

**In The National Company Law Tribunal
Kolkata Bench
Kolkata**

Coram:

Shri V. P. Singh,
Hon'ble Member (J)
&
Shri Jinan K.R.
Hon'ble Member (J)

C.P.(I.B.) No. 729/KB/2017

In the matter of

Application under section 9 and other applicable provisions
of the Insolvency and Bankruptcy Code, 2016;

-And-

In the matter of:

M/s Orissa Stevedores Limited, having its Corporate Office at
OSL Towers, Link Road, Cuttack, Odisha- 753 012;

...Operational Creditor

-Versus-

In the matter of:

M/s. The Orissa Minerals Development Company Ltd., having
its Registered Office at "Sourav Abasan", 2nd floor, AG-104,
Sector-II, Salt Lake, Kolkata, West Bengal- 700 091;

... Corporate Debtor

Counsels on Record:

- | | | |
|------------------------------------|---|------------------------------|
| 1. Mrs. Manju Bhuteria, Advocate | } | |
| 2. Mr. Saubhik Chowdhury, Advocate | } | For the Operational Creditor |
| 3. Mr. Dripto Majumdar, Advocate | } | |
| 4. Mr. Nikhil Jain, Advocate | } | |
| 5. Ms. Oiswarjya Basu, Advocate | } | |
| | | |
| 1. Mr. A.K.Upadhyay, Advocate | } | For the Respondent |

Date of pronouncing the Order: 20th February, 2018

ORDER

Per Shri Jinan K.R., Member(J):

This application has been filed by M/s. Orissa Stevedores Limited, the Operational Creditor under section 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6(1) of the Insolvency and Bankruptcy (Application to Adjudicating Rules), 2016 for the initiation of the Corporate Insolvency Resolution Process against M/s. The Orissa Minerals Development Company Ltd., the Corporate Debtor. Operational Creditor has filed this application claiming that the Corporate Debtor has committed default in making payment of Rs.13,06,89,315/- (Rupees thirteen crores six lakhs eighty-nine thousand three hundred and fifteen) only. The Operational debt fell due on 20.05.2015 when final arbitral award was passed in favour of the Operational Creditor.

2. The Operational Creditor, M/s. Orissa Stevedores Limited, having Identification No. U35112OR1978PLC000771 is a company incorporated under the provisions of Companies Act, 1956. The registered office of the Company is situated at OSL Towers, Link Road, Cuttack in Odisha.

3. The Corporate Debtor, M/s. The Orissa Minerals Development Company Limited, having Identification No. L51430WB1918GOI003026 is a company incorporated under the Companies Act, 1956. The registered office of the Company is situated at Sourav Abasan, 2nd floor, AG-104, Sector-II, Salt Lake, Kolkata, West Bengal- 700091. The nominal share capital of the company is Rs.60,00,00,000/- and paid up share capital of the company is Rs.60,00,00,000/-.

4. The brief facts of the case, as stated in the application filed by the Operational Creditor, are as follows:

(i) The Operational Creditor carries on business, inter alia, in stevedoring. On the other hand, the Corporate Debtor carries on business inter alia, in mining and export of minerals, including iron ore fines.

(ii) The Corporate Debtor issued a tender notice dated 14.01.2005 for handling, stacking and stevedoring Iron Ore fines from its Thakurani/Barbil Siding/ Ex-Mines to Paradip and Haldia Ports by rail/road.

(iii) Pursuant to the tender notice, the operational creditor submitted its bid vide letter dated 10.02.2005, which was duly accepted by the corporate debtor vide its letter dated 24.03.2005 and Work Order was issued in favour of the operational creditor.

(iv) A contract agreement dated 06.04.2005 was entered between the Corporate Debtor and Operational Creditor for one year and subsequently extended by the Corporate Debtor on 27.03.2006 for another one year. Thereafter, the contract was ended by efflux of time on 31.03.2007.

(v) After the completion of the contract period, the Operational Creditor vide its letter dated 05.04.2007 offered the Corporate Debtor to take possession of the balance stock lying stacked in the plot at Haldia port and Paradip port but the Corporate Debtor failed to take the possession. Then the Operational Creditor appointed watch and ward staff, which was duly intimated to the Corporate Debtor and the Operational Creditor sent bills for the work done on an urgent basis.

