



**IN THE NATIONAL COMPANY LAW TRIBUNAL**

**AHMEDABAD**

**DIVISION BENCH**

**COURT - 1**

ITEM No.305

IA/798(AHM)2022 in C.P.(IB)/233(AHM)2021

**Order under Section 60(5) IBC,2016 r.w Rule 11 of NCLT,2016**

**IN THE MATTER OF:**

Prajakta Menezes IRP of Mota Layja Gas Power Company .....Applicant  
Ltd

**Order delivered on: 27/09/2023**

**Coram:**

Mr. Shammi Khan, Hon'ble Member (J)

Mr. Kaushalendra Kumar Singh, Hon'ble Member(T)

**PRESENT:**

For the Applicant :

For the Respondent :

**ORDER**

The case is fixed for pronouncement of the order. The order is pronounced in the open court, vide separate sheet.

-SD-

**KAUSHALENDRA KUMAR SINGH  
MEMBER (TECHNICAL)**

-SD-

**SHAMMI KHAN  
MEMBER (JUDICIAL)**



**BEFORE THE ADJUDICATING AUTHORITY  
NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
COURT NO. I**

**I.A. No.798 of 2022  
IN  
C.P. (I.B.) No. 233 of 2021**

[An application filed under Section 60(5) (C) of the Insolvency and Bankruptcy Code, 2016 r.w. Rule 11 of NCLT Rules, 2016]

Prajakta Menezes  
Interim Resolution Professional  
Mota Layja Gas Power Company Limited  
Having Office at: 416, Crystal Paradise  
Dattaji Salvi road, Off. Veera Desai Road  
Andheri (W), Mumbai-400053

**..... Applicant/ RP**

**In the matter of:  
CP (IB) 233 of 2021**

[An application under Section 10 of Insolvency and Bankruptcy Code, 2016 r.w. Rule 7 of IBBI (Application to Adjudicating Authority Rules, 2016)]

M/s. Mota Layja Gas Power Company Limited  
CIN No. U40106GJ2013PLC077551  
Having registered office at:  
301-303 Kaivanna Complex,  
Panchwati, Ahmedabad-380006

**....Applicant/ Corporate Debtor**

**Order pronounced on 27.09.2023**

**Coram: Shammi Khan, Member (Judicial)  
Kaushalendra Kumar Singh, Member (Technical)**



**Appearance:**

For the Applicant

: Ld. Counsel Mr. Nipun Singhvi a/w  
Mr. Mayur Jugtawat, Advocate

**ORDER**

1. This is an application filed by the IRP of Mota Layja Gas Power Company Limited., under Section 60 (5) (C) of the Insolvency & Bankruptcy Code, 2016 (“IBC”, 2016) r/w Rule 11 of the National Company Law Tribunal Rules 2016 seeking order of liquidation of Corporate Debtor Namely M/s. Mota Layja Gas Power Company Limited.

2. The averments made by the Applicant in its application and as argued by the Learned Counsel for the Applicant are summarized as under:

i. The Corporate Debtor was admitted into Corporate Insolvency Resolution Process (“CIRP”) vide order dated 20.06.2022 passed by this Adjudicating Authority on an application filed by the Corporate Applicant viz. M/s. Mota Layja Gas Power Company Limited under Section 10 of the IBC, 2016 and Ms. Prajakta Menezes having Registration No. (IBBI/IPA-001/IP-P01349/2018-19/12016) was appointed as Interim Resolution Professional (“IRP”). The copy of the order passed by this Tribunal is attached with the application.

ii. That the Corporate Debtor was incorporated on 19th November, 2013 under the Companies Act, 1956 for the purpose to operate a 2000 MW gas-based power plant which was developed by Nana Layja Company Limited. However, since inception, the Corporate Debtor did not commence any business and there were no operations.

iii. The Corporate Applicant is wholly own subsidiary of IL&FS



Energy Development Company Limited (“IEDCL”) which in turn is a subsidiary of IL&FS. In pursuant of the Special Resolution, the Board of Directors of IEDCL vide resolution dated 4<sup>th</sup> January, 2021 had granted their approval to the decision of the Board of Directors of the Corporate Applicant for filing requisite applications for the proposed CIRP process. The copy of the same is attached with the application.

