

**NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH**  
**COURT III**

11. C.P.(IB)-1600(MB)/2017

CORAM: SHRI H. V. SUBBA RAO, MEMBER (J)  
SMT. ANURADHA SANJAY BHATIA, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL  
COMPANY LAW TRIBUNAL ON **12.07.2022**

NAME OF THE PARTIES: Techno crafts Switchgears Pvt Ltd.

V/s.

Danco Enterprises India Pvt Ltd.

SECTION 9 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

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**ORDER**

Mr. D.S. Patil, counsel appearing for the Operational Creditor and Mr. Jayesh R. Vyash, counsel appearing for the Corporate Debtor are present through virtual hearing.

Counsel appearing for the Corporate Debtor merely requested extension of time on the ground that the Corporate Debtor has already paid an amount of Rs. 23 lakhs against the total claim of Rs. 30,12,641/- claimed in the petition. Except the above request for extension of time, he did not raise any substantial question of fact or law opposing the above Company Petition.

Since the above Company Petition is of the year 2017, the request of the Corporate Debtor is hereby rejected. Since there is a clear-cut admission about the debt and default and in fact a payment from Corporate Debtor has already been made, there is no point in keeping the above Company Petition pending any longer. Hence, the above Company Petition is **admitted**. Detail order would follow:

Sd/-  
ANURADHA SANJAY BHATIA  
Member (Technical)  
//RKS//

Sd/-  
H. V. SUBBA RAO  
Member (Judicial)

**IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH  
COURT III**

**C.P. No. 1600/IBC/MB/2017**

Under Section 9 of the Insolvency and  
Bankruptcy Code, 2016 read with Rule 6  
of the Insolvency and Bankruptcy  
(Application to Adjudication Authority)  
Rule 2016)

*In the matter of*

**M/s Technocrafts Switchgears Pvt. Ltd.**

Having registered office at: A/2010, Oberai  
Garden Estates, Chandivali Farms Road,  
Chandivali, Mumbai

.....Operational Creditor

*Vs*

**M/s Danco Enterprises India Pvt. Ltd.**

(CIN: U45400MH2012PTC227820)

Registered office at: 11, Apollo Industrial  
Estate, Off. Mahakali Road, Andheri (East),  
Mumbai- 400093

.....Corporate Debtor

**Order delivered on: 12.07.2022**

**Coram:**

Hon'ble Shri H.V. Subba Rao, Member (Judicial)

Hon'ble Smt. Anuradha Sanjah Bhatia, Member (Technical)

**For the Applicant:** Mr. D.S. Patil, Advocate

**For the Respondent:** Mr. Jayesh R. Vyash, Advocate

1. The above Company Petition is filed by *M/s Technocrafts Switchgears Pvt. Ltd.* hereinafter called as Operational Creditor seeking to initiate of Corporate Insolvency Resolution Process (CIRP) against *M/s Danco Enterprises India Pvt. Ltd.* called as Corporate Debtor by invoking the provisions of Section 9 Insolvency and Bankruptcy code (hereinafter called "Code" read with rule 6 of Insolvency & Bankruptcy (Application to Adjudication Authority) Rules, 2016 for a Resolution of an unresolved Operational Debt of Rs. 30,12,641/- (Rupees Thirty Lakhs Twelve Thousand Six Hundred & Forty-One only).
2. The submissions of the Operational Creditor are as follows:
  - i. The Corporate Debtor is indebted to the Operational Creditor for a sum of Rs. 30,12,641/- along with 24% interest per annum on the same from 29.10.2016 till 24.04.2017, which comes to be 3,50,622/- and further an interest of 24% thereon from 25.04.2017 till actual payment.
  - ii. The Operational Creditor states that as per business requirement, the Corporate Debtor had placed an order with Operational Creditor in respect of following products under a purchase order bearing no. DEIPL/PEE VEE/16-17/007 dated 19.07.2016.

