

NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI

C.P. No.1439/(MAH)/2017

CORAM:

SHRI B. S. V. PRAKASH KUMAR
MEMBER (J)
SHRI V. NALLASENAPATHY
MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL
COMPANY LAW TRIBUNAL ON 05.02.2018

NAME OF THE PARTIES: Apar Industries Ltd
Vs
Kalisa Steel Pvt Ltd.

SECTION OF THE COMPANIES ACT: I & BP Code 2016

ORDER

CP No.1439/I&BP/NCLT/MB/MAH/2017

On the withdrawal memo filed by the Petitioner Counsel, this Company Petition is hereby dismissed basing on the consent terms arrived at between the parties.

Sd/-

V. NALLASENAPATHY
Member (Technical)

Sd/-

B.S.V. PRAKASH KUMAR
Member (Judicial)

Encl: Consent terms.

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH, MUMBAI

COMPANY PETITION 1439 OF 2017

IN THE MATTER OF:

The Insolvency and Bankruptcy Code, 2016

AND IN THE MATTER OF:

Application to initiate corporate insolvency resolution process BY Operational creditor under Section 8 and 9 of the Insolvency and Bankruptcy Code, 2016

AND IN THE MATTER OF:

M/s. APAR INDUSTRIES LIMITED, a Company incorporated under the Companies Act, 1956 having its registered office at 301, Panorama Complex, R. C. Dutt Road, Vadodara - 390007, Gujarat, India

...Applicant/

Operational Creditor

AND IN THE MATTER OF

M/s. KALISMA STEEL PRIVATE LIMITED

Having registered office at:

5, VIKAS PARK, JUHU TARA ROAD,

JUHU MUMBAI-400049

...Corporate Debtor

राष्ट्रीय कम्पनी विधि अधिकरण
NATIONAL COMPANY LAW TRIBUNAL
मुंबई न्यायपीठ/MUMBAI BENCH

11 JAN 2018

आयर्स / Diary No. 995 ne
कॉ. पीटीशन ऑप्लिकेशन
CQ. PETITION APPLICATION NO. 10.50pm

To,

The Hon'ble National Company Law Tribunal,
Mumbai Bench

MEMO

Be pleased to take on record the accompanying Consent Terms executed in between the Applicant/ Operational Creditor and the Corporate Debtor in the above captioned matter.

Accordingly, orders may please be passed disposing of the captioned matter in terms of the Consent Terms.

Yours faithfully,



Adv Maneesh Dixit

Advocate for the Applicant/ Operational creditor

Dated:- ~~22/12/2017~~
11/01/2018

**BEFORE THE NATIONAL
COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI
COMPANY PETITION NO. 1439 OF
2017**

APAR INDUSTRIES LIMITED

... Applicant/

Operational Creditor

Versus

KALISMA STEEL PVT LTD

... Respondent/

Corporate Debtor

**MEMO OF THE APPLICANT/
OPERATIONAL CREDITOR**

Dated this ^{11th} ~~12th~~ day of December-2017

January 2018

Mr. Maneesh Dixit

Advocate for the Applicant/

Operational Creditor

65/67, Sonawala Bulding, 3rd Floor,

Opp Union Bank of India, Near BSE,

Fort, Mumbai-1

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**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI
COMPANY PETITION NO. 1439 OF 2017**

M/s. APAR INDUSTRIES LIMITED

**...Applicant/
Operational
Creditor**

Versus

M/s. KALISMA STEEL PRIVATE LIMITED

**...Corporate
Debtor**

CONSENT TERMS

- A.** Whereas the above Company Petition was filed by the Operational Creditor above named against the Corporate Debtor above named under Section 9 of the Insolvency and Bankruptcy Code, 2016;
- B.** Whereas the Corporate Debtor have offered to settle the claims of the Operational Creditor on terms as particularly mentioned herein after;
- C.** Whereas the representatives of both parties have met on 17th November 2017 to decide the terms of settlement and have signed Minutes of the Meeting, a copy of which is annexed herewith and marked as Annexure-A and shall be read as part and parcel of these consent terms;



Now therefore, the parties hereto have agreed on the following terms for the settlement of the above matter:

