

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL,  
PRINCIPAL BENCH, NEW DELHI  
Company Appeal (AT) (Insolvency) No. 150 of 2021**

**In the matter of:**

**Himachal Pradesh State Electricity Board Ltd. & Ors. ....Appellants**

**Vs.**

**C.A.Jalesh Kumar Grover, Resolution Professional ....Respondent**

**Present:**

**Appellant: Mr. Vinay Kuthiala, Senior Advocate with Ms. Shaurya Kuthiala, Mr. Aniruddha Deshmukh, Advocates.**

**Respondent: Mr. Abhishek Anand, Mr. Viren Sharma, Advocates for RP.**

**ORDER**

**(Through Virtual Mode)**

**04.03.2021: I.A. No.344 of 2021:** In view of the ground urged and keeping in view the directions given by the Hon'ble Apex Court in *suo moto* jurisdiction as also by this Appellate Tribunal in *suo moto* jurisdiction in regard to extension of period of limitation, delay of 14 days in preferring the appeal is condoned. I.A. No.344 of 2021 stands disposed of.

The limited issue raised in this appeal filed by Appellants- 'Himachal Pradesh State Electricity Board Ltd. & Ors.' against the impugned order dated 15<sup>th</sup> December, 2020 disposing off I.A No. 335 of 2020 filed by the Resolution Professional of Corporate Debtor-'GPI Textiles Ltd.' with direction to the Appellants not to disconnect the electricity supply to the Corporate Debtor as long as it pays monthly electricity bills plus Rs.10 lacs is that the Adjudicating Authority has overlooked the fact that every delayed payment attracts a late payment surcharge mandated by tariff order governing the Appellant.

Contd/-.....

2. Mr. Vinay Kuthiala, Senior Advocate representing the Appellant submits that even if the impugned order as regards clearing of liability on account of consumption of energy by paying the current bills may be unassailable, the accumulated surcharge and electricity duty would be far in excess of the liability sought to be cleared in monthly installment of Rs.10 lacs stretching over a long period.

3. Mr. Abhishek Anand, Advocate appearing on behalf of Respondent submits that the Resolution Plan in respect of the Corporate Debtor is pending consideration before the Adjudicating Authority and saddling the Corporate Debtor with any liability in excess of Rs.10 lacs as ordered by the Adjudicating Authority in regard to the liability covering the Corporate Insolvency Resolution Process (CIRP) period would result in compelling the Corporate Debtor to cease its operations turning it into a closed unit which would not advance the interest of any of the stakeholders. He invites our attention to para 4 of the impugned order which clearly records the fact that the application seeking approval of Resolution Plan for the Corporate Debtor is pending consideration before the Adjudicating Authority and its disposal will result in taking care of all dues of Appellant pertaining to CIRP period in priority to other liabilities under the statutory distribution mechanism.

4. After hearing learned counsel for the parties for a while and bestowing our anxious consideration to the issue raised, we are of the considered opinion that the impugned order while taking care of current liabilities on account of consumption of electric energy by the Corporate Debtor also makes a provision for clearing the liability in regard to the dues leviable for the CIRP period, though in proportion to the liability, monthly installment of Rs.10 lacs may not be adequate enough as pointed out by Mr. Vinay Kuthiala, Senior Advocate with reference to the accumulated surcharge and electricity duty. It would be paramount consideration that the Corporate Debtor continues to be a going

concern and saddling it with a heavy installment towards clearing of liability, though in regard to the CIRP period which is due and admissible, would be in nobody's interest if the heavy burden on its financial resources compels it to cease its operation.

5. Having regard to all the relevant considerations, we deem it appropriate to enhance the payment scheduled by providing that in order to clear the outstanding dues, the Corporate Debtor will pay Rs.12 lacs each month instead of Rs.10 lacs as directed in the impugned order, leaving the provisions in regard to current dues on account of consumption of electricity intact. We order accordingly. However, we make it clear that in the event of the Corporate Debtor failing to clear the current dues on account of the current tariff/monthly electricity bill for consumption of electric energy in that month, the Appellant shall be at liberty to discontinue the supply of electricity energy in accordance with the provisions of law.

With this modification in para 8 of the impugned order, we dispose off the appeal.

A copy of this order be communicated to the Adjudicating Authority forthwith.

**[Justice Bansi Lal Bhat]**  
**Acting Chairperson**

**[Dr. Ashok Kumar Mishra]**  
**Member (Technical)**

**AR/g**