IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2025

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and
THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No. 32663 of 2024

The National Sewing Thread Co., Ltd.,
(Post Insolvency Resolution under IBC)
Rep. by its Successful Resolution Applicant
Mr.B.Venkatesan,
11, Venugopala Pillai Road,
Chidambaram – 608 001. .. Petitioner

Vs

The Superintending Engineer – I,
Electricity Department,
Government of Puducherry,
Puducherry – 605 009. .. Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the respondent to forthwith provide reconnection of H.T Services for Unit III with Code No.447 and Unit IV with Code No.460.

For Petitioner	:	Mr.Om Prakash Senior Counsel for Mr.R.Imayavaramban
For Respondent	:	Mr.R.Sreedhar Additional Government Pleader

ORDER

(Made by Dr. ANITA SUMANTH.,J)

This writ petition has been filed by the National Sewing Thread Company Limited which taken before the National Company Law Tribunal ('Tribunal' / 'NCLT') in IBA No. 622 of 2019. The proceedings before the Tribunal took their course as per the provisions of the Insolvency and Bankruptcy Code, 2016 ('Code' / 'IB Code'), and Corporate Insolvency Resolution Plan ('CIRP') commenced on 29.08.2019.

2. Various creditors, including statutory creditors had preferred claims before the Tribunal seeking settlement of their dues. Of these, the Electricity Department of the Union Territory of Puducherry/Respondent, was one. The claim of the Puducherry Electricity Department was of an amount of Rs.1,01,67,031/-.

3. The claims of various creditors came to be considered by the Tribunal and ultimately, at paragraph 5.5 of Resolution Plan ('RP') dated 06.08.2021, the NCLT directed the petitioner to pay a sum of Rs.7,74,780/- in full and final settlement of the entire liability of operational creditors, within 90 days, in priority.

4. An order came to be passed by the Tribunal on 06.12.2021 confirming the RP. The respondent has not chosen to contest the aforesaid RP and Mr.R.Sreedhar, who appears for the respondent would, on instructions, accede to the position that 1% of the dues as directed by the Tribunal has also been settled, within the time stipulated. To be noted the RP and order of the Tribunal directing implementation thereof, have been passed in August and December, 2021, respectively and as on date, the same have become final.

5. While so, and the petitioner has remitted the amount as directed by the NCLT, there has been a delay in providing for re-connection and hence a writ petition came to be filed by the petitioner seeking a mandamus directing the respondent to effect such re-connection. That writ petition came to be disposed directing the respondent to pass orders on the representation seeking reconnection as against which an order was

passed on 10.09.2024 rejecting the request of the petitioner.

6. The operative portion of the order of rejection is as follows:-

> '***AND WHEREAS***, *during the meeting the Managing Director of the Company expressed their views and requested this Department to extend re-connection of the HT industry at the earliest and to waive the current consumption charges due as per the direction of National Company Law Tribunal Order No.1032/2021, Dt. 06-12-2021 and subsequently Hon'ble Madras High Court W.P.No. 29850 of 2022 and W.M.P.No. 29236 of 2022 Dt: 28.06.2024 and the Consumer has also assured to submit their views in detail separately in a typed copy on Monday (09.09.2024) and the company submitted his views on 09.09.2024 addressed to the Executive Engineer, Rural (South) O&M and requested the Electricity Department Puducherry, to waive/write-off our balance dues as per IBC Sections 31(1), National Company Law Tribunal order dated 06.12.2022 and to comply the order dated 28.06.2024 passed by the Hon'ble High Court of Madras in W.P.No.29850 of 2022 and W.M.P.No. 292369 of 2022 and for re-connection of HT services Code No.447 and 460.*
>
> ***AND WHEREAS*** *on perusal of the National Company Law Tribunal order dated 06.12.2021. The licensee – Electricity Department, Puducherry was not included in the insolvency process and no opportunity to place objection to the resolution plan approved by the National Company Law Tribunal except filling the claim form B to IRP on 13.12.2019 and it is submitted that the huge revenue loss to the department due to waiving of outstanding arrears of 99% by the Firms M/s.*

