

(11)

NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH, MUMBAI

T.C.P No. 831/(MAH)/2017

CORAM:

Present:



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

SHRI V. NALLASENAPATHY  
MEMBER (T)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF  
THE NATIONAL COMPANY LAW TRIBUNAL ON 04.01.2018

NAME OF THE PARTIES: Tarun Kumar Laha Sole Proprietor of M/s Laha Trading  
V/s.  
Essar Projects (India) Ltd

SECTION OF THE COMPANIES ACT: I & BP Code 2016.

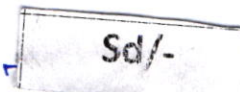
S. No.	NAME	DESIGNATION	SIGNATURE
11	Kritika Sethi ilb Cyril Amarchand Mangaldas	for corporate Debtors	
	Navid Menon	for operational creditor	

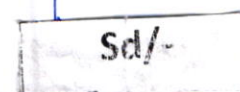
ORDER

TCP No.831/I&BP/NCLT/MB/MAH/2017

First Call: Pass over for filing withdrawal memo.

Second Call: On the withdrawal memo filed by the Petitioner Counsel on the settlement terms arrived between parties, this Company petition is hereby dismissed as withdrawn.

  
V. NALLASENAPATHY  
Member (Technical)

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

Encl: Settlement Agreement.

# Navid Y. Memon

## Advocate, High Court

Tel. Nos. 6237 7901, 2267 6999, 6512 1313. Mobile-99674 59993  
navidmemon.adv@gmail.com

Fort : Office No. 19, 2<sup>nd</sup> Floor, Raja Bahadur Mansion (New Bansilal Building), Homi Modi Street,  
Fort, Mumbai 400 023  
Andheri : 406, 4<sup>th</sup> Floor, Morya Estate, New Link Rd., Opp. Infiniti Mall, Andheri (W), Mumbai-53

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,  
BENCH AT MUMBAI  
TCP NO. 831 OF 2017

Mr. Tarun Kumar Laha sole Prop.  
of M/s. Laha Trading.

...Applicant/Operation  
Creditor

Versus

Essar Projects (India) Limited

... Corporate Debtor

To,  
Deputy Registrar,  
The National Company Law Tribunal,  
Mumbai Bench,  
Mumbai.

Sir,

Be pleased to take on record the withdrawal memo enclosed herewith.

Dated this 4<sup>th</sup> day of January, 2018.

Yours faithfully,

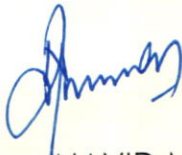
NAVID Y. MEMON  
Advocate for Petitioner



3. Therefore, by email dated 29.12.2017, the Corporate Debtor has requested for an extension of 15 days i.e. on or before 15.01.2018 for payment of the second installment of 50% of the settlement consideration i.e. Rs. 14,91,271/-. The Operational Debtor has accepted to grant extension to the Corporate Debtor.

4. In view of the amicable settlement between the parties herein, the Operation Creditor does not wish to pursue the aforesaid case against the Corporate Debtor and the same may be allowed to be withdrawn.

And for this act of kindness, the Operation Creditor shall remain obliged for ever.



NAVID MEMON  
Advocate for Operation Creditor.

## SETTLEMENT AGREEMENT

This Settlement Agreement (this "Agreement") is dated as of 13<sup>th</sup> day of November, 2017 is made and entered into among,

- (1) **EPC Constructions India Limited**, a company incorporated under the laws of India and having its registered office at Essar House, 11 KK Marg, Mahalaxmi, Mumbai - 400 034, India ("EPCC");

And

- (2) **Mr. Tarun Kumar Laha**, Sole Proprietor of **M/s Laha Trading** having its office at Dharala, Panagarh Bazar, District - Burdwan, West Bengal - 713 148 ("Vendor")

EPCC and the Vendor may be individually referred to as "Party" and collectively as "Parties"

### WITNESSETH

WHEREAS, EPCC and the Vendor entered into various Work Orders commencing from August 2011 till January 2015 (hereinafter the "WO"), towards the work carried out with respect to construction services in respect of commercial / industrial buildings and civil structures for Matix Fertilizers Project, Panagarh.

