

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH  
KOLKATA**

**CORAM**

**Ms. Manorama Kumari  
Member (Judicial)  
Mr. S. Vijayaraghavan  
Member (Technical)**

**Company Petition No. 03/2017**

In the matter of :

Application under Section 14 of the Insolvency and  
Bankruptcy Code, 2016.

And

In the matter of:

Nicco Corporation Limited, an existing company within the  
meaning of the Companies Act, 2013 and having its registered  
office at Nicco House, 2, Hare Street, Kolkata 700 001. ... Petitioner

Counsels on Record:

Date of pronouncing the order: 18-5-2017

**ORDER**

The petition filed by the Corporate Debtor, Nicco Corporate Limited (C.P.No. 03/2017) did not make any reference to the issue of arbitration pending before the Ld. Arbitrator.

The moratorium has already been made effective vide our earlier order dated 18-01-2017. Ld. Counsel representing the Resolution Professional submitted today that they have initiated the arbitration proceedings against IOCL.

In terms of Section 14(a) of IBC 2016 moratorium has already been given.

*"14(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;"*

In view of this the arbitration proceedings, which have been initiated by the Corporate Debtor earlier to the filing of the suit (wherein no reference has been made regarding pending arbitration) the Corporate Debtor as represented by the Resolution Professional may exercise his option to withdraw the arbitration proceedings already initiated or to seek a stay till the end of the moratorium period.

The fact of existing arbitration ought to have been placed before the Tribunal at the time of the petition under Section 10 of the IBC. The RP <sup>is</sup> ~~has~~ also directed to give a list of arbitration proceedings initiated by the Corporate Debtor or by any other party before the next date of hearing of the matter i.e. on 10/05/2017.

  
(Manorama Kumari)  
Member (J)

  
(S. Vijayaraghavan)  
Member (T)

Signed on this, the 18<sup>th</sup> day of May 2017.