1. The Corporate Debtor acknowledges that the amounts mentioned in the above named Petition claimed by the Operational Creditor are payable to the Operational Creditor without any demur or dispute regarding the same. Further, Corporate Debtor also agrees to bear expenses towards fair legal costs of the Operational Creditor.
2. Parties herein agree that the total amount due and payable by the Corporate Debtor to the Operational creditor shall be Rs.17,00,000/- (Rupees Seventeen Lakhs Only).
3. Corporate Debtor has paid Rs.3,00,000/- as upfront payment vide Demand Draft no. 634076 dated 15-11-2017 for Rs.3,00,000/- in favour of Operational Creditor drawn on Punjab National Bank, Brady House, Fort, Mumbai Branch which is acknowledged as received by Operational Creditor.
4. The Corporate Debtor has offered to clear the balance amount of Rs.14,00,000/- in 4 successive instalments through RTGS/Demand Draft by the Corporate Debtor as per the schedule of repayment mentioned below:

<u>Sr</u> <u>No</u>	<u>Dates</u>	<u>Amount of</u> <u>Instalment</u> <u>(Rs.)</u>
1	15.12.2017	3,00,000/-
2	15.01.2018	3,00,000/-
3	15.02.2018	3,00,000/-
4	15.03.2018	5,00,000/-
TOTAL		14,00,000/-

5. The Corporate debtor undertakes to this Hon'ble Tribunal to honour the above schedule of repayment. In the event of non-payment or default on part of the Corporate Debtor, the Operational Creditor shall be free to pursue all legal means to recover such amount(s) which shall remain due and payable.
6. In the event of regular payment of the first 3 instalments by the Corporate Debtor as stated above, the Operational Creditor, on the request of the Corporate Debtor, may consider to give discount or credit for the interest being claimed by the Operational Creditor in the 4th instalment in which case the amount of Rs.5,00,000/- payable in the 4th instalment may stand reduced or modified.

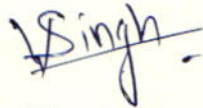
7. In the event of default or delay in repayment as above by the Corporate Debtor, nothing herein shall be construed as a waiver of rights or relinquishment of the Operational Creditor's right to pursue any legal recourse available to the Operational Creditor under any law in force in India for the recovery of its dues, under Civil as well as criminal law prevalent in India.
8. Parties agree that the consent terms shall stand satisfied on the full payment of the amounts as mentioned above by the Corporate Debtor to the Operational Creditor.
9. The Representative of Corporate Debtor is duly authorised to sign these consent terms and proof of his authority is annexed herewith as Annexure-B and be read as part and parcel of these Consent Terms. He does not deny or dispute his identity.
10. Parties pray this Hon'ble Tribunal for order in terms of these consent terms, the undertaking given by the Corporate Debtor in clause 4 above be accepted and Parties further pray that the Petition be disposed of accordingly.

These consent terms are entered into on: 12/12/2017
At: Mumbai

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Signed by Authorised Representatives of respective parties as under:

**For and on behalf of M/s
Apar Industries Ltd**



Virendra Singh Barangali
Asst Manager Credit
Control

**For and on behalf of M/s
Kalisma Steel Pvt Ltd**



Harshad Tendulkar
GM- HR & Admin

Identified by me:



Advocate for the
Operational Creditor

Name:

Adv. Manesh Dixit-

Identified by me:



Advocate for the Corporate
Debtor

Name: Adv. Amol Joshi

MINUTES OF THE JOINT MEETING ("MOM") DATED 17TH NOVEMBER 2017 HELD AT APAR HOUSE, CP OFFICE, CHEMBUR, MUMBAI-400071.

FOLLOWING PERSONS WERE PRESENT:

ON BEHALF OF M/s APAR INDUSTRIES LIMITED:

1. Mr. G. R. Iyer- Sr. GM- Credit Control
2. Mr. Dhirendrapratap B. Singh- AGM, Sales and Marketing
3. Mr. Virendra Singh Barangali- Dy. Manager Credit Control
4. Advocate Maneesh M. Dixit- Advocate for Apar Industries Limited

ON BEHALF OF M/s KALISMA STEEL PVT. LTD.