(vi) The Corporate Debtor failed to make the payments due to the Operational Creditor and instead made deductions in the bills owing to which dispute arose between the parties and the same was referred to

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Arbitration being A.P. No.120/2008 titled "M/s. Orissa Stevedores Ltd. vs. M/s. The Orissa Minerals Development Company Ltd."

vii) In the Arbitration proceedings, a sum of Rs.13,06,89,315/- was awarded as arbitral award dated 20.05.2015 in favour of the petitioner. Ld. Arbitrator held that the Corporate Debtor is liable to pay the operational creditor in the following terms:

- a) On account of wrongful deduction of OSL's bill dated 19th September, 2006, the OMDC shall reimburse to the OSL the sum of Rs.1,94,17,829/- for work done, together with interest @10% p.a. to be calculated from the date of last letter of demand, i.e. 01.03.2007 till realisation.
- b) On account of wrongful deduction of OSL's bill for handling and stevedoring in respect to M.V.Naviue Arch, OSL is entitled to and the OMDC shall reimburse to the OSL the sum of Rs.10,35,000/- together with interest @10% p.a. to be calculated from the date of last letter of demand, i.e. 04.09.2007 till realisation.
- c) The OMDC shall reimburse to the OSL the sum of Rs.2,02,412/- admittedly being withheld by OMDC together with interest @10% p.a. to be calculated from the date of last letter of demand, i.e. 08.02.2007 till realisation.
- d) The OMDC shall return to OSL the sum of Rs.50,00,000/- being the security deposit withheld by OMDC together with interest @10% p.a. to be calculated from the date of last demand, i.e. 20.11.2007 till realisation.
- e) The OMDC shall reimburse to the OSL the sum of Rs.29,02,938/- being the service charge for the balance quantity of iron ore fines handled at Paradip Port Area till 31.03.2007 being withheld by the OMDC together with interest @10% p.a.

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to be calculated from the date of last demand, i.e. 08.05.2008 till realisation.

- f) The OMDC shall reimburse to the OSL the sum of Rs.53,76,158/- being the service charge for the balance quantity of iron ore fines handled at Haldia Port Area till 31.03.2007 being withheld by the OMDC together with interest @10% p.a. to be calculated from the date of last demand, i.e. 08.03.2008 till realisation.
- g) The OMDC shall reimburse to the OSL the sum of Rs.9,60,000/- being the charges for maintaining watch and ward from 01.04.2009 for the plot at Paradip Port Area till 31.07.2008 for the plot at Haldia Port Area together with interest @10% p.a. to be calculated from the date of demand, i.e. 05.04.2007 till realisation.
- h) The OSL shall be entitled to and the OMDC shall pay a sum of Rs.3,00,00,000/- reasonably assessed on account of the OSL suffering loss on account of plot rent, payment to Port Authorities, idle wages to Pool workers, shifting and staking charges and infrastructure development on account of having to keep in a state of preparedness to handle 50,000 m/tons of iron ore fines each month in terms of Agreement. The OMDC shall reimburse to OSL the said sum of Rs.3,00,00,000/- together with interest @ 10% p.a. to be calculated from the date of demand i.e., 09.07.2008 till realisation.

viii) The Ld. Arbitrator also directed the Corporate Debtor to pay all costs and expenses relating to holding the proceedings shared in equal share. The Corporate Debtor shall also pay to Operational Creditor the expenditure incurred relating to Travel of Hon'ble Arbitrator – Rs.3,05,922/- and Stay and Miscellaneous expenditure of Rs.9,74,958/-.

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ix) Being aggrieved by the award of the Ld. Sole Arbitrator, the Corporate Debtor preferred an appeal under section 34 of the Arbitration and Conciliation Act, 1996 before the Ld. District Judge, Purba Medinipur at Tamluk, West Bengal being Judicial Misc. Case No.48 of 2015 which was also rejected by the Ld. District Judge, Tamluk vide its order dated 17.08.2016.

5. The Operational Creditor has submitted that the default occurred when the wrongful deductions were made in certain bills/ invoices by the Corporate Debtor as against the terms and conditions of the Agreement. The default further occurred when the Operational Creditor invoked arbitration clause under the Agreement and instituted Arbitration Petition being A.P. No.120 of 2008 before the Hon'ble High Court at Calcutta and the Hon'ble High Court dated 21.08.2008 was pleased to refer the dispute to Arbitration by appointing Mr. Justice Ronojit K. Mitra, Former Judge, High Court at Calcutta as the Ld. Sole Arbitrator to adjudicate the dispute between the Operational Creditor and Corporate Debtor.

