



**IN THE NATIONAL COMPANY LAW TRIBUNAL
COURT NO. 5, MUMBAI BENCH**

CP (IB) - 27/MB/2022

Under Section 7 of the I&B Code, 2016

In the matter of

CG Power and Industrial Solutions Limited,
6th Floor, CG House, Dr. Annie Besant Road,
Worli, Mumbai-400030, Maharashtra

....Petitioner

vs.

CG Power Solutions Limited,
6th Floor, CG House, Dr. Annie Besant Road,
Worli, Mumbai-400030, Maharashtra

.... Corporate Debtor

Order Reserved on: 28.03.2022

Order Pronounced on: 27.04.2022

Coram:

Hon'ble Smt. Suchitra Kanuparthi, Member (Judicial)

Hon'ble Smt. Anuradha Sanjay Bhatia, Member (Technical)

For the Petitioner: Mr. Ashish Kamat a/w Mr. Adarsh Saxena, Mr. Vineet
Bhansali and Ms. Sonu Bhasi, Advocates

For the Corporate Debtor: Mr. Manoj Kumar Mishra, Advocate.

Per: Bench

ORDER

1. CG Power and Industrial Solutions Limited (hereinafter called 'Petitioner') has sought the Corporate Insolvency Resolution Process of CG Power Solutions Limited (hereinafter called the 'Corporate Debtor') on the ground, that the Corporate Debtor committed default to the extent of Rs.



11,99,50,00,000/- as provided under Section 7 of Insolvency and Bankruptcy Code, 2016 (hereinafter called the 'Code') read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

Brief Facts:

1. The Petitioner agreed to extend various loans for an aggregate amount up to Rs. 1333 Crores to the Corporate Debtor pursuant to terms of several loan agreements (along with roll over letter agreements) executed during the period commencing from March 2013 to April 2017. Various loan agreements entered into between the parties are as follows:

Sr No.	Loan Agreement	Loan Amount (Rs.)
1	13 th March, 2013	33 crores
2	25 th March, 2014	75 crores
3	17 th September 2014	75 Crores
4	9 th February 2015	50 Crores
5	20 th February 2015	50 Crores
6	4 th March 2015	50 Crores
7	2 nd May 2016	1000 Crores

2. The Petitioner pointed out that the amounts were disbursed to the Corporate Debtor in several tranches through multiple Bank Accounts. The Corporate Debtor failed to repay the outstanding amount to the Petitioner at the end of each tenure as on 31.03.2021. The total amount in default is Rs. 11,99,50,00,000/- (Rupees One thousand One Hundred and Ninety Nine crores and fifty lakhs only).
3. The Petitioner issued a Demand Notice dated 23.11.2021 calling upon the Corporate Debtor to make payment of outstanding amount. The details of disbursement and computation of amount in default is as given below:



PART I

Total Outstanding amount as on March 31, 2021 (in INR)	Date of issuance of Demand Notice to the Corporate Debtor	Number of days of default in respect of payment obligation of the Corporate Debtor post issuance of the Demand Notice up till December 8, 2021
11,99,50,00,000	November 23, 2021	15

PART II

Particulars of Bank through/ into which disbursement/ repayment was made	Disbursements and Interest Accrued	Repayments including interest	Total Outstanding Balance
Axis Bank Ltd	25,88,50,000	(13,26,71,31,695)	(13,00,82,81,695)
Bank of Maharashtra	1,53,34,00,000	(10,10,00,000)	1,43,24,00,000
Corporation Bank	2,66,71,00,029	(10,00,00,000)	2,56,71,00,029
HDFC	-	(5,00,00,000)	(5,00,00,000)
ICICI	50,00,00,000	-	50,00,00,000
IDBI Bank	32,00,07,350	(25,21,500)	31,74,85,850
Indus Ind Bank	2,35,83,41,000	(2,94,00,00,000)	(58,16,59,000)
Kotak Mahindra Bank	-	(1,45,00,00,000)	(1,45,00,00,000)
Standard Chartered Bank	24,80,93,45,185	(80,00,00,000)	24,00,93,45,185
State Bank of India	1,01,97,00,058	(17,42,00,000)	84,55,00,058
Union Bank of India	1,51,02,00,000	(8,20,58,40,627)	(6,69,56,40,627)
Yes Bank Limited	9,17,54,343	-	9,17,54,343
Interest Accrued	2,89,58,69,093	-	2,89,58,69,093
Others	1,31,48,16,499	-	1,31,48,16,499
Recasting Impact	(19,36,89,736)	-	(19,36,89,736)
Total	39,08,56,93,822	(27,09,06,93,822)	11,90,50,00,000