1. Mr. Harshad Tendulkar- GM-HR & Admin

MINUTES OF MEETING

1. Mr. Harshad Tendulkar on behalf of M/s Kalisma Steel Pvt Ltd ("KSPL") admitted to the dues payable to M/s Apar Industries Limited ("AIL") as mentioned in the Petition no. 1439 of 2017 filed by AIL under section 9 of Insolvency and Bankruptcy Code, 2016 and heard by the Hon'ble NCLT, Mumbai Bench-1.
2. The above petition was heard on 15th November 2017 and the Hon'ble NCLT, Mumbai Bench has reserved the same for orders.
3. Mr. Harshad Tendulkar presented a Demand Draft no. 634076 dated 15-11-2017 for Rs.3,00,000/- in favour of AIL drawn on Punjab National Bank, Brady House, Fort, Mumbai Branch which is acknowledged as received by AIL. KSPL further agreed that the balance amount due and payable to AIL is Rs. 14,00,000/- (Rupees Fourteen Lakhs Only) which is inclusive of interest and legal expenses.
4. KSPL has agreed to clear the dues of AIL amounting to Rs.14,00,000/- (Rupees Fourteen Lakhs Only) latest by 15th March 2018 in the following schedule of repayment of 4 instalments:
1st Instalment- Rs.3,00,000/- payable by 15th December 2017.
2nd Instalment- Rs.3,00,000/- payable by 15th January 2018.

3rd Instalment- Rs.3,00,000/- payable by 15th February 2018.

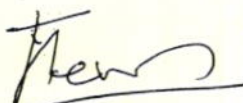
4th Instalment- Rs.5,00,000/- payable by 15th March 2018.

5. AIL has agreed to consider any discounts in the rate of interest (currently being charged @24% p.a. SI) in case the instalments until 15th February 2018 are paid by KSPL without any delays or default. Accordingly, the last instalment due and payable on or before 15th March 2018 may be modified/ reduced.
6. Parties have agreed to draw up consent terms in terms of what is stated herein above and present the same before the Hon'ble NCLT, Mumbai Bench with a prayer to dispose of the above mentioned Petition.
7. The signatories who have signed this MOM have been duly authorised as such by their respective companies and do not dispute their identities or authority to sign this MOM.

On behalf of Apar Industries Ltd

On behalf of Kalisma Steel Pvt Ltd

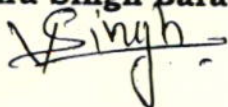
1. Mr G R Iyer


Mr. Harshad Tendulkar


2. Mr. Dhirendrapratap B Singh

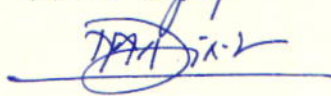


3. Mr. Virendra Singh Barangali



4. Advocate Maneesh M. Dixit



True copy

Adv. for Operational Creditor



महाराष्ट्र MAHARASHTRA

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AC 960649



श्री. रा. कृ. पोटले

POWER OF ATTORNEY

TO ALL TO WHOM THESE PRESENTS SHALL COME, WE APAR INDUSTRIES LIMITED, a company registered under the Companies Act, 1956 and having its Registered Office at 301, Panorama Complex, R.C.Dutt Road, Vadodara - 390 007 & Corporate Office at Apar House, Corporate Park, Sion - Trombay Road, Chembur, Mumbai - 400 071, (hereinafter referred to as " the Company") SEND GREETINGS :-

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Whereas the Company is desirous of initiating legal proceedings against some of its customers/debtors for the recovery of their valid and legal outstanding amounts recoverable from such customers/debtors through the official representative of the Company- Shri Virendra Singh Guman Singh Barangali, Assistant Manager – Credit Control;

And whereas the Company has appointed Shri Virendra Singh Guman Singh Barangali, Assistant Manager – Credit Control, to do all acts deeds and things in relation to the proposed proceedings to be instituted against such customers/debtors;

NOW KNOW WE ALL AND THESE PRESENTS WITNESSETH that the Company doth hereby continue to nominate, constitute and appoint Shri Virendra Singh Guman Singh Barangali to be its true and lawful attorney in its name and on its behalf and expressly subject to the superintendence, control and directions of the Board of Directors of the Company to do all or any of the following acts, deeds, matters and things in relation to Civil / Criminal matters regarding collection of dues of the Company as follows:

1. To sign correspondence related to the Legal Department of the Company for and on behalf of the Company.
2. To make applications and sign papers and / or documents that may be required by the Company in the course of its business under any law or rules and regulations of the Central or State Government or Municipal or other public

bodies for and on behalf of the Company. To execute bonds, guarantees and / or deeds that may be required in connection with the aforesaid matters and do all other acts and things that may become necessary in that connection.

