

NATIONAL COMPANY LAW TRIBUNAL

**AMARAVATI BENCH
(Video Conference)**

PRESENT: JUSTICE TELAPROLU RAJANI – MEMBER JUDICIAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 27.10.2021 AT 10.30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CP(IB) NO. 08/9/AMR/2021
NAME OF THE COMPANY	Liyods Shipping Pvt Ltd
NAME OF THE PETITIONER(S)	Seapol Port Pvt Ltd
NAME OF THE RESPONDENT(S)	Liyods Shipping Pvt Ltd
UNDER SECTION	9 OF IBC

Counsel for Petitioner(s):

Ries

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

Counsel for Respondent(s):

Ries

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

ORDER

CP (IB) No. 08/9/AMR/2021 is admitted. Order pronounced vide separate sheets.


(JUSTICE TELAPROLU RAJANI)
MEMBER JUDICIAL

**NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH**

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CP (IB) No. 08/9/AMR/2021

**In the matter of a Petition under Section 9 of the Insolvency and
Bankruptcy Code, 2016**

AND

**In the matter of
M/s.LLOYDS SHIPPING PRIVATE LIMITED**

Between

M/s. Seapol Port Private Limited,
Old No.42, New No.85, Moore Street,
Parrys, Chennai -600 001.

... Operational Creditor

AND

M/s. Lloyds Shipping Private Limited,
No.202, Golden Gate,
Pandurangapuram,
Visakhapatnam, A.P. -530003.

... Corporate Debtor

Date of Order: 27.10.2021

CORAM:

Justice Telaprolu Rajani, Member Judicial.

Appearance:

For Operational Creditor : Mr. Mayur Mundra, Advocate.

For Corporate Debtor : None appeared.

ORDER

1. This Application is filed by M/s.Seapol Port Private Limited (SPPL) seeking initiation of Corporate Insolvency Resolution Process in respect of M/s. Lloyds Shipping Private Limited under Section 9 of the Insolvency and Bankruptcy Code, 2016. Operational Creditor claims. The Corporate Debtor defaulted in making payment of Rs.1,17,75,833/- which includes interest

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towards invoices raised against the goods supplied. Hence petition under Section 9 of Insolvency and Bankruptcy Code, 2016 (referred to as "Code") read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 seeking admission of the Petition, initiation of Corporate Insolvency Resolution Process (CIRP), granting moratorium and appointment of Insolvency Resolution Professional (IRP) as prescribed under the Code and Rules thereon.

2. The Counsel for the Operational Creditor submits that M/s. Lloyds Shipping Pvt. Ltd. (hereinafter referred as "LSPL") engaged the services of M/s. Seapol Port Private Limited (hereinafter referred to as "Operational Creditor" Or "SPPL") to utilise the Harbour Mobile Crane (hereinafter referred to as "HMC") owned by M/s.SPPL for loading and discharging of cargo from the vessels called at Visakhapatnam Port.
3. M/s.SPPL is in the business of deploying HMC at major ports in India including Visakhapatnam. M/s. SPPL were employed at the dock for the purpose of loading and unloading dry bulk cargo in ships called at Visakhapatnam Port Trust (VPT). M/s.LSPL which is a stevedore/handling agent and had sought the services of M/s.SPPL from time to time.
4. Once M/s.LSPL decided to use the services of M/s.SPPL, M/s.LSPL will have to address a letter to the port requesting the Traffic Manager of the Port to permit the use of the HMC owned by M/s.SPPL to load or unload cargo depending on the service sought for by M/s. LSPL. On receipt of the service sought for by M/s.LSPL, M/s.SPPL will have to forward a letter to the Traffic Manager citing the need for the service and permission to perform

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its services as requested by M/s.LSPL. There have been occasions where letters were addressed to the Traffic Manager by M/s.SPPL before M/s.LSPL. Those were due to the delay on behalf of M/s.LSPL to forward the letter to the Traffic Manager despite instructions to M/s.SPPL for loading or unloading cargo.

