



IN THE NATIONAL COMPANY LAW TRIBUNAL

DIVISION BENCH, COURT NO. I

KOLKATA

I.A (IB) NO. 359/KB/2022

IN

C.P (IB) NO. 23/KB/2019

***An Application under Regulation 10(1)(c) of the Insolvency and
Bankruptcy Board of India (Liquidation Process) Regulations, 2016***

IN THE MATTER OF:

Asset Reconstruction Company (India) Ltd.

... Financial Creditor

Versus

Corporate Power Ltd.

... Corporate Debtor

IN THE MATTER OF:

Pankaj Dhanuka, Liquidator of Corporate Power Limited

... Applicant

Versus

**Divisional Head Quarters Office, Electrical (TR-D) Department, South
Eastern Railway, Ranchi**

...Respondent

Date of Pronouncement of order: 14th January, 2026



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Coram:

**Smt. Bidisha Banerjee, Member (Judicial)
Cmde Siddharth Mishra, Member (Technical)**

Appearance:

Ms. Manju Bhuteria, Sr. Adv.	]	For Liquidator of CPL
Mr. Abhishek Swaroop, Adv.		
Mr. Anupm Prakash, Adv.		
Ms. Kirti Talreja, Adv.		

ORDER

Per: Cmde Siddharth Mishra, Member (Technical)

1. The Court congregated through a hybrid mode.
2. The Ld. Counsels of both the parties were heard.
3. The instant application is filed by **Pankaj Dhanuka**, Liquidator of Corporate Power Limited, hereinafter referred to as the '**Applicant**' under Regulation 10(1)(c) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, for brevity, Liquidation Regulation to seek the following reliefs:

i. Approve the disclaimer of the Subject Property, as being an onerous property of the Corporate Debtor under Regulation 10 (1) (c) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016; and



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ii. Pass any such other and further order (s) as this Hon'ble Tribunal deems fit and proper in light of the facts and circumstances of this case and in the interest of justice.

4. Facts in a nutshell

4.1 The present application is being filed by the Liquidator of Corporate Power Limited, under Regulation 10 (1) (c) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 seeking disclaimer of certain onerous property of the Corporate Debtor.

4.2 The onerous property sought to be disclaimed are certain transmission lines constructed for evacuation of power from the Corporate Debtor's power plant constructed in the state of Jharkhand. However, the said power plant being never commissioned into operations, the transmission lines remained unutilized.

4.3 Owing to its unused nature and the hindrance caused by it to the existing railway infrastructure, the said transmission lines were sought to be dismantled by the Respondent i.e., Divisional Head Quarters Office Electrical (TR-D) Department, South Eastern Railway, Ranchi.

4.4 After having dismantled the lines, the Respondent sought to inform the Applicant herein regarding the liability to pay the cost incurred towards



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dismantling the asset and requesting the Applicant to take possession of the dismantled lines from the premises of the Respondent

4.5 However, the value realizable from the sale of such assets in the market being very low compared to the overall cost required to be incurred towards taking possession of the same, the Liquidator has sought to disclaim the said property as being onerous under Regulation 10 (1) (c).

5. Submissions of the Ld. Counsel on behalf of the Applicant

5.1 It is submitted that the Application has been filed seeking disclaimer of certain onerous property of the Corporate Debtor, being three (3) 400KV EHT transmission lines ("Subject Property") which were put up by one of the entities of the Abhijeet Group, for evacuation of power from the Corporate Debtor's power plant situated in the state of Jharkhand. However, since the power plant was not commissioned for operations, the Subject Property was never put to use and remained unutilised.

5.2 Owing to its non-usage and the alleged hindrance caused by the Subject Property to the existing railway infrastructure [Refer para 5 along with table, pg. 8, Application], the same was sought to be dismantled by the Divisional Head Quarters Office Electrical (TR-D) Department, South-Eastern Railway, Ranchi ("Respondent").

