



S.No.10

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1**
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
11-08-2023 AT 10:30 AM

**IA(IBC) 22, 516, 1310, 1309, 1308, 1307, 1306, 527/2023 &
IA(IBC) 661/2022 in CP(IB) No. 329/7/HDB/2020**
u/s. 7 of IBC, 2016

IN THE MATTER OF:

State Bank of India

...Financial Creditor

VS

Dharti Dredging and Infrastructure Ltd

...Corporate Debtor

C O R A M:-

**DR. VENKATA RAMAKRISHNA BADARINATH NANDULA, HON'BLE MEMBER (JUDICIAL)
SH. CHARAN SINGH, HON'BLE MEMBER (TECHNICAL)**

ORDER

IA 661/2022 – Orders pronounced vide separate sheets. In the result, the petition is allowed and the letter Terminating the Agreement No.02/SE/SPC/2020-21, dated 09.10.2020 is hereby set aside. No costs.

IA 527/2023: Orders pronounced. A perusal of the record shows admittedly that the dispute relating to the claim made before the Resolution Professional is *subjudice* before the Hon'ble High Court of Calcutta. Therefore, the Resolution Professional has rightly classified the claim as contingent claim. As such we find no need to interfere with the impugned communication. Hence, the IA is liable to be dismissed. Accordingly, the Application is dismissed.

Learned Counsels for both sides appeared in person.

IA 516/2023 –

This is an application filed by the erstwhile RP under Section 66 of IBC. However, pending disposal of this application, Resolution Plan has been approved and as per the terms of the Resolution Plan, the secured creditors are to pursue this application. Therefore, the secured financial creditors are required to take necessary steps in this regard, if any, even after the direction by this Tribunal,

Contd..2



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Court-I – Sl.No.10 – Date of Order: 11.08.2023

steps are not taken. However, today at the request of the Learned Counsel for the secured financial creditors, Mr. Yash Vardhan, we grant 10 days' time to take appropriate steps. In default, this application stands dismissed.

IA 22/2023 -

This is an application filed by the erstwhile RP under Section 66 of IBC. However, pending disposal of this application, Resolution Plan has been approved and as per the terms of the Resolution Plan, the secured creditors are to pursue this application. Therefore, the secured financial creditors are required to take necessary steps in this regard, if any, even after the direction by this Tribunal, steps are not taken. However, today at the request of the Learned Counsel for the secured financial creditors, Mr. Yash Vardhan, we grant 10 days' time to take appropriate steps. In default, this application stands dismissed.

IA 1310/2023 - This is an application filed by RP seeking for rectification of certain typographical errors occurred in the Order dated 20.07.2023 in IA 385/2023. The Learned Counsel points out that in para 3(b), the voting share of ICICI Bank Limited and Federal Bank have mentioned wrongly, in fact got interchanged, and the correct voting share of ICICI Bank Limited is 34.451 and voting share of Federal Bank is 15.485.

Learned Counsel also points out that the Federal Bank has been described as Federal Bank Limited, instead Federal Bank.

Nextly, Learned Counsel contended that in para 4(a) of the Order, the payments referred therein since were made to workmen as well as secured creditors, secured creditors are not mentioned in para 4(a).

Since the above are mere typographical errors, by virtue of power of Adjudicating Authority under Rule 154 of NCLT Rules, 2016, the corrections are allowed. Let a fresh order effecting the corrections as above be prepared and uploaded. **Accordingly, IA 1310/2023 is allowed and stands disposed of.**

List all pending IAs on 25.08.2023.

SD/-

MEMBER (T)

SD/-

MEMBER (J)



NATIONAL COMPANY LAW TRIBUNAL

HYDERABAD BENCH-1

IA No. 661 of 2022

In

CP (IB) No. 329/7/HDB/2020

Application under Section 60 (5), R/w Section 14 of IBC, 2016

In the matter of **Dharti Dredging and Infrastructure Ltd**

Filed by

G. Madhusudhan Rao

Resolution Professional of

Dharti Dredging and Infrastructure Ltd

... Applicant

VERSUS

Office of the Superintending Engineer & Ors

... Respondents

Date of order: 11.08.2023

Coram:

Dr. N. Venkata Ramakrishna Badarinath, Hon'ble Member Judicial

Shri Charan Singh, Hon'ble Member Technical

Appearance

For Applicant: Shri Yash Varshan, Advocate

For Respondents: Ms.Sanathi Chandra, Advocate

PER: BENCH
ORDER

1. This Application is filed by the erstwhile Resolution Professional of Dharti Dredging and Infrastructure Limited (Corporate Debtor) appointed vide this Tribunal order dated 05.04.2022, inter-alia, seeking directions to Respondents herein from terminating the Agreement dated 09.10.2020



bearing No. 02/SE/SPC /2020-21 awarded to the Corporate Debtor for Desilting of Mangalam Reservoir.

