

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-II**

MA No. 1823 of 2019

In

CP (IB) 1518/MB/C-II/2017

Under Section 425 of the Companies Act, 2013.

In the matter of

**Posco -India Pune Processing Center Private
Limited**

[CIN: U27107PN2005PTC021580]

Plot No. A-9, Floriculture Park, Talegaon
Industrial Area (MIDC), Pune 410507.

... Operational Creditor/Applicant

Versus

1. Saptasatij Metatech Private Limited

[CIN: U29299PN1999PTC013412]

Gat No. 52, Dehu Alandi Road Chikali Pune –
412114, Maharashtra.

2. Mr. Liladhar Jagannath Warade (Director)

Flat No. R1-14B/11B, SR 148/1/2, Sus Road,
Opp Bank of Maharashtra, Shri Swami
Samarath CHS, Datta Krupa, Pashan, Pune-
411021.

3. Mrs. Maya Liladhar Warade (Director)

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Flat No. R1-14B/11B, SR 148/1/2, Sus Road,
Opp Bank of Maharashtra, Shri Swami
Samarath CHS, Datta Krupa, Pashan, Pune-
411021.

4. Mr. Saurabh Arun Warade (Director)

B/303, Sr No-137/1/1 Mont Vert Biarritz
Baner Pashan Link Road, Pashan Pune -
411021.

...Corporate Debtor/Respondent
Order Delivered on 24.12.2021

Coram:

Hon'ble Member (Judicial) : Justice P. N. Deshmukh (Retd.)

Hon'ble Member (Technical) : Mr. Shyam Babu Gautam

Appearances:

For the Applicant : Ms. Aishwarya Rohankar,
Advocate.

For the Respondents : Absent.

ORDER

Per: Justice P. N. Deshmukh, Member (Judicial)

1. This is an Application filed by the Original Operational Creditor i.e. **POSCO-India Pune Processing Center Private Limited** (“the

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Applicant”) under section 425 of the Companies Act, 2013, seeking to action against the Respondent Nos. 1, 2, 3, and 4 i.e. **Sapatasatij Metatech Private limited and Ors.** under the Contempt of Courts Act, 1971 for not complying/refusing to comply with Consent Order passed by this Tribunal.

Brief Facts of the case:

2. That the Petitioner is a Private Limited Company incorporated under the Provisions of the Companies Act, 1956 and is a subsidiary of POSCO, Korea. The Petitioner is duly represented through its Authorised Representative Mr. Ashish Parikh, Company Secretary of the Company, having knowledge and information regarding the transaction between Petitioner and the Respondents (**Parties**) and who is also authorized vide Board Resolution dated 24th May, 2018, to file this Petition and other related documents on behalf of the Petitioner and to take all necessary steps. The Application has arisen consequent to the fact that the Respondents have violated the Consent Terms which were in turn made a part of an Order dated 3rd April 2018 passed by this Tribunal (**Consent Order**). The of the Consent Terms and Consent Order has been annexed to Applicant as Annexure ‘A Colly’.
3. The Petitioner states that the Respondents were liable to make payment to the Petitioner for supply of Goods for an amount

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aggregating to Rs.1,98,24,553/- (Rupees One Crore Ninety-Eight Lakh Twenty-Four Thousand Five Hundred and Fifty-Three Only).

4. The Petitioner states that during the pendency of the aforementioned Petition before this Tribunal proposed settlement of the matter by offering the Petitioner a sum of Rs.1,75,00,000/- (Rupees One Crore and Seventy-Five Lakhs only) in instalments, towards full and final settlement of the unpaid Operational Debt. The terms of the settlement / the Consent Terms were finalized between the parties and were filed before this Tribunal.
5. In furtherance of the aforesaid, this Tribunal passed an Order dated 3rd April 2018 in terms of the Settlement/Consent Terms filed. Pursuant to the said Consent Order, the Respondent No.1 was liable to make payment of Rs.1,75,00,000/- as per the schedule mentioned therein.
6. As per the payment Schedule:
 - i. First part payment was to be made via a Demand Draft (Number: 072491) for Rs.25,00,000/- drawn in favour of POSCO-India Pune Processing Center Private Limited and handed over to Petitioner on the date of execution.
 - ii. Rs.1,50,00,000/- will be paid in twelve (12) instalments by way of post-dated cheque (Rs.15,00,000/-each) in favour Petitioner drawn on HDFC Bank, Aundh Branch.

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7. Further, in the aforementioned Consent Terms the Respondent No. 2 and 3 had undertaken on behalf of Respondent No. 1 to honour the payment on the scheduled months as stipulated under the payment schedule.
8. The Petitioner states that Respondents have till date made payment of Rs.25,00,000/- as stated in above para and Rs.84,00,000/- out of Rs.1,50,00,000/- as stated above.
9. The Petitioner submits that the Respondents have failed to comply with Consent Terms and Consent Order passed by this Tribunal dated 3rd April 2018. The Respondent not only failed and neglected to take any steps for payments of outstanding amounts for months of December 2018, January 2019, February 2019, March 2019 and April 2019 but altogether ignored the Petitioner's calls and reminders. In span of five months, the cheque of the Respondent No. 1 was returned with the reason 'Account blocked' five times consecutively.
10. We have heard the submissions of Applicant and perused the records, It is specifically observed that there is no contempt of any order of this Tribunal as much as the CP No. 1518 of 2017 u/s 9 of IBC, 2016 is disposed of on account of settlement occurred between parties having agreed on the same. In fact there is contravention of terms of settlement for which Applicant may seek remedy available under law before appropriate forum. The reliefs sought under this

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Application has no merits in it, Hence the same is liable to be dismissed.

11. MA 1823 of 2019 In CP 1518 of 2017 is disposed of as dismissed.

12. Order accordingly.

Sd/-

SHYAM BABU GAUTAM

Member (Technical)

24.12.2021

SAM

Sd/-

JUSTICE P. N. DESHMUKH (RETD.)

Member (Judicial)