

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH**

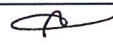
31

PRESENT: HON'BLE SHRI RATAKONDA MURALI- MEMBER JUDICIAL


ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 05.12.2018 AT 10.30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA No.466&467/2018 and IA No.194/2018 and IA No. 117,122,143,145,167,203,204,205,206,300,301, 308,380,381&418/2018 in CP(IB) No.111/7/HDB/2017
NAME OF THE COMPANY	Lancho Infratech Ltd
NAME OF THE PETITIONER(S)	IDBI Bank Ltd
NAME OF THE RESPONDENT(S)	Lancho Infratech Ltd
UNDER SECTION	7 of IBC

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature
H. Rajan Kumar (IA 308/17)	Advocate	9800282870	

Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature
Ameyga Gokhale. Rachhika	Advocate for Liquidator	9652887117	
Rubana S Khatoon Vaijayanth Paliwal		aravind@accnlegal.in	

C. Aravind Reddy

Srikantb Hanuman

Advocate 9949236816

H. Rajan

Advocate 9848559322

M S K Rao

for IA 117 & 194.

Kanishk Sinha

Advocate

7337222374

P. Rangith Reddy



Sl.No.31

CP (IB) No.111/7/HDB/2017

In the matter of IDBI Bank Limited Vs Lanco Infratech Ltd

Date of order: 05.12.2018

ORDER

IA 380 of 2018 and IA 381/2018 are listed for orders. Further Tribunal wanted some clarification on IA 380/2018 filed by Applicant. Counsel for Liquidator is present. I have heard him orally. The Tribunal directed the Counsel for Liquidator to file reply in IA 380/2018. List this IA on **21.12.2018.**

Orders passed in IA 381/2018 vide separate orders.

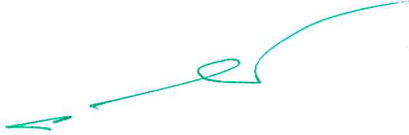
IA 418/2018 & IA 467/2018 are listed for orders. Orders passed in IA 418 & 467/2018 vide separate orders.

IA 143/2018 is taken up today. This Application is filed by Liquidator under Section 66 of IBC. Issue notice to Respondents. Counsel for Liquidator to serve notice on the Respondents and file proof of service. List it on **21.12.2018.**

IA 300/2018, 301/2018, 308/2018 are taken up for hearing. Heard both sides. Both side counsels are directed to file written submission. List these IAs for consideration/orders. Interim orders in these IAs is extended till then. List these IAs on **21.12.2018.**

IA 145/2018 is taken up for hearing. Heard the counsel for Applicant as well as Counsel for Liquidator. Counsels to file their written submissions. List it for consideration / orders on **21.12.2018.** Interim order is extended till 21.12.2018 in this IA.

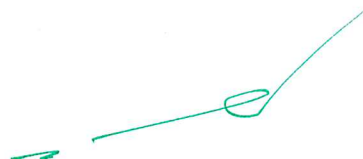
IA 194/2018 is taken up for hearing. At request list this IA on **21.12.2018.** Status quo order in the above Application is extended till 21.12.2018.



IA 117/2018 is also listed for hearing. List it on **21.12.2018**. Interim Order is extended till then.

IA 466 of 2018 is taken up for hearing. Counsel for Liquidator undertakes to file reply. Time extended till 21.12.2018. Interim order is extended till then.

IA 122/2018 and IAs 167/2018, 203/2018, 204/2018, 205/2018 & 206/2018 are listed today for hearing. List these IAs for hearing on **21.12.2018**.