2. The facts germane to the Application are:-
 - 2.1 That the Corporate Debtor was involved in the business of creating complex and challenging development project in the realms of dredging and marine construction and the Respondents herein are officers/Engineers of the Government of Kerala, Irrigation Department.
 - 2.2 That the Corporate Debtor was awarded Works Contract for Desilting of Mangalam Reservoir vide Agreement dated 09.10.2020 bearing No. 02/SE/SPC/2020-21 (“Works Contract”) by the Government of Kerala, Irrigation Department executed through Superintending Engineer, Palakkad / Respondent No.1 herein and the works contract were to be as per the International Bidding Documents for Desilting of Mangalam Reservoir (“Bidding Document”). As per the terms of the Bidding Document, the tenure of the work contract was for a period of 36 months, expiring on 18.10.2023.
 - 2.3. Subsequently thereto, the Corporate debtor subcontracted the works contract to Mantovani Di Dharti Private Limited (MDPL), a related party of the Corporate Debtor on 01.11.2020 in line with the terms of the works contract.



2.4 It is averred that in the meeting scheduled on 14.02.2022 between the Corporate Debtor and the District Collector, Palakkad, the District Collector had agreed to issue e-passes upon payment of Rs. 2.25 crores towards 2nd and 3rd outstanding instalments payable by the corporate Debtor. It is further submitted that the Corporate Debtor through its sub-contractor MDPL had made payment of the said agreement amount in the second week of March 2022 and that despite making payment, e-passes needed for sale of the dredged materials were not issued by the Respondents and the authorities concerned.

2.5 Pursuant to the aforesaid meeting, the Corporate Debtor herein vide letter dated 04.04.2022 had sought the revised execution/equipment mobilization plan and revision payment terms from 01.04.2022 to 09.10.2023 from the Executive Engineer/Respondent No.4 herein, followed by a reminder vide letter dated 08.04.2022 requesting to issue e-passes. In response, Respondent No.4 herein informed the Corporate Debtor that the e-passes were in the process of being issued and confirmed the acceptance of the request of the Corporate Debtor for revised execution for the remaining period of the Works Contract and had further directed the Corporate Debtor to arrange for storage of the dredged materials and deploy necessary assets and resources for the same.



- 2.6 The Applicant submits that the Corporate Debtor had updated the developments of the work and the need for e-passes to the Chief Secretary, Government of Kerala vide letter dated 28.04.2022.
- 2.6 Upon his taking over charge as IRP/Resolution Professional, had sought an update from MDPL on the status of the work sub-contracted. In response to the same, MDPL vide its letter dated 18.05.2022 apprised the Applicant that no work was undertaken owing to heavy and continuous rainfall and covid-19 restrictions and mainly because of non-issuance of e-passes for commencing sale of dredged materials and that 4.53% of the work only could be completed till May, 2021. It is averred that the reconstruction work commenced only in March 2022, after getting verbal approval and subsequent formal approval vide letter dated 13.04.2022 from Respondent No.4.
- 2.7 It is submitted that the Applicant addressed letters dated 19.05.2022 and 30.05.2022 to the Respondents giving reasonable legal explanation on the CIRP process and emphasizing on the aspect of keeping the Corporate Debtor as a going concern and further highlighted that the delay in completion of the work was due to non-issuance of e-passes.
- 2.8 The Applicant stated that despite apprising the bonafide reasons for the delay in completion of the work under the Works contract, Respondent No.1 sent letter dated 02.07.2022 to the Chief Engineers i.e. Respondent



No. 2 & 3 herein issuing directions to proceed with terminating the Works Contract entered into with the Corporate Debtor based on the decision of the Empowered Committee in their meeting held on 30.05.2022.