iv. The Board of IL&FS in its meeting dated 9<sup>th</sup> January 2021 had accorded its consent to the decision of the Board of Directors IEDCL for filing a requisite application before the appropriate judicial forum as may be necessary for the initiation of CIRP with respect to the Corporate Applicant under the relevant provisions of law. The said resolution dated 15<sup>th</sup> January, 2021 resolved further that the said application for winding up would be subject to the approval of Hon’ble Justice (Retd.) D K Jain appointed by the Hon’ble NCLT, in view of the orders dated 15<sup>th</sup> October, 2018 and 8<sup>th</sup> August, 2019 of the National Company Law Appellate Tribunal (NCLAT) in Company Appeal (AT) No. 347 of 2018.

v. It is relevant to note that the Hon’ble Justice (Retd) D K Jain granted approval for initiation of the CIRP proceedings vide letter dated 11<sup>th</sup> February, 2021 addressed to Managing Directors, IL&FS, subject to the following condition among others i.e. the proposal of CIRP being presented before the Hon’ble National Company Law Tribunal for its approval.

vi. The proposal for initiating CIRP of the Corporate Applicant under Section 10 of the IB Code, 2016 was accordingly, presented



before the Adjudicating Authority by IL & FS Group and the same has been approved vide order dated 15<sup>th</sup> September, 2021 rectified as on 22<sup>nd</sup> October, 2021 in the matter titled ***Infrastructure Leasing & Financial Services Limited V/s. Union Bank of India (CA No.136 of 2021) in Company Petition No. 3638/MB/2018.*** The copy of the same is attached with the application.

- vii. The Application was filed by the Corporate Debtor, Mota Layja Gas Power Company Limited through its Director- Mr. Feby Koshy, under Section 10 of the IB Code, 2016 r.w Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules 2016 for initiation of the CIRP.
- viii. Accordingly the Corporate Applicant was admitted into Corporate Insolvency Resolution Process (**'CIRP'**) vide order dated 20.06.2022 passed by this Adjudicating Authority in an application filed by the Corporate Applicant under Section 10 of the IB Code.
- ix. The Applicant states that in compliance with Sections 13, 15 and other relevant provisions of the Code read with Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate persons) Regulations, 2016, a Public announcement made in "Business Standard" in English edition and in "Jai Hind in Gujarati edition dated 24.06.2022, where the registered address of the Company is situated and Kutch Uday (Gujarati) of Bhuj Edition to inviting claims from various class of Creditors of Corporate Debtor. The Public announcement is attached to the application.



x. In response to the aforesaid publication the Applicant received three claims of the Financial Creditors, namely, Nana Layja Power Company Limited, IL&FS Energy Development Company Limited (IEDCL), and IL & FS Financial Service Limited. The detailed list of the claims received from the Financial Creditors is as under:

<b>Claim received from Financial Creditors</b>					
Sr No	FC Name	Total amount	Amount admitted	Amount rejected	Remark
1	Nana Layja Power Company Limited	3,25,34,614	3,25,34,614		Related party in terms of Section 5(24) of the IBC, 2016
2	IL&FS Energy Development Company Limited	1,83,09,520	1,83,09,520		Related party in terms of Section 5(24) of the IBC, 2016
3	IL&FS Financial Service Limited	10,76,987	10,76,987		Related party in terms of Section 5(24) of the IBC, 2016

xi. The IRP has also received a claim from two Operational Creditors out of which one Operational Creditors i.e. A Prasad & Associates (Operational Creditors) claim was not admitted by the IRP and the same was intimated vide email dated 14-07-2022 stating that the claim is submitted towards the professional fee for statutory audit of Mota Layja Gas Power Company Limited for FY 2021-22 and invoice for the same is raised on 4<sup>th</sup> July, 2022, hence, the amount become due post 20<sup>th</sup> June, 2022. Further the claim filed by the Deloitte Haskins and Sells which was duly admitted by the IRP and CoC was constituted with the operational creditors as per Regulation 16 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. However, the said Operational Creditor withdrew the claim vide the email dated 26<sup>th</sup> August, 2022. The detail list of the claim received from the Operational



creditors is as under:-

<b>Claim received from Financial Creditors</b>					
	OC Name	Total amount	Amount admitted	Amount rejected	Remark
1	A Prasad & Associates	47,200	-	47,200	Claim Not admitted since the amount became due post CIRP date i.e. 20 <sup>th</sup> June, 2022
2	Deloitte Haskins and Sells	1,59,750	-	-	However the claimant withdrew their claim by email dated 26.08.2022

xii. Since, no claim of the Operational Creditor could be admitted and there are no workmen, employees and Financial Creditors (other than related parties claim of the Financial Creditor), the Applicant could not constitute the CoC.

