IN THE NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH -I

IA IBC 567/2026

Under Section 60(5) of Insolvency and Bankruptcy Code, 2016 read with Rule 11of The National Company Law Tribunal, Rules 2016

Rajasthan State Industrial Development & Investment Corporation Limited,

… Applicant

Versus

Shrivallabh Pittie Industries Ltd. & Ors.

... Respondents

In the matter of

CP (IB) No. 440/MB/2023

State Bank of India

... Financial Creditor

Versus

Shrivallabh Pittie Industries Limited

… Corporate Debtor

Order pronounced on : 05.05.2026

Coram:

Sh. Prabhat Kumar — Hon'ble Member (Technical)

Sh. Sushil Mahadeorao Kochey — Hon'ble Member (Judicial)

Appearances:

For the Applicant : Mr. Shrey Shah

For the Respondent : Mr. Agam Maloo

ORDER

Per: Coram

1. This Interlocutory Application has been filed under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 ("the Code") read with Rule 11 of the National Company Law Tribunal Rules, 2016, by the Applicant, namely Rajasthan State Industrial Development & Investment Corporation Limited, having its registered office at Udyog Bhavan, Tilak Marg, Jaipur – 302005, against Shrivallabh Pittie Industries Limited (in liquidation), having its address at 97, Maker Tower-F, Cuffe Parade, Mumbai – 400005 (Respondent No. 1/Corporate Debtor), and Mr. Mukesh Verma, Liquidator/Resolution Professional, having his address at B-1506, Sunteck City, Avenue 2, Goregaon West, Mumbai – 400104 (Respondent No. 2).

2. By way of the present Application, the Applicant seeks directions against Respondent No. 2 to pay the amounts allegedly due towards service charges, water charges, and interest thereon for services rendered and water supplied to Respondent No. 1 from the insolvency commencement date, i.e., 07.03.2024 till 31.05.2025, and to treat the same as CIRP costs. The Applicant has also sought a direction to make provision for future monthly payments and to clear all outstanding dues arising after commencement of CIRP.

3. The Applicant is a company owned and controlled by the Government of Rajasthan and is engaged in the development of industrial areas in various parts of the State for promotion of

industries and entrepreneurship. Its functions include land acquisition, development of infrastructure such as roads, electricity, and water supply, and provision of financial assistance to industrial units.

4. Respondent No. 1 is a company incorporated under the Companies Act, 1956 and was engaged in the textile industry.

5. Vide order dated 07.03.2024 passed by this Tribunal in a petition filed by State Bank of India under Section 7 of the Code, Corporate Insolvency Resolution Process ("CIRP") was initiated against Respondent No. 1. Respondent No. 2, Mr. Mukesh Verma, came to be appointed as the Interim Resolution Professional/Resolution Professional.

Submissions of Applicant

6. Learned Counsel for the Applicant submitted that Plot No. SP-4 was allotted to the Corporate Debtor for establishment of a cotton yarn manufacturing unit vide allotment letter dated 26.03.2015. A lease deed dated 20.04.2015 was thereafter executed and registered on 26.06.2015.

7. It is further submitted that, owing to its industrial requirements, the Corporate Debtor entered into a Water Supply Agreement with the Applicant on 18.04.2016 for supply of water on agreed terms and conditions, including payment obligations.

8. According to the Applicant, the Corporate Debtor paid service charges up to March 2021 and water charges up to April 2021. Under Clause 2(b) of the lease deed, the Corporate Debtor was liable to bear and pay all service charges for maintenance and upkeep of the industrial area. Under Clauses 5.2 and 5.3 of the

Water Supply Agreement, the Corporate Debtor had agreed to pay for the minimum guaranteed quantity of water irrespective of actual consumption.

9. The Applicant states that it lodged its claim for outstanding dues towards service charges, water charges, and interest thereon up to 28.06.2024 amounting to Rs. 3,64,06,016/-. However, Respondent No. 2 admitted only Rs. 3,11,62,680/-, being dues up to the insolvency commencement date.

10. It is submitted by the applicant that even though the Corporate Debtor was not carrying on business operations, water supply continued to be utilized for upkeep and sanitation of the premises. The Applicant contends that post-commencement dues towards water charges and service charges ought to be treated as CIRP costs under Section 5(13) of the Code read with applicable Regulations.

11. It is further contended by the applicant that maintenance services such as security, sanitation, lighting of common areas, and water supply were necessary to preserve and protect the assets of the Corporate Debtor and to prevent deterioration. Hence, such expenses are directly connected with maintaining the Corporate Debtor as a going concern within the meaning of Section 20 of the Code, accordingly, their claims for such charges after commencement of CIRP ought to be considered as CIRP costs as well.

