

ERP

NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH - I
CHENNAI

19

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI
NATIONAL COMPANY LAW TRIBUNAL, HELD AT 10.30 AM ON 20-11-19

PRESENT: SHRI R VARADHARAJAN, MEMBER-JUDICIAL
SHRI. ANIL KUMAR B, MEMBER - TECHNICAL

APPLICATION NUMBER :
PETITION NUMBER : IBA/446/2019
NAME OF THE PETITIONER(S) : UNITECH SALES AGENCY
NAME OF THE RESPONDENTS : TERRA ENERGY LTD
UNDER SECTION : 9 RULE 6 OF IBC

S.No. NAME (IN CAPITAL) DESIGNATION SIGNATURE
REPRESENTATION BY WHOM

1. TANUSHREE ARVIND

CORPORATE DEBTOR
ADVOCATE

Tanushree Arvind

2. B. HANJULA

OPERATIONAL DEBTOR
Advocate

B. Hanjula



Received on 2/12/19
B

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH – I, CHENNAI**

IBA/446 /2019 filed under Section 9
of the Insolvency and Bankruptcy
Code, 2016 r/w Rule 6 of the
Insolvency and Bankruptcy (Application
to Adjudicating Authority) Rules, 2016

In the matter of **M/s. Terra Energy Limited**

M/s. UNITED SALES AGENCY,
Nelson Plaza, 2nd Floor,
No.90/149. Nelson Manickam Road,
Choolaimedu, Chennai – 600 094

... Operational Creditor

-Vs-

M/s. TERRA ENERGY LIMITED,
Eldorado Building, 5th Floor,
No. 112, Uttamar Gandhi Salai,
Nungambakkam High Road,
Post Box No. 3328, Chennai – 600 034

... Corporate Debtor

Order delivered on 20th November, 2019

CORAM:

R. VARADHARAJAN, MEMBER (JUDICIAL)
ANIL KUMAR B, MEMBER (TECHNICAL)

For Operational Creditor : Ms. B.Manjula, Advocate

For Corporate Debtor : Ms. Tanushree Arvind, Advocate

ORDER

Per: R. VARADHARAJAN, MEMBER (JUDICIAL)

Heard and dictated in open Court



1. The Ld. Counsel for the Petitioner apprises before this Tribunal that the Corporate Debtor while admitting their liability has given an undertaking before this Tribunal on 11.09.2019 which reads as follows:-

"4. The Corporate Debtor undertakes to adhere to the aforesaid payment schedule and in the event of any default, the Operational Creditor has the liberty to revive the above Company Petition.

5. It is prayed that the Hon'ble Tribunal be pleased to consider the above schedule of payment and pass suitable orders in the interest of justice."

2. The Ld. Counsel for the Petitioner represents that in relation to the dates of payments as mentioned in the Undertaking, not even a single payment has been received from the Corporate Debtor. The default amount which is claimed in Part-IV of the Petition as filed by the Petitioner / Operational Creditor is a sum of Rs.13,84,961/- which is also reflected in the Undertaking as given by the Corporate Debtor and save the interest portion which seems to have been waived by the Operational Creditor.

3. Despite the undertakings, the Corporate Debtor is not in a position to pay the said amount which clearly points out there is an existence of a debt as defined under the I&B Code, 2016 and that default has been committed by the Corporate Debtor which is



manifest in itself in view of the fact that the Corporate Debtor has not been able to abide by the undertaking the relevant portion of which has been extracted in paragraph 1 supra.

4. Taking into consideration the above facts, this Tribunal is constrained to **admit** the Petition as filed by the Petitioner and the CIRP is initiated against the Corporate Debtor. A perusal of Part – III of the Petition discloses that the Operational Creditor has not named the Insolvency Resolution Professional and hence this Tribunal based on the list furnished by Insolvency and Bankruptcy Board of India appoints **Mr. Sanjeev C** with Registration Number IBBI/IPA-003/IP-N000108/2017-18/11215 (Email id:- sanjeevicra@yahoo.co.in, Mobile No: +91 9442651218) as the “Interim Resolution Professional” subject to the condition that no disciplinary proceedings are pending against such an Interim Resolution Professional named and disclosures as required under IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 are made within a period of one week from the date of this order. As a consequence of the Application being admitted in terms of Section 9 (5) of the Code, the moratorium as envisaged under the provisions of Section 14(1) and as extracted hereunder shall follow in relation to the Corporate Debtor:



- a. The institution of suits or continuation of pending suits or proceedings against the respondent including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;
 - b. Transferring, encumbering, alienating or disposing of by the respondent any of its assets or any legal right or beneficial interest therein;
 - c. Any action to foreclose, recover or enforce any security interest created by the respondent in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
 - d. The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the respondent.
5. However, during the pendency of the moratorium period in terms of Section 14(2) and 14(3) as extracted hereunder:



(2) The supply of essential goods or services to the Corporate Debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.

(3) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

6. The duration of the period of moratorium shall be as provided in Section 14(4) of the Code and for ready reference reproduced as follows:

(4) The order of moratorium shall have effect from the date of such order till the completion of the Corporate Insolvency Resolution Process:

Provided that where at any time during the Corporate Insolvency Resolution Process period, if the Adjudicating Authority approves the Resolution Plan under sub-Section (1) of Section 31 or passes an order for liquidation of Corporate Debtor under Section 33, the moratorium shall



cease to have effect from the date of such approval or Liquidation Order, as the case may be.

7. The Operational Creditor is directed to pay a sum of Rs.2,00,000/- to the Interim Resolution Professional upon the Interim Resolution Professional filing the necessary declaration form as required under the provisions of the Code to meet out the expenses to perform the functions assigned to her in accordance to Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

8. In view of admitting the Petition, initiating the CIRP in relation to the Corporate Debtor in terms under Section 14 of IBC, 2016, the IRP will be required to cause paper publication within a period of 3 days from the date of this order under Section 15 of IBC, 2016 calling upon the claims of the Creditors to the Corporate Debtor.

9. The IRP shall comply with the provisions of Sections 13 (2), 15, 17 & 18 of the I&B Code. The directors of the Corporate Debtor, its promoters or any person associated with the Management of the Corporate Debtor are/is directed to extend all assistance and



cooperation to the IRP as stipulated under Section 19, so that he could discharge his functions under Section 20 of the I&B Code, 2016.

10. Based on the above terms, the Application stands **admitted** in terms of Section 9(5) of IBC, 2016 and the moratorium shall come in to effect as of this date. A copy of the Order shall be communicated to the Operational Creditor as well as to the Corporate Debtor above named by the Registry. In addition, a copy of the Order shall also be forwarded to IBBI for its records. Further, the Interim Resolution Professional above named who is figuring in the list of Resolution Professionals forwarded by IBBI be also furnished with copy of this Order forthwith by the Registry.

-SD-
(ANIL KUMAR B)
MEMBER (TECHNICAL)

-SD-
(R.VARADHARAJAN)
MEMBER (JUDICIAL)

MS / Raymond



N. SRIRAMASUBRAMANIAN
ASSISTANT REGISTRAR
NATIONAL COMPANY LAW TRIBUNAL
CHENNAI BENCH
CORPORATE BHAVAN, 3rd FLOOR
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Certified to be True Copy

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