

**IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD**  
**COURT - 2**



ITEM No301  
IA/386(AHM)2023  
in  
CP(IB) 232 of 2018

**Order under Section 60(5) IBC r.w Rule 11 of NCLT Rules, 2016**

**IN THE MATTER OF:**

Technip Energies India Limited Earlier Known As Technip India Limited .....Applicant

V/s .....Respondent

Sundaresh Bhat RP For Ms JBF Petrochemicals Limited

**Order delivered on 06/10/2023**

**Coram:**

Mrs. Chitra Hankare, Hon'ble Member(J)

Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)

**ORDER**

The case is fixed for pronouncement of order

The order is pronounced in open Court vide separate sheet.

-Sd-

**DR. V. G. VENKATA CHALAPATHY**  
**MEMBER (TECHNICAL)**

-Sd-

**CHITRA HANKARE**  
**MEMBER (JUDICIAL)**



**IN THE NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD (COURT - II)**

**IA No. 386 / NCLT / AHM / 2023  
IN  
CP(IB) No. 232 / NCLT / AHM / 2018**

**(Under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 read  
with Rule 11 of NCLT Rules, 2016)**

**IN THE MATTER BETWEEN**

**Technip Energies India Limited** .... Applicant  
Versus

**Sundresh Bhatt** .... Respondent

**AND IN THE MATTER OF**

**IDBI Bank Limited** ... Financial  
Creditor

Versus

**JBF Petrochemicals Limited** ... Corporate  
Debtor

**Order pronounced on 06.10.2023**

**Coram:**

**Coram:  
MRS. CHITRA HANKARE  
HON'BLE MEMBER (JUDICIAL)**

**MR. VELAMUR G VENKATA CHALAPATHY  
HON'BLE MEMBER (TECHNICAL)**



## MEMO OF PARTIES

### **Technip Energies India Limited**

(Earlier known as Technip India Limited)

B-22, Okhla Industrial Area,

Phase-I,

New Delhi-110020

**Creditor**

**... Applicant/Operational**

### **Versus**

- **Mr. Sundresh Bhat**

Resolution Professional of

M/s JBF Petrochemicals Limited

Having its registered office at

BDO Restructuring Advisory LLP, BDO India LLP.

Level 9, The Ruby West Wing, Senapati Bapat Road,

Dadar West, Mumbai-400028

**... Respondent /Resolution Professional**

### **Present:**

For the Applicant : Mr. Nipun Singhvi, Adv. a.w Ms. Pracui Wazalwar,  
Adv.

Ms. Mitali Bhatt, Adv.

For the RP : Mr. Saurabh Soparkar, Sr. Adv. a.w Mr. Monaal  
Davawala,

## **ORDER**

1. This application is filed by the operational creditor defined under Section 5(20) and Section 60(5) of Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as 'Code' for the sake of convenience) to seek appropriate directions with respect to partly rejection of operational claim submitted by the applicant vide email dated 15.06.2022.



2. The facts in nutshell are as under:-


The Applicant states that the Corporate Debtor was desirous to engage a supplier / contractor inter alia for the following purposes-

i. to perform some detailed engineering services, site soil investigation, construction management services, field supervision services and technical assistance at site for implementation of the ISBL Units (hereinafter referred to as the 'Services for ISBL Units')

ii. provision of procurement and supply of equipment and materials for ISBL units

iii. to perform the Basic engineering, Front end Engineering, detailed engineering services, procurement support services, Home Office Construction Services upto order placement and the project management services for the implementation of the OSBL Units (hereinafter referred to as the 'Services for OSBL Units')

3. The Applicant states that the Applicant agreed upon to provide services and supply of equipment and materials as mentioned hereinabove to the Corporate Debtor and accordingly entered into 3 separate Contract dated 21st December 2012 each for provision of procurement and supply of equipment and materials for ISBL units, provision of service for ISBL units and OSBL Units. Copies of Contract dated 21.12.2012 entered into between the parties for provision of service for provision of procurement and supply of equipment and materials for ISBL units, provision of service for ISBL units and provision of service for OSBL Units are annexed herewith. The Applicant states that after the fulfilment of the contractual obligations, the Applicant further entered into another Contract dated 22nd April 2014 with the Corporate Debtor for provision of post purchase order procurement services and construction management services for OSBL



units. Copy of Contract dated 22.04.2014 for OSBL units is annexed herewith.

4. The applicant submitted that as per the order of the Hon'ble High Court of Delhi 13.01.2014, the scheme of amalgamation of Technip E&C India Limited ("Transferor Company No.1") and Technip India Limited (Transferor Company No.2) with Technip KT India Limited ("Transferee Company") with effect from 10.12.2021.
5. As per the contract, the applicant has completed milestones of the project work. The corporate debtor issued Mechanical Completion Certificate for achievement of Ready for Start up. It shows that he has completed all the supplies and services as per the contract thereafter, the applicant as well as corporate debtor entered into additional agreements on 31.08.2016 for change of orders for additional work. It was agreed that the additional work will be duly compensated and the amount was crystalized and payment dates were fixed/finalized. Accordingly, the applicant has fulfilled its obligation and raised several invoices but the corporate debtor failed to pay outstanding dues. Since year 2017, the applicant sent several reminders to corporate debtor for fulfilment of contractual obligations but he has not replied to the same.
6. On 17.08.2021, the applicant issued letter with respect to certification and payment and for settlement of claims but it was not replied by the corporate debtor according to him as the corporate debtor went into financial crisis, the management has deliberately stopped responding to the communication and reminders of the applicant.



