

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH

CP (IB) No.17/2017

DATED MONDAY, THE 17th DAY OF APRIL, 2017

PRESENT: SHRI RATAKONDA MURALI, MEMBER JUDICIAL
SHRI ASHOK KUMAR MISHRA, MEMBER TECHNICAL

IN THE MATTER OF CORPORATE INSOLVENCY RESOLUTION PROCESS
UNDER RULE 6 OF THE INSOLVENCY AND BANKRUPTCY RULES, 2016
AND
IN THE MATTER OF M/s. FORTUNE PLASTECH

M/s. Fortune Plastech,
Sy. No.27, RMS Colony, Seegehalli Main Road,
Bhattarahalli, Virgonagar Post,
Bangalore – 560 049.

Petitioner

AND

M/s. Avni Energy Solutions Private Limited,
Andhra Pradesh Industrial Infrastructure Corporation,
Industrial Area Locality, Plot No.B23,
Tirupati, Cuddapah, AP 517 520.


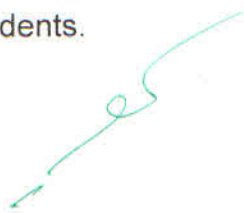
Respondent

COUNSEL PRESENT:

Shri s. Narendra Kumar,
Advocate,
No.213, First Stage, 7th Cross,
Indiranagar,
Bangalore – 560 008.

ORDER

CP (IB) No.17/BB/2017, was filed before this Tribunal by the Petitioner Company under section 9 of the Insolvency and Bankruptcy Code 2016 read with Rule 6 of the Insolvency and Bankruptcy Rules, 2016, for initiation for Corporate Insolvency against the respondents.



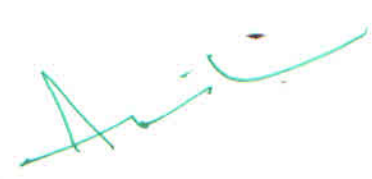
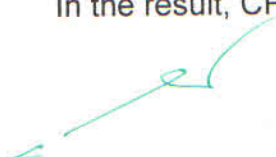
Briefly, the facts of the case are that the petitioner company is engaged in manufacture and supply of plastic moulded components to various customers and the respondent is one such debtor. The petitioner company had supplied/sold materials/products under the Central sales Tax Act, 1956 at concessional sales tax rate of 2% with the condition that the respondent should provide "C" Form to the petitioner. Since the respondent has not provided the "C" Form and the tax liability towards supplies of goods/products to the respondent has come up to Rs.20,49,105/- and as all efforts made by the petitioner company to serve notices, letters, etc. to the respondent failed, left with no option other than approaching this Tribunal for initiation of corporate insolvency proceedings, the petitioner has filed this petition.

We noticed that the respondent company is registered at Tirupati in Andhra Pradesh and the jurisdiction for initiation of insolvency proceedings lies with NCLT, Hyderabad, and asked the counsel for the petitioner whether this Tribunal has jurisdiction to take up this case, the learned counsel submitted that he would withdraw the petition with leave to file the same before NCLT, Hyderabad, for the same cause of action.

Today, the learned counsel for petitioner filed a memo for withdrawal of the petition with liberty to file the same before NCLT, Hyderabad, for the same.

Accordingly, we permit the petitioner Company to withdraw the petition and file a fresh petition before the National Company Law Tribunal, Hyderabad on the same cause of action.

In the result, CP (IB) No.17(BB)/2017 is dismissed as withdrawn with liberty to



the petitioner to file petition before the NCLT, Hyderabad on the same cause of action.


(RATAKONDA MURALI)
MEMBER, JUDICIAL

psp.


(ASHOK KUMAR MISHRA)
MEMBER, TECHNICAL