



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

**IA No. 491 of 2021
In
CP(IB) No.128/Chd/Hry/2017
(Admitted)**

**Under Section 7 & 60(5) of
the Insolvency and
Bankruptcy Code, 2016**

In the matter of:-

Bank of India

...Petitioner/Financial Creditor

Versus

OSIL Exports Limited

...Respondent/Corporate Debtor

And in the matter of IA No. 491/2021:-

Kanwal Goyal, Liquidator

AAA Insolvency Professionals LLP
having its registered office at
E-10A, Kailash Colony Greater Kailash
New Delhi-110048.

...Applicant/Liquidator

Vs.

Uttar Haryana Bijli Vitran Nigam Limited

C-6, Shakti Bhawan, Sector-6
Panchkula, Haryana

...Respondent No. 1

The Chief Engineer Commercial

Uttar Haryana Bijli Vitran Nigam Limited
C-6, Shakti Bhawan, Sector-6
Panchkula, Haryana

...Respondent No. 2

The Sub Divisional Officer (Operations)

Uttar Haryana Bijli Vitran Nigam Limited
Samalkha, Haryana

...Respondent No. 3

Order delivered on : 14.09 .2023

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



Present:-

For the Applicant: : Mr. Balwinder S. Kalwinder, Advocate

For the Respondent : Mr. Arvind Seth, Advocate

PER: SUBRATA KUMAR DASH, MEMBER (TECHNICAL)

ORDER

IA No. 491/2021

The present application has been filed by Mr. Kanwal Goyal, liquidator against respondents i.e. Uttar Haryana Bijli Vitran Nigam Limited, the Chief Engineer Commercial and the Sub Divisional Officer (Operations) under section 60(5) of the Insolvency and Bankruptcy Code, 2016 for directing respondent Nos.1 and 3 to refund the security deposit amount of Rs. 68,79,075/- alongwith interest @12% per annum for the disconnected electricity connection.

2. The brief facts of the case are that vide order dated 08.02.2018, Sh. Kanwal Goyal was appointed as Interim Resolution Professional and on 17.10.2019, was appointed as Liquidator. The corporate debtor was originally incorporated under the name and style of Om Overseas and was later converted into a company by the name Om Sakk(India) Industries Limited and later name was changed to Osil Exports Limited. The corporate debtor obtained an electricity connection vide account No. P22LS010046L in the name of Om Overseas and deposited the security amount. The liquidator vide letter dated 16.11.2018 requested respondents to disconnect the electricity connection and to refund an amount of Rs. 68,79,075/- paid towards the security deposit. The respondents served a legal notice to respondents on 30.06.2020 for a refund of the security amount along with interest. On 08.08.2020 a final notice was served to respondents by the liquidator for a refund of the security amount. On 28.12.2020 the Corporate Debtor received a letter



from the respondents whereby it was intimated to the Corporate Debtor that the amount of Rs, 35,87,003/- for security refund case has been sent to the Xen of UHBVN Samalkha vide their office memo no. 4178 dated 16.12.2020. It is submitted that the electricity connection was taken by the Corporate Debtor long back and the applicant is not able to trace out the receipt of the security amount deposited from the records, however, as per the audited balance sheet of the Corporate Debtor for the year ending on 31.03.2018, an amount of Rs. 68,79,075/- has been deposited towards the security with the electricity department i.e. respondents, hence the Liquidator is duty bound and has every right to recover the said amount from the respondents as per the provisions of Insolvency and Bankruptcy Code, 2016.

3. The reply was filed vide Diary No. 00925/2 dated 14.02.2022, wherein it is stated that the applicant has not availed statutory remedy for seeking refund of ACD. The application submitted by the applicant an amount of Rs. 59,40,480/- was found to be refundable an account of ACD. It is stated that the amount of Rs.34,05,003/- has already been refunded vide cheque no. 460911 dated 18/08/2021 after deducting the outstanding amount of Rs.9,69,997/- out of Rs.59,40,480/-. Therefore the amount claimed in the present petition is erroneous, however, the amount of that is to be refunded is Rs.15,65,480/-.

4. The rejoinder was filed vide Diary No. 00925/3 dated 28.02.2022, wherein it is stated that the applicant is trying to the shape of present case towards consumer dispute. The respondents did not reply to the legal notices and later admitted to returning the security deposit of Rs. 35,87,003/-. The liquidator has admitted that the respondents have refunded the amount of Rs. 34,05,003/-. The respondents have not placed on record a single document to prove their contention that the amount is due and outstanding.

5. The short written submissions were filed by the liquidator vide Diary No. 00925/4 dated 26.08.2022 wherein it is stated that as per Memo No. 4303 dated



28.12.2020, the amount of Rs. 35,87,003/- has been refunded (vide Cheque dated 18.08.2021). It is stated that the respondents admitted in its reply that the original amount of the security refund was Rs. 59,40,480/-. It is further stated by the respondents that no details have been provided regarding the outstanding amount of Rs. 9,69,997/- from the corporate debtor. In the short written submissions were filed by respondent No. 1 vide special Diary No. 207 dated 23.09.2022 wherein it is stated that the applicant has remedy to file the application before the Consumer Grievances Redressal Forum.

6. We have heard the learned counsels for the applicant as well as the respondents and have carefully perused the available records. We noted that in the present case, the respondents have admitted that there was a refundable deposit of Rs. 59,40,480/-, out of which Rs. 34,05,003/- has been refunded, and amount of Rs.9,69,997/- has been adjusted against existing liability. It is therefore an admitted fact that an amount of Rs.15,65,480/- is still outstanding to be paid to the corporate debtor. Even after assuming that the adjustments made by the respondents order as per the provisions of the relevant Laws. We therefore, see no justification for asking the corporate debtor to make use of the grievance cell of the respondents to get the undisputed Refund of Rs.15,65,480/-. Under the provisions of the IBC, this refund is a part of the liquidation estate of the corporate data as defined in Section 36 of the code, and the liquidator has the right to recover the same and hold it as a fiduciary for the benefit of all the creditors. In view of the same, the respondents are directed to refund the amount of Rs.15,65,480/- to the applicant within 15 days of this order. As regards the adjustment of Rs. 68,79,075/- towards the existing liability of the corporate debtor, the latter can approach the consumer grievance redressal forum, if so advised.



7. In the result, IA No. 491/2021 is partly allowed and stands disposed of accordingly.

-sd-
(Subrata Kumar Dash)
Member (Technical)

September 14, 2023
SM/TBG

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(Harnam Singh Thakur)
Member (Judicial)