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**BEFORE THE AJUDICATING AUTHORITY
(NATIONAL COMPANY LAW TRIBUNAL)
AHMEDABAD BENCH
AHMEDABAD**

C.P. (I.B) No. 94/9/NCLT/AHM/2017

Coram:

**Present: Hon'ble Mr. BIKKI RAVEENDRA BABU
MEMBER JUDICIAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD
BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 06.09.2017**

Name of the Company: Besto Tradelink Pvt Ltd.
V/s.
SAL Steel Ltd.

Section of the Companies Act: Section 9 of the Insolvency and Bankruptcy
Code

<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
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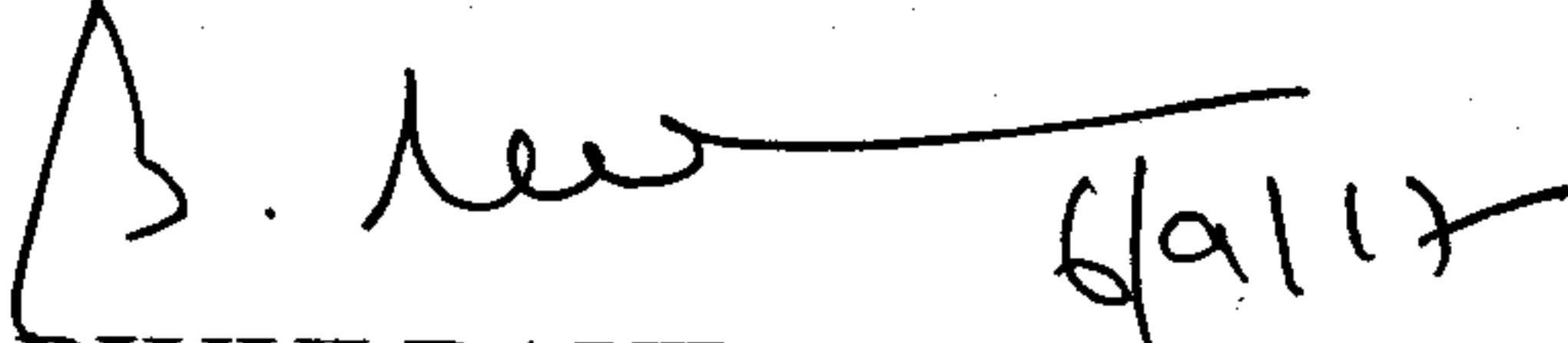
1.	Ashish C. Doshi.	PCS	For Petitioners	
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2.

ORDER

Learned PCS Mr. Ashish Doshi present for Petitioner. None present for Respondent.

Order pronounced in open Court. Vide separate Sheet.


**BIKKI RAVEENDRA BABU
MEMBER JUDICIAL**

Dated this the 6th day of September, 2017.

**BEFORE ADJUDICATING AUTHORITY (NCLT)
AHMEDABAD BENCH**

C.P. No.(IB) 94/9/NCLT/AHM/2017

In the matter of:

Besto Tradelink Pvt.Ltd.,
9th Floor, B.D. Patel House,
Naranpura Road
Ahmedabad-380014

: Applicant.
[Operational Creditor]

Versus

SAL Steel Limited
Registered Office at
5/1 Shreeji House
5th Floor, B/h. MJ Library,
Ashram Road
Ahmedabad-380006

: Respondent.
[Corporate Debtor]

Order delivered on 6th September, 2017.

Coram: Hon'ble Sri Bikki Raveendra Babu, Member (J).

Appearance:

Mr. Ashish Doshi, learned PCS for Applicant.
Mr. Hiten Parikh, learned FCA for Respondent.

ORDER

1. Besto Tradelink Pvt.Ltd., styling itself as 'Operational Creditor', filed this Application under Section 9 of the Insolvency and Bankruptcy Code, 2016 ["IB Code" for short] read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, ("IB Rules" for short) with a request to initiate Corporate

Insolvency Resolution Process against SAL Steel Ltd., treating it as Corporate Debtor.