3. To appear before any Government, Municipal, Local and other public authorities including the Sub-Registrar of Assurances and the Registrar of Companies and to lodge and register any documents executed by the company.

4. To institute, prosecute, endorse, defend, oppose, settle or refer to arbitration or withdraw any proceedings or any suits, complaints, petitions, any other legal proceedings, claims and demands, arbitration proceedings relating to the Company and also to settle, adjust, compromise or submit to mediation or conciliation any claims, demands, disputes, accounts and matters which may have arisen or may hereafter arise between the Company and any other person(s) or any firm or Company, and also participate in mediation, conciliation, arbitration proceedings and for that purpose, to do or cause to be done all such acts, deeds and things as he may think it necessary or expedient, including leading evidence and apply for withdraw the proceedings.

5. To declare, verify, attest, affirm and make all petitions, complaints, statements, claims, affidavits and other applications necessary under the Factories Act, Payment of Wages Act, Central Excise Act, Industrial Disputes Act, Bombay Industrial Relation Act, Income Tax Act, 1961, Companies Act, 1956, Companies Act, 2013, Insolvency and Bankruptcy Code 2016, Foreign Exchange Regulation Act, Essential Commodities Act, M.R.T.P. Act or any other Acts, laws or rules of the Central and/or State Governments and/or Local Corporation and/or



any other Statutory Body and/or any other recognised Association in the name and on behalf of the Company.

6. To sign, verify, declare and affirm plaint, written statements, affidavits, applications, petitions, including Company Winding-up Petition & complaints or writing in any suits or proceedings filed by or against the Company in any Judicial or Quasi-Judicial authority, Board, Forum, Commission, Tribunal by whatsoever name called including but not limited to the National Company Law Tribunal and National Company Law Appellate Tribunal; any and all Court or Courts either of original, appellate, criminal or revisional jurisdiction, including all Hon'ble High Courts and the Hon'ble Supreme Court of India.

7. To engage any Advocate or Advocates or Solicitors for any of the above matters or proceedings outside Mumbai and to sign Vakalatnama or any other appropriate authority in favour of such Advocate or Advocates or Solicitors in the matters outside Mumbai.

8. To give evidence in any Court or courts and to file Exhibits in Court or Courts as well as to withdraw proceedings/applications and exhibits from Court.

9. To enter into out-of-court settlement on behalf of the Company, sign consent terms/ settlement terms, deposit moneys in Court as well as to withdraw moneys from Court or Courts and to pass effectual receipt or receipts for the same.

10. To execute any decree or order that may be passed in Company's favour in any suit or proceedings and for that purpose to sign, declare, verify and affirm



applications, affidavits, or any other writings for fully and effectually executing such decree or order.

11. To file any appeals, review petitions, other petitions, revision applications or any other appropriate proceedings against any decree, judgements or other orders including all or any interim orders that may be passed against the Company in any suit or proceedings and for that purpose to sign, declare, verify and affirm memos, appeals, petitions, applications, affidavits, or any other writings as may be required for the said purpose and to do or cause to be done any acts, deeds, matters and things for fully and effectually prosecuting such matters.

12. The Company doth hereby expressly agree to undertake and confirm that the powers and authorities specified hereinabove shall be deemed to have been vested and given by the Company to the said Attorney for and on behalf of the Company to the end and intent that each and every act and deed done by the above Attorney in relation to any of the above matters shall be valid and binding on the Company with retrospective effect.

13. The Company doth hereby expressly agree to undertake and confirm that the powers and authorities specified hereinabove are not revoked, annulled, cancelled or otherwise restricted or cancelled.

14. And the Company doth hereby undertake to ratify and confirm all and whatsoever the Attorney has done or caused to be done in or about the premise as mentioned in this Power of Attorney or shall lawfully have done or caused to be done in or about the premise aforesaid by virtue of these presents.



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IN WITNESS WHEREOF the Common Seal of Apar Industries Limited has hereunto been affixed on the ____th day of 25 APR 2017 Two Thousand Seventeen.

