

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**SINGLE BENCH**  
**NEW DELHI**

No.IB-436(ND)/2017

**SECTION: UNDER SECTION 9 of Insolvency and Bankruptcy Code, 2016.**

**IN THE MATTER OF:**

Kunal Conchem Pvt. Ltd.  
E-44,Panchsheel Park,  
New Delhi

.....Operational Creditor

**Vs.**

Unitech Limited,  
6,Community Centre Saket,  
New Delhi-110 017

.....Corporate Debtor

**Order delivered on 07.12.2017**

**Coram:**

**R.VARADHARAJAN**  
Hon'ble Member (Judicial)

**For the Petitioner** : Mr. Ashish Aggarwal, Advocate  
Mr.Gurcharan Singh, Advocate

**For the Respondent** : -



## ORDER

This is an Application which has been filed by the Operational Creditor against the Corporate Debtor namely Unitech Ltd. under the provisions of Section 9 of Insolvency and Bankruptcy Code, 2016 for brevity (IBC,2016) seeking for the initiation of Corporate Insolvency Resolution Process (CIRP) against the above named Corporate Debtor in view of non-payment of a sum of Rs.13,53,506/-. The transactions giving rise to the payment of the above said amount on the part of the Corporate Debtor to the Operational Creditor is stated to be that of supply of various kinds of construction chemicals to the Corporate Debtor as per specifications of the Corporate Debtor and the said supplies it is averred were effected to the sites as directed by the Corporate Debtor namely Gurugram, NOIDA and Saket. The above said supplies is stated to have been effected based on invoices raised against the Corporate Debtor over a period of time commencing from July,2012 upto April, 2014 and despite repeated acknowledgments of the amount required to be paid in the sum of Rs.23,56,703/-, the same has not been paid by the Corporate Debtor. In view of the non-payment, it is represented that a notice in Form 3 and 4 of the IBC,2016 dated 30.5.2017 was duly sent under the hand of the Operational Creditor itself and that the tracking report also evidences service of the said notice dated 03.5.2017 upon the Corporate Debtor on 4.5.2017. Since neither the amount was disputed nor the remittances were remitted within the statutory period of 10 days, as provided under the provisions of IBC,2016, this Petition came to be filed before this Tribunal seeking for the CIRP of the Corporate Debtor.

Subsequent to the filing of the Petition based on the directions of this Tribunal dated 23.10.2017, the Corporate Debtor had been served with the complete set of Petition alongwith Annexures on 16.10.2017 in relation to which an affidavit dated 2.11.2017 has also been filed by the Operational Creditor. Despite receipt of the notice on the adjourned date namely 9.11.2017 and thereafter in view of the absence of any representation on the part of the Corporate Debtor, the matter was listed on 7.12.2017 and after hearing Ld. Counsel for the Operational Creditor, the matter was reserved for orders. However, in the meanwhile in CP No.IB-246/ND/2017, it has been brought to the notice of this Tribunal that Hon'ble Supreme Court has stayed any coercive proceedings against the Corporate Debtor vide order dated 30.10.2017 in SLA. (Crl.). No(s).5978-5979/2017 since the proceedings under insolvency under IBC,2016 contemplates restructuring of the Company which also includes suspension of management and take over of assets by an Interim Resolution Professional in case the Petition is admitted which under the circumstances becomes inevitable and in view of non-appearance of the Corporate Debtor and the amount in default stands established as well as moratorium will also be put in place under Section 14 of the IBC,2016 of all proceedings, this Tribunal considers it appropriate to adjourn the matter sine die till the stay of the Hon'ble Supreme Court is in operation. However, the Petitioner is at liberty to have the Company Petition revived as and when the stay granted by the Hon'ble Supreme Court is vacated and subject to directions as may be passed by the Hon'ble Supreme Court in relation to the Corporate Debtor in the presently pending proceedings before it.

Sd/-  
(R.VARADHARAJAN)  
MEMBER (JUDICIAL)