

**NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH  
COURT HALL NO: II**

**PHYSICAL HEARING**

**CORAM: SHRI. RAJEEV BHARDWAJ – HON’BLE MEMBER (J)  
CORAM: SHRI. SANJAY PURI - HON’BLE MEMBER (T)**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,  
HYDERABAD BENCH, HELD ON 15.09.2023, At 10:30 AM**

<b>TRANSFER PETITION NO.</b>	
<b>COMPANY PETITION/APPLICATION NO.</b>	<b>IA No.318/2022 IA No.143/2020 in CP (IB) No.278/7/HDB/2018</b>
<b>NAME OF THE COMPANY</b>	<b>BS Ltd</b>
<b>NAME OF THE PETITIONER(S)</b>	<b>State Bank of India</b>
<b>NAME OF THE RESPONDENT(S)</b>	<b>BS Ltd</b>
<b>UNDER SECTION</b>	<b>7 of IBC</b>

**ORDER**

**IA No.318/2022**

**Present:** Ld. Counsel for the Applicant.

Ld. Counsel for the Respondent.

1. The application bearing in IA No. 318/2022 is filed by M/s. Power Grid Corporation of India Limited under Section 42 of IB Code, 2016 read with Rule 11 of the NCLT Rules, 2016 along with Regulations 30 and 31 of the IBBI (Liquidation Process ) Regulations 2016, against the Liquidator, inter-alia seeking the following relief(s) as under:
  - a) Direct the Liquidator to accept the claim filed by the Applicant here in on 02.11.2021 and if necessary, by condoning the delay of 705 days in filing the same.
  - b) Consequently also direct the Liquidator to modify the entry in the list of stakeholders prepared by the Liquidator.
2. Liquidator Mr. Y. Sai Karunakumar along with his counsel present and orally stated no objection in allowing the Application for condoning the delay.

Contd....

(2)

3. The present IA 318 of 2022 is filed by Power Grid Corporation of India, inter-alia seeking condonation of delay in filing claim beyond the period is similar to IAs in 209/2021, 99/2021, 311/2021 & 312/2021 which have been allowed vide orders dated 07.08.2020, 08.06.2021 and 15.09.2021 passed by this Bench.
4. Since assets of the Corporate Debtor are yet to be liquidated and sale proceeds are yet to be distributed amongst the creditors, we condone the delay occurred in filing this IA and direct Liquidator to consider the claim of the applicant as per rules.
5. However, it is made clear that the said application is allowed only to the extent of condoning the delay in filing the claim. Liquidator shall consider the claim only after verification of all the books of accounts of the Corporate Debtor and other relevant documents pertaining to claim to the Applicant.
6. Accordingly, IA No. 318/2022 is hereby disposed of.

**IA No.143/2020**

**Present:** Ld. Counsel for the Applicant.

Ld. Counsel for the Respondent.

Orders pronounced, recorded vide separate sheets. In the result, this application is allowed.

**Sd/-**  
**MEMBER (T)**

**Sd/-**  
**MEMBER (J)**

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**HYDERABAD BENCH – II**

**IA No.143 of 2020 in**  
**CP(IB) No.278/7/HDB/2018**

**IN THE MATTER OF M/S. BS LIMITED**

**Between:**

M/s. Aparna Constructions and Estates Pvt. Ltd.,  
#802, Astral Heights,  
5<sup>th</sup> Floor, Door No.6-3-352/2&3  
Road No.1, Banjara Hills,  
Hyderabad – 500 034.

....Applicant

And

Mr. Yadavalli Sai Karunakar,  
Liquidator for BS Limited (in Liquidation),  
Flat No.205, B-Block, Kushal Towers,  
Door No.6-2-975, Khairatabad,  
Hyderabad – 500 004.

....Respondent

**Date of order: 15.09.2023**

**CORAM:**

Hon'ble Sri Rajeev Bhardwaj, Member (Judicial)

Hon'ble Sri Sanjay Puri, Member (Technical)

**Counsels present:**

For the Applicant : Mr. Pullela S Shastry, Advocate

For the Respondent : Mr. M. Anil Kumar, Advocate

Heard on : 12.09.2023

**PER: SANJAY PURI, MEMBER (TECHNICAL)**

**ORDER**

1. This is an application filed in the matter of M/s BS Limited, the Corporate Debtor (**CD**) against whom Corporate Insolvency Resolution Process (**CIRP**) commenced on 01.11.2018 and in due course a Resolution Professional (**RP**) was appointed. Later, upon rejection of the Resolution Plan, an order for Liquidation was passed by this Authority on 17.10.2019 and a Liquidator was appointed.
2. During the course of CIRP, the RP had come across an invoice dated 17.12.2015, and some correspondence resting with the same, which suggested an amount of Rs.11,72,41,124/- receivable from the Applicant. During CIRP, on 07.05.2019, the Applicant was informed by the RP about existence of the amount receivable from the Applicant as aforesaid, and sought confirmation of the same. The Applicant denied having any relationship with the CD at any point of time and did not acknowledge the debt of Rs.11,72,41,124/-. The RP then confronted the Applicant with a “computer generated tally accounting package unsigned ledger statement”. In reply, the Applicant sought “certified copy of the purchase order placed” by them to CD, but received no response from the RP.
3. Subsequently<sup>1</sup> on 20.12.2019, on receiving another “notice for payment of dues.... requiring payment along with interest” from the Liquidator, the Applicant informed him about the earlier correspondence it had with the RP on the matter. The Applicant also requested the Liquidator “to delist” the Applicant Company from “Trade Debtors/Trade Receivables/debit balances with immediate effect”.

