Technical Member

1. The present application has been filed by the Applicant, *M/s Airen Cooper Private Limited* ('Operational Creditor'/ 'Petitioner') under Section 60(5) of Insolvency & Bankruptcy Code ('IBC'/ 'Code') read with Rule 11 of NCLT Rules, 2016 for issuance of direction to the Corporate Debtor namely, *M/s Fatehpuria Transformers and Switchgears Pvt. Ltd.* to file its balance sheet for the Financial Year 2019-20 with complete party wise list and Trade Receivables under current assets and/ or Trade Payables under the current liabilities wherein the amount of Rs. 22,21,009/- (Rs. Twenty-Two Lakhs Twenty-One Thousand Nine Only) is shown as recoverable from the Operational Creditor as on 31.03.2020.

2. The Applicant/Operational Creditor had filed the main petition numbered as *CP No. (IB)- 21/9/JPR/2021* against the Corporate Debtor alleging default in payment of dues amounting to Rs. 7,05,92,674/- (Rs. Seven Crore Five Lakhs Ninety-Two Thousand Six Hundred Seventy-Four only). It is submitted that vide order dated 08.02.2023, this Tribunal has directed both the parties to file their Balance Sheets for the Financial Year 2019-20. In compliance, the Operational Creditor filed its Balance Sheet supported with the complete party-wise list of Sundry Debtors showing Trade Receivables under Current Assets in the balance sheet for the Financial Year 2019-20, where the name of the Corporate Debtor and the amount outstanding and

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recoverable from it was clearly appearing. The Corporate Debtor placed its Balance sheet on 16.05.2023. In the Balance sheet produced by the Corporate Debtor Rs. 39,73,77,204/- (Rs. Thirty- Nine Crores Seventy- Three Lakhs Seventy- Seven Thousand Two Hundred and Four Only) was shown as Trade Receivables and Rs. 22,27,83,302/- (Rs. Twenty- Two Crores Twenty- Seven Lakhs Eighty- Three Thousand Three Hundred Two Only) was shown as Trade Payables as on 31.03.2020 but no party wise details of trade receivables/ trade payables were provided. The absence of party wise details fail to show the parties from which trade receivables were recoverable and/ or the parties to whom trade payables were payable.

3. Later on, the Corporate Debtor filed details of Accounts Statements year wise from 2012 to 31.03.2021, in which a sum of Rs. 22,21,009/- (Rs. Twenty-Two Lakhs Twenty- One Nine Only) is shown as recoverable from the Operational Creditor as on 31.03.2020, but it is not clear as where such amount is reflecting in the balance sheet for the financial year 2019-20. The Applicant contends that in absence of such information, the balance sheet submitted by the Corporate Debtor is of no use and hence, the present application is being filed by the Applicant seeking directions against the Corporate Debtor to provide the Trade Receivables and/ or Trade Payables for the amount shown in balance sheet of Financial Year 2019-20.

4. The Corporate Debtor has filed Affidavit in Reply vide Diary No. 2774/2023 dated 24.11.2023 wherein it has been contended that to prove existence of

Sd- Sd-an Operational Debt, the Operational Creditor has to annex relevant documents and the present application has been filed at this belated stage only after realising that the Applicant will not be able to establish alleged debt from documents annexed with the main petition. Hence, to cure the lacuna in the main petition, the Operational Creditor is seeking production of the documents from the Corporate Debtor. It has been further submitted that proceedings under the Code are summary in nature and not like that of a civil matter. The Applicant is seeking disclosure/ production of documents from the Corporate Debtor to establish purported default in existence of debt. Since, the proceedings are summary in nature, the Code does not contemplate any stage in these proceedings requiring the Corporate Debtor to place documents on record either by production or disclosure, in aid or furtherance of the Operational Creditor claiming existence of an outstanding debt. This burden rests solely and exclusively on the Operational Creditor. Since IBC is not a debt recovery mechanism, hence, the proceedings cannot be considered as suit or money claim. It was also submitted that the reliefs sought in the present application is beyond the scope of provisions of the Code. The Balance Sheet of the Corporate Debtor is a public document and the provisions of Companies Act, 2013 do not call upon a company to file detailed list of trade payables and receivables along with its balance sheet. Hence, the Operational Creditor is wrong in calling upon the Respondent/

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Corporate Debtor to furnish the documents when the statute itself does not require for the same to be filed.

