



SL. No.1

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH**

COURT HALL NO: II

Hearing Through: VC and Physical (Hybrid) Mode

**CORAM: SHRI. RAJEEV BHARDWAJ – HON’BLE MEMBER (J)
CORAM: SHRI. SANJAY PURI - HON’BLE MEMBER (T)**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
HYDERABAD BENCH, HELD ON 15.07.2025 at 10:30 AM**

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA (IBC)/771/2022 in CP(IB) No.372/7/HDB/2018
NAME OF THE COMPANY	Indu Projects Ltd
NAME OF THE PETITIONER(S)	Bank of India
NAME OF THE RESPONDENT(S)	Indu Projects Ltd
UNDER SECTION	7 of IBC

ORDER

IA (IBC)/771/2022

Orders pronounced, recorded vide separate sheets. In the result, this application is dismissed.

Sd/-
MEMBER (T)

Sd/-
MEMBER (J)



IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH- II

I.A (IBC) No. 771 of 2022
In
C.P. (IB) No. 372/7/HDB/2018

[U/s 12 of the Contempt of Courts Act, 1971 read with Section 60(5) of the Insolvency and Bankruptcy Code, 2016 along with Rule 11 of National Company Law Tribunal Rules, 2016 and Section 425 of the Companies Act, 2013]

In the matter of M/s. Indu Projects Limited

Between:

Bank of India,
Represented by its Authorized Officer
Mr. Pawan Kumar,
Assistant General Manager

...Applicant

Versus

1. **Earthin Projects Ltd.** in consortium
with K. Ramachandra Rao Transmission
and Projects Pvt. Ltd., represented by its
Managing Director Mr. Ravi Mohan Althuru,
H NO:1-1867(B) Velamapalem
Chittoor AP 517640.

....Respondent No. 1

2. **Naren Ramanjula Reddy Pochima Reddy,**
1-492, Smith Road, ZP Office, Kadapa,
Andhra Pradesh-516001.

....Respondent No. 2

3. **Ravi Mohan Althuru,**
6-3-883/A/10/G2.
Pnjagutta, Nampally Hyderabad
Telangana-500082.

....Respondent No. 3



4. **Madhubabu Lakkamneni**
1-1867-B velama Palem, Srikalahasti
Chittoor Andhra Pradesh-517644.
.....Respondent No. 4

5. **Pratik Ramjibhai Kakadia,**
A-10, New Nikita Park Society,
Nr. sun N step Club, SAL Hospital Road, Thaltej, Ahmedabad,
Gujarat-380059.
.....Respondent No. 5

6. **Venkata Aditya Reddy Ambati,**
Flat no 501, Ahlaada Residency,
4th cross Street, beside water Tank, Veterinary CO
Vijayawada Andhra Pradesh-520008.
.....Respondent No. 6

7. **Alturu Reddy Hrishikeesh,**
30-1612/4, PLOT NO 28,
Surya Nagar Enclave Road No-1,
Safilguda, Neredmet,
Hyderabad-500056.
.....Respondent No. 7

8. **Indukuri Srinivasa Dilip Raju,**
Flat 502, North Block, White Field Kondapur,
Serilingampally, Ranga Reddy,
Hyderabad Telangana-500081.
.....Respondent No. 8

9. **Venkata Teja Reddy Ambati,**
D-5, 5th floor Upasana Apartments,
1 Hailey Road, New Delhi g.p.o.
New Delhi-110001.
.....Respondent No. 9

10. **Saiprasad Devineni** - DIN Deactivated
due to non-filing of DIR-3 KYC.
.....Respondent No. 10

Date of Order: 15.07.2025



Coram:

Shri Rajeev Bhardwaj, Hon'ble Member (Judicial)
Shri Sanjay Puri, Hon'ble Member (Technical)

Counsels Present:

For the Applicant : Mr. Yasaswi, Advocate
For the Respondent Nos.1, 3, 4 & 7 : Mr. Avinash Amarnath, Advocate &
Mr. Manichandan Reddy, Advocate.

