

IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

CP No. 8 of 2017
(TP (HCW) No.78//HDB/2017)

U/s. 433(e), 434(1) (a) and 439 of the
Companies Act, 1956, R/w Rules 95 of the
Company (Court) Rules, 1969.

In the matter of:

M/s. Samarth Lifters Pvt. Ltd,
Registered Office: Nayan Building,
Next to Sri Maa Balniketan School,
Eastern Express Highway, Kopri,
Thane (East-400603), Maharashtra.

...Petitioner

Versus

Seahorse Maritime & Logistics Pvt Ltd
Registered Office: D. No.42-06-04,
Pool Office, Commercial Road,
Kakinada-533007, Andhra Pradesh.

...Respondent

Date of Order: 01.01.2018

CORAM:

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

Parties/Counsels Present:

For the Petitioner : Mr. Praveen Kumar Jain, Advocate

For the Respondent : Mr. T.N.M. Ranga Rao, Advocate

Per: Rajeswara Rao Vittanala, Member (Judicial)

ORDER

1. The Company Petition bearing CP No. 08 of 2017 (TP(HCW) No.78/HDB/2017) is initially filed by M/s. Samarth Lifters



Pvt. Ltd. against Seahorse Maritime and Logistics Pvt. Ltd, U/s. 433(e), 434 (1) (a) and 439 of the Companies Act, 1956, R/w Rule 95 of the Company (Court) Rules, 1959, before the Hon'ble High Court of AP & Telangana, by inter-alia seeking the following reliefs:

- a. Directing Seahorse Maritime and Logistics Pvt. Ltd be ordered to be wound-up under the provisions of the Companies Act, 1956, under the direction, supervision and control of this Hon'ble Court;
- b. Directing to appoint Official Liquidator as the Liquidator of the said Company i.e. Seahorse Maritime and Logistics Pvt. Ltd, with necessary powers under the Companies Act, 1956;
- c. Directing that pending hearing and final disposal of the petition, the Official Liquidator, be appointed as the Provisional Liquidator of the assets, properties and income as also the business of the said company etc.



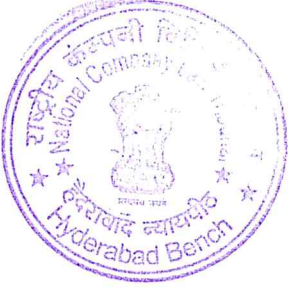
2. Upon Constitution of this bench, the case is transferred to this bench by orders dated 14.09.2017. Accordingly the case is taken on record and listed for admission and hearing on 21.11.2017, 05.12.2017, 19.12.2017 and today.
3. Mr. Praveen Kumar Jain, learned counsel for the Petitioner submit since the matter was initially filed under provisions of Companies Act, 1956 and on transfer of this Bench, it is to be dealt with under provisions of IBC, 2016. The procedure under two acts are different, and thus instead of complying with various provisions of IBC, 2016, which would result

further delay, the learned counsel submit that he may be permitted to withdraw the Company Petition with a liberty to file a fresh Company Petition under the provisions of IBC, 2016 for the same cause of action. Accordingly, he has filed memo dated 01.01.2018 by stating that he may be permitted to withdraw the same by relying on the judgment dated 4th December, 2017 in Company Appeal (AT) (Insolvency No. 210 of 2017 in T. Sreemanannarayana Vs. Magnifico Minerals Private Limited and other passed by the Hon'ble NCLAT, New Delhi).



4. Mr. T.N.M. Ranga Rao, learned counsel for the Respondent that though he has no objection for withdrawal of the Petition, the Petitioner may be directed to give prior notice before filing fresh case.
5. We have considered the pleadings of both the parties. A party who have approached a court of law, in the normal circumstances, have right to withdraw with permission of a court, unless, it results in serious prejudice to other party. In the instant case, as stated supra, circumstance would justify the claim of Petitioner to withdraw and there cannot be any prejudice would cause to other party. It goes without saying that whenever, the Petitioner file a fresh case, the Respondent is entitled for a notice.
6. Hence, we disposed of the Company Petition bearing CP No.08 of 2017 (TP (HCW) No. 78/HDB/2017) as withdrawn by reserving liberty to the Petitioner to file a fresh Company Petition, for the same cause of action, duly all provisions of

IBC, 2016 and procedures prescribed there under and after serving a copy of same to the Respondent. No order as to costs.



8d/-

RĀVIKŪMAR DURAISAMY
MEMBER (TECHNICAL)

8d/-

RAJESWĀRA RAO VITTANALA
MEMBER (JUDICIAL)

प्रमाणित प्रति
CERTIFIED TRUE COPY

केस संख्या
CASE NUMBER CP.No.8 of 2017 (TP (HCL) No. 78/HDB/2017)
निर्णय का तारीख
DATE OF JUDGEMENT...1.1.2018
प्रति तैयार किया गया तारीख
COPY MADE READY ON...17.1.2018

P. Kesava

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

for