6. The Operational Creditor submitted that the operational debt fell due when the Arbitral Award dated 20.05.2015 was challenged by the Corporate Debtor by preferring an appeal under section 34 of the Arbitration & Conciliation Act, 1996 before the Ld. District Judge, Purba Medinipur, which was also rejected by the Ld. District Judge vide order dated 17.08.2016.

7. Further, the operational debt also fell due when the Demand Notice dated 12.09.2017 under section 8 of the I.B. Code, 2016 read with rule 5 of the I&B (Application to Adjudicating Authority) Rules, 2016 was delivered at the registered Office of the Corporate Debtor as also to all the Managerial Persons of the Corporate Debtor demanding payment in respect of the unpaid operational debt.

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8. The Operational Creditor has further submitted that in spite of service of demand notice, neither the amount has been paid nor any existence of dispute has been brought to the notice of Operational Creditor by the Corporate Debtor. The total amount claimed to be as operational debt is Rs.13,06,89,315/-, which is in default and due to the Operational Creditor to be paid by the Corporate Debtor against the work done for the Corporate Debtor and bills/ various invoices raised under the Contract Agreement dated 06.04.2005.

9. The Operational Creditor has submitted that the default is subsisting and occurring as the Corporate Debtor has failed to repay the operational debt due to the Operational Creditor till date. The working for the computation of operational debt and date of default has been annexed to the present application in tabular form. Even after receipt of the demand notice, the corporate debtor failed to make payment of the outstanding dues. Therefore, the petition has been filed for initiation of corporate insolvency process against the corporate debtor.

10. The petitioner has annexed along with the petition (i) copy of Demand Notice dated 12.09.2017 sent to the Corporate Debtor marked as Annexure-I, (ii) copy of detailed description of the award/decreed amount payable by OMDC to OSL marked as Annexure-IA, (iii) copy of Arbitral Award dated 20.05.2015 annexed as Annexure -IB, (iv) copy of workings for computation of operational debt and dates of default marked as Annexure-II, (v) copy of Certificate of Bank marked as Annexure-III, (vi) copy of Board Resolution dated 3rd December, 2015 marked as Annexure-IV. The petitioner has also annexed the Vakalatnama, Proof of Service and Proof of payment.

11. The petitioner has also stated that Mr. S. N. Mohanty, Vice President is the Authorised Representative and he has been authorised to act on behalf of the operational creditor. In support of its contention, the petitioner

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has also filed an affidavit. Petitioner has also presented the authorization letter which shows that the petitioner company by its resolution dated 03/12/2015 had authorized Mr. S.N.Mohanty to sign, verify, appoint advocate, institute the petition or/execution case, give written statement and complaints, sign affidavits, replies, evidence on behalf of the company with the appropriate Court of law having jurisdiction on behalf of the operational creditor.

12. The operational creditor has further stated in the affidavit that corporate debtor has failed to bring to the notice of the applicant an existence of a dispute or the pendency of a suit or arbitration proceeding filed before the service of the demand notice.

13. The applicant / operational creditor has issued demand notice of unpaid operational debt/copy of Invoices on 13th September, 2017 to Corporate Debtor in prescribed manner as specified in Rule 5(2) of Insolvency and Bankruptcy(Application to Adjudicating Authorities) Rules, 2016, under Section 8(1) of the Insolvency and Bankruptcy Code, 2016 vide **Annexure-'I' (Page 35)**.. Further, the petitioner has enclosed the proof of service of Demand Notice vide **Annexure-'I' (Page 36 & 37)**, which indicates that the demand notice was duly served upon Corporate Debtor as well as upon various Key Managerial Persons on 25.09.2017.

14. As per direction of the Tribunal dated 20th December, 2017, a further notice was also served upon the Corporate Debtor. Vide Supplementary Affidavit dated 28th December, 2017, the Operational Creditor has also submitted that an application under section 34 of the Arbitration and Conciliation Act, 1996 by the Corporate Debtor challenging an Award dated 20th May, 2015 before the District Judge, Purba Medinipore. The said application under section 34 of the Arbitration and Conciliation Act, 1996 was dismissed by an order dated 17th August, 2016 passed by the Ld.

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District Judge, Purba Medinipore. A copy of the order dated 17.08.2016 has also been annexed and marked as Annexure "B" to the Supplementary Affidavit.