xiii. As per the books of account of the Corporate Applicant as on CIRP date i.e. 20.06.2022, the Corporate Applicant has an asset of Rs.3,16,80,103.45/- and liability of Rs. 3,16,30,985/-. The details of assets and liability are reproduced hereunder:-

<b>A. LIABILITIES</b>	
<b>Non-Current Liabilities</b>	
Long Term Borrowings	2,88,67,848.00
<b>Current Liabilities</b>	
Short-Term Provisions	1,92,950.00
Trade Payables	48,967.00
Other Current Liabilities	25,21,220.00
<b>Total Liabilities</b>	<b>3,16,30,985.00</b>
<b>B. Assets</b>	
<b>Current Assets</b>	
Cash and Cash Equivalents	3,12,96,982.45
Short Term Loans & Advances	26,803.00
Other Current Assets	3,56,318.00
<b>Total Assets</b>	<b>3,16,80,103.45</b>



xiv. The Applicant is relying on the judgment of the Coordinating Bench NCLT Hyderabad in the matter of **Sarthak Gupta and Dolly Gupta vs MLP Developers and Promoters Private Limited** wherein in same scenario, the Coordinating Bench has taken the following views:-

***“It is seen that admittedly other than the claims of the petitioners in the CP, who are the directors and related parties of the corporate debtor, not even a single claim is received against the corporate debtor.***

***In the circumstances, even if the COC is constituted and the process of CIRP is undergone, the claimants would be the petitioners in the CP only. Therefore, we are of the considered view that no useful purpose would be served by constituting the COC and by proceeding with the CIRP process. Hence, we treat this IA as an IA filed under Section 33(1) and direct that the Corporate Debtor be liquidated as per the provisions of the Code and Regulations made thereunder.”***

xv. The reliance has been placed by the applicant in the similar matter bearing No. **IA 435/2020 in CP(IB) NO. 96/BB/2020, Mr. Mandar Wagh Interim Resolution Professional of M/s. Synew Steel Private Limited**, an application was filed for passing an appropriate order in term of Section 60(5) of the Code by exercising the inherent powers conferred under the Code r.w. Rule 11 of the NCLT Rules, wherein coordinating NCLT, Bengaluru Bench has passed the order of liquidation. The relevant paras of the aforesaid matter are as under:

***“In terms of Section 60 of the Code, the Adjudicating Authority shall be the NCLT having territorial jurisdiction over the place, where the registered office of corporate persons is located. By conjointly reading the above provisions, the ultimate objective of Code is either to resolve the issue by way of Resolution Plan or to dissolve the Corporate Debtor,***



***as expeditiously as possible. If the facts and circumstances of a case justify that no purpose would be served to keep the Corporate Debtor under regular CIRP proceedings and, thereafter, under Liquidation proceedings, under the provisions of Code, the Adjudicating Authority, by exercising its inherent powers conferred under the Act, may pass appropriate order(s) in the interest of speedy justice.”***

3. Heard the learned counsel for the Applicant and perused the material on record. It is noted that the Corporate Applicant was admitted in CIRP on 20.06.2022 by this Adjudicating Authority in an application filed by the Corporate Applicant under Section 10 of the IB Code. Thereafter, following the applicable provisions of IB Code and rule framed thereunder, the IRP published Form-A in “Business Standard” English Newspaper and “Jai Hind” Gujarati Newspaper of Ahmedabad Edition where the Registered Address of the Company is situated. The Applicant also published in “Kutch Uday” Gujarati Newspaper of Bhuj Edition.