> *National Sewing Thread Co., Ltd, Unit III and Unit IV bring severe financial impact for power purchase by the department AND THEREFORE waiver of balance amount could not be considered, since there is no provision available in JERC Supply Code 2018 for the same.'*

7. No challenge has been laid as against order dated 10.09.2024 as on date, and instead the present writ petition has been instituted by the petitioner seeking a mandamus directing the respondent to forthwith provide reconnection of H.T. Services for Unit III with Code No.447 and Unit IV with Code No.460.

8. A counter has been filed and upon completion of the pleadings, the matter is taken up for hearing. The submissions of Mr.Om Prakash, learned Senior Advocate, for Mr.R.Imayavaramban, for the petitioner are firstly, that the RP and order of the NCLT passed in 2021, have attained finality. The petitioner was directed to remit 1% of the outstanding dues which direction stands complied with. Hence, the insistence on settlement of the earlier demands is wholly contrary to the RP and the directions of the NCLT.

9. Secondly, despite the fact that 1% of the dues have been remitted, there has been no move by the respondent to effect re-

connection which has prejudiced its business operations. He relies on the judgments of the Supreme Court in the case of *Ghanashyam Mishra and Sons Private Limited Through the Authorized Signatory v Edelweiss Asset Reconstruction Company Limited through the Director and others*[1] and *Tata Power Western Odisha Distribution Limited (TPWODL) & Anr v Jagannath Sponge Private Limited, Director*[2]

10. Per contra, Mr.Sreedhar, who appears for the respondent, would point out that the demands in the instant case had been raised as early as on 04.06.2019, reiterated on 10.09.2024. Disconnection had been effected on 12.08.2019. The CIRP in the matter commenced only on 29.08.2019 and hence the demands were anterior to the initiation of CIRP. In such circumstances, he would maintain that the entirety of the demand must be settled.

11. Moreover, order dated 10.09.2024 has itself not been challenged and hence the petitioner cannot seek to obtain relief of mandamus in the face of that order. He relies on the *Joint Electricity Regularity Commission (Electricity Supply Code) Regulations, 2018* (in short, '2018 Regulation'), particularly clause 9.12 and 9.13 thereof, which

1 [(2021) 9 SCC 657]

2 (2023 SCC Online SC 842).

provide for reconnection.

12. He would argue that the procedure to be followed would be as though the application were for a new connection requiring all compliances in terms of clause 19.3, including payment of pending dues, service line charges and security deposit. He cites the judgment of the Supreme Court in the case of *Gujarat Urja Vikas Nigam Limited v Amit Gupta & Others*[3] to say that the relief of re-connection cannot form part of the directives of the NCLT as the Tribunal can only concern itself with the adjudication of disputes relating to insolvency of corporate debtors.

13. We have heard both learned counsel carefully and devoted anxious consideration to the facts and legal issues. The facts are more or less admitted. The National Sewing Thread Pvt ltd., had defaulted in repayment of loans availed from the Indian Overseas Bank (IOB) and had been declared as a Non Performing Asset. IOB had not been successful in recovering the dues through the SARFAESI Act and hence the account had been assigned to the Alchemist Asset Reconstruction Company Ltd vide assignment Deed dated 24.03.2017.

14. The Asset Recovery Company approached the NCLT and CIRP was initiated. The procedure as set out under the Insolvency and

3 [(2021) 7 SCC 209]

Bankruptcy Code 2016 was followed, minute details of which are unnecessary for this writ petition. Suffice it to state that the Resolution Plan submitted by B.Venkatesan and B.Ramachandran (Successful Resolution Applicants) was accepted and approved by the Committee of Creditors. The application was filed by the Resolution Professional was allowed by the NCLT on 06.12.2021 and the Resolution Plan proposed was approved.

