



G/WC/MH/06/2996(G37121) for storage of LPG cylinders in the said factory.

4. License was granted by the Respondents on 04th January 2016 which was last renewed on 15th November 2018. The Applicant states that the License was valid till 30th September 2023.
  - 4.1 Corporate Debtor duly filed FORM C for renewal of the License for storing compressed gas in cylinders.
  - 4.2 Respondents after receiving the Application/Form C issued a discrepancy letter dated 3<sup>rd</sup> October 2023 wherein the Respondents asked the Corporate Debtor to submit an undertaking regarding legal and physical possession of land and that no litigation is pending on the subject land.
  - 4.3 In compliance to the abovesaid letter of the Respondents, the Corporate Debtor through its authorized signatory submitted the Letter of Authority and an Undertaking to the Respondents. Accordingly, an updated Form C was filed with the Respondents on 18th October 2023. Respondents after receiving the updated Form C issued a discrepancy letter dated 30th October 2023 wherein the Respondents informed that 'As court case is going against the company hence license cannot be renewed'.
  - 4.4 Respondents had wrongly rejected the renewal of license due to pendency of the captioned Company Petition before this Hon'ble Tribunal. In this regard the Corporate Debtor issued a letter dated 16.11.2023 to Respondent No.2 wherein it was informed to Respondent No.2 that initiation of Insolvency Proceedings against the Corporate Debtor has not resulted in stoppage of the operations of the plant of the Corporate Debtor.
  - 4.5 Corporate Debtor updated the Form C on 16th November 2023 with the Respondents. Respondents again issued a discrepancy letter dated

23<sup>rd</sup> November 2023 wherein it rejected to renew license due to court case going on with respect to the factory site.

- 4.6 Applicant, in response to the above discrepancy letter, issued a letter dated 02<sup>nd</sup> January 2024 to Respondent No. 2 wherein the Applicant reiterated that initiation of CIRP has not resulted in stoppage of the operations of the Corporate Debtor and the manufacturing plant is operational. It was also informed that wrongful rejection of the renewal application on the pretext of pending litigation is on the basis of a misunderstanding as there is no pending litigation in respect of the site of the manufacturing plant.
- 4.7 Despite explaining the Respondents regarding there being no pending litigation on the rights of the site of the manufacturing plant, the Respondents again issued a discrepancy letter dated 23<sup>rd</sup> January 2024 to the Corporate Debtor.
- 4.8 Respondents have wrongfully rejected the renewal application on the pretext of pending litigation which is completely on the basis of misunderstanding that the pending litigation is in respect of the factory or manufacturing plant. Further, it was multiple times informed to the Respondents that CIRP process does not stop the operations of the Corporate Debtor and the operations of the Corporate Debtor and the manufacturing plant is operational and functioning.
- 4.9 Respondents have wrongly stated in the discrepancy letter that the Corporate Debtor has submitted false and fabricated documents. Also, it is incorrect to say that the Corporate Debtor has intentionally not disclosed about the captioned Company Petition in its undertaking.
- 4.10 Respondents are wrongfully stopping the Corporate Debtor from getting the License renewed which is affecting the business of the Corporate Debtor.

5. Heard the learned Counsel for the Applicant and perused the materials available on record.

5.1 Vide letter dated 23.01.2024, the Deputy Controller of Explosives had intimated the following observations in the Application and sought documents in this regard;

1. *Compliance to discrepancy letters dated 3.10.23, 30.10.23, 14.11.23 and 23.11.23 is not satisfactory.*
2. *You are submitting contradictory documents every time. Please note that penal action proceedings as per GCR, 2016 will be initiated without further notice on submission of false and fabricated documents.*
3. *Case against your company for insolvency is going on and you have earlier submitted documents for the same also. Where as in your latest undertaking you are mentioning there is no case.*

5.2 The Id. Counsel for the Applicant argued that the respondent officer has considered the pending proceedings under the Code for resolution of Corporate Debtor as the case pending against it. He also emphasized that the mandate of the Code is to resolve the corporate debtor as a going concern and for that purpose the explosive license is of vital importance to keep the mining operations on going.

5.3 We find merit in the arguments of Id. Counsel in this regard and consider it appropriate to clarify that the nature of proceedings under IBC Code are towards resolution of financial stress of a Corporate Debtor so that it can stand on its own feet. The proceedings under the IBC are not adversarial in nature but are for the benefit and in the interest of the Corporates Debtor to keep it going. We note that the Corporate Debtor has the operational coal mines for the purpose of its

power plant and mining of coal therefrom requires it to have explosives license in force. Accordingly, we direct the Respondent to consider the application filed by the Applicant without taking any objection in relation to the proceedings under the Code pending in case of Corporate Debtor.

5.4 As regards observation at Sr. 1 and 2, we direct the Applicant to complete the documentation to the satisfaction of the Respondent Officer and also explain the discrepancies in the documents, if any. The Suspended Board of Directors are directed to extend full cooperation in resolving the documentation aspect of the application and it may be noted by them that their failure in extending desired cooperation in this regard shall attract punitive action from Tribunal.

5.5 At this juncture, we advise the Respondent Officer not to take hyper technical view of the documents considering that the Resolution Professional in charge of the Corporates Debtor may have limitation as regards availability of some of the documents for explaining the contents thereof. Needless to say, that the Respondent Officer shall expedite the process of the Application and issue necessary license after completion of the documentary formalities in this regard.

6. In view of above, the I.A. 1096/2024 is partly allowed and disposed of.

Sd/-  
**PRABHAT KUMAR**  
**MEMBER (TECHNICAL)**  
/NP/

Sd/-  
**JUSTICE VIRENDRASINGH BISHT**  
**MEMBER (JUDICIAL)**