



Surana Industries Limited

CIN : L27104TN1991PLC020533

Regd. Office Cum Factory . : F-67, 68 & 69, SIPCOT Industrial Complex, Resolution
Gummidipoondi - 601 201. ★ Tele : +91-44-2792 2880 ★ Grams : "GURUHASTI" process)
Email: surana@suranaind.com ★ Website : www.suranaind.com



Ref: SIL/SEC/40 /FY2017-18

February 27, 2018

The Manager, National Stock Exchange of India Limited, Listing Department, Exchange Plaza, Bandra-Kurla complex, Bandra (E), Mumbai – 400051.	The Deputy General Manger, Department of Corporate Services, Bombay Stock Exchange Limited, 23 rd Floor, PJ Towers, Dalal Street, Mumbai-400 001.
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Subject: Intimation to the Stock Exchanges of initiation of Corporate Insolvency Resolution Process (CIRP) against M/s. Surana Power Limited (material subsidiary) and appointment of Interim Resolution Professional.

Reference: Order dated February 19, 2018.

Dear Sir's/Madam,

We hereby inform you that CIRP has been initiated in respect of Surana Power Limited under the provisions of the Insolvency and Bankruptcy Code, 2016 by an order of the National Company Law Tribunal (NCLT) with effect from February 19, 2018 (enclosed).

This is for information and records.

Thanking You,

Yours Faithfully,

For **SURANA INDUSTRIES LIMITED**

K. Rishabh
COMPANY SECRETARY



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

CP/646/(IB)/CB/2017

Under Section 9 of the IB Code, 2016

In the matter of M/s. Surana Power Limited

M/s. GIMPEX PRIVATE LIMITED Operational Creditor
(CIN: U13200TN1974PTC006655)

V/s

M/s. SURANA POWER LIMITED Corporate Debtor
(CIN: U74999TN2008PLC066902)

Order delivered on: 19.02.2018

Coram:

K. Anantha Padmanabha Swamy, Member (Judicial)

S. Vijayaraghavan, Member (Technical)

For the Petitioner/OC: Shri. K. Raja, Advocate
Shri. K. Arun Pradeesh, Advocate
For AVV Partners
For the Respondent/CD: Shri P. Krishnan, Advocate
Smt. P.V Preeja, Advocate

ORDER

Per: K. ANANTHA PADMANABHA SWAMY, MEMBER (J)

1. Under Consideration is a Company Petition filed by M/s. Gimpex Private Limited (in short, '**Petitioner/Operational Creditor**') against M/s. Surana Power Limited (in short, '**Respondent/Corporate Debtor**') under section 9 of the Insolvency and Bankruptcy Code 2016 (In short, '**IB Code 2016**') r/w Rule 6 of the Insolvency & Bankruptcy

(Application to Adjudicating Authority) Rules, 2016 (for brevity, '**IB Rules 2016**').

2. Before proceeding with this matter, it would be appropriate to make a note of background facts for the purpose of determination of this petition.
3. The petitioner/OC is a Private Limited Company incorporated under the Companies Act, 1956, having its registered office at No. 181, Linghi Chetty Street, Chennai-600001. Whereas the Respondent Company, is a Limited Company incorporated under the Companies Act, 1956, having its registered office at No. 29, Whites Road, 2nd Floor, Royapettah, Chennai-600014.
4. The learned counsel appearing on behalf of the Petitioner/OC submitted that the Respondent/CD approached the petitioner and expressed its requirements of Indonesian coal. Accordingly, the petitioner had entered into a High Sea Sale Agreement dated 25.10.2013 with the Corporate Debtor. The Operational Creditor based on that agreement has sold 30,000 Mts of Indonesian coal to the M/s. Surana Corporation Limited for a Total Price of Rs. 9,10,34,835/-. Subsequently, by the board resolution dated 30.07.2014, the M/s. Surana Corporation Limited has transferred their liability of Rs.

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9,10,34,835/- to the M/s. Surana Power Limited and it has also been accepted by the M/s. Surana Power Limited.

