

**NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA**

C.P. (IB)/834(KB)2018

**CORAM: 1. HON'BLE MEMBER(J), SMT. BIDISHA BANERJEE
2. HON'BLE MEMBER(T), SHRI D. ARVIND**

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING ON 11TH JULY 2024

IN THE MATTER OF	HYTERA COMMUNICATIONS CORPORATION LTD. VS SIMOCO TELECOMMUNICATIONS (SOUTH ASIA) LIMITED
UNDER SECTION	IBC UNDER SEC 9

Appearance (via video conferencing/physically)

C O R R I G E N D U M O R D E R

1. This matter is not on Board today. Upon mentioning by the Ld. Counsel, this matter is taken up on Board today.
2. In the Order dated **09th July, 2024** some typographical errors have brought to our notice and, therefore, the same are amended as under: -
 - a. In **Para No. 1**, inadvertently written as **“operation”** and the same will read as **“operational”**.
 - b. In **Para No. 3**, inadvertently written as *“In view of said liberty highlighted above, the Corporate Debtor is ready and willing to pay the entire sum, that is due, by way of demand draft for a sum of Rs. 5,18,51,494/- which according to the Corporate Debtor is equivalent to USD 1,441,490.78 the payable due. In view of such, we permit the demand draft to be handed over to the Deputy Registrar, Kolkata Bench for depositing the same in an ESCROW Account with the SBI. After, collecting the said DDs/Cheques, the Deputy Registrar of this Adjudicating Authority will open a Term Deposit Receipt (in short “TDR”) to be operated by him till RBI grants approval of foreign remittance.”* and the same will read as **“In view of said liberty highlighted above, the Corporate Debtor is ready and willing to pay the entire sum, that is due, by way of demand draft for a sum**

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of Rs. 5,18,51,494/- which according to the Corporate Debtor is equivalent to USD (\$) 621348.05 the payable due. In view of such, since a foreign remittance would be required, we permit the demand draft to be handed over to the Deputy Registrar, Kolkata Bench for depositing the same in the ESCROW Account to be opened with PNB, Park Street Branch. After collecting the said DDs/Cheques, the Deputy Registrar of this Adjudicating Authority will open a Term Deposit Receipt (in short "TDR") of 30 days (extendable), to be operated by him, till RBI grants approval of foreign remittance."

- c. And also in **Para No. 4**, inadvertently written as *"Issue notice to RBI for appropriate approval in regard to foreign remittance and upon approval of the RBI sought as for, the remittance of said amount of Rs. 5,18,51,494/- (Rs. 2,68,51,494/- and Rs. 2,50,00,000/-) that gets reflected by way of DD Nos./Cheque Nos. 007264 & 007254 dated 03.07.2024 & 29.06.2024 shall be permitted by the Bank in which ESCROW Account is opened with intimation to the Deputy Registrar, subject to any objection that may be raised by the Operational Creditor."* and the same will read as **"Issue notice to RBI for appropriate approval in regard to foreign remittance and upon approval of the RBI as sought for, the remittance of said amount of Rs. 5,18,51,494/- (Rs. 2,68,51,494/- and Rs. 2,50,00,000/-) that gets reflected by way of DD Nos./Cheque Nos. 007264 & 007254 dated 03.07.2024 & 29.06.2024 shall be permitted by the PNB with which ESCROW Account will be opened, with intimation to the Deputy Registrar, subject to any objection that may be raised by the Operational Creditor in view of the DD being issued by Simoco Systems and Infra Solutions Ltd. instead of the Corporate Debtor, namely, Simoco Telecommunications (South Asia) Limited."**

3. Rest of the order shall remain unchanged.

D. Arvind
Member (Technical)

Bidisha Banerjee
Member (Judicial)

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**CORAM: 1. HON'BLE MEMBER(J), SMT. BIDISHA BANERJEE
2. HON'BLE MEMBER(T), SHRI D. ARVIND**

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING ON 09TH JULY 2024

IN THE MATTER OF	HYTERA COMMUNICATIONS CORPORATION LTD. VS SIMOCO TELECOMMUNICATIONS (SOUTH ASIA) LIMITED
UNDER SECTION	IBC UNDER SEC 9

Appearance (via video conferencing/physically)

Mr. Abhishek Banerjee, Adv.] For the Operational Creditor

Mr. Jishnu Chowdhury, Adv.] For the Corporate Debtor

Ms. Sreenita Thaker, Adv.]