5. We have heard the learned counsels for the parties and perused the application along with the reply available on record.

6. It is seen that the Applicant has sought certain information regarding the Balance Sheet for the year 2019-20 wherein the Corporate Debtor is alleging that the Applicant owes an amount of Rs. 22,21,009/- (Rs. Twenty-Two Lakhs Twenty- One Thousand Nine Only) to the Corporate Debtor. The Corporate Debtor on the other hand has objected to the application of the Operational Creditor on grounds that the provisions of IBC do not permit the Operational Creditor to enquire and give evidence to prove the claim of the Operational Creditor.

7. As per the National Company Law Tribunal Rules, 2016, the Adjudicating Authority under Rule 43 is empowered as below:

43. Power of the Bench to call for further information or evidence.

(1) The Bench may, before passing orders on the petition or application, require the parties or any one or more of them, to produce such further documentary or other evidence as it may consider necessary: -
   (a) for the purpose of satisfying itself as to the truth of the allegations made in the petition or application; or
   (b) for ascertaining any information which, in the opinion of the Bench, is necessary for the purpose of enabling it to pass orders in the petition or application.

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8. A bare perusal of the above Rule shows that the Bench/ Adjudicating Authority has ample powers to call upon the parties or any one or more of them, to produce such further documentary or other evidence as considered necessary for the purpose mentioned therein. The Hon'ble NCLAT in the matter of *M/s Dauphin Cables Pvt. Ltd. Vs. Mr. Praveen Bansal, Company Appeal (AT) Insolvency No. 971, 972 & 973 of 2023 dated 11.09.2023* has held that the Adjudicating Authority is fully empowered for calling information and evidence from the parties. Therefore, in view of the foregoing, it is very well established that the Adjudicating Authority may, if it thinks fit, call for documents when necessary to adjudicate upon a matter at end.

9. In the present application, it has come to a notice that list of Trade Receivables, Trade Payables for the year 2019-20 along with Balance Sheet for the financial year 2019-20 is pertinent to determine the allegation of the Corporate Debor by virtue of which it is claiming that the Applicant/Operational Creditor owes an amount of Rs. 22,21,009/- (Rs. Twenty-Two Lakhs Twenty- One Thousand Nine Only) to the Corporate Debtor.

10. The Corporate Debtor has raised a contention that IBC Proceedings are summary in nature and a trial is not conducted in the proceedings like that of a civil matter. It is germane to mention that by disposing of any proceedings, the Adjudicating Authority is not bound by the procedure laid

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Sddown under the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice. The Tribunal/ Adjudicating Authority shall have the same powers as a vested in Civil Court under the Civil Procedure Code, 1904 in the matter pertaining to discovery of production of documents.

11. Hence, in view of the foregoing, the Corporate Debtor is directed to produce a list of trade receivables and trade payables for the amount shown in the Balance Sheet of the Corporate Debtor for the Financial Year 2019-20 duly certified by an Independent Chartered Accountant, along with the audited balance sheet of the Corporate Debtor for the same financial year, within 15 days from the date of this order, failing which adverse inference may be drawn, if the documents withheld have relevance while disposing of the main application under Section 9 of IBC, 2016.

12. In view of the foregoing, the application stands disposed of with above-mentioned directions.

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DEEP CHANDRA JOSHI
JUDICIAL MEMBER

Sd/-

RAJEEV MEHROTRA
TECHNICAL MEMBER