

IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH, MUMBAI

TCP 19/71/2016

CORAM:

SHRI B. S. V. PRAKASH KUMAR  
MEMBER (J)  
SHRI RAVIKUMAR DURAISAMY  
MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 30.08.2018

NAME OF THE PARTIES: The South Indian Bank Ltd

Vs

Bharati Defense & Infrastructure Ltd

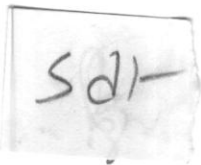
Section 71(10) r.w. 117C(4) of the Companies Act, 2013.

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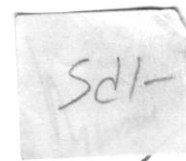
**ORDER**

47. **TCP 19/71(10)/2016**

On the withdrawal memo filed by the Petitioner Counsel, this company Petition is hereby dismissed as withdrawn.



**RAVIKUMAR DURAISAMY**  
Member (Technical)



**B.S.V. PRAKASH KUMAR**  
Member (Judicial)

Encl: Withdrawal Memo

SR.No 47

# BJ LAW OFFICES LLP



IN THE NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH

COMPANY PETITION NO. 19 OF 2016

The South Indian Bank Limited ...Petitioner

V/s

M/s. Bharati Defense and Infrastructure. ...Respondent

To,  
Registrar  
National Company Law Tribunal  
Mumbai Bench

Sir,

We are concerned for our client South Indian Bank Limited, the Petitioner abovenamed.

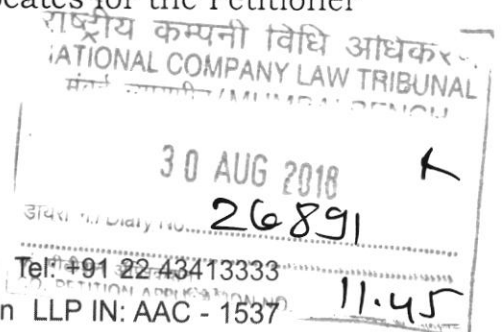
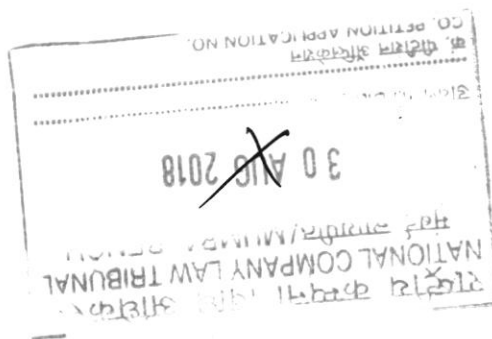
Be pleased to take on record the Memo of Withdrawal of the above Petition circulate and produce the papers and proceedings on Thursday, the 30<sup>th</sup> August 2018 at 10.30 a.m. before the Division Bench comprising of Their Lordships the Hon'ble Member Mr. B. S. V. Prakash Kumar and the Hon'ble Member Shri V. Nallasenapathy presiding in Court Room No. 1 of the National Company Law Tribunal, Mumbai Bench for fixing the next date in the above matter. We undertake to give notice to the other-side.

Dated this 30th day of August, 2018.

Yours faithfully,

**B J Law Offices LLP**

Advocates for the Petitioner



**APPLICATION BY THE SOUTH INDIAN BANK LIMITED (DEBENTURE HOLDER)  
UNDER SECTION 71 (10) OF THE COMPANIES ACT, 2013 READ WITH SECTION  
117 C (4) OF THE COMPANIES ACT, 1956**

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL**

**MUMBAI BENCH**

**COMPANY PETITION NO. 19 OF 2016**

The South Indian Bank Limited ...Petitioner/Applicant

Versus

M/s Bharati Defense and Infrastructure Ltd. ...Respondents

**MEMO OF WITHDRAWAL**

The Petitioner most respectfully states as under:-

- 1) The Petitioner had filed the above Company Petition under Section 71 (10) of the Companies Act at 2013 read with Section 117 (C) (4) of the Companies Act, 1956 seeking redemption of compulsorily convertible debentures (CCDs) bearing Certificate No. 17 dated 19<sup>th</sup> December, 2012 having registered Folio No. D17 issued in the name of the Petitioner for Rs. 6,31,981/- Units having distinctive number 225023102 to 23134290 for a total sum of Rs. 5,00,02,336.72 (Rupees Five Crores Two Thousand Three Hundred and Thirty Six and Seventy Two Paise only) along with the penal interest compounded on a daily wages @ 1% p.a. from the date of default till the date of the redemption by the Respondent Company and for various other reliefs, as more particularly prayed in the Petition.
- 2) During the pendency of the above Company Petition, an Application Under Section 7 of the Insolvency and Bankruptcy Code, 2016 was filed by one of the



Financial Creditor viz., M/s. Edelweiss Asset Reconstruction Company Limited thereby seeking to initiate corporative insolvency Resolution process against Corporate Debtor viz., M/s. Bharati Defense and Infrastructure Ltd., (the Respondent hereinabove) being Petition No. 2CP No. 292/I &BP/NCLT/MAH/2017. The said Petition was admitted by the Hon'ble Tribunal vide its Order dated 6<sup>th</sup> June, 2018 (heard on 25<sup>th</sup> April, 2017). In view of the admission of the Petition, IRP was appointed for inviting claims and initiating insolvency proceedings.

