

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

**CA No.30/2018 in
CP (IB) No. 12/9/HDB/2018**
U/s 9 of IBC, 2016 R/w Rule 6 of
I&B (AAA) Rules, 2016

In the matter of:

Mahavir Coal Washeries Private Limited
198, 1st Floor, Vasant Enclave,
Vasant Vihar, Bilaspur,
New Delhi-110 057.

... Applicant/ Petitioner
Operational Creditor

Versus

K.S.K Mahanadi Power Company Limited
Regd Office: 8-2-293/82/A,
Road No.22, Jubilee Hills,
Hyderabad-500 033.

... Respondent/
Corporate Debtor

Date of order: 01.02.2018



CORAM

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

Parties / Counsels Present

For the Petitioner : Shri S.V. Sundararaja, PCS

For the Respondent: Shri M.S. Trivikrama Rao, Advocate

Per: Rajeswara Rao Vittanala, Member (Judicial)

ORDER

1. The present Company Petition bearing No. CP (IB) No. 12/9/HDB/2018 is filed by Mahavir Coal Washeries Private Limited (Petitioner/Operational Creditor), under section 9 of Insolvency and Bankruptcy Code, 2016, R/w Rule 6 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016, by inter-alia seeking to initiate Corporate Insolvency Resolution

Process (CIRP) in respect of KSK Mahanadi Power Company Limited (Respondent / Corporate Debtor).

2. Brief facts, as mentioned in the present company petition, are as follows:-

- a) Mahavir Coal Washeries Private Limited (Petitioner / Operational Creditor) is a private limited company incorporated under the Companies Act, 1956.
- b) KSK Mahanadi Power Company Limited (Respondent / Corporate Debtor) was incorporated under the Companies Act on 19.06.2009.
- c) Nominal Share Capital of the Company is Rs.1,00,00,00,00,000/- and paid up share capital is Rs. 36,09,50,29,440/-.
- d) The Petitioner / Operational Creditor has supplied coal to the Respondent / Corporate Debtor in terms of specifications provided by the Corporate Debtor against several purchase orders during 2013 to 2017.
- e) There were regular supply of materials and receipt of payments for the same during the above mentioned period. Payments made against specific invoices were accounted accordingly and certain ad-hoc payments were set off against pending Invoices on FIFO basis. During the course of business an amount of Rs. 32,64,39,708.00 became due towards outstanding invoices raised against purchase orders plus Rs. 15,46,57,047.35/- (Total Rs. 48,10,96,755.35).
- f) When the Corporate Debtor failed to pay the outstanding amount, the Operational Creditor issued demand notice in August 2017 (dated nil) in form No.3, by demanding to pay debt due along with interest.
- g) When the Corporate Debtor failed to pay the amount due to the Operational Creditor, the



present petition under Section 9 of the IBC, 2016 is filed to initiate CIRP in respect of the Corporate Debtor.

3. Heard Shri S.V. Sundararaja, Learned PCS for the Petitioner and Shri M.S. Trivikrama Rao, Learned Counsel for the Respondent.
4. The case was listed for hearing on admission on various dates viz 05.01.2018, 22.01.2018 and 01.02.2018 and was adjourned at the request of both the learned counsels, on the ground that the issue in question is likely to be resolved.
5. Shri S.V. Sundararaja, Learned Company Secretary for the Operational Creditor has filed Company Application bearing CA No. 30/2018 by inter-alia contending that the issue in question was settled and submitted Agreement for settlement dated 22.01.2018. Therefore, the Learned PCS sought permission to withdraw the present Company Petition and consequently dismiss the same as withdrawn.
6. In view of above facts and circumstances of the case and Agreement of Settlement dated 22.01.2018, the present Company Petition bearing CP (IB) No.12/9/HDB/2018 is dismissed as withdrawn by taking the Agreement for Settlement dated 22.01.2018 on record. The Parties are directed to adhere to the terms and conditions of the above settlement. Since the CP is withdrawn, Company Application bearing CA No.30/2018 is also disposed of. No order as to costs.



प्रमाणित प्रतिलिपि
CERTIFIED TRUE COPY
दस्तावेज संख्या
CASE NUMBER CA No. 30/2018 (plus)
निर्णय का तारीख
DATE OF JUDGEMENT 12.2.2018
प्रतिलिपि तैयार किया गया तारीख
COPY MADE READY ON 21.2.2018

Sd/-
RAVIKUMAR DURAISAMY
MEMBER (TECHNICAL)

Sd/-
RAJESWARA RAO VITTANALA
MEMBER (JUDICIAL)

G. Anantha Kumar
For Dy. Regr./Asst. Regr./Court Officer/
National Company Law Tribunal, Hyderabad Bench