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NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH
CHENNAI

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI
NATIONAL COMPANY LAW TRIBUNAL, HELD ON 20/06/2017 AT 02.30 PM

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

APPLICATION NUMBER :
PETITION NUMBER : CP/508/ (IB)/CB/2017
NAME OF THE APPLICANT : ENNORE COKE LIMITED
UNDER SECTION : 10 RULE 7 OF INSOLVENCY & BANKRUPTACY CODE 2016

S.No.	NAME (IN CAPITAL)	DESIGNATION	SIGNATURE
		REPRESENTATION BY WHOM	
1.	ANNAL D	COUNSEL FOR BOR	
2)	Satish Parasaramy Subhang Naras for	Counsel for Applicant	
3.	M. Muthupetiasamy	Counsel for RA [UBI]	
4.	K. CHANDRASEKARAN	Counsel for SBI	

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH, CHENNAI

Arguments heard on 20.06.2017
Order passed on 20.06.2017

CP No. 508 (IB)/2017
(Under Section 10 (1) of the Insolvency And Bankruptcy Code 2016)

In the matter of

M/s.Ennore Coke Limited

Applicant (Corporate Debtor) Rep by : Counsel Mr.Satish Parasaran for
Mr.Subhang Nair

CORAM :

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

ORDER

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

1. This application has been filed under section 10 (1) of the Insolvency And Bankruptcy Code 2016.
2. Counsel for Corporate Debtor appeared. At this stage, Financial Creditors Viz., State Bank of India represented by Counsel Mr.K.Chandrasekaran, Union Bank of India represented by Counsel Mr.M.Muthuperiasamy and Indian Overseas Bank represented by Counsel Mr.Annal P, caused appearance. Counsels representing both the sides submitted their arguments in detail. Counsel for SBI ^e draw~~n~~ our attention to the resolution that came to be passed on 02.06.2017 as to the revival plan for Corporate Debtor within the period of three months from the date of resolution. The counsel for UBI, during the course of

arguments, ^{ew} draw~~n~~ our attention to some of the documents which indicate ew
that the Corporate Debtor is a going concern and it is also submitted that
the applicant Corporate Debtor has been in a position to settle the amount
due to financial creditors. However, the contention that has been made by
the counsel for UBI has been refuted by the counsel for petitioner stating
that the financial position of the company is negative. So the claim of the
UBI that the applicant would have been in a position to pay the
outstanding debt of the Financial Creditors is not correct.

3. We have perused the petition and it is on record that SBI, one of the
Financial Creditors has already proceeded against Corporate Debtor under
the SARFAESI Act, 2002 and filed an application before the DRT,
Calcutta. It is also on record that UBI also has filed OA before the DRT,
having jurisdiction to try the same. IOB is also the objector to the
application of the Corporate Debtor on similar grounds. The proceedings
that have been initiated by SBI, IOB, UBI and also the admission of
counsel for applicant Corporate Debtor show that there is default on the
part of Corporate Debtor in making payment of debt to the Financial
Creditors. From this it is clearly established that the Corporate Debtor
defaulted in making the payment of outstanding debt to the creditors.

4. Therefore, we are inclined to allow the application of the Corporate
Debtor 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.

5. We appoint Mr. Anil Kumar Birla as Interim Resolution Professional who has been proposed by the Corporate Debtor. There is no disciplinary proceedings pending against the Interim Resolution Professional and his name is reflected on the website of the Insolvency and Bankruptcy Board of India. He is directed to take charge of the Corporate Debtor company immediately. He is also directed to cause public announcement as prescribed under Section 15 of the Code **within three days** from the date the copy of this order is received, and call for submissions of claim under section 15 of IBC 2016 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 IBC 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 less or where such property is occupied by or in the possession of the corporate debtor.

6. 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.

7. The Interim Resolution Professional shall comply with the provisions of Sections 13(2), 15, 17 and 18 of the Code. The directors of the Corporate Debtor, its promoters or any person associated with management of the Corporate Debtor are 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.

8. The Registry is directed to communicate this order to the operational creditor and the corporate debtor. The name and address details of the Interim Resolution Professional are as follows :

Mr. Anil Kumar Birla, No.1, Park Road (Off Infantry Road),

First floor, Park Plaza, Tasker Town, Bangalore-560 051.

9. Accordingly, the application is admitted.


(S.VIJAYARAGHAVAN)
MEMBER (TECHNICAL)


(CH. MOHD. SHARIEF TARIQ)
(MEMBER (JUDICIAL))

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