

NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH
CHENNAI

14

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI
NATIONAL COMPANY LAW TRIBUNAL, HELD ON 31/08/2017 AT 10.30 AM

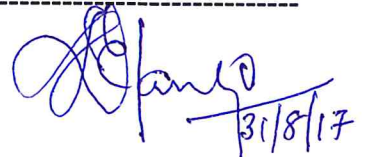
PRESENT: SHRI Ch. MOHD SHARIEF TARIQ, MEMBER-JUDICIAL
SHRI S. VIJAYARAGHAVAN, MEMBER-TECHNICAL

APPLICATION NUMBER :
PETITION NUMBER : TCP/385/ (IB)/2017
NAME OF THE PETITIONER(S) : KITEC INDUSTRIES INDIA PVT LTD
NAME OF THE RESPONDENT(S) : EMMANUEL ENGINEERING PVT LTD
UNDER SECTION : 433 (e)(f)

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

K. ELANGO

Counsel for Petitioner


31/8/17

IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH, CHENNAI

TCP/385/(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. KiTEC Industries (India) Private Limited

Vs.

M/s. Emmanuel Engineering Private Limited

Order delivered on 31st of August, 2017

CORAM :

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

For the Petitioner(s) : Counsel Mr. K. Elango

ORDER

Per: CH MOHD SHARIEF TARIQ, MEMBER (J)

1. Under Adjudication is CP No. 287/2016 that has been filed by the Operational Creditor before Hon'ble High Court of Madras on 03.08.2016 and after constitution of NCLT, the same has been transferred

before this Bench and renumbered as TCP/385/(IB)/CB/2017. The prayer made is to admit the application and to initiate the Corporate Insolvency Resolution Process under the Insolvency and Bankruptcy Code, 2016 (I&B Code), by appointing an Interim Resolution Professional (IRP).

2. The Operational Creditor has already made compliance with the requirements under Section 9 (3) (b) and (c) of the I&B Code, 2016. However, the Affidavit submitted by the Operational Creditor was not in compliance with Section 9 (3) (b) of the Code, 2016 and therefore, time was granted to the Operational Creditor to rectify the defect. Pursuant to which, the Affidavit has been filed rectifying the defect stating therein that no notice has been given by Corporate Debtor relating to the dispute of the unpaid operational debt. The same is taken on record. The Operational Creditor has also filed the Bank statement in compliance with Section 9 (3) (c) of the Code, 2016. The statutory notice was also given to the Corporate Debtor by the Operational Creditor on 04.09.2015

demanding the payment of Rs.16,18,417/-, which is placed at pages 63 to 65 of the typed set of Petition, to which a reply has also been given by the Corporate Debtor on 19.09.2015 admitting the balance amount to the tune of Rs.9,78,643/- and stated that the outstanding amount will be cleared within 6 months' time, copy of the reply is placed at page 66 of the typed set of Petition.

3. The Operational Creditor submitted that he has supplied the composite pipes to the Corporate Debtor and there are four invoices against which the Corporate Debtor failed to make the payments to the tune of Rs.16,18,417/-. It is also on record that the Counsel for the Corporate Debtor appeared before this Bench on 03.07.2017 and submitted that there is difference as to the calculation of the outstanding debt and both the parties were directed to exchange the documents in order to arrive at a fair amount to be paid by the Corporate Debtor to the Operational Creditor. But, thereafter, the Corporate Debtor,

choose not to appear in the matter and on 01.08.2017, the Corporate Debtor was proceeded *ex parte*.

We have heard the Counsel for the Operational Creditor and perused the record placed on filed.

4. 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. We are satisfied that Corporate Debtor committed default in making payment of the outstanding debt. Therefore, TCP/385/(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. R. Krishnamurthy, 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. R. Krishnamurthy
Insolvency Resolution Professional
IP Registration No. IBBI/IPA-001/IP-N00326/2017-2018/10596,
30A, VOC Street, Kaikankuppam,
Valasaravakkam, Chennai – 600 087.
Email- rkris987@gmail.com
Mobile No. 9444002493.



S. VIJAYARAGHAVAN
MEMBER (Technical)
PAM


CH. MOHD SHARIEF TARIQ
MEMBER (Judicial)