- 3) The Petitioner states that after the appointment of the Resolution Professional, the Petitioner has also filed its claim before the RP (Resolution Professional) and the said claim has also been admitted. The Petitioner states that they have accordingly instructed their Advocates to withdraw the above Petition upon seeking a liberty to file a fresh, if required.
- 4) The Applicant, therefore, is desirous of withdrawing the above Petition and does not intended to proceed in the above matter upon seeking a liberty from this Hon'ble Tribunal to file a fresh and accordingly hereby files this Memo of Withdrawal.

Dated this 30<sup>th</sup> day of August, 2018

**For The South Indian Bank Ltd.**



**Chief Manager  
Treasury Department, Mumbai**

BRANCH MANAGER

SOUTH INDIAN BANK LTD.

THE PETITIONER

BJ LAW OFFICES LLP



ADVOCATES FOR THE PETITIONER



## BJ Law Offices LLP

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Delhi: D-107, Defence Colony, New Delhi 110024 Tel: +91 11 43413333  
Vadodara: 503, Ocean, Sarabhai Compound, Dr. Vikram Sarabhai Marg, Vadodara 390003 Tel: + 91 265 6943333  
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**From:** Sheela Saji [<mailto:sheela@bjlaw.in>]

**Sent:** Tuesday, August 28, 2018 6:44 PM

**To:** [deepug@sib.co.in](mailto:deepug@sib.co.in)

**Cc:** [benny@bjlaw.in](mailto:benny@bjlaw.in); [biju@bjlaw.in](mailto:biju@bjlaw.in); [lad@bjlaw.in](mailto:lad@bjlaw.in)

**Subject:** Company Petition No. 19 of 2016. The South Indian bank Limited vs. M/s. Bharati Defense and Infrastructure Ltd.

Dear Sirs,

Please find herewith the attached letter dated 28.08.2018.

Best Regards,

For **BJ Law Offices LLP**

**Sheela Saji**



## BJ Law Offices LLP

Registered Office: 204, Yusuf Building, M G Road, Fort, Mumbai 400 001 Tel: +91 22 43413333  
Delhi: D-107, Defence Colony, New Delhi 110024 Tel: +91 11 49060999  
Vadodara: 503, Ocean, Sarabhai Compound, Dr. Vikram Sarabhai Marg, Vadodara 390003 Tel: + 91 265 6943333  
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Yours faithfully,

**BAIJU KRISHNAN**  
**ASST. MANAGER (Legal)**

C.C - RO Mumbai

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**From:** TRASURY [mailto:ho2018@sib.co.in]  
**Sent:** Tuesday, August 28, 2018 7:49 PM  
**To:** ho2010@sib.co.in  
**Cc:** ro1001@sib.co.in; deepug@sib.co.in; creditrecovery@sib.co.in; samcell@sib.co.in; ho2018@sib.co.in  
**Subject:** FW: Company Petition No. 19 of 2016. The South Indian bank Limited vs. M/s. Bharati Defense and Infrastructure Ltd.

Sirs,

We forward hereby the mail received from Advocate BJ Law Associates in the matter of Bharthi Shipyard . It is informed by the Law office that the Tribunal has advised to withdraw our application with NCLT, as the claim was already admitted by IRP of Bharthi Shipyard.

We recommend to allow us to file withdrawal application before the Tribunal, with a liberty to file fresh application, if required.

Regards  
Balaji.R, CM Treasury Dept Mumbai

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**From:** Aniruddha Lad [mailto:lad@bjlaw.in]  
**Sent:** 28 August 2018 19:33  
**To:** ho2018@sib.co.in  
**Cc:** 'DEEPU G' <deepug@sib.co.in>  
**Subject:** FW: Company Petition No. 19 of 2016. The South Indian bank Limited vs. M/s. Bharati Defense and Infrastructure Ltd.

Kind attention:- Mr Balaji, Chief Manager Treasury.

