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NATIONAL COMPANY LAW TRIBUNAL
DIVISIONAL BENCH
CHENNAI

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI
NATIONAL COMPANY LAW TRIBUNAL, HELD ON 21/06/2017 AT 02.30 PM

PRESENT: SHRI Ch. MOHD SHARIEF TARIQ, MEMBER-JUDICIAL
SHRI S. VIJAYARAGHAVAN, MEMBER-TECHNICAL

APPLICATION NUMBER :
PETITION NUMBER : CP/514/ (IB)/CB/2017
NAME OF THE PETITIONER(S) : SAKTHI ENERGY PVT LTD
NAME OF THE RESPONDENT(S) : SERVALAKSHMI PAPER LTD
UNDER SECTION : 9 RULE 6 OF INSOLVENCY & BANKRUPTACY CODE 2016

S.No.	NAME (IN CAPITAL)	DESIGNATION	SIGNATURE
		REPRESENTATION BY WHOM	

1. ANANT MERATHIA

Counsel for Applicant

Anant

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH, CHENNAI

Arguments heard on 21.06.2017
Order passed on 21.06.2017

CA/514/(IB)/ CB/2017
(IND/1771/(IB)/CB/2017)

(Under Section 9 of the Insolvency and Bankruptcy Code 2016)

M/s. Sakthi Energy Private Limited

Vs.

M/s.Servalakshmi Papers Ltd.

Applicant Represented by :

Counsel Mr. Anant Merathia

CORAM :

CH MOHD SHARIEF TARIQ, MEMBER (JUDICIAL) & S. VIJAYARAGHAVAN (MEMBER TECHNICAL)

ORDER

CH MOHD SHARIEF TARIQ, MEMBER(JUDICIAL) :- (ORAL)

Ld. Counsel for the Petitioner is present. It is on record that, on 12.06.2017, the Counsel for the Petitioner submitted the proof of sending notice to the Corporate Debtor. Notice was sent on 05.06.2017 by speed post. Track delivery report shows that the notice was delivered on 07.06.2017. Besides that, there are

e-mail communications that have been sent on 09.06.2017 and 10.06.2017. In spite of the said service on the Corporate Debtor, he did not appear on the previous date of hearing. However, in the interest of justice, one more opportunity was granted to the Corporate Debtor for causing appearance in the matter. But, even today, he has not caused appearance which is deliberate. The Registry has also sent notice to the Corporate Debtor. In view of this, we set the Respondent *ex parte* and proceed for hearing the matter.

1. Under adjudication is an application filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 (I&B Code 2016, for short) by the Operational Creditor on 05.06.2017, the detailed grounds have been referred therein. The prayer made is to admit the application and to initiate the Corporate Insolvency Resolution Process under the I&B Code, 2016, by appointing an Interim Resolution Professional. The Application is in accordance with the form provided therefor.

Heard the Counsels for the Petitioner and perused the documents on file.

2. The Application reflects that the outstanding debt is Rs.10,62,04,523/- which is due and payable by the Corporate Debtor. But, the Corporate Debtor did not make any payment and defaulted in the same. The Petitioner has also fulfilled the requirements under Section 9 (3) (b) and (c) I&B Code, 2016 by filing Affidavit which is placed at pages 269 to 271 of the typed set of Petition and it has been deposed that the Corporate Debtor has not sent any notice as to the existence of dispute in relation to the outstanding debt. The bank statement is also filed by the Petitioner which is placed at page 272 to 280 of the typed set of Petition that reflects that no payment has been made by the Corporate Debtor. The Counsel drew our attention to the statutory notice which is at page 1 to 11 of the typed set of application that has been sent on 18.05.2017 raising the demand for the sum as mentioned above. But, no reply has been given by the

Corporate Debtor. The proof of dispatch and delivery of the notice is also placed on record.

3. Ld. Counsel for the Petitioner drew our attention to page 226 of the Petition and to the other communications particularly the communication placed at pages 228, 229 and 230, wherein the Corporate Debtor has admitted the claim of the Petitioner. The Applicant has fulfilled all the requirements of law. Therefore, we admit the application and order the commencement of the corporate insolvency resolution process which ordinarily shall get completed within 180 days, reckoning from the day this order is passed.

4. We appoint Mr. S. Dhanapal, as Interim Resolution Professional proposed by the Operational Creditor. There is no disciplinary proceedings pending against the Interim Insolvency Professional and his name is reflected in IBBI website. The Interim Resolution Professional is directed to take charge of the Corporate Debtor's management immediately. He is

also directed to cause public announcement as prescribed under Section 15 of the I&B Code, 2016 within three days from the date the copy of this order is received, and call for submissions of claim in the manner as prescribed. We declare the moratorium which shall have effect from the date of this Order till the completion of corporate insolvency resolution process, for the purposes referred to in Section 14 of the I&B Code, 2016. We order to prohibit all of the following, namely :

- (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;
- (b) Transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;
- (c) Any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action

under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);

(d) The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.

5. The supply of essential goods or services of the Corporate Debtor shall not be terminated or suspended or interrupted during moratorium period. The provisions of Sub-section (1) of Section 14 shall not apply to such transactions, as notified by the Central Government.

6. The Interim Resolution Professional shall comply with the provisions of Sections 13(2), 15, 17 & 18 of the Code. The directors of the Corporate Debtor, its promoters or any person associated with the Management of the Corporate Debtor is expected to extend all assistance and co-operation to the Interim Resolution Professional as stipulated under Section 19 and for discharging his functions under Section 20 of

the I&B Code, 2016. Accordingly, the application is admitted.

7. The Registry is directed to inform the Insolvency Resolution Professional to take charge of the entity and make compliance with this Order as per the provisions of I&B Code, 2016.

8. The Registry is also directed to communicate this Order to the Operational Creditor and the Corporate Debtor. The address details of the Interim Resolution Professional are as follows: -

Mr. S. Dhanapal,
Insolvency Professional,
Suite No. 103, First Floor, Kavery Complex,
Nungambakkam,
Chennai- 600 034.
Ph.044-42652127
Email: csdhanapal@gmail.com
Registration number: IBBI/IPI-002/IP-N00060/2016-17/10112.

S. Vijayaraghavan

S. VIJAYARAGHAVAN
MEMBER (TECHNICAL)

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CH. MOHD SHARIEF TARIQ
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MEMBER (JUDICIAL)