



SL.NO.1

**NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH
(Video Conference)**

**PRESENT: JUSTICE TELAPROLU RAJANI – MEMBER JUDICIAL
ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 04.07.2023 AT 11:00 A.M.**

TC/CP. Nos.	CA/IA No.	Section/ Rule	Name of Parties
CP(IB)/133/10/AMR/2022		10 of IBC	Kaanha Shipping Private Limited

ORDER

Mr.B .Raviteja, Counsel for the Corporate Applicant present. Mr.Sh.Kaja Basha, Counsel for the OC present. Orders pronounced. CP(IB)/133/10/AMR/2022 is admitted, vide separate orders.

Sd/-
**JUSTICE TELAPROLU RAJANI
MEMBER JUDICIAL**

RSN



**NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH AT MANGALAGIRI**

CP(IB)/133/10/AMR/2022

**In the matter of a petition Under Section 10 of the Insolvency
and Bankruptcy Code, 2016 Read with Rule 7 of the Insolvency
and Bankruptcy (Application to Adjudicating Authority) Rules,
2016**

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

BETWEEN:

Kanha Shipping Private Limited
Registered office at: Door No. 15-14-4/2,
Buddhavarapu Gardens, Krishna Nagar,
Maharenipet, Visakhapatnam – 530002,

... Corporate Applicant

Date of orders pronounced on: 04.07.2023

Coram:

Justice Telaprolu Rajani, Member Judicial.

Parties/Counsels present:

For the Corporate Applicant : Mr.Bendi Ravi Teja,
Advocate

For the Operational Creditor : Mr.Shaik Kaja Basha &
Mr. Raviteja P, Advocates

ORDER

1. The Corporate Debtor has moved this Tribunal by way of this Petition Under Section 10 of the Insolvency and Bankruptcy Code, 2016 (The Code) seeking to initiate Corporate Insolvency Resolution Process (CIRP) for itself due to its default in meeting its obligations to its Operational Creditors.
2. The facts as stated in the Synopsis are as follows:



- a. The Corporate Debtor was incorporated on 25.02.2005 in the then combined State of Andhra Pradesh. Mr.Kallepalli Venkata Atchuta Mani Nageswara Patnaik, Mr. Venkatakalyan Shankar Kallepalli and Smt. Geetha Patnaik Kallepalle were appointed as Directors of the Corporate Applicant and the Corporate Applicant was engaged in the business of general merchants and traders, importers and exporters, commission agents, cash and credit traders, manufacturers agents and representatives, financial agents, advisors, managers, and other allied activities. The Authorized Share Capital of the Corporate Applicant/Corporate Debtor is Rs.1,00,00,000/- and the Paid- up capital of the Corporate Applicant is Rs. 51,49,000/-.
- b. The financial performance of the Corporate Applicant since FY 2015-16 is as under:

Particulars	Revenue (INR)	Expenses (INR)	Profit/Loss (INR)
FY 2015-16	18,86,20,545	20,20,88,289	(1,43,59,948)
FY 2016-17	6,26,97,878	7,55,02,474	(1,28,04,596)
FY 2017-18	-	18,04,641	(18,04,641)
FY 2018-19	-	17,63,131	(17,63,131)
FY 2019-20	-	17,48,086	(17,48,086)
FY 2020-21	-	10,00,000	(10,00,000)
FY 2021-22	-		

- c. One of the Operational Creditors i.e., Visakhapatnam Port Trust, issued demand notices on 16.08.2017 & 20.07.2018 to the Corporate Applicant to pay the Principal Amount of Rs. 4.41 Crores and subsequently, on 12.09.2018 filed a suit for recovery of sum of Rs. 5,77,16,671/- vide COS No.12 of 2018 on the file of the Special Judge for Trial



and Disposal of Commercial Disputes at Visakhapatnam, as the Corporate Applicant has defaulted on repayment of Rs.4,14,29,056/- on 16.08.2017, and the same is recorded in the balance sheet and audited financial statements of the Corporate Applicant. In other words, the net worth of the Corporate Applicant stands completely eroded.

- d. The shareholders/members of the Corporate Applicant, in its Extra Ordinary General Meeting (EGM) held on 11.11.2022, passed a special resolution for initiating corporate insolvency resolution process against the Corporate Applicant as follows:

“RESOLVED THAT considering the occurrence of default of INR 3,92,03,391/- as on 31.07.2022, in repayment of debt to Visakhapatnam Port Trust, Operational Creditor and the current financial position of the Company, consent of the members of the company be and is hereby accorded for initiating corporate insolvency resolution process against the Company under section 10 of Insolvency & Bankruptcy Code, 2016 (Code/IBC) and for filing the application in Form-6 of IBBI (Application to Adjudicating Authority) Rules, 2016 before the Hon'ble NCLT/Adjudicating Authority, Amaravati Bench.