[Per : BENCH]

ORDER

1. The present application is filed by M/s. Bank of India (from herein after referred to as "**Applicant**"), the Financial Creditor of M/s. Indu Projects Limited (**Corporate Debtor/CD**) against M/s. Earthin Projects Ltd. in consortium with K. Ramachandra Rao Transmission and Projects Pvt. Ltd., represented by its Managing Director Mr. Ravi Mohan Althuru, who emerged as the Successful Resolution Applicant in the Corporate Insolvency Resolution Process (**CIRP**) seeking the following reliefs:
 - (i) Pass an Order/s for initiating contempt proceedings against the Respondent for wilful disobedience of the Order of Hon'ble NCLAT dated 13.04.2022 and the Order of this Hon'ble Tribunal dated 13.07.2022 in in IA No. 625/2022 u/s Section 425 of the Companies Act, 2013 r/w Section 12 of The Contempt of Courts Act, 1971 and Rule 11 of NCLT Rules.
 - (ii) Pass Orders in accordance to the provisions of Section 12(1) of Contempt of Courts Act, 1971.
2. **Application**
 - (i) The Applicant filed C.P (IB) No. 372/7/HDB/2018 against M/s. Indu Projects Limited (**Corporate Debtor/CD**). This Authority, vide order dated 25.02.2019, admitted the Corporate Debtor into Corporate Insolvency Resolution Process (**CIRP**). Mr. Gopikrishan Byadigera was appointed as the Interim Resolution Professional (**IRP**) by order dated 05.03.2020. Subsequently, Mr. Anup Kumar



Singh was appointed as the Resolution Professional (**RP**) by order dated 04.06.2020.

- (ii) The RP filed Interlocutory Application (IBC Plan) No. 865 of 2020 seeking approval of the Resolution Plan submitted by Respondent No. 1 consortium. The said Resolution Plan was approved by this Authority vide order dated 01.01.2021.
- (iii) Owing to Respondent No. 1's failure to implement the approved Resolution Plan, this Authority, vide order dated 01.02.2022 in I.A. No. 77 of 2022, directed forfeiture of the Performance Bank Guarantee and initiated proceedings under Section 74(3) of the Insolvency and Bankruptcy Code, 2016 (**IBC**) against Respondent No. 1.
- (iv) On an appeal filed by the Respondent No. 1, the Hon'ble National Company Law Appellate Tribunal (**NCLAT**), vide order dated 13.04.2022, granted Respondent No. 1 a period of three months to deposit the outstanding balance in the designated account, along with interest at the rate of 8% per annum from 23.01.2022. Further, Respondent No. 1 was directed to continue execution of all ongoing projects by keeping the Bank Guarantee active and making payment towards any encashed Bank Guarantee. As per the approved Resolution Plan, Respondent No. 1 had undertaken to remit the amount of the encashed Bank Guarantee within 60 days of its invocation.
- (v) APGENCO invoked the Bank Guarantee to the tune of Rs. 18,81,20,000/-, which amount was paid by the Applicant on 07.03.2022. The Applicant notified Respondent No. 1 via email dated 24.04.2022, requesting reimbursement of the said amount. Despite repeated follow-ups, no response was received from Respondent No. 1.
- (vi) Consequently, the Applicant filed I.A. No. 625 of 2022, seeking directions against Respondent No. 1 to remit Rs.18,81,20,000/- along with interest at 8% per annum until the date of actual payment, in compliance with the order of the Hon'ble NCLAT dated 13.04.2022.



- (vii) This Authority vide order dated 13.07.2022, allowed the said application with the direction that *“we only direct forthwith compliance of the Order of the Hon’ble NCLAT dated 13.04.2022.”*
- (viii) The period granted by the Hon’ble NCLAT expired on 12.07.2022. The failure of Respondent No. 2 to comply with the said order entitles the Applicant to seek relief under Section 33(3) of the IBC.
- (ix) The continued non-compliance of Respondent No. 1 with the NCLAT's order dated 13.04.2022 also attracts the provisions of Section 33 (3) & (4) and Section 425 of the Companies Act, 2013.
- (x) The Applicant relies on the judgments of the Hon’ble NCLAT in ***Mahesh Kumar Panwar v. M/s. Megal Soft Infrastructure Pvt. Ltd. & Ors.*** [(2019) ibclaw.in 331 NCLAT] and ***Shailendra Singh v. Nisha Malpani & Anr.*** (particularly Para 50), in support of the present application.
- (xi) Further reliance is placed on sub-sections (4) and (5) of Section 12 of the Contempt of Courts Act, 1971, which provide that any person in charge of a company at the time of contemptuous conduct arising out of a court undertaking shall be deemed guilty of contempt.
- (xii) Accordingly, the present application has been filed seeking initiation of contempt proceedings against the Respondents for wilful disobedience of orders passed by the Hon’ble NCLAT and this Authority.