15. As per the Resolution Plan, the Petitioner was to remit 1% of the admitted claims of the creditors in full and final settlement thereof. In other words, as against Rs.7,74,78,027/- being the sum total of the admitted statutory dues, Rs.7,74,780/- was directed to be paid within 90 days, in priority, and before settlement of the financial creditors. Admittedly, the amount has duly remitted the same to the creditors, including to the Respondent, in time. There is no dispute on this account.

16. The Resolution Plan had been approved by the NCLT, and the operative portion of order dated 06.12.2021, qua the Electricity Department is at paragraph 18, Clause 5, extracted below:-

. . . .

5	*Upon approval of the Resolution Plan by the Hon'ble Adjudicating Authority, Old outstanding or due amount for license renewal / consent fee / land & building tax including payment of penalty and damages, if any, payable by the CD to the respective (Tamil Nadu / Pondicherry) State Electricity Department / Pollution Control Board / respective Commune Panchayat / Municipality and any other concerned department for the period upto the effective date, shall be deemed to have been waived / written off/ extinguished and no amount shall be payable to the said departments by the Corporate Debtor.*	*Granted in terms of the judgment of the Hon'ble Supreme Court in Ghanahyam Mishra and Sons v. Edelweiss Asset Reconstruction Company Limited.* *2021 SCC OnLine SC 313*

17. The Supreme Court, in *Gyansham Mishra*, was considering the effect of a Resolution Plan and has settled the position that once a Resolution Plan has been duly approved by the adjudicating authority, no further claim may be raised by the creditor, over and above the amount crystalised under the RP and approved by the Tribunal.

18. Hence, there can be no reiteration of the earlier demands raised by the Respondent, or any issue raised in respect of the quantification of

the disputes at this stage as the amount due to be remitted to the Respondent has been crystallised and approved by the NCLT. The Respondent cannot be permitted to go over and beyond the same and insistence upon the earlier demands raised in 2019 and reiterated on 10.09.2024, is grossly misconceived.

19. The Code provides for a statutory appeal in terms of Section 61 thereof, providing for a limitation of 30 days with a further period of 15 days within which condonation of delay may be sought. That time has long gone. Hence, the RP and the order of the NCLT have become final as on date as no appeal has been instituted by the Respondent before the NCLAT.

20. In the above circumstances, order dated 24.09.2024 is itself misconceived and ought not to have been passed in the light of the judgement in *Gyansham Mishra*. The Respondent had participated in the resolution process and submitted its claim. The claim has been duly examined by the Resolution Professional and the NCLT has thereafter directed the percentage of payment to be made. The Petitioner has also complied in remitting the amount as directed, within the time stipulated.

21. The import of order dated 24.09.2024, where the 2019 demand

is reiterated, is to efface the RP and the stipulation thereunder to the creditors to receive 1% of the demands in full and final settlement of the same. This is impermissible having regard to the finality attaching to the RP, and the judgement of the Supreme Court in *Gyansham Mishra*.

22. Hence we are not impressed with the submission that the writ petition, and the prayer for mandamus will not lie in light of order dated 10.09.2024 as we are of the considered view that the aforesaid order is a nullity in law. The writ petition is thus very much maintainable and we mould the prayer therein to one of certiorarified mandamus, to quash order dated 10.09.2024 passed by the respondent, and grant said prayer of certiorari, quashing the demand raised under that order.

23. We now advert to the plea for reconnection. On the aspect of reconnection, the respondent has relied on the 2018 Regulations which relate to Union Territories and which stipulates the obligations of the licensee and consumers for provision of efficient, cost effective and consumer friendly services. In particular, clause 9.12 and 9.13 refer to reconnection and read as follows:-

> *'9.12 In case the consumer request for reconnection within a period of 6 months after disconnection, the Licensee shall reconnect the consumer's installation within 5 days of payment of*

past dues and reconnection charges.