WHEREAS, the Vendor has filed a Company Petition No. 750 of 2016 before the High Court of Bombay which got transferred to the National Company Law Tribunal as TCP No. 831 of 2017 (Hereinafter the "Proceeding") and has sought payment of certain outstanding amounts from EPCC in relation to the WO (hereinafter the "Claims") and EPCC has agreed to settle the Claims in accordance to the terms and conditions of this Agreement.

WHEREAS, with a view to avoiding the expenses and time commitments associated with continuing to prosecute the Proceeding and in order to amicably part ways, the Parties have engaged in mutual discussions to explore an overall settlement of all of the disputes and an overall discharge of all of the Claims (including any and all disputes and claims that could have been asserted by the Parties against each other in the future on the same or similar grounds set out in the Proceeding or any other grounds).

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements and covenants hereinafter set forth, the Parties hereby agree as follows:

#### 1 Mutual Settlement and Withdrawal of Claims and Proceedings

The Parties agree that on the date of signing of this Agreement:

*Tarun Kumar Laha*

1.1 EPCC agrees to pay the Vendor the Settlement Consideration (as defined in Clause 2 below) in the manner provided therein to fully and finally settle and resolve the Claims and Proceeding in Clauses 1.2 to 1.3 below.

1.2 The Vendor unconditionally and irrevocably confirms that it shall withdraw all the pending complaints, applications, suits, writ petitions, arbitration cases, revenue cases and any pending legal proceeding against EPCC at any forum concerning this dispute as part of this Agreement. However, the petition filed at National Company Law Tribunal shall be withdrawn by the Vendor on receiving the entire settlement consideration.

1.3 Save as otherwise to enforce any right under this Agreement, the Vendor unconditionally and irrevocably confirms that following the withdrawal of the Proceeding stated in Clause 1.2 above, it shall not approach any court, judicial authority, quasi-judicial and administrative authority for the purposes of commencing or pursuing any suit or action against EPCC where such suit or action relates to matters that are substantially same as the matters raised in the Proceeding..

## **2 Settlement Consideration and its Remittance**

The Vendor accepts full and final settlement of its Claims and Proceedings and any other connected proceedings as per the following:

2.1 All the Claims shall be fully and finally settled at Rs.36,26,996/-, (the "Settlement Consideration"), payable as follows:

- (a) 50% of the Settlement Consideration, amounting to Rs. 18,13,498/-, to be paid by EPCC to the Vendor by 14<sup>th</sup> November, 2017 by RTGS.
- (b) The remaining 50% of the Settlement Consideration amounting to Rs. 18,13,498/-, to be paid by EPCC to the Vendor by 29<sup>th</sup> December, 2017 by RTGS.


For the avoidance of doubts, in the event the date on which the instalment is due to be paid is a public holiday for banks in India, the instalment shall be payable on the immediately succeeding working day for bank.

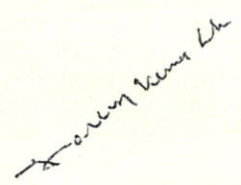
## **3 Legal Fees and Expenses**

Save as provided otherwise in this Agreement, each of the Parties shall solely bear its own costs and expenses, including but not limited to attorneys' fees and the negotiation and the execution of this Agreement and all other agreements and documents contemplated hereunder.

## **4 Confidentiality**

4.1, Each of the Parties shall, treat as confidential the provisions of the Agreement and all information it has received or obtained relating to any of the Parties as a result of, or in connection with, negotiating or entering into this Agreement.





4.2 The confidentiality restrictions in this Clause 4 shall continue to apply after the termination of this Agreement without limitation in time.

4.3 Without prejudice to any other rights or remedies that the Parties may have, the Parties acknowledge and agree that damages would not be an adequate remedy for any breach of this Clause and that the remedies of injunction, specific performance and other equitable remedies are appropriate for any threatened or actual breach of such Clause.

