

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 25/07/2017 AT 10.30 AM

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

APPLICATION NUMBER :  
PETITION NUMBER : TCP/10/ (IB)/2017  
NAME OF THE PETITIONER(S) : SULZER INDIA PVT LTD  
NAME OF THE RESPONDENT(S) : NAGARJUNA OIL CORPORATION LTD  
UNDER SECTION : 433 (E ) (F)

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

1) K. RAMASAMY

NAVEEN KUMAR MURTHI

G.V. MOHAN KUMAR

Counsel for Petitioner

G.V. Mohan

IN THE NATIONAL COMPANY LAW TRIBUNAL,  
DIVISION BENCH, CHENNAI

**TCP/10/(IB)/CB/2017**

Under Section 433(e) read with Sections 434 (1) (a)  
and 439 (1) (b) of the Companies Act 1956

In the matter of

**M/s. Suzlur India Private Limited**

**Vs.**

**M/s. Nagarjuna Oil Corporation Ltd.**

Order delivered on 25<sup>th</sup> of July, 2017

CORAM :

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

For the Petitioner(s) : Counsel Mr. K. Ramasamy,  
Naveen Kumar Murthi and G.V. Mohan Kumar.

**ORDER**

Per: CH MOHD SHARIEF TARIQ, MEMBER (J)

1. Under adjudication is a Petition originally filed before Hon'ble High Court of Madras under Section 433(e) read with Sections 434 (1) (a) and 439 (1) (b) of the Companies Act 1956 and transferred to the NCLT and renumbered as TCP/10/(IB)/CB/2017. The prayer

made is to admit the Petition and to initiate the Corporate Insolvency Resolution Process under the relevant provisions of I&B Code, 2016, by appointing an Interim Resolution Professional (IRP) and to declare the moratorium.

2. Heard the Counsel appearing on behalf of the Operational Creditor (OC) and perused the Petition along with the documents placed on record. Counsel for the Petitioner (OC) submitted that the Petitioner has already complied with the requirements under Section 9 (3) (b) and (c) of the I&B Code, 2016. The Petitioner (OC) has claimed an outstanding debt to the tune of Rs.1,23,80,951/- on account of material supplied to the Corporate Debtor (CD). The Petitioner (OC) has also sent the statutory notice dated 07.04.2015 which is placed at pages 141 to 144 of the typed set to the Petition wherein a demand has been made for payment of Rs.1,23,80,951/- along with interest at the rate of 18% p.a. The notice has been received by the Respondent (CD). The proof of sending the notice by way of speed post on 07.04.2015 and

acknowledgement due is placed on record at page 145 of the typed set to the Petition. The reply has been given by the Respondent (CD) which is placed at page 146 of the typed set to the Petition wherein the liability has not been denied. The Petitioner (OC) has proposed the name of IRP viz., Mr. V. Nagarajan and a written communication dated 12.06.2017 has also been obtained from the proposed IRP; the same <sup>is</sup> ~~is~~ placed on the record.

3. In the light of the above, it is established that the Respondent (CD) has failed to make the payment of the outstanding debt to the Petitioner (OC). Therefore, TCP/10/(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.

4. We appoint Mr. V. Nagarajan as IRP as proposed by the Petitioner (OC). There is no disciplinary proceedings pending against the IRP and his name is



reflected in IBBI website. The IRP is directed to take charge of the Respondent 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.

5. 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 :

- i. 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;
- ii. Transferring, encumbering, alienating or disposing of by the corporate debtor any of

its assets or any legal right or beneficial interest therein;

iii. 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);

iv. The recovery of any property by an owner or lessor 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 & 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 Petition is admitted.

8. The Petitioner (OC) 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.


9. The Registry is directed to communicate this Order to the Petitioner (OC) and the Respondent (CD). The address details of the Interim Resolution Professional are as follows: -

Mr. V. Nagarajan,  
Interim Resolution Professional  
IP Registration No. IBBI/IPA-002/IP-N00055/2016-  
2017/10107,  
New No.29, Kavarai Street,  
West Mambalam, Chennai-600 033.

10. At this stage, Ld. Additional Advocate General Mr. V. Ayya Durai has moved an Application CA 129/2017 on behalf of Tamilnadu Industrial Development Corporation Ltd. (TIDC) for impleading it as Respondent No.2 in the Petition. However, TIDC is neither Operational Creditor nor Corporate Debtor and is not a necessary party to the matter. It is on record that the Operational Creditor filed the Petition before the Hon'ble High Court of Madras on 3<sup>rd</sup> August 2016, and TIDC being shareholder in Corporate Debtor, was aware of it, and Application for impleadment has been filed after the lapse of nearly about a year. Therefore, this Application has been filed for delaying the initiation of the process of the corporate insolvency resolution against the Corporate Debtor. Hence, the Application stands rejected. However, the Counsel for the TIDC submitted that it wants to help the Corporate Debtor because of being a shareholder in the Corporate Debtor, and its stakes are involved. In view of the submissions of the Counsel for TIDC, it may co-



ordinate with the IRP appointed, for purpose of help, if any, to be rendered to the Corporate Debtor.

  
**S. VIJAYARAGHAVAN**  
MEMBER (T)  
PAM

  
**CH. MOHD SHARIEF TARIQ**  
MEMBER (J)