

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**JAIPUR BENCH**

**CORAM: SHRI DEEP CHANDRA JOSHI,  
HON'BLE JUDICIAL MEMBER**

**SHRI RAJEEV MEHROTRA,  
HON'BLE TECHNICAL MEMBER**

**IA (IBC) No. 511/JPR/2023**  
**In CP No. (IB)- 20/9/JPR/2021**

**IN THE MATTER OF:**

**M/S AIREN METALS PRIVATE LIMITED**

**...OPERATIONAL CREDITOR**

**VERSUS**

**M/S FATEHPURIA TRANSFORMERS AND SWITCHGEARS PVT. LTD.**

**...CORPORATE DEBTOR**

**MEMO OF PARTIES**

**IA No. 511/JPR/2019:**

**M/S AIREN METALS PVT. LTD.**

G-750, Road No. 9F2,  
V.K.I.A, Jaipur- 302013  
(Rajasthan)

**...Applicant/ Operational Creditor**

**VERSUS**

**M/S FATEHPURIA TRANSFORMERS AND SWITCHGEARS PVT. LTD.**

P.O. Machwa, Kalwar Road,  
Jaipur (Rajasthan)

**...Respondent/ Corporate Debtor**

**FOR THE APPLICANT(S) : Ajay Atolia, CA**  
**FOR THE RESPONDENT(S) : Aman Kacheria, Adv.**

**Order Pronounced On: 22.12.2023**

**ORDER****Per: Shri Rajeev Mehrotra, Technical Member**

1. The present application has been filed by the Applicant, *M/s Airen Metals Private Limited* ('Operational Creditor'/'Petitioner') under Section 60(5) of Insolvency & Bankruptcy Code ('IBC'/'Code') read with Rule 11 of NCLT Rules, 2016 for issuance of direction to the Corporate Debtor namely, *M/s Fatehpuria Transformers and Switchgears Pvt. Ltd.* to file its balance sheet for the financial year 2019-20 with complete party wise list and trade receivables under current assets and/ or trade payables under the current liabilities wherein the amount of Rs. 12,84,52,937/- (Rs. Twelve Crores Eighty-Four Lakhs Fifty-Two Thousand Nine Hundred Thirty-Seven Only) is shown as recoverable from the Operational Creditor as on 31.03.2020.
2. The Applicant/Operational Creditor had filed the main petition numbered as *CP No. (IB)- 20/9/JPR/2021* against the Corporate Debtor alleging default in payment of dues amounting to Rs. 1,89,08,376/- (Rs. One Crore Eighty-Nine Lakhs Eight Thousand Three Hundred Seventy-Six only). It is submitted by the Applicant that in reply to the main petition, the Corporate Debtor contended that it does not owe anything towards the Operational Creditor and is entitled to recover substantial amount from the Operational Creditor from the Financial Year 2012-13 onwards. The Corporate Debtor filed details of Accounts Statements year wise from 2012 to 2021 and in the said, a sum of Rs. 12,84,52,937/- (Rs. Twelve Crores Eighty-Four Lakhs

Fifty-Two Thousand Nine Hundred Thirty-Seven Only) was shown by the Corporate Debtor to be recoverable from the Operational Creditor as on 31.03.2020; a detail tabulation of the same has been demonstrated by the Corporate Debtor.

3. In the present application, it has been submitted that the defence of the Corporate Debtor as mentioned in the reply is manipulated and the schedule filed is a forged document prepared to serve the dishonest statement of the Corporate Debtor. Under the said circumstances, the Applicant has sought production of the documents so that, the contention of the Corporate Debtor alleging an amount of Rs. 12,84,52,937/- (Rs. Twelve Crores Eighty-Four Lakhs Fifty-Two Thousand Nine Hundred Thirty-Seven Only) as recoverable from the Operational Creditor as on 31.03.2020, is substantiated with the help of documents.
4. The Corporate Debtor has filed Affidavit in reply vide Diary No. 2775/2023 dated 24.11.2023 wherein it has been contended that to prove existence of an operational debt, the Operational Creditor has to annex relevant documents and the present application has been filed at this belated stage only after realising that the Applicant will not be able to establish alleged debt from documents annexed with the main petition. Hence, to cure the lacuna in the main petition, the Operational Creditor is seeking production of the documents from the Corporate Debtor. It has been further submitted that proceedings under the Code are summary in nature and not like that of