Member (J)

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**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

IA No. 381/2018
CP (IB) No.111/7/HYD/230/2017

U/s 60 (5) of IBC, 2016
R/w Rule 11 of NCLT Rules, 2016

In the matter of IDBI Bank Ltd Vs Lanco Infratech Limited:

Mr. Navneet Chaurasia
R-729, New Rajinder Nagar
New Delhi – 110060

... Applicant

Versus

1. IDBI Bank Limited
IDBI Tower, WTC Complex, Cuffee Parade, Colaba
Mumbai – 400005

2. Lanco Infratech Limited
Plot No.4, Software Units Layout
Hitech City, Madhapur
Hyderabad – 500081
(Represented by Shri Savan Godiawala
Liquidator

..Respondents

Date of Order: 05.12.2018

Coram:

Hon'ble Shri Ratakonda Murali, Member (Judicial)

Parties / Counsels:

For the Applicant: Shri Kaustubh Sinha and Shri Ranjit Reddy, Advocates

For Respondent.2: Shri Ameya Gokhale, Ms. Radhika,
Shri Vijayanth Paliwal, Shri L.
Aravind Reddy, Advocates

Per: Hon'ble Shri Ratakonda Murali, Member (Judicial)

Heard on: 02.11.2018 & 16.11.2018




ORDER

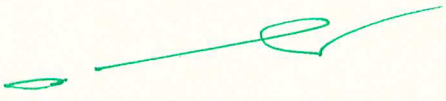
1. The Applicant filed this Application under Section 60 (5) of IBC, 2016, R/w Rule 11 of NCLT Rules 2016, seeking order of this Tribunal to implead the Applicant as a party in CP (IB) No.111/7/HDB/2017
2. Averments made in the Application in brief:-
 - (1) It is averred that M/s Gulati Export House and the Corporate Debtor entered into a lease agreement on 19.12.2008 and thereafter the leased premises was bought by the Applicant vide sale deed dated 27.10.2010 thereby entitling him for lease rentals as per Clause 4 of the Lease Agreement dated 19.12.2008. The Lease Agreement was for a term of 9 years i.e. up to 19.12.2007 and has not been renewed further.
 - (2) It is further averred that consequent to admission of the Petition filed by IDBI under Section 7, CIRP was initiated against the Corporate Debtor and IRP was appointed and as such Applicant filed his claim for Rs.8,40,75,000/- towards pending rent since August 2016, before the IRP vide Affidavit dated 22.08.2017 in the capacity as Operational Creditor. It is averred that Applicant's name appeared at Sl.No.123 in the list of Operational Creditors prepared by IRP. It is the further case of Applicant that on 31.10.2017, Applicant submitted additional Affidavit along with additional documents for the clarifications sought by IRP.
 - (3) It is averred that representatives of Applicant on 03.10.2017 met representatives of IRP at Corporate Debtor's office and acknowledged the



rent due to the Applicant and committed to clear the due on priority. Further, Applicant was informed that IRP would consider placing before CoC the lease rental payments as an essential supply. Further the representatives of the Applicant were also informed that any further renewal of lease agreement by the Applicant would be for the entire building as a whole, owing to restrictions on lease of part-properties.

- (4) It is the case of Applicant that claim filed in August 2017 included the unpaid monthly rent from August 2016 to July 2017 and monthly rental invoice for the subsequent months i.e. August 2017 to December 2018 were also sent to the IRP. However, the Applicant received the rent only for the month of August 2017 and rental amount for the months from September 2017 to December 2018 is pending.
 - (5) It is averred on 19.12.2017, the lease agreement dated 19.12.2008 got terminated due to efflux of time and that since Applicant did not receive any communication from IRP regarding renewal of the lease agreement, Applicant sent a letter on 22.01.2018 informing IRP about the expiry of the lease agreement and expressed unwillingness for further renewal of lease agreement. It is averred that the Applicant informed the IRP that he should not consider the option of continuance of lease deed in any of the resolution plan in respect of Corporate Debtor and further directed Corporate Debtor to vacate the premises with immediate effect.
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- (6) It is averred that Applicant has not received any communication from the Corporate Debtor through IRP regarding vacation of the premises and Corporate Debtor continues to occupy the premises beyond the term of Lease Agreement dated 19.12.2008.
- (7) It is averred that Corporate Debtor cannot remain in possession of the leased premises without payment of lease rent and that Regulation 31 of CIRP Regulations provides payment of money for the continued usage of a good/service by Corporate Debtor during moratorium hence the Applicant prays this Tribunal to implead the Applicant as a party in the main petition bearing CP (IB) No. 111/7/HDB/2017.
3. I have heard the Counsels appearing for Applicant as well as Resolution Professional/Liquidator. It is true when this Application was filed by Applicant, the Liquidation order was passed against the Corporate Debtor. The Liquidation proceedings started against the Corporate Debtor. The main petition was admitted and finally order of liquidation was passed. Therefore, there is no question of impleading the Applicant in the main petition which was already ended in passing the liquidation order under Section 33 of IBC. Thus, the present Application deserves to be dismissed.
4. In the result, Application is dismissed as not maintainable.