2.9 The Applicant by placing reliance on Section 14 (1) of the Insolvency & Bankruptcy Code submits that contract entered into with any Government or Sectoral Regulator or any other authority should not be suspended or terminated on the grounds of insolvency during moratorium period and further submits that in case the contract is terminated, it would adversely affect the going concern status of the Corporate Debtor as the contract provides a major source of income and profitability to the Corporate Debtor, in the absence of which the chances of reviving the Corporate Debtor would be extremely difficult. Thus submitting, prayed this Tribunal for an order restricting the Respondents from terminating the Agreement dated 09.10.2020.

3. Per contra, the Respondents 1 to 4 in their common counter, inter-alia, contended as under:-

3.1 That the 1st instalment due of Rs. 75 lakhs + 18% GST was due on 07.01.2021, the contractor paid the 1st instalment excluding the GST amount on 04.08.2021 and the Empowered Committee on 07.10.2021 took a decision to observe the performance of the contractor for 3 months considering the impact of the pandemic.



- 3.2 The Contractor was directed to pay the 2nd and 3 instalments (Rs. 2.25 crores) by 30.11.2021 and all the pending instalments by 31.12.2021 in the District Level Monitoring Committee (DLMC) meeting chaired by the District Collector, Palakkad.
- 3.3 It is submitted that since the contractor/Corporate Debtor failed to pay the pending instalments by 31.12.2021 and as there has been no progress in the removal of sediments from the reservoir from 08.07.2021 to 31.12.2021, the e-passes to the vehicles were stopped from 01.01.2022.
- 3.4 It is stated that prior to termination of work, in response to the 1st notice dated 10.01.2022 issued by the 1st Respondent, the Corporate Debtor vide letter dated 25.1.2022 had agreed to pay the 2nd and 3rd instalments on or before 31.01.2022. But when the Corporate Debtor failed, a subsequent, Notice No.2 was issued by Respondent No.1 on 09.02.2022,
- 3.5 The 2nd and the 3rd instalments (Rs. 2.25 crores) were paid by the Corporate Debtor on 14.03.2022 and the work resumed on 15.03.2022 and that the total amount remitted by the Corporate Debtor was Rs. 3.354 crores. It is stated that as per the recommendations of the Empowered Committee on a revised feasible plan submitted by the Corporate Debtor for the remaining project period, it was recommended to issue e-passes for the transportation of the materials.



- 3.6 It is further stated that, while the status of the contract stood thus, the Applicant herein vide letter dated 19.05.2022 informed the Respondents that Corporate Insolvency Resolution Process was initiated by this Tribunal against the Corporate Debtor on 05.04.2022 in CP (IB) No. 329/7/HDB/2020 and that he has taken over the management of the Corporate Debtor.
- 3.7 It is submitted that decision to terminate the contract with the risk and cost of the contractor was taken in the 12th Empowered Committee Meeting held on 31.05.2022, after deliberating on the issues with regard to the progress and non-payment of instalments of the Corporate Debtor. Accordingly, Respondent No.1 herein vide his letter dated 02.07.2022 directed the Chief Engineers i.e. Respondents No. 2 & 3 herein to proceed ahead with terminating the contract entered with the Corporate Debtor.
- 3.8 It is vehemently contended that the Corporate Debtor cannot take shelter under the provisions of moratorium. The Respondents have terminated the contract in accordance with sub-clause 33.2 of the General Conditions of the Contract (GCC) and sub-clause 15.1 of the Special Conditions of the contract on the grounds that CIRP has been initiated against the Corporate Debtor and the Corporate Debtor had breached the contract i.e. delay in work, very little work undertaken and delay in payments etc and



since these works pertain to government projects, public interest at large needs to be considered.

3.9 It is further strongly contended that if the present application is not dismissed, the Government exchequer would suffer irreparable loss, undue hardship and huge revenue loss. Thus submitting, prayed the Tribunal to dismiss this IA and to vacate the stay granted on 15.07.2022.

