

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

I.A.(IB) No. /CTB/2020
In I.A. No. /CTB/2020
Connected with T.P. No. 44/CTB/2019
[CP(IB) No. 373/KB/2017]

In the matter of:

An application u/s. 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the National Company Law Tribunal Rules, 2016.

And

In the matter of:

STATE BANK OF INDIA;

....Financial Creditor

Versus

ADHUNIK METALIKS LTD.;

....Corporate Debtor

And

In the matter of:

ADHUNIK METALIKS LTD., Regd. Office and Works : Chadri Hariharpur, P.O.:
Kuarmunda, Dist.: Sundergarh, Odisha – 770039. Email –
contact.adhunik@libertysteelgroup.in;

....Applicant

Versus

1. WESTERN ELECTRICITY SUPPLY COMPANY OF ODISHA LTD.

Regd. Address at – 1st Floor, Kalyani Market Complex, Unit-8, Bhubaneswar, Dist –
Khordha, Odisha – 751012

Also at:

At/PO – Burla, Dist– Sambalpur, Odisha – 768017, Email – wesco@wescoorissa.com
sk_mahalik@yahoo.com **(As per Master Data);**

**2. THE CHIEF ENGINEER – CUM – CHIEF ELECTRICAL INSPECTOR, WEST ZONE,
SAMBALPUR, At – L-4, Jagannath Colony, Budharaja, Dist – Sambalpur, Odisha –
768004, Email – ceiwzsbpr-od@gov.in**

**3. THE SENIOR GENERAL MANAGER, (O&M-II), ODISHA POWER
TRANSMISSION CORPORATION LTD., Meramundali, At – Kantabania 400/220 KV**

Grid S/s, PO – Kushpanga, Dist – Dhenkanal, Odisha – 759121, Email – ehm.div.mrm@optcl.co.in contactus@optcl.co.in

...Respondents

Counsel appeared through Video Conference

1. Mr. Saswat K. Acharya, Advocate] **For the applicant**
2. Mr. Rakesh Pujari, Authorised Representative]

1. Mr. Hasan Murtaza, Advocate] **For R-1**

Coram: Shri Jinan K.R., Hon'ble Member (Judicial)

**Date of hearing : 24/06/2020.
Order Delivered on 24/06/2020.**

ORDER

Per Shri Jinan K.R., Member (Judicial)

1. This unnumbered **I.A.(I.B) No. /CTB/2020** has been moved on the side of the applicant, Adhunik Metaliks Ltd., arising out of an IA No. /CTB/2020, connected with T.P. No. 44/CTB/2019 [C.P. (IB) No. 373/KB/2017] alleging that the order passed by this Adjudicating Authority in **I.A. No./2020** dated **13/05/2020** has not been complied with, despite direction upon the R-1 to do so within 2 weeks.

2. Adhunik Metaliks Ltd., the successful Resolution Applicant of the Corporate Debtor, has filed an un-numbered application against R-1, Western Electricity Supply Company of Odisha Ltd. (in short, **WESCO**), praying for issuing directions to restore the electricity connection to the former position. That application was allowed in favour of the applicant vide order dated 13/05/2020. This is one another application filed by the very same applicant praying for issuing directions to R-1, **WESCO**), R-2, The Chief Engineer – cum – Chief Electrical Inspector, West Zone, Sambalpur and R-3, The Senior General Manager, (O&M-II), Odisha Power Transmission Corporation Ltd., for implementation of the order dated 13/05/2020 alleging that the order has not been complied with in spite of the directions upon R-1. Vide order dated 13/05/2020, this Adjudicating Authority has passed the following order :-

“(a) The respondent is directed to reinstate the Applicant Company’s electricity supply as per the above-mentioned supply agreements between the said parties within two weeks from the receipt of the email copy of this order.

(b) Failing which the respondent is liable for contempt.

(c) The question as to whether the termination of agreements is legal and proper and whether the claim for the dues stand extinguished when this Hon’ble Tribunal approved the Resolution Plan as claimed by the applicant is left open for final determination by the regular tribunal after lifting of the lock down.

(d) Registry of the Cuttack Bench is directed to post this application immediately after lifting of the lockdown by giving prior notice.

(e) Registry of Kolkata Bench is directed to send a copy of the order by way of e-mail to the parties forthwith.

(f) I.A. is adjourned for final hearing by the Cuttack Bench upon lifting the lock down. The respondent shall submit its reply by serving copy to the applicant by way of e-mail to the e-mail id of the NCLT, Cuttack Bench within two weeks.”

3. Being satisfied with the reasons for moving this application urgently, this application was listed for hearing on this day and when the case was taken up for hearing through Video Conferencing, Ld. Counsel for the applicant as well as the Ld. Counsel for R-1 was present. Despite serving notice to R-2 and R-3 nobody appeared on their side. R-1 has submitted their written notes on defence.

4. Heard both sides and perused the records.

5. At the time of hearing the Ld. Counsel Mr. Saswat K. Acharya, for the applicant submits that upon issuing notice of this application to the respondents, R-1, R-2 and R-3 have taken initiative so as to restore the electricity connection and has taken steps though at a belated time and, therefore, he is not pressing this application, but prays for withdrawal of the application with a liberty to file afresh, in case the respondents failed to restore the electricity.

6. Ld. Counsel Mr. Hasan Murtaza, for R-1 submits that there was no fault on the side of the R-1 in restoring the electricity connection to the applicant. According to them there were two connections to be restored. Regarding the 1st one they have already laid down the cable upto the doorstep of the applicant and charged. In order to restore the 2nd connection, the applicant needs to get Inspection Reports regarding electrical installations

from R-2 and R-3 respectively and in the absence of the said certificates obtained from them the connection has not been restored. However, he agreed to advise the authorities concerned to expeditious the process for restoring the connection.

7. Recording the submissions, it is fair and just to allow the applicant request to withdraw this application with a liberty to move appropriate applications against the respondents in the event of non-compliance, of the order dated 13/05/2020. It is made clear that R-2 and R-3 who were not turned up despite receipt of notice bound by the direction dated 13.05.2020 referred to above.

8. With the above said observation the applicant is permitted to withdraw the application with liberty to move fresh Application in case of non compliance of directions in the order dated 13/05/2020.

9. The application is disposed of as withdrawn. No order as to cost.

The Registry is directed to send e-mail copies of the order forthwith to all parties inclusive of the Counsel.

(Jinan K.R.)
Member (J)
In charge of Cuttack Bench.

Signed on this, the 24th day of June, 2020.

hb.