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**NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD**

**SPECIAL BENCH - COURT 1 (HEARINGS THROUGH VIDEO CONFERENCE)**

**PRESENT: HON'BLE SHRIMADAN BHALCHANDRA GOSAVI- MEMBER JUDICIAL**

**HON'BLE SHRI VEERA BRAHMA RAO AREKAPUDI - MEMBER TECHNICAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 28.07.2021 AT 10:30 AM**

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CP (IB) No. 17/9/HDB/2020
NAME OF THE COMPANY	Sathavahana Ispat Ltd
NAME OF THE PETITIONER(S)	Thirumala Logistics
NAME OF THE RESPONDENT(S)	Sathavahana Ispat Ltd
UNDER SECTION	9 of IBC

**Counsel for Petitioner(s):**

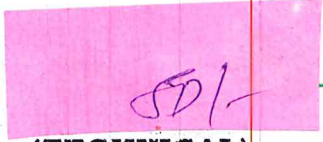
Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

**Counsel for Respondent(s):**

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

**ORDER**

The petition is admitted vide separate order. The order is pronounced.

 SD/-

**(TECHNICAL)**

*karim*

 SD/-

**(JUDICIAL)**

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

**CP (IB) No.17/9/HDB/2020**

Under section 9 of I&B Code, 2016 read  
with Rule 6 of I&B (AAA) Rules, 2016

**In the matter of**

M/s Thirumala Logistics  
Having its office at:  
House No.35A, Ward NO.19  
Patel Nagar, 3<sup>rd</sup> Cross, Opp Post Office  
Ananthapur Road, Bellary – 583 101  
Karnataka.

.. **Petitioner/  
Operational Creditor**

VERSUS

M/s Sathavahana Ispat Ltd  
505, 5<sup>th</sup> Floor, Block No.1  
Divyashakthi Complex  
Ameerpet, Hyderabad – 500 016.  
Telangana.

.. **Respondent  
Corporate Debtor**

**Date of order: 28.07.2021**

**Coram:**

**Hon'ble Shri Madan Bhalchandra Gosavi,  
Member (Judicial)**

and

**Hon'ble Shri Veera Brahma Rao Arekapudi  
Member (Technical)**

**Parties / counsels present:**

For the Petitioner .. Shri Karan Talwar, advocate.

For the Respondent: .. Shri Lokeshwar Reddy, advocate.

**(PER BENCH)**

Heard on: 08.06.2021, 16.06.2021, 30.06.2021 and 09.07.2021.

**ORDER**

This petition is filed by M/s Thirumala Logistics/ Operational Creditor claiming total amount of debt of Rs.1,24,96,563/- against the

86/ Annexure R-5 of the counter) and letter dated 10.08.2019 (page 87/Annexure R-6 of the counter) claiming that the outstanding due is Rs.NIL. In support of its claim that amount payable to the Operational Creditor is NIL, the Corporate Debtor also produces ledgers between the Corporate Debtor and Operational Creditor at pages 89-129/ Annexure R-7; ledgers between the Corporate Debtor and Sona Alloys at pages 130-137/ Annexure R-8; and ledgers between the Corporate Debtor and P&M Associates LLP at pages 138-141/ annexure R-9.

**4. REJOINDER DATED 18.01.2021 FILED BY THE OPERATIONAL CREDITOR IN RESPONSE TO COUNTER FILED BY THE CORPORATE DEBTOR.**

4.1 The Operational Creditor contended that though the Operational Creditor is an unregistered partnership firm it comes within the ambit of section 3(23) of the I&B Code and qualified to be an Operational Creditor under section 5(2) of the I&B Code. On this point the Corporate Debtor relies on decision rendered by NCLT, New Delhi in DURRE WELT OVERSEAS Vs. GHELI INTERNATIONAL PVT LTD., vide order dated 23.05.2019 in (IB)-754 (ND)/ 2019.

4.2 As regards the defence taken by the Corporate Debtor in paras 4 and 5 of its Counter that dues have been adjusted against the debt balance of M/s Sona Alloys are only moonshine defence and afterthoughts to escape the insolvency proceedings.

