

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
COURT HALL NO:II
SPECIAL BENCH(Video Conference)**

**CORAM: HON'BLE MADAN BHALCHANDRA GOSAVI – MEMBER JUDICIAL
HON'BLE DR.BINOD KUMAR SINHA-MEMBER TECHNICAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
HYDERABAD BENCH, HELD ON 26.03.2021 AT 10:30 AM THROUGH VIDEO CONFERENCE**

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CP(IB) No.246/9/HDB/2020
NAME OF THE COMPANY	Seshasaila Power and Engineering (P) Ltd
NAME OF THE PETITIONER(S)	Sri Lalitha Equipments
NAME OF THE RESPONDENT(S)	Seshasaila Power and Engineering (P) Ltd
UNDER SECTION	9 of IBC

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

ORDER

This case is fixed for pronouncement of order.

CP(IB)No.246/9/HDB/2020 is admitted vide separate sheets.


MEMBER TECHNICAL


MEMBER JUDICIAL

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

CP (IB) No.246/9/HDB/2020
Under section 9 of the IB Code, 2016
Read with Rule 6 of the Insolvency and Bankruptcy
(Application to Adjudicating Authority) Rules, 2016

**In the matter of:-
M/s. Seshasaila Power and Engineering Private Limited**

Between:

M/s. Sri Lalitha Equipments
Having Regd. Office at
D. No. 31, Friends Coop Housing Society
Layout No.4, Dindayal Nagar, Nagpur – 440022.

...Petitioner/
Operational Creditor

And

M/s. Seshasaila Power and Engineering (P) Limited
Having Regd. Office at Plot No.16,
R &D Defence Enclave, Sikh Village,
Secunderabad – 500 009, Telangana.

...Respondent/
Corporate Debtor

Date of Order: 26.03.2021.

**Coram: Shri. Madan B. Gosavi, Member Judicial
Dr. Binod Kumar Sinha, Member Technical.**

Parties/Counsel Present:

For the Petitioner/
Operational Creditor:

Mrs. JVL Bharti, Counsel.

For the Respondent/
Corporate Debtor:

Mr. V. Subramanyam, Director

Per: Bench

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ORDER

1. Under consideration is a Company Application filed by M/s. Sri Lalitha Equipments (in short "*Petitioner/Operational Creditor*") under section 9 of the Insolvency and Bankruptcy Code, 2016 (in short IB Code, 2016) read with rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, for initiation of Corporate Insolvency Resolution Process (CIRP) against M/s. Seshasaila Power and Engineering (P) Limited (in short, "*Respondent/Corporate Debtor*").
2. Brief facts of the case submitted by Operational Creditor are as follows:
 - a) The Operational Creditor is in the business of providing cranes on rent and hire services. They provide Telescopic Cranes, all Terrain Cranes, Crawler Cranes, Lattice Cranes, upto 250 ft., Boom and Cranes Capacity up to 250 tons.
 - b) That the Corporate Debtor entered into an agreement with Operational Creditor for providing cranes services on hire/for supply of 75 MT truck mounted with 150 feet boom self-operated Cranes on hire @ ₹3,25,000/- per month with a minimum operating period of 260 hrs.
 - c) That as per the terms and conditions of contract between parties, Diesel consumption had to be calculated as per prudent engineering practices and excess consumption due to poor maintenance was to be deducted from bills. Lubes had to be issued as per crane maintenance manual. Corporate Debtor also promised reasonable accommodation and food will be provided at site for two people. Mobilization charges of ₹2,00,000/- was to be paid as specified in the offer letter.
 - d) That the Operational Creditor supplied Crane services as per contract and submitted their bills for the services rendered. But some of the bills were not paid by the Corporate Debtor. Services continued as contract was on roll and some payments were released.
 - e) That the Operational Creditor sent many letters and mails for payment of bills but Corporate Debtor delayed payments and replied that his payments were stuck and financial condition was not well.

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they delayed payments on one pretext or another, only some bill were cleared and due to promises of Corporate Debtor that they would clear all payments in due course, Operational Creditor continued to work and raise bills.