15. The Operational Creditor stated that it has been served with an appeal filed before the High Court at Calcutta challenging the said order dated 17th August, 2016. The appeal has been registered as FMAT No.1165 of 2017, and that the Corporate Debtor has not taken any steps to get the appeal heard or at least listed before the Hon'ble High Court. It has also been stated that after the service of Demand Notice dated 12.09.2017, the above appeal has been filed before the Hon'ble High Court at Calcutta.

16. The operational creditor has also stated that no notice of dispute has been raised by the corporate debtor within the stipulated time of 10 days from the date of receipt of demand notice by the Corporate Debtor. The applicant has further stated in the affidavit that corporate debtor has failed to bring to the notice of the operational creditor an existence of a dispute or the pendency of the suit or arbitration proceedings filed before the service of the demand notice. The operational creditor has further alleged that even ten days after the date of delivery of the demand notice, it has not received any payment or a notice of a dispute regarding the pending amount from the corporate debtor.

17. The Corporate Debtor has filed its objection contending in brief is the following:-

18. The corporate debtor has denied all the allegations other than the allegations admitted in the reply affidavit. The Corporate Debtor has contended that the arbitration award of Rs.13,06,89,315/- has been disputed throughout all the proceedings made in various courts.

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19. The Corporate Debtor has contended that the petitioner responded to a tender notice dated 14.01.2005 for handling, stacking and stevedoring iron ore fines from Thakurani/ Barbil Siding/ Ex-mines to Paradip and Haldia Ports by rail/road and duly submitted its bid, which was duly accepted by the respondent by its letter dated 24.03.2005 and work order issued and contract agreement was signed on 06.04.2005 between the parties initially for one year.

20. The Corporate Debtor denied the fact stated by the Operational Creditor that due to over-stacking of iron ore in the storage plot at Haldia and subsequent waterlogging and contamination with mud and shrinkage of the plot, there was shortfall of 10557.55 M/T of materials, since the plot at Haldia belongs to the respondent was duly examined and was certified that it has total capacity of stacking 60 to 70000 M/T of iron ore and such certification was made prior to the issuance of the work order. Although the Corporate Debtor extended the time to further one year and the aforesaid problem prevailed and thus the Corporate Debtor informed the Operational Creditor to shift the materials from the warehouse and was also ready to extend for further four months but in the meantime the petitioner raised bills and the management found the bills unreasonable and made deductions in the bills which was disputed by the Operational Creditor in the Arbitration.

21. The Corporate Debtor filed appeal against the arbitral award given by the Sole Arbitrator in favour of the Operational Creditor before the Ld. District Judge, Purba Medinipur, Tamluk, which was also rejected vide order dated 17.08.2016. It has been stated further by the Corporate Debtor that the appeal under section 34 was rejected only on the ground of limitation and was not allowed to amend the petition for inclusion of explanation for delay. The Operational Creditor has not initiated any execution proceeding

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within the next one year from the order dated 17.08.2016 and preferred a demand notice dated 12.09.2017 under section 8 of the I.&B. Code, 2016.

22. The Corporate Debtor has stated that it did not offer any reply to the demand notice of the Operational Creditor since an appeal under section 37 of the Arbitration and Conciliation Act, 1996 has been preferred before the Hon'ble High Court at Calcutta being FMAT No.1165 of 2017, which is still pending. There is no claim within the meaning of the Code, which comes under the definition of "operational debt" under 5(20) and 5(21) of the Code. Corporate Debtor has also contended that as per the contract terms after completion of work project manager was to give completion certificate and such completion certificate has not been issued to the applicant contractor because the applicant has left the contract work incomplete and he was never in opposition to ask for a completion certificate. Upon the said contentions respondent prays for dismissal of the petition.

23. The Operational Creditor has filed Rejoinder to the Affidavit-in-Reply of the Corporate Debtor. The Operational Creditor, denying the contentions raised by the respondent reiterated the contentions already taken in the petition. The Operational Creditor has further stated that the averment of the Corporate Debtor that appeal under section 37 of the Arbitration Act has been filed and pending before the Hon'ble High Court at Calcutta is untenable in law and the said appeal has only been filed after the receipt of the demand notice dated 12.09.2017. The ground of rejection of appeal filed by the Corporate Debtor under section 34 of Arbitration Act due to limitation does not deserve to be taken note of because the Arbitral Award has attained finality in terms of the settled proposition of law that the arbitral award reaches finality after expiry of enforceable time under section 34 and /or if application under section 34 of Arbitration Act is filed and rejected.

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24. We have heard the arguments of the learned counsels of the parties and perused the records.

