



SL. No.1

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
COURT HALL NO: II**

(PHYSICAL HEARING)

**CORAM: JUSTICE TELAPROLU RAJANI – HON’BLE MEMBER (J)
CORAM: SHRI CHARAN SINGH - HON’BLE MEMBER (T)**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
HYDERABAD BENCH, HELD ON 09.01.2023 AT 02:30 PM**

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	Company Petition IB/378/2022
NAME OF THE COMPANY	Nagi power Pvt Ltd
NAME OF THE PETITIONER(S)	Virtual Energy Pvt Ltd
NAME OF THE RESPONDENT(S)	Nagi power Pvt Ltd
UNDER SECTION	7 of IBC

ORDER

Application is allowed, vide separate sheets.

Sd/-
MEMBER (T)

Sd/-
MEMBER (J)



IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH - II

CP(IB) No. 378/07/HDB/2022
U/s. 7 of IB Code, 2016

In the matter of:

M/s. Virtual Energy Private Limited,
Plot No.484/A, Road No.36,
Jubilee Hills,
Hyderabad – 500 033.

.... Petitioner /
Financial Creditor

Vs

M/s Nagai Power Private Limited,
6-3-1109/A/1,
3rd Floor, Navbharat Chambers,
Hyderabad – 500 082.

....Respondent/
Corporate Debtor

Date of order: 09.01.2023

CORAM:

Justice Telaprolu Rajani, Member (Judicial)
Shri Charan Singh, Member (Technical)

Counsels present:

For the Financial Creditor : Mr. M. Maharshi Viswaraj, Advocate

For the Corporate Debtor : Mr. Devi Prasanna Kumar, Advocate

Heard on : 05.01.2023



[PER: BENCH]
ORDER

1. This is an application filed by the Petitioner M/s. Virtual Energy Private Limited, Financial Creditor (FC) against the Respondent M/s. Nagai Power Private Limited, Corporate Debtor (CD), seeking to initiate the Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor for the default that has committed in discharging the debt that is due to the Financial Creditor (FC).

2. Briefly, the facts as mentioned in the application are as follows:

On 24.01.2020, under an Agreement for Sale of Power between the Financial Creditor and the Corporate Debtor, the Financial Creditor has agreed to purchase power from the Corporate Debtor for its nominees and provided an advance of Rs.16,18,03,000/- (Rupees Sixteen Crores Eighteen Lakhs and Three Thousand Only) in tranches to the Corporate Debtor. The Corporate Debtor was obligated to supply power on or before 01.04.2021 failing which, the advance shall be converted into unsecured loan along with an interest @ 18% per annum. Since, the Corporate Debtor failed to supply the power as agreed, the Corporate Debtor approached the Financial Creditor to convert the advance into an unsecured loan. Considering the request of the Corporate Debtor, the Financial Creditor has agreed to convert the same into an unsecured loan. The Corporate Debtor has agreed to pay the principal amount along with the interest @18% per annum within 18 months from the date of agreement.

3. On 31.03.2021, under a Loan Assignment Agreement between one Supra Petro Chemicals Private Limited, the Financial Creditor and the



Corporate Debtor, the Supra Petro Chemicals Private Limited assigned the debt payable by it to the Financial Creditor and the debt is receivable from the Corporate Debtor to the Financial Creditor. The Corporate Debtor undertook the liability to pay Rs.6,56,36,460/- (Rupees Six Crores Fifty Six Lakhs Thirty Six Thousand Four Hundred and Sixty Only) to the Financial Creditor. The Corporate Debtor has agreed to pay the assigned amount within a period of 18 months.

4. Since, the Corporate Debtor failed to repay the above loans entered under Loan Agreement dated 07.04.2021 and Loan Assignment Agreement dated 31.03.2021, the Financial Creditor issued the Notices to the Corporate Debtor. On 08.10.2022, reminder notice was issued. In reply, the Corporate Debtor sent a letter requesting extension of the due date of repayment to 15.10.2022 citing reasons that the Thermal Plant of the Corporate Debtor is not under operation. As such, the date of repayment was extended. Despite the same, the Corporate Debtor did not pay the amount. A final reminder was issued on 01.11.2022, but no reply was received from the Corporate Debtor. On 03.10.2022 another reminder notice was issued, but no reply was received. So also on 01.11.2022. As on date, the total amount of default is Rs.23,72,89,248/- (being the principal amount of Rs.16,18,03,000/- along with an interest of Rs.7,54,86,248/-).

Since, the Corporate Debtor failed to pay the amount, this application is filed seeking for the above mentioned reliefs.

5. The Corporate Debtor filed reply, admitting the Agreement and contending that it has landed in this situation on account of number of facts and circumstances like unavailability of imported coal at



reasonable prices, delay in approval for transmission of power etc. which are not within the control of the Company. That the Company is hopeful that the financial condition of the Company would revive in near future. The Corporate Debtor is not in a position to repay the loans availed from the Financial Creditor on account of the poor realisations from the debtors of the Corporate Debtor.

6. Heard both the counsel. Perused the written submissions filed on either side.
7. The Counsel for the Corporate Debtor does not offer any argument except stating that they are not in a position to repay the debts.

The perusal of the application would show that the application and the reply would prove that there was an agreement between the Financial Creditor and the Corporate Debtor and that amounts were taken by the Corporate Debtor and the Corporate Debtor has failed to fulfil the terms of the agreement and has fallen due the amount of Rs.22,74,39,460/- by the date of filing this application.

8. In view of the fact that there is an unequivocal admission of the debt and default by the Corporate Debtor, we do not demur to allow this application.
9. In view of the above, this application is allowed.
10. Hence, the Adjudicating Authority admits this Petition under Section 7 of IBC, 2016, declaring moratorium for the purposes referred to in Section 14 of the Code, with following directions:-



- a. Corporate Debtor, M/s Nagai Power Private Limited is admitted in Corporate Insolvency Resolution Process under section 7 of the Insolvency & Bankruptcy Code, 2016,
- b. The Bench hereby prohibits the 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 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 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 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 the public announcement of the initiation of Corporate Insolvency Resolution Process shall be made immediately as prescribed under section 13 of Insolvency and Bankruptcy Code, 2016.
11. That this Bench hereby appoints **Shri Krishna Komaravolu** having **Registration No. IBBI/IPA-002/IP-N00562/2017-2018/11699**, as Interim Resolution Professional to carry the functions as mentioned under the Insolvency & Bankruptcy Code and whose contact details are:

e-mail ID: kkvolu@gmail.com

Address: **H.No.7-1-214, Flat No. 409,
Vamsikrishna Apartments,
Dharam Karan Road,
Ameerpet,
Hyderabad – 500 016.**

Phone No: **9010226641 / 7337340177**



12. Proposed IRP filed Form-2 dated 21.11.2022 issued by the Institute of Insolvency Professionals. Authorisation for Assignment is valid till 12.12.2023. This information is also available in IBBI Website.
13. Thus, there is compliance of Regulation 7A of IBBI (Insolvency Professionals) Regulations, 2016, as amended. Therefore, the proposed IRP is fit to be appointed as IRP since the relevant provision is complied with.
14. The Registry is directed to furnish certified copy of this order to the parties as per Rule 50 of the NCLT Rules, 2016.
15. The petitioner is directed to communicate this order to the proposed IRP.
16. 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.
17. **In the result, the CP(IB) No.378/07/HDB/2022 is allowed.**

Sd/-

**(CHARAN SINGH)
MEMBER (TECHNICAL)**

Sd/-

**(JUSTICE TELAPROLU RAJANI)
MEMBER (JUDICIAL)**

VL