

IN THE NATIONAL COMPANY LAW TRIBUNAL  
BENGALURU BENCH

CP (IB) No.74/BB/2017

UNDER RULE 6 OF I&B CODE, 2016.

IN THE MATTER OF ILC IRON AND STEEL PRIVATE LIMITED

Vs.

M/S. MSM STEELS PRIVATE LIMITED

Coram: Hon'ble Shri.Ratakonda Murali, Member Judicial.

Hon'ble Dr Ashok Kumar Mishra, Member Technical.

Order delivered on 4<sup>th</sup> September, 2017

For the Petitioner: Ms. Shalini A. Hasinal, Advocate.

ILC Iron and Steel Private Limited,  
C-30, Industrial Estate, Dam Road,  
Hospet – 583 203.

...

Petitioner

Vs.

M/s. MSM Steels Private Limited,  
Shop No.1, Malang Complex, Nandi Stop,  
Old Ausa Road,  
Latur – 413 531.  
Maharashtra State.

Also at Plot No. A-116, Additional MIDC,  
Latur – 413 531,  
Maharashtra State.

...

Respondent

ORDER

The Operational Creditor has filed this application under Section 9 of Insolvency & Bankruptcy Code read with Rule 6 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016, initiating insolvency resolution process against the Corporate Debtor alleging that the Corporate Debtor has failed to pay Rs.54,26,654/- (Rupees fifty four lakhs twenty six thousand six hundred and fifty four only). A demand notice dated 13.06.2017 was also sent to the Corporate Debtor. Notice sent to the address of the Corporate Debtor was returned with endorsement "closed". Therefore, the Operational Creditor has filed the petition for initiating Insolvency resolution process against the Corporate Debtor.

On scrutiny of papers, the Registry has raised objection on the ground that the present petition is not maintainable before this Tribunal as the registered office of the Corporate Debtor is situated in the State of Maharashtra bearing CIN No. U27100MH2009PTC196847. The Registry has also pointed out that against the data of the Corporate Debtor annexed to the application also confirms that the Registered office of the Corporate Debtor is situated in Shop No.1, Malang Complex, Nandi Stop, Old Ausa Road, Latur – 413 531, Maharashtra State. Also at Plot No. A-116, Additional MIDC, Latur – 413 531, Maharashtra State. The two addresses given are located in the State of Maharashtra. Thus, the Registry has raised objection that this Tribunal has no jurisdiction to entertain this petition.

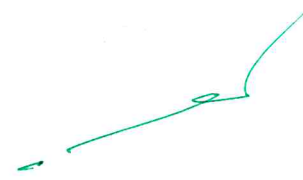

The matter is listed for hearing. We have heard the counsel appearing for Operational Creditor who stated that this Tribunal has jurisdiction to entertain the petition basing on the object of the enactment.

In this connection, We have seen the definition of adjudicating authority at Section 5 Sub-clause 1 of Insolvency & Bankruptcy Code, 2016. The adjudicating authority means National Company Law Tribunal constituted under Section 408 of Companies Act, 2013. Section 60 deals with adjudicating authorities for corporate persons. Section 60 clause 1 of the Insolvency & Bankruptcy Code, 2013 reads as follows:

**“Adjudicating Authority for corporate persons.**

**60.** (1) The Adjudicating Authority, in relation to insolvency resolution and liquidation for corporate persons including corporate debtors and personal guarantors thereof shall be the National Company Law Tribunal having territorial jurisdiction over the place where the registered office of the corporate person is located.”


Thus, it is clear that the adjudicating authority in relation to insolvency resolution and liquidation for corporate persons including Corporate Debtors shall be National Company Law Tribunal having territorial jurisdiction over the place where the registered office of the corporate person is located.



In this connection, the registered office of the Corporate Debtor is located in Latur in the State of Maharashtra. National Company Law Tribunal, Mumbai, is having jurisdiction over the registered office of the Company. This Tribunal has no jurisdiction over the place where the registered office of the Corporate Debtor is situated.

Therefore, this Tribunal cannot entertain this application. The only direction to be given to the Operational Creditor is to take back the relevant papers and to file the same before the National Company Law Tribunal having jurisdiction over the area where the registered office of the Corporate Debtor is situated.

The Registry is directed to hand over the necessary papers to the counsel for the petitioner with a direction to be presented before the appropriate Tribunal having jurisdiction.

  
(RATAKONDA MURALI)  
MEMBER (JUDICIAL)

  
(ASHOK KUMAR MISHRA)  
MEMBER (TECHNICAL)

psp.