

**NATIONAL COMPANY LAW TRIBUNAL  
AMARAVATI BENCH  
(Video Conference)**

**PRESENT: JUSTICE TELAPROLU RAJANI – MEMBER JUDICIAL  
ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 26.10.2022 AT 10.30 AM**

TC/CP. Nos.	CA/IA No.	Section/ Rule	Name of Parties
CP(IB) No. 7/7/AMR/2022		7 of IBC	SREI Equipment Finance Limited Vs. Vijay Engineering Equipment India Private Limited

**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**

CP(IB) No. 7/7/AMR/2022 is dismissed, vide separate orders.

SD/-  
**JUSTICE TELAPROLU RAJANI  
MEMBER JUDICIAL**

**NATIONAL COMPANY LAW TRIBUNAL  
AMARAVATI BENCH AT MANGALAGIRI**

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CP (IB) No. 7/7/AMR/2022

**In the matter of a Petition under Section 7 of the Insolvency and  
Bankruptcy Code, 2016 Read with Rule 4 of the Insolvency and  
Bankruptcy (Application to Adjudicating Authority) Rules, 2016  
AND**

**In the matter of  
M/s. VIJAY ENGINEERING EQUIPMENT INDIA PRIVATE  
LIMITED**

**Between:**

SREI Equipment Finance Limited,  
Vishwakarma, 86C, Topsia Road,  
(South) Kolkata, West Bengal -700046.

**... Financial Creditor**

AND

M/s. Vijay Engineering Equipment India Private Limited,  
(U45200AP2006PTC048777)  
D.No.38/3394-1, Ramanjaneyapuram,  
Cuddapah, AP - 516002.

**... Corporate Debtor**

**Date of Orders pronounced on: 26.10.2022**

**CORAM:**

**Justice Telaprolu Rajani, Member Judicial.**

**Appearance:**

For Financial Creditor : Mr.Srikanth Hariharan, Advocate.

For Corporate Debtor : Mr.Narendra Naik, Advocate.

**ORDER**

1. This Company Petition is filed by the Petitioner i.e., SREI Equipment Finance Limited, Financial Creditor (hereinafter referred to as FC) against the M/s. Vijay Engineering Equipment India Private Limited, Corporate Debtor (hereinafter referred to as CD) seeking to initiate Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor (CD) for the default committed by the CD with regard to the debt of Rs.149,28,72,738/- that is due to the FC.
2. The facts of the case are briefly are as follows:
  - i. The FC is a registered non-banking financial company and the CD is in the business of engineering and mining projects.
  - ii. The FC extended credit facilities to the tune of Rs.100 Crores to the CD by virtue of 12 Master Facility Agreements Dated 01.10.2018. The amounts under said agreements were disbursed to the CD by the FC.
  - iii. The CD in order to secure the credit facility extended by the FC, executed two deeds of Hypothecation dated 01.10.2018 in favour of the FC. The charge has also been registered with the Registrar of Companies (RoC).

- iv. The CD extended securities of the immovable properties and also submitted personal guarantees. In spite of receipt of the amounts, the CD failed to make the repayments of instalments to the FC.
  - v. A demand notice was issued on 10.11.2021 which was received by the CD. But there was no reply issued for the same. No existing dispute was brought to the notice. Hence, this Company Petition seeking to initiate CIRP against the CD.
3. The CD filed counter, denying the contents of the Company Petition. It is further contended that the CD is a highly reputed company and in the course of its business, the CD approached the FC and availed various financial facilities. During the course of business in view of financial restructuring, the CD had availed a loan of Rs.100 Crores from the FC in various tranches from 05.09.2018 to 28.12.2018. After availing the said credit facility, the principal amount of Rs.100 Crores was repaid to the FC as and when the said amounts were received by the CD and the same is reflected in the ledger accounts of the CD. The copies of the Bank Statements and the ledger accounts would show the repayment of entire amount. The amounts received by the CD are repaid to the FC on the very same day and no amount is due and payable to the FC. The FC has issued a demand notice with false averments even after repayment of the entire debt. Hence, the Company Petition is liable to be dismissed.

4. The FC filed rejoinder, denying the averments made in the counter and contending that the CD has not paid any amount towards the outstanding dues standing to the credit of the present loan agreements. It is further contending that the FC has not received monies from the CD except a payment of Rs.15 Crores on 14.12.2018 as reflected in the bank statement and there has been no credit of payments by the CD to the loan accounts. Therefore, the FC seeks to admit the Petition.
5. Heard the arguments of both the Counsel. There is no denial of the fact that Rs.100 Crores was released in favour of the CD. The issue is only with regard to the repayment of the said debt. In proof of the debt and the default, the FC filed the ledger account. It shows the debt which according to the FC is due.
6. Counsel for the CD relies on the bank statement showing the repayment of the debt. On 11.12.2018 Rs.7 Crores was received from the FC and was repaid on the same day, similarly Rs.8 Crores was received and repaid on 12.12.2018. On 14.12.2018 Rs.15 Crores was received and repaid. So also on 19.12.2018 Rs.15 Crores was received and repaid, on 24.12.2018 Rs.9,51,00,000/- was received and repaid, on 27.12.2018 Rs.15Crores was received and repaid and on 28.12.2018 Rs.20,50,00,000/- was received and repaid. The total repayment amounted to Rs.100 Crores which was made on the same date of the receipt of the amount. The counsel for the FC does not offer any proper explanation with regard to the ledger account not

reflecting the repayments which are reflected in the bank statement of the CD. The Bank statement stands on a better footing of credibility when compared to the ledger, which is a self prepared and maintained document. The counsel for the CD also submits that the FC has filed similar application against another CD, and the same was dismissed by imposing cost of Rs.10 Lakhs. Though the same is not disputed by the Counsel for the FC, it is only contended that the said imposition of fine pertains to another matter and hence cannot be considered in this Company Petition. However, going by the proved facts in this case, this Tribunal does not find any debt which is due to the FC by the CD and consequently no default is found to have been committed by the CD. Hence, CP(IB) No.7/7/AMR/2022 is dismissed.

**Sd/-**

**JUSTICE TELAPROLU RAJANI  
MEMBER JUDICIAL**

*Swamy Naidu*