

**BEFORE THE ADJUDICATING AUTHORITY  
NATIONAL COMPANY LAW TRIBUNAL  
INDORE BENCH at AHMEDABAD  
COURT 1**

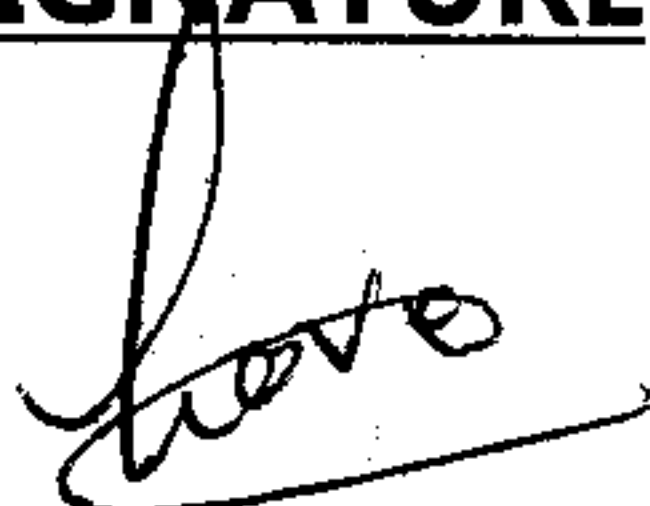
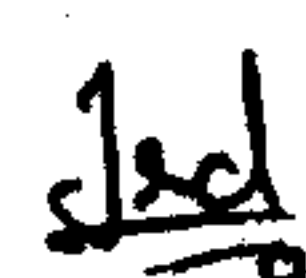
**C.P. (I.B) No.381/9/NCLT/AHM/2018**

**Coram: Hon'ble Mr. HARIHAR PRAKASH CHATURVEDI, MEMBER (JUDICIAL)  
Hon'ble Mr. PRASANTA KUMAR MOHANTY, MEMBER (TECHNICAL)**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF INDORE BENCH OF  
THE NATIONAL COMPANY LAW TRIBUNAL ON 27.02.2020**

Name of the Company: Insecticides (India) Ltd  
V/s  
Indian Polychemical Industries Pvt Ltd

Section: Section 9 of Insolvency and Bankruptcy code.

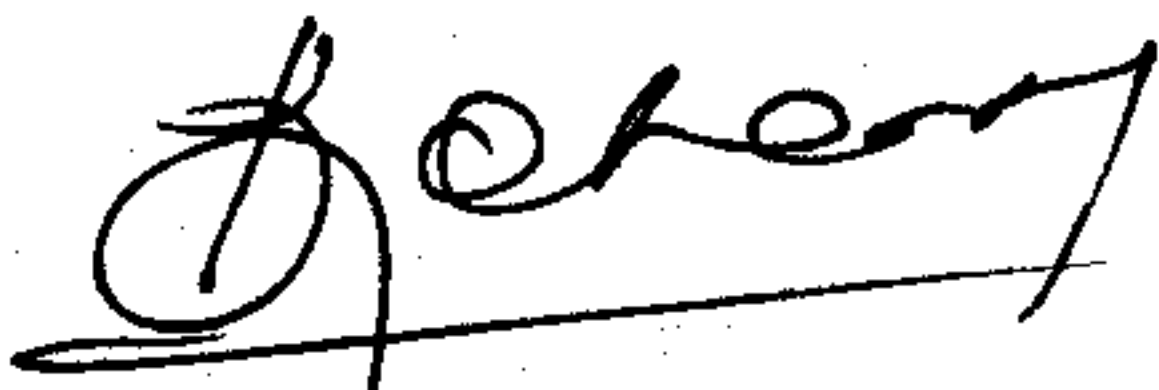
<b>S.NO.</b>	<b>NAME (CAPITAL LETTERS)</b>	<b>DESIGNATION</b>	<b>REPRESENTATION</b>	<b>SIGNATURE</b>
1.	L. S Modi al	Advocate	Petitioner	
2.	JAIMIN R. DAVE	ADV.	RESPONDENT	

**ORDER**

The parties are represented through their respective Counsel.

Today the present matter is kept for pronouncement of order.

CP (IB) No. 381/9/NCLT/AHM/2018 is admitted. Detailed order is recorded vide separate sheet.

  
(PRASANTA KUMAR MOHANTY)  
MEMBER (TECHNICAL)

  
(HARIHAR PRAKASH CHATURVEDI)  
MEMBER (JUDICIAL)

Dated this the 27<sup>th</sup> day of February, 2020.