5.3 That pursuant to such dismantling, the Respondent sought payment of INR 46,23,256/- as cost incurred towards dismantling of the Subject Property, and also certain unspecified rent charges towards storage thereof, from the



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Liquidator, as a pre-requisite for lifting and taking possession of the Subject Property.

5.4 Considering the said demand of the Respondent for payment of the cost stated hereinabove, physical site inspection of the Subject Property was carried out by the Liquidator's representatives to evaluate the cost associated with taking possession of the said property and its saleable value in the market. This also involved evaluation of: (a) transportation and labor costs; (b) maintenance costs; (c) rental charges; and (d) the selling cost [Refer para 12-13, pg. 10, Application].

5.5 That upon evaluation of the above, the value realizable from sale of the Subject Property in the market was estimated to be only around INR 15-17 lakhs (the Subject Property having been cut into small pieces by the Respondent while dismantling), which was very low as compared to the overall cost required to be incurred towards taking possession of the same. Hence, undertaking any activity for the sale of the Subject Property including acquiring physical possession of these assets and transporting the same from the Railway Premises to the premises of the Corporate Debtor would lead to enormous costs causing an outflow of cash with no corresponding benefit arising therefrom.

5.6 It is submitted that consequently, and in the interest of maximizing the value of assets for the stakeholders of the Corporate Debtor, the Liquidator has sought to disclaim the said Subject Property as being onerous under Regulation 10(1)(c) of the Liquidation Regulations. The Liquidator has duly served a notice of disclaimer upon the parties interested in the onerous Subject



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Property, i.e, the Respondent herein, on 04.04.2022 by way of e-mail, in accordance with Regulation 10 (3) of the Liquidation Regulations [Refer para 14, pg. 23, along with Annexure A-5, pg. 28-30, Application].

5.7 The Respondent filed its affidavit in reply ("Reply") dated 23.06.2022 to the Application. It is pertinent to note that by way of the same, no objections to the Application, as also to the Liquidator's decision to disclaim the Subject Property, have been raised by the Respondent [Refer para 7, Reply].

5.8 It is submitted that the essential principle behind disclaimer of 'onerous' property is that it is intended to help a company in liquidation get rid of the burdensome nature of the property, which is unproductive and is not necessary for the beneficial liquidation of the Company. [Reference is made to para 15, pg. 11, Application].

5.9 Further it is submitted that the term 'onerous', means something having or involving burdens or obligations that outweigh its advantages. The New International Webster's Comprehensive Dictionary of the English Language, 2004 Edition, defines the term 'onerous' to mean "1. Burdensome or oppressive. 2. Legally liable for an obligation or subject to a burden". Further, the Black's Law Dictionary 4th Edition, 1968 defines "onerous" to mean "A contract, lease, share or other right is said to be "onerous" when the obligation attaching to it counter-balance or exceed the advantage to be derived from it, either absolutely or with reference to the particular possessor".



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5.10 Seen in light of the above definitions of the term 'onerous', the following facts would establish that the Subject Property is indeed 'onerous' and is liable to be disclaimed in terms of Regulation 10(1)(c) of the Liquidation Regulations.

5.11 The relevant provisions of Regulation 10 of the Liquidation Regulations state as follows:

"10. Disclaimer of onerous property.

(1) Where any part of the property of a corporate debtor consists of-

(a) land of any tenure, burdened with onerous covenants;

(b) shares or stocks in companies;

(c) any other property which is not saleable or is not readily saleable by reason of the possessor thereof being bound either to the performance of any onerous act or to the payment of any sum of money; or

(d) unprofitable contracts;

the liquidator may, notwithstanding that he has endeavored to sell or has taken possession of the property or exercised any act of ownership in relation thereto or done anything in pursuance of the contract, make an application to the Adjudicating Authority within six months from the



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liquidation commencement date, or such extended period as may be allowed by the Adjudicating Authority, to disclaim the property or contract.