4. The Petitioner has also filed the financial statements of the Corporate Debtor for the year ending 31st March 2021 which records that an unsecured loan has been advanced by the holding Company namely the Petitioner. The Note clarified that the above loan is repayable on demand to CG Power and Industrial Solutions Limited, Holding Company has



discontinued charging of interest on loan advanced to the Company. Accordingly, no interest or expense is advanced to the company during the year. The Financial statement is as follows:

393

CG POWER SOLUTIONS LIMITED
NOTES ACCOMPANYING TO THE FINANCIAL STATEMENTS

13 Financial liabilities – Short term borrowings

Particulars	As at March 31,2021	As at March 31,2020
Unsecured Loans & Advances from Holding Company	12,990,712,126	11,075,312,126
Total	12,990,712,126	11,075,312,126

The above loan is repayable on demand. CG Power and Industrial Solutions Limited, holding company has discontinued charging of interest on loan advanced to the Company. Accordingly, no interest expenses is accrued during the year.

14 Financial liabilities – Trade payable

Particulars	As at March 31,2021	As at March 31,2020
total outstanding dues of micro enterprises and small enterprises;	-	-
total outstanding dues of creditors other than micro enterprises and small enterprises (Refer Note 24)	1,180,000	1,180,000
Total	1,180,000	1,180,000

15 Current – Other financial liabilities

Particulars	As at March 31,2021	As at March 31,2020
Current maturities of long- term loan from Non Banking Finance Company	-	1,100,000,000
Interest accrued but not due on borrowings	-	215,400,000
Total	-	1,315,400,000

Disclosure on defaults in payment of loans and interest

The Company had made certain defaults in repayment of dues to financial institution

Particulars	As at March 31,2021	As at March 31,2020
Current maturities long-term loan from Non Banking financial institution	-	300,000,000
Interest accrued on borrowings	-	115,000,000

Note: As on 31 March 2020, the period of default was less than 1 year.

16 Other current liabilities

Particulars	As at March 31,2021	As at March 31,2020
Statutory dues#	40,614,131	40,614,131
Others*	5,666,955,923	5,666,955,923
Total	5,707,570,054	5,707,570,054

The company has defaulted in payment of TDS of Rs. 4,06,14,131. Interest and Penalty, if any, is not quantifiable and will be recognised on actual basis. The Company is under regulatory investigation for various transactions. Therefore, this TDS liability amount may undergo change on completion of investigation.

*The company had received certain advances from unrelated parties aggregating to ₹ 566,69,55,923. The company does not have any supporting documents/ contracts in respect of these advances. The company has recognised these advances as current liability and will continue to do so until fulfilment/ extinguishment of aforesaid liability.

10/3/21



**Reply of the Corporate Debtor:**

5. The Corporate Debtor is an unlisted public limited company under the Companies Act, 2013 which was incorporated on 14th March, 2012, having its registered office at 6th Floor, CG House, Dr. Annie Besant Road, Worli, Mumbai-400030, Maharashtra, India.
6. The Corporate Debtor has incurred losses consistently over the past years. As at 31st March 2021, the Corporate Debtor's current liabilities exceed its current assets by Rs. 18,69,94,23,046/- (Rupees One Thousand Eight Hundred Sixty Nine Crores Ninety Four Lakhs Twenty Three Thousand and Forty Six only).
7. The net worth of the Corporate Debtor as on 31st March 2021 is negative i.e. Rs. 18,69,94,13,046/- (Rupees One Thousand Eight Hundred Sixty Nine Crores Ninety Four Lakhs Thirteen Thousand and Forty Six only).
8. The Corporate Debtor is not having any operations since more than 2 years.