**BEFORE THE ADJUDICATING AUTHORITY  
(NATIONAL COMPANY LAW TRIBUNAL)  
INDORE BENCH at AHMEDABAD**

**C.P. (I.B.) No. 381/9/NCLT/AHM/2018**

**Coram: Hon'ble Mr. Harihar Prakash Chaturvedi, Member (Judicial)  
Hon'ble Mr. Prasanta Kumar Mohanty, Member (Technical)**

**In the matter of:**

M/s. Insecticides (India) Limited,  
Through its Company Secretary,  
Mr. Sandeep Kumar  
Having its registered office at:  
401-402, Lusa Tower,  
Azadpur Commercial Complex,  
Delhi – 110033.

**.....Petitioner/Operational Creditor**

**Versus**

M/s. Indian Polychemical Private Limited,  
Plot No. 60-C, Sector-B Industrial Area,  
Mandideep,  
Dist. Raisen  
Madhya Pradesh – 462046.

**.....Respondent/ Corporate Debtor**

**Appearance:**

Mr. L. S. Modi along with Mr. Mrugesh Vyas i/b of Mr. Rishi Sood,  
Advocates, for the Petitioner.

Mr. Jaimin R. Dave along with Mr. Priyank S. Dave, Advocates, for  
the Respondent.

**Order delivered on 27<sup>th</sup> February, 2020.**



**ORDER**

**[Per: Shri Harihar Prakash Chaturvedi, Member (Judicial)]**

1. The present I.B. Petition is preferred by M/s. Insecticides (India) Limited being an Operational-Creditor under Section 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy Rules, 2016 (herein after referred to as a "Code") seeking for initiation of Corporate Insolvency Resolution Process ("CIRP" in Short) in respect of the Corporate-Debtor-Company namely, M/s. Indian Polychemical Private Limited.
2. It is stated that the instant I.B. Petition has been filed by the Operational Creditor, M/s. Insecticides (India) Limited through its Company Secretary, Mr. Sandeep Kumar. As submitted, the Petitioner Company is incorporated under the Companies Act, 1956 and has been engaged in manufacturing and in the business of supply of wide range of Agricultural Insecticides and Urban Pest Control Products for its client on Pan India Basis. The Petitioner/ Operational Creditor is having its registered address at: 401-402, Lusa Tower, Azadpur Commercial Complex, Delhi – 110033, India.
3. It is stated that the Respondent/Corporate Debtor Company, namely M/s. Indian Polychemical Private Limited

was incorporated on 17.06.2014 with the CIN: U24100MP2014PTC032801 and appears to be engaged in the business Agricultural Insecticide Chemicals.

4. It is informed that the Corporate-Debtor-Company is having nominal share capital of Rs.10,00,000/- (Rupees Ten Lakh) and the paid-up share capital of the company is Rs.9,00,000/- (Rupees Nine Lakh). The registered office of the Corporate Debtor Company is situated at: Plot No.60-C, Sector B Industrial Area, Mandideep, Dist. Raisen, Madhya Pradesh – 462046, India.
5. It is submitted that in the year 2016-17, the Respondent/ Corporate Debtor had approached the Petitioner Company for supply of various Agro Products such as Carbendazim, Glyphosate and other agro items.
6. It is stated that the Petitioner, from time to time had supplied the materials on demand of the Respondent Company and issued purchase orders. It is stated that these purchase orders were issued between the periods of 2016-2017.
7. It is also submitted that the Petitioner raised several invoices in accordance with the purchase orders so generated for the said supply of goods/ materials. The



Petitioner has tabulated details of invoices, which is reproduced here under:-

Sr. No.	Invoice No.	Date	Amount (Rs.)
1	1607100434	07.07.16	5,87,500.00
2	1607100472	13.07.16	1,85,063.00
3	1607100586	30.07.16	4,05,375.00
4	1642100011	31.08.16	1,55,663.00
5	1607100787	31.08.16	18,33,750.00
6	1642100023	19.09.16	6,27,610.00
7	1642100041	18.10.16	4,66,200.00
			42,61,161.00

8. It is stated that these invoices generated by the Petitioner also mentioned that the interest @18% P.A. will be charged if the same is not paid within the stipulated period. The petitioner has annexed copies of invoices in support of its contentions.

9. It is stated that the Petitioner/ Operational Creditor had supplied the goods to the Respondent / Corporate Debtor to his full satisfaction and the Respondent <sup>e</sup> ~~did~~ <sup>was not</sup> not complaint for the quality of the supplied material. It is stated that then also the Operational Creditor did not release ~~the~~ the payments for the said goods.

