

(12)

NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI

T.C.P No. 832/(MAH)/2017

CORAM:

Present:

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



SHRI V. NALLASENAPATHY
MEMBER (T)

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

NAME OF THE PARTIES: Rajendra Bhalla Sole Prop. Of Steel Enterprise
V/s.

Essar Projects (India) Ltd

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

S. No.	NAME	DESIGNATION	SIGNATURE
12	Kavika Sethi i/b April Amarchand Mangaldas	For Corporate Debtors	
12	Navid Meman	For operational creditor	

ORDER

TCP No.832/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by the Petitioner Counsel on the settlement terms arrived between parties, this Company petition is hereby dismissed as withdrawn.

Sd/-

V. NALLASENAPATHY
Member (Technical)

Sd/-

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, 2nd Floor, Raja Bahadur Mansion (New Bansilal Building), Homi Modi Street,
Fort, Mumbai 400 023
Andheri : 406, 4th Floor, Morya Estate, New Link Rd., Opp. Infiniti Mall, Andheri (W), Mumbai-53

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
BENCH AT MUMBAI
TCP NO. 832 OF 2017

Mr. Rajendra Bhalla sole Prop.
of M/s. Steel Enterprise.

...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 4th day of January, 2018.

Yours faithfully,



NAVID Y. MEMON
Advocate for Petitioner

राष्ट्रीय कम्पनी विधि अधिकरण NATIONAL COMPANY LAW TRIBUNAL मुंबई न्यायपीठ/MUMBAI BENCH
04 JAN 2018
डायरी नं./Diary No. 222
क. पीटीशन ऑप्लिकेशन CO. PETITION APPLICATION NO. 12.2018

SETTLEMENT AGREEMENT

This Settlement Agreement (this "Agreement") is dated as of 13th 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. Rajendra Bhalla**, Sole Proprietor of M/s Steel Enterprise having its office at G.T. Road, 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 three Purchase Orders dated 13th March, 2014, 02nd January, 2013 and 27th March, 2014 (hereinafter the "PO"), towards the supply of Industrial Gas and Welding Electrodes.

WHEREAS, the Vendor has filed a Company Petition No. 751 of 2016 before the High Court of Bombay which got transferred to the National Company Law Tribunal as TCP No. 832 of 2017 (Hereinafter the "Proceeding") and has sought payment of certain outstanding amounts from EPCC in relation to the PO (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 Proceeding

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

- 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.29,82,542/-, (the "Settlement Consideration"), payable as per the following instalments:

- (a) 50% of the Settlement Consideration, amounting to Rs. 14,91,271/-, to be paid by EPCC to the Vendor not later than 14th November, 2017 by RTGS.
- (b) The remaining 50% of the Settlement to Rs. 14,91,271/-, to be paid by EPCC to the Vendor not later than 29th 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.

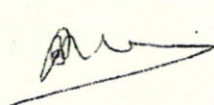
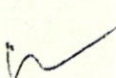
3 Legal Fees and Expenses

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 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

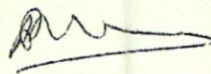
This Agreement may not be amended or modified except by an instrument in writing signed by the Parties. Waiver of any term or condition of this Agreement shall only be effective if in writing and shall not be construed as a waiver of any subsequent breach or waiver of the same term or condition, or a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



IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

EPC Constructions India Limited

By *M. Ramesh Agarwal*
Name: _____
Title: _____



M/s. Steel Enterprise

By Steel Enterprise
Name: *[Signature]*
Title: Proprietor

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

12/29/17
(5 days
ago)

to Rajendra, me, Prakhar, Pathmaja, Manoj, A

WITHOUT PREJUDICE

Dear Mr Rajendra Bhalla,

This refers to our telecon on the subject and as explained to you, due to banking holidays followed by year end, the scheduled payments have been delayed.

As discussed and agreed, we would like to thank you for granting us an extension of 15 days for the payment of the balance outstanding as per the settlement agreement signed between the parties which will be done on or before 15th January, 2018.

Request your confirmation on the above understanding.

Regards

Rajendra Bhalla

3:22 PM (3
minutes
ago)

to EPCC, me, Prakhar, Pathmaja, Manoj, A

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.

Thanks & Regards,

Yours Faithfully,
Rajendra Bhalla,
Steel Enterprise,
G.T.Road,
Panagarh Bazar,
Dist-Burdwan,713148.
Mob.9332038900/9434015844

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

Dated this day of January, 2018.

NAVID MEMON

Advocate for Operation Creditor

Office No. 19, 2nd Floor,

New Bansilal Building,

Homi Modi Street, Fort,

Mumbai 400 023.

Mob. : 99674 59993.

Tel. : 6692 0818/19.

Email.: navidmemon.adv@gmail.com