Findings:

9. Heard the Counsel for the Petitioner and the Respondent and perused the records.
10. The only legal question which arises for consideration is whether the holding Company can initiate CIRP against its wholly owned subsidiary under the I&B Code.
11. The facts reveal that the Petitioner had granted loan under various loan agreements in between March 2013 to April 2017. The following table provides details for agreement entered into between Petitioner and Corporate Debtor:



FINANCIAL YEAR	LOAN AGREEMENTS	MAXIMUM LIMIT UNDER THE LOAN AGREEMENTS (AMOUNT IN INR)	OUTSTANDING AMOUNT (IN INR) AT THE END OF FINANCIAL YEAR (AS REFLECTED IN AUDITED FINANCIAL STATEMENTS OF CORPORATE DEBTOR)
2012-13	Loan Agreement dated March 13, 2013	33,00,00,000	31,87,30,904
2013-14	Loan Agreement dated March 25, 2014	75,00,00,000	110,43,94,472
2014-15	Loan Agreement dated September 17, 2014	75,00,00,000	242,29,29,919
	Loan Agreement dated February 9, 2015	50,00,00,000	
	Loan Agreement dated February 20, 2015	50,00,00,000	
	Loan Agreement dated March 4, 2015	50,00,00,000	
2015-16			274,84,27,948
2016-17	Loan Agreement dated May 2, 2016	1,000,00,00,000	302,96,69,365
2017-18			1,074,96,82,601
2018-19			1,097,56,04,703
2019-20			1,107,53,12,126
2020-21			1,299,07,12,126

12. The Corporate Debtor had admitted the debt in its financial statement ending on 31.03.2021. The Petitioner had issued loan recall notice on 23.11.2021 calling upon the Corporate Debtor to make payment of entire outstanding amount of Rs. 11,99,50,00,000/-.
13. The Petitioner is exercising his right as a Financial Creditor u/s. 7 and is further claiming that he has extended a financial debt to its wholly owned subsidiary, as the Corporate Debtor has failed to repay the outstanding debt of the Petitioner despite notice dated 23.11.2021.
14. The Counsel for the Petitioner pointed out that there is no bar on a holding company to initiate CIRP against its own wholly own subsidiary. They also relied upon judgments of Hon'ble NCLT wherein a Section 7



Petition filed by a shareholder of the Corporate Debtor was admitted by the Adjudicating Authority. The decisions of the Co-ordinate Bench is as follows:

- A. In the case of ***Urban Infrastructure Trustee Ltd. vs. Neelkanth Township & Construction Pvt. Ltd.***, [2017] SCC OnLine NCLT 544, this Hon'ble Tribunal whilst adjudicating on the issue of whether an applicant, who is one of the shareholders of the corporate debtor, can file an application under Section 7 of the Code as a financial creditor, held that:

"21. Since this court has not said anywhere if the financial creditor happens to be shareholder as well, the shareholder in the capacity of financial creditor cannot initiate insolvency resolution process, since it is the case of the financial creditor that 90% of the funding arisen by the company is only through this claim, this applicant claim cannot be shut on the ground the applicant continuing as shareholder. As there is no legal bar against this applicant to make his claim as a financial creditor, this Bench cannot read into such proposition to deprive the right of this applicant. Therefore, we do not find any merit in the argument of the corporate debtor.

22. When a Company is unable to pay the debt or refuse to pay the debt, the financial creditor or the operational creditor, as the case may be, can initiate insolvency proceedings since the corporate debtor defaulted in repaying the debt admittedly showing in the financial statement of the debtor Company, this application deserves admission."

- B. Similarly, the Hon'ble National Company Law Tribunal, Chennai Bench in the case of ***Anita Kumaran & Anr. v. KGS Developers Limited***, 2019 SCC OnLine NCLT 1716, while deciding on the issue of whether a shareholder of a corporate debtor would fall within the purview of the definition of the "financial creditor", held as follows:



“8 ... The Applicants/Financial Creditors being Shareholder and Director/Promoter have made payments of the loan taken by the Corporate Debtor from ICICI Bank. **Therefore, a Shareholder, Director/Promoter can also be a Financial Creditor** when he makes repayment of the loan that has been advanced by the Bank(s) to the principal borrower. If the interpretation made by the Learned Counsel for the Corporate Debtor is taken into consideration, the same will take away the effect of the definitions of “Financial Credit” of and “Financial Debt” given under Sections 5(7) and 5(8) of the I&B Code, 2016. **The settled principle of interpretation is that an interpretation must give effect to the provisions of the statutes and not to render them otiose. This view is based on the well-established maxim of interpretation which says ‘ut res magis valeat quam pereat’. This Latin maxim of interpretation when translated into English means that it is better for a thing to have effect than to be void.** In order to strengthen the above view, a reference may be made to the principle of interpretation evolved by Hon'ble Apex Court in Gurudev datta VKSSS Maryadit v. State of Maharashtra, reported in (2001) 4 SCC 534 : AIR 2001 SC 1980, wherein the Hon'ble Apex Court has laid down as under:—