2. Besto Tradelink Pvt.Ltd., is a Company registered under the Companies Act and its Registered Office is situated in Naranpura Road, Ahmedabad. The Board of Directors of the Applicant Company resolved in the Board Meeting held on 28th July 2017 to file an Application before this Authority under the provisions of the Insolvency Code and accordingly, Shri Anil J. Patel, Director of the Company is authorised to sign the necessary papers, documents, affidavits, etc., The Board of Directors in the said Resolution also resolved to appoint Mr. Ashish Doshi, a practising Company Secretary to appear on behalf of the Applicant Company. The Board of Directors of the Applicant Company also authorised Shri Anil J. Patel, Director of the Company to appoint Interim Resolution Professional and to fix his remuneration.

3. SAL Steel Limited is a Company registered under the Companies Act. The Paid-up Capital of Respondent Company is 84,96,67,000/-. The Registered Office of SAL Steel Ltd., is situated in Ashram Road, Ahmedabad.

4. The Applicant Company supplied Iron Ore Lumps to the Respondent Company under the Invoice No. 2014-14/035 dated 2nd October, 2014. The value of the goods supplied is Rs. 30,30,106/-. The duty payable on the said Invoice is Rs. 1,04,348.20 ps. As per the Ledger Account of the Respondent Company maintained by the Applicant, the amount due from SAL Steel Ltd., is Rs. 3,84,760/-. The Applicant Company got issued a Demand Notice to the Respondent in Form-3 on 17.7.2017. The said notice was received by the Respondent on 18.7.2017. According to the Applicant, inspite of service of Demand Notice, Respondent did not choose to make payment of outstanding amount of Rs. 3,84,760/-. Applicant filed this Application on 11th August, 2017. Applicant filed proof of despatch of copy of Application to the Respondent. The matter was

listed before this Authority for the first time on 24th August, 2017. This Adjudicating Authority directed the Applicant to comply with Section 9(b) and 9(c) of the Code and to file complete fresh written communication in Form No.2. Accordingly, Applicant filed Section 9(b) Affidavit and complete written communication in Form-2. Applicant also filed Section 9(c) Certificate issued by the Bank of Maharashtra stating that no amount has been credited in the account of the applicant since 17th July, 2017 by Respondent Company. Respondent Company appeared through practising Chartered Accountant. Respondent not filed any Objections.

5. Heard the arguments of the learned PCS appearing for the Applicant and Learned Chartered Accountant appearing for the Respondent Company. Learned Chartered Accountant for the Respondent made the statement before this Authority that operational debt is due to the Applicant. Learned PCS appearing for the Applicant contended that the Written Communication filed on behalf of the Applicant is complete in all respects. He further contended that the Certificate which is shown in Form No.2 is optional and therefore the Applicant did not obtain the same. He further submitted that in view of the direction of this Adjudicating Authority, the Applicant also obtained a fresh Written Communication from the proposed Interim Resolution Professional along with Certificate though it is optional.

6. A perusal of the documents filed along with the Application, i.e., Invoice, Ledger Account of the Respondent Company maintained by the Applicant Company, the Bank Statements and the Section 9 (c) Certificate issued by the Bank clearly establish that the amount of Rs. 3,84,760/- is due from the Respondent Company to the Applicant Company towards the supply of goods namely Iron Ore Lumps. Therefore, the debt due from the Respondent to the Applicant is an operational debt and the Applicant is an Operational Creditor. Respondent being the Company and having owed monies to the Applicant it is a Corporate Debtor. In spite of giving Demand Notice

in Form No.3 as required by Section 8 of the IB Code read with Rule 5 of the IB Rules, Respondent did not choose to give any Reply. On the other hand, learned PCA for the Respondent made a statement that operational debt is due to the Applicant. Applicant proposed the name of Mr. Parag Shah, as 'Interim Resolution Professional'. Applicant also filed the written communication of the Interim Resolution Professional which disclosed that no disciplinary proceedings are pending against the IRP.

7. The Application is complete in all respects. The material placed on record clearly establish that Respondent/Corporate Debtor committed default in repayment of operational debt due to the Applicant Company. Respondent Company also did not raise any dispute regarding the existence of operational debt, quality of goods supplied etc.

