

**IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH, PRAYAGRAJ**

**IA (IBC) No.273/ALD/2021
&
IA (IBC) No.274/ALD/2021
in
CP (IB)No.223/ALD/2017**

In the matter of:

An application under section 60(5) of the Insolvency and Bankruptcy Code, 2016.

Standard Chartered Bank	...	Financial Creditor
	<i>Versus</i>	
JVL Agro Industries Ltd.	...	Corporate Debtor

In the matter of:

Supriyo Kumar Chaudhary
Liquidator of the Corporate Debtor
BDO Restructuring Advisory LLP
C/o- BDO India LLP, Floor 4,
Duckback House,
41, Shakespeare Sarani,
Kolkata-700017

...

Applicant/Liquidator

Versus

1. Jaipur Vidyut Vitran Nigam Limited
A Government of Rajasthan Undertaking
Having Registered Office at
Room No. 229, Vidyut Bhavan, Jyoti Nagar
Jaipur – 302005
2. The Managing Director
Jaipur Vidyut Vitran Nigam Limited
A Government of Rajasthan Undertaking
Having Registered Office at
Room No. 229, Vidyut Bhavan, Jyoti Nagar
Jaipur – 302005
3. The Assistant Engineer (O & M)
Jaipur Vidyut Vitran Nigam Limited
Alwar Circle, Jaipur Discom
MIA, Alwar Rajasthan
4. Superintending Engineer (O&M)
Jaipur Vidyut Vitran Nigam Limited
Alwar Circle, Jaipur Discom
Alwar Rajasthan

—Sd—

IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH, PRAYAGRAJ

IA No.273ALD/2021 & IA No.274/ALD/2021
IN CP No.124/ALD/2018

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5. Rajasthan State Pollution Control Board,
Having its headquarter at
4, Industrial Area
Jhalana Doongri, Jaipur – 302004
6. Member Secretary
Rajasthan State Pollution Control Board
Having its headquarter at
4, Industrial Area
Jhalana Doongri, Jaipur - 302004 ... Respondents

Date of hearing: 07 May 2022
Date of pronouncement: 14 June 2022

Coram:

- Shri Rajasekhar V.K. : Member (Judicial)
Shri Balraj Joshi : Member (Technical)

Appearances (via videoconferencing):

- For the Liquidator : Mr. Yash Tandon, Advocate

COMMON ORDER

*(Disposing of IA No.273/ALD/2021 & IA No.274/ALD/2021 IN CP(IB)
No.223/ALD/2018)*

Rajasekhar V.K., Member (Judicial)

1. The court convened *via* videoconferencing.
2. This common order disposes of IA No.273/ALD/2021 & CA No.274/ALD/2021 in CP No.223/ALD/2018 as issues involved in both the applications are similar.
3. The present applications have been filed by the liquidator of JVL Agro Industries Limited under section 60(5) of IBC, 2016 with the prayer to direct respondent nos. 1 to 4 to determine the excess amount charge and received from the corporate debtor through its bill on the basis of three-phase industrial electricity connection in place of single phase, and to refund the excess amount back to the liquidator.

—Sd—

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4. The CIRP in the present case was initiated on 25 July 2018. Subsequently, liquidation proceedings were initiated on 19 August, 2020 and the applicant was appointed as the liquidator.
 5. The facts, in brief, are that the corporate debtor has a mustard oil plant at Alwar, Rajasthan. *Vide* letter dated 11 July 2019, respondent no.6 issued notice directing closure of the plant. Pursuant thereto, on 09 August 2019, the respondent no.1 disconnected the electricity on instruction of respondent no.5&6 without giving any prior intimation to the applicant and ignoring the fact that CIRP was on and moratorium had been imposed by this Adjudicating Authority.
 6. It is further stated that the applicant informed respondent no. 6 *vide* letter dated 10 August 2019 that the corporate debtor is under CIRP and requested to restore the electricity connection and water supply as these are the essential supplies, non-supply of which would adversely affect the CIRP and endanger the assets of the corporate debtor. In reply, respondent no. 6 on 19 August 2019 advised the corporate debtor to pay the connectivity charges of ₹2,000/- for reconnection of single-phase electricity which was restored on 20 August 2019.
 7. It is further submitted that respondent no.1 continued to bill the corporate debtor at 75% of the contract demand fixed charge for three-phase electricity connection for industrial use. Thereafter, the applicant requested respondent no.3 *vide* letter dated 05.09.2019 for reconnection of three-phase electricity and for refund of fixed charge wrongly levied in the bills during the disconnection period. The request for refund was also made by the liquidator subsequently on 08 May 2020, 29 June 2020 and 15 July 2020.
 8. It is further submitted that applicant has paid all the bills raised from 09 August 2019 despite the fact that three phase was never reconnected and bill amount continued to be for three-phase electricity though not being consumed

—Sd—

by the corporate debtor as there has not been any three phase connection at the plant since 09 August 2019.

9. It is further submitted that on 26 August 2020, the respondent no.1 informed the applicant for depositing a sum of ₹1180/- as fees of corporate level grievance redressal cum settlement forum for consideration of applicant's request. But the same was not paid by the applicant due to unavoidable circumstances. It did not provide any timeline for depositing the same. However, when the applicant tried to deposit the amount, it was refused by the concerned office. It is further stated that respondent no. 3 & 4 were also requested to take necessary action for providing complete factual report with regard to the applicants refund of fixed charges billed on the basis of three phase electricity connection but the same was never done.
10. In these circumstances, it is prayed that that the respondent no. 1 be directed to refund the excess amount charged to its bill on the basis of three-phase as single-phase electricity supply has been provided during these months and for the period when there was complete disconnection of the electricity and further to raise bill only for single-phase connection which was restored on 20 August 2019, as per the actual consumption of the corporate debtor as the amount refunded by would form part of the liquidation estate.
11. Notices were issued to the respondents but there was no appearance on behalf of any of the respondents. Therefore, the respondents were set *ex parte* on 04 January 2022.
12. We have considered the submissions made by applicant and perused the material on record.
13. It is noted that only single-phase connection has been used for running the premises and the records shows that the bill of three connections have been charged by the applicant, which seems to be exorbitant on the face of it. We

—Sd—

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IA No.273ALD/2021 & IA No.274/ALD/2021
IN CP No.124/ALD/2018

find no reason as to why the excess amount charged by the respondents should not be refunded to the applicant.

14. Therefore, we direct the Respondent to provide the report for the amount of actual consumption by the corporate debtor and further to refund the amount charged in excess of consumption.
15. Further, the respondents are directed not to levy any extra amount other than the electricity consumed as per single-phase connection provided by the respondent nor to disconnect the supply of electricity as the liquidation process is still ongoing and the money refunded by the respondent will form part of the liquidation process and needs to be distributed to all stakeholders in terms of provisions of section 53 of IBC, 2016.
16. With these directions, the applications filed by the liquidator stands allowed and disposed of.
17. Urgent certified copies of this order be issued, if applied for, subject to usual formalities.

BALRAJ
JOSHI

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Balraj Joshi
Member (Technical)

Swati Gupta (LRA)

Rajasekhar
V K

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Rajasekhar V.K.
Member (Judicial)