

[2023 LiveLaw \(SC\) 788](#)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
SANJIV KHANNA; J., S.V.N. BHATTI; J.
CIVIL APPEAL NO. 5556/2023; September 11, 2023

TATA POWER WESTERN ODISHA DISTRIBUTION LIMITED (TPWODL) & ANR.
versus
JAGANNATH SPONGE PRIVATE LIMITED DIRECTOR

Insolvency and Bankruptcy Code, 2016 - Once the Resolution Plan stands approved by the National Company Law Tribunal (NCLT), the Electricity Department cannot demand payment of arrears, which were payable by the Corporate Debtor, from the Successful Resolution Applicant for restoration/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.

For Appellant(s) Mr. Shyam Divan, Sr. Adv. Mr. Hasan Murtaza, AOR

ORDER

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”**¹ and the order of this Court in **“Southern Power Distribution Company of Andhra Pradesh Limited vs. Gavi Siddeswara Steels (India) Pvt. Ltd. and Another.”**² 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”**³, 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

¹ 2023 SCC Online SC 842

² Order dated 06th September, 2023 in Civil Appeal No.5716-5717/2023

³ (2020) 13 SCC 308

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.

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