

**NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH**

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
BENGALURU BENCH, BENGALURU, HELD ON 04.09.2020

THROUGH VIDEO CONFERENCING

CAUSE LIST

PRESENT: 1. Hon'ble Member (J), Shri Rajeswara Rao Vittanala
2. Hon'ble Member (T), Shri Ashutosh Chandra

CP/CA No.	Purpose	Sec	Name of Petitioner	Petitioner Advocate	Name of Respondent	Respondent Advocate
CP(IB) No. 189/BB/2020	For admission	Sec 9 of I&B code 2016	Kunal Conchem pvt Ltd	Mr S Simhadutt a Advocate	CK Infra Equipment Pvt Ltd	

ADVOCATE FOR PETITIONER/s:

MR. S. SIMHADUTTA - Advocate

ADVOCATE FOR RESPONDENT/s:

MS. S.J. SANISHVI - Advocate

ORDER

Heard Shri S.Simhadutta, learned Counsel for the Petitioner and Ms. S.J. Sanghvi, learned Counsel for the Respondent, through Video Conference.

CP (IB) No. 189/BB/2020 is disposed of by separate order.

MEMBER (T)

MEMBER (J)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH**

C.P. (IB)No.189/BB/2020
U/s. 9 of the IBC, 2016
R/w Rules 6 of I&B (AAA) Rules, 2016

Between

M/s. Kunal Conchem Private Limited

E-44, Second Floor, Panchsheel Park,
New Delhi- 110 017

... Petitioner/Operational Creditor

And

M/s. CK Infra Equipment Private Limited

No. 525/A, 19th Main,
3rd Sector, HSR Layout,
Bangalore – 560 102

... Respondent/Corporate Debtor

Date of Order: 04th September, 2020

Coram: 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)
2. Hon'ble Shri Ashutosh Chandra, Member (Technical)

Parties/Counsels Present (through Video Conference):

For the Petitioner : Mr. S.Simhadutta

For the Respondent : Ms. S.J. Sanghvi

ORDER

Per: Rajeswara Rao Vittanala, Member (J)

1. C.P. (IB) No.189/BB/2020 is filed by M/s. Kunal Conchem Private Limited ('Petitioner/Operational Creditor'), U/s. 9 of the IBC, 2016, R/w Rule 6 of the I&B (Application to Adjudicating Authority) Rules,

2016, by inter alia seeking to initiate Corporate Insolvency Resolution Process (CIRP) in respect of M/s. CK Infra Equipment Private Limited, on the ground that it has committed default for total Principal amount of Rs.22,87,583/-(Rupees Twenty Two Lakhs Eighty Seven thousand Five Hundred and Eighty Three Only), along with pendentelite and future interest at 18% p.a. up to 31.01.2020.

2. Brief facts of the case, as mentioned in the Company Petition, which are relevant to the issue in question, are as follows:

- (1) M/s. Kunal Conchem Private Limited (Petitioner/ Operational Creditor) having CIN: U24100DL2009PTC190601 and having its registered office situated at E-44, Panchsheel Park, New Delhi – 110017.
- (2) M/s. CK Infra Equipment Private Limited (Respondent/ Corporate Debtor) was incorporated on 20th September, 2014, having CIN: U29268KA2014PTC076632 and having registered office situated at No.525/A, 19th Main, 3rd Sector, HSR Layout, Bangalore – 560102. Its Authorised Share Capital is Rs.5,00,000/- and that of Paid Up Share Capital is Rs.5,00,000/-.
- (3) The Corporate Debtor approached the Operational Creditor for purchase of various construction chemicals for their construction work at APTIDCO-EWS Housing Project, Eluru and Kurnool (Andhra Pradesh). Accordingly, goods were supplied and invoices for the same were raised for a sum of Rs.27,87,584.40. The payment for the same was to be made within 30 days of receipt of the invoice and in case of default, the invoices clearly mentioned that 18% interest would be charged if the payment is not done within 30 days.



- (4) By e-mail dated 15.11.2019, Corporate Debtor was informed that as per discussion with Mr. Manjunath (Representative of the Corporate Debtor) regarding the long outstanding due of Rs.22,87,583/-, Mr. Nath committed to clear half of the total amount i.e. Rs.11,00,000/- approx. before 30.11.2019. The Corporate Debtor further confirmed that the total outstanding amount would be cleared in 4 instalments (4 months) w.e.f December 2019 onwards. However, without waiting for time as sought by the Corporate Debtor, has issued a demand notice dated 05.12.2019 in the prescribed Form 5, wherein demanding payment in respect of unpaid operational debt of Rs.22,87,583/- along with the interest at 18% p.a. amounting to Rs.3,09,339/- total amounting to Rs.25,96,922/-. The Corporate Debtor has defaulted in making payment against the material supplied and invoices raised upon the Corporate Debtor by the Operational Creditor, as such Corporate Debtor is liable to pay a sum of Rs.22,87,583/-. The Corporate Debtor are also liable to pay inters on the said amount of upto date i.e. amounting to Rs.3,79,283/- total amounting to Rs.26,66,866/- along with the future interest at 18% p.a. to the Operational Creditor.
3. Heard Shri S.Simhadutta, learned Counsel for the Petitioner and Ms. S.J. Sanghvi, learned Counsel for the Respondent, **through Video Conference**. We have carefully perused the pleadings of the Parties and extant provisions of the Code and the rules made thereunder and the Law on the issue.
4. Shri S.Simhadutta, learned Counsel for the Petitioner submits that notice ordered by the Adjudicating Authority has already been served on the Company and its MD. Accordingly, the Respondent

has come forward to settle the issue in question. Therefore, the Parties may be given one opportunity to settle the issue between themselves, failing which, the Petitioner may be given liberty to approach this Adjudicating Authority

- (5) Since the Instant Company Petition is at admission stage, and the Parties are willing to settle the issue in question, we are inclined to dispose of the Company Petition by directing the Parties to settle the issue, as proposed, by granting liberty to the Petitioner to file fresh Company Petition case, in case, the Respondent failed to settle the issue in question.
- (6) In the result, **C.P.(IB) No.189/BB/2020** is hereby disposed of by directing the Parties to settle the issue amicable between themselves, failing which the Petitioner is granted liberty to approach this Adjudicating Authority by filing appropriate Petition in accordance with law, for the same cause of action. The Registry is directed to forward a copy of this order to both Parties. No order as to costs.

**ASHUTOSH CHANDRA
MEMBER, TECHNICAL**

**RAJESWARA RAO VITTANALA
MEMBER, JUDICIAL**