25. The operational creditor has stated that an amount of Rs.13,06,89,315/- is due from the corporate debtor and despite demand notice not repayed the amount and hence filed this petition. The statement of bank accounts has been duly annexed marked and annexed as "Annexure-III" to prove that debt amount has not been paid by the corporate debtor. The bank certificate issued from the HDFC Bank maintaining the accounts of the operational creditor confirmed that there was no payment of an unpaid operational debt by the corporate debtor.

26. The respondent in this case has no case that it paid the amount as demanded by the petitioner. On the other hand the documents filed by the Operational Creditor, it is clear that the Corporate Debtor has failed to make the payment of operational dues of Rs.13,06,89,315/-, in spite of receiving the demand notice under 8(1) of the Insolvency & Bankruptcy Code, 2016.

27. The Operational Creditor has also filed the bank certificate in compliance of provision of section 9(3)(c) of the I.B.Code, which shows that the Operational Creditor has not received the payment from the Corporate Debtor in the accounts maintained by the Operational Creditor in HDFC Bank. Operational Creditor has also filed affidavit wherein it is stated that after issuing the demand notice, he has not received any notice of dispute from the Corporate Debtor. Thus the Operational Creditor has complied with the provision section 9(3)(b) and 9(3)(c) of the Insolvency & Bankruptcy Code. In this case, the operational debt is proved and settled by the Arbitral Award.

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28. Ld. Counsel for the respondent submits that the amount claimed does not come within the definition of operational debt under section 5(20) or 5(21) of the Code.

Section 5 (20) read as follows:-

“operational creditor” means a person to whom an operational debt is owed and includes any person to whom such debt has been legally assigned or transferred;

Section 5(21) of the Insolvency Code provides that-

“Operational debt” means a claim in respect of the provision of goods or services including employment or a debt in respect of repayment of dues arising under any law for the time being in force and payable to the central government, any state government or any local authority.”

29. It is evident from the reading of the aforesaid definition of “operational debt” that it is a claim in respect of the provision of goods or services including employment or a debt in respect of repayment of dues arising under any law for the time being in force and payable to the central government, any state government or any local authority. The Hon’ble NCLT in CP No. (IB) 10 (PB) 2017 in the matter of Col. Vinod **Awasthy Vs. AMR Infrastructures Ltd.** has distinguished ‘financial debt’ and ‘operational debt’ and observed that ***“The framer of the Code has also defined the expression ‘Financial Debt’ in section 5(8) to mean a debt which is disbursed against consideration of time value of money. However, the framer of the Code has not included in the expression “operational debt” as any debt other than the “Financial Debt”. It is thus confined to aforesaid four categories like goods, services, employment and Government dues.”*** The petitioner in the case in hand admittedly rendered services on executing contract for handling, stacking, and stevedoring Iron Ore Fines from its Thakurani/Barbil Siding/ Ex-Mines

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to Pradip and Haldia Ports by rail/ road and thereby acquired status of an operational creditor and therefore the amount due as per the services rendered by the operational creditor to the corporate debtor no doubt is an operational debt. Therefore the above said objection of the corporate debtor is devoid of any merit.

30. The petitioner in the case in hand succeeds in proving the ingredients of section 9 (5) of the Code, and further proves failure on the side of the Corporate Debtor in clearing the debt found due to the petitioner even after receiving the demand notice under section 8(1) of the Code. It is also clear that the Corporate Debtor has not raised any notice of dispute within ten days of receiving the demand notice. The contention on the side of the respondent that it did not offered any reply to the demand notice of the petitioner since the respondent preferred an appeal under section 37 of the Arbitration and Conciliation Act, 1996 is devoid of any merit.

31. It has come out in evidence that the said appeal was preferred after receipt of the demand notice by the respondent. The demand notice evidently served upon the corporate debtor on **25.09.2017**. The above said appeal was preferred by the corporate debtor before the Hon'ble High Court on **14.11.2017**. According to the Ld. Counsel for the corporate debtor the pendency of an appeal filed under section 37 of the Arbitration and Conciliation Act, 1996 before the Hon'ble High Court at Calcutta, bar a proceedings like this case and therefore this petition is liable to be dismissed. All other contentions in the reply affidavit regarding the denying of its liability were seen adjudicated in the arbitration proceedings and an arbitral award has been passed and on the basis of the award which was confirmed by the Learned District Judge Purba Medinipur, in Misc. Case. No. 48 of 2015 the petitioner filed this petition. Therefore, the question is

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whether the pendency of an appeal as against the confirmed award filed before the Hon'ble High Court Calcutta bar the proceedings in hand?.