9.13 In case the consumer requests for reconnection after 6 months of disconnection, the connection shall be reconnected only after all the formalities as required in the case of a new connection are complied with by the consumer including payment of pending dues, services line charges, security deposit, etc., as applicable for that category of consumer.'

24. Per the Regulations, in the case of disconnection, the consumer may request reconnection within a period of six months in which case, the installation shall be reconnected within five days of payment of past dues and reconnection charges. This is in terms of Clause 9.12. In case, the request for reconnection is after a period of six months of disconnection, Clause 9.13 says that the connection shall be reconnected only after completion of all formalities as in case of a new connection, including payment of pending dues, service line charges, security deposit, etc., as applicable for that category of consumer.

25. In the counter filed by the respondent, the rejection of request for reconnection has been justified as follows:-

'18. The Respondent could not consider the representation on the waiver request of the Petitioner since the same would contradict the provision of the Joint Electricity Regulatory Commission Supply Code, 2018. The Petitioner has also not provided all the required documents as mentioned below,

> a. *Registered document confirming proof of ownership or lease document in case of rented place.*
> b. *Municipal/Commune panchayat Licence.*
> c. *Valid Industrial & Pollution Control Board clearance.*
> d. *Proposed internal Electrical wiring & Layout with switching arrangements of the total Electrical installation.*
> e. *Valid Central Electricity Authority approval as per Regulation.*
>
> *19. It is also necessary to state that, during inspection it was found that all machinery were in idle & isolated condition without operation for long years. The HT Transformer & yard are not maintained. Extension of power needs testing and calibration of equipment & relay panels along with statutory document after clearing outstanding arrears as per the JERC Supply Code 2018. The petitioner is having 8 Industries with long pending arrears with no motivation of settling the dues. The Petitioner is allegedly disposing the property of the Industries in collusion with land owner(s) by suppressing the fact of having huge arrears payable to the Electricity Department. So, even after getting reconnection it is doubtful on the part of the Petitioner or such other buyers, whether they will continue to run the Industries or not and or pay the past dues.'*

26. Primarily, the respondent has relied upon the 2018 Regulations extracted above. We however are of the considered view that those Regulations cannot be pressed into service mutatis mutandis in the present circumstances, as they do not envisage a situation where the

NCLT is involved and has approved a Resolution Plan.

27. In cases where the consumer has undergone the process of CIRP and the NCLT has approved a Resolution Plan stipulating the amount of dues to be remitted to a creditor, that consumer cannot be called upon to pay anything over and above what has been stipulated in the Resolution Plan. Hence, the pre-condition for reconnection under Clause 9.13 of the 2018 Regulations for *'payment of pending dues'* would not arise or stand attracted in such cases.

28. We however agree that since, admittedly, the machinery as well as the equipment for provision of power has been lying idle for many years, the same would have to be revamped and all necessary technical concerns be addressed by the parties at the cost of the petitioner.

29. As far as the security deposit is concerned, which finds mention in Clause 9.13, we are given to understand by Mr.Sreedhar that in this case the deposit has been adjusted against dues as computed by the Respondent in 2019. We thus reiterate that the petitioner cannot be called upon to pay anything over and above the amount stipulated in the Resolution Plan and confirmed by the NCLT which amount has

admittedly been remitted by it.

30. In *Tata Power Western Odisha Distribution Limited (TPWODL) & Anr v Jagannath Sponge Private Limited, Director*[4], the Supreme Court considered the identical issue of whether a Successful Resolution Applicant should be called upon to pay arrears of electricity for grant of electricity connection.

31. Referring to the judgments in *Paschimanchal Vidyut Vitran Nigam Ltd v Raman Ispat Private Limited and others*[5], *Southern Power Distribution Company of Andhra Pradesh Limited v Gavi Siddeswara Steels (India) Pvt Ltd and another*[6] and *Embassy Property Developments Private Limited v State of Karnataka and others*[7], the issue came to be decided in favour of the Successful Resolution Applicant, the Court stating that the electricity board cannot ask for payment of arrears, or anything the amount computed in the approved Resolution Plan.