4.3 In para 24 of the Rejoinder the Operational Creditor contends that the ledgers provided by the Corporate Debtor are false and concocted.

5. We have gone through the submissions made in the petition filed by the operational creditor, counter of the corporate debtor, rejoinder of the Operational Creditor and the relevant documents on record. We have also considered the oral submissions of the learned counsels. As stated above the operational creditor has filed copies of various documents including invoices duly acknowledged by the Corporate Debtor and certificate issued by Lakshmi Vilas Bank (page 86). It is seen that the corporate debtor has not been able to bring on record any evidence to show that the Corporate Debtor has paid any amount to the Operational Creditor in lieu of services provided by the Operational Creditor to the

Corporate Debtor. The amount claimed by the Operational Creditor is covered by the said invoices which are properly acknowledged by the Corporate Debtor.

6. It is observed from letter dated 28.11.2019 (page 76-77 of the petition) that the Corporate Debtor has referred to pre-existing debt and claimed that the amount claimed by the Operational Creditor in Form-3 has already been adjusted as per instructions. We find no merit in the said contention of the Corporate Debtor and it is not permissible under the I&B Code, 2016. Further, ledger statement for the period from 01.04.2017 to 02.01.2018 of the Corporate Debtor, produced at page 70 of the petition amounts to admission of debt. In view of the above, we are of the opinion that the present petition needs to be admitted under section 9 of the IB Code.

7. The operational creditor has not proposed name of IRP and left it to the discretion of the Adjudicating Authority.

8. Hence, the Adjudicating Authority admits this Petition under Section 9 of IBC, 2016, declaring moratorium for the purposes referred to in Section 14 of the Code, with following directions: -

- (a) The 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 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002); the recovery of any property by an owner or lessor where such property is occupied by or in possession of the corporate Debtor;
- (b) 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.

- (c) 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.
- (d) That the order of moratorium shall have effect from the date 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, whichever is earlier.
- (e) That the public announcement of the initiation of Corporate Insolvency Resolution Process shall be made immediately as prescribed under section 13 of Insolvency and Bankruptcy Code, 2016.
- (f) The Operational Creditor failed to name anyone as IRP and has requested the Tribunal to appoint one for the CIRP. The IBBI has recommended a panel of IRPs for appointment as IRP for the period 01.07.2021 to 31.12.2021, in compliance with section 16(3)(a) of the Code in order to avoid delay. Accordingly, this Tribunal appoints Shri Golla Ramakantha Rao, having Registration No.IBBI/ IPA-003/ IP-N00310/ 2020-2021/ 13364, residing at: Flat No.1106, Block4, SMR Vinay Fountain Head, Calvary Temple Road, Hydernagar, Hyderabad – 500049.
- (g) email: [gollarama@yahoo.com](mailto:gollarama@yahoo.com) as IRP. The aforesaid IRP has no disciplinary proceedings pending against him. Proposed IRP shall file Form-B issued by the Institute of Insolvency Professional **within two days** from the date of receipt of this order. His AFA is valid till 05.02.2022. This information is available in IBBI Website. Thus, there is compliance of Regulation 7A of IBBI (Insolvency Professionals) Regulations, 2016, as amended. Therefore, the proposed IRP is fit to be appointed as IRP since the relevant provision is complied with.
- (h) The petitioner is directed to pay a sum of Rs.1,00,000/- (Rupees one lac only) to the Interim Resolution Professional to meet out the expenses to perform the functions assigned to him in accordance with Regulation 6 of IBBI (Insolvency Resolution Process for Corporate Person) Regulations, 2016. This shall, however, be subject to adjustment by the Committee of

Creditors as accounted for by Interim Resolution Professional and shall be paid back to the petitioner.

9. Accordingly, this Petition is admitted.

10. The Registry to send a copy of this order to the Registrar of Companies, Hyderabad for appropriately changing the status of Corporate Debtor herein on the MCA-21 site of Ministry of Corporate Affairs.

VEEF

MEMBER (TECHNICAL)

APUDI

MEMBER (JUDICIAL)

*karim*

MADAN BHALCHANDRA GOSAVI  
MEMBER (JUDICIAL)