

**NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH
COURT NO.1**

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
BENGALURU BENCH, BENGALURU, HELD ON 11.03.2020

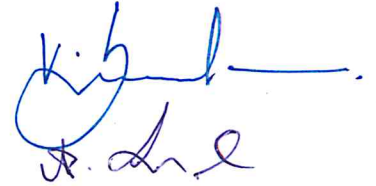
CAUSE LIST -2

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. 95/BB/2020	For admission	Sec 9 of I&B code 2016	M/s Kingfa Science & Technology (India) Ltd	Genicon & associates	M/s Southern Batteries Pvt Ltd	

ADVOCATE FOR PETITIONER/s:

T.V. SURESH KUMAR
N.A. SRINIVASAN
Advocates
for GENICON & ASSOCIATES



ADVOCATE FOR RESPONDENT/s:

ORDER

Heard Mr. T.V Suresh Kumar along with Mr. N.A. Srinivasan Learned Counsel for the Petitioner. CP (IB) No. 95/BB/2020 is disposed of vide separate order.



MEMBER (T)



MEMBER (J)

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

C.P. (IB) No.95/BB/2020
U/s 9 of IBC, 2016
R/w Rule 6 of I&B (AAA) Rules, 2016

Between

**M/s. Kingfa Science & Technology
(India) Limited,**
No. 827, Dhun Building, III Floor,
Anna Salai,
Chennai – 600002

- Petitioner/Operational Creditor

And

M/s. Southern Batteries Private Limited,
Plot No.30, KIADB, Industrial Area,
Bommasandra,
Bengaluru – 560 099

- Respondent/Corporate Debtor

Date of Order: 11th March, 2020

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

Parties/Counsel Present:

For the Petitioner : Mr. T.V. Suresh Kumar

ORDER

Per: Ashutosh Chandra, Member (Technical)

1. C.P. (IB) No.95/BB/2020 is filed by M/s. Kingfa Science & Technology (India) Limited (hereinafter referred to as the 'Petitioner/Operational Creditor') under Section 9 of the IBC, 2016 read with Rule 6 of the I&B (Application to Adjudicating Authority) Rules, 2016, by inter alia seeking to initiate Corporate Insolvency Resolution Process in respect of M/s. Southern Batteries Private Limited(hereinafter referred to as 'Respondent/Corporate Debtor') on the ground that it has committed default



for total amount of Rs.1,15,22,810/- (Rupees One Crore Fifteen Lakh Twenty Two thousand Eight Hundred and Ten Only) including interest at the rate of 18% from the due date till the date of demand notice i.e., 06.06.2019.

2. Heard Mr. T.V. Suresh Kumar and Mr. N.A. Srinivasan, Learned Counsels for the Petitioner. We have carefully perused the pleadings of the party and extant provisions of the Code and the Rules made thereunder.
3. There are six other cases filed against the Corporate Debtor. One of the company petitions viz C.P. (IB) No.357/BB/2019 has been filed by M/s. Allahabad Bank ('Petitioner/Operational Creditor') under Section 7 R/w Rule 4 of the I&B (Application to Adjudicating Authority) Rules, 2016, inter alia seeking to initiate CIRP in respect of M/s. Southern Batteries Private Limited, the same Corporate Debtor herein, on the ground that it has committed default for a total amount of Rs.141,01,20,530/- (Rupees One Forty One Crore and One Lakh Twenty Thousand Five Hundred and Thirty Only). After hearing the matter, the Adjudicating Authority had admitted the C.P. (IB) No.357/BB/2019 by a separate order dated 19.02.2020 by initiating CIRP in respect of M/s. Southern Batteries Private Limited, appointed Shri Ramanahalli Shivanna DoddaByregowda having Registration No. IBBI/IPA-002/IP-N00583/2017-18/11775 as the Interim Resolution Professional, imposed moratorium, etc. Since CIRP is already initiated in respect of the same Corporate Debtor, another company petition is not maintainable.
4. The Learned Counsel for the Petitioner pleaded ignorance regarding initiation of CIRP against the Corporate Debtor, stating however that it is not deliberate and the Tribunal may take lenient view of the delay in above case, the Petitioner may be permitted to file its claim before the said IRP in accordance with law. Whenever, the CIRP is initiated all the claims of the Corporate Debtor are supposed to respond to the general publication. They cannot come straight to the Tribunal; otherwise the CIRP process will get delayed. However, by taking a lenient view in the matter, we are inclined to

permit the Petitioner to submit its claim, as the last date has ended only on 09.03.2020.

5. In the result, C.P. (IB) No.95/BB/2020 is disposed of with the following directions:

- (1) The Petitioner is permitted to submit its claims before the IRP appointed in C.P. (IB) No.357/BB/2019 vide Order dated 19.02.2020, within a period of one week from the date of receipt of copy of this order.
- (2) The IRP is directed to consider the claim of the Petitioner, in accordance with law, and communicate his decision to the Petitioner within a period of two weeks thereafter.
- (3) The Petitioner is at liberty to file Miscellaneous Application in C.P. (IB) No.357/BB/2019, if the Petitioner is aggrieved by the decision taken by the IRP.
- (4) No order as to costs.

**ASHUTOSH CHANDRA
MEMBER, TECHNICAL**

**RAJESWARA RAO VITTANALA
MEMBER, JUDICIAL**

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