12. In view of the above, the Applicant prayed the following reliefs from this tribunal:

a) Direct Respondent No.2 to treat the service charges and water charges incurred and billed from 07.03.2024 (date of

admission of the CIRP) to 31.05.2025, amounting to Rs.2,29,27,065/- other such charges which may accrue in future as insolvency resolution process costs under section 5(13) read with section 20 of the Insolvency and Bankruptcy Code,2016;

b) *Direct the Respondent No.2 to consider and verify any further service and utility charges incurred after 31.05.2025, as and when raised, for inclusion as CIRP costs, to be paid in priority under Section 53(1)(a) of the Code*

c) *Direct Respondent No.2, that the payments to made and to be made towards service charges and water charges, during the moratorium period to be classified as priority expenses under the CIRP cost;*

d) *Direct Respondent No.2, pending the hearing and final disposal of the present Interim Application, to make payments of service charges and water charges for the moratorium period in accordance with the bills raised by the Applicant*

Submission of the Respondent:

13. Learned Counsel appearing for Respondent No. 2 submitted that the claim is misconceived, as the amounts sought to be admitted do not satisfy the definition of CIRP costs under Section 5(13) of the Code. It is further submitted that the Corporate Debtor was not operational during the relevant period and, therefore, water supply cannot automatically be regarded as necessary for preserving the Corporate Debtor as a going concern.

14. It is further submitted that the Water Supply Agreement itself contemplated discontinuation of services in certain circumstances, including insolvency. Despite repeated requests by the Resolution Professional, the Applicant failed to disconnect the water supply and continued the same at its own volition.

15. According to Respondent No. 2, once the IRP/RP communicates that a particular service is no longer required, the service provider cannot unilaterally continue such supply and thereafter seek classification of the resultant charges as CIRP costs.

16. It is also contended that the Applicant has failed to place any cogent material on record demonstrating actual usage of water for CIRP-related purposes. The claim of usage for upkeep and sanitation is stated to be unsupported by sufficient evidence.

17. Learned Counsel further submitted that under Sections 20 and 25 of the Code, the determination of necessity of goods or services lies within the domain of the IRP/RP. A third-party vendor cannot impose its own assessment and thereafter seek priority payment.

18. It is lastly submitted that the Resolution Professional has acted strictly in accordance with law and admitted only such claim as was duly verifiable from the records.

Findings:

19. The Applicant is seeking directions from this Tribunal to direct the Respondents to admit its dues towards water charges and service charges accrued from 07.03.2024, being the date of admission of Respondent No. 1/Corporate Debtor into Corporate Insolvency Resolution Process, till 31.05.2025, and consider such admitted

dues as CIRP costs. The Applicant has further prayed that Respondent No. 2/IRP be directed to make provision for payment of future monthly charges and to clear all outstanding amounts arising after the commencement of the Corporate Insolvency Resolution Process as and when the same are raised

20. It is pertinent to note that the claim pertaining to water charges and service charges up to 06.03.2024 has already been admitted by the Resolution Professional and the same is not in dispute.

21. It is noted that the Corporate Debtor and the Applicant had executed a Water Supply Agreement dated 18.04.2016 as its manufacturing unit requires continuous water supply in the production process and the clause 3.1 of said agreement stipulates the validity of said agreement to be 30 years which is further extendable in terms of clause 3.2 thereof. The relevant terms whereof are reproduced as follows:

> *2.1 WATER SALE AND PURCHASE:*
> *Corporation agrees to supply and tender for delivery at the Delivery Point, and Consumer agrees to purchase, receive and take delivery at the Delivery Point and pay for, Water in the quantities, as per the process at the prices determined in accordance with, and subject to the terms and conditions of this agreement.*
>
> *5.1 Supply of water shall always be Subjected to the availability of Water to the Corporation from the Kalisindh Dam, Jhalawar and the Corporation's ability to supply the same to the consume.*

5.2 The Corporation agrees to supply and deliver the Water to the Consumer, solely for its own use and the Consumer agrees to draw and receive Water. The quantity shall, for all purposes under this Agreement, be the Nominated Quantity which shall be 3.50. lac litre per day (Out of Total water demand of 8.75 lac Ltr. per day).

