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**BEFORE THE AJUDICATING AUTHORITY
(NATIONAL COMPANY LAW TRIBUNAL)
AHMEDABAD BENCH
AHMEDABAD**

C.P. (I.B) No. 36/9/NCLT/AHM/2017


Coram:

**Present: Hon'ble Mr. BIKKI RAVEENDRA BABU
MEMBER JUDICIAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD
BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 31.08.2017**

Name of the Company: Nagai Power Pvt. Ltd.
V/s.
GEI Industrial Systems Ltd.

Section of the Companies Act: Section 9 of the Insolvency and Bankruptcy
Code

<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
1.	SHASHVATA SHUKLA	ADVOCATE	PETITIONER	
2.	NATASHA SUTARIA	ADV.	RESPONDENT	Natasha.

ORDER

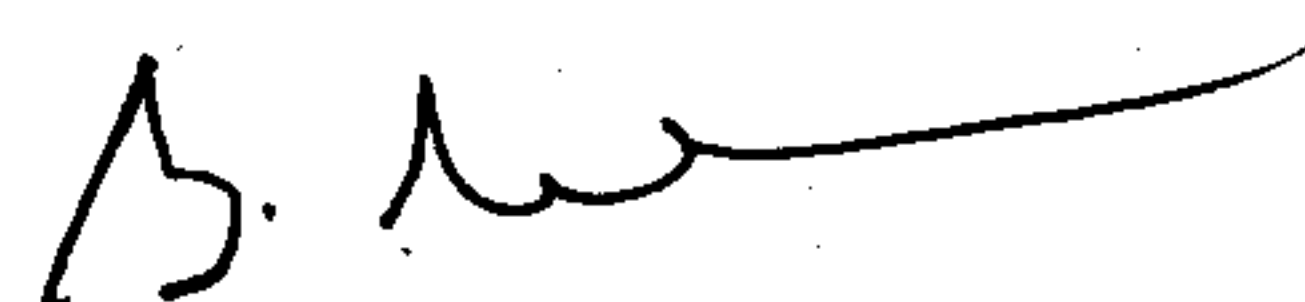
Learned Advocate Mr. Shashvata Shukla present for Applicant/ Operational Creditor. Learned Advocate Ms. Natasha Sutaria present for Respondent.

Heard arguments of Learned Counsel for applicant and Learned Counsel for Respondent.

Pursuant to the order dated 20.07.2017 passed by this Tribunal in this matter this application is referred to the larger bench to decide whether the advanced amount paid by the applicant to the respondent under the letter of award dated 06.02.2012 is an operational debt or not.

Registrar of NCLT, New Delhi vide letter dated 08.08.2017 intimated that the decisions of the Hon'ble Principle Bench New Delhi have been reversed by the Hon'ble National Company Law Appellate Tribunal in Company Appeal (AT)(IB) 8/2017, 12/2017 and 50/2017. It is also further informed that the issue regarding the dispute is discussed in detail in the judgment in Company Appeal (AT)(IB) 6/2017 Kirusa Software Pvt Ltd v. Mobilox Innovations Pvt Ltd. and record is returned back to this Bench.

At this stage of the matter it is noticed that M/s GEI Industrial Systems Ltd is already undergoing Corporate Insolvency resolution process by virtue of the order dated 20.07.2017 passed in CP(IB) no. 35/2017 an interim resolution professional had



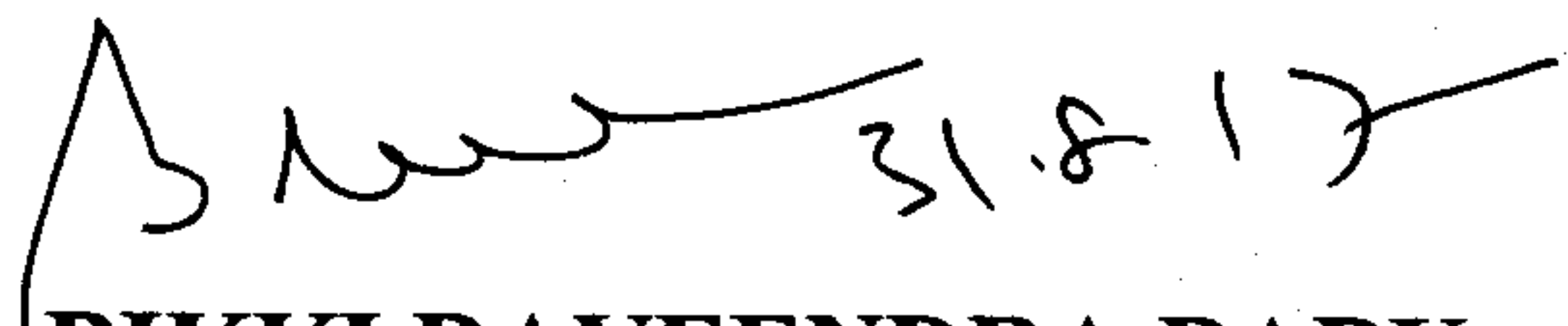
already been appointed with a direction to cause publication of notice and invite claims from all the creditors of M/s GEI Industrial Systems Ltd

The Hon'ble National Company Law Appellate Tribunal in Company Appeal (AT) (Insolvency) No. 33 of 2017 M/s. Meyer Apparel Ltd. Anr v. M/s Surbhi Body Products Pvt Ltd. and Company Appeal (AT) (Insolvency) No. 34 of 2017 M/s Meyer Apparel Ltd & Anr. v. M/s Godolo & Godolo Exports Pvt Ltd in para 20 held as follows

"At this stage, we may only add that once in a petition under section 7 or 9 if I&B Code when corporate resolution process is initiated, the Adjudicating Authority has no jurisdiction to initiate another corporate resolution process against the same very corporate debtor, though it may allow the Financial Creditor/ Operational Creditor to file claim pursuant to the advertisement issued, before the "interim resolution professional".

Further the Hon'ble National Company Law Appellate Tribunal in Company Appeal (AT)(IB) 8/2017, 12/2017 and 50/2017 also held that once resolution process is commenced further the question of initiation of further proceeding under any of the provisions of the IB code (section 7, 9 and 10) does not arise.

In view of the above said decisions of the Hon'ble National Company Law Appellate Tribunal and in view of commencement of insolvency Resolution Process in respect of M/s GEI Industrial Systems Ltd in CP(IB) 35/2017 and in view of moratorium declared under section 13(1)(a) of Insolvency and Bankruptcy Code, 2016 this application is dismissed. However, applicant is at liberty to submit his claim, before Interim Resolution Professional appointed in CP(IB) 35/2017.


BIKKI RAVEENDRA BABU
MEMBER JUDICIAL

Dated this the 31st day of August, 2017.