4.1 Written submission is filed by the Applicant reiterating the averments made in the application and submits that the Respondents in their counter have categorically admitted that delay in the progress of work was due to covid pandemic situation and that it was decided in the DLMC meeting on 14.02.2022 that upon payment of 2nd and 3rd instalments (Rs.2.25 crores), the de-siltation process would commence. The Applicant further submits that the Respondents in their counter have admitted that 2nd and 3rd instalments have been paid by the Corporate Debtor on 14.03.2022 and the work resumed on 15.03.2022 and that the Corporate Debtor was advised to submit a feasible plan of action for the remaining project period which has been submitted to the Empowered Committee and recommended for issuance of passes for the transportation of the material. The Applicant persistently contends that the letter dated 02.07.2022 sent by Respondent No.1 to Respondents No. 2 & 3 with instructions to terminate the works contract was based on the decision taken in the 12th



Empowered Committee meeting held on 30.05.2022, which is after the commencement of the CIRP of the Corporate Debtor and when moratorium was in place.

- 4.2 The Applicant further submitted that the matter was discussed as Agenda Item No.4 – Desiltation of Mangalam Dam-Major Issues and the decision taken is as under, without assigning any reasons:-

“Decision No.4: The committee decided to terminate the contract at risk and cost. The balance quantity of silt/sand in the desiltation site of Mangalam Dam has to be auctioned out separately by the concerned engineers. The Committee also decided to black list the contractor and to inform other State Governments and Central Government regarding the matter of black listing of the contractor”.

- 4.3 The Applicant reiterates that the minutes of the 12th Empowered Committee letter dated 02.07.2022 demonstrates that the decision to terminate the contract entered into with the Corporate Debtor was only on account of admission of the Corporate Debtor into CIRP and no other reasons were assigned for the termination. It is further submitted by the Applicant that the Respondents despite timely being made aware of the reasons that it was beyond the control of the Corporate Debtor, proceeded to terminate the work contract.

- 5.1 Per contra in Respondents in the written submissions contended that the failure & non-performance of the Corporate Debtor and the corresponding notices issued by the Respondents for termination of work, were all prior



to initiation of CIRP i.e. 05.04.2022 and the termination is not on account of CIRP or relevant reasons and is only due to failure and defaults of the CD in fulfilling the contractual obligations.

- 5.2 That the 12th Empowered Committee in the meeting held on 31.05.2022 deliberated on the issues of progress, non-payment of instalment by the Corporate Debtor and decided to terminate the work with risk and cost of the Contractor and according to the Respondents, nowhere in the impugned letter dated 02.07.2022 it was recorded or stated that the termination is owing to the CIRP.
- 5.3 According to the Respondents the continuation of the subject contract is not vital for the survival of the Corporate Debtor as a going concern.
- 5.4 Respondents further by placing reliance in the judgement of Hon'ble Supreme Court of India, in re: TATA Consultancy Services Limited Vs. Vishal Ghisulal Jain, Resolution Professional, SK Wheels Private Limited in Civil Appeal No. 3045 of 20202 wherein "Gujarat Urja Vikas vs Amit Gupta & ORs" was referred to, has submitted that the said case law is squarely applicable to the facts of the present case, wherein the reasons for termination of the contract is not CIRP. The Respondents further states that even assuming but not admitting, that if the contract is held to be terminated on account of CIRP, even then, for setting aside the notice, the Corporate Debtor has to establish that the subject contract is central to



the success of CIRP and such termination would result in death of the Corporate, which is not the case here.

6. In view of the contest as afore-mentioned, the point that arose for our consideration is;

Whether the decision of the Empowered Committee dated 30.05.2022 terminating the agreement bearing No. 02/SE/SPC/2020-21, communicated vide letter dated 02.07.2022, being during the CIRP of the Corporate Debtor is sustainable under law?

7. We heard Shri Yash Vardhan, Ld. Counsel for the Applicant and Ms.Santhi Chandra, Ld. Counsels for the Respondents, perused the record and case law.

Point

Whether the decision of the Empowered Committee dated 30.05.2022 terminating the agreement bearing No. 02/SE/SPC/2020-21, communicated vide letter dated 02.07.2022, being during the CIRP of the Corporate Debtor is sustainable under law?

8. Ld. Counsel for the Applicant submits that a works contract for “Desilting of Mangalam Reservoir” vide agreement dated 09.10.2020 has been awarded to the Corporate Debtor by the Government of Kerala, Irrigation Department, requiring the Applicant/Corporate Debtor to execute the contract within 36 months, i.e. by 18.10.2023. Ld. Counsel further stated that the said contract has been sub-contracted to Mantovani Di Dharti



Private Limited (MDPL), a related party of the Corporate Debtor on 01.11.2020 in line with the terms of the work order. While it was so, there was a delay in execution of the work due to force majeure events, such as heavy and continuous rainfall, covid-19 lockdown etc. The Ld. Counsel submitted that there is correspondence between the Corporate Debtor and the officials of Irrigation Department, Kerala Government, seeking extension of time for completion of the above referred work order due to force majeure .

