

In the National Company Law Tribunal
Kolkata Bench
Kolkata

CORAM: Shri Vijai Pratap Singh,
Hon'ble Member(J)

C.P.(I.B.) No. 347/KB/2017

In the matter of:

THE INSOLVENCY AND BANKRUPTCY CODE, 2016.

-And-

In the matter of :

Section 8 and 9 and other applicable provisions of the
Insolvency and Bankruptcy Code, 2016.

-And-

In the matter of:

Henkel Adhesives Technologies India Private Limited
10th & 11th Floor, Kesar Solitaire, Plot No.5, Sector-19,
Palm Beach Road, Sanpada, Navi Mumbai- 400705

... **Applicant**

-And-

In the matter of:

Ess Dee Aluminium Limited, 1 Sagore Dutta Ghat Road,
Kamarhati, Kolkata, West Bengal- 700058

... **Respondent**

Counsels on Record:

- | | |
|-------------------------------------|------------------------|
| 1. Ms. Urmila Chakraborty, Advocate |] For the Petitioner |
| 2. Ms. Shyantee Datta, Advocate |] |
| 1. Rajarshri Dutta, Advocate |] For Henkel Adhesives |
| 2. Mr. Rahul Auddy, Advocate |] |

Date of pronouncement of the Order:16-10-2017

ORDER

This petition was originally filed before the Hon'ble High Court under section 433, 434 and 439 of the companies Act, 1956. The Hon'ble High Court at Calcutta transferred the petition to this Tribunal in view of Government Notification dated 28th November, 2017. Vide order dated 5th April, 2017 this Tribunal issued direction to re-submit the application in proper proforma as per S 8 & 9 of the I&B code, 2016. In compliance of the order the petitioner filed the instant petition under section 8 and 9 of the Insolvency & Bankruptcy Code, 2016 (hereinafter referred to as I & B code) 2016 read with Rule 6 of the Insolvency and bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter referred to as Adjudicating Authority Rules, 2016) for initiation of corporate insolvency process against corporate debtor Ess Dee Aluminium Limited.

The applicant Operational Creditor is Henkel Adhesives Technologies India Private whose identification no. is U28933MH1990PTC234233 and having its registered office at 10th & 11th Floor, Kesar Solitaire, Plot No.5, Sector-19, Palm Beach Road, Sanpada, Navi Mumbai- 400705. Ess Dee Aluminium Limited whose identification no. is CIN: L27203WB2004PLC170941, 1 Sagore Dutta Ghat Road, Kamarhati, Kolkata, West Bengal- 700058.

This petition was heard and when perused the case file in detail it is learnt that petitioner not submitted affidavit as per section 9 (3) (b) and certificate from financial institution under section 9(3) (C). Since no opportunity for curing the defect has been given to the petitioner it appears to me that an opportunity is to be granted to the petitioner as per the proviso to section 9 of I&B, Code for rectification of the defect. Accordingly, time is granted to the petitioner for curing the defect. Petitioner is directed to submit

affidavit and certificate as per section 9(3) (b) and 9(3) (c) within 7 days of the date of the order.

Issue certified copy of the order to the petitioner urgently.

Sd/-
Vijai Pratap Singh
Member (Judicial)

Signed on this, the 16th day of October, 2017