

NATIONAL COMPANY LAW TRIBUNAL  
SINGLE BENCH  
CHENNAI

(15)

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI  
NATIONAL COMPANY LAW TRIBUNAL, HELD ON 15/12/2017 AT 10.30 AM

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

APPLICATION NUMBER :  
PETITION NUMBER : CP/643/(IB)/CB/2017  
NAME OF THE PETITIONER(S) : TRANS ASIAN SHIPPING SERVICES PVT LTD  
NAME OF THE RESPONDENT(S) : NEPC INDIA LTD  
UNDER SECTION : 9 RULE 6

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

1. ANITA THOMAS

Counsel for Operational  
Creditor



IN THE NATIONAL COMPANY LAW TRIBUNAL,  
SINGLE BENCH, CHENNAI

CP/643/(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. Trans Asian Shipping Services Private Limited**

**Vs.**

**M/s. NEPC India Limited**

*Order delivered on 15<sup>th</sup> of December, 2017*

CORAM :

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

*For Operational Creditor(s) : Ms. Anita Thomas, Counsel*

*For Corporate Debtor(s) : Proceeded ex parte*

**ORDER**

Per: CH MOHD SHARIEF TARIQ, MEMBER (J)

1. Under adjudication is CP/643/(IB)/CB/2017 that has been filed by the Operational Creditor under Section 9 of the Insolvency & Bankruptcy Code, 2016 (in short, 'I&B Code, 2016') r/w the Insolvency & Bankruptcy (Application to Adjudicating Authority Rules, 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 I&B Code.

2. Heard the Counsel for the Operational Creditor and perused the record. As seen from the Order dated 06.12.2017, the service against the Corporate Debtor was held sufficient and the Corporate Debtor was proceeded *ex parte*.

3. It is submitted by the Counsel for the Operational Creditor that during the course of business, the Corporate Debtor imported under Bill of Lading No. B/L TLADS00018883, 26 drums of POLYPOL, which included 24 drums of POLYPOL 1023-ISO PHTHALIC RESIN net 225 kgs, and 2 drum of POLYPOL 2146-ISO NPG GEL COAT Net 225 KGs., in a 20' Dry Van container. The said shipment was carried from Jebel Ali Port, Dubai, U.A.E. by the Vessel m.v. BUDI AMAN in its voyage 015E which reached Chennai port on 01.03.2006 along with the cargo. However, for the

reasons best known to it, the Corporate Debtor refused to clear the cargo despite several notices.

4. Thereafter, a Civil Suit for recovery of a sum of Rs.4,31,032/- together with interest @ 18% p.a. was filed by the Operational Creditor before Learned VII Assistant Judge, the City Civil Court at Chennai against Corporate Debtor under OS No. 5938/2010 which has been decreed on 22.01.2011, copy of the Decree is placed at pages 90 to 94 of the typed set filed with the Application.

5. The total outstanding amount claimed against the Corporate Debtor is Rs.10,23,098/- as has been mentioned in notice dated 31<sup>st</sup> July, 2017 sent under Section 8 of the I&B Code,2016, the copy of which is placed at pages 21 to 25 of the typed set filed with the Application. At para 2 of the said notice, it has been mentioned that the decretal amount due and payable by the Corporate Debtor to the Operational Creditor is Rs.4,31,032 with further interest at 18% p.a. along with costs of Rs.39,188/-.



6. The Corporate Debtor has also filed the Affidavit in compliance of the Provisions of Section 9 (3) (b) of the I&B Code, 2016. The Affidavit is placed at page 16 of the typed set filed with the Application, wherein under para 5, it has been deposed that the Operational Creditor has not received any notice from the Corporate Debtor pertaining to any dispute with regard to the pending amount. The Bank certificate has also been placed on record at page 18 of the typed set filed with the Application that has been issued by the HDFC Bank stating that there is no credit received from the Corporate Debtor viz., M/s. NEPC India Limited.

7. From the documents placed on file and the arguments submitted by the Counsel for the Operational Creditor, this Bench is satisfied that the Corporate Debtor defaulted in making payment of the outstanding debt claimed by the Operational Creditor. The Operational Creditor has fulfilled all the requirements of law. Therefore, CP/643/(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.

8. 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.

9. 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.

10. 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.

11. 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)

P. ATHISTAMANI