- f) The Operational Creditor submitted that as per the final ledger statement the outstanding default amount was ₹18,28,000/- as on 31.03.2010. Now, the Corporate Debtor is trying to evade the total sum of ₹82,78,138.59 as on 31.10.2019 including interest.
 - g) That the Operational Creditor sent a statutory notice in Form-3, with copies of Invoices attached to it as per under section 8 of the Insolvency and Bankruptcy Act, 2016, dated 07.01.2020. The Corporate Debtor has received the said notice and replied to the same on 17.01.2020 stating as under:
"We are unable to pay those dues due to stagnation in business".
 - h) The Corporate Debtor also did not raise any dispute with regard to the unpaid operational debt.
 - i) Reiterating the above, the counsel for the Operational Creditor prayed to admit the instant Petition as sought for.
3. Mr. V. Subramanyam, Director of the Corporate Debtor has filed counter/reply on 26.10.2020 to the instant Petition stating that the *"Corporate Debtor is not able to pay the dues quoted in the petition due to loss of opportunities for revival of the business in this grave pandemic situation"*.
 4. Heard and perused record.
 5. This Adjudicating Authority is satisfied that the Operational Creditor has proved its case by placing evidence that default has occurred for which the Corporate Debtor was liable to pay. The Operational Creditor has also placed on record of proof of sending notices to the Respondent/Corporate Debtor for their appearance and for making submissions also along with the requirements as stipulated under the provisions of the IB Code, 2016 for the purpose of initiating Corporate Insolvency Resolution Process. In these circumstances, having satisfied with the submissions made by the

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Petitioner/Operational Creditor, this Adjudicating Authority is inclined to admit the instant Application.

6. Accordingly, the instant application is hereby admitted and this Adjudicating Authority orders the commencement of the Corporate Insolvency Resolution Process (CIRP) which shall ordinarily be completed within the timelines stipulated in the IB Code, 2016 (as amended), reckoning from the day of this order is passed.
7. This Adjudicating Authority hereby appoints Mr. Gonugunta Murali, having his Regn. No. IBBI/IPA-001/IP-P00654/2017-2018/11139 as IRP. He should file his written consent in Form-2 and Authorization for Assignment within three (3) days of this order. The IRP is directed to take charge of the Respondent/Corporate Debtor's management immediately. He is also directed to cause public announcement as prescribed under section 15 of the IB Code, 2016 within three days from the date the copy of this order is received, and call for submissions of claim in the manner as prescribed.
8. We direct the Operational Creditor/Petitioner to pay sum of Rs.50,000/- towards the advance fee of IRP, which shall be ratified later on by CoC.
9. The moratorium is hereby declared which shall have effect from the date of this order till the completion of CIRP. For the purposes referred to in section 14 of the IB Code, 2016. It is hereby ordered 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 or 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 rights 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 Securitization 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.*
 - e. *Notwithstanding anything contained in any other law for the time being in force, a license, permit, registration, quota, concession, clearances or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or*



any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license, permit, registration, quota, concessions, clearances or a similar grant or right during the moratorium period.

10. The supply of essential goods or services of the Corporate Debtor shall not be terminated or suspended or interrupted during moratorium period. Further, if the IRP considers supply of any goods or services critical to protect and preserve the value of the corporate debtor and manage the operations of such corporate debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except where such corporate debtor has not paid dues arising from such supply during the moratorium period. Furthermore, the provisions of Sub-section (1) of Section 14 shall not apply to such transactions, agreements or other arrangement as may be notified by the Central Government in consultation with any financial sector regulator or any other authority.
11. The IRP shall comply with the provisions of Sections 13(2), 15, 17 & 18 of the Code. The Directors, Promoters or any other person associated with the management of Corporate Debtor are directed to extend all assistance and co-operation to the IRP as stipulated under Section 19 and for discharging his functions under Section 20 of the I&B Code, 2016.
12. The Petitioner/Operational Creditor as well as the Registry is 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.
14. The Registry shall also communicate this Order to the ROC, Hyderabad for updating the status of the Corporate Debtor in the MCA website.
15. The address details of the IRP are as follows:-
Mr. Gonugunta Murali
Regn. No. IBBI/IPA-001/IP-P00654/2017-2018/11139,
Email ID: gmurali34@gmail.com

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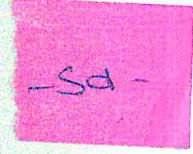
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16. The present Company Application bearing CP (IB) No.246/9/HDB/2020 is hereby admitted.



Dr. Binod Kumar Sinha
Member Technical

Rathi/Rk



Madan B. Gosavi
Member Judicial