Sr. No.	Description and Specification of Goods	Quantity in Nos.
1	Incomer Panels	2
2	Bus Coupler Panel	1
3	Outgoing Panels	4

4	Bus Riser Cum Bus PT Panel	1
5	Breaker Handling Trolley	1

The Operational Creditor states that in compliance of the said Purchase Order, Operational Creditor had supplied and delivered the goods to Corporate Debtor at the address mentioned on the said Purchase Order under the caption 'Consignee'. It would be also pertinent to mention that the Corporate Debtor has received all the goods in good condition and at no point of time any grievances were made regarding any defect / quality of any of the goods.

- iii. The Operational Creditor further states that Operational Creditor had, accordingly, raised Tax Invoice bearing no. SIE – 000102/16 17 dated 20.07.2016 ["Invoice"] against the goods sold and delivered under the Purchase Order, amounting to Rs. 47,62,641/- [Rupees Forty-Seven Lakhs Sixty-Two Thousand Six Hundred & Forty-One Only]. It would be pertinent to record that Corporate Debtor are liable for 24 % interest p.a. on the outstanding amount, if the amount as per Invoice is not paid within 30 days. The Operational Creditor that the Invoice was duly received by Corporate Debtor on or about 22.07.2016.
- iv. The Operational Creditor states that, although the amount under the Invoice was to be paid by Corporate Debtor within 30 days, it was Operational Creditor who did not pursue for the payment under the said Invoice even after expiry of initial 30 days from the receipt of the Invoice by Corporate Debtor as Operational Creditor had already accorded Corporate Debtor's request for credit of 60 days. It would also be imperative to mention and record that Corporate Debtor had

issued a cheque bearing no. 267846 dated 23.09.2016 drawn on State Bank of India, MIDC Branch, Andheri (East), for an amount of Rs. 47,62,641/- [Rupees Forty-Seven Lakhs Sixty-Two Thousand Six Hundred & Forty-One Only] [“said Cheque”] in discharge of Corporate Debtor’s liability and obligation under the Invoice which was raised in lieu of the goods sold and supplied to Corporate Debtor as per the Purchase Order issued by Corporate Debtor.

- v. The Operational Creditor further states that even after issuing the said Cheque in discharge of Corporate Debtor’s liability as stated herein above, Corporate Debtor communicated orally and through e-mails to Operational Creditor to not to deposit the said Cheque as Corporate Debtor was facing some financial crunch and requested to accommodate with some more time to enable Corporate Debtor to make the payment under the Invoice. The Operational Creditor crave leave of this Hon’ble Tribunal to refer to and rely upon such mail communications as and when produced.
- vi. The Operational Creditor states that against the Invoice raised by Operational Creditor, Corporate Debtor has made payment of Rs. 7,50,000/- [Rupees Seven Lakhs Fifty Thousand Only] and Rs. 10,00,000/- [Rupees Ten Lakhs only] through RTGS on 26.10.2016 and 29.10.2016 respectively, aggregating an amount of Rs. 17,50,000/- [Rupees Seventeen Lakhs Fifty Thousand Only], to and in favour of Operational Creditor, thereby leaving a balance outstanding amount of Rs. 30,12,641/- [Rupees Thirty Lakhs Twelve Thousand Six Hundred & Forty-One Only] [“Outstanding Amount”].

- vii. The Operational Creditor states that time to time Operational Creditor requested Corporate Debtor to make payment of the Outstanding Amount and collect the said Cheque. Nevertheless, Corporate Debtor did not pay any heed to requests of Operational Creditor and avoided to make payment of Outstanding Amount for the reasons best known to them. It was also informed to Corporate Debtor time to time to at least issue cheque of Outstanding Amount or make RTGS payment of the Outstanding Amount and collect the said Cheque issued by Corporate Debtor against the Invoice, however, Corporate Debtor did not bother to consider this request also, which shows and clarified malafide intention of Corporate Debtor to defraud the legitimate claim of Operational Creditor. Operational Creditor states that under these circumstances, Operational Creditor entailed to deposit the said Cheque with their bankers namely Axis Bank, MIDC Branch, Andheri (East), Mumbai, on 20.12.2016. However, to the utter and extreme shock to the Operational Creditor the said Cheque was returned unpaid to Operational Creditor by their bankers with cheque return memo dated 21.12.2016 with reason for return as "Payment Stopped by Drawer". This fact of Corporate Debtor of not honoring the said Cheque issued them substantiates your malafide intention to defraud and cheat to Operational Creditor.
- viii. The Operational Creditor further state that Operational Creditor, through its Advocate, had issued a notice dated 12.01.2017 u/s. 138 of NI Act, 1881 to Corporate Debtor and Mr. Kuline Kishor Danani and Mr. Niraj Kishor Danani, as well. Nevertheless, Corporate Debtor has failed to comply with the requisition made under the said notice issued u/s. 138 of NI Act, 1881.

