

NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH
CHENNAI

(9)

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI
NATIONAL COMPANY LAW TRIBUNAL, HELD ON 06/10/2017 AT 10.30 AM

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

APPLICATION NUMBER :
PETITION NUMBER : CP/539/ (IB)/2017
NAME OF THE PETITIONER(S) : CONSOLIDATED CONSTRUCTION CONSORTIUM LTD
NAME OF THE RESPONDENT(S) : VA TECH WABAG LTD
UNDER SECTION : 9 RULE 6

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

1. Mr. Ramakrishnan Viraraghavan
for M/s. G. Sivalakshmanan.
S. Sathyanaganesan

Counsel to
Respondent.

C. S.
(G. SIVALAKSHMANAN)

2. S. KARTHIKEI BALAN
PRUTHI. S. ARASU

Counsel for Petitioner

Pruthi S. Arasu

3. P. R. RAMAN
Interim Resolution
Professional

IRP -

P. R. Raman

IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH, CHENNAI

CP/539/(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. Consolidated Construction Consortium Limited

Vs.

M/s. VA Tech Wabag Limited

Order delivered on 6th of October, 2017


CORAM :

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

For Operational Creditor(s) : Mr. S. Karthikei Balan, Counsel
For Corporate Debtor (s) : Mr. Ramakrishnan Viraraghavan Sr. Counsel
for M/s. G. Sivashankaran and S. Sathyaganesh


ORDER

Per: CH MOHD SHARIEF TARIQ, MEMBER (J)

1. This is in continuation to the Order dated
14.09.2017 passed by this Bench in
CP/539/(IB)/CB/2017 titled M/s. Consolidated 


Construction Consortium Limited Vs. M/s. VA Tech Wabag Limited.


2. On 11.09.2017, after hearing the Counsels for the Operational Creditor and Corporate Debtor, the matter was reserved for orders. On 14.09.2017, a detailed Order was passed. The operative portion of which reads as follows:-

“The Operational Creditor has fulfilled all the requirements of law and this Bench is of the view that the Application CP/539(IB)/CB/2017 is fit for admission, to initiate the Corporate Insolvency Resolution Process and to declare moratorium under I&B Code, 2016. However, during the course of arguments, the Ld. Counsel for the Corporate Debtor submitted that in case this Bench is proposed to admit the Application under I&B Code, 2016, the Corporate Debtor may be given an opportunity to settle the amount in dispute. In the interest of the justice, this Bench is of the view that one opportunity should be given to the Corporate Debtor to settle the dues. The principal amount claimed by the Operational Creditor is Rs.1,50,13,529/-. The above mentioned amount along with interest, if any, as provided for in the agreement entered into between the Operational Creditor and Corporate Debtor in the instant case, may be paid. Accordingly, the Corporate Debtor is given an opportunity to settle the outstanding amount within 15 days from the date of receipt of copy of this Order failing which, the Application will be considered for admission. 

14. A copy of this Order shall be sent to the Operational Creditor and the Corporate Debtor forthwith. Post this case on 03.10.2017 for reporting settlement or for passing necessary order”.


3. As can be seen from the above mentioned portion of the Order, this Bench concluded that the Application is fit for admission but considering the request of the Sr. Counsel for the Corporate Debtor a chance was provided for payment of the principal amount to the tune of Rs.1,50,13,529/- along with interest, if any, as provided for in the agreement entered into between the Operational Creditor and Corporate Debtor. Accordingly, the matter was directed to be posted to 03.10.2017 for reporting settlement or for passing necessary order.

4. However, the matter was listed on 05.10.2017 before this Bench whereon both the Counsels for the parties were present and prayed for adjournment. Accordingly, the matter was adjourned for further hearing on 06.10.2017. On 06.10.2017, the Sr. Counsel for the Corporate Debtor has brought one 

Demand Draft amounting to Rs.1,50,13,259/- i.e., the principal amount which was ordered to be paid along with interest, if any, to the Operational Creditor. But, it was submitted by the Sr. Counsel for the Corporate Debtor that the Corporate Debtor is admittedly willing to pay only 50% (i.e. Rs.75,06,764.50) of the principal amount (i.e. Rs.1,50,13,529/-) and not willing to pay any interest which appears to be contrary to what he had submitted during final hearing on 11.09.2017 i.e. *'in case this Bench proposes to admit the Application, the Corporate Debtor may be given an opportunity to settle the amount in dispute'*. However, the Counsel for the Operational Creditor did not agree to the submissions made by the Sr. Counsel for the Corporate Debtor, and submitted that the principal amount along with interest, which may be fixed by this Bench should be paid by the Corporate Debtor. But, the Sr. Counsel for the Corporate Debtor did not agree to make the payment as has been submitted by the Counsel for Operational Creditor. Then, both the Counsels prayed to pass an appropriate order. 


5. The Counsel for the Operational Creditor further submitted that he has proposed the name of IRP by seeking his written consent in Form-2 and the same is placed on record.

6. Since this Bench vide Order dated 14.09.2017 concluded that the defence projected by the Corporate Debtor is devoid of merits, which is patently feeble legal arguments and assertion of fact unsupported by evidence. It was established that the Corporate Debtor has committed default in making payment of outstanding debt to the Operational Creditor which further has been fortified by the admission of 50% of the principal amount, which the Sr. Counsel for the Corporate Debtor wanted to pay during the hearing held today, but the other side did not agree.

7. In the light of the above, CP/539/(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.

8. We appoint Mr. Pathukasahasram Raghunathan Raman, as IRP, who has been 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. IRP 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 by the creditors in the manner as prescribed.

9. 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.

10. 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.

11. 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.

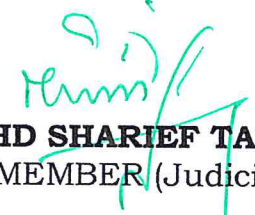
12. The Operational Creditor and the Registry are directed to send the copy of this Order to IRP so that he could take charge of the Corporate Debtor's assets etc. and make compliance with this Order as per the provisions of I&B Code, 2016.

13. 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. Pathukasahasram Raghunathan Raman
Regn No: (IBBI/IPA-002/IP-N00295/2017-18/10896)
Flat 'C' Srishas Kamalam Apartments,
93, Sivan Koil South Street,
Vadapalani, Chennai – 600 026.
Email: ram@cirpindia.com
Mobile No: 9841026621.

14. This Order shall form part of the Order passed on
14.09.2017.


S. VIJAYARAGHAVAN
MEMBER (Technical)
PAM


CH. MOHD SHARIEF TARIQ
MEMBER (Judicial)