5. The Corporate Debtor has made part discharge of its liability of Rs. 1,52,68,423/- on 01.12.2014 and Rs. 1,62,18,977/- on 17.12.2014 totalling to Rs. 3,14,87,400/- to the Operational Creditor. In the course of the business the petitioner has maintained a running account for the respondent.
6. It is further submitted that the petitioner after making several requests for settling the dues with the respondent and having waited for a long period of time for his legitimate dues, sent a Demand Notice dated 16.09.2017 as per the provisions under section 8 of the IB Code 2016 r/w Rule 5 of the IB Rules 2016 calling upon the respondent to make the payment of the unpaid operational debt of Principal Amount of Rs. 6,39,93,165/- and interest of Rs. 4,17,26,473/- calculated at the rate of 18% p.a for the period 31.08.2014 to 15.07.2017 along with demurrage charges Rs. 37,61,733/- and interest of Rs. 24,17,201/- calculated at the rate of Rs. 18% p.a for the period 20.12.2013 to 15.07.2017 and the Corporate Debtor has received the said notice, but they neither replied to the said notice nor made payments due to the Operational Creditor. Hence, the Operational Creditor have filed two petitions i.e CP. No. 646

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of 2017 was filed by M/s. Gimpex Private Limited against M/s. Surana Power Limited and CP. No. 638 of 2017 was filed by M/s. Gimpex Private Limited against M/s. Surana Power Limited on 23.11.2017. The Respondent through their counsel appeared before the Adjudicating Authority on 07.12.2017 and filed a counter. After that the Adjudicating Authority held that, since the liability of M/s. Surana Corporation Limited has been transferred to M/s. Surana Power Limited vide their Board resolution dated 20.09.2014, the petition against M/s. Surana Corporation Limited may not be pursued. Therefore, the petitioner has filed memo dated 14.12.2017 for withdrawal of petition in connection to the C.P No. 638 of 2017 and the same was withdrawn. Finally, the Operational Creditor has claimed unpaid debt amount under the provisions of the IB Code 2016 and prayed for initiation of Corporate Insolvency Resolution Process against the Respondent/CD.

7. The learned counsel for the Respondent/CD filed counter submitting that the petition is not maintainable either in law or on the facts of the case on the grounds stated that the above petition has to be dismissed in limine. It was contended that the information declared in Application in Form- 5, Part-1 to Part V is not correct and it is false. Further submitted that the

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quality of the imported Coal sold by the applicant was substandard and not the superior quality contracted for.

8. Before proceeding with the matter, it is necessary to mention that the respondent after filing the counter have taken several adjournments saying that they intending to settle the matter but after some time the respondent failed to appear before the Adjudicating Authority. When there is no representation on behalf of the respondent and in the circumstances, the respondent was proceeded ex-parte vide order dated 06.02.2018. The petitioner has also placed on record proof of sending notices and its deliveries and also filed an affidavit and bank statement under section 9(3)(b) and 9(3)(c) of I & B Code. The Petitioner has complied with all the requirements as stipulated under the provisions of the I&B Code, 2016 for the purpose of initiating Corporate Insolvency Resolution Process.
9. After hearing submissions of the counsel for the petitioner and having perused the record, this Adjudicating Authority is satisfied that the petitioner has proved by placing overwhelming evidence that default has occurred which the Corporate Debtor was responsible to pay. In relation to the laches as pointed out respondent in his counter, it is pertinent

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to mention that the petitioner has established clearly that the amount in default is genuine and is supported by the documentary evidence placed. Therefore, we are of the opinion that the said objection is not a valid ground of rejection of the instant petition. In the circumstances, we hereby admit the instant application.

10. Therefore, the instant petition is admitted and we order the commencement of the Corporate Insolvency Resolution Process which shall ordinarily get completed within 180 days, reckoning from the day this order is passed.

11. We appoint Mr. Ebenezar Inbaraj as Interim Resolution Professional (IRP) proposed by the Operational Creditor. There is no disciplinary proceedings pending against the IRP and his name is reflected in IBBI website. The IRP is directed to take charge of the Respondent/Corporate Debtor's management immediately. He 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.

12. We declare the moratorium 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 hereby 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.*

13. 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.

14. The IRP shall comply with the provisions of Sections 13 (2), 15, 17 & 18 of the Code. The directors, Promoters or other persons associated with the management of Corporate Debtor are directed to extend all assistance and cooperation to the IRP

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as stipulated under Section 19 and for discharging his functions under Section 20 of the I&B Code, 2016.

Accordingly, the application is admitted.

15. The IRP is further directed to protect and preserve the value of the property of the Corporate Debtor as a going concern as a part of its obligation imposed under section 20 of the IB Code 2016 and perform all his duties strictly in accordance with the provisions of the IB Code 2016.

16. The Petitioner/OC as well as the Registry is directed to send the copy of this Order to IRP so that he 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.

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

18. The address details of the IRP are as follows: -

Shri. Ebenezar Inbaraj,
Reg. No. IBBI/IPA-001/IP-P00754/2017-2018/11286
4D/4 Zam Palm Avenue,
Alagiri Nagar 6th Strret,
Vadapali, Chennai-600026
E-Mail: ebiadvocate@gmail.com
Mobile No. 9500005659


(S. Vijayaraghavan)
Member (Technical)


(K. Anantha Padmanabha Swamy)
Member (Judicial)