“It is a cardinal principle of interpretation of statute that the words of a statute must be understood in their natural, ordinary or popular sense and construed according to their grammatical meaning, unless such construction leads to some absurdity or unless there is something in the context or in the object of the statute to suggest to the contrary. The golden rule is that the words of a statute must prima facie be given their ordinary meaning. It is yet another rule of construction that when the words of the statute are clear, plain and unambiguous, then the Courts are bound to give effect to that meaning, irrespective of the consequences. It is said that the words themselves best declare the intention of the law given. The Courts have adhered to the principle that efforts should be made to give meaning to each and every word used by the legislature and it is not a sound principle of construction to brush aside words in a statute as being inapposite surpluses, if they can have a proper application in circumstances conceivable within the contemplation of the statute.”

9. The intention of the legislature does not appear to have excluded the Shareholders and



Directors/Promoters from the purview of definition of the 'Financial Creditor' or 'Financial Debt', who might have given loan to the Corporate Debtor or repaid the loan on behalf of the Corporate Debtor. ... Therefore, the contention raised by the Learned Counsel for the Corporate Debtor that the shareholder and promoter/director of corporate debtor do not fall within the purview of the definition of the financial creditors stands rejected.”

C. In another case of **S. Premsiva v. Sun Brushware Private Limited, 2019 SCC OnLine NCLT 6942**, the Hon'ble National Company Law Tribunal, Chennai Bench held as follows:

“25. The Counsel for the Corporate Debtor would contend that the Applicant/Financial Creditor is a shareholder and though the loan taken by the Corporate Debtor carries the element of time value of money yet the payment thereto by the Applicant/Financial Creditor is not against the time value of money. On the issue raised by the counsel for the corporate debtor, a reference may be made to the order dated 09.07.2018 passed by this tribunal in CP 18/2018 titled P.B. Radhakrishnan v. Deleo Construction Private Limited, wherein it has been observed that **'The intention of the legislature does not appear to have excluded the Shareholders and Directors/Promoters from the purview of definition of the 'Financial Creditor' or 'Financial Debt', who might have given loan to the Corporate Debtor or repaid the loan on behalf of the Corporate Debtor.'** The said Order was challenged before Hon'ble NCLAT in Company Appeal (AT) (Insolvency) No. 387/2018 titled V. Kanchana v. P.B. Radhakrishnan, the appellate tribunal vide its Order dated 08.08.2018 has upheld the Order of this Authority and observed that 'a Director paid amount from his personal account on behalf of the Corporate Debtor, he comes within the meaning of Financial Creditor of the Corporate Debtor'. **Therefore, the contention raised by the Learned Counsel for the Corporate Debtor that the shareholder and promoter/director of corporate debtor do not fall within the purview of the definition of the financial creditors stands rejected.**

26. **It is required on the part of this tribunal to interpret the provisions of the Code to give effect**



to the same and not to place an interpretation which would take away the effect of the same. This view is based on the well-established maxim of interpretation i.e. ‘ut res magis valeat quam pereat’ which means that it is better for a thing to have effect than to be void. The definitions of “Financial Creditor” and “Financial Debt” given under Sections 5(7) and 5(8) of I&B Code, 2016 are unambiguous to which ordinary and natural meaning has to be given.”

15. It is also pointed out that it is a settled principle of law that when the words of a statute are clear and unambiguous, it is not permissible to read words into the statute. The learned counsel for the Petitioner relied upon three judgements namely:

- A. In the case of ***Padma Sundara Rao v. State of Tamil Nadu, (2002) 3 SCC 533***, the Constitution Bench of the Hon’ble Supreme Court held that “*The court cannot read anything into a statutory provision which is plain and unambiguous. A statute is an edict of the legislature. The language employed in the statute is determinative factor of legislative intent. The first and primary rule of construction is that the intention of the legislation must be found in the words used by the legislature itself. The question is not what may be supposed and has been intended but what has been said*”.
- B. Similarly, in the case of ***Union of India v. Elphinstone Spg. and Wvg. Co. Ltd., (2001) 4 SCC 139***, the Hon’ble Supreme Court held that “*by no stretch of imagination a Judge is entitled to add something more than what is there in the Statute by way of a supposed intention of the legislature. It is, therefore, a cardinal principle of construction of statute that the true or legal meaning of an enactment is derived by considering the meaning of the words used in the enactment in the light of any discernible purpose or object which comprehends the mischief and its remedy to which the enactment is directed*”.
- C. In ***Arun Kumar Jagatramka vs. Jindal Steel and Power Ltd. and Ors., (2021) 7 SCC 474***, a Division Bench of the Hon’ble



