

**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
MUMBAI BENCH, COURT - II**

**C.P.(IB)-2976(MB)/2018**

(Under Section 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudication Authority) Rule 2016)

*In the matter of*

**Great Town Trading Private Limited**

Address for Registered Office: Patuck Press Compound, Shravan Yeshwant Chowk, Next to Kalachowki Police Station, Cotton Green (W), Mumbai- 400033.

**...Operational Creditor**

**Vs**

**Pravara Renewable Energy Limited**

Having Registered Office at: 502, Floor 5, Plot 952/954, Orbit Plaza CHS, New Prabhadevi Road, Nagusayajiwadi, 400025.

**...Corporate Debtor**

**Order delivered on: 06.01.2023**

*Coram:*

**Hon'ble Member (Judicial) : Justice P.N. Deshmukh (Retd.)**

**Hon'ble Member (Technical) : Shri Shyam Babu Gautam**

*Appearances:*

For the Operational Creditor : Mr. Sankalp Anantwar, Counsel

For the Corporate Debtor : Mr. P.G. Sabnis, Counsel

**ORDER**

**Per- Justice P.N. Deshmukh (Retd.), Member Judicial**

1. The Present Application is filed under section 9 of Insolvency and Bankruptcy Code, 2016 (for brevity 'IBC, 2016') read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity 'the Rules') by Great Town Trading Private Limited (for brevity 'Operational Creditor') through its Director, Mr. Pankaj Shubhkaran Ojha for initiating Insolvency Resolution Process (CIRP) against Pravara Renewable Energy Limited (for brevity 'Corporate Debtor') for default in repaying Principal amount of **₹3,31,27,775** together with interest of **₹55,07,487**, aggregating to **₹3,86,35,262** as on 26.07.2018.
2. On reading the application and other material placed before this Bench, by way of a purchase order dated 24.03.2017, the Corporate Debtor placed an order for supply of coal. Further, as per the said purchase order, the Operational Creditor has supplied coal and raised four invoices against which the Corporate Debtor has defaulted on making payment despite having received goods without any protest.

<b>Sr. No.</b>	<b>Invoice Date</b>	<b>Invoice Amount</b>
1.	25.04.2017	Rs. 1,42,19,318
2.	17.06.2017	Rs. 59,54,764
3.	17.06.2017	Rs. 1,09,21,687
4.	17.06.2017	Rs. 89,06,211
	<b>Total</b>	<b>Rs. 4,00,01,980</b>

Further, the Operational Creditor issued a Demand notice (Form 3) dated 21.05.2018 under Insolvency and Bankruptcy Code, 2016, which was duly received by the Corporate Debtor. In relation to this, the Corporate Debtor replied to the Demand Notice issued by the Operational Creditor and did not disputed the amount mentioned in the Demand Notice. The Corporate Debtor further stated regarding the market conditions and also gave reasons of mismatch in cash flow and financial distress for non-payment of the outstanding amount to the Operational Creditor. Moreover, the Corporate Debtor has stated that they are taking all possible steps to honour its financial obligations and they were hopeful that the subject matter can be resolved amicably. Soon after the reply, the Corporate Debtor made part payments on 22.06.2018, 28.06.2018 and 05.07.2018 of Rs.10,00,000/-; Rs.25,00,000/- and Rs.15,00,000/- respectively. Thus, an amount of Rs.50,00,000/- was received after issuance of Demand Notice and same was adjusted towards the outstanding amounts. Further, the Corporate Debtor failed to make the payment of the balance outstanding amount to the

Operational Creditor. In such circumstances, the Operational Creditor has filed the present petition on 31.07.2018 for an amount of Rs.3,86,35,262/-.

During the pendency of the present petition, the Corporate Debtor has made further part payments as under:

*a. Rs.1,00,00,000/- on 25.09.2018*

*b. Rs.8,00,000/- on 14.03.2019*

*c. Rs.25,00,000/- on 30.03.2019*

*d. Rs.10,00,000/- on 05.04.2019*

*e. Rs.15,00,000/- on 29.05.2019*

*f. Rs.50,00,000/- on 22.01.2020*

*g. Rs.50,00,000/- on 03.04.2020*

*h. Rs.73,16,330/- on 10.11.2020*

Therefore, an amount aggregating to a sum of Rs.3,31,16,330/- was paid by the Corporate Debtor in due admission of its liabilities after filing of the present Petition.

