

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH – I, CHENNAI**

IA/902/CHE/2021 in IBA/183/2020

*filed under Section 60(5) of the Insolvency and Bankruptcy Code, 2016
r/w Rule 11 of the NCLT Rules, 2016*

*In the matter of **Alectrona Energy Private Limited***

Targray Technology International Inc,
a Company incorporated under the laws of Canada,
having office at 18105 Trans Canadienne,
Kirkland QC H9J 3Z4, Canada.

... Applicant/Operational Creditor

-Vs-

Alectrona Energy Private Limited,
3rd Floor, Block A,
Bannari Amman Towers,
No.29, Dr.Radhakrishnan Road,
Mylapore, Chennai – 600 004.

... Respondent/Corporate Debtor

Along with

IA/80/CHE/2022 in IBA/183/2020

*filed under Section 60(5) of the Insolvency and Bankruptcy Code, 2016
r/w Rule 11 of the NCLT Rules, 2016*

*In the matter of **Alectrona Energy Private Limited***

Alectrona Energy Private Limited,
3rd Floor, Block A,
Bannari Amman Towers,
No.29, Dr.Radhakrishnan Road,
Mylapore, Chennai – 600 004.

... Applicant

-Vs-

Targray Technology International Inc,
a Company incorporated under the laws of Canada,
having office at 18105 Trans Canadienne,
Kirkland QC H9J 3Z4, Canada.

... Respondent

Order pronounced on 15th February, 2022

CORAM:

R. SUCHARITHA, MEMBER (JUDICIAL)
SAMEER KAKAR, MEMBER (TECHNICAL)

For Operational Creditor : V.V. Shivakumar, Advocate

For Corporate Debtor : Aasim Shehzad, Advocate

COMMON ORDER

Per: R. SUCHARITHA, MEMBER (JUDICIAL)

IA/902/2021 is an Application filed by an Applicant / Operational Creditor in respect of the Corporate Debtor viz. Alectrona Energy Private Limited Section 60(5) of the Insolvency and Bankruptcy Code, 2016 Read with Rule 11 of the NCLT Rules, 2016 seeking relief as follows;

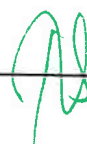
a) To revive and restore on the file of this Hon'ble Tribunal the Application bearing number IBA/183/2020 filed by the Applicant under the Section 9 of the Insolvency and Bankruptcy Code 2016 and pass such other order/direction as deemed appropriate in the fact and circumstances of this case.

2. The Applicant / Operational Creditor has filed IBA/183/2020 under Section 9 of IBC, 2016 against the Corporate Debtor viz. Alectrona Energy Private Limited, before this Tribunal on 29.01.2020, claiming an admitted and acknowledged operational debt of USD 79,108.43/- which includes a principal amount of USD 72,049.86 and an amount of USD 7,058.57/- towards interest calculated at the rate of 19% per annum on the outstanding invoice amount from the due dates until 30.11.2019.

3. It was averred in the application that this Tribunal by an order dated 03.03.2021 issued notice to the Respondent and during subsequent hearings, the Respondent gave several assurances that they will pay off the debt and settle the matter. The Learned Counsel for the Corporate Debtor after taking several adjournments made an offer to the Applicant to settle the dues. Pursuant to settlement talks, it was agreed between the parties that the Respondent would pay to the Applicant a total amount of USD 82,712.47/- in eight equated monthly installments and for the same issued cheques to the Applicant at the time of execution of the Settlement Agreement.
4. On 17.04.2021, Settlement Agreement dated 17.04.2021 was executed between the parties, wherein the Respondent agreed to pay the aggregate sum of USD 82,712.47/- in eight equated monthly installments.
5. On 26.07.2021, when this matter came up for hearing, both the parties jointly submitted that the matter had been settled and submitted the Settlement Agreement before this Tribunal and hence this Tribunal has passed the following order:

The Petitioner is represented by Ld. Counsel Mr.V.V.Sivakumar and the Respondent is represented by Ld. Counsel Mr.Rigved through Video Conferencing mode.

It is represented that based on the terms of full and final settlement dated 17.04.2021 arrived at between the



parties, a Memo for withdrawal dated 19.04.2021 has been filed in the Registry.

Therefore, this petition is **dismissed as withdrawn** and liberty as sought for is granted as per terms of the settlement.

6. Aggrieved by the said order, the present Restoration Application has been filed by the Applicant seeking thereof to restore the IBA/183/2020 on the file of this Tribunal based upon the order dated 26.07.2021.

7. Heard the arguments of the Learned Counsel for the Applicant and perused the records placed on file. In spite of sufficient opportunities granted to the Respondent, no counter was filed. It is seen that the Corporate Debtor has filed IA/80/2022 on the ground that no opportunity was granted to him in order to put forth his submissions in the reopening application filed by the Operational Creditor. However, in IA/80/2022 the Corporate Debtor has admitted that he has committed default and that negotiation talks are going between the parties. In any case, we are inclined only to restore the main IBA/183/2020 and hence any objection can be raised by the Corporate Debtor at the time of final hearing of the main IBA/183/2020.

8. As per Clause 1.5 of the Settlement Agreement, the Operational Creditor is entitled to revive the Application, if the



cheques issued by the Corporate Debtor are dishonored. Further, this Tribunal vide its order dated 26.07.2021 has granted liberty to the applicant as sought for in the Settlement Agreement. In the present case, the Operational Creditor has shown that the Respondent / Corporate Debtor has failed to adhere to the Settlement Agreement and has not repaid the entire sum due and payable to the Operational Creditor.

9. In view of the aforestated facts, we deem it fit to restore the IBA/183/2020 back on the file of this Tribunal. Accordingly, IA(IBC)/902/CHE/2021 stands **allowed** and IA/80/CHE/2022 stands **dismissed**. Let IBA/183/2020 be listed for hearing on **22.03.2022**.

10. The petitioner is directed to take notice of summons to the Respondent / Corporate Debtor and filed Affidavit of service before 22.03.2022.

-Sd-

SAMEER KAKAR
MEMBER (TECHNICAL)

-Sd-

R. SUCHARITHA
MEMBER (JUDICIAL)

Sriram Ananth.V