Supreme Court issued a note of caution to the Adjudicating Authorities and the Appellate Authority against judicial interference with the framework created by the Code. The Hon'ble Court stated that "...we do take this opportunity to offer a note of caution for the NCLT and NCLAT, functioning as the Adjudicatory Authority and Appellate Authority under the IBC respectively, from judicially interfering in the framework envisaged under the IBC. As we have noted earlier in the judgment, the IBC was introduced in order to overhaul the insolvency and bankruptcy regime in India. As such, it is a carefully considered and well thought out piece of legislation which sought to shed away the practices of the past. The legislature has also been working hard to ensure that the efficacy of this legislation remains robust by constantly amending it based on its experience. Consequently, the need for judicial intervention or innovation from the NCLT and NCLAT should be kept at its bare minimum and should not disturb the foundational principles of the IBC."

D. In ***Pratap Technocrats (P) Ltd. and Others v. Monitoring Committee of Reliance Infratel Limited and Another, 2021 SCC OnLine SC 569***, a Division Bench of the Hon'ble Supreme Court held that "*once the requirements of IBC have been fulfilled, the Adjudicating Authority and the Appellate Authority are duty-bound to abide by the discipline of the statutory provisions. It needs no emphasis that neither the adjudicating authority nor the appellate authority have an unchartered jurisdiction in equity. The jurisdiction arises within and as a product of a statutory framework*".

16. The Counsel for the Petitioner also pointed out that Section 10 of the Code allows the Corporate Applicant to file an application for initiating CIRP against itself.
17. This Bench notes that this is an application filed by the Petitioner which is a Holding Company of the Corporate Debtor. It is relevant to refer to



the definition of Holding Company which relate to one or more other companies of which such companies are subsidiary companies and the definition of subsidiary company clarifies that the Holding Company controls the composition of board of directors, or exercises or control over the subsidiary company. Be that as it may, every Company incorporated under the Companies Act is an independent corporate personality.

18. It is an undisputed fact that the Petitioner has lent monies under Loan Agreements to the Corporate Debtor and the monies remained outstanding as loan in the books of accounts of the Petitioner. The Corporate Debtor has failed to repay the monies to the Petitioner herein despite service of notice. The Corporate Debtor has acknowledged the liability of payment of dues in its balance sheet as on 31.03.2021.
19. This Bench further notes that there is no legal impediment/ bar under the Code which prevents the holding company to file a petition u/s. 7 against its subsidiary company and hence the Petition deserves to be admitted.
20. On going through the submissions made by the Learned Counsel for the Petitioner and on perusing the documents produced on record, it is understood that the Corporate Debtor has defaulted in repayment of debt. Hence, owing to the inability of the Corporate Debtor to pay its dues, this is a fit case to be moved u/s 7 of the I&B Code.
21. Considering the above facts, we come to conclusion that the nature of Debt is a “Financial Debt” as defined under section 5 (8) of the Code. It has also been established that there is a “Default” as defined under section 3 (12) of the Code on the part of the Debtor. The two essential qualifications, i.e., existence of ‘debt’ and ‘default’, for admission of a petition under section 7 of the I&B Code, have been met in this case. Besides, the Company Petition is well within the period of limitation.



