

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

I.A.102/17  
IN  
CP(IB) No.01/BB/17

SECTION 9 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016

**IN THE MATTER OF  
BELTHANGADY TALUK RUBBER GROWER'S MARKETING & PROCESSING  
CO-OPERATIVE  
SOCIETY LIMITED**

Order delivered on: 30<sup>th</sup> August, 2017

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

For the Applicant (s): K.Srinandan, Advocate

For the Petitioner (s): Sangeetha M.S. Advocate \* Prashanth B.K & Associates, CCI Legal, Advocates

For the Respondent (s): Amrutha Varshini.M.C, Advocate

\* corrected v.o. dt: 8.9.17

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

Heard on: 26.07.17, 11.08.2017, 16.08.2017, 18.08.2017, 21.08.17, 23.08.2017, 29.08.2017

**ORDER**

This Application is filed by third party under rule 11 of NCLT Rules, 2016 for impleading the Applicant 'Falcon Tyres Employees Union'.

The Applicant has averred that it is a registered and recognised union of Falcon Tyres which is the respondent company. There are about 2000 employees in the company who include permanent, badlis, apprentices and contract workmen. It is stated that due to mismanagement of the company the livelihood of workers is at risk. The impleading petition is filed to protect the interest of workers whose number is around 2500. The Applicant union has given various details happened in the course of time and at times due to intervention of some ministers of the state government company started functioning for some time. But however there is no change and no improvement in the functioning of the company.

The Applicant has alleged that various dues were payable to the employees of the union by the company. The details are:

- a) The Applicant Union had in regard to the various dues: including wages, payment of LTC stitching charges along with uniforms and shoes. money towards Benevolent fund,

Sports Fund, Co-operative society, etc. for the period December 2014 to May 2016 the Applicant approached the appropriate authority under Section 33-C(10) of the Industrial Disputes Act, 1947. It is submitted that the appropriate authority has issued order dated 9.01.2017 calculating the said due for the period up to May 2016, as Rs.22,12,53,626/- (Rupees Twenty Two Crores Twelve Lakhs, Fifty Three Thousand Six Hundred and Twenty Six Only). The order passed by the Deputy Commissioner dated 8.03.2017 in regard to the recovery of the said amount is placed herewith as Annexure-H.

- b) It is submitted that the earned wages for the period of 3 months and 22 days from 20.10.2016 to 09.01.2017 and other benefits as per the settlement has also been claimed under Section 33-C(1) of Industrial Disputes Act for an amount of Rs.1,00,161,832/- (Rupees Ten Crores One Lakh Sixty One Thousand Eight Hundred and Thirty Two only) and the same is presently pending.
- c) It is submitted that the Management of Falcon Tyres Limited has defaulted towards the contribution of EPF, ESI, LIC premium (personal and gratuity), housing loan instalment. In view of the same 2,500 insurance policies have lapsed.
- d) In regard to the failure of Management of Falcon Tyres Limited to deposit the employee's share of the provident fund under the Employee's share of the provident fund under the Employees Provident fund and Miscellaneous Provisions Act, 1952, a case under Section 405 and 406 of the Indian Penal Code has been registered against them by the Metagalli Police Station, Mysore. The office of Recovery Officer, Employee's Provident Fund Organisation has also issued an order of attachment of immovable property dated 31.08.2016 for Rs.4,13,97,070/- for the period from February 2014 to January 2015. The provident funds dues for the subsequent period are to be ascertained.
- e) It is submitted that the Management of Falcon Tyres Limited has failed to remit the TDS deducted from the employees' salaries to the Income Tax Department from September 2013.
- f) It is submitted that the gratuity amount due to the workmen as of 31.03.2017 would be an amount of Rs.13,51,34,430/-.
- g) It is further submitted that in the event of closure, the closure compensation would amount to around Rs.13,51,34,430/-. Apart from the same, the workmen would also be entitled to notice pay of 3 months wages amounting to amount Rs.3,84,38,862/-.

- h) It is submitted that apart from the above, various other dues of the employees including EPF, ESI, Housing/Society/LIC premium, personal loans are to be calculated additionally.
- i) It is submitted that apart from the above, the dues payable to the workmen including staff personnel, contract workers, apprentices and badlis of Falcon Tyres Limited is additional.

The Applicant further alleged that it is an interested party in the proceedings and therefore union may be impleaded as party.

When this Application came for hearing the petitioner in the main petition reported no objection for impleading the Applicant.

Respondent Company has not filed any objection either to the main petition or to this application. Petitioner in the main petition has no objection for impleading the applicant. The Company Falcon Tyres has not filed any objection. Since interest of workers is also involved in the petition filed by petitioner in main petition against the company initiating Insolvency Resolution Proceedings, therefore the Applicant is a necessary and proper party to the proceedings initiated under section 9 of Insolvency and Bankruptcy Code.

In result, application is allowed. The Applicant Falcon Tyres Employees Union is ordered to be impleaded as 2<sup>nd</sup> Respondent.

  
(ASHOK KUMAR MISHRA)  
MEMBER (TECHNICAL)

  
(RATAKONDA MURALI)  
MEMBER (JUDICIAL)