

**NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH, CHANDIGARH**

**CA No.257/2018
In
CP (IB) No.97/Chd/Hry/2018**

In the matter of:

Oriental Bank of Commerce

...Petitioner-Financial Creditor

Versus

Isolux Corsan India Engineering &
Construction Pvt. Ltd. & Ors.

...Respondents-Corporate Debtor

Present: Mr. Anil K. Ahuja, Advocate for the petitioner
Mr. Deepak Khurana, Advocate along with Mr. Pankaj Tandon,
Authorised representative for the respondent

At the outset, the learned counsel submits that this is an application filed by Oriental Bank of Commerce and the default referred to in the instant petition against the Corporate Debtor only pertains to the petitioner-bank and respondents No.2 to 4 i.e. Central Bank of India, IDBI Bank Ltd and YES Bank Ltd. that have added in the array of respondents being other financial creditors. It is however admitted that the instant petition is not a case of joint claim on behalf of the petitioner and respondents No.2 to 4. Learned counsel for the petitioner therefore prays for deletion of the name of the respondent Nos. 2 to 4 from the array of respondents. We accept this contention and name of respondents No.2 to 4 be deleted from array of respondents. Registry to do the needful.

Affidavit of service has been filed. The learned counsel for the petitioner submits that the registered envelope with the notice along with copy of the entire petition sent to the respondent-corporate debtor was

undelivered. However, the notice was also sent by e-mail as directed by this Tribunal vide order dated 13.07.2018 at the e-mail address available on the Master Data. The copy of the e-mail which was sent to the respondent is attached as Annexure FC/2 with the affidavit filed vide diary No.3298 dated 14.09.2018.

Mr. Deepak Khurana, Advocate who has filed the power of attorney with the board resolution of the respondent-corporate debtor dated 23.07.2015 vide diary No.3388 dated 10.09.2018 submits that the first resolution passed by the Company gives the authority to Mr. Pankaj Tandon and Mr. Prabhat Kumar Shrivastava, Directors of the Company to jointly or severally to, inter alia, sign, verify, affirm, declare, written statement, plaints etc. and also power to execute Vakalatnama and Mr. Pankaj Tandon aforesaid authorised the learned counsel to appear and represent the Corporate Debtor before this Tribunal. Mr. Deepak Khurana, Advocate has stated on instructions that the respondent-corporate debtor is not to file any reply/objection to the instant petition and it is submitted that the Company has no objection to the admission to the instant petition.

While we were dictating the order, Mr. Vipul Joshi, Advocate present submits that though he has not been authorised by the Company so far but he has recently received message that the persons through whom the power of attorney was executed in favour of Mr. Deepak Khurana, Advocate are no more the Directors of the Company. Mr. Vipul Joshi, Advocate has handed over the Master Data of the Company taken today from the portal of Ministry of Corporate Affairs showing that Mr. Pankaj Tandon and Mr. Prabhat Kumar Shrivastava are no more the Directors of the Company since

June 2017. The power of attorney in favour of Mr. Deepak Khurana, Advocate has been executed by Mr. Pankaj Tandon on the basis of the resolution of the Company dated 23.07.2015. We take strong exception to such kind of representations being made on the basis of the resolution which authorised them as Directors of the Company when they are no more Directors of the Company. Admittedly, both Mr. Pankaj Tandon and Mr. Prabhat Kumar Shrivastava are present in the Court. It is directed that both these directors of the Company shall file a detailed affidavit explaining the circumstances under which they have executed the power of attorney despite not being the Directors of the Company for enabling us to see if the contempt of Court proceedings should be initiated or any other action be initiated in accordance with law.

List the matter on 08.10.2018 on which date both the Ex-Directors of the respondent-corporate debtor are directed to be present in person.

The learned counsel for the petitioner-bank in the meanwhile seeks time to file application for substituted service of the respondent. The needful be done before the date fixed.

Sd/-
(Justice R.P. Nagrath)
Member (Judicial)

Sd/-
(Pradeep R. Sethi)
Member (Technical)

Sept., 11, 2018
Anchal