

NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH
CHENNAI

(2)

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI
NATIONAL COMPANY LAW TRIBUNAL, HELD ON 14/06/2017 AT 10.30 AM

PRESENT: SHRI K. ANANTHA PADMANABHA SWAMY, MEMBER-JUDICIAL
SHRI S.VIJAYARAGHAVAN (TECHNICAL MEMBER)

APPLICATION NUMBER :
PETITION NUMBER : IND/1421/ (IB)/CB/2017
NAME OF THE APPLICANT : THIRUPUR SURYA HITECH APPAREL PVT LTD
UNDER SECTION : 10 RULE 7 OF INSOLVENCY & BANKRUPTACY CODE 2016

S.No. NAME (IN CAPITAL) DESIGNATION SIGNATURE

REPRESENTATION BY WHOM

1) N. RAMADASS

Chief Manager
SBI & SBT merged with SBI
SAMB, Coimbatore



2) E. DINDRABHASKAR
(Senior Counsel)

for Ramalingam Associates
(V.M. KARTHIK)





BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH, CHENNAI

Arguments heard on 14.06.2017
Order passed on 14.06.2017

CP/ 468 (IB)/CB/2017
(IND/1421/(IB)/CB/2017)
(Under Section 10 of the Insolvency and Bankruptcy Code 2016)

M/s. Thirupur Surya Hitech Apparel Pvt Ltd.

Vs

M/s. State Bank of India and Ors.

Applicant (Corporate Debtor) Represented by :

Sr. Counsel Mr. PH Arvindh Pandian

Respondent (Operational Creditors) Represented by :

Sr. Counsel Mr. Om Prakash

CORAM :

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

ORDER

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

1. Under adjudication is an application filed under Section 10 of the Insolvency and Bankruptcy Code, 2016 (I&B Code 2016, for short) read with Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, by the Corporate

Debtor, 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 Insolvency Professional.

Heard the Sr. Counsels for the Petitioner and the Respondent. Both of the Counsels have submitted the arguments in detail.

2. Section 10 (3) (a) of I&B Code, 2016 provides that the corporate applicant shall along with the application furnish the information relating to its books of accounts and such other documents relating to such period as may be specified. Section 10 (3) (b) provides that the information with regard to Interim Insolvency Professional shall also be provided. We have perused the documents and found that the requirement under Section 10 (3) (a) & (b) of the I&B Code, 2016 are complete. The Corporate Debtor proposed the name (Mr. S. Muthuraju) of the Interim Insolvency Professional which reflects from IBBI website and his

consent has also been obtained. No investigations are pending against Mr. S. Muthuraju.

3. In the aforesaid circumstances, after having been satisfied that the Corporate Debtor has committed default in payment of debt as is evident from the application that has been filed by the Financial Creditor before the Debts Recovery Tribunal (DRT) and has also sent a Possession Notice under Section 13(4) of the SARFAESI Act. The actions which have been taken by the Financial Creditor *per se* are evidence that the Corporate Debtor has committed default in payment of the debt. Therefore, the Application is complete in all respects. We are inclined to 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. Muthuraju, as Interim Insolvency Professional proposed by the Corporate Debtor. The Interim Insolvency 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 Insolvency 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 cooperation 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 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. Muthuraju,
35, 2nd Floor, North Masi Street,
Madurai – 625 001.

smrajunaidu@gmail.com

Regn. No. IBBI/IPA-002/IP-N00009/2016-2017/10013.
Cell no. 9994103021.


S. VIJAYARAGHAVAN
MEMBER (TECHNICAL)

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CH. MOHD SHARIEF TARIQ
MEMBER (JUDICIAL)