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NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH
CHENNAI

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI NATIONAL COMPANY LAW TRIBUNAL, HELD ON 07/07/2017 AT 10.30 AM

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

APPLICATION NUMBER :

PETITION NUMBER : **TCP/49/ (IB)/2017**

NAME OF THE PETITIONER(S) : **PRASAD PRODUCTIONS PVT LTD**

NAME OF THE RESPONDENT(S) : **DIKSAT TRANSWORLD LTD**

UNDER SECTION : **433(e) (f)**

S.No.	NAME (IN CAPITAL)	DESIGNATION / REPRESENTATION BY WHOM	SIGNATURE
1.	T. POORNAM R. SAHANA	PETITIONER PRASAD PRODUCTION PVT LTD	
	S. Jayarathanam	Respondent Diksat Transworld Ltd.	

IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH, CHENNAI

TCP/49(IB)/CB/2017

M/s.Prasad Production Pvt. Ltd.
Vs
M/s.Diksat Transworld Ltd.

Orders passed on 7th July 2017

CORAM

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

For Applicant : Mr.T.Poornam and Ms.Sahana, Advocates
For Respondent : Mr. S.Janarthanam, Advocate

CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

ORDER

1. Under adjudication is the petition that came to be filed u/s 433(e) of the Companies Act, 1956 before the Hon'ble High Court of Madras on 9.11.2016 and stood transferred to this Bench and renumbered as TCP 49/(IB)/CB/2017 and being dealt with u/s 9 of the Insolvency and Bankruptcy Code, 2016.

2. The brief facts of the case is that the Operational Creditor has leased out his premises on rent to the Corporate Debtor and the Corporate Debtor has not paid the outstanding arrears of rent. The counsel for Respondent (Corporate Debtor) has filed counter in the matter, denying the outstanding debt claimed by the Operational Creditor. It is also on record that the statutory notice was issued to

the Corporate Debtor on 18.08.2016 to which no reply has been given by the Corporate Debtor.

3. The Application has been filed by M/s.Prasad Productions Private Ltd. against M/s.Diksat Transworld Ltd. The counsel for petitioner has filed an affidavit wherein it has been deposed under para 3 that the Respondent did not reply to the demand notice dated 8.8.2016 and also has not raised any dispute with regard to the stated arrears nor paid any part or entire stated arrears of rent till date. The affidavit is taken on record. The petitioner has also filed a bank statement which reflects that the Corporate Debtor did not pay the outstanding debt amounting to Rs.49,79,420/- due on 10.08.2016.

4. We have heard both the sides and perused the documents placed on file including the pleadings. The Operational Creditor has fulfilled all the requirements under law and the amount of debt has not been disputed by the Respondent Corporate Debtor. However, the counsel for Corporate Debtor submitted that one petition is pending before XIV Small Causes Court, Chennai in relation to the eviction of Corporate Debtor from the premises. Therefore, there is no relevancy of the said pending matter with this application. In totality of the circumstances, the Corporate Debtor is a defaulter and the plea taken by Corporate Debtor is not tenable in the eye of law.

5. We hereby allow 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.

6. 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.

7. 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.

8. 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.

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

(S.VIJAYARAGHAVAN)
MEMBER (TECHNICAL)

(CH. MOHD. SHARIEF TARIQ)
(MEMBER (JUDICIAL)