10. It is stated that the Corporate Debtor had assured to pay timely payment against the supplied goods/ liability towards the Petitioner. It is stated that it had issued various cheques in favour of the Petitioner for the said payment of invoices as mentioned below:

Sr. No.	Cheque No.	Amount (Rs.)	Date
1	011363	15,00,000	24.01.2017
2	011362	13,87,500	10.07.2017
3	011364	15,00,000	10.07.2017

11. It is stated that these above said cheques, as issued by the Respondent were presented by the Petitioner with his bank, namely, the City Bank. However, the same were dishonoured and it is stated that the same was informed to the Respondent. It is also stated that the Respondent did not respond back to the Petitioner nor it cleared the outstanding dues with the Petitioner. The Petitioner has annexed copy of Bank memo with the present petition as Annexure E (Page-34).

12. It is submitted that the Petitioner has initiated a complaint case against the issued cheques (as mentioned above), which is said to be pending for adjudication before the Hon'ble Rohini Court, Delhi.

13. It is stated that the Respondent/Corporate Debtor, vide its letter dated 02.11.2017, addressed to the Petitioner had confirmed and agreed that a sum of Rs.42,61,159=00 (Rupees Forty Two Lakh Sixty One Thousand One Hundred Fifty-Nine only) is pending for the supplied material as an outstanding/dues and also he has assured to pay timely payments to the Petitioner.

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14. Pursuant to this, the Respondent, vide his letter dated 02.11.2017 had issued two cheques to the Petitioner for various amounts. The submitted details of which are reproduced as below:

<b>Cheque No.</b>	<b>Amount (Rs.)</b>
708880	5,00,000=00
708887	7,61,159=00

The said letter is annexed to the present petition as Annexure F (Page-40). It is evident from the letter itself that the Respondent has duly acknowledged his debt and liability of overdue outstanding for Rs.42,61,159=00.

15. It is stated that the Respondent instructed the Petitioner not to deposit/present the above mentioned two cheques in a fear of getting dishonoured. It is averred that these two cheques issued later on were intended to not to get deposited in the bank.

16. The Petitioner, therefore was compelled to issue notice under Section 8 of the Insolvency and Bankruptcy Code, 2016 to the Respondent/Corporate Debtor through its counsel. It is submitted that the said notice was received by the Respondent / Corporate Debtor on 20.04.2018 and again on 15.06.2018 seeking payment of outstanding dues of Rs.42,61,161=00, in addition with interest calculated

@18% per annum of 10,66,633=95 till 15.06.2018. The Petitioner has annexed copies of demand notice issued to the Corporate Debtor to the present Petition as Annexure-I (Colly), Page-43.

17. It is mentioned and evident from the proof of despatch that these demand notice was despatched to the Respondent on 18.06.2018 and received by him on 21.06.2018.
18. In order to confirm that there are no payments received from the Respondent for the unpaid Operational Debt between the period of 07.07.2016 to 31.05.2018, the Petitioner has annexed the bank certificate issued by the Punjab National Bank holding account number: 0129008700165342 as Annexure L (Colly).
19. In reply to the above stated petition, the Respondent/ Corporate Debtor also filed its preliminary objection dated 04.02.2019 stating *inter-alia* that the Petitioner has deliberately did not served a copy of the petition with annexures. It is averred that the Respondent received a letter informing the hearing of the petition on date 27.09.2018. Hence, it was not possible for him to reply on merits.



20. In the same reply, it is alleged that the Petitioner intentionally did not serve any statutory notice in time and when it was received, it was in the form 3 and not with any petition. Hence, the time of ten days was not made available to the Respondent to file a reply.
21. During the course of hearing, the conduct of the Corporate Debtor needs to be noted when the present petition was initially listed on 16.08.2018 and on 27.09.2018. The Respondent Counsel, Mr. Pavan S. Godiawala sought time to file the reply, the same was granted for three weeks but again on 02.11.2018, time was sought and further two weeks of time was granted for filing the reply. On 14.12.2018, during the course of hearing the Respondent Counsel informed to this court that a settlement is being explored by the Respondent and hence, the Respondent again sought time to file the reply, which was also granted by this court as a last chance in order to meet the end of justice. The same was completed on next date, i.e. on 04.12.2019.
22. Thereafter, on 27.03.2019, the Respondent counsel contended that the reply could not be filed as he had not received a copy of the present petition. Such contention, however, was rejected by this Court but in the interest of

justice only, a three days of time was granted with a cost of Rs.20,000/- payable to the Petitioner.