3. **Counter by Respondent No. 1, 3, 4 & 7**

- (i) The Respondents have tendered an unconditional apology for any contempt arising out of the orders passed by the Hon’ble NCLAT on 13.04.2022 and by this Authority on 13.07.2022 in I.A. No. 625 of 2022.
- (ii) The Respondents reiterated the background of the CIRP admission, the appointment of the RP, and approval of the original Resolution Plan.
- (iii) Respondent No. 1 had furnished Earnest Money Deposit (**EMD**) of Rs. 5,00,00,000/- in the form of a Bank Guarantee. Upon approval of the Resolution Plan, an amount of Rs. 60 crores was paid towards



implementation. However, due to unforeseen events, the Respondent was unable to make the full payment, resulting in the forfeiture of the EMD.

- (iv) Respondent file I.A No. 77 of 2022 seeking extension of time for implementing Resolution Plan. This Authority, vide order dated 02.02.2022 granted time to make further payment. In a meeting of the lenders' forum held on 19.02.2022, it was resolved to invite fresh bids. Thereafter, the RP filed I.A. No. 283 of 2022 seeking extension of CIRP and dismissal of I.A. No. 77 of 2022, without impleading Respondent No. 1.
- (v) This Authority vide order dated 01.03.2022, dismissed the I.A No. 77 of 2022 and ordered forfeiture of the EMD. The Respondent appealed before the Hon'ble NCLAT, which set aside the said order and granted three months for payment of the outstanding amount.
- (vi) Despite the expiry of the CIRP period, the RP proceeded with a fresh CIRP. A new Resolution Plan submitted by B. Subba Reddy and C. Venkateshwara Reddy was approved and is under implementation.
- (vii) The Respondents challenged the approval of the second Resolution Plan before this Authority, the Hon'ble NCLAT, and subsequently the Hon'ble Supreme Court. All appeals were dismissed.
- (viii) The Respondents contend that the default was not wilful but occurred due to Covid-19 and other regulatory and financial constraints. The present application is misconceived, particularly in view of the second Resolution Plan being approved by the CoC, despite Respondent No. 1 having deposited Rs. 65 crores.
- (ix) While arranging funds for implementation, it was discovered that the Information Memorandum issued by the RP contained misinformation about the assets. The Respondent filed I.A. No. 654 of 2022 seeking a forensic audit. Meanwhile, I.A. No. 283 of 2022, seeking extension for fresh CIRP, was allowed on 05.09.2022. No order was passed in I.A. No. 654 of 2022.
- (x) The Respondents submit that the present application is not maintainable, as it seeks enforcement of a Resolution Plan that has



become infructuous due to subsequent CIRP proceedings and approval of a new Resolution Plan.

4. **Written Submissions by Respondent No. 1, 3, 4 & 7**

- (i) The Respondents challenged the second Resolution Plan before the Hon'ble Supreme Court. The Court, vide order dated 28.01.2025, dismissed the appeal, granting liberty to the appellants to seek a refund of amounts paid/deposited. The said order is annexed as **pg. no. 5** of the Written Submissions.
- (ii) The Respondents submit that the Hon'ble NCLAT's order dated 13.04.2022 expired on 12.07.2022. This Authority has jurisdiction to entertain contempt only for violation of its own orders, not those of the appellate authority. Moreover, the direction to keep the Bank Guarantee alive was integral to the Resolution Plan.
- (iii) In ***Theegala Venkateswar Rao v. Mr. Basanthlal Shah*** [Cont. A. No. 5 of 2023 in C.P. (IB) No. 720 of 2019], this Authority held that two elements must be established to sustain a contempt petition: (i) disobedience of a judgment/order, and (ii) such disobedience must be wilful, deliberate, and intentional. The facts of the present case do not meet these criteria.
- (iv) As per Section 12(5) of the Contempt of Courts Act, 1971, liability for contempt cannot be imputed to a director unless it is shown that such act was with their consent, connivance, or attributable to their neglect. In this regard the Respondents placed reliance on the reliance on the judgment of the Hon'ble High Court of Delhi in ***DRS Logistics (p) Ltd. vs. Google India Pvt. Ltd.*** (2022: DHC:1415)

5. **Findings**

- (i) The CD was admitted into CIRP pursuant to an order dated 25.02.2019. Respondent No. 1 emerged as the Successful Resolution Applicant, and the Resolution Plan was approved by this Authority through an order dated 01.01.2021 in I.A No. 865 of 2020.
- (ii) The Respondent No.1 did not adhere to the terms of the Resolution Plan. However, it sought a three-month extension from the Hon'ble NCLAT, which was allowed vide order dated 13.04.2022.