...xxx.....

(5) A person affected by the disclaimer under this Regulation shall be deemed to be a creditor of the corporate debtor for the amount of the compensation or damages payable in respect of such effect, and may accordingly be payable as a debt in liquidation under section 53(13)

5.12 That after having dismantled the Subject Property, the Respondent sought payment of costs towards dismantling and storage thereof, from the Liquidator, as a pre-requisite for lifting and taking possession of the Subject Property. Considering the said demand, physical site inspection of the Subject Property was carried out by the Liquidator's representatives to evaluate the cost associated with taking possession of the said property and its saleable value in the market. This also involved evaluation of (a) transportation and labor costs; (b) maintenance costs; (c) rental charges; and (d) the selling cost [Refer para 12-13, pg. 10, Application].

5.13 Upon evaluation of the above, the value realizable from sale of the Subject Property in the market was estimated to be only around INR 15-17 lakhs (the Subject Property having been cut into small pieces by the Respondent while dismantling), which was very low as compared to the overall cost required to be incurred towards taking possession of the same. Hence, undertaking any activity for the sale of the Subject Property including acquiring physical possession of these assets and transporting the same from the Railway Premises to the premises of the Corporate Debtor would lead to enormous costs causing an outflow of cash with no corresponding benefit



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arising therefrom. In view of the same, the Liquidator has sought to disclaim the said Subject Property, the saleable value of which is much lower than the overall expenditure involved in undertaking its possession and sale, under Regulation 10(1)(c) of the Liquidation Regulations.

5.14 It is submitted that Regulation 10(1)(c) are pari materia to Section 535 of the Companies Act 1956, as well as Section 333 of the Companies Act 1956. To understand the object and purpose of the erstwhile Section 535, the judgment of the Hon'ble Supreme Court in **United Bank of India v. Official Liquidator and Others**, reported in (1994) 1 SCC 575 [see para 101, as also that of the Hon'ble Calcutta High Court in **Hongkong and Shanghai Banking Corporation Ltd v. Official Liquidator**, reported in 2007 SCC Online Cal 599 [see para 17], may be referred to. In view of the Courts, the said section is intended to aid a company to get rid of such 'assets', which have, in fact, become burdensome liabilities, and are not necessary for the beneficial winding up of the Company.

5.15 It is submitted that several other precedents including the judgment of the Madras High Court in Raka Corporation Private Ltd. (In Liquidation) Official Liquidator v. Raka Chemicals & Food Products Ltd., 1967 SCC OnLine Mad 201 [para 13]; that of the Calcutta High Court in SST Media Private Limited (In Liquidation) v. The Official Liquidator, 2013 SCC OnLine Cal 9023; along with those passed by various benches of the National Company Law Tribunals in Axis Bank Ltd. v. Lanco Kondapalli Power Ltd., 2023 SCC OnLine NCLT 27358 [paras 41, 43, 46, 52] and Narayan Gajanan Vidvans v. Special Prints Limited (In Liquidation), 2020 SCC OnLine NCLT 636 [paras 5-9], as well as in V. Vijay Kumar Iyer v. Bhoir Dredging Co. (P) Ltd., 2024 SCC OnLine NCLT 1019 [paras 28, 31-32] may also be relied upon.



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5.16 That in the instant case, owing to the non-operational nature of the power plant, the Subject Property is not useful in any manner. Moreover, even in the event of the sale of the Subject Property immediately, the Liquidator does not anticipate the said asset to become useful during or even during the liquidation process of the Corporate Debtor. In view thereof, there exists no justification to add to the expense of the Corporate Debtor, with no source of revenue, and burden it with additional non-income producing and onerous liabilities, like the Subject Property [Refer para 22, pg. 13-14, Application).