Best Regards

**Aniruddha Lad**  
Advocate  
Mob. +91 8097550805



**BENNY JOSEPH**

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**From:** DEEPU G||MANAGER(LEGAL) [deepug@sib.co.in]  
**Sent:** Thursday, August 30, 2018 10:04 AM  
**To:** benny@bjlaw.in  
**Subject:** Fwd: Withdrawal of Petition No: 19/2016, filed under S.71(10) of Companies Act, 2013 read with S. 117 C (4) of Companies Act, 1956, before NCLT, Mumbai. A/c. M/s. Bharati Defense and Infrastructure Ltd.  
**Attachments:** image001.jpg

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**From:** "SIB HO LEGAL DEPT" <ho2010@sib.co.in>  
**To:** "TRASURY" <ho2018@sib.co.in>  
**Cc:** "SIB RO MUMBAI" <ro1001@sib.co.in>, "DEEPU G||MANAGER, LEGAL" <deepug@sib.co.in>  
**Sent:** Wednesday, August 29, 2018 8:34:27 PM  
**Subject:** Withdrawal of Petition No: 19/2016, filed under S.71(10) of Companies Act, 2013 read with S. 117 C (4) of Companies Act, 1956, before NCLT, Mumbai. A/c. M/s. Bharati Defense and Infrastructure Ltd.

REF: HO:LD:DEPT:BK:GEN:1697:18-19

Date: 29.08.2018

**To:** Treasury & International Banking Dept. (2018)

Dear Sirs,

Sub:- Withdrawal of Petition No: 19/2016, filed under S.71(10) of Companies Act, 2013 read with S. 117 C (4) of Companies Act, 1956, before NCLT, Mumbai. A/c. M/s. Bharati Defense and Infrastructure Ltd.

Ref : Email from Treasury & International Banking Dept. dated 28.08.2019

Letter from M/s. BJ Law Offices LLP Ref No: F-1079/719/18 dated 28th August, 2018

In the above matter Treasury & International Banking, Mumbai is advised to,

1. Instruct M/s. BJ Law Offices LLP to file a withdrawal Memo before Hon'ble Tribunal, for withdrawing the Petition No: 19/2016 with a liberty to file fresh application in case of any further requirement, recording inclusion of Bank in the Committee of Creditors in the IBC proceedings.
2. Provide Resolution Plan to M/s. BJ Law Offices LLP to proceed with the matter.
3. Intimate M/s. BJ Law Offices LLP about the status of the claim of the Bank and about the Bank being made a member of the Committee of creditors.



# THE SOUTH INDIAN BANK LIMITED

HEAD OFFICE: TRICHUR

Date 9-4-1997

CERTIFIED COPY OF THE PROCEEDINGS OF THE MEETING OF  
THE BOARD OF DIRECTORS OF THE SOUTH INDIAN BANK LTD  
HELD ON 26-3-97 RESOLUTION No S.266

The Board of Directors of the South Indian Bank Limited, hereby resolve that :—

**BALAJI R., PPC 4074**

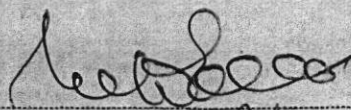
Sri \_\_\_\_\_ be and is hereby  
authorised to do and execute all or any of the following acts and things on behalf of the Bank.

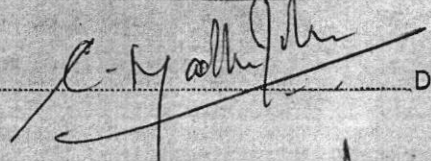
- (1) To receive and pay deposits on terms and conditions to be determined by the Bank from time to time, and to issue and sign receipts, pass books etc. with regard to such deposits and also other monies received and to pay interest on deposits received as per Bank rules.
- (2) To operate upon all banking accounts maintained by this bank with other banks in India.
- (3) To make, draw, sign, endorse, purchase, sell, discount, accept, and negotiate Bills of Exchange Cheques, Drafts, Hundies, Promissory Notes and other negotiable instruments in the name and on behalf of the bank.
- (4) To receive and return articles under safe custody and issue receipts for the same.
- (5) To issue guarantees on behalf of the Bank on terms stipulated from time to time.

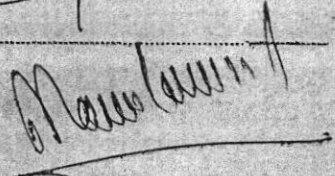
Further resolved that :—

Whomsoever this may concern be and are hereby authorised to honour the signature of the above gentleman on behalf of the South Indian Bank Ltd., in connection with the aforesaid acts.



  
\_\_\_\_\_  
CHAIRMAN

  
\_\_\_\_\_  
DIRECTOR

  
\_\_\_\_\_  
DIRECTOR

BEFORE THE NATIONAL COMPANY LAW

TRIBUNAL

MUMBAI BENCH

COMPANY PETITION NO. 19 OF 2016

The South Indian Bank Limited ...Petitioner  
V/s

M/s Bharati Defense and Infrastructure Ltd.  
...Respondent

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*MEMO OF WITHDRAWAL*  
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Dated this 30<sup>th</sup> day of August 2016

**BJ Law Offices LLP,**  
Advocates for the Petitioner,  
204, Yusuf Building, 2<sup>nd</sup> floor,  
M. G. Road, Fort, Mumbai - 400 001.  
Ph.No. 9821015461/43413333  
Email Id: [benny@bjlaw.in](mailto:benny@bjlaw.in)