(RATAKONDA MURALI)
MEMBER (JUDICIAL)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

IA No. 467/2018

In

CP (IA) No. 111/07/HDB/2017

Under Section 60(5) of IBC, 2016

In the matter of:

Futech Projects(India) Limited
R/O. 105, CSC, Pocket-J, Sarita Vihar,
New Delhi- 110076.

...Applicant

AND

1. IDBI Bank Ltd.
R/o. IDBI Tower, WTC Complex,
Cuffe Parade,
Colaba,
Mumbai- 400 005.

... Respondent/
Financial Creditor

2. Mr. Savan Godiawala,
Resolution Professional,
Deloitte Touche Tohmatsu India LLP,
Level 7 , Building 10 Tower B,
DLF Cyber City Complex,
DLF City Phase-II,
Gurgaon- 122 002.

... Respondent No.1/RP

3. Lanco Infratech Limited
R/o. Plot No. 4, Software Units layout,
HITEC City, Madhapur,
Hyderabad- 500 081,
Telangana.

...Respondent No.2/
Corporate Debtor

Date of Order: 05.12.2018

Coram:

Hon'ble Shri RatakondaMurali, Member (Judicial)

Parties / Counsels Present

For the Applicant: Shri. Shraddha Gupta, Manu Seshadri, Arjun
Syal and Shreyan Das, Advocates.

Per: Hon'ble Shri RatakondaMurali, Member (Judicial)

Heard on: 16.11.2018

ORDER

1. This Application is filed by Applicant under Section 60(5) of the Insolvency & Bankruptcy Code, 2016 for a direction to the RP/Liquidator to return following Bank Guarantee's bearing No. G00IBGP15282001 amounting to Rs. 09,02,480/- , and No. G00IBGP15282002 amounting to Rs. 02,86,003/- to the applicant.
2. Brief averments of the application:
 - a. The applicant company is a private limited company incorporated under the companies Act, 1956 and having its registered office as mentioned in the cause title.
 - b. The present application is similar to the application bearing IA No.382/2018, seeking issuance of directions by the Hon'ble Tribunal to the RP for returning the Advance Cum Performance Bank Guarantees.
 - c. It is averred in the application that two more bank guarantees dated 09.10.2015 bearing No. G00IBGP15282001 amounting to Rs. 09,02,480/- , and No. G00IBGP15282002 amounting to Rs. 02,86,003/-are also submitted by the Applicant through the Bank to the Corporate Debtor.
 - d. However, it is submitted that IA No.382/2018 application was filed in urgency (since the stay granted by the Hon'ble High Court of Delhi) and the said application has to be filed before 12.09.2018 which is the last date of hearing before 15.09.2018, the Applicant inadvertently and mistakenly did not include these bank guarantees in the earlier application.
 - e. It is averred that the applicant has prima case and it is entitled for return of Bank Guarantees under Section 60(5) of the Code.