9. While it was so, the 1st Respondent vide letter dated 02.07.2022 directed the Respondents 2 & 3 to terminate the above work contract, where-under it referred the decision taken in the meeting stated to have been held on 30.05.2022, i.e. after commencement of CIRP of the Corporate Debtor and while the moratorium ordered by this Tribunal is in existence. Ld. Counsel also referred to the General Conditions of the Contract(GCC) Sub-clause 33.2, which has been extracted in para 11 of the counter as under:-

Sub clause 33.2 provides that, the employer or the contractor is made bankrupt or goes into liquidation, the Respondents herein have contractual right to terminate the contract. Once, the insolvency application of the applicant is admitted by this Hon'ble Court and the CIRP process starts as a first step before liquidation, automatically implies that the contract is bankrupt. Admission, before the Hon'ble Adjudicating Authority itself is a proof of bankruptcy of the applicant and the contract can be terminated on that ground among others.



10. Ld. Counsel submitted that the decision of termination having been taken not only while the CIRP of the Corporate Debtor is in progress and moratorium ordered by this Tribunal is in vogue, but also only on account of admission of the Corporate Debtor into CIRP, the impugned decision is hit by Section 14 of the IBC, therefore liable to be set aside.
11. The Ld. Counsel for the Respondents resisted the claim firstly by contending that the failure and non-performance of the Corporate Debtor and corresponding notices issued by the Respondents for termination of work were all prior to initiation of CIRP i.e. 05.04.2022 and that the decision to terminate was not on account of CIRP and was only due to failure and default of the Corporate Debtor in complying the contractual obligations, as such the application is not maintainable and is liable to be dismissed.
12. Ld. Counsel referred to the events that took place prior to the CIRP dated 05.04.2022 and contended that all these dates would amply demonstrate that the termination was due to reasons and grounds that existed prior to the admission of the Corporate Debtor into CIRP, hence the petition is not maintainable and is liable to be dismissed. In support of the above contentions, Ld. Counsel for Respondents placed reliance on the ruling of “TATA Consultancy Services Limited Vs. Vishal Ghisulal Jain, Resolution Professional, SK Wheels Private Limited in Civil Appeal



No.3045 of 2020, wherein the Hon'ble Supreme Court of India, in its judgement dated 23.11.2021 after considering the "Gujarat Urja Vikas vs Amit Gupta & Ors" has held that:-

"the residuary jurisdiction of the NCLT cannot be invoked if the termination of a contract is based on grounds unrelated to the insolvency of the Corporate Debtor, (para No. 26)

It is evident that the appellant had time and again informed the Corporate Debtor that its services were deficient, and it was falling foul of its contractual obligations. There is nothing to indicate that the termination of the Facilities Agreement was motivated by the insolvency of the Corporate Debtor. The trajectory of events makes it clear that the alleged breaches noted in the termination notice dated 10 June 2019 were not a smokescreen to terminate the agreement because of the insolvency of the Corporate Debtor. Thus, we are of the view that the NCLT does not have any residuary jurisdiction to entertain the present contractual dispute which has arisen dehors the insolvency of the Corporate Debtor. In the absence of jurisdiction over the dispute, the NCLT could not have imposed an ad-interim stay on the termination notice. (para no. 27)

We would like to issue a note of caution to the NCLT and NCLAT regarding interference with a party's contractual right to terminate a contract. Even if the contractual dispute arises in relation to the insolvency, a party can be restrained from terminating the contract only if it is central to the success of the CIRP. Crucially, the termination of the contract should result in the corporate death of the Corporate Debtor. (Para 28)



13. We have heard the Ld. Counsels for both sides and carefully perused the record and written submissions. At the outset, we wish to refer to the impugned letter dated 02.07.2022, where-under the decision to terminate the contract at the risk and costs of the Corporate Debtor has been informed to the Applicant. The said letter clearly discloses that “on 19.05.2022 G. Madhusudhan Rao, the interim resolution professional for M/s Dharti Dredging and Infrastructure Limited informed that the National Company Law Tribunal ordered the commencement of a Corporate Insolvency Resolution Process of M/s Dharti Dredging and Infrastructure Limited on 05.04.2022 and the Management of the Company has been taken over by IRP/RP to keep the Company as a going concern in line with the CIRP process still resolution is reached. Being a turn-key basis project the details of insolvency process also submitted to Higher Officials for further decision.

