

NATIONAL COMPANY LAW TRIBUNAL  
SINGLE BENCH  
CHENNAI

(17)

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI  
NATIONAL COMPANY LAW TRIBUNAL, HELD ON 27/11/2017 AT 10.30 AM

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

APPLICATION NUMBER :  
PETITION NUMBER : TCP/413/ (IB)/2017  
NAME OF THE PETITIONER(S) : KERALA STATE ELECTRONICS DEVELOPMENT CORPORATION LTD  
NAME OF THE RESPONDENT(S) : TITANIUM TANTALUM PRODUCTS LTD  
UNDER SECTION : 433 ( e)(f)

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

1]	B. Dhanaeraj -	Counsel for petitioners	B. Dhanaeraj
2-)	G. Ponnani	Counsel for Respondent	L. Ponnani

IN THE NATIONAL COMPANY LAW TRIBUNAL,  
SINGLE BENCH, CHENNAI

TCP/413/(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. Kerala State Electronics Development Corporation  
Limited**

**Vs.**

**M/s. Titanium Tantalum Products Limited**

*Order delivered on 27<sup>th</sup> of November, 2017*

CORAM :

**CH MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)**

*For Operational Creditor(s) : Mr. B. Dhanaraj*  
*For Corporate Debtor(s) : Ms. G. Ponmani*

**ORDER**

Per: CH MOHD SHARIEF TARIQ, MEMBER (J)

1. Under consideration is the Petition that came to be filed before Hon'ble High Court of Madras on 10.12.2016 under Sections 433 (e) & (f), 434 (i) (a) and 439 (i) & (b) of the Companies Act 1956 for winding up of the Respondent Company. After the enforcement of the Insolvency and Bankruptcy Code, 2016 (I&B Code,

2016, for short), the same has been transferred to this Bench, renumbered as TCP/413/(IB)/CB/2017 and treated under Section 9 of the I& B Code, 2016. The prayer made is to admit the Application, to initiate the Corporate Insolvency Resolution Process against the Corporate Debtor, declare moratorium and appoint Interim Resolution Professional (IRP) under the Insolvency and Bankruptcy Code, 2016 (I&B Code).

2. Heard the Counsels for the Operational Creditor and the Corporate Debtor and perused the record.

3. The Operational Creditor claimed the outstanding debt to the tune of Rs.3,57,62,497/- along with 21% interest as on 30.09.2015. The basis of the claim is that the Corporate Debtor approached the Operational Creditor for purchase of electronic items for the purpose of executing the job assigned by KBL to the Corporate Debtor. Pursuant to which, the Corporate Debtor placed a purchase order dated 16.02.2010 for the purchase of Transformer 6.6 KV and Rectifier 150 VDC, 3500 ADC for an amount of Rs.1,75,00,000/-

(Rupees One Crore Seventy Five Lakhs Only). The Operational Creditor accepted the offer of the Corporate Debtor and supplied the material. The Operational Creditor raised an invoice for the supply of Transformer 6.6. KV and Rectifier 150 VDC, 3500 ADC (3 Nos.) and mandatory spares for Transformer and Rectifier with the elaborate list of spare at the cost of Rs.1,96,88,550 (Rupees One Crore Ninety Six Lakhs Eighty Eight Thousand Five Hundred and Fifty Only). But, no payment was made. The Operational Creditor has given the Demand Notice on 09.03.2012 and the Corporate Debtor given the reply on 24.03.2012 stating that the Corporate Debtor agrees to pay the actual amount due. The copies of the notice and reply are placed at pages 174 and 176 of the typed set filed with the Petition. Then a notice under Section 433 and 434 of Companies Act 1956 was given on 30.09.2015 by the Operational Creditor, to which reply was given on 15.11.2015 by the Corporate Debtor. The copies of the same are placed at pages 209 and 216 of the typed set filed with the Petition.



It is also on record that the Operational Creditor has filed the Civil Suit OS No. 923/2012 which is said to have been decreed in favour of the Plaintiff/Operational Creditor on 20.07.2016. Based on these facts, the amount mentioned above is being claimed by the Operational Creditor from the Corporate Debtor.

The Operational Creditor has filed the Affidavit under Section 9(3)(b) of the I&B Code, 2016 stating therein that the Corporate Debtor has not given any notice as regards any pending litigations or arbitration proceedings initiated by it in connection with the payment of the outstanding debt. The Bank certificate under Section 9 (3) (c) of the I&B Code, 2016 is also placed on record. The certificate issued by the Punjab National Bank on 10.07.2017 reflects that no payment has been made by the Corporate Debtor to the accounts of the operational credit.

4. As seen from the previous Order, the Counsel for the Corporate Debtor has been making prayers for

adjournments for the purpose of filing the schedule for payment of the outstanding debt. On 10.11.2017, it has been stated that a Demand Draft to the tune of Rs.30 Lakhs will be brought to show the *bonafide*. Now, the Counsel for the Corporate Debtor fairly admitted that the Corporate Debtor is not in a position to make any payments as the same is reeling under financial crisis.

The counter has also been filed by the Corporate Debtor stating therein that the allegations made by the Operational Creditor are false and the claim has been denied, which is quit contrary to the submissions which have been made during the course of hearing of the Petition. The memo of schedule of payment filed by the Corporate Debtor, on 09.10.2017 is evidencing the admission of outstanding debt on the part of the Corporate Debtor, <sup>but no payment was made as per the schedule,</sup> ^ Therefore, the counter reply submitted by the Counsel for the Corporate Debtor is devoid of merits and stand, rejected.

5. From the documents placed on file and the arguments submitted, this Bench is satisfied that the Corporate Debtor defaulted in making payment of the outstanding debt as claimed by the Operational Creditor. The Operational Creditor has fulfilled all the requirements of law. Therefore, TCP/413/(IB)/CB/2017 is admitted and the commencement of the Corporate Insolvency Resolution Process is ordered, which ordinarily shall get completed within 180 days, reckoning from the day this order is passed.

6. The moratorium is hereby declared 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. It is hereby ordered 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 Operational Creditor has not proposed the name of the IRP. Therefore, the Registry is directed to make a reference to the IBBI to recommend the name of the IRP within 10 days of the receipt of the reference. On receiving the recommendation of the IBBI, the Registry is directed to place the matter before this Bench for appointment of the IRP.

9. Accordingly, the Registry is directed to communicate this Order to the Operational Creditor and the Corporate Debtor. Order pronounced in open court.

  
[CH.MOHD SHARIEF TARIQ]  
MEMBER (JUDICIAL)

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