

DIVISION BENCH

O-102

**NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA**

C.P. (IB)/508(KB)2017
IA(I.B.C)/61(KB)2021, IA(I.B.C)/1484(KB)2019,
IA(I.B.C)/744(KB)2020, IA(I.B.C)/757(KB)2020,
IA(I.B.C)/904(KB)2020, IA(I.B.C)/960(KB)2020,
IA(I.B.C)/1442(KB)2020, IA(I.B.C)/618(KB)2021,
IA(I.B.C)/849(KB)2021

**Present: 1. Hon'ble Member(J), Shri Rajasekhar V.K.
2. Hon'ble Member(T), Shri Harish Chander Suri**

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING ON 07th October, 2021, 10:30 A.M

Name of the Company	SMALL INDUSTRIES DEVELOPMENT BANK OF INDIA Vs. TIRUPATI JUTE INDUSTRIES LIMITED		
Under Section	IBC under Sec 7 (LIQUIDATION)		
Sl. No.	Name & Designation of Authorized Representative (IN CAPITAL LETTERS)	Appearing on behalf of	Signature with date

Counsel appeared through Video Conference

1. Mr. Ratnanko Banerji, Sr. Advocate] For R-1, Daaksh Jute LLP
2. Ms. Manju Bhuteria, Advocate]
3. Mr. Rishav Banerjee, Advocate]
4. Mr. Arkodeb Sinha, Advocate]

1. Mr. D.N.Sharma, Advocate] For Worker's Union
2. Mr. Nilay Sengupta, Advocate]
3. Ms. Urmila Chakraborty, Advocate]
4. Ms. Meenakshi Manot, Advocate]
5. Mr.Ankan Rai, Advocate]

1. Mr. Joy Saha, Sr. Advocate] For Liquidator
2. Mr. Arik Banerjee, Advocate]

3. Mr. Arun Kumar Gupta, PCA]
4. Mr. Chhedi Rajbar, Liquidator] in person
1. Mr. Anil Kumar Gupta, Advocate] For EPFO

ORDER

1. Ld. Senior Counsel for R-1, Daaksh Jute LLP present. Ld. Senior for the Liquidator present.. Liquidator present in person. Ld. Counsel for the EPFO present. Ld. Counsel for the Worker's Union present.
2. IA/849(KB)2021 is an application filed by Daaksh Jute LLP aggrieved by the action of R-1 and R-2 in attaching the ODCC account no. 50200055570842 maintained in HDFC Bank Ltd., Liluah Branch, Howrah and current account of the applicant bearing no. 50200054829521 on the evening of 21/09/2021. The applicant has sought a declaration that the impugned notice dated 21/09/2021 is illegal, null and void in view of the fact primarily that the claim of Employees Provident Fund Organisation has already been filed with the Liquidator. Ld. Sr. Counsel for the applicant submits that the impugned notice has to be set aside because it relates to the Corporate Insolvency Resolution Process or the Liquidation Process itself and the dues in question pertain to the period when the Corporate Debtor who was very much in existence, and was responsible for paying the dues to the Provident Fund Authorities.
3. The Liquidator and the Provident Fund Authorities both have made objections to the maintainability of the present petition on the ground that the applicant is not covered under the provisions of section 60(5) of the Code. Ld. Senior Counsel for the Liquidator has also raised an objection to the reliance on the operating Lease Agreement dated 01/08/2016 by the applicant herein.
4. Be that as it may, we are now faced with a situation where pending arguments with regard to the maintainability of the application itself being heard by this Adjudicating Authority, the bank facilities of the applicant have been attached with the result that the payment of wage bills of the workers cannot be made. This will cause untold hardships to the workers especially in the context of festive season, which is celebrated with much fanfare in West Bengal. Therefore, in the interest of meeting the wage bill, we have suggested to the Ld. Senior Counsel appearing for the applicant, Ld. Senior Counsel appearing for the Liquidator and the Ld. Counsel appearing for the Employees Provident Fund Organisation to come up with some solutions, so that the workers are not denied their salaries and wages for the previous month. After due deliberation and hearing the submissions made by the Ld. Senior

Counsel/Ld. Counsel for the respective parties and in the interest of justice we issue the following orders as an ad-interim measure:

- (a) The ODCC Account no. 50200055570842 maintained by the applicant with the HDFC Bank Ltd., Liluah Branch, Howrah shall be allowed to be operated to the extent necessary to meet the wage bill of the workers. This is estimated to be in the region of about Rs. 1 (One) Crore. While this is a rough estimate, the actual amount will be restricted to the wage bill, inclusive of the wages, salary and bonus alone. The Bank Authorities are hereby directed to honour salaries, wages and bonus bill of the applicant to this extent and no further.
 - (b) A copy of this order shall be served on all concerned including the Bank Authorities. The copy of this order shall be e-mailed by the Registry of the Court to the Bank Authorities concerned, whose details shall be given by the applicant before the end of today.
 - (c) Upon receipt of a copy of this order from the Registry, the Bank Authorities shall act upon it without waiting for the certified copy of the order to be served on them. This measure we are emphasising only with a view to mitigate the hardship caused to the workers. If we do not allow the operation of the ODCC account to this extent, all issues pertaining to the maintainability of the application shall be kept open to be decided expeditiously by this Adjudicating Authority.
 - (d) The applicant shall ensure that pending disposal of this application any action that may be initiated by the Provident Fund Authorities shall not relay back to the Corporate Debtor pending disposal of this application.
5. List IA(IBC)849(KB)2021 for further hearing on 21/10/2021 on the top of the Board.

Harish Chander Suri
Member (Technical)

Rajasekhar V.K.
Member (Judicial)