- (iii) In the meanwhile, APGENCO had invoked BG against the CD, and the Applicant herein remitted an amount of Rs. 18,81,20,000/- on 07.03.2022.
- (iv) As Hon'ble NCLAT in its order dated 13.04.2022 had also ordered the Respondent No.1 to *"ensure continuation of 'All Projects' by keeping the 'Bank Guarantees' Alive and **by making payment for the encashed Bank Guarantee.**"*, the Applicant vide email dated 22.04.2022 informed Respondent No.1 of the BG invocation and requested for re-imburement of the guarantee amount.
- (v) However, Respondent No. 1 failed to make the requisite payment to the Applicant in accordance with the Hon'ble NCLAT order dated 13.04.2022. The three-month extension granted by the Hon'ble NCLAT also expired on 12.07.2022.
- (vi) This led to the restart of the CIRP and approval of a new Resolution Plan (submitted by B. Subba Reddy in consortium with C. Venkateshwara Reddy), which is currently under implementation.
- (vii) Since Respondent No. 1 had failed to comply with the order of Hon'ble NCLAT, the Applicant filed I.A No. 625 of 2022 before this Authority, seeking recovery of Rs. 18,81,20,000/- along with interest at 8% per annum until the actual payment is made. This Authority vide order dated 13.07.2022, directed *"forthwith compliance of the Order of the Hon'ble NCLAT 13.04.2022.*
- (viii) The present application seeks the initiation of contempt proceedings against the Respondents for non-compliance with the order dated 13.07.2022 issued by this Authority in I.A (IBC) No. 625 of 2022.
- (ix) Both the Applicant and the Respondents acknowledge that the new Resolution Plan was sanctioned due to the failure of Respondent No.1 to implement the previously approved plan. As a result, the earlier Resolution Plan submitted by Respondent No. 1 became obsolete and ceased to be binding on the parties.
- (x) The Applicant has relied on the direction issued by this Authority in I.A (IBC) No. 625 of 2022. However, it must be noted that this Authority merely directed the Respondents to comply with the Hon'ble NCLAT's order, and had made no independent judicial pronouncement.



- (xi) The Applicant is essentially seeking contempt proceedings based on the order of the Hon'ble NCLAT. However, the contempt petition has been filed before this Authority based on the directions contained in IA No. 625/2022. In this regard, reference is made to the ruling of the Hon'ble NCLAT, Delhi, in **Gireesh Kumar Sanghi v. Mr. Ravi Sanghi & Ors.** [Company Appeal (AT) No. 156 to 167 of 2019] **(2019) ibclaw.in 673 NCLAT**, wherein it was categorically held:

*“17. From the aforesaid provisions, it is clear that the Tribunal and the Appellate Tribunal are empowered to punish a person for **violation of its own order** under the 'Contempt of Courts Act, 1971' and are required to follow procedure prescribed under Section 14 of the 'Contempt of Courts Act, 1971' before holding a person guilty of having committed contempt of the Tribunal or the Appellate Tribunal.”*

- (xii) This Authority is empowered to penalize contemptuous acts related to its own orders only under the provisions of the Contempt of Courts Act, 1971. In the present case, the contemptuous Act, if any, has been against Hon'ble NCLAT and not against this Authority, which had merely directed compliance with the order of the Hon'ble NCLAT.
- (xiii) Moreover, in the present case, the Applicant has included multiple individuals as parties to the contempt proceedings. However, the Applicant has failed to attribute wilful disobedience to any specific individual.

Accordingly, this application is hereby dismissed.

Sd/-

SANJAY PURI
MEMBER (TECHNICAL)

Sd/-

RAJEEV BHARDWAJ
MEMBER (JUDICIAL)