

**THE NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH, CHANDIGARH
(Exercising powers of Adjudicating Authority under
the Insolvency and Bankruptcy Code, 2016)**

**IA No. 962/2022
in
CP (IB) No.160/Chd/Pb/2018
(Admitted)**

Under Section 60(5) of the IBC, 2016

In the matter of:

M/s Yarn Sales Corporation

...Operational Creditor

Vs.

Punjab State Power Corporation Ltd. & Others.

...Corporate Debtor

And in the matter of IA No. 962/2022-

M/s Yarn Sales Corporation
Through Sh. Rajesh Kumar, partner
Lalu Mal Street Chaura Bazar
Ludhiana-141008
yarn.sales.corporation@gmail.com

...Applicant

Vs.

The Managing Director/Principal Officer
Punjab State Power Corporation Limited
PSEB, Head Office the Mall Patiala
PB 147001 IN
cspunjabpower@gmail.com
CIN No. U40109PB2010S90331813

...Respondent No. 1

Rajeev Bhambri
Liquidator of Gian Chand & Sons Private Limited
SCO No. 9, 2nd Floor, Jandu Towers
Miller Ganj, Ludhiana-141003

...Respondent No. 2

Order delivered on: .12.2023

Coram: HON'BLE MR. HARNAM SINGH THAKUR, MEMBER (JUDICIAL)
HON'BLE MR. SUBRATA KUMAR DASH, MEMBER (TECHNICAL)

Present:

For the Applicant in

IA No. 962/2022 : Mr. Arun Kumar, Advocate

For respondent in

IA No. 962/2022 : Mr. Naveen Singh Bhardwaj, Advocate

For the Liquidator : Mr. Karanveer Jindal, Advocate

Per: Subrata Kumar Dash, Member (Technical)

ORDER

IA No. 962/2022

The present application has been filed on behalf of the Auction Purchaser against the Respondents i.e. Punjab State Power Corporation Limited and Rajeev Bhambri, liquidator for issuance of necessary direction for the release of new electricity connection from the respondent in the name of the applicant and to set aside the outstanding raised by the respondent no.1 through vide letter dated 22.05.2022 directing auction purchaser to pay the outstanding amount of Rs. 70,14,000/- pending towards corporate debtor against its electricity connection at premises no situated on Khata no. 210/2015 bearing Khasra No. 51/11/2-12-13 in Hadbast No. 76 situated at village Bazra Tehsil East Ludhiana-141001, Punjab.

2. The brief facts of the application are that the Corporate Debtor was admitted for liquidation vide order dated 05.08.2019 passed by this Adjudicating

Authority and Mr. Rajeev Bhambri was appointed as liquidator. The respondent no. 2/Liquidator made a public announcement for inviting claims pending against the Corporate Debtor, accordingly, respondent no. 1 submitted its claim amounting Rs. 34,59,859/- in respect of its outstanding electricity dues relating to Account Number-3002810493 against the corporate debtor for its building property located at Bajra Road village Bajra, Rahon Road, Ludhiana. The respondent no. 2 admitted the claim of Rs. 34,59,859/- . Thereafter, Respondent no. 2 made public announcement for Sale of the Assets of the Corporate Debtor through auction on 03.02.2022 and auction was held on 18th Feb 2022 through the e-auction platform of M/s c1 India Private Limited and the bidder for the lot no. 1 i.e Land Measuring 5747.50 sq.yards at Bajra Road village Bajra, Rahon Road, Ludhiana along with Building. The applicant was highest bidder in above said auction, accordingly, respondent no. 2 sold the above said property to the applicant and applicant made complete payment within its specified period. The Sale Certificate dated 22.03.2022 was issued in the name of the applicant. The property had a electricity connection bearing Account No.- 3002810493 with Respondent no 1/ PSPCL which was disconnected due to non payment of electricity dues. The applicant sent its representation to the Respondent no. 1 on 02.04.2022 for releasing the electricity connection and requested respondent no. 1 to settle all its pending dues with Respondent No. 2/liquidator. The Applicant filed an application dated 12.05.2022 for release of fresh electricity connection of 99 KW in the name of the applicant on the aforesaid auctioned property.

Accordingly, respondent no. 1 sent letter Memo No. 2112 dated 20.05.2022 and
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informed that connection outstanding dues toward the connection installed at said premises are Rs. 70,17,865/- and stated that the sale certificate issued by Sh. Rajiv Bhambri has been submitted in the office. Therefore, the auction purchaser is liable to pay all outstanding dues against the said property and directed to deposit the outstanding amount pending against said property. The applicant sent reply dated 20th June 2022 to letter of respondent no. 1 dated 20.05.2022.