22. As a consequence, keeping the aforesaid facts in mind, it is found that the Petitioner has not received the outstanding Debt from the Corporate Debtor and that the formalities as prescribed under the Code have been completed by the Petitioner, we are of the conscientious view that this Petition deserves 'Admission'.
23. Further that, we have also perused the Form – 2 i.e., written consent of the proposed Interim Resolution Professional submitted along with this application/petition by the Financial Creditor and there is nothing on record which proves that any disciplinary action is pending against the said proposed Interim Resolution Professional.
24. The Petitioner has proposed the name of Insolvency Professional. The IRP proposed by the Petitioner, Mr. Atul Jain, having address at C/o GMJ & Co. 3rd & 4th Floor, Vaastu Darshan "B", Above Central Bank of India, Azad Road, Andheri (East), Mumbai-400069, Email ID- atuljainca@hotmail.com; atuljain@gmj.co.in and having registration No. IBBI/IPA-001/IP-P00307/2017-18/10571, is hereby appointed as Interim Resolution Professional to conduct the Insolvency Resolution Process.
25. This Bench directs the IRP/RP as follows:
- Conduct the Transactional Audit of the Corporate Debtor and place the Transaction Audit Report before this Bench and the SFIO authority.
 - Coordinate closely with the Ongoing investigation by SFIO into the affairs of the Corporate Debtor.
 - The Bench has observed from the Notes to the "Financial Statement", following important observations of the Independent Auditor which are reproduced below:
 - a) *The Company has incurred losses consistently over the past years. As at 31st March 2021, the Company's Current Liabilities exceed its Current Assets by Rs.*



18,69,94,23,046. The networth of the Company as on that date is also negative i.e. Rs. 18,69,94,23,046. The Holding Company of the Company has passed a resolution for Liquidation of the Company. With reference to above, we are unable to obtain sufficient and appropriate audit evidence as to whether the Company will be able to service its debt, realise its assets and discharge its liabilities as and when they fall due over the period of next 12 months. (Ref: Page No. 366, Exhibit O Volume III of the Company Petition)

- b) We refer to Note 30 of the Financial Statements regarding the ongoing investigation by Serious Fraud Investigation Office (SFIO) into the affairs of the Company, which also includes current liabilities-payable to other. The impact if any arising on account of the ongoing investigation is not considered in the financial statements. (Ref: Page No. 367, Exhibit O Volume III of the Company Petition)
- c) During the year ending 31.03.2021, the company has written off the loan receivable. However, the company along with Holding Company has continued suits recovery proceeding as below:
- i. Civil Suit in the High Court of Bombay against BILT Graphic Paper Products Limited, Avantha Holdings Limited and former Directors connected with the promoter (AHL) group and former KMPs for recovery of Rs. 811,22,67,397 (Principal amount of Rs. 552,32,67,397, together with interest aggregating to Rs. 258,90,00,000 at the rate of 18% p.a.) towards the loss caused to the company by unauthorised liquidation of its investment in mutual funds.
 - ii. Civil Suit in the High Court of Bombay against Solaris Industrial Chemicals Limited, Avantha Holdings Limited and former Directors connected with the promoter (AHL) group and former KMPs for recovery of Rs. 399,30,00,000 (principal 280,00,00,000 together with interest aggregating Rs. 119,30,00,000 at the rate of 18% p.a.) towards the loss caused to the Company due to unauthorised liquidation of its fixed deposits.



iii. Civil Suit in the High Court of Bombay against Avantha Holdings Limited and former Directors connected with the promoter group (AHL) and former KMPs for recovery of Rs. 498,93,26,890 (principal Rs.320,91,26,890 together with interest aggregating Rs. 178,02,00,000 at the rate of 18% p.a.) towards the loss caused to the Company due to unauthorised transfer of funds from the Company. (Ref: Page No. 389, Exhibit O Volume III of the Company Petition)

d) CG POWER SOLUTIONS LIMITED NOTES
ACCOMPNYING TO THE FINANCIAL STATEMENTS
Non-Current financial liabilities – Borrowings

Particulars	As at March 31, 2021	As at March 31,2020
Term Loan: From Non- Banking Financial Company (Refer note below)	-	6,00,000,000
Total	-	6,00,000,000

Loan from Financial Institutions

The Facility was secured by

- (a) Exclusive charge on movable and immovable fixed assets of the Co-Borrower
- (b) Demand Promissory Note

Nature of Repayment

- (a) Door-to-door tenor of 5 years, Principles moratorium for 12 months from the date of disbursement.
- (b) 20% of total repayment in 2nd & 3rd year of loan in 8 quarterly instalments and balance 80% in 4th & 5th year of the loan in 8 equal quarterly instalments.

Rate of Interest

Benchmark Rate (BR) + Spread.



Interest rate is fixed till the moratorium period and then was linked to Benchmark Rate 1year HDFC Bank MCLR Rate.

The spread is defined on the date of first disbursement in a manner such that the applicable interest rate works out to 12.50% per annum payable monthly.

