

NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH  
CHENNAI

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI  
NATIONAL COMPANY LAW TRIBUNAL, HELD ON 19/06/2017 AT 02.30 PM

PRESENT: SHRI Ch. MOHD SHARIEF TARIQ, MEMBER-JUDICIAL  
SHRI S. VIJAYARAGHAVAN, MEMBER-TECHNICAL

APPLICATION NUMBER :  
PETITION NUMBER : TCP/205/ (IB)/2017  
NAME OF THE PETITIONER(S) : BRASHER BOOT COMPANY LTD  
NAME OF THE RESPONDENT(S) : FORWARD SHOES INDIA PVT LTD  
UNDER SECTION : 433 ( e)(f)

S.No.	NAME (IN CAPITAL)	DESIGNATION	SIGNATURE
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REPRESENTATION BY WHOM

1. T.K. Bhaskar  
Vikram - P - Jain  
Shruti Krishna  
Counsel for Petitioner  
Vikram
2. P.R. Raman senior counsel for  
C. Seethapathy & Gagan S. Raman  
Counsel for Respondent  
Gagan S. Raman
3. M.L. Ganesh  
for JMFAR  
Counsel for JMFAR  
M.L. Ganesh

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,  
DIVISION BENCH, CHENNAI

Arguments heard on 19.06.2017  
Order passed on 19.06.2017

TCP No.205/(IB)/2017

(Under Section 9 of the Insolvency And Bankruptcy Code 2016 r/w  
Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating  
Authority) Rules, 2016

M/s.Brasher Boot Company Ltd  
Vs

M/s.Forward Shoes India Pvt Ltd

Applicant (Operational Creditor) Rep by : Counsel Mr.T.K.Bhaskar and  
Mr.Vikram P Jain

Respondent (Corporate Debtor) rep by : Counsel Mr.Gatam S.Raman for  
Mr.P.R.Raman, Senior Counsel

JMFAR rep by counsel Mr.M.L.Ganesh

CORAM :

CH MOHD SHARIEF TARIQ, MEMBER (JUDICIAL) & S.VIJAYARAGHAVAN, MEMBER  
(TECHNICAL)

ORDER

CH MOHD SHARIEF TARIQ, MEMBER(JUDICIAL) :- (ORAL)

Counsel for petitioner (Operational Creditor) and Counsel for  
Respondent (Corporate Debtor) present. Counsel Mr.M.L.Ganesh,  
representing JMFAR (secured creditor) present and seeks protection of  
his interest. We do not feel that any apprehension is there to the security  
interest of Secured Creditor.

2. The counsel for respondent submitted that in case the petitioner is  
willing, then the only asset of the Corporate Debtor, i.e. the land, can be  
developed and there are chances of revival of business of the company. In

relation to this, we believe that in the event, the Corporate Insolvency Process is initiated, a suitable plan can be presented for approval, if the Interim Resolution Professional could work out the same with the help of the Creditors. Therefore, the concern raised by the Corporate Debtor can be taken care of by the Interim Resolution Professional..

3. Having heard the counsel for petitioner and the Respondents and perusal of the petition along with the record placed on file, it is clearly established that the petitioner has got a decree to the tune of GBP 48000 on 8<sup>th</sup> December 2014 with interest of 18% p.a. from the date of default till the date of payment. It is also on record that the Operational Creditor has also sent communication on 13.07.2015 wherein the decretal amount GBP 48000 along with 18% p.a. was demanded and vide reply dated 28.07.2015, the Corporate Debtor agreed to pay GBP 48000 with a condition that the Operational Creditor shall withdraw all legal proceedings against the company. Almost similar communications have been made between the Operational Creditor and the Corporate Debtor wherein the Corporate Debtor has invariably sought time for payment but no payment was made so far. Therefore, there is a default in the payment of the outstanding debt. The Operational Creditor has filed an affidavit dated 16.06.2017 deposing that he has not received any notice from the Corporate Debtor relating to any dispute of the unpaid operational debt or notice of appeal on the decree dated 8.12.2014 that came to be passed in the suit filed in the Ordinary Original jurisdiction of the Hon'ble High

Court of Madras. The necessary documents are taken on record and the requirement under section 9(3)(b)(c) of I&B Code, 2016 has been fulfilled. Therefore, We are inclined to admit the application.

4. In the light of the above, we admit the application of the operational creditor and order the commencement of the corporate insolvency resolution process which ordinarily shall get completed within 180 days, reckoning from the day this order is passed.

5. There is no proposal for appointment of the Interim Resolution Professional (IRP). Therefore, we direct the Registry to make a reference to the IBBI for recommending the name of Interim Resolution Professional, **within ten days from the date the copy of this order is received.** On receiving the recommendation from the Board, the Registry shall place the matter before the Bench for appointment of the IRP and passing of the appropriate order.

6. However, we declare the moratorium which shall have effect from the date of this order till the completion of corporate insolvency resolution process. Therefore, we order to prohibit all of the following, namely :

- (a) The institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;
- (b) Transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;

(c) Any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);

(d) The recovery of any property by an owner or less or where such property is occupied by or in the possession of the corporate debtor.

7. The supply of essential goods or services of the Corporate Debtor shall not be terminated or suspended or interrupted during moratorium period. The provisions of sub-section (1) of Section 14 shall not apply to such transactions, as notified by the Central Government.

8. Accordingly, the application is admitted. The Registry is directed to communicate this order to the operational creditor and the corporate debtor.

*S. Vijayaraghavan.*  
(S.VIJAYARAGHAVAN)  
MEMBER (TECHNICAL)

*Ch. Mohd. Sharief Tariq*  
(CH. MOHD. SHARIEF TARIQ)  
(MEMBER (JUDICIAL))

Vp