4. The Corporate Applicant was admitted in CIRP on 20.06.2022 and this application for liquidation order was filed on 26.09.2022 meaning thereby, the liquidation application, after 90 days. Hence, considering the above fact, we are of the view that a liquidation order deserves to be passed in the matter if the company is not resolved or revived second option is dissolution. Accordingly, we allow this application and pass the order of liquidation with the following directions: -

- i. We pass the order for initiation of liquidation of Corporate Applicant - **Mota Layja Gas Power Company Limited** in terms of provision of section 33(2) of IBC, 2016 read with regulations made there-under which shall be effective from the date of this order and the Moratorium declared vide order dated



20.06.2022 in CP (IB) No.233/NCLT/AHM/2021, henceforth ceases to exist from the date of the order of liquidation.

ii. In terms of the **IBBI, circular number 12011/214/2023-IBBI/840 dated 18.07.2023 we hereby appoint Mr Suhas Dinkar Bhattbhatt having registration no IBBI/IPA-002/IP-N00571/2017-2018/11738 and email id [cssuhasb@gmail.com](mailto:cssuhasb@gmail.com)** as per the panel suggested by IBBI for this Bench as the Liquidator of the Corporate Debtor to carry the liquidation process. The Liquidator so appointed shall complete the Liquidation process as per the provisions of the Insolvency and Bankruptcy Code, 2016 r.w. Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

iii. All the powers of the Board of Directors, key managerial persons, the partners of the Corporate Applicant, hereafter, cease to exist. All these powers henceforth, vest with the Liquidator.

iv The personnel(s) of the Corporate Applicant are directed to extend all co-operations to the Liquidator as required by him in managing the liquidation process of the Corporate Applicant.

v. The Liquidator will charge fees for the conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified by IBBI and same shall be paid to the Liquidator from the proceed of the liquidation estate under section 53 of the Code

vi. Once Liquidation process initiated, subject to section 52 of the Code, no suit or other legal proceedings shall be instituted



by or against the Corporate Applicant save and except the liberty to the liquidator to institute suite or other legal proceeding on behalf of the Corporate Applicant with prior approval of this Adjudicating Authority as mentioned in section 33(5) of the IBC, 2016.

vii. This liquidation order shall be deemed to be notice of discharge to the officers, employees, and workmen of the Corporate Debtor except to the extent of the business of the Corporate Debtor continued during the liquidation process by the Liquidator.

viii. The Liquidator is directed to first explore the sale of Corporate Debtor as going concern under clause (e) of Regulation 32 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 read with Regulation 39C of IBBI (Insolvency Resolution Process of Corporate Persons) Regulations, 2016 or sale of business of the Corporate Debtor as a going concern under clause (f).

ix. This Adjudicating Authority directs the Liquidator to issue a public announcement stating that the Corporate Debtor is in liquidation. The Liquidator will also serve a copy of this order to the various Government Departments such as Income Tax, GST, VAT, etc., who are likely to have any claim upon the Corporate Debtor so that the authorities concerned are informed of the liquidation order timely. The Liquidator will also provide a copy of this order to the trade unions/employee associations of the Corporate Debtor so that the workman/employees could also be informed of this liquidation order through their association.

x. The Liquidator is directed to investigate the financial affairs



of the Corporate Debtor in terms of the provisions of Section - 35(1) of IBC, 2016 read with relevant rules and regulations and also file its response for disposal of any pending Company Applications during the process of liquidation.

xi. The Liquidator shall take necessary legal action to recover the trade receivables and other credits such as loans and advances from the parties which are reflected in the latest Balance Sheet of the Corporate Applicant, if any. This direction is hereby given in concurrence of the jurisdiction prescribed under section 33(5) of the Code.

xii. The present Resolution Professional is directed to hand over the relevant documents and control of the Corporate Debtor to the newly appointed liquidator forthwith.

xiii. The Registry is directed to upload this order on the official website within two working days from the date of this order. The authenticated copy of this order be also sent by the registry to the Operational Creditor, Corporate Applicant/Resolution Applicant, Registrar of the Company, Resolution Professional cum Liquidator by speed-post within one week from this order

5. Accordingly, the present **I.A. No.798 of 2022** in CP(IB) 233 of 2021 is allowed and stands disposed of.

-SD-

**KAUSHALENDRA KUMAR SINGH  
MEMBER (TECHNICAL)**

-SD-

**SHAMMI KHAN  
MEMBER (JUDICIAL)**