

NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH
COURT NO.1

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
 BENGALURU BENCH, BENGALURU, HELD ON 20.10.2017.

PRESENT: 1. Hon'ble Member(J) Shri Ratakonda Murali
 2. Hon'ble Member(T) Dr. Ashok Kumar Mishra

C.P. No. or C.A. No.	T.P. No.	Purpose	Section	Name of the Parties M/s. / Mr.
CP(IB) No. 14 / BB/ 2017	-	For orders	Rule-4 of I&B	Edelwiss Assets Reconstruction Co. Ltd., Vs Falcon Tyres Ltd.

SL. NO.	NAME (IN CAPITAL) & PHONE NUMBER	REPRESENTATION TO WHOM	SIGNATURE
1	Samarth Shreedhar 9900640996	Petitioner	<i>DR ASL</i>
2	Rasid Bootwala 1/6 Monilal Kher Ambalal & Co. 9930371505	Petitioner	<i>Rasid</i>

Counsel for petitioner is present. Counsel for respondent-2 is present.

The matter is listed today for orders. In the meantime, counsel for petitioner has filed a memo on behalf of the petitioner enclosing copy of the order of Hon'ble NCLAT. The counsel has contended that M/s. Falcon Tyres Ltd./Respondent No.1 company herein has filed an appeal before the Hon'ble NCLAT, New Delhi, against the appointment of IRP made in CP (IB) No.01/BB/17. The counsel also reported that the appeal is listed for hearing on 07.11.2017.

The learned counsel has also stated in the memo that the Tribunal has to pass an order on admission and postpone the appointment of IRP pending result of the appeal before the Hon'ble NCLAT.

We have heard the counsel for the petitioner today. On the previous adjournment also, the senior counsel appearing for the petitioner appeared and submitted arguments and wanted this Tribunal to pass order on admission of the petition.

It is very clear that this Tribunal has already appointed an IRP for Respondent No.1 company, M/s. Falcon Tyres Ltd. in CP (IB) No.01/BB/17 dated 30.08.2017 and further passed an order of moratorium under section of 14 of the I & B Code. Now, the question before the Tribunal is whether the Tribunal can pass any order in this matter, particularly, an order regarding admission of the petition in the light of the moratorium order passed in CP (IB) No.01(BB)/17. We have seen Section 14 of I & B Code. Section 14(1)(a) provides that when moratorium is passed, the Tribunal shall pass an order prohibiting (a) the institution of suits or continuation of pending suits or **proceedings** against the corporate debtor including execution of any judgment, decree or order in any court of law, **Tribunal**, arbitration panel or other authority.

The ~~the~~ order of moratorium is in force. The Tribunal cannot proceed in the matter pending against the corporate debtor. Even the Tribunal cannot pass any order on the admission of the petition which is prohibited by the order of moratorium.

Section 13 (1) of I & B Code provides that after admission of the application, the adjudicating authority shall pass an order of moratorium, cause the public announcement of initiation of corporate insolvency resolution process and call for the submission of claims under Section 15 and appoint an interim resolution professional in the manner laid down under Section 16.

Since, the IRP was already appointed for M/s. Falcon Tyres Ltd., the Respondent No.1 company herein, then there is no question of appointing another IRP for the same company. Thus, there is an order of moratorium passed by this Tribunal. Secondly, already an IRP was appointed and therefore, this Tribunal cannot pass any order at present on the admission of this petition and if the Tribunal attempts to pass any order, it is contrary to the order of moratorium. However, the counsel reported that the appointment order of IRP in CP(IB) No.01/(BB)/17 is challenged by Respondent No.1 company, M/s. Falcon Tyres Ltd. before the NCLAT and it is pending. Subject to the result of the appeal pending before the Hon'ble NCLAT, this Tribunal will proceed in this matter.

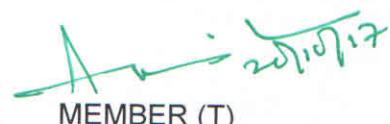
Since the order of Hon'ble NCLAT shows that the matter is listed for hearing on 07.11.2017, therefore, this matter is ordered to be listed on 10.11.2017.

It is open to the counsel for the petitioner to move this Tribunal as soon as any order passed by the NCLAT over the appointment of IRP in CP(IB) 01/(BB)/17.

With this direction, the matter is listed for hearing on 10.11.2017.



MEMBER (J)



25.10.17
MEMBER (T)