

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
BENGALURU BENCH**

**T.P.No.118/17**

**IN**

**CP.NO.274/16**

**Under Section 433(e) of Companies Act, 1956**

**IN THE MATTER OF  
FEDEX EXPRESS TRANSPORTATION AND SUPPLY CHAIN SERVICE  
(INDIA) PRIVATE LIMITED**

**Order delivered on: 13<sup>th</sup> November, 2017**

Coram: Hon'ble Shri Ratakonda Murali, Member (Judicial)  
Hon'ble Shri Ashok Kumar Mishra, Member (Technical)

For the Petitioner (s)      1. Shri Rajkumar.M.D, Advocate

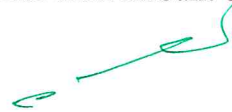
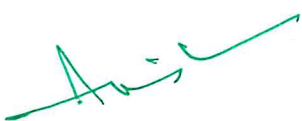
Per: Hon'ble Shri Ashok Kumar Mishra, Member (Technical)

Heard on: 2.2.2017, 24.3.2017, 1.6.2017, 12.07.2017, 11.08.2017, 31.08.2017,  
12.09.2017, 22.09.2017, 3.10.2017, 26.10.2017, 7.11.2017

**ORDER**

The Petitioner M/s. FedEx Express Transportation and Supply Chain Service (India) Private Limited had filed a petition for winding up against the respondent company under Section 433 (e ) read with 434 of the Companies Act, 1956 before the Hon'ble High Court of Karnataka on 2nd December, 2016 for winding up of M/s. Pickthemup Technologies Private Limited. This matter was received on transfer from Hon'ble High Court of Karnataka pursuant to notification no G.S.R.No.1119(E ) & S.O.3676(E ) dated 7th December, 2016 issued by Ministry of Corporate Affairs, Govt. of India. The petitioner has filed compliance affidavit in terms of the above notification.

The Petitioner is an operational creditor who is a reputed shipping agency operating in India. The Petitioner/ Operational creditor has provided expertise services to the Respondent Company M/s.Pickthemup Technologies Private Limited. The Petitioner/ Operational creditor had entered into an agreement with the Respondent Company wherein the Respondent Company had availed the services of the Petitioner/Operational Creditor with effect from 18.09.2015 and the invoices for the same had been issued to the Respondent. The total amount of Debt



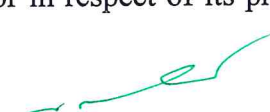
The petitioner/ operational creditor has filed the Demand notice in Form No.3 of Insolvency and Bankruptcy Rules, 2016 read with Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. The petitioner/operational creditor has enclosed the Tracking report in proof of delivery of Demand Notice under Section 8 under Insolvency and Bankruptcy Code, 2016. The Tribunal had issued notice to Respondent at the first instance. The Tribunal had directed the Registry to prepare the notice and the Petitioner/operational creditor to serve the notice on the Respondent. The postal receipt and acknowledgement was filed by the counsel through memo dated 26.10.2017.

The operational creditor has enclosed a certificate dated 10<sup>th</sup> October, 2017 from their banker M/s Bank of America, Mumbai stating that the operational creditor has not received any payment from the corporate debtor between the period from 15<sup>th</sup> September, 2017 to 26<sup>th</sup> September, 2017 in respect of the outstanding due payable by the corporate debtor. The operational creditor has also filed an affidavit in support of this application.

The Operational Creditor has named Mr. Pankaj Srivastava, Registration No. IBBI/IPA-001/IP-P00245/2017-18/10474, residing at G02, Kundur park, Amruthaali, Jakkur Main Road Bangalore-560064, Email:psni@live.com as Interim Resolution Professional and the said Interim Resolution Professional in his letter has expressed his willingness for the appointment and also certified that there are no disciplinary proceedings pending against him.

The Tribunal has issued notice on 17<sup>th</sup> February, 2017 and on 3<sup>rd</sup> October, 2017 to the Respondent but there is no representation from the Respondent. This Bench admits this Petition under Section 9 of the code declaring moratorium for the purposes referred to in Section 14 of the Code with the following directions:-


- i. That this Bench hereby prohibits the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, decree or order in any court of law, tribunal, arbitration panel or other authority; transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein; any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property

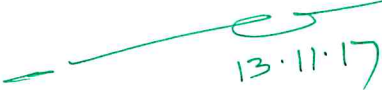


including any action under Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002; the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.

- ii. That the supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
- iii. That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- iv. That the order of moratorium shall have effect from 13<sup>th</sup> November, 2017 till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of Section 31 or passes an order for liquidation of corporate debtor under Section 33, whichever is earlier.
- v. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the code.
- vi. That this Bench hereby appoints Mr. Pankaj Srivastava, Registration No. IBBI/IPA-001/IP-P00245/2017-18/10474, residing at G02, Kundur Park, Amruthaali, Jakkur Main Road Bangalore-560064, Email:psni@live.com as Interim Resolution Professional to carry the functions as mentioned under the Insolvency & Bankruptcy Code.

Accordingly, this Petition is admitted.

  
(ASHOK KUMAR MISHRA)  
MEMBER, TECHNICAL

  
(RATAKONDA MURALI)  
MEMBER, JUDICIAL