Ms. Sneha Singhanian, Adv.]

ORDER

1. Ld. Counsel appearing on behalf of the operation creditor present. Ld. Counsel appearing on behalf of the corporate debtor present.
2. Ld. Counsel bring to our notice the Order passed by the Hon'ble NCLAT in Company Appeal (AT) (Insolvency) No. 1116 of 2022 dated 07th November, 2023 arising out of the Order dated 12.07.2022 whereby and whereunder Order passed by this Adjudicating Authority refusing to initiate Corporate Insolvency Resolution Process (in short "CIRP") against the Corporate Debtor has been set aside. The operative portion of the Order passed by the Hon'ble NCLAT is extracted as under: -

"27. In result, we partly allow the Company Appeal (AT) (Ins.) No. 1116 of 2022 and set aside the Order of the Adjudicating Authority, insofar as it refused to initiate Corporate Insolvency Resolution Process against the Corporate Debtor. Rest of the Order of the Adjudicating Authority is affirmed. We dispose of the Appeal in the following manner: -

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(1) Company Appeal (AT) (Ins.) No. 1116 of 2022 is partly allowed.

The Order of the Adjudicating Authority refusing to initiate CIRP is set aside the further following directions are issued:

Company Appeal (AT) (Ins.) No. 1116 & 1523 of 2022 29

- (a) The Adjudicating Authority shall pass an Order of admission under Section 9 of the Code within 60 days from the date when copy of the Order is produced before it.*
- (b) Within 60 days, it shall be open for Corporate Debtor to make the payment by remittance of the amount to the Operational Creditor and file a proof before the Adjudicating Authority.*

(2) Company Appeal (AT) (Ins.) No. 1523 of 2022 is dismissed.

Parties shall bear their own costs.”

3. In view of said liberty highlighted above, the Corporate Debtor is ready and willing to pay the entire sum, that is due, by way of demand draft for a sum of Rs. 5,18,51,494/- which according to the Corporate Debtor is equivalent to USD 1,441,490.78 the payable due. In view of such, we permit the demand draft to be handed over to the Deputy Registrar, Kolkata Bench for depositing the same in an ESCROW Account with the SBI. After, collecting the said DDs/Cheques, the Deputy Registrar of this Adjudicating Authority will open a Term Deposit Receipt (in short “TDR”) to be operated by him till RBI grants approval of foreign remittance.
4. Issue notice to RBI for appropriate approval in regard to foreign remittance and upon approval of the RBI sought as for, the remittance of said amount of Rs. 5,18,51,494/- (Rs. 2,68,51,494/- and Rs. 2,50,00,000/-) that gets reflected by way of DD Nos./Cheque Nos. 007264 & 007254 dated 03.07.2024 & 29.06.2024 shall be permitted by the Bank in which ESCROW Account is opened with intimation to the Deputy Registrar, subject to any objection that may be raised by the Operational Creditor.

5. Registry is hereby directed to communicate the Order to the Operational Creditor and the Corporate Debtor and to the jurisdictional Registrar of Companies by speed post as well as through email.
6. Registry is directed to issue notice to the RBI by way of speed post and by e-mail and place the tracking information on record. Dasti service (hand delivery) will be permitted.
7. List this matter for further consideration on **18.07.2024**.

D. Arvind
Member (Technical)

Bidisha Banerjee
Member (Judicial)