

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH

COARM:

(IB)-420(ND)/2017

PRESENT: MR. L.N. GUPTA
HON'BLE MEMBER(T)

MS. INA MALHOTRA
HON'BLE MEMBER (J)

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING BEFORE NEW DELHI
BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 16.09.2019**

**NAME OF THE COMPANY: M/s. Regal Metal & Ferro Alloys Vs. M/s.
Sandeep Axles Pvt. Ltd.**

SECTION OF THE COMPANIES ACT: 9 of IBC, 2016

S.NO.	NAME	DESIGNATION	REPRESENTATION	SIGNATURE
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Present for the Petitioner:	Mr. Shivam Mishra & Mr. Arun Saxena, Advocates
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Present for the Respondent:	Ms. Purni M Gupta, Ms. Heena & Ms. Swathi Hariprasad, Advocates Mr. Avinash Mohapatra & Mr. Parth D. Tandon, Advocates for CA-725/19
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ORDER

CA-341/19 has been filed by a applicant M/s. Bhushan Power & Steel Ltd. The grievance of the applicant is that though the outstanding principal amount has been admitted by the liquidator, he has not taken into consideration the interest due thereon as per the terms and conditions on various invoices. It is also pointed out by the ld. Counsel appearing for the applicant that in certain cases, more specifically in the case of Deep Traders, interest in terms of the conditions of supply has been taken into consideration by the liquidator. Ld. Counsel appearing for the liquidator seeks to justify the rejection of the interest claimed by M/s. Bhushan Power & Steel Ltd. on the ground that there was MoU

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executed between the parties on 16.02.2017, whereby the entire liability was settled under a compromise for payment of Rs. 8,46,17,541/-. However, he confirms that in terms of the said MoU, the Corporate Debtor defaulted in adhering to the terms. The payment, which was agreed to be liquidated by 13.09.2017, was done for a small fraction of the amount settled to be paid in a fine bound schedule. As the terms of the MoU were not adhered to, ld. Counsel for the applicant submits said that the settlement stood frustrated and was not binding.

We find merit in the arguments advanced by the ld. Counsel for the applicant. The agreement which has not been acted upon entirely, falls flat and cannot be binding. The liquidator is, therefore, directed to take into consideration the interest as per conditions of supply envisaged in the invoices raised, as considered by him in other cases.

This application stands disposed off.

Mr. Saurabh Kalia, Advocate on behalf of the ex-Directors and prays for some time to file his reply to CA-729/19 which has been filed by the liquidator invoking the provisions of Sections 45, 49 & 66 of the Code. Let reply be filed.

CA-725/19 has been filed praying for amendment of the list of stakeholders.

Ld. Counsel for the liquidator also presses for disposal of the application 725/19.

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Ld. Liquidator has placed on record a report, in respect of the sale of certain assets and its proposed distribution of the proceeds. To come up on 15th October, 2019 for consideration of all CAs.



(L.N. Gupta)
Member (T)



(Ina Malhotra)
Member (J)