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<sup>1</sup> After the liquidation of CD was ordered

4. Receiving no response from the Liquidator, the Applicant Company is before us seeking directions for the Liquidator of CD to remove its name from the list of Trade Debtors/Trade Receivables/debit balances with immediate effect. It is submitted by the Applicant that:

“...it is a very large and reputed builder in South India and any act of public announcement of notice of dues to Liquidator or attachment in satisfaction of the same will be very damaging to the interests of the petitioner. Further that Financial Creditors of the Liquidating CD are also lenders to the petitioner and information of the type being circulated in their knowledge will also severely damage the good credit reputation that the petitioner carries with them. This will also be prejudicial to the interests of petitioner’s business in the market”

5. During the course of hearing before us, the Ld Counsel for the Applicant took us through the purported documents<sup>2</sup> concerning the dues claimed in the CD’s records, viz. the Invoice, the ledger account and the correspondence concerning the same between the Applicant and CD. It is his contention that the entire documentation including the letterhead of the Applicant Company is fabricated and false. The Ld. Counsel also submitted the actual letterhead<sup>3</sup> used by the Applicant Company and sought to demonstrate the differences, between what he presented as genuine and what he claimed as fabricated letterhead.
6. The Respondent Liquidator however continued to rely on the documents obtained from CD’s records to assert his claim. These documents have been included from page 7 to 18 of the counter reply to the application.
7. We have perused the copies of the purported agreement, the invoice, and the correspondence between the CD and the Applicant, about the work that was supposed to have been done by the CD. There appear to be some shortcomings in the claims made by the CD. These are:

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<sup>2</sup> Submitted by the Respondent Liquidator in his Counter Reply to the Application

<sup>3</sup> Exhibit-2 in the Applicant’s rejoinder

- **The Agreement**

The alleged agreement dated 7<sup>th</sup> August 2015, between the Applicant and CD pertains to earthwork activities but lacks specific details regarding the location of the work. The "Scope of Work" outlined in the agreement is notably vague and lacks specificity. While the agreement mentions clauses related to "Mobilization Advance," it fails to specify the exact amount. Additionally, it contemplates a "One-time payment" upon the receipt of a completion certificate, yet no such certificate exists in the records. There is also no mention of the authority responsible for issuing this certificate. Throughout the agreement, there is a prevalence of broad and general language, with the exception being the contracted amount of Rs.11,72,41,124/-.

Furthermore, the Applicant vehemently denies ever signing such an agreement with CD at any point in time. The Respondent has failed to provide any evidence to authenticate the signatures appearing on behalf of the Applicant Company on the agreement.

- **The Invoice**

The invoice dated December 17, 2015, appears to mirror the content in the annexure attached to the agreement dated 7<sup>th</sup> August 2015, which purportedly outlined the "quantities of work." However, the invoice mentions certain work attributed to CD without specifying the location in detail, referencing a place merely as "Ghusal Gaon Visaghar Road (0/Km to 5/200 km)." Pertinent details regarding the location, such as the District, State, or Pin-Code, are conspicuously absent from the invoice.

- **CD's Letters dated 3<sup>rd</sup> March, 11<sup>th</sup> July & 19<sup>th</sup> December 2016**

These letters were apparently sent to the Applicant Company, but there is no evidence that these were ever sent or received.

- **Applicant Company's Letters dated 20<sup>th</sup> September 2016 and 29<sup>th</sup> February 2017**

These are the letters submitted by the Respondent to demonstrate acknowledgement by the Applicant Company of the letters dated 3<sup>rd</sup> March and 11<sup>th</sup> July 2016. However, there is nothing brought on record to authenticate the signatures placed on these letters on behalf of the Applicant Company. Curiously, the second letter supposed to have been sent by the Applicant Company is dated 29<sup>th</sup> February, whereas year 2017 was a non-leap year and there could not have been 29<sup>th</sup> day in the month of February.

- **CD's Letter dated 15<sup>th</sup> September 2017**

Through this letter to the Applicant Company, the CD "apologized" and admitted "not acting responsibly" in the matter and promised to "reverse the invoice raised" by them.

8. Responding to these shortcomings, the Counsel for the Respondent stated that the whole matter may need deeper investigation, and till such investigation is carried out, the Application may be kept pending.
9. Be that as it may, if the documents presented by the Respondent Liquidator are to be considered as genuine, these will have to be seen in their entirety. In that case, the letter of 15<sup>th</sup> September 2017 addressed to the Applicant by CD cannot be ignored, where the CD has admitted its mistake and had undertaken to reverse invoice raised against the Applicant Company. Consequently, the entire dispute revolving around the Rs.11,72,41,124/- invoice appears unwarranted.

10. On the other hand, however, if the agreement, the invoice and the correspondence or documents emanating there from are considered as false – then the Applicant’s desire to get it removed from the list of Trade Debtors/Trade Receivables/debit balances of the CD is not without a reason.
11. Either which way the prayer of the Applicant in para-7 of its application is to be answered in the affirmative. The Respondent is therefore directed to remove the name of the Applicant from the list of Trade Debtors/Trade Receivables/debit balances with immediate effect.

The application is allowed.

**Sd/-**

**(SANJAY PURI)**  
**MEMBER (TECHNICAL)**

**Sd/-**

**(RAJEEV BHARDWAJ)**  
**MEMBER (JUDICIAL)**

**VL**