RESOLVED THAT the consent of the members of the Company be and is hereby accorded to authorize Mr. Venkatakalyan Shankar Kallepalli (Director) as authorized representative to sign all papers, applications, complaints, petitions, reply, rejoinder, vakaltnama, affidavits and all other documents as may be required to be filed and to represent the Company before the Hon'ble NCLT/Adjudicating Authority/Court(s) in relation to the insolvency proceeding of the Company.”

- e. Hence, in view of the above-mentioned facts, the Corporate Applicant filed this Petition seeking to initiate



Corporate Insolvency Resolution Process (CIRP) for itself.

3. One of the Operational Creditors, Mr.B.Ratna Sekhar Rao, Traffic Manager of Visakhapatnam Port Authority, filed counter, stating that the financial/Operational Debt filed COS No.12 of 2018 on the file of the Hon'ble Court of the Principal District Judge, Visakhapatnam on 13.08.2018 for recovery of Rs.5,77,16,671 along with interest @18% P.A from the date of suit till the date of realization and on 06.03.2019, the Court of the Principal District Judge passed an ex-parte order. Further, the Corporate Applicant filed an Interlocutory application vide IA No.30/2019 praying to set aside the ex-parte order and to receive written statement which was filed along with the said application and the same was dismissed. Again, the Corporate Applicant preferred Civil Revision Petition before the Hon'ble High Court of Andhra Pradesh at Amaravati praying to allow the CRP by setting aside the Order dated 29.07.2019 in IA No.30 of 2019 on the file of the Special Judge for the trial and disposal of commercial disputes at Visakhapatnam. But the Hon'ble High Court was not inclined to pass any interim orders in favor of Corporate Applicant and all the above subject matters are pending before the courts for adjudication. Be that as it may, the Corporate Applicant has instituted the present Company Petition. Hence, in view of the above facts, the Petition is liable to be dismissed.
4. Heard both the counsel. The counsel for one of the Operational Creditors raises one objection which is with regard to the suit that is already filed by the OC and which is pending adjudication. But that cannot be a ground for rejecting this



application. The counsel could not satisfy on the query of the suit barring this application.

5. Except the above mentioned objection, there are no suspicious circumstances shrouding this Petition. Admittedly there is default by the Corporate Applicant in payment of the Operational Debt. The special resolution dated 11.11.2022 passed by the shareholders, resolving to initiate Corporate Insolvency Resolution Process is also enclosed at page No.30 of the Petition. The Petition fulfils all the conditions laid down Section 10 of the Code. Hence the Company Petition is admitted.

ORDER

- i. The Company Petition be and the same is admitted.
- ii. The Corporate Insolvency Resolution Process of the Corporate Applicant shall commence from this date and shall be completed within 180 days hence.
- iii. Mr. Gopikrishna Byadigera, (Registration No. IBBI/IPA-001/IP-P00206/2017-2018/10406), having office at 2-2-271/73/1, Plot No.73, Lakshmi Enclave, Phase-2, Near Sanjive Reddy Garden, Macha Bolarum City, Hyderabad, Telangana-500010, E-mail ID: **bgopikrishna2000@gamil.com**, Mobile No.+91 **9618524112** is appointed as the Interim Resolution Professional. The IRP has mentioned in the written consent letter that no disciplinary proceedings are pending. On verification with IBBI website, the said



statement is found to be true. No disciplinary proceeding is pending against him as per the IBBI website.

- iv. He is directed to take charge of the Corporate Applicant management forthwith and take necessary steps in furtherance of the CIRP in terms of Sections 13(2), 15, 17, 18 and 20 of the Code and Rules made there under.
- v. Moratorium in respect of the Corporate Applicant is hereby declared in terms of Section 14 of the Code.
- vi. The Directors, Promoters or any other person (s) associated with the management of Corporate Applicant shall extend all assistance and cooperation to the IRP as stipulated under Section 19 for effectively discharging his functions under the Code.
- vii. The Registry is directed to communicate the order to the Corporate Applicant and the Financial Creditors forthwith.
- viii. The Corporate Applicant and the Registry are also directed to send the copy of this order to IRP for necessary compliance.


JUSTICE TELAPROLU RAJANI
MEMBER JUDICIAL

Swamy Naidu