5.17 Moreover, as stated hereinabove, the Respondent, by way of its Reply, has not raised any objections to the disclaimer of the Subject Property sought by the Liquidator. In fact, the Respondent has, itself indicated, inter alia, by way of its letters dated 19.10.2021 and 21.12.2021 [Refer Annexure A-1 (Colly), pg. 20, Application and Annexure A-2, pg. 22. Application), that it shall auction the Subject Property in the event the Liquidator fails to pay the costs demanded.

5.18 Pertinently, the Hon'ble Bench, during the hearing held on 18.11.2024 in the Application, enquired if the Liquidator had any objections if the Subject Property was dealt with by the Respondent. The Liquidator had categorically indicated even on the said date that he has no objections in this regard.

5.20 Further, in accordance with the provisions of Regulation 10(1) of the Liquidation Regulations. an application seeking disclaimer of onerous property is to be filed within a period of six (6) months from the liquidation commencement date, or such extended period as may be allowed by this Hon'ble Tribunal. In the instant case, the liquidation process of the Corporate Debtor commenced on 08.10.2021. Since the present Application has been filed on 11.04.2022, there is an inadvertent delay of three (3) days as per the



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applicable limitation period prescribed under Regulation 10(1) of the Liquidation Regulations.

5.21 However, the relaxation provided by the Hon'ble Supreme Court for the purposes of calculation of limitation by its order dated 10.01.2022 passed in *Suo Motu Writ Petition (C) No. 03 of 2020*, applies to the present case and therefore, the period between 15.03.2020 till 28.02.2022 (as stipulated by the Hon'ble Supreme Court) and an additional period of ninety (90) days on and from 01.03.2022 would be available for purposes of calculating limitation under Regulation 10 of the Liquidation Regulations. Thus, the limitation period for the purposes of disclaimer stands extended, at least till 30.05.2022. In view thereof, the Application is not barred by limitation. Reference is made to III, pg. 14, Application along with order dated 14.02.2024 passed by NCLT, Mumbai Bench in *V. Vijay Kumar Iyer v. Bhoir Dredging Co. (P) Ltd.*, 2024 SCC OnLine NCLT 1019 [see para 32].

6. We have heard the Ld. Counsels and perused the documents on record.

ANALYSIS AND FINDINGS

7. We find that Regulation 10 empowers a liquidator to disclaim properties which are burdensome, unproductive, or commercially inexpedient to retain, even though such properties may technically form part of the assets of the Corporate Debtor. The underlying principle is that liquidation proceedings are not intended to preserve assets at all costs, but to maximise value for stakeholders by eliminating liabilities disguised as assets. Regulation 10(1)(c), in particular, covers “any other property which is not saleable or is not readily



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saleable by reason of the possessor thereof being bound either to the performance of any onerous act or to the payment of any sum of money.” Thus, two essential elements emerge:

- i. the property must be not saleable or not readily saleable; and
- ii. such lack of saleability must arise from onerous obligations or monetary liabilities attached to the property.

8. Further Regulation 10 of the Liquidation Regulations is *pari materia* with Section 535 of the Companies Act, 1956 and Section 333 of the Companies Act, 2013. Therefore, judicial precedents interpreting the said provisions continue to hold persuasive value under the IBC framework.

9. The Hon’ble Supreme Court in ***United Bank of India v. Official Liquidator***, reported in **(1994) 1 SCC 575**, while interpreting Section 535 of the Companies Act, 1956, observed that the power of disclaimer exists to enable the liquidator to “get rid of properties which have ceased to be assets and have become liabilities”, and which are not necessary for the beneficial winding up of the company.

10. We would also rely on the decision of the Hon’ble Calcutta High Court in ***Hongkong and Shanghai Banking Corporation Ltd. v. Official Liquidator***, reported in **2007 SCC OnLine Cal 599**, which held that the test is not whether the property has some theoretical value, but whether retention of the property would impose a continuing burden on the liquidation estate.

