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**NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH
COURT NO.1**

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
BENGALURU BENCH, BENGALURU, HELD ON 17.02.2020

PRIORITY CAUSE LIST – 1

PRESENT: 1. Hon'ble Member (J), Shri Rajeswara Rao Vittanala
2. Hon'ble Member (T), Shri Ashutosh Chandra

CP/CA No.	Purpose	Sec	Name of Petitioner	Petitioner Advocate	Name of Respondent	Respondent Advocate
CP(IB)No. 144/BB/2018	Remanded back from NCLAT	Sec 9 of I&B Code	M/s Aailborg CSP A/s	Pragathi Law Chambers	M/s Solar Atria Cleantech Pvt Ltd	Shri Sidhanta Das, Shri Gowrishankar Mishra

ADVOCATE FOR PETITIONER/s:

MS. SIMRAN JEET, ADV.

AYUSSHI AGARWAL

ADVOCATE FOR RESPONDENT/s:

MR. ADAMYA VIKRANT

MS. MEHUL ARORA

ORDER

Heard Ms. Simran Jeet along with Ms. Ayusshi Agarwal, learned Counsels for the Petitioner and Mr. Adamy Vikrant along with Ms. Mehul Arora, learned Counsels for the Respondent.

C.P (IB) No. 144/BB/2018 is disposed of by separate order.


MEMBER (T)


MEMBER (J)

IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH

C.P. (IB) No.144/BB/2018
U/s 9 of IBC, 2016
R/w Rule 6 of I&B (AAA) Rules, 2016

In the matter of

M/s. Aalborg CSP A/S
K 16, LGF Jangpura Ext.,
New Delhi – 110 014
Represented by its CFO and authorised signatory,
Mr. Henrik M. Pape - Petitioner/Operational Creditor

Versus

M/s. Solar Atria Cleantech Private Limited
No.1, Palace Road,
Bengaluru – 560 001 - Respondents/ Corporate Debtor

Date of Order: 17th February, 2020

Coram: 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)
2. Hon'ble Shri Ashutosh Chandra, Member (Technical)

Parties/Counsels Present:

For the Petitioner	:	Ms. Simran Jeet with Ms. Ayusshi Agarwal
For the Respondent	:	Mr. Adamyia Vikrant with Ms. Mehul Arora

ORDER

Per: Rajeswara Rao Vittanala, Member (J)

1. C.P (IB) No.144/BB/2018 is filed by M/s. Aalborg CSP A/S (hereinafter referred to as 'Petitioner/Operational Creditor) U/s 9 of the IBC, 2016, R/w Rule 6 of the I&B (Application to Adjudicating Authority) Rules, 2016, by inter alia seeking to initiate Corporate



- Insolvency Resolution Process (CIRP) in respect of M/s. Solar Atria Cleantech Private Limited, on the ground, that it has committed default for total amount of \$ 421,900.43 (Four Hundred and Twenty One Thousand Nine Hundred Dollars).Another CP (IB) No. 143/BB/2018 was also filed by the same Petitioner by seeking to initiate CIRP against same Corporate Debtor.
2. Both the said Company Petitions came to be dismissed by the Adjudicating Authority by separate orders even dated 11th January, 2019. Aggrieved by the orders, the Petitioner has preferred two Company Appeal (AT) (Ins) Nos. 167 & 168 of 2019 before Hon'ble NCLAT. After considering the matter, the Hon'ble NCLAT was pleased to dispose bothy the Appeals by common order dated 22nd January, 2020 with the following directions:

- A) Company Appeal (AT) (Ins) No.167 of 2019 is dismissed. Impugned Order in CP (IB) No. 143/BB/2018 is maintained.
- B) Company Appeal (AT) (Ins) No.168 of 2019 is allowed. Impugned Order dated 11th January, 2019 passed by the Adjudicating Authority (National Company Law Tribunal, Bengaluru Bench) in CP (IB) No. 144/BB/2018 is quashed and set aside.

