

NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
COURT HALL NO:II
SPECIAL BENCH(Video Conference)

CORAM: HON'BLE MADAN BHALCHANDRA GOSAVI – MEMBER JUDICIAL
HON'BLE DR.BINOD KUMAR SINHA-MEMBER TECHNICAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HELD ON 19.03.2021 AT 10:30 AM THROUGH VIDEO CONFERENCE

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CP(IB) No.6/9/HDB/2020
NAME OF THE COMPANY	Natural Power Asia Pvt Ltd
NAME OF THE PETITIONER(S)	Wellstark Energy Pvt Ltd
NAME OF THE RESPONDENT(S)	Natural Power Asia Pvt Ltd
UNDER SECTION	9 of IBC

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

ORDER

This case is fixed for pronouncement of order.

CP(IB) No.6/9/HDB/2020 is allowed vide separate sheets.

MEMBER TECHNICAL

MEMBER JUDICIAL

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

CP (IB) No.06/9/HDB/2020
Under section 9 of the IB Code, 2016
Read with Rule 6 of the Insolvency and Bankruptcy
(Application to Adjudicating Authority) Rules, 2016

**In the matter of:-
M/s. Natural Power Asia Private Limited**

Between:

M/s. Wellstark Energy Private Limited
H.No. 1-8-450-1, A-49, Ashirwad Building,
Indian Airlines Colony, Street No.3, Lane No.3,
Begumpet, Hyderabad – 500 003, Telangana.

...Petitioner/
Operational Creditor

And

M/s. Natural Power Asia Private Limited
Plot No.287/A, MLA Colony, Road No.12,
Banjara Hills, Hyderabad – 500 034, Telangana.

...Respondent/
Corporate Debtor

Date of Order: 19.03.2021.

Coram: Shri. Madan B. Gosavi, Member Judicial
Dr. Binod Kumar Sinha, Member Technical.

Parties/Counsel Present:

For the Petitioner/
Operational Creditor: Mr. M. Ravindra, PCS.

For the Respondent/
Corporate Debtor: None (*Ex-parte*)

Per: Bench

ORDER

1. Under consideration is a Company Application filed by M/s. Wellstark Energy Private Limited (in short "*Petitioner/Operational Creditor*")

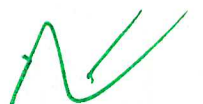




under section 9 of the Insolvency and Bankruptcy Code, 2016 (in short IB Code, 2016) read with rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, for initiation of Corporate Insolvency Resolution Process (CIRP) against M/s. Natural Power Asia Private Limited (in short, "Respondent/Corporate Debtor").

2. Brief facts of the case submitted by Operational Creditor are as follows:
- a) The Operational Creditor is a private limited company incorporated under the Companies Act 1956, and is engaged in providing solar energy services to its clients.
 - b) That the Corporate Debtor during the course of its business, after having due discussions had assigned a work order for supply, install and commissioning of 500KW roof top solar on Grid Plant at RCFL Location to Operational Creditor through Order No. NPAPL/18-19/005 dated 21.11.2018 for Rs.1,70,00,600/- (Rupees One Crore Seventy Lakhs and Six Hundred Rupees Only) out of which only Rs.50,00,000/- (Rupees Fifty Lakhs) has been paid till date.
 - c) That the assigned order has been completed by the Operational Creditor within the time limits given under the work order. However, the amount of Rs.1,20,00,600/- (Rupees One Crore Twenty Lakhs and Six Hundred) was not paid against the work order supplied by the Operational Creditor.
 - d) That a Total Debt of Rs.1,41,60,000/- (One Crore Forty-One Lakhs Sixty Thousand Only) which includes Principal Amount of Rs.1,20,00,600/- (Rupees One Crore Twenty Lakhs Six Hundred Only) and Interest amount of Rs.21,60,000/- (Rupees Twenty One Lakhs Sixty Thousand Only) calculated on the basis of 24% per annum. The Operational Debt fell due on 21.02.2019.
 - e) That the Operational Creditor sent a statutory notice in Form-3, with copies of Tax Invoice attached to it as per under section 8 of the Insolvency and Bankruptcy Act, 2016, dated 29.11.2019 vide speed post. The Corporate Debtor has received the said notice on 03.12.2019





as per the track consignment report provided on the India Post website i.e., www.indiapost.gov.in.