5.3 The Consumer unconditionally commits to purchase the Minimum Guaranteed Quantity of Water monthly which shall be equivalent to the monthly quantity obtained by multiplying 80% of the Nominated Quantity as stated in Clause 5.1 above. Upon the Consumer failing to lift the aforesaid Minimum Guaranteed Quantity of Water during any month, the Consumer undertakes to pay for the said Minimum Guaranteed Quantity for such billing month. Provided that in case Corporation is unable to supply equivalent of 80% of the Nominated Quantity of Water on any of the month, the Minimum Guaranteed Quantity for that month shall be worked out on the basis of actual quantity of Water supplied on that particular month. The Consumer undertakes to pay for such Minimum Guaranteed Quantity or for actual quantity of Water supplied during the month, whichever is lower.

22. Moreover, the said Agreement also provides the manner in which the said agreement may be terminated by the parties. Clause 10 of the aforesaid Agreement reads as follows:

10.TERMINATION

10.1 Corporation is entitled to terminate this agreement forthwith on the grounds as specified in clauses hereunder if;

(i) Consumer fails to comply with any of its obligations and/or commits any breach of the covenants on its part to be observed, carried out or fulfilled and such non-compliance or failure or breach remains unremedied for a period of 30 days from the date of intimation in writing; or

ii) Any representation and warranty given by the Consumer in this Agreement is found to be incorrect; or

iii) An order of attachment has been passed by the appropriate Court in respect of Consumer's business for which Water is supplied and the same is not vacated within thirty days from the date of its issuance or; an order appointing a Receiver/Trustee/Custodian has been passed in respect of Consumer's business and the same is not vacated within thirty days from the date of its issuance pursuant to an order of a Court of law or under any judicial process; or

iv) In case there is any material adverse change or any amendment in the applicable statute, rules, regulations, directives or guidelines, which prevent the Consumer from carrying out its business activities; or

v) Any consent, approval, license or permission required for operation of the Consumer's manufacturing unit is suspended, cancelled, withdrawn.

vi) Consumer for any reason whatsoever fails to make any payment due and payable to the Corporation under the Agreement by the due date; or

(vii) Consumer becomes insolvent or is adjudged bankrupt; or

(viii) If Consumer is adjudged bankrupt or enters into an agreement with its creditors or takes advantage of any law for the benefit of debtors; or

(ix)Consumer has passed a resolution to apply to a competent court for liquidation; or

(x) Consumer refuses to co-operate with the Corporation in their routine /emergency maintenance activity or Consumer misbehaves/ obstructs the Corporation or their representatives in carrying out their routine/ emergency maintenance activities or fails to observe the safety instructions given by the Seller, which in Corporations opinion may result in any untoward incident/ accident and Consumer continues the above activities even after due / reasonable notification by the Corporation.

(xi) Damage to the property of Corporation or tempering with the Water metering and regulating station in Consumers premises.

(xii) Upon the written mutual agreement of the parties.

10.2: consumer is entitled to terminate this agreement forthwith on the grounds as specified in clauses hereunder if;

(i) Corporations fails to comply with any of its obligations and/or commits any breach of the covenants on its part to be observed, carried out or fulfilled and such non compliances or failure or breach remains unremedied for a period of 30 days from the date of intimation in writing; or

(ii)An order of attachment has been passed by the appropriate Court in respect of Consumer's business for which Water is supplied and the same is not vacated within thirty days from the date of its issuance or; an order appointing a Receiver/Trustee/Custodian has been passed in respect of Consumer's business and the same is not vacated within thirty days from the date of its issuance pursuant to an order of a Court of law or under any judicial process; or

(iii)In case there is any material adverse change or any amendment in the applicable statute, rules, regulations, directives or guidelines, which prevent the Consumer from carrying out its business activities; or

(iv) Any consent, approval, license or permission required for operation of the Consumer's manufacturing unit is suspended, cancelled, withdrawn.

(v)Upon the written mutual agreement of the parties

23. It is an admitted position of both parties that the Corporate Debtor has not been carrying on any manufacturing activity in its plant installed in the said plot and has remained dormant since sometime in the years 2022–2023. The aforesaid Water Supply Agreement

stipulates that the Corporate Debtor is liable to pay charges for the minimum quantity undertaken under the Agreement, even in the event no industrial activity is being carried on. In such circumstances, the Agreement could be terminated only in accordance with the terms and stipulations contained therein.

24. On perusal of aforesaid clause(s) in relation to termination of agreement, it is clear that the consumer may terminate the said agreement only in terms of Clause 10.2(iii) or (v) of the Agreement. Clause 10.2(iii) provides that the consumer, i.e., the Corporate Debtor, may terminate the Agreement in the event of any material adverse change or any amendment in the applicable statute, rules, regulations, directives, or guidelines which prevents the consumer from carrying on its business activities, however, the commencement of CIRP can not said to be an event of any material adverse change as the IBC itself contemplates resolution of corporate debtor as going concern and obligates the Resolution Professional to keep it as a going concern. It is not the case of the Resolution Professional that the corporate debtor was not required to be kept as going concern, instead, Resolution Professional has only contended that, in view of closure of manufacturing activities, he had asked the applicant to disconnect the water supply arrangement.