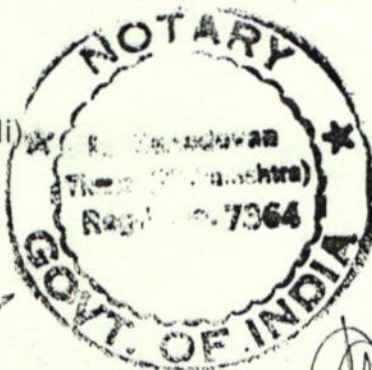
SIGNED AND DELIVERED by the) for APAR INDUSTRIES LIMITED
the withinnamed Shri Kushal N. Desai)
Managing Director in the)
presence of :-) X
) (Kushal N. Desai)
) Chairman & Managing Director

Specimen Signature of Attorney appended hereunder:

Singh
(Virendra Singh Barangali)

Verified by me

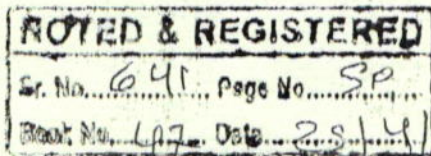
X
(Kushal N. Desai)
Chairman & Managing Director



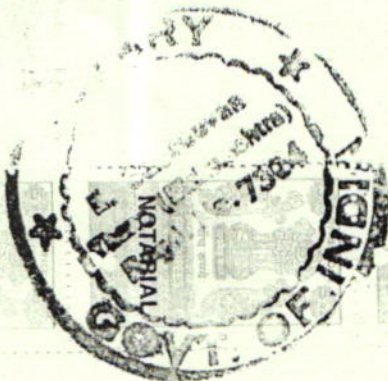
BEFORE ME

K. SAHADEVAN
ADVOCATE & NOTARY
GOVT OF INDIA

25 APR 2017



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True copy
Adv. for Operational Creditor.



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406, Shree Krishna Building,
New Link Road,
Opp. Laxmi Industrial Estate
Andheri (West), Mumbai - 400 053
CIN No: U52100MH2011PTC222943

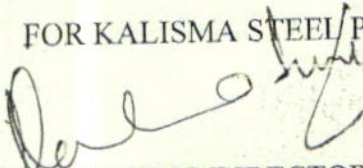
RESOLUTION

CERTIFIED COPY OF THE RESOLUTION PASSED IN THE MEETING OF THE BOARD OF DIRECTORS OF KALISMA STEEL PVT. LTD. HELD ON 17th NOVEMBER, 2017 AT THE CORPORATE OFFICE OF COMPANY AT 406, SRI KRISHNA BUILDING, NEW LINK ROAD, OPP. LAXMI INDUSTRIAL ESTATE, ANDHERI WEST, MUMBAI - 400 053.

RESOLVED THAT Mr. HARSHAD TENDULKAR holding designation General Manager HR & Admin, of the Company, is hereby authorized to file Company Petition, Suit, Summary Suits, Arbitration Reference, Arbitration Application, Arbitration Petition, Winding up Petition, Execution Proceedings, all proceedings under Companies Act, dispute in Co-operative Court, Appeals, any Civil and/or Criminal proceedings, Complaints etc. in Mumbai Court or in any other Court in India and to do all the acts, deeds and things which may be necessary for that purpose and if necessary to file Civil Suit, Review, Revision, Appeals, Winding Up Petitions, initiate proceedings under The Insolvency and Bankruptcy Code 2016 ("IBC 2016") including authorizing any Advocate to send notices on behalf of the Company under the IBC 2016 and also file any Application/Petition under the IBC 2016 through such advocate and/or any other legal proceedings on behalf of the Company and/or to defend the company in any court in Mumbai or any other Court in India and to appoint or engage any Advocate and sign the complaint, plaint, petition, affidavit, application, Vakalatnama or any other documents which may be required and necessary and to produce and lead and give oral evidence, statement in the Court and to get legal process issued and effect service thereof through legal machinery, to withdraw from any proceedings and sign any settlement or consent terms and in general to do all acts, things and deeds which may be required for the aforesaid purposes.

CERTIFIED TRUE COPY

FOR KALISMA STEEL PVT. LTD.


MANAGING DIRECTOR



True copy
As per
Adm. for Corporate Secy

**BEFORE THE NATIONAL
COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI
COMPANY PETITION NO. 1439 OF
2017**

APAR INDUSTRIES LIMITED

**... Applicant/
Operational
Creditor**

Versus

KALISMA STEEL PVT LTD

**... Respondent/
Corporate Debtor**

CONSENT TERMS

Dated this 11th day of ~~December-2017~~
January 2018

Mr. Maneesh Dixit

Advocate for the Applicant

65/67, Sonawala Bulding, 3rd
Floor,

Opp Union Bank of India, Near
BSE,

Fort, Mumbai-1