8. In view of the above discussion, the Application deserves to be admitted and it is accordingly admitted under Section 9(5)(i) of the Code. This Adjudicating Authority hereby appoint Shri Parag Sheth, as 'Interim Insolvency Resolution Professional' having address at 404, Sachet-2, Opp: GLS University, Maradia Plaza, C.G. Road, Ahmedabad-380006 and having Registration No. IBBI/IPA-002/IP-N00142/2017-18/10381 under Section 13 (1) (c) of the Code.

9. The Interim Insolvency Resolution Professional is hereby directed to cause public announcement of the initiation of 'Corporate Insolvency Resolution Process' and call for submission of claims under Section 13(1)(b) read with Section 15 of the Code and Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

10. This Adjudicating Authority hereby order moratorium under Section 13(1)(a) of the IB Code prohibiting the following as referred to in Section 14 of the Code;

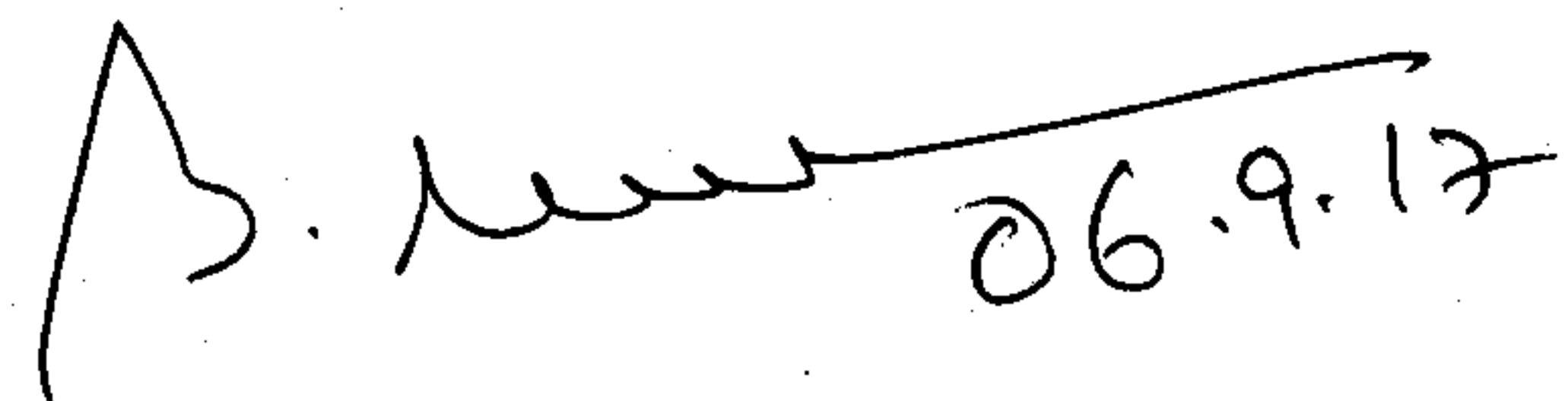
- (a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;
 - (b) transferring, encumbering, alienating or disposing of by the corporate 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 lessor where such property is occupied by or in the possession of the corporate debtor.
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- (i) However, the order of moratorium shall not apply in respect of supply of essential goods or services to Corporate Debtor.
 - (ii) The order of moratorium is not applicable to the transactions that may be notified by the Central Government in consultation with any financial sector regulator.
 - (iii) The order of moratorium comes into force from the date of the order till the completion of Corporate Insolvency

Resolution Process subject to the Proviso under sub-section (4) of Section 14.

11. This Application is disposed of accordingly. No order as to costs.

12. Communicate a copy of this order to the Applicant Operational Creditor, and to the Respondent Corporate Debtor and to the Interim Insolvency Resolution Professional.

Signature:

Handwritten signature of Sri Bikki Raveendra Babu, dated 06.9.17.

**Sri Bikki Raveendra Babu, Member (J).
Adjudicating Authority.**