32. In **M/s. Annapurna Infrastructure Pvt. Ltd and anr. Vs. M/s. SORIL Infra Resources Ltd.** [CA (AT) (Insolvency) No.32 of 2017], the Hon'ble NCLAT held "*that Insolvency resolution process is not a money suit for recovery nor a suit for execution for any decree or award as distinct from Section 35 of the A & C Act, which relates to execution of an award. For the reasons aforesaid, while we hold that the CIRP can be initiated for default of debt, as awarded under the Arbitration Act,...*"

33. Thus it is certain that once an award was finalised by an order of dismissal passed by a competent Court under section 34 of the A & C Act, a corporate debtor like the respondent in the case in hand would not be able to establish the existence of a dispute even if it has challenged the dismissal under section 37 of the A & C, Act. A corporate debtor is bound to accept the award as final in a proceedings initiated against it. Pendency of an arbitration proceeding amounts to 'existence of a dispute' under the provisions of the IB Code. However, a challenge to the arbitral award (under Section 34) or appeal in relation to an arbitration (under Section 37) of the A&C Act does not amount to 'existence of a dispute' under Section 8 of the IB Code as held in the above cited decision is squarely applicable in the case in hand. Therefore, the dispute in this regard raised on the side of the respondent has no legal force.

34. The above said discussion leads to a legitimate conclusion that none of the contentions taken by the respondent in its reply seen sustainable under law. Thus, it is clear that petition filed by the operational creditor under section 9 of the Insolvency & Bankruptcy Code, 2016 deserves to be admitted. Here in this case the petitioner did not opt to propose a resolution

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professional and hence compliance of Section 9 (5) (i) (e) of the I&B code doesn't arise. On the other hand, petitioner succeeds in proving the compliance of Sub Sections (a) to (d) of 5 (i) of Section 9 of the I & B Code. For the aforesaid reasons this petition is admitted.

ORDER

The petition filed by the Financial Creditor under Section 9 of the Insolvency & Bankruptcy Code, 2016 is hereby admitted for initiating the Corporate Resolution Process. Moratorium order is passed for a public announcement as stated in Sec.13 of the IBC, 2016.

The moratorium is declared for the purposes referred to in Section 14 of the Insolvency & Bankruptcy Code, 2016. The IRP shall cause a public announcement of the initiation of Corporate Insolvency Resolution Process and call for the submission of claims under Sec.15. The public announcement referred to in clause (b) of sub-section (1) of Insolvency & Bankruptcy Code, 2016 shall be made immediately.

Moratorium under Sec.14 of the Insolvency & Bankruptcy Code, 2016 prohibits the following:

- a) The institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, decree or order in any court of law, tribunal, arbitration panel or other authority;
- b) Transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;
- c) Any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including

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any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);

- d) The recovery of any property by an owner or lessor where such property is occupied by or in possession of the corporate debtor.

The supply of essential goods or services to the Corporate Debtor as may be specified shall not be terminated or suspended or interrupted during the moratorium period.

The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

The order of moratorium shall affect the date of admission till the completion of the Corporate Insolvency Resolution Process.

Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of Sec.31 or passes an order for liquidation of corporate debtor under Sec.33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.

Necessary public announcement as per Sec.15 of the IBC, 2016 may be made by the resolution professional upon receipt of the copy of this order.

Mr. Bijay Murmura (Mob. No.9830039390) an Insolvency Professional registered with the ICSI Insolvency Professionals Agency having Registration No.IBBI/IPA-001/IP-P00007/2016-17/10026 and E-mail no. bijay_murmura@maheshwariassociates.com is appointed as Interim

Resolution Professional for ascertaining the particulars of creditors and convening a meeting of Committee of Creditors for evolving a resolution plan.

The Interim Resolution Professional should convene a meeting of the Committee of Creditors and submit the resolution passed by the Committee of Creditors.

Registry is hereby directed under section 7(7) of the I.B. Code, 2016 to communicate the order to the Operational Creditor, the Corporate Debtor and to the I.R.P. by Speed Post as well as through e-mail.

Let the certified copy of the order be issued upon compliance with requisite formalities

List the matter on 20th March, 2018 for the filing of the progress report.

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(V.P. Singh)
Member(J)

12/1/18

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(Jinani K.R.)
Member (J)

Signed on this, the 20th day of February, 2018