

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH
MA 275 in CP 292/I&BP/2016
Under Section 14(2) of IBC, 2016**

In the matter of

Edelweiss Asset Reconstruction Company Ltd Petitioner

vs.

Bharati Defence & Infrastructure Ltd Respondent.

Order delivered on 27.7.2017

Coram: Hon'ble B.S.V. Prakash Kumar, Member (J)
Hon'ble V. Nallasenapathy, Member (T)

For the Petitioner: None Present

For the Respondent: Mr. Malhar Zatakia, Mr. Tanvi Dattani, i/b AZB Partners, through IRP

Per B. S. V. Prakash Kumar, Member (Judicial)

ORDER

1. On the application moved by the Insolvency Resolution Professional seeking for a direction to Maharashtra State Electricity Distribution Company Ltd to restore electricity supply to Dabhol Shipyard on the ground that the Respondent herein should not disconnect electricity supply in pursuance of Section 14(2) of the Insolvency and Bankruptcy Code, 2016, when it has been put to the Counsel appearing on behalf of the IRP as to when the electricity supply has been disconnected to Dabhol Shipyard, it has already been informed to us that the service has been disconnected on 17.4.2017 whereas admission order has been passed on 6.6.2017.

2. Since this applicant has sought relief as if power supply has been disconnected to this Company Dabhol Shipyard subsequent to passing admission order ignoring the fact that by the time this order has been passed, power supply

has already been disconnected long before passing this admission order. On perusal of the records, it appears that the Company has to pay arrears of ₹23,88,910 as on May, 2017.

3. To apply Section 14(2) of the Code, two essential conditions are to be fulfilled, one – supply of services must be essential to the extent these services are not a direct input to the output produced or supplied by the Corporate Debtor, two- the mandate u/S 14(2) will come into operation only in respect of the services not terminated before declaration of moratorium u/S 14 of the Code.

4. It is an admitted fact that power supply has already been disconnected even before declaration of moratorium, therefore, this application is dismissed as misconceived.

Sd/-
V. NALLASENAPATHY
Member(Technical)

Sd/-
B. S. V. PRAKASH KUMAR
Member (Judicial)