**5 Amendment: Waiver**

This Agreement may not be amended or modified except by an instrument in writing signed by the Parties. Waiver of any term or condition of this Agreement shall only be effective if in writing and shall not be construed as a waiver of any subsequent breach or waiver of the same term or condition, or a waiver of any other term or condition of this Agreement.

**6 Governing Law; Jurisdiction**

This Agreement shall be governed by and construed in accordance with the laws of India. The courts of Mumbai shall have exclusive jurisdiction to adjudicate any dispute arising under or in connection with this Agreement.

**7 Counterparts**

This Agreement may be executed in one or more counterparts, and by the different Parties hereto in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same Agreement.

[SIGNATURE PAGE FOLLOWS]

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*[Handwritten signature]*

*[Handwritten signature]*

EPCC Procurement <epil.procurement@epcc.co.in>

12/29/17  
(6 days  
ago)

to lahatrading348, me, A, Manoj, Pathmaja, Prakhar

**WITHOUT PREJUDICE**

Dear Mr Tarun Laha,

This refers to our telephonic discussions held yesterday on the subject and as explained to you, the scheduled payments are getting delayed owing to banking holidays followed by year end.

We would request you to kindly grant us an extension of 15 days for the payment of the balance outstanding as per settlement agreement. The payment will be done on or before 15<sup>th</sup> January, 2018.

Regards

Thanks & Regards,

**EPIL Procurement** | | EPC Constructions India Ltd |  
27th km, Surat Hazira Road, Surat-394270 | Gujarat | India |  
T | |  
E [epil.procurement@epcc.co.in](mailto:epil.procurement@epcc.co.in)

**lahatrading348**

10:22 AM (0  
minutes  
ago)

Sent from my Samsung Galaxy smartphone.

----- Original message -----

From: Tarun laha <[lahatrading348@gmail.com](mailto:lahatrading348@gmail.com)>

Date: 03/01/2018 7:36 pm (GMT+05:30)

To: [Amarnath@gmail.com](mailto:Amarnath@gmail.com), [Raghunathan@gmail.com](mailto:Raghunathan@gmail.com), "Sharma, Prakhar - EPCC - MUM" <[prakhar.sharma1@epcc.co.in](mailto:prakhar.sharma1@epcc.co.in)>, "Agarwalla, Manoj - EPCC - MUM" <[manoj.agarwalla@epcc.co.in](mailto:manoj.agarwalla@epcc.co.in)>, "Raghunathan, Pathmaja - EPCC - Legal - MUM" <[Pathmaja.Raghunathan@epcc.co.in](mailto:Pathmaja.Raghunathan@epcc.co.in)>, [Agarwalla@gmail.com](mailto:Agarwalla@gmail.com), "Amarnath, A V - EPCC - MUM" <[AV.amarnath@epcc.co.in](mailto:AV.amarnath@epcc.co.in)>

Subject: Re settlement agreement

Sir,

It is unfortunate that, the second installment has been delayed even after executing settlement agreement. Despite, such unreasonable conduct we are willing to grant a last chance for extension of 15 days i.e. on or before 15.01.2018 for the payment of the balance outstanding

BEFORE THE NATIONAL COMPANY LAW  
TRIBUNAL,  
BENCH AT MUMBAI  
TCP NO. 831 OF 2017

MR. TARUN KUMAR LAHA SOLE PROP. OF  
M/S. LAHA TRADING  
.... Operation Creditor

Versus

ESSAR PROJECTS (INDIA) LIMITED  
.... Corporate Debtor

WITHDRAWAL MEMO

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Dated this 4<sup>th</sup> day of January, 2018.

NAVID MEMON  
Advocate for Operation Creditor  
Office No. 19, 2<sup>nd</sup> Floor,  
New Bansilal Building,  
Homi Modi Street, Fort,  
Mumbai 400 023.  
Mob. : 99674 59993.  
Tel. : 6692 0818/19.  
Email.: navidmemon.adv@gmail.com