

✓

(8)

NATIONAL COMPANY LAW TRIBUNAL  
SINGLE BENCH  
CHENNAI

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI  
NATIONAL COMPANY LAW TRIBUNAL, HELD ON 26/03/2018 AT 10.30 AM

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

APPLICATION NUMBER :

PETITION NUMBER :

CP/202/IB/2018

NAME OF THE PETITIONER(S) :

D.JULIET

NAME OF THE RESPONDENT(S) :

SOUTHERN INVESTMENT PVT LTD

UNDER SECTION :

9 RULE 6

S.No. NAME (IN CAPITAL)

DESIGNATION

SIGNATURE

REPRESENTATION BY WHOM

1. P.B. HARAKRISHNA

PCS

2. S. SIVA SANGARANE  
(S. SIVA SANGARANE)

Respondent



**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
SIGNLE BENCH, CHENNAI**

CP/202/(IB)/CB/2018

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

In the matter of

**Ms. D. Juliet**

*... Operational Creditor*

Vs.

**M/s. Southern Investments Private Limited**

*... Corporate Debtor*

*Order delivered on 26<sup>th</sup> of March, 2018*

CORAM :

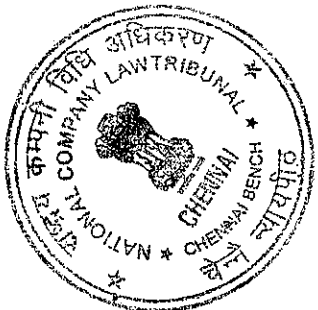
**CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)**

*For Operational Creditor(s): Mr I. B. Harikrishna, PCS  
For Corporate Debtor (s) : Mr. S.Siva Sangarane, Counsel*

**ORDER**

Per: CH MOHD SHARIEF TARIQ, MEMBER (J)

1. Under Adjudication is CP/202/(IB)/CB/2018 that has been filed by the Operational Creditor under Section 9 of the Insolvency & Bankruptcy Code 2016 (in short, 'I&B Code, 2016') r/w the Insolvency &



Bankruptcy (Application to Adjudicating Authority Rules, 2016). The prayer made is to admit the Application, to initiate the Corporate Insolvency Resolution Process against the Corporate Debtor, declare moratorium and appoint Interim Resolution Professional (IRP) under the Insolvency and Bankruptcy Code, 2016 (I&B Code).

2. Heard the representative for the Operational Creditor and Counsel for the Corporate Debtor, and perused the record.

3. The Operational Creditor has claimed Rs.9,81,616/- as outstanding debt on account of his salary and gratuity, which the Corporate Debtor failed to pay. The details of the amount has also been provided by the Operational Creditor in Annexure-IIA (page 27) of the typed set filed with the Application.

The case of the Operational Creditor is that he was employed as Senior Manager cum Secretarial and Personnel in the Corporate Debtor from 01.04.1996 till



03.10.2017. The Operational Creditor continued to work as per the assurance given by the Corporate Debtor that his dues will be paid. The Operational Creditor has sent various communications/reminders to the Corporate Debtor for the payment of the outstanding debt, but all in vain.

4. The Operational Creditor issued notice under Section 8 (1) of the I&B code, 2016 to the Corporate Debtor on 11.12.2017, the copy of which is placed at pages 18 and 19 of the typed set filed with the Application to which a reply dated 20.12.2017 has been given by the Corporate Debtor. The copy of the reply is placed at page 26 of the typed set filed with the Application, wherein the liability towards the outstanding emoluments due to Operational Creditor has not been denied.

5. The Operational Creditor has complied with Section 9 (3) (b) of the I&B Code, 2016, by filing Affidavit, which is placed at pages 38 to 40 of the typed set filed with the Application, wherein under para 10, it



has been deposed that the Corporate Debtor has not given any notice of dispute relating to the unpaid operational debt. In order to make compliance with Section 9(3)(c) of the I&B Code, 2016, the Bank statement issued by the HDFC Bank has also been placed on record at pages 33 to 37 of the typed set filed with the Application.

6. The Counsel for the Corporate Debtor filed counter, which is taken on file. During the course of arguments, the Counsel for the Corporate Debtor has admitted the liability and submitted that the Corporate Debtor is not in a position to make any payments. In short, the Counsel for the Corporate Debtor has not resisted the Application.

7. The Operational Creditor has fulfilled all the requirements of law for admission of the Application. This Bench is satisfied that the Corporate Debtor has committed default in making payment of the outstanding debt as claimed by the Operational



Creditor. Therefore, CP/202/(IB)/CB/2018 is admitted and the commencement of the Corporate Insolvency Resolution Process is ordered which ordinarily shall get completed within 180 days, reckoning from the day this order is passed.

8. The moratorium is declared which shall have effect from the date of this Order till the completion of Corporate Insolvency Resolution Process, for the purposes referred to in Section 14 of the I&B Code, 2016. It is ordered 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 lessor where such property is occupied by or in the possession of the corporate debtor.

9. 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.

10. Ms. Chitra Srinivas is hereby appointed as IRP as has been proposed by the Operational Creditor, and her name is reflected in the revised panel of IRP list provided by the IBBI. There is no disciplinary proceedings are pending against the IRP. The IRP is directed to take charge of the Respondent Corporate,



Debtor's management immediately. She is also directed to cause public announcement as prescribed under Section 15 of the I&B Code, 2016 within three days from the date the copy of this order is received, and call for submissions of claim in the manner as prescribed.

11. The IRP shall comply with the provisions of Sections 13 (2), 15, 17 & 18 of the I&B Code. The directors of the Corporate Debtor, its promoters or any person associated with the Management of the Corporate Debtor are/is directed to extend all assistance and cooperation to the IRP as stipulated under Section 19, so that she could discharge his functions under Section 20 of the I&B Code, 2016.

12. The Operational Creditor and the Registry are directed to send the copy of this Order to IRP, so that she could take charge of the Corporate Debtor's assets etc., and make compliance with this Order as per the provisions of I&B Code, 2016.





13. The Registry is directed to communicate this Order to the Operational Creditor and the Corporate Debtor.

The address details of the IRP are as follows: -

**Ms. Chitra Srinivas,**

Reg. No: IBBI/IPA-002/IP-N00249/2017-18/10734

Flat No. B7, G.R. Flats, Anbu Nagar First Street,  
Valasaravakkam, Chennai - 600 087.


14. Order is dictated and pronounced in open court in the presence of the representative for Operational Creditor and Counsel for Corporate Debtor.

P.ATHISTAMANI

  
[CH.MOHD SHARIEF TARIQ]  
MEMBER (Judicial)



**Certified to be True Copy**

  
DEPUTY REGISTRAR 2/4/18  
NATIONAL COMPANY LAW TRIBUNAL  
CHENNAI BENCH  
CORPORATE BHAVAN, 3rd FLOOR  
29, RAJAJI SALAI, CHENNAI-600001.