23. On 25.04.2019 again, the new counsel for the Petitioner appeared and prayed for some time to file vakalatnama and reply, as the opportunity to file reply stood close for non-compliance of previous order/ directions. However, in the interest of justice, this Court granted a final opportunity to the Respondent for filing the reply within two weeks, with an exemplary cost of Rs.50,000/- payable to the petitioner, which was also not complied with. However, the Corporate Debtor made part payment of Rs.20,000/- to the Petitioner and filed its reply with such request that the same may be taken on record. Hence, the reply is taken on record for consideration. The Respondent/Corporate Debtor, in its reply ~~has~~ did not deny its loan liability towards against the Operational Creditor towards goods/insecticides/pesticides supplied. The Corporate Debtor explained that it is an agro based company and it was in a financial crunch for the last two years and its production was on hold as its funds were blocked in the market because of the requisite Government permissions that was not given to the Corporate Debtor. Further, the Corporate Debtor has further expressed that it is always ready and willing to clear its dues as pleaded in the petition and without admitting or denying the pleadings of the petition. Thus, the Corporate

Debtor through its reply dated 12.07.2019 submitted and proposed a schedule of the proposed repayment of its debts which was expected the recovery of money from the market and new sales of product of its goods. Thus, the Corporate Debtor in support, has proposed schedule of payment as given below:

Sr. No.	Date	Amount to be paid
01	15.09.2019	Rs.20 Lakhs
02	15.10.2019	Rs.10 Lakhs
03	15.11.2019	Rs.05 Lakhs
04	15.12.2019	Rs.10 Lakh
05	15.01.2020	Balance Amount

24. We perused the material available on record and heard the counsels for both the parties and we are of the view that the present Respondent made efforts to settle the present matter. However, it has not paid entire due amount and no settlement was materialised. Hence, there is undisputed and outstanding debt of **Rs.45** Lakhs and above (and the acknowledgement of loan liability as per the letter dated 02.11.2017 of the Corporate Debtor as around Rs.42,61,161/-) during the pendency of the present petition. Hence, the CIRP can be triggered.

25. It is undisputed position that the Respondent did not pay due amount nor performed his settlement. Further the Corporate Debtor did not make allegation of poor quality of short supply of goods.



26. By considering the above given facts of the present case, the debt is well established and the default has been occurred. It is also found that the present I.B. Petition is filed under Section 9 of the code by an authorised signatory which is found to be in order and filed within limitation. Therefore, the petition is found complete for the purpose of initiation of Corporate Insolvency Resolution Process ("CIRP") in respect of the Corporate Company.

27. Therefore, the present IB petition deserves for admission. Hence, it is hereby admitted with following observations/ Directions.

28. In the present matter, the Petitioner/Corporate-Debtor has not suggested name of any Insolvency Professional. Hence, the same to be appointed by this Adjudicating Authority.

29. Hence, this Adjudicating Authority hereby appoints **Mr. Neelesh Gupta**, having Insolvency Professional Registration No. **IBBI/IPA-002/IP-N00176/2017-18/10448**, Email ID **neeleshcs2004@yahoo.co.in**, as an **Interim-Resolution-Professional**. The Interim-Resolution-Professional is further directed to make public announcement of moratorium in respect of Corporate-Debtor-Company soon after receipt of an authenticated copy of this order and to



act further as per the order/direction issued by this Adjudicating-Authority and to follow the provisions Section 13 and 14 and relevant provisions of the Insolvency and Bankruptcy Code.

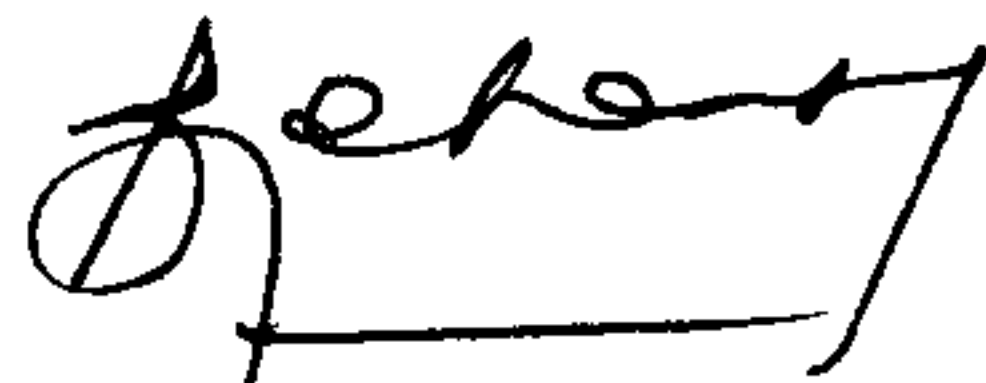
30. As per the provisions of Section 13 and 14 of the