

IN THE NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH (COURT-I), SPECIAL BENCH

C.P. (IB)/112(AM)2022
IA(I.B.C)/319(AM)2023

IN THE MATTER OF:

Abhi Engineering Corporation Pvt. Ltd.

..... Operational Creditor

Versus

BGR Energy Systems Limited

.....Corporate Debtor

Date of Hearing: 30.08.2023

Date of Pronouncement of order: 20.10.2023

Coram:

Smt Bidisha Banerjee : Member (Judicial)

Shri Charan Singh : Member (Technical)

Counsel appeared physically / through video Conferencing

Mr. Sanyam Jain, Advocate] For the Operational Creditor

Mr. SVS Chowdhary, Advocate] For the Corporate Debtor

ORDER

Per Bidisha Banerjee, Member (Judicial):

1. Ld. Sr. Counsel/Counsel were heard.
2. This Petition under Section 9 of IBC, 2016 has been preferred by the Operational Creditor, namely Abhi Engineering Corporation Pvt. Ltd. seeking initiation of CIRP against the Corporate Debtor namely BGR Energy Systems Limited.

sd/-

sd/-



3. Facts in a nutshell:

3.1 The Operational Creditor is engaged in supply of systems equipment contracting Turnkey in engineering projects and for various civil works and engaged itself in civil sectors such as oil, gas and power etc. Whereas the Corporate Debtor carries on business on two segments, the supply of systems and equipment, Turnkey in engineering projects and contracting. In the turnkey in engineering projects in the power and oil and gas sector, it takes turnkey responsibility to supply of a range equipment and services including a civil works required for a project.

3.2 In the month of December, 2011 the Corporate Debtor approached the Operational Creditor for execution of civil work pertaining to Chandrapur Thermal Power Station and a service order bearing no 3300006917 was placed for execution of work pertaining to TG Building unit 9 of the (2*500 MW) Chandrapur Thermal Power Station and the revision of the said service order was issued on 13.12.2013 valued for Rs. 8,55,07,432/-.

3.3 Another service order bearing No. 3300011325 was issued and said service order also revised having the valued for Rs. 18,21,81,710/-. On 17.09.2014, the Operational Creditor was engaged by Corporate Debtor for execution of civil work pertaining to the Orissa Power Generation Corporation Limited's thermal power projects (2*660 MW) unit 3 and 4 at Jharsuguda (Project).

3.4 The abovementioned debt has been admitted by the Corporate Debtor and the Corporate Debtor has failed to make payments against the same in due course. The Corporate Debtor has never raised any it paid some amounts. It is alleged that vide email dated 12.10.2018, the Corporate Debtor clearly admitted the debt which is a clear acknowledgement of debt.

3.5 The Operational Creditor had sent a notice under Section 8 of the Insolvency and bankruptcy Code, 2016 asking the Corporate Debtor for repayment of unpaid

Sd/-

Sd/-



amount of Rs. 7,44,31,123/- to the Operational Creditor within 10 days of receipt of the notice. The total claim amount of Rs. 7,44,31,123/-, comprises of 5,74,34,210/- towards principal amount and balance of Rs. 1,69,96,913/- towards interest. The last date of payment is 10.05.2019 and the date of default is 1st April, 2021.

4. The present application was filed on 14.07.2022 and was well within time. Till its final hearing, the Operational Creditor has all along given assurance by the Corporate Debtor that the matter would be settled amicably at the earliest. Payment in part have been tendered too.
5. Even on the final date of hearing no settlement was recorded by the parties. However, subsequent to hearing, it appears that a withdrawal memo has been filed by the Operational Creditor, in the NCLT, e-filing portal on 19.09.2023 presumably to record the settlement between the parties. In view of such, the **C.P. (IB)/112(AM)2022 along with IA(I.B.C)/319(AM)2023 are dismissed as withdrawn for the present. In the event settlement fails creditor will be at liberty to get the CP restored.**
6. The Registry is directed to send e-mail copies of the order forthwith to all the parties inclusive of the Counsel.
7. Urgent certified copy of this order, if applied for, be issued upon compliance with all requisite formalities.


Charan Singh
Member (Technical)


Bidisha Banerjee,
Member (Judicial)

Signed on this the 20th day of October, 2023

M. Jana (PS)