32. It was however made it clear that all other requirements for grant of electricity connection would have to be complied with. The relevant portion of the judgement is extracted below:

. . . .

4 C.A.No. 5556/2023 dated 11.09.2023
5 2023 SCC OnLine SC 482
6 Order dated 06th September, 2023 in Civil Appeal No. 5716-5717/2023
7 (2020) 13 SCC 308

In our opinion, the legal issue is covered by the judgment of this Court in "Paschimanchal Vidyut Vitran Nigam Ltd. vs. Raman Ispat Private Limited and Others" and the order of this Court in "Southern Power Distribution Company of Andhra Pradesh Limited vs. Gavi Siddeswara Steels (India) Pvt. Ltd. and Another." The appellant – Tata Power Western Odisha Distribution Limited cannot insist on payment of arrears, which have to be paid in terms of the waterfall mechanism, for grant of an electricity connection. However, the successful resolution applicant will have to comply with the other requirements for grant of electricity connection. The clean slate principle would stand negated if the successful resolution applicant is asked to pay the arrears payable by the corporate debtor for the grant of an electricity connection in her/his name.

In "Embassy Property Developments Private Limited vs. State of Karnataka and Others", this Court clarified that a decision by public authority etc. may fall within the jurisdiction of the tribunals constituted under the Code, where the issue relates to or arises out of the dues payable to an operational or financial creditor, by observing:

> *"37...It will be a different matter, if proceedings under statutes like Income Tax Act had attained finality, fastening a liability upon the corporate debtor, since, in such cases, the dues payable to the Government would come within the meaning of the expression "operational debt" under Section 5(21), making the Government an "operational creditor" in terms of Section 5(2). The moment the dues to the Government are crystallised and what remains is only payment, the claim of the Government will have to be adjudicated and paid only in a manner prescribed in the resolution plan as approved by the adjudicating authority, namely, the NCLT."*

> *The above-quoted observations from Embassy Property Developments Private Limited (supra) would confer jurisdiction on the tribunal constituted under the Code insofar as the appellant – Tata Power Western Odisha Distribution Limited is insisting on payment of the dues of the corporate debtor for restoration/grant of the electricity connection. The dues of the corporate debtor have to be paid in the manner prescribed in the resolution plan, as approved by the adjudicating authority. The resolution plan is approved when it is in accord with the provision of the Code. Thus, the issue of corporate debtor's dues falls within the fold of the phrase 'arising out of or in relation to insolvency resolution' under section 60(5)(c) of the Code.*
>
> *Therefore, we do not find any good ground and reason to interfere with the impugned judgment(s)/order(s) and hence, the present appeals are dismissed. Pending application(s), if any, shall stand disposed of.*

We draw support from the above observations qua our conclusions at paragraphs 21 and 28 supra.

33.As far as the judgment in the case of *Gujarat Urja Vikas Nigam Limited* (supra) is concerned, that would not stand in the way of the relief granted by us now, as it is not the NCLT that has considered or granted the relief of re-connection. The question of re-connection arises as a consequence of compliance by the petitioner of the directions under the Resolution Plan. Hence, reliance on the aforesaid judgment does not advance the case of the respondent.

34. In light of the discussion as above, the petitioner succeeds and this writ petition is allowed. Mandamus is issued to the respondent to effect reconnection within a month from the date of completion of all formalities and technical specifications being met by the petitioner, as indicated under Clause 19 of the counter, only to the extent indicated in this order. No costs.

[A.S.M., J]   [M.S.K., J]
06.06.2025

ssm
Index:Yes
Neutral Citation:Yes

To

The Superintending Engineer – I,
Electricity Department,
Government of Puducherry,
Puducherry – 605 009.

DR. ANITA SUMANTH, J.
and
MUMMINENI SUDHEER KUMAR, J.

ssm

W.P.No.32663 of 2024

06.06.2025