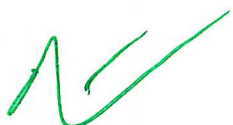
- f) That the Corporate Debtor neither complied with the demand notice nor replied to the same. The Corporate Debtor also did not raise any dispute with regard to the unpaid operational debt.
- g) The learned counsel for the Petitioner/Operational Creditor referred to copies of several following documents attached with the application in order to prove the existence of Operational Debt and amount in default as hereunder:
- I. Copy of work order given by M/s. Natural Power Asia Private Limited.
 - II. Copy of the invoice, raised by M/s. Wellstark Energy Private Limited on M/s. Natural Power Asia Private Limited.
 - III. Ledger Account statement from Books of Account evidencing the balance due from the Natural Power Asia Private Limited.
 - IV. A copy of the Demand Notice issued by Operational Creditor to the Corporate Debtor along with the proof of dispatch.
 - V. Bank Statement of the Operational Creditor evidencing that there is no receipt of unpaid operational debt by the Corporate Debtor since 20.09.2019 till 08.12.2019.
 - VI. An affidavit to the effect that there is no notice given by the Corporate Debtor relating to a dispute of the unpaid operational debt.
- h) Reiterating the above averments, the counsel for the Operational Creditor prayed to admit the instant Application.
3. The matter was posted for hearing on various dates from 01.01.2020 to 24.12.2020, on the request of Respondent's Counsel, who stated that the Corporate Debtor is making efforts to settle the matter. Subsequently, the learned counsel recused himself stating that he has received no instructions from the Corporate Debtor. Upon no representation, the Respondent was set *ex-parte* on 24.12.2020, and the matter was posted for hearing on 04.02.2021. There was no representation from Corporate





Debtor. The matter was again posted on 12.03.2021. However, there was no representation from the Corporate Debtor on 12.03.2021 either. Therefore, upon hearing the submissions of the PCS for the Operational Creditor on 12.03.2021 and having perused the record, this Adjudicating Authority is satisfied that the Operational Creditor has proved its case by placing evidence that default has occurred for which the Corporate Debtor was liable to pay. The Operational Creditor has also placed on record of proof of sending notices to the Respondent/Corporate Debtor for their appearance and for making submissions also along with the requirements as stipulated under the provisions of the IB Code, 2016 for the purpose of initiating Corporate Insolvency Resolution Process. In these circumstances, having satisfied with the submissions made by the Petitioner/Operational Creditor, this Adjudicating Authority is inclined to admit the instant Application.

4. Accordingly, the instant application is hereby admitted and this Adjudicating Authority orders the commencement of the Corporate Insolvency Resolution Process (CIRP) which shall ordinarily be completed within the timelines stipulated in the IB Code, 2016 (as amended), reckoning from the day of this order is passed.
5. This Adjudicating Authority hereby appoints Mr. Kurapati Singarayya Chowdary, having his Regn. No. IBBI/IPA-003/IP-N000149/2017-2018/11728 as IRP. He should file his written consent in Form-2 and Authorization for Assignment within three (3) days of this order. The IRP is directed to take charge of the Respondent/Corporate Debtor's management immediately. He is also directed to cause public announcement as prescribed under section 15 of the IB Code, 2016 within three days from the date the copy of this order is received, and call for submissions of claim in the manner as prescribed.
6. The moratorium is hereby declared which shall have effect from the date of this order till the completion of CIRP. For the purposes referred to in section 14 of the IB Code, 2016. It is hereby ordered to prohibit all of the following namely:-



- a. *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 or law, tribunal arbitration panel or other authority;*
 - b. *Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal rights or beneficial interest therein;*
 - c. *Any action to foreclose, recover or 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 (54 of 2002);*
 - d. *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. *Notwithstanding anything contained in any other law for the time being in force, a license, permit, registration, quota, concession, clearances or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license, permit, registration, quota, concessions, clearances or a similar grant or right during the moratorium period.*
7. However, the supply of essential goods or services of the Corporate Debtor shall not be terminated or suspended or interrupted during moratorium period. Further, the provisions of Sub-section (1) of Section 14 shall not apply to such transactions, as notified by the Central Government.
8. The IRP shall comply with the provisions of Sections 13(2), 15, 17 & 18 of the Code. The Directors, Promoters or any other person associated with the management of Corporate Debtor are directed to extend all

- assistance and co-operation to the IRP as stipulated under Section 19 and for discharging his functions under Section 20 of the I&B Code, 2016.
9. The Petitioner/Operational Creditor as well as the Registry is directed to send the copy of this Order to IRP so that he could take charge of the Corporate Debtor's assets etc. and make compliance with this Order as per the provisions of I&B Code, 2016.
 10. The Registry is directed to communicate this Order to the Operational Creditor and the Corporate Debtor.
 11. The Registry shall also communicate this Order to the ROC, Hyderabad for updating the status of the Corporate Debtor in the MCA website.
 12. The address details of the IRP are as follows:-

Mr. Kurapati Singarayya Chowdary
Regn. No.IBBI/IPA-003/IP-N000149/2017-2018/11728
Email. ID: kurapatichowdary55@gmail.com
Telangana, Hyderabad.

13. The present Company Application bearing CP (IB) No.06/9/HDB/2020 is hereby admitted.

Dr. Binod Kumar Sinha
Member Technical

Madan B. Gosavi
Member Judicial