25. It is the case of the Applicant that the said agreement could not be terminated by the Resolution Professional as none of the circumstances stipulated in clause 10.2 exists, and the applicant has not cancelled the said agreement, accordingly, the corporate debtor is obligated to pay it the minimum water charges in terms of water supply agreement.

26. It is noted that the Resolution Professional had sought following clarifications from the applicant vide email dated 28.7.2024 while

verifying applicant's claim, which were responded by the Applicant vide letter dated 2.8.2024, inter-alia clarifying that the water connections has not been disconnected.

27. Thereafter, the Resolution Professional sought clarifications from the erstwhile management of the corporate debtor, however, their response is not attached by the Resolution Professional in his reply. The Resolution Professional again wrote an email dated 11.8.2024, which was responded by the applicant vide letter dated 29.8.2024 stating that "*as per agreement RIICO is not bound to disconnect the water connection. As this connection was formed with agreement to draw water with minimum quantity hence disconnection process will be followed as per agreement*".

28. It is noted that vide letter dated 11.8.2024, the Resolution Professional had specifically told the applicant that *RIICO should have disconnected the water connection in terms of the water supply agreement as the payments were not forthcoming and the agreement provides for the same,* and had also informed that *We wish to get the water supply disconnected with immediate effect. Please advise the procedure.* However, the applicant, even though entitled to disconnect the water supply under the agreement, asserted that the said agreement can only be terminated in terms of stipulations contained in the agreement and the applicant does not wish to terminate the same.

29. Indubitably, the water supply agreement entitles the applicant to terminate the water supply agreement under various sub-clause(s) of clause 10.1 namely under sub-clause (vi) for failure on part of corporate debtor to pay; (viii) If Consumer is adjudged bankrupt or enters into an agreement with its creditors or takes advantage of any law for the benefit of debtors; and (xii) on mutual agreement. Further, the corporate debtor could terminate the said

agreement only on ground of mutual agreement, as other sub-clause(s) of clause 10.2 are not applicable to the present case. Since, the applicant has chosen not to terminate the said agreement, the question arises whether this tribunal can force the applicant to terminate the said agreement in terms of section 60(5) of IBC. However, this issue is not raised by either parties before us in the matter, accordingly, we consider it appropriate to restrain ourselves to adjudicate this aspect in the present application.

30. Since, the water agreement is in force and the corporate debtor is obligated to pay for minimum water quantity, accordingly, we hold that the monthly water charges are payable to the applicant in terms of the water supply agreement till such agreement is in force, even if the corporate debtor does not draw any water.

31. The Applicant has also sought admission of its claim for water charges to be considered as CIRP Costs. Section 5(13) defines "**insolvency resolution process costs"** to mean —

(a) the amount of any interim finance and the costs incurred in raising such finance;

(b) the fees payable to any person acting as a resolution professional;

(c) any costs incurred by the resolution professional in running the business of the corporate debtor as a going concern;

(d) any costs incurred at the expense of the Government to facilitate the insolvency resolution process; and

(e) any other costs as may be specified by the Board;

32. Regulation 31 of CIRP Regulations defines "Insolvency

resolution process costs" under Section 5(13) (e) to mean-

(a) amounts due to suppliers of essential goods and services under Regulation 32;

(aa) fee payable to authorised representative under sub-regulation (8) of regulation 16A;

(ab) out of pocket expenses of authorised representative for discharge of his functions under section 25A;

(ac) fee payable to facilitator under clause (c) of sub-regulation (1) of regulation 16C.

(b) amounts due to a person whose rights are prejudicially affected on account of the moratorium imposed under section 14(1)(d);

(ba) fee payable to the Board under regulation 31A;

(c) expenses incurred on or by the interim resolution professional to the extent ratified under Regulation 33;

(d) expenses incurred on or by the resolution professional fixed under Regulation 34; and

(e) other costs directly relating to the corporate insolvency resolution process and approved by the committee.

33. The Resolution Professional has not incurred water supply costs payable to the applicant as minimum charges in running the business of the corporate debtor as a going concern, instead, it is case of the resolution professional that he intended to suspend the said arrangement in view of closure of manufacturing facilities

of corporate debtor. Further, these are not the costs directly relating to the corporate insolvency resolution process and these costs have not been approved so by the committee of creditors. On the perusal of the aforesaid definition(s), the dues arising from water supply can only fall under Section 5(13)(e) of IBC read with Regulation 31(a) of CIRP Regulations, if such water supply constitutes an essential supply in terms of Regulation 32 of CIRP Regulations, as amounts claimed by the applicant do not fall under any of the sub-section of section 5(13) of IBC.