- f. It is averred that the irreparable hardship will be caused if the aforesaid Bank Guarantees are encashed. The applicant would be left remediless as it would have no means to recover its dues as the corporate debtor would wound up.
3. I have heard the Counsel for applicant and also the counsel for RP/Liquidator.
4. This application is filed on behalf of applicant for direction to the RP to return the Advance cum Performance Bank Guarantees bearing No. G00IBGP15282001 amounting to Rs. 09,02,480/- , and No. G00IBGP15282002 amounting to Rs. 02,86,003/- Which were submitted by the applicant through the bank in favour of corporate debtor.
5. In the course of hearing the counsel for RP/Liquidator informed the Tribunal that Bank Guarantees' concerned in this application will be returned to the applicant. Therefore the application can be disposed of by giving direction to the RP/Liquidator to return the Bank Guarantees of the applicant.
6. In the result this application is disposed of giving direction to the RP/Liquidator to return Bank Guarantees bearing No. G00IBGP15282001 amounting to Rs. 09,02,480/- , and No. G00IBGP15282002 amounting to Rs. 02,86,003/- to the applicant after obtaining proper acknowledgement.

RATAKONDA MURALI
MEMBER (JUDICIAL)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

IA No. 418/2018

In

CP (IA) No. 111/07/HDB/2017

Under Section 60(5) of IBC, 2016

In the matter of:

M/s. Atlas Copco(India) Ltd
R/o. At Sveanagar,
Mumbai-Pune Road,
Dapodi, Pune-411 012,
Maharashtra,
India.

...Applicant

AND

1. Mr. Savan Godiawala,
Resolution Professional,
Deloitte Touche Tohmatsu India LLP,
Level 7 , Building 10 Tower B,
DLF Cyber City Complex,
DLF City Phase-II,
Gurgaon- 122 002.

... Liquidator

2. Lanco Infratech Limited
R/o. Plot No. 4,
Software Units layout,
HITEC City, Madhapur,
Hyderabad- 500 081,
Telangana.

...Corporate Debtor

Date of Order: 05.12.2018

Coram:


Hon'ble Shri RatakondaMurali, Member (Judicial)

Parties / Counsels Present

For the Applicant: Shri. Y.Surya Narayana, Advocate

Per: Hon'ble Shri RatakondaMurali, Member (Judicial)

Heard on: 16.11.2018



ORDER

1. This Application is filed by Applicant under Section 60(5) of the Insolvency & Bankruptcy Code, 2016 seeking for the direction to the corporate debtor and liquidator to release all the bank guarantees and also restrain the corporate debtor and liquidator from invoking the same till the instant application is disposed off.
2. Brief averments of the application:
 - a. The applicant company is a private limited company incorporated on 28.01.1960 under the companies Act, 1956 and having its registered office as mentioned in the cause title. The main objects of the company is to carry on the business of designing, engineering, manufacturing, marketing and selling of Air Compressors, Air Receivers, and other related equipment's in India and abroad.
 - b. It is averred in the application that Corporate Debtor has entered into EPC Contracts with different parties. In pursuant to the EPC contracts the corporate debtor, had discussions with Applicant and accordingly issued purchase orders for supply of Air Compressors with Accessories Package, Erection and commissioning in favour of applicant. The purchase orders and appendices and annexures constituted the entire understanding between the parties. The details with regard to the purchase orders issued, invoices raised are annexed here with as Annexure A06, A07, A08 & A09.
 - c. It is averred that the purchase order contains the detailed terms and conditions along with the scope of the project subject to which the project shall be executed by the Applicant. The scope of supply is designing, engineering, manufacture etc as per the technical specifications including supervision of erection, testing etc.