3. The reply was filed vide Dairy No 01730/3 dated 01.02.2023 by Respondent No. 1 wherein it is stated that the sale conducted by the liquidator was a simple stand alone asset sale as per Regulation 32(a) and not a sale of the corporate debtor as a going concern. The sale certificate records that the liquidator is not responsible for any shortfall or defect or shortcoming in the said land or title of the said land and that all past, present and future statutory and other liabilities, whether due or overdue, by whatever name being called, including but not limited to taxes/ demands/ claims/ maintenance fee/ electricity dues/ water charges/ local authority dues/ state government dues/ dues of any agency of State or District etc. outstanding as on a date or yet to fall due in respect of the said land should be ascertained and borne by the successful bidder. The sale certificate dated 22.03.2022 lays down that the sale of land is on as is what is basis, as is what is basis, whatever there is basis, no recourse basis.

4. The reply was filed vide Dairy No 01730 dated 16.12.2022 by Respondent No. 2 wherein it is stated that no relief has been claimed by applicant against

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respondent no.2 and therefore, respondent no.2 is not main and necessary party. The dues of the Respondent No. 1 Electricity Department during the CIRP period have been paid in full and there is a recoverable /refund of Rs. 4,51,293/- by the Respondent No. 2 from the Respondent No. 1 and a separate application seeking refund of Rs. 4,51,293/- has already been filed by the respondent No. 2 against the Respondent No. 1 bearing IA No. 1505 of 2022. The fixed assets have been sold by the liquidator and only the financial assets i.e. the debtors, advances, etc., have been left for realization.

5. The Short written submissions were filed vide Dairy No 01730/4 dated 11.10.2023 by the applicant and vide Dairy No. 01730/5 dated 18.10.2023 by the respondent reiterating the above mentioned facts.

6. We have heard the learned counsels for the parties and have perused the records carefully.

7. In this connection, the relevant part from the reply of the corporate debtor to the electricity authorities is extracted below:-

“Sub: Reply to letter dated 20/5/2022 vide memo no. 2112 received on 4/6/2022 for sanctioning new Electricity connection at premises no. situated on Khata no 210/215 , bearing Khasra no 51/11/2-12-13 in Hadbast no 76 situated in village-Bazra, Tehsil East Ludhiana , Ludhiani-141001, Punjab.

We refer to captioned letter where in you have advised us to deposit Rs. 70,17,865/- outstanding in name of M/s Gian Chand and Sons Pvt. Ltd. (In Liquidation). As we have purchased the land and building

of the said company situated at Khata no 210/215 , bearing khasra no 51/11/2-12-13 in Hadbast no 76 in village Bazra, Tehsil East Ludhiana, Dudhiana-141001, Punjab which was previously owned by Gian Chand and Sons Private Limited, under provisions of Insolvency & Bankruptcy Code 2016, re demanding of pending dues is in contradiction to the section 32A of TBC 2016 under which the assets purchased are to be free from old liabilities of corporate debtor”.

8. We have gone through the certificate of sale by the liquidator as Annexure A dated 22.03.2022 and relevant part is extracted below-

“WHEREAS the said Land of Lot No. 1 of GCSPL has been sold on "As is where is basis" "As is what is basis". "Whatever there is basis" "No recourse basis in which Liquidator is not responsible for any shortfall or defect or shortcoming in the said Land or title of the said land and that all past, present or future statutory or other liabilities, whether due or overdue, by whatever name being called, including but not limited to taxes / demands/ claims/ maintenance fee / electricity dues / water charges / local authority dues / State Government dues / dues of any agency of State or District, etc., outstanding as on date or yet to fall due in respect of the said land should be ascertained and borne by the successful bidder”.

(Emphasis Supplied)

9. In the case in hand, it is clearly mentioned in the sale certificate dated 22.03.2022 issued by the liquidator that the buyer will ascertain the amounts outstanding towards various dues, including electricity, and also bear the same as and when due. The assets have been taken on “as is where is basis, as is what is basis, whatever there is basis, no course basis” as per the sale certificate. We note that the applicant had gone into the transactions with his eyes open and was aware of the liabilities attached to the impugned land. Therefore, his contention that the liabilities towards outstanding electricity dues have been waived because of liquidation is not tenable under the law.

10. In the result, this application is bereft of merits, thus, dismissed and disposed of accordingly.

Sd/-
(Subrata Kumar Dash)
Member (Technical)

Sd/-
(Harnam Singh Thakur)
Member (Judicial)

December 7, 2023
PDP/TBG