5. Once the Traffic Manager of the Port, upon receipt of letters from both M/s.SPPL and M/s.LSPL, is satisfied with the request, the seal of authorisation will be affixed in the letter and the Port will permit berth to the vessel in M/s.SPPL's HMC and designate berth to facilitate loading and unloading of dry bulk cargo. Once HMC completes discharging/loading the cargo, M/s.SPPL will have to receive a survey copy to reflect the quantity confirmation and the inputs received would be used for calculating output per shift per berth day. The letter sent to the Traffic Manager by both the parties constitute the agreement entered into between the parties. The said agreement is also annexed along with the Petition.
6. Pursuant to the engagement and completion of work by M/s.SPPL, survey reports are produced which is a proof towards completion of the work by M/s.SPPL. The Visakhapatnam Port Trust, Mechanical & Electrical Engineering Department, Visakhapatnam, by its grant of licence letter dated 9th & 10th November, 2015 addressed to M/s.SPPL in Clause 15, stipulated that the licence i.e., M/s.SPPL had to collect the charges from users for the HMCs in accordance with the rates notified by TAMP from time to time. It is submitted that from the above it is crystal clear that the date on which M/s.LSPL ought to have paid the contractual amount was on any date prior to the commencement of the work.

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7. All the payments should have been made in advance. The Operational Creditor extended the credit period to 15 days to facilitate the business and request from LSPL which was agreed verbally. The first due date fell on 14.08.2018 and remains unpaid amongst numerous other payments towards the services rendered by M/s.SPPL.
8. The Operational Creditor issued demand notice dated 05.06.2020 to the Corporate Debtor. But the Corporate Debtor did not issue any reply to the said demand notice. Neither was any payment made towards the demanded debt.
9. I heard the counsel for the Operational Creditor and perused the averments made in the Petition as well as the documents annexed along with the Petition. It is evident that the Corporate Debtor did not respond to the notice of demand issued by the Operational Creditor. The Corporate Debtor did not file counter inspite of granting several adjournments. By virtue of order dated 15.04.2021, the Tribunal forfeited the right of the Corporate Debtor to file counter and the matter was listed for arguments. The Counsel for the Corporate Debtor did not appear thereafter. Hence it can be understood that the Corporate Debtor does not have anything to submit in opposition to the contentions made by the Operational Creditor.
10. Hence I am of the considered view that it is a fit case to admit and order initiation of Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor. The Operational Creditor did not suggest any name as Insolvency Resolution Professional (IRP) and sought the Tribunal to appoint an IRP. Hence Mr.Sunkara Venkateswara Rao (Registration No. IBBI/IPA-002/IP-

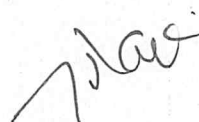
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N01007/2020-2021/13446), is appointed as the Interim Resolution Professional.

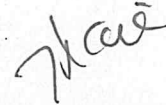
ORDER

The Company Petition is admitted *ex parte*. The Corporate Insolvency Resolution Process of the Corporate Debtor shall commence from this date and shall be completed within 180 days hence.

- i. Mr.Sunkara Venkateswara Rao, (Registration No. IBBI/IPA-002/IP-N01007/2020-2021/13446), having office at Plot # 18 B, D-Block Expansion, AutoNagar, Gajuwaka, Visakhapatnam, Andhra Pradesh - 530012; e-mail: svraocs@gmail.com ; Mobile: 9440952700 is appointed as the Interim Resolution Professional. No disciplinary proceeding is pending against him as per the IBBI website. He is directed to file his written consent in Form No. 2 forthwith.
- ii. He is directed to take charge of the Corporate Debtor's management forthwith and take necessary steps in furtherance of the CIRP in terms of Sections 13(2), 15, 17, 18 and 20 of Code and Rules made thereunder.
- iii. Moratorium in respect of the Corporate Debtor is hereby declared in terms of Section 14 of the Code.
- iv. The Directors, Promoters or any other person(s) associated with the management of Corporate Debtor shall extend all assistance and cooperation to the IRP as stipulated under section 19 of the Code for effectively discharging his functions under the Code.



- v. The Registry shall communicate the order to the Operational Creditor and the Corporate Debtor forthwith.
- vi. The Operational Creditor and the Registry shall send the copy of this order to IRP for necessary compliance.



**JUSTICE TELAPROLU RAJANI
MEMBER JUDICIAL**

Swamy Naidu