

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

**CP (IB) No.57/BB/2021**  
**U/s. 9 of the IBC, 2016**  
**R/w Rule 6 of the IBC (AAA) Rules, 2016**

**IN THE MATTER OF:**

**M/s Unicare Technologies Private Limited,**

Registered Office at:  
121, Golden Plaza, Opp.  
J.P. Tower Tagore Road,  
Rajkot, Gujarat- 360 002

... Petitioner/Operational Creditor

**Versus**

**M/s Karnataka Rural Infrastructure Development Limited,**

Registered Office at:  
4<sup>th</sup> & 5<sup>th</sup> Floor,  
Grameen Abhivruddhi Bhavan,  
Ananda Rao Circle,  
Bangalore- 560 009.

... Respondent/Corporate Debtor

**Order delivered on: 28<sup>th</sup> February, 2023**

**Coram:** Hon'ble Justice (Retd) T. Krishnavalli, Member (Judicial)

Hon'ble Shri. Manoj Kumar Dubey, Member (Technical)

**PRESENT:**

For the Petitioner : None

For the Respondent : Sh. Ajay J Nandalike

**O R D E R**

**Per: T.Krishnavalli, Member (Judicial)**

1. The present petition is filed on 26.02.2021, under section 9 of the Insolvency and Bankruptcy Code, 2016 (for brevity 'IBC'/Code), r/w. Rule 6 of the I&B (Application to Adjudicating Authority) Rules 2016, by M/s Unicare Technologies Private Limited (for brevity 'Operational Creditor/Petitioner') inter alia seeking to initiate Corporate Insolvency Resolution Process against M/s. Karnataka Rural Infrastructure



Development Limited (hereinafter referred as 'Corporate Debtor/Respondent) on the ground that the Corporate Debtor has committed a default for a total outstanding amount of Rs. 1,53,32,471/- ( Rupees, One Crore Fifty Three Lakhs Thirty Two Thousand Four Hundred and Seventy One Only) and Interest at 18% per annum on account of non-payment in time line.

2. Brief facts of the case, which are relevant to the issue in question, and as narrated by the Petitioner are as follows:
3. The Petitioner is a Private Limited company registered under the provision of the Companies Act, 1956 and engaged in the business of supply of drinking water, purification of water, installation of Industrial RO Plant, de mineralization Plant, sand filter, ETP Plant, STP Plant, Packaged drinking water etc.
4. The respondent Karnataka Rural Infrastructure Development Limited is a state government company of the Government of Karnataka, registered under the provision of the Companies Act, 1956 engaged in administration of economic and social policy of the community.
5. It is submitted that Corporate Debtor issued various work order to the Operational Creditor during the period of 2017 for providing fabricating, supplying of 1000 LPH RO Spare and UV System (Inlet and High Pressure Pump) in SC/ST Colony at various sites in Karnataka.
6. Thereafter, as per the terms and conditions of the work order the Operational Creditor installed water purification plant at Corporate Debtor's projects sites. Further, the petitioner supplied and installed the said goods and services as per instructions/work order of Corporate Debtor to its complete satisfaction and since then the Corporate Debtor never raised dispute or any objection at the time of installation services provided by the Operational Creditor and not even after completion of services provided by the Operational Creditor.
7. It is submitted that the respondent is liable to pay Rs. 1,53,32,471/- and Interest at 18% per annum on account of non-payment in time limit, which is outstanding and Payable by Corporate Debtor. Further, the Petitioner repeatedly sent reminder to Corporate Debtor through email, phone calls and also personal visit by director of the Operational



Creditor, regardless of that the Corporate Debtor failed to make above mentioned outstanding amount.

8. Further, the Operational Creditor served demand notice dated 28.11.2020 in Form-3 and Form- 4 by email on registered email Id of the Corporate Debtor and the email was delivered immediately and physically issued on 28.11.2020 under section 8 of IBC 2016 and notice sent through Speed Post which was endorsed by Postal Department as “Item Delivered” dated 02.12.2020.
9. It is submitted that regardless of the receipt of notice through email and physically, the Corporate Debtor failed to release payment within 10 days from the date of the receipt of the notice. However, the respondent neither made payment nor even replied to the said demand notice.
10. The court notice in the present case was issued on 03.09.2021 and the Learned Counsel for the Respondent filed its objection vide diary No. 142 dated 10.01.2022 inter alia stating as follows:
  - a. The Corporate Debtor is a Government of Karnataka undertaking operating since its inception in the year 1971 under the Rural Development Department of the Government of Karnataka. It is submitted that the Corporate Debtor’s objective is to undertake construction of rural development works, to avoid exploitation of the poor, to provide employment to the rural population and improve their economic conditions and so forth.
  - b. It is submitted that the Corporate Debtor has established its credibility within the State of Karnataka and has formed a working network through the entire length and breadth of the State.
  - c. The Corporate Debtor has various subdivisions headed by either Executive Engineer or an Assistant Executive Engineer which operate as the executing agency of the Ministry of Rural Development. The funds are transferred directly to these subdivisions and the works are carried out. The payments are made by these subdivisions directly. The Operational Creditor appears to have carried out the work for various subdivisions and has failed a composite claim in respect of the same.



