

IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH

C.P.(IB)NO.115/BB/2017

Under Section 7 of Insolvency & Bankruptcy Code, 2016
r/w Rule 4 of the Insolvency and Bankruptcy
(Application to Adjudicating Authority) Rules, 2016

IN THE MATTER OF

RITMAN COMMODITIES PVT. LTD.

Vs

BHORUKA POWER CORPORATION LIMITED

Coram: 1. Hon'ble Shri.RatakondaMurali, Member Judicial
2. Hon'ble Shri.Ashok Kumar Mishra, Member Technical

Order delivered on 3rd January, 2018

For the Petitioner (s): Mr.Arjun Rao, Financial Auditor

For the Respondent (s): Mr.Samarth S., Advocate

Per: Hon'ble Shri.Ashok Kumar Mishra, Member Technical

Ritman Commodities Pvt. Ltd.
8/1, Middleton Row
Kolkata – 700 071

.. Petitioner

Vs

Bhoruka Power Corporation Ltd.
48 (Old 26/1), Lavelle Road
Bengaluru – 560 001

.. Respondent

Heard on:03.11.2017, 10.11.2017, 01.12.2017, 04.12.2017, 03.01.2018.



ORDER

The Petitioner has filed this petition under Section 7 of the Insolvency and Bankruptcy Code, 2016. The petitioner and the respondent have filed a compromise petitions which reads as under:

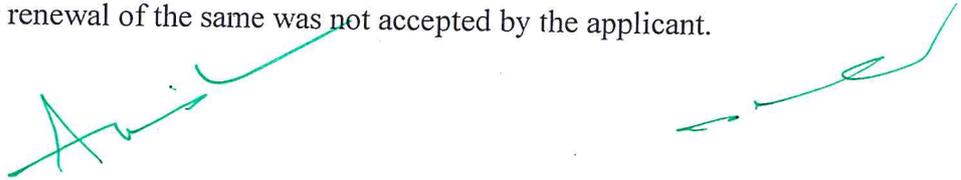
“The Applicant and the Respondent, above named, submit as under:

I. That the respondent had approached an agent of the Applicant company in order to secure an inter-corporate loan of Rs.1,00,00,000/- (Rupees one crore only). In pursuance to the same, the respondent received the inter-corporate deposit of Rs.1,00,00,000/- (Rupees one crore only) on 3rd April 2017 from the Applicant for a period of 91 days. In order to secure the said amount of Rs.1,00,00,000/- (Rupees one crore) the Respondent issued post dated cheque bearing No.597581 dated 3rd July 2017 for Rs.1,00,00,000/- (Rupees one crore) towards the principal amount and another cheque for Rs.3,59,014/- towards interest in favour of the Applicant.

II. The respondent paid a sum of Rs.50,00,000/- (Rupees Fifty Lakhs) on 10th July 2017 as part payment towards the said Inter Corporate deposit (hereinafter referred to as I.C.D.) of Rs.1,00,00,000/-. The receipt of the same is duly acknowledged by the applicant.

III. That on the request of the respondent, the balance of Rs.50,00,000/- (Rupees fifty lakhs) under the aforesaid Inter Corporate Deposit was extended for another 92 days with issuance of a post dated cheque bearing No. 582640 dated 3rd October 2017 of Rs.50,00,000/- as security.

IV. That due to the delay in receipt of receivables, the respondent had issued a letter to the agent of the applicant on 29.09.2017 seeking renewal of the amount due under the said I.C.D. i.e., Rs.50,00,000/- (Rupees fifty lakhs only), for further period of 91 days w.e.f. 4th October 2017. In pursuance of the same, the respondent forwarded one more post dated cheque dated 03.01.2018 and one letter to the applicant seeking for an extension of the I.C.D. for another term of 92 days stating the reasons for the same. However, the request for renewal of the same was not accepted by the applicant.



V. That despite having forwarded the above mentioned documents to the applicant, the same came to be returned. It was intimated to the respondents above request to the applicants was not acceptable and that the cheque dated 3/10/2017 had already been presented, hence the documents i.e. letter seeking extension of I.C.D. along with post dated cheques were all returned.

VI. That despite repeated efforts made by the respondent to communicate their willingness to pay the amount due, the same could not be done. However, now, at the intervention of the top management of both the parties, the subject matter of the above dispute has been amicably settled between the applicant and the respondent herein.

