

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH, HYDERABAD**

CP (IB) 124/9/HDB/2017  
U/S 9 of IBC, 2016 & Rule 6 of  
I&B (Application to Adjudicating Authority), Rules 2016

**In the matter**

M/s Binjuria Ispat Pvt. Limited  
Represented by its Director Sri Sumeet Kedia  
S/o Vinod Kedia  
Sy.No.133/A, Teegapur Village, Kothur IDA  
Mahboobnagar District  
Telangana

Petitioner /  
Operational Creditor

**Versus**

M/s Janapriya Engineers Syndicate Pvt. Ltd  
D.No.8-2-120/86, 8-2-120/86/1  
Keerthi & Pride Towers Road No.2  
Banjara Hills,  
Hyderabad – 500034

**CERTIFIED TO BE TRUE COPY  
OF THE ORIGINAL**

Respondent /  
Corporate Debtor

Date of order: 05.09.2017

**CORAM:**

Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)

Hon'ble Shri Ravikumar Duraisamy, Member (Technical)

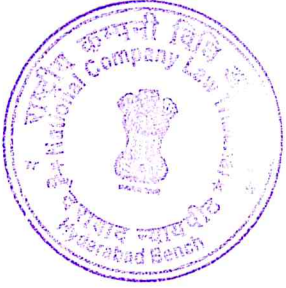
**Parties/ Counsels present**

For the Petitioner:

Shri Sharad Sanghi, Advocate

For the Respondent:

Shri V. Harish Kumar alongwith Ms.  
V. Shiela and J. Jyothi, Advocates



Per: Rajeswara Rao Vittanala, Member (J)

**ORDER**

1. The present Company Petition bearing CP (IB) No. 124/09/HDB/2017 is filed by Binjusaria Ispat Private Limited (Petitioner / Operational Creditor) under section 9 of IBC R/w I&B (Application to Adjudicating Authority) by seeking to initiate Corporate Insolvency Resolution Process in respect of M/s Janapriya Engineers Syndicate Private Limited (Respondent / Corporate Debtor).

2. The brief facts, leading to filing of the present petition, are as follows:-

(a) M/s Binjusaria Ispat Pvt. Ltd is a Limited Company incorporated under the Companies Act on 01.09.2004.

(b) M/s Janapriya Engineers Syndicate Private Limited is a private limited company incorporated under the Companies Act on 06.07.1995.

(c) The Petitioner Company is a manufacturer of steel products which are used in building purposes. The Respondents / Corporate Debtor is a builder constructing apartments and thus, they have purchased steel DIIL TMT Iron & Steel to the Respondent Company from March 2015 to February, 2017 and the total amount involved is Rs. Rs.62,57,938/- (Rs.46,01,425/- (principle) and Rs.16,56,513/- (interest)). Date of default is 01.03.2015.

(d) When the Respondent / Corporate Debtor failed to pay the above said amount, the Petitioner / Operational Creditor got issued a demand notice dated 15.03.2017 under Rule 5 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rule, 2016, to the Respondent by demanding to pay the total amount of Rs. 62,57,938/- (Rs.46,01,425/- (principle ) and Rs.16,56,513/- (interest)).



(e) Then the Petitioner failed to pay the amount as per demand notice, the Petitioner has initiated the present Company Petition by seeking to initiate Corporate Insolvency Resolution Process (CIRP) against M/s Janapriya Engineers Syndicate Private Limited.

3. Heard Shri Sharad Sanghi, Learned Counsel for the Petitioner and Shri V. Harish Kumar along with Ms. V. Shiela and J. Jyothi, Learned Counsels for the Respondents.
4. The case was listed for admission initially on 28.7.2017 and it got adjourned to the following dates viz. 03.08.2017, 09.08.2017, 14.08.2017, 21.08.2017, 28.08.2017, at the request of one counsel or the other. Ultimately the case was listed for hearing of the matter on 05.09.2017.
5. Shri V. Harish Kumar, Learned Counsel for the Respondent has filed a detailed written brief submissions to the objections raised by the office letter dated 28.7.2017 by controverting all the averments made by the Petitioner and therefore submits that the Respondents has already staked the claim in January 2015 and entered into MOU between the Petitioner and the Respondents, on the contrary he claims that the Petitioner is due to them. The Learned Counsel further submits that the Petitioner has filed a suit OS No111/2017 before XXV Additional Chief Judge, City Civil Court at Hyderabad, under section 26 R/w Order VII Rule 1 of CPC by seeking to direct the defendants to specifically perform their part of the contract.
6. Upon perusing the pleadings, there is no clear evidence to show there is debt and default so as to take up the case under IBC. Admittedly there is a dispute between the parties in civil court and moreover, it is the case of respondents that they owe nothing to the Petitioner Company and that they have settled the claim of petitioner in question by way of an agreement and other documents.
7. After hearing the case at length, Shri Sharad Sanghi, Learned Counsel for the Petitioner submit that he may be permitted to withdraw the present company petition with a liberty to approach this Tribunal as and when any grievance arise, under the provisions of IBC. He has filed a memo dated



05.09.2017. The Learned Counsel for the Respondent has no objection for the same.

8. In view of the above facts and circumstances of the case, we are inclined to permit the petitioner to withdraw the present company petition with a liberty to approach this Tribunal in accordance with IBC. Hence, Company Petition bearing CP (IB) No.124/09/HDB/2017 is disposed as withdrawn.

9. No order as to costs.

*Sd/-*  
Ravikumar Duraisamy  
Member (Technical)

*Sd/-*  
Rajeswara Rao Vittanala  
Member (Judicial)

RTIFIED TO BE TRUE COPY  
OF THE ORIGINAL

*[Signature]*  
for Dy. Regr./Asst. Regr/Court Officer/  
National Company Law Tribunal, Hyderabad Bench

प्रमाणित प्रति  
CERTIFIED TRUE COPY  
केस संख्या  
CASE NUMBER: CP(IB)124/9/HDB/2017  
निर्णय का तारीख  
DATE OF JUDGEMENT: 5-9-2017  
प्रति तैयार किया गया तारीख  
COPY MADE READY ON: 25-9-2017