- d. The accounts maintained by the subdivisions is generally filed as a line entry in the books and detailed account statements in respect of these payments are not retained at the Registered Office. The subdivisions are required to report directly to the Ministry of Rural Development and make payments under advice of the Ministry with only a copy to the Registered Office.
  - e. It is submitted that upon the receipt of the demand notice and the petition, the Corporate Debtor sought confirmations from the subdivisions in relation to any amounts which are due and if any amount had not been paid. Further, in view of the COVID- 19 pandemic, the officials were busy with rehabilitation efforts. As such, the Corporate Debtor has been unable to obtain complete information regarding the claim.
  - f. The Corporate Debtor further states that in order to ascertain if any amount is legally due and payable to the Operational Creditor, the operational creditor is required to furnish all necessary information to the Corporate Debtor.
11. The Learned Counsel for the Petitioner filed his rejoinder vide diary No.2110 dated 17.05.2022 and same is taken on record. In it the averments made earlier have been reiterated and that there was the outstanding amount of Rs 1,53,32,471/- against the CD.
  12. The Learned Counsel for the Respondent further filed an Affidavit dated 31.10.2022 stating that upon mutual discussion with the Petitioner and joint reconciliation with its various sub-divisions, it has been accounted that only a sum of Rs. 63,29,239/- (Rupees Sixty Three Lakhs Twenty Nine Thousand and Two Hundred and Thirty Nine Only) was due from the Respondent company towards the Petitioner.
  13. It is further submitted that the Statement of Accounts have been made after receiving information from the respective sub-divisions. Moreover, it is found that there are various invoices which the petitioner has raised, against which there has been no supply from the Petitioner. Such invoices have been identified in the statement of accounts.
  14. It is submitted that under the terms of the Supply Orders raised by the sub-division 5% of the amount was to be retained as security deposit



by the Sub- divisions, which only the authorized official at the respective sub-division could release 12-24 months after supply. However, having reconciled its accounts, the Respondent has identified Rs. 34,88,937/- as the amount having been retained as security deposit which the Respondent was ready to release as well.

15. Further, only an amount of Rs. 33,18,977/- was due under the invoices and a sum of Rs. 34,88,937/- was to be refunded towards security deposit. Thus, totally, the Petitioner was only eligible to receive an amount of Rs. 63,20,239/- from the respondent, and the respondent company was ready to pay Rs. 63,20,239/- to the Petitioner immediately.
16. The Learned Counsel for the Respondent by another affidavit vide Diary No. 5571 dated 20.12.2022 inter alia made the following submissions:
17. *“Pursuant to the reconciliation, the Respondent has made the payment of Rs. 63,29,239/- (Rupees Sixty Three Lakhs Twenty Nine Thousand and Two Hundred and Thirty Nine Only) upon deduction of 2% of the amount as TDS IT and GST TDS. The respondent has drawn a Cheque dated 23.11.2022 bearing No. 244672 on Union Bank of India for an amount of Rs. 60,67,429/- (Rupees Sixty Lakhs Seven Thousand Four Hundred Twenty Nine Only) in favour of the Petitioner herein the same has been handed over to the Petitioner. The respondent has hereby made full and final settlement of the debts due to the Petitioner. The respondent has also issued a letter dated 12.12.2022 to the Petitioner stating that final settlement of debts has been completed and no further amounts are payable by the Respondent and has urged the Petitioner to reconcile its own accounts.”*
18. The above mentioned affidavit dated 20.12.2022 is taken on record by this Tribunal.
19. Before this Tribunal on 23.12.2022 and on 24.01.2023 there were no representation from the Petitioner. Heard the Learned Counsel for the Respondent and perused the records available.
20. It is observed from Form No. 5, Part IV that the amount in default was mentioned at Rs. 1,53,32,471/-. It is observed from the affidavit dated 20.12.2022 filed by the respondent that the Corporate Debtor has



explained that only Rs. 63,29,239/- was due to the Operational Creditor after mutual discussion with the petitioner and joint reconciliation with its various sub-divisions. Further, it is stated that the respondent company has already paid the above mentioned amount after deduction of 2% of the amount as TDS IT and GST TDS, vide Cheque dated 23.11.2022 bearing No. 244672 on Union Bank of India for an amount of Rs. 60,67,429/- (Rupees Sixty Lakhs Seven Thousand Four Hundred Twenty Nine Only) in favour of the Petitioner. The Respondent has also along with the affidavit attached a copy of the said cheque and the acknowledgement of the Petitioner having received the same. Thus the respondent submits that it has made full and final settlement of the debts due to the Petitioner.

21. Accordingly, this Tribunal holds that an amount of Rs. 60,67,429/- (net of TDS & GST) has already been paid to the Petitioner and the same has been acknowledged by the Operational Creditor. During the last two hearing held on 23.12.2022 and 24.01.2023 no one attended on behalf of the Petitioner, nor any further objection was filed. Moreover the amount claimed in Form 5 is accordingly reduced to below Rs. 1 Crore, which is below the threshold requirement prescribed under section 4 of the IBC, 2016. Accordingly the Company Petition bearing No. CP (IB) No. 57/BB/2021 is hereby **dismissed**.

-Sd-

**(MANOJ KUMAR DUBEY)**  
**MEMBER (TECHNICAL)**

-Sd-

**(T. KRISHNAVALLI)**  
**MEMBER (JUDICIAL)**