The parties have agreed to settle the dispute amicably in the following manner:

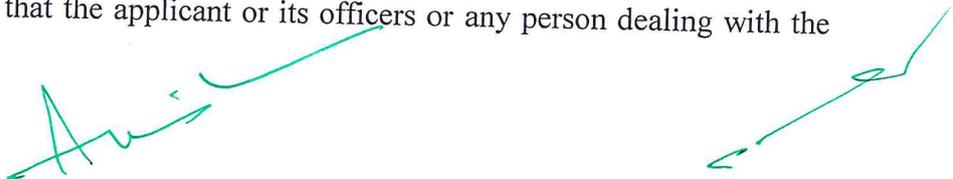
1. That the respondents shall pay the balance principal amount of Rs.50,00,000/- in two instalments along with the interest due as on that date. The instalments shall be as follows:
 - **First installment:** Principal amount of Rs.25,00,000/- along with interest calculated at 16% for the period from 3rd October, 2017 to 30th November, 2017 amounting to 1,29,315/- (gross subject to Tax Deducted at source), shall be payable on 1/12/2017. The said amount i.e., Rs.26,29,315/- shall be paid by Demand Draft in favour of the applicant company and be handed over to Mr.Padam Chand Dugar, Director who is representing the applicant in the instant proceedings.
 - **Second installment:** Principal amount of Rs.25,00,000/- along with interest calculated at 16% for the period from 1st December, 2017 to 31st December, 2017 amounting to 33,973/- (gross subject to Tax Deducted at Source), shall be payable on 1/01/2018. The said sum shall be paid by way of RTGS/NEFT in the following account No.50200016337365 (HDFC Bank New Alipore Branch, Kolkata, ISFC:HDFC0000040) of the applicant, Moreso, post-dated cheque of Rs.25,33,973/- shall be issued in favour of the applicant on 1st

December 2017 and be handed over to Mr. Padam Chand Dugar, Director who is representing the applicant in the instant proceedings.

2. The applicant, on receipt of the second instalment, shall immediately return the following documents in their possession:
 - Letter of undertaking dated 03-04-2017
 - On demand Promissory Note
 - Cheque bearing No. 597581 dated 03.07.2017 for Rs.1,00,00,000/-
 - Cheque bearing No. 390504 dated 03.07.2017 for Rs.3,59,014/-
 - Cheque bearing No. 582589 dated 03.07.2017 for Rs.50,00,000/-
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Further the applicants assure that they have no further documents in their custody pertaining to the respondents herein.

3. In the light of the above compromise and in view of the fact the respondents making payment as mentioned above, the parties have agreed to seek leave of this Hon'ble Tribunal to record the terms set forth in this compromise.
4. In view of these facts and circumstances, the applicant does not wish to prosecute the petition. It is however made clear, in case of failure to pay the balance sum of Rs.25 Lakh on the 1st January, 2018, the applicant is at liberty to seek revival of the instant petition in respect of said defaulted sum as stated of Rs.25,33,973/- with interest @ 24% up to the date of realisation.
5. The parties herein agree, affirm and confirm that the instant compromise petition is towards full and final settlement of all the claims/demands/disputes between the applicant and the respondent herein and that the applicant herein shall not make any further claims/demands, or institute any legal proceedings, whatsoever, with regard to the subject-matter of the above dispute.
6. The parties herein affirm that there are no other cases (suits/applications/petitions/appeal)/claims/disputes pending among them whether civil or criminal and that there are no claims in terms of money or otherwise, whatsoever, and that they shall not indulge in any litigation, inter se with regard to the subject matter of the above dispute. Further the applicant herein affirms that the applicant or its officers or any person dealing with the



applicant on this compromise shall maintain absolute confidentiality of this matter and the transaction with the respondent herein but subject to filing, placing or submitting the documents before any judicial authority and/or any other Government departments and/or any other statutory authorities for the enforcement of this Agreement and/or for any information to be given to the accountants and/or for income tax purposes, and/or any other statutory purposes.

7. The applicant and the respondent consent for this compromise and the parties herein are submitting this compromise petition by signing it with a clear intent to settle the instant proceedings to resolve the same amicably. The parties have entered into the settlement out of their own will and volition; towards full and final settlement of all their claim and the parties have agreed that they will have no claims whatsoever against each other, with regard to the subject-matter of the above dispute.

WHEREFORE, the applicant and respondent, above named, most humbly pray that this Honb'le Tribunal may be pleased to record the above terms of compromise and pass orders in terms thereof, in the interest of justice and equity.”

The matter was listed today. Counsel for the petitioner and the counsel for the respondent are present. They have filed a compromise petition in the Tribunal and as informed the Operational Creditor has received the entire payment from the Corporate Debtor in full and final settlement of the claim. Since the dispute is settled in terms of the compromise petition between the Corporate Debtor and the Operational Creditor, this petition is dismissed as withdrawn and settled outside the Tribunal.


(ASHOK KUMAR MISHRA)
MEMBER, TECHNICAL


(RATAKONDA MURALI)
MEMBER, JUDICIAL