3. In view of the amounts received after filing of the present petition, this bench vide order dated 10.04.2019 allowed the applicant to carry out the amendment to the petition. Accordingly, an amended copy of petition was served to Corporate Debtor and was filed before this bench.

Meanwhile, the Corporate Debtor filed its reply dated 01.08.2022 and disputed the outstanding amount which includes interest. The Corporate Debtor stated that they have made a payment of Rs.3,56,26,330/- which is Rs.25 Lakhs in

excess of the principal amount of Rs.3,31,27,775/- which was initially claimed as principal amount. The Corporate Debtor disputed the interest amount stating that there is no contractual provision for interest that was agreed between the parties. Moreover, the Corporate Debtor has stated that there are several judgements of the NCLT and Hon'ble NCLAT that once the principal amount is paid, the petition has to be dismissed and claim of interest, if any, needs to be pursued before a civil court.

4. In relation to this, the Operational Creditor has filed its rejoinder dated 22.09.2022 and denied the contentions made by the Corporate Debtor in its reply. The Operational Creditor denied that excess amount of Rs.25 Lakhs has been paid by the Corporate Debtor as alleged in its reply. Moreover, the Operational Creditor has annexed the Ledger Account to prove an amount of Rs.3,08,57,656.98/- is due and payable by the Corporate Debtor as on 31.08.2022.

The Operational Creditor submits that since there is a contractual provision for interest in the form of terms and conditions of the said invoices, i.e., **Clause 1** of Terms and Conditions of the said invoices which clearly provide ***“Interest will be charged @21% p.a., if not paid within 3 days”***. The Operational Creditor further submits that at the time of filing of the present Petition, the Operational Creditor has crystallized an amount towards interest as on the date as mentioned in the present Petition.

5. Heard the submissions made by the Learned Counsel for both the parties and perused the material on record, we are of the view that the Corporate Debtor has admittedly made part payment from time to time towards the abovementioned invoices during the pendency of the present Petition. Further, the Corporate Debtor has not disputed the invoices in its reply to the Demand Notice. Therefore, it is deemed that there is no dispute as regard to the said invoices. At this stage, the Corporate Debtor cannot deny that there is no contractual provision for interest as document cannot be read in isolation and has to be read in its entirety. Therefore, the contractual interest is very much a part of the invoices which has admittedly been accepted by the Corporate Debtor and against which part payments have been made by the Corporate Debtor from time to time. Moreover, there is no evidence to prove that the part payment made by the Corporate Debtor is against the principal amount claimed or against the debt including interest. Under the said circumstances, since the debt and default on the part of the Corporate Debtor being proved without any dispute, we hereby admit this petition by appointing **Mr. Sandeep Jawaharlal Singhal** (Insolvency Professional) as IRP with a direction to the IRP to compute this claim by deducting the payments made by the Corporate Debtor during the pendency of this Company Petition. The Petitioner shall pay the remuneration of the IRP as well as initial costs to the IRP until constitution of the Committee

of Creditors, Accordingly this petition is **admitted** with the direction as follows:-

a. **The above Company Petition (IB) 2976(MB)/2018 is hereby allowed** and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against M/s. Pravara Renewable Energy Limited.

b. This Bench hereby appoints **Mr. Sandeep Jawaharlal Singhal**, having Registration No: **IBBI/IPA-001/IP-P00519/2017-2018/10920**; Phone No: 9820060027; E-mail: [sandeepjsinghal@hotmail.com](mailto:sandeepjsinghal@hotmail.com); as the Interim Resolution Professional to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.

c. The Operational Creditor shall deposit an amount of Rs. 2 Lakh towards the initial CIRP cost by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order.

d. That this Bench hereby prohibits the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority, transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any

legal right or beneficial interest therein; any action to foreclose, recover enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002; the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.

e. That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.

f. That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

g. That the order of moratorium shall have effect from the date of pronouncement of this order till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, as the case may be.

h. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.

i. During the CIRP period, the management of the corporate debtor will vest in the IRP/RP. The suspended directors and employees of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP/RP.

j. Registry shall send a copy of this order to the concerned Registrar of Companies for updating the Master Data of the Corporate Debtor.

6. The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

Sd/-

**SHYAM BABU GAUTAM**  
**(MEMBER TECHNICAL)**

Sd/-

**JUSTICE P.N. DESHMUKH**  
**(MEMBER JUDICIAL)**

Arpan, LRA

06.01.2023