

NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH
CHENNAI

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ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI
NATIONAL COMPANY LAW TRIBUNAL, HELD ON 11/09/2017 AT 10.30 AM

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

APPLICATION NUMBER :
PETITION NUMBER : TCP/363/ (IB)/2017
NAME OF THE PETITIONER(S) : ALLWIN CARGO SERVICE
NAME OF THE RESPONDENT(S) : SRI PADMABALAJI STEELS PVT LTD
UNDER SECTION : 433 (e)(f)

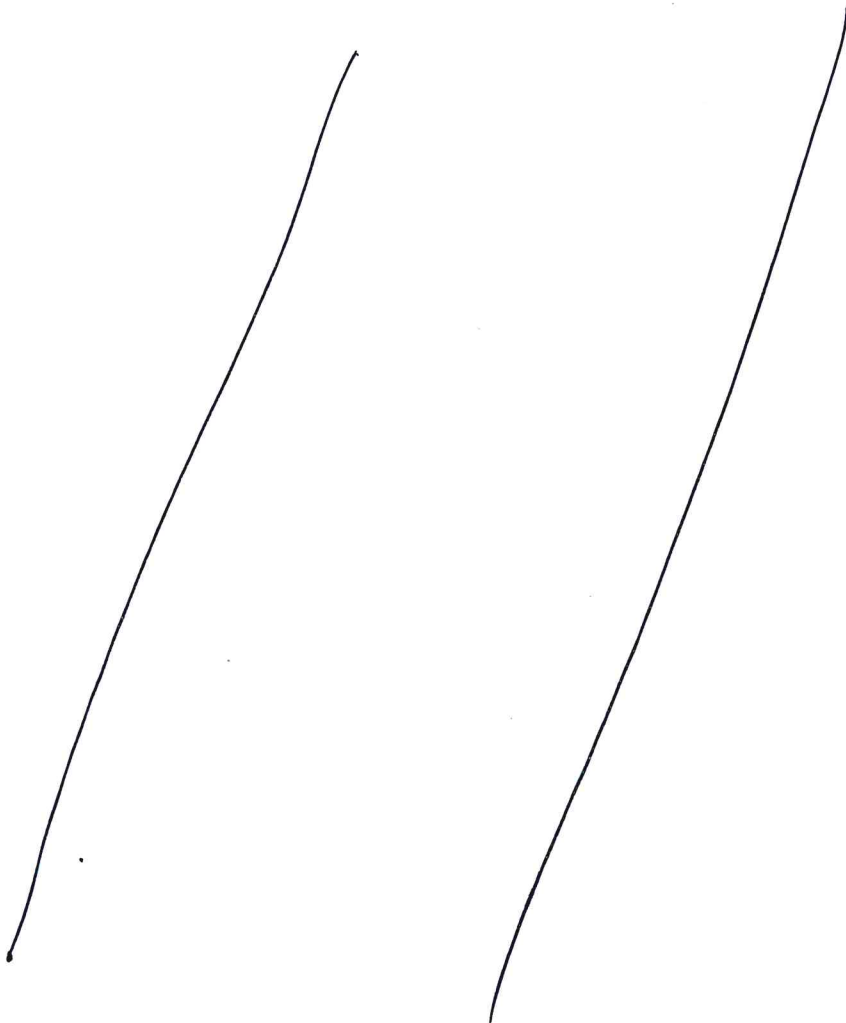
S.No.	NAME (IN CAPITAL)	DESIGNATION	SIGNATURE
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REPRESENTATION BY WHOM

1. N.A.C. Richard

Manager Pubs.





IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH, CHENNAI

TCP/363/(IB)/CB/2017

Under Section 9 of the Insolvency and Bankruptcy Code
2016 read with Rule 6 of the Insolvency and Bankruptcy
(Application to Adjudicating Authority) Rules, 2016

In the matter of

M/s. Allwin Cargo Services

Vs.

M/s. Sri Padmabalaji Steels Private Limited

Order delivered on 11th of September, 2017


CORAM :

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

For Operational Creditor(s) : Mr.N.A.S. Richad, Counsel
For Corporate Debtor(s) : remained ex parte

ORDER


Per: CH MOHD SHARIEF TARIQ, MEMBER (Judicial)

1. Under consideration is the Petition that came to be filed before Hon'ble High Court of Madras on 02.04.2014 under Sections 433 (e) & (f), 434 (i) (a) and 439 (i) (b) of the Companies Act 1956. After the enforcement of the Insolvency and Bankruptcy Code, 2016 (I&B Code, 2016, for short), the same has been transferred to this Bench and renumbered as 

TCP/363/(IB)/CB/2017 and treated under Section 9 of the I& B Code, 2016.

Heard the Counsel appearing on behalf of the Operational Creditor and perused the Petition along with the documents placed on record. No representation on behalf of the Corporate Debtor. As seen from the orders dated 20.07.2017, 31.07.2017 11.08.2017 and 23.08.2017, Counsel for the Corporate Debtor remained present and requested for time to file counter. Thereafter, the Corporate Debtor chose not to appear in the matter. Therefore, the Corporate Debtor is proceeded *ex parte*.

2. The claim of the Operational Creditor is to the tune of Rs.31,85,964/- as principal amount with interest due. The said amount is on account of the services rendered by the Operational Creditor to the Corporate Debtor.


3. The Operational Creditor has already made compliance with the requirements under Section 9 (3) 

(b) and (c) of the I&B Code, 2016 by filing Affidavit and Bank statement. The statutory notice was also issued to the Corporate Debtor on 05.12.2013, the copy of which is placed at pages 214 to 216 of the typed set filed with Petition, to which, no reply was given by the Corporate Debtor in spite of the service of the notice. The proof of sending and delivery of the notice has also been placed at pages 214 and 217 of the typed set with the Petition.

4. After hearing the Operational Creditor and perusal of record placed on the file, it is clearly established that the Corporate Debtor has committed default in making payment of the debt to the Operational Creditor. The Operational Creditor has fulfilled all the requirements of law and has also proposed the name of IRP after obtaining the written consent in Form-2. Therefore, TCP/363/(IB)/CB/2017 is admitted and we 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.

5. We appoint Mr. S. Muthuraju, as IRP as proposed by the Operational Creditor. There is no disciplinary proceedings pending against the IRP as evidenced from Form-2 and his name is reflected in IBBI website. The IRP 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.

6. 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.

7. 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.

8. The IRP 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 IRP as stipulated under Section 19 and for discharging his functions under Section 20 of the I&B Code, 2016. Accordingly, the application is disposed of.

9. The Operational Creditor and the Registry are directed to send the copy of this Order to IRP so that he could take charge of the Corporate Debtor's assets etc. and make compliance with this Order as per the provisions of I&B Code, 2016.

10. The Registry is directed to communicate this Order to the Operational Creditor and the Corporate Debtor. The address details of the IRP are as follows: -

Mr. S. Muthuraju
Insolvency Resolution Professional
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2017/10013,
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S. Vijayaraghavan.

S. VIJAYARAGHAVAN
MEMBER (Technical)
PAM


CH. MOHD SHARIEF TARIQ
MEMBER (Judicial)