The Empowered Committee meeting held on 30.05.2022 decided to terminate the contract at risk and cost and balance quantity of silt/sand in the desiltation site of Mangalam dam has to be auctioned out separately by the concerned engineers. The Committee also decided to black list the contract and inform other State Governments and Central Government regarding the matter of black listing the contractor”.



14. Therefore, it is quite clear from the impugned letter that the communication dated 19.05.2022 by the Resolution Professional regarding the admission of the Corporate Debtor into CIRP is the reason that prompted the Empowered Committee to meet on 30.05.2022, and decide to terminate the contract, at the risk and costs of the Corporate Debtor. As rightly argued by the Ld. Counsel for the Petitioner, the meeting dated 30.05.2022 as well as the impugned notice dated 02.07.2022 were during the period of moratorium ordered by this Tribunal in terms of Section 14 of IB Code.

15. In the counter filed by the Respondents it has been pleaded that Clause 33.2 of GCC provides the terms of termination of the contract, that the employer or the contractor is made bankrupt or goes into liquidation, the Respondents herein have contractual right to terminate the contract. Once, the insolvency application of the applicant is admitted by this Tribunal and the CIRP process starts as a first step before liquidation, it automatically implies that the contractor is bankrupt and that admission before this Adjudicating Authority, itself is a proof of bankruptcy of the applicant and the contract can be terminated on that ground among others, breach of contract, i.e. delay in work, delay in payments etc which all had been against the contractor, besides Sub-clause 15.1 of the Special Conditions of the contract also provides for termination of the contract



itself appears sufficient proof of the fact that the subject contract can be terminated if the Corporate Debtor goes into CIRP.

16. Here it is pertinent to state that the legislative intent behind creation of a provision for moratorium in terms of Section 14 of IBC during the pendency of CIRP of the Corporate Debtor, is only to ensure that the Corporate Debtor is transferred or sold as a “going concern” and thus maximize the asset value of the Corporate Debtor, for the benefit and in the interests of all the stakeholders.

16. The facts and circumstances of this case discloses that Clause 33.2 of GCC has been invoked in the meeting that was held on 30.05.2022 and thereafter the notice dated 02.07.2022 has been issued, while the moratorium is in vogue will certainly destroy the value of the Corporate debtor. Needless to say that in terms of Section 14, “subject to provisions of sub-sections (2) & (3), on the insolvency commencement date, the Adjudicating Authority shall by order declare moratorium for prohibiting 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 judgement, decree or order in any court of law, tribunal, arbitration panel or other authority; (b) transferring, encumbering, alienating or disposing of by the corporate debt or any of its assets or any legal right 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 Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 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”.

17. In an identical case Hon’ble Supreme Court in re “Gujarat Urja Vikas vs Amit Gupta & ORs” in Civil Appeal No. 9241 of 2019 (2021) 7 SCC 209: 2021 SCC ONLINE SC 194, has stated as below:-

Para-69: In the present case, the PPA was terminated solely on the ground of insolvency, since the event of default contemplated under Article 9.2.1 was the commencement of insolvency proceedings against the Corporate Debtor. In the absence of the insolvency of the Corporate Debtor, there would be no ground to terminate the PPA. The termination is not on a ground independent of the insolvency. The present dispute solely arises out of and relates to the insolvency of the Corporate Debtor.

18. In this case also, the reason for the meeting of the Empowered Committee dated 30.05.2022 and the decision taken by the Committee was the communication from the Resolution Professional dated 19.05.2022. Therefore, the above ruling squarely applies to this case.



19. Therefore, in view of our discussion as above, we have no hesitation to hold that the impugned letter dated 02.07.2022 which is based on the decision of the Empowered Committee, is hit by the order of moratorium and therefore deserves to be set aside under law.
17. We accordingly set aside the decision of the Empowered Committee communicated through letter dated 02.07.2022 to the Respondents herein.
18. The Application is accordingly allowed. No costs.

SD/-

(Charan Singh)
Member (Technical)

SD/-

(Dr. N. Venkata Ramakrishna Badarinath)
Member (Judicial)

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