

**NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH, CHANDIGARH**

**CP (IB) No. 32/Chd/Hry/2017
alongwith Caveat No. 03/2017**

In the matter of :

M/s. Tenon Facility Management (India) Private Limited.
....Petitioner/Operational Creditor.

Versus

M/s. Jindal Steel & Power Limited & Ors.Respondents/Corporate Debtor.

Present: Mr. Chandan Deep Singh, Advocate for Petitioner/
Operational Creditor.
Mr. Prashant Gupta, Advocate for Mr. Suman Jain, Advocate for
Respondent No.1/Caveator.

This petition is filed with application in Form 5 prescribed under the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 by the Operational Creditor as per Section 9 of the Insolvency and Bankruptcy Code, 2016. Notice of this petition to the Corporate Debtor who has been impleaded as respondent No. 1. Mr. Prashant Gupta, Advocate is present for the respondent No.1/Corporate Debtor, as Caveat has already been filed. Learned counsel for the respondent submits that complete copy of the application along with copy of Paper Book has already been received by him and another set sent to the Corporate Debtor on 26.05.2017 by registered post has also been delivered.

Having heard the learned counsel for the petitioner, I have noticed the following defects which the petitioner has to rectify: -

- i) To fill column No. 7 of Part-II of Form 5 by giving complete particulars instead of mentioning 'Not Applicable';



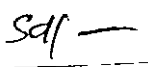
- ii) Complete Part-III by stating that no Interim Resolution Professional has been proposed instead of leaving the column blank;
- iii) The petitioner has impleaded not only the Corporate Debtor but also all the Directors of the Company as respondents whereas the requirement is only to implead the Corporate Debtor as respondent by furnishing address of registered office of the Company. Accordingly, the amended Memo of Parties is required to be filed with appropriate corrections in the particulars in Form 5 where the Respondent/Corporate Debtor is described as respondent No. 1 which is to be referred to as the respondent;
- iv) In various columns of the form, the petitioner has referred certain documents but it is also required that Annexures No. of those documents should be mentioned in the relevant columns itself;
- v) The affidavits in support of the application filed by the Authorised Representative are not in the prescribed format in as-much-as the specific paras have not been verified to the best of the knowledge of deponent and certain paragraphs as based on the information whichever is applicable;
- vi) As per mandatory requirement of Section 9 (3) (c) of the IBC Code,2016,copy of certificate from the financial institutions maintaining accounts of the Operational Creditor confirming that there is no payment of unpaid operational debt by the Corporate Debtor, has not been attached and the same is required to be filed;
and



- vii) The petitioner shall also state in the affidavit of the Authorised Representative as well as in the relevant columns of Form 5 about the invoices making demand to be sent in terms of Rule 5 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 and also to mention in the affidavit whether any documents were sent along with the Demand Notice.

The notice of these defects has been issued to the counsel for the petitioner and Shri Chandan Deep Singh, Advocate has accepted notice of these defects on behalf of the petitioner. These defects are required to be removed within a period of seven days, in default whereof, necessary consequence would follow. Learned counsel for the petitioner is permitted to substitute Form 5 for the purpose of removal of these defects as pointed out above with copy advance to the counsel opposite. Counsel for the respondent may file the objections, if any, to the instant petition.

The matter be listed for arguments on 07.07.2017 and no request for adjournment shall be entertained.



(Justice R.P. Nagrath)
Member (Judicial)

June 28, 2017
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