a civil matter. The Applicant is seeking disclosure/ production of documents from the Corporate Debtor to establish purported default in existence of debt. Since, the proceedings are summary in nature, the Code does not contemplate any stage in these proceedings requiring the Corporate Debtor to place documents on record either by production or disclosure, in aid or furtherance of the Operational Creditor claiming existence of an outstanding debt. This burden rests solely and exclusively on the Operational Creditor. Since IBC is not a debt recovery mechanism, hence, the proceedings cannot be considered as suit or money claim. It was also submitted that the reliefs sought in the present application is beyond the scope of provisions of the Code. The balance sheet of the Corporate Debtor is a public document and the provisions of Companies Act, 2013 do not call upon a company to file detailed list of trade payables and receivables along with its balance sheet. Hence, the Operational Creditor is wrong in calling upon the Respondent/ Corporate Debtor to furnish the documents when the statute itself does not require for the same to be filed.

5. We have heard the learned counsels for the parties and perused the application along with the reply available on record.
6. It is seen that the Applicant has sought certain information regarding the Balance Sheet for the year 2019-20 wherein the Corporate Debtor is alleging that the Applicant owes an amount of Rs. 12,84,52,937/- (Rs. Twelve Crores Eighty-Four Lakhs Fifty-Two Thousand Nine Hundred Thirty-Seven Only)

to the Corporate Debtor. The Corporate Debtor on the other hand has objected to the application of the Operational Creditor on grounds that the provisions of IBC do not permit the Operational Creditor to enquire and give evidence to prove the claim of the Operational Creditor.

7. As per the National Company Law Tribunal Rules, 2016, the Adjudicating Authority under Rule 43 is empowered as below:

***43. Power of the Bench to call for further information or evidence.***

*(1) The Bench may, before passing orders on the petition or application, require the parties or any one or more of them, to produce such further documentary or other evidence as it may consider necessary: -*

*(a) for the purpose of satisfying itself as to the truth of the allegations made in the petition or application; or*

*(b) for ascertaining any information which, in the opinion of the Bench, is necessary for the purpose of enabling it to pass orders in the petition or application.*

*(2) .....*

8. A bare perusal of the above Rule shows that the Bench/ Adjudicating Authority has ample powers to call upon the parties or any one or more of them, to produce such further documentary or other evidence as considered necessary for the purpose mentioned therein. The Hon'ble NCLAT in the matter of *M/s Dauphin Cables Pvt. Ltd. Vs. Mr. Praveen Bansal, Company Appeal (AT) Insolvency No. 971, 972 & 973 of 2023 dated 11.09.2023* has held that the Adjudicating Authority is fully empowered for calling information and evidence from the parties. Therefore, in view of the foregoing, it is very well established that the Adjudicating Authority may, if

it thinks fit, call for documents when necessary to adjudicate upon a matter at end.

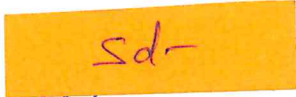
9. In the present application, it has come to notice that list of trade receivables, trade payables for the year 2019-20 along with balance sheet for the financial year 2019-20 is pertinent to determine the allegation of the Corporate Debtor by virtue of which it is claiming that the Applicant/Operational Creditor owes an amount of Rs. 12,84,52,937/- (Rs. Twelve Crores Eighty-Four Lakhs Fifty-Two Thousand Nine Hundred Thirty-Seven Only) to the Corporate Debtor.
10. The Corporate Debtor has raised a contention that IBC Proceedings are summary in nature and a trial is not conducted in the proceedings like that of a civil matter. It is germane to mention that by disposing of any proceedings, the Adjudicating Authority is not bound by the procedure laid down under the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice. The Tribunal/ Adjudicating Authority shall have the same powers as a vested in Civil Court under the Civil Procedure Code, 1904 in the matter pertaining to discovery of production of documents.
11. Hence, in view of the foregoing, the Corporate Debtor is directed to produce a list of trade receivables and trade payables for the amount shown in the Balance Sheet of the Corporate Debtor for the Financial Year 2019-20 duly certified by an Independent Chartered Accountant, along with the audited balance sheet of the Corporate Debtor for the same financial year, within 15


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days from the date of this order, failing which adverse inference may be drawn, if the documents withheld have relevance while disposing of the main application under Section 9 of IBC, 2016.

12. In view of the foregoing, the application stands disposed of with above-mentioned directions.

  
**DEEP CHANDRA JOSHI**  
**JUDICIAL MEMBER**

  
**RAJEEV MEHROTRA**  
**TECHNICAL MEMBER**