- d. It is further averred that the applicant has initiated the execution of the project as per the terms and conditions of the respective purchase orders. However the corporate debtor sunk into a deep financial mess and insolvency proceedings have been initiated against it. Due to the financial crunch faced by the corporate debtor the end customers have approached the applicant and got the work done by releasing certain payments directly to the applicant and now the corporate debtor has gone into liquidation.
- e. It is averred that due to financial crisis of the corporate debtor that some of the projects have come to a virtual standstill while few projects have been partially executed, erected and commissioned and payments were also made by the corporate debtor.
- f. It is averred that when the situation is so one of the bank guarantees issued by the HDFC bank #007GT02122840005 for Rs. 1,51,17,224/- relating to Koradi Project was invoked which is illegal, unlawful and contrary to the terms and conditions contained in the purchase order.
- g. It is averred that the Resolution Professional who had arbitrarily invoked the Bank Guarantee without there being any ground for invocation of the same and as a result of the unjust and illegal invocation a sum of Rs. 1,35,89,813/- is payable by the corporate debtor to the Applicant. It is also averred that the applicant is initiating appropriate legal proceedings for recovery of the said amount separately.
- h. In view of the flagrant misconduct and dishonest intentions of the RP who is now appointed as the Liquidator representing the corporate debtor, the applicant apprehends he is likely to invoke the other bank guarantees which have been furnished by the applicant in favour of the corporate debtor. The details of the bank guarantees which are valid and not invoked and in fact ought not to be invoked are mentioned here under:



S.no	Project	Bank	BG	Amount
1	Koradi	HDFC	537BGG1400527	1,51,17,224/-
2	Koradi	Deutsche	007GT02122840006	2,75,750/-
3	Ennore	HDFC	537BGG1600201	44,00,000/-
4	Anuppur	Deutsche	007GT02122840007	50,95,276/-
5	Amarkantak	Deutsche	537BGG1601542	74,62,223/-
6	Amarkantak	Deutsche	537BGG1000260	49,00,000/-
7	Amarkantak	Deutsche	537BGG1601540	48,39,542/-
8	Amarkantak	Deutsche	537BGG1601541	1,55,132/-

- i. It is further averred that the Tribunal may be pleased to direct the corporate debtor and the liquidator to release all the Bank Guarantees as mentioned above furnished by the applicant in favour of the corporate debtor and also restrain the corporate debtor and liquidator from invoking the same till the instant application is disposed off.
3. I have heard the Counsel for applicant and also the counsel for RP/Liquidator. This application is filed seeking direction for return of Bank Guarantees to the applicant. The details of which are shown in a table given below.

S.no	Project	Bank	BG	Amount
1	Koradi	HDFC	537BGG1400527	1,51,17,224/-
2	Koradi	Deutsche	007GT02122840006	2,75,750/-
3	Ennore	HDFC	537BGG1600201	44,00,000/-
4	Anuppur	Deutsche	007GT02122840007	50,95,276/-
5	Amarkantak	Deutsche	537BGG1601542	74,62,223/-
6	Amarkantak	Deutsche	537BGG1000260	49,00,000/-
7	Amarkantak	Deutsche	537BGG1601540	48,39,542/-
8	Amarkantak	Deutsche	537BGG1601541	1,55,132/-

4. In the course of hearing, the counsel for RP/Liquidator informed the Tribunal that Bank Guarantees' concerned in this application will be returned to the applicant. Therefore the application can be disposed of by giving direction to the RP/Liquidator to return the Bank Guarantees to the applicant.

5. In the result application is allowed directing the RP/Liquidator to return the Bank Guarantees shown in the table below to the applicant after obtaining proper acknowledgement.

S.no	Project	Bank	BG	Amount
1	Koradi	HDFC	537BGG1400527	1,51,17,224/-
2	Koradi	Deutsche	007GT02122840006	2,75,750/-
3	Ennore	HDFC	537BGG1600201	44,00,000/-
4	Anuppur	Deutsche	007GT02122840007	50,95,276/-
5	Amarkantak	Deutsche	537BGG1601542	74,62,223/-
6	Amarkantak	Deutsche	537BGG1000260	49,00,000/-
7	Amarkantak	Deutsche	537BGG1601540	48,39,542/-
8	Amarkantak	Deutsche	537BGG1601541	1,55,132/-

6. In the result application is disposed of with above direction.


5/12/18
RATAKONDA MURALI
MEMBER (JUDICIAL)

Pavani