The holding company was a co-borrower to this loan availed by the Company. The Company was unable to service the loan and hence, the holding company being the co-borrower in the said arrangement has decided to record the loan liability to the lender in its balance sheet as on 1st April 2020. Therefore, outstanding balance of loan as on 31st March 2020, Rs. 1,700,000,000 (including current maturity of Rs. 1,100,000,000) has been transferred to holding company as on 1st April 2020. Further, the accrued interest Rs. 215,400,000 pertaining to said loan has been transferred to holding company as on 1st April 2020. (Ref: Page No. 392, Exhibit O Volume III of the Company Petition).

e) Other Current Liabilities

<i>Particulars</i>	<i>As at March 31, 2021</i>	<i>As at March 31, 2020</i>
<i>Statutory dues and others</i>	<i>40,614,131</i>	<i>40,614,131</i>
	<i>5,666,955,923</i>	<i>5,666,955,923</i>
<i>Total</i>	<i>5,707,570,054</i>	<i>5,707,570,054</i>

The company is defaulted in payment of TDS of Rs. 4,06,14,131. Interest and penalty, if any, is not quantifiable and will be recognized on actual basis. The Company is under regulatory investigation for various transactions. Therefore, this TDS liability amount may undergo change on completion of investigation.

** The Company had received certain advances from unrelated parties aggregating to Rs. 566,69,55,923. The Company does not have any supporting documents/ contracts in respect of these advances. The*



Company has recognized these advances as current liability and will continue to do so until fulfilment/ extinguishment of aforesaid liability. (Ref: Page No. 393, Exhibit O Volume III of the Company Petition).

- f) *The Company incurred a net loss of Rs. 236 during the year ended 31st March 2021 and, as of that, the Company's current liabilities exceeded its current assets by Rs. 18,699,423,046. The Holding Company of the Company, i.e. CG Power and Industrial Solutions Limited has proposed for closure of the Company under the provisions of the Insolvency and Bankruptcy Code, 2016 (IBC). However, as on date, the Holding Company has not started process in relation to this aspect.*

The Company is under regulatory investigation for various transactions including loans given to erstwhile promoter affiliated companies. On conservative basis, the Company has made provision towards doubtful nature of these balances. However, the Company has also filed suit for recovery from these parties. Therefore, receivable balances with the parties and consequently financial position of the Company may undergo change. In view of this, Financial Statements have been prepared on going concern assumption.

The Company received notice from the Serious Fraud Investigation Office ('SFIO'), to investigate into the affairs of the Company. The Company is fully co-operating with the ongoing investigation by SFIO for the affairs of the Company for the Financial Year 2011-12 to 2019-2020. Ref: Page No. 399, Exhibit O Volume III of the Company Petition).

The IRP/RP is directed to consider these above-mentioned observations by the Independent Auditor.

The IRP/RP must coordinate closely with the SFIO and periodically report progress to this Bench.

26. Having admitted the Petition/Application, the provisions of Moratorium as prescribed under Section 14 of the Code shall be operative



henceforth with effect from the date of order, and shall be applicable by prohibiting institution of any Suit before a Court of Law, transferring/encumbering any of the assets of the Debtor etc. However, the supply of essential goods or services to the “Corporate Debtor” shall not be terminated during Moratorium period. It shall be effective till completion of the Insolvency Resolution Process or until the approval of the Resolution Plan prescribed under Section 31 of the Code.

27. That as prescribed under Section 13 of the Code on declaration of Moratorium the next step of Public Announcement of the Initiation of Corporate Insolvency Resolution Process shall be carried out by the IRP immediately on appointment, as per the provisions of the Code.
28. That the Interim Resolution Professional shall perform the duties as assigned under Section 15 and Section 18 of the Code and inform the progress of the Resolution Process and the compliance of the directions of this Order within 30 days to this Bench. A liberty is granted to intimate even at an early date, if need be.
29. In view of the above, the Bench “**Allows**” the Company Petition No. 27 of 2022 u/s. 7 initiating CIRP against the Corporate Debtor i.e. CG Power Solutions Limited. The commencement of the Corporate Insolvency Resolution Process shall be effective from the date of the Order.
30. Ordered Accordingly.

Sd/-
Anuradha Sanjay Bhatia
Member (Technical)

Sd/-
Suchitra Kanuparthi
Member (Judicial)