- ix. In the light of above-mentioned scenario, the Operational Creditor issued a statutory notice dated 07.07.2017 under Insolvency & Bankruptcy Code, 2016 bearing reference no. TSPL/3/2017 to the Corporate Debtor Corporate Debtor under Registered Post Acknowledgement Due. The said notice was duly received by Corporate Debtor on 12.07.2017.
  - x. The Operational Creditor states that inspite of receipt of statutory notice by the Corporate Debtor on 12.07.2017, Corporate Debtor has failed to comply with the requisition made under the said notice. Operational Creditor further states that they did not receive any reply in response to the said notice from the Corporate Debtor.
  - xi. The Operational Creditor states that under the above circumstances, there is now crystallized debt that is due and payable by the Corporate Debtor to the Operational Creditor a sum being Outstanding Amount of Rs. 30,12,641/- [Rupees Thirty Lakhs Twelve Thousand Six Hundred & Forty One Only] along with 24 % interest per annum on the same from 29.10.2016 till 24.04.2017, which comes to be Rs. 3,50,622/- [Rupees Three. Lakhs Fifty Thousand Six Hundred & Twenty-Two Only) and further an interest of 24 % thereon from 25.04.2017 till actual payment. Hence this petition.
3. Counsel appearing for the Corporate Debtor merely requested extension of time on the ground that the Corporate Debtor has already paid an amount of Rs. 23 lakhs against the total claim of Rs. 30,12,641/- claimed in the petition. Except the above request for extension of time, he did not raise any substantial question of fact or law opposing the above Company Petition. In fact, the Corporate Debtor has been taking time by making the same statement before this Bench since 30.09.2021 and took

adjournments on several occasions subject to payment of costs of Rs. 25,000/-, 50,000/- and 75,000/- and respectively. Since the above Company Petition is of the year 2017, the request of the Corporate Debtor is hereby rejected. Since there is a clear-cut admission of debt and default and in fact a payment from Corporate Debtor, there is no point in keeping the above Company Petition pending any longer. Accordingly, the above Company Petition is admitted by passing the following:

**ORDER**

- a. The above Company Petition No. (IB) 1600 (MB)/2017 is hereby allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against M/s Danco Enterprises India Pvt. Ltd.
- b. Since the Operational Creditor has not suggested the name of any person to perform the duties of the Interim Resolution Professional (IRP) in the petition, this Bench is appointing the IRP from the list furnished by the Insolvency and Bankruptcy Board of India (IBBI). This Bench hereby appoints **Mr. Atul Narayan Naik** ([annaik129@gmail.com](mailto:annaik129@gmail.com)) (Mobile No. 9607652555) Insolvency Professional, Registration No: IBBI/IPA-003/IP-N00385/2021-2022/14011 as the interim resolution professional to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.
- c. The Operational Creditor shall deposit an amount of Rs.2 Lakhs towards the initial CIRP costs by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order. The IRP shall spend the above amount only towards expenses and not towards fee till his fee is decided by COC.

- d. That this Bench hereby prohibits 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; transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein; 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; 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. That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
- f. That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- g. That the order of moratorium shall have effect from the date of pronouncement of this order till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, as the case may be.
- h. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.

- i. During the CIRP period, the management of the corporate debtor will vest in the IRP/RP. The suspended directors and employees of the corporate debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP/RP.
- j. Registry shall send a copy of this order to the Registrar of Companies, Mumbai, for updating the Master Data of the Corporate Debtor.
- k. Accordingly, this Petition is admitted.
- l. The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

Sd/-

**ANURADHA SANJAY BHATIA**  
**MEMBER (TECHNICAL)**

Sd/-

**H.V. SUBBA RAO**  
**MEMBER (JUDICIAL)**