34. The essential goods and services referred to in section 14(2) defined under Regulation 32 of CIRP regulations, inter-alia, includes water to the extent these are not a direct input to the output produced or supplied by the corporate debtor. Further, the Illustration given in said regulation exemplifies that "*Water supplied to a corporate debtor will be essential supplies for drinking and sanitation purposes, and not for generation of hydro-electricity*".

35. In the present case, water supply arrangement with the applicant was entered for the manufacturing activity of the corporate debtor as it was required to carry on manufacturing process, and the said water supply is an input for carrying out manufacturing process by the corporate debtor, who was engaged in manufacture of textile yarn, thus such water supply constitutes a direct input to the output produced by the corporate debtor. Hence, in terms of the said regulations as further exemplified by the illustration, the water supply to the corporate debtor under the said water supply agreement does not constitute an essential supply. Thus, the dues arising under water supply agreement are not covered under Regulation 32(a) of CIRP Regulations, thereby, such dues do not fall within the definition of Insolvency Resolution Process costs

as contained under section 5(13) of the IBC. Since, the water supply does not constitute an essential supply, accordingly, there was no bar imposed on the applicant in terms of section 14(2) of IBC more so when the Resolution Professional himself had sought for discontinuance of water supply arrangement with the applicant, hence, the water supply dues of the applicant does not fall under Regulation 32(d).

36. As regards applicant's claim for the service charges, it is noted that Condition No. 2 of the Letter of Allotment dated 26.03.2015 provides as follows:

> *"That the allottee will deposit the service charges for the allotted area in the office at the rates decided by the Corporation from time to time, at the beginning of each financial year in advance by 31st July of that year, as per the rates prescribed by the Corporation from time to time. In case of failure to pay service charges at the prescribed rate within time, the allottee shall pay service charges at the enhanced rate together with interest @ 14% p.a. on the service charges."*

37. Similarly, Clause 2(b) of the Lease Deed dated 20.04.2015 expressly stipulates that Respondent No. 1 shall bear, pay, and discharge all service charges required for the upkeep and maintenance of the industrial area, which may be levied or imposed by the Applicant.

38. It was submitted on behalf of the Applicant that the service charges levied are mandatorily payable to the Applicant, inasmuch as the necessary infrastructure and essential services for the maintenance and upkeep of the industrial area are provided by the Applicant.

39. Since there is clear obligation on the corporate debtor to pay for

service charges on periodical basis, these charges due to the applicant in terms of condition no. 2 of allotment letter are payable for period from commencement of CIRP also.

40. It was further contended that even where the unit may remain non-operational, the Applicant continues to ensure and provide requisite services for the upkeep, maintenance, and overall functioning of the industrial area.

41. On perusal of definition of insolvency resolution process costs contained in section 5(13) of IBC, it is clear that the service charges payable in terms of condition 2 of the allotment letter are neither incurred by the resolution professional to keep the corporate debtor as going concern nor they have been approved by the CoC as corporate insolvency resolution process costs. Simply because, there was an obligation to pay for general maintenance and up-keep of industrial estate, in which the corporate debtor was allotted a plot, it can not be said that the such costs shall become corporate insolvency resolution process costs.

42. As noted hereinabove, the RP/IRP is mandated to ensure the continuation of such goods or services as are critical to protect and preserve the value of the Corporate Debtor and to manage its operations as a going concern. In our considered view, the maintenance and upkeep of the industrial area constitute one such necessary service. The same is not only in the interest of the Corporate Debtor, but also in the larger interest of the industrial estate as a whole. Further, it is in the future interest of the Corporate Debtor that the area in which it is situated remains properly maintained, so that upon successful resolution, the Corporate Debtor may resume and carry on its operations smoothly and efficiently.

43. In view of the foregoing discussion, Respondent No. 2 is directed

to verify, calculate, and make appropriate provision towards the admissible water charges and services for the period from 07.03.2024 till 08.11.2024, in accordance with law. The Applicant shall file claim in the prescribed form in the CIRP process, if not filed so far, and shall have 15 days time from date of communication of this order to do so. However, these charges shall not be regarded as Insolvency Resolution Process costs.

44. IA (IBC) No. 567 of 2026 is partly allowed and stands disposed of in the above terms. No order as to costs.

Sd/-

Prabhat Kumar

Member (Technical)

Sd/-

Sushil Mahadeorao Kochey

Member (Judicial)

Vijay Andhale