Parties are directed to appear before the Adjudicating Authority on 17th February, 2020. The Adjudicating Authority will admit the said Section 9 Application and pass further Orders required to be passed for initiating CIRP process unless before order of admission is passed, Corporate Debtor settles the dues of the Operational Creditor in CP (IB) No.144/BB/20198. Till the Adjudicating Authority passes Order for admission, the Corporate Debtor will maintain status quo with regard to its assets and will not transfer, encumber, alienate or dispose of its assets or create any legal right or beneficial interest in its properties.

Both the Appeal are disposed accordingly. No Orders as to costs.



3. After receipt of the said order, the instant case is listed for admission on 28.01.2020. Since none appeared for both the Parties, the Adjudicating Authorities issued notices to the Parties, and thus posted to 17.02.2020 to give an opportunity to the Parties to appear and report settlement of the claim if any , as per the directions of the Hon'ble NCLAT. However the Respondent has not come with any proposal of settlement.
4. Heard Ms. Simran Jeet, learned Counsel for the Petitioner, and Mr. Adamya Vikrant, learned Counsel for the Respondent. We have perused the records of the case and also the order of the Hon'ble NCLAT passed by the said appeal.
5. Ms. Simaran Jeet, learned Counsel for the Petitioner has submitted since the impugned order of dismissal was set aside and the Respondent has not come with any proposal of settlement, the Adjudicating Authority has to admit the case by initiating CIRP, as per the order of the Hon'ble NCLAT.
6. The instant Application is filed in accordance with law and qualified Resolution Professional namely Ms. Sumana Rao, having Registration Number: IBBI/IPA-002/IP-N00059/2016-2017/10111 is suggested as IRP, who has filed her written communication dated 28.06.2018 by *inter alia* declaring that she is a qualified Resolution Professional with Registration Number: IBBI/IPA-002/IP-N00059/2016-2017/10111, she has not serving in any proceedings, she is willing to accept the assignment after the Adjudicating Authority appoints her, she has also filed letter date 28.06.2019, addressed to the Operational Creditor by agreeing the total fee payable for the engagement would be INR 1,75,000/- plus GST subject to the break up given there in and other expenses. Therefore, we are convinced that the instant Petition is a fit case to admit by initiating CIRP, appointing IRP, imposing moratorium etc.



7. In view of the above facts and circumstances of the case, by exercising powers conferred on this Adjudicating Authority, under provisions of Section 9 and other extant provisions of the IBC, 2016, we hereby admitted C.P.(IB)No.144/BB/2018 by initiating Corporate Insolvency Resolution Process (CIRP) in respect **M/s. Solar Atria Cleantech Private Limited** the Respondent/Corporate Debtor, with the following consequential directions:

- 1) **Ms. Sumana Rao**, bearing **Registration Number: IBBI/IPA-002/IP-N00059/2016-2017/10111**, who is qualified Resolution Professional, is hereby appointed as Interim Resolution Professional, in respect of the Respondent/Corporate Debtor namely M/s. **M/s. Solar Atria Cleantech Private Limited** to carry out the CIRP as mentioned under the Insolvency and Bankruptcy Code, 2016 and various rules issued by IBBI from time to time;
- 2) The following moratorium is declared prohibiting all of the following, namely:
 - a) the institution of suits or continuation of pending suits or proceedings against the Respondent/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;



- 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;
 - e) The supply of essential goods or services to the Corporate Debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period;
 - f) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator;
 - g) The order of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process;
- 3) The IRP is directed to follow all extant provisions of the IBC, 2016, and all extant rules including fees rules as framed by IBBI from time to time. The IRP is hereby directed to file progress reports to the Adjudicating Authority from time to time.
- 4) The Board of Directors and all the staff of Respondent/ Corporate Debtor are hereby directed to extend full co-operation to the IRP, in carrying out his functions as such, under the Code and Rules made by IBBI.
- 5) Post the case for report of IRP on **20.03.2020.**



(ASHUTOSH CHANDRA)
MEMBER, TECHNICAL



(RAJESWARA RAO VITTANALA)
MEMBER, JUDICIAL