7. A company petition bearing no. 232 of 2018 was filed by IDBI Bank Ltd. against M/s. JBF Petrochemicals Ltd., which was for initiating CIRP which was admitted on 28.01.2022. In the said petition, Mr. Sundaresh Bhatt was appointed as Insolvency Professional, the respondent herein.
  
8. It has invited creditors of corporate debtor to submit their claims on or before 16.02.2022 accordingly, the applicant submitted its claim for Rs. 25,18,06,727/- and USD 6,616,581/- on 15.02.2022 total amounting to Rs. 74,77,28,075/- approximately as the operational creditor in Form B to the respondent. It has also provided KYC documents as required. The applicant noticed that his claim was admitted to the tune of Rs.5,88,74,343/- only and an amount of Rs. 68,88,53,732/- was shown under verification on hold. On his seeking clarification from respondent, it was advised to provide balance confirmation letter or documents acknowledging the amount.
  
9. On 03.06.2022, the applicant replied to respondent that his part of claim was rejected by the respondent on the ground that the balance confirmation as per the Books of account is INR 5,88,74,343/-. The amount in excess of balance in books of account has no written acceptance by the corporate debtor therefore, rejected. The rejected amount is the substantial amount of claim of the operational creditor, its claim should have been admitted in its entirety as is well supported by the documents. The applicant submitted that it is not rightful to collate the claims of creditors only on the basis of balance reflected in the books of account of the corporate debtor. It should determine the claim on the basis of documents in support of its claims.




10. There is duly executed contract between the applicant and corporate debtor and his claim is rightful. The applicant has no control over the account of the corporate debtor. The applicant has invested huge amount of money in completing its contractual obligations under the contract, additional agreements and change orders hence, prayed for directing respondent to admit the entire claim of applicant amounting to Rs. 74,77,28,075/- by setting aside respondent's email dated 15.02.2021 rejecting his part of claim.
11. We have considered the submissions made from both the sides and perused the documents available on record.
12. The RP has rejected the claim mentioning as under:-

*“ From the verification of the proof of claims submitted by you and the books of accounts of the company, the balance as per books of accounts of the company is INR 5,88,74,343. The amount rejected i.e. amount in excess of the balance in books of accounts has no written acceptance by the Corporate Debtor. As far as its acceptance is concerned, we are not in receipt of any written agreement/statement where the Corporate Debtor has accepted the same.*

*Kindly be informed that due to the reasons aforesaid, your claim stands rejected to the extent of INR 68,88,53,732.”*

13. Based on the instructions of the Tribunal vide its order dated July 4, 2023 the Ex RP has submitted a detailed affidavit dated 13 July 2023 has provided a detailed ledger statement which confirms various debit and credit entries and a sum of due payable of Rs.5,88,74,243. The RP had asked for a balance confirmation letter which has not been satisfactorily



answered in the email dated 3 June 2022 by the applicant. The reason for partially accepting the claim was also clearly stated by email by the RP then on 15 June 2022 to the representative of the applicant to the query dated (15 Feb 2022 Form B) wherein it was made clear that the corporate debtor has not confirmed by way of any agreement/statement to accept the liability. The email of March 23, 2022 was not clearly replied with records by the applicant to enable the RP re verify the claim. Thus the present claims has already been decided based on merits by the Resolution Professional and all the creditors have been considered for payment as per the plan approved. The COC has approved a Resolution Plan and the same has been approved by the Tribunal on 13.03.2023.

14. Execution of project requires reconciliation and confirmation of balances which has not been convincingly provided as evidence. There were many other creditors and the process of reviving/restructuring the corporate debtor is observed to have been before the creditors for a long time. As per IBC 2016, the RP has to only receive, collate, verify and submit to the COC. The COC has in this specific case approved the process and approved an appropriate Resolution Plan. The RP is in order if he has not been able to identify the extent of debt due, unless acknowledge of the quantum and amount. While he has not rejected the claim, accepted it to the extent reconciled with the books of the corporate debtor.
15. It is also observed that the applicant has filed an IA almost 9 months after the last correspondence with the RP and just a day before/after the Resolution Plan has been approved (heard), when examined on its submissions made, does not provide any reason to reopen the matter in favor of the applicant. Successful Resolution Applicant has already been



approved to revive the business on clean slate basis and is not to be bound to honor any claims not approved by Resolution Plan or provided for as a future/disputed liability. As far as reliefs and concessions claimed by the resolution applicant, the law has been well settled by the Hon'ble Supreme Court in the case of Ghanshyam Mishra and Sons Private Ltd. Vs. Edelweiss Asset Reconstruction Company Limited and Ors. reported in MANU/SC/0273/2021 in the following words:

*“86. The legislative intent behind this is, to freeze all the claims so that the resolution applicant starts on a clean slate and is not flung with any surprise claims. If that is permitted, the very calculations on the basis of which the resolution applicant submits its plans, would go haywire and the plan would be unworkable.”*

16. Hence, while dealing with an application filed u/s 60(5) of IBC, 2016, we are not finding any new documents submitted by the applicant, which has not been proved to be acknowledged, either by the corporate debtor or by way of balance sheet/financial statement figures, on the disputed claims (reduction in claim amount) which has been decided by RP based on the merits of its case on his verification from the books of the corporate debtor and its approval by COC, considered as verified from the books of the corporate debtor. The claim due if any has not been evidenced through the records made available to erstwhile RP while preparing the resolution plan which has passed its merits through approval of COC and the Adjudicating authority.



17. In view of the above discussion, the application is rejected. A copy of the order be served to the parties concerned by the Registry. Application stands disposed of in terms of above order.

-Sd-

**DR. V. G. VENKATA CHALAPATHY**  
**MEMBER (TECHNICAL)**

-Sd-

**CHITRA HANKARE**  
**MEMBER (JUDICIAL)**

K.M.