11. These principles have been consistently followed even after the enactment of the IBC, as evident from decisions of the NCLT in *Narayan Gajanan Vidvans*



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v. Special Prints Ltd. (In Liquidation), 2020 SCC OnLine NCLT 636, and Axis Bank Ltd. v. Lanco Kondapalli Power Ltd., 2023 SCC OnLine NCLT 27358.

12. The term “onerous” has not been defined in the IBC or the Liquidation Regulations. However, courts have consistently applied its ordinary legal meaning. Black’s Law Dictionary defines “*onerous*” as a right or property where the obligations attached counterbalance or exceed the advantages to be derived therefrom. This definition has been judicially recognised in ***Raka Corporation Pvt. Ltd. (In Liquidation) v. Raka Chemicals & Food Products Ltd.***, 1967 SCC OnLine Mad 201.

13. Therefore, the settled test is whether the cost of retaining, maintaining, or realizing the property, and the liabilities or obligations attached thereto, outweigh the commercial benefit or realizable value. It is also settled that actual market conditions, costs of realization, and practical difficulties must be considered, and not merely notional or book value of the asset.

14. We find that in the present case the subject property consists of three 400 KV EHT transmission lines constructed solely for evacuation of power from the Corporate Debtor’s power plant. It is an admitted position that the power plant was never commissioned, and consequently, the Subject Property was never put to any commercial use. Thus, the Subject Property has no operational or functional utility for the Corporate Debtor during liquidation.

15. Further, the Subject Property has already been dismantled by the Respondent on the ground that it was obstructing railway infrastructure. The dismantling has resulted in the transmission lines being cut into small pieces, thereby significantly diminishing their marketability.



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16. The Respondent has raised a demand of Rs.46,23,256/- towards dismantling charges, in addition to unspecified rental and storage charges, as a condition precedent for handing over possession of the dismantled material.

17. The Liquidator has placed on record that a physical inspection and cost-benefit analysis was undertaken. Upon such evaluation, the Liquidator has reasonably estimated that the maximum realizable value of the Subject Property would be only Rs.15–17 lakhs, which is substantially lower than the costs required to be incurred merely to take possession and attempt sale.

18. This Tribunal finds that requiring the Liquidator to incur expenditure exceeding the realizable value of the asset would be contrary to the principle of value maximisation enshrined under the IBC. It is well settled that the Liquidator is vested with commercial discretion in matters relating to asset management during liquidation, subject to judicial oversight to prevent arbitrariness or mala fides.

19. Regulation 10(1) requires an application for disclaimer to be filed within six months from the liquidation commencement date, subject to extension by the Adjudicating Authority. The liquidation commenced on 08.10.2021, and the present Application was filed on 11.04.2022, resulting in a marginal delay of three days. However, the Hon'ble Supreme Court, in Suo Motu Writ Petition (C) No. 3 of 2020, extended the period of limitation from 15.03.2020 to 28.02.2022, with a further grace period of ninety days from 01.03.2022.

20. In view of the aforesaid binding directions, this Tribunal holds that the present Application is well within limitation and no prejudice has been caused to any stakeholder.



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21. The Respondent has neither opposed the disclaimer nor asserted any superior right over the Subject Property. On the contrary, the Respondent has indicated its intention to independently auction the dismantled material. Therefore, no inequity or injustice is caused to the Respondent by permitting the disclaimer.

22. In light of the above analysis, this Tribunal is of the considered view that the Subject Property is onerous within the meaning of Regulation 10(1)(c). Retention of the Subject Property would impose an unjustifiable financial burden on the liquidation estate.

23. Accordingly, **I.A (IB) NO. 359/KB/2022** stands **allowed** and **disposed of**.

24. Certified copy of this order be supplied to upon compliance with all requisite formalities.

**Cmde Siddharth Mishra
Member (Technical)**

**Bidisha Banerjee
Member (Judicial)**

This Order is signed on this, the 14th Day of January, 2026

Oindrila, K. (LRA)