

IN THE NATIONAL COMPANY LAW TRIBUNAL HYDERABAD
BENCH AT HYDERABAD

CP (IB) No. 258/9/HDB/2017

U/s 9 of the IBC, 2016 r/w Rule-6 of
the I&B (AAA) Rules, 2016

In the matter of:

Dhanalaxmi Iron Industries Pvt. Ltd.
Rep. by its Director,
Mr.Rajesh Gupta, Municipal No.1-6-27/17,
2nd Floor, Opp. IDPL Factory,
Balanagar, Hyderabad- 500 012.

... Petitioner/
Operational Creditor

Versus

SEW Infrastructure Limited,
Registered office at 6-3-871,
Snehalata Buildings, 1st Floor,
Greenland Road, Begumpet,
Hyderabad, Telangana - 500 016.

...Respondent/
Corporate Debtor

Date of order: 22.12.2017

CORAM:

Hon'ble Mr.Rajeswara Rao Vittanala, Member (Judicial)
Hon'ble Mr.Ravikumar Duraisamy, Member (Technical)

Parties/Counsels Present:

For the Operational Creditor: Ms.D.Siri Preeti, Advocate,

For the Corporate Debtor : Mr.Avinash Desai,
Advocate

Per: Rajeswara Rao Vittanala, Member (Judicial)

ORDER

1. The present Company Petitioner bearing CP (IB) No.258/9/HDB/2017 is filed by Dhanalaxmi Iron Industries Pvt. Ltd, 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 against M/s SEW Infrastructure Limited (Corporate Debtor).

2. Brief facts, leading to the filing present company petition, are as follows:

- a. M/s Dhanalaxmi Iron Industries Pvt Ltd. (hereinafter referred to as Operational Creditor), CIN No. U27100TG1999PTC031423 was incorporated under the Companies Act, 1956 on 30th March, 1999 as a Private Limited Company with the Registrar of Companies, Hyderabad.
- b. The Company is established with main object of to carry on the business as manufacturer and dealers in Ferrous or Non-ferrous items of all kinds including stainless, sheet metal, alloys and special steels from melting scrap and sponge iron or form any other materials with the help of furnaces of all kinds or by any other method ad to deal in iron and steel items of all kinds, to do of conversion agents, iron masters, steel makers, steel converters, smelters, tin engineers, plate makers and iron founders, steel rolling or re rolling mills, etc..
- c. M/s Sew Infrastructure Limited (Corporate Debtor) is incorporated on 08.02.1983, under the Companies Act, 1956. Its authorised share capital is INR.1,99,26,00,060/- and Paid up capital is INR. 47,92,71,788/-.
- d. During the course of the business, operational creditor has delivered goods to the Corporate Debtor and with respect to such goods, Enquiry letter has been sent through E-mail after confirming the rates of the goods and thereafter purchase order has been raised by the Corporate Debtor, and the Operational Creditor has raised invoices with weigh bill upon the Corporate



Debtor for payment in respect thereof. As per the standard terms of payment (the payment policy) followed by the Operational Creditor, the Operational Creditor strictly grants 30 days credit only, however, the Operational Creditor keeping in mind the longstanding relations with the Corporate Debtor, had given a dispensation upto 90 days credit, despite the timely and qualitative supply of goods by the Operational Creditor. The Corporate Debtor has failed and neglected to pay the various invoices of the Operational Creditor.



- e. The Corporate Debtor owe and now have outstanding payments due and payable to the Operational Creditor against the invoices raised for goods delivered and supplied by the Operational Creditor, in pursuant to the enquiry letter placed by the Corporate Debtor. The goods were delivered by the Operational Creditor as per specifications and no dispute was raised at the time of the delivery of goods by the Corporate Debtor. However, the Corporate Debtor has not made the payment against the invoices till date.
- f. The sub-ledger account maintained and provided herein, a principle amount of INR. 25,87,120/- and interest of INR 7,24,394/- charged @24% P.A. from 06.06.2016 to 06.08.2017. The total amount including interest is INR.33,11,514/- as per the payment policy is still due and payable by the Corporate Debtor towards invoices raised for goods delivered during the financial year 2016-17.
- g. The Operational Creditor got issued Demand Notice in form No.3 dated 28.08.2017 to the Corporate Debtor demanding to pay an amount of Rs. 33,11,514 within the stipulated period of 10 days of receipt of the

demand notice. Since the Corporate Debtor failed to pay the debt, the present Company petition is filed by the Operational Creditor.

3. Heard Ms.D.Siri Preeti, learned counsel for the Petitioner, and Mr. Avinash Desai, learned counsel for the Respondent.
4. The case was listed for hearing on admission before this Bench earlier, on various dates viz: 24.11.2017, 04.12.2017, 06.12.2017, 14.12.2017 & 22.12.2017, and it was adjourned on those dates at the request of learned counsels for the parties.
5. The learned counsel for both the parties have filed a joint memo of settlement dated 22nd December, 2017 by interalia stating that the Respondent/ Corporate Debtor has agreed to make a payment of Rs. 31,00,000/- towards entire claim amount in three instalments as full and final settlement in three instalments and the Petitioner also agreed for the same. Accordingly, the three post-dated cheques for Rs. 10 Lakhs were issued as detailed below:
 - a. Cheque No. 531511 dated 10th January, 2018 for Rs. 10 Lakhs drawn on SBI.
 - b. Cheque No. 531512 dated 10th January, 2018 for Rs. 10 Lakhs, drawn on SBI.
 - c. Cheque No. 531513 dated 10th January, 2018 for Rs. 11 Lakhs, drawn on SBI.

Accordingly, the Petitioner urged the Tribunal to permit it to withdraw the instant Company Petition with liberty to file a fresh Petition in case of non- compliance by the Corporate Debtor.

6. In view of the above facts and circumstances of the case, the company petition bearing CP (IB) No.258/9/HDB/2017 is disposed as withdrawn by directing the Corporate Debtor to





honour the post-dated cheques as mentioned in Joint Memo dated 22.12.2017 without fail. In case the Corporate Debtor fails to honour its commitments, the Petitioner is at liberty to file the miscellaneous application. No order as to costs.

Sd/-

RAVIKUMAR DURAISAMY
MEMBER (TECHNICAL)

Sd/-

RAJESWARA RAO VITTANALA
MEMBER (JUDICIAL)

P. Kallan

Dy. Regr./Asst. Regr./Court Officer/
National Company Law Tribunal, Hyderabad Bench

प्रमाणित प्रति
CERTIFIED TRUE COPY
केस संख्या
CASE NUMBER CP.C(13)/Nb.258/9/HDB/2017
निर्णय का तारीख
DATE OF JUDGEMENT 22.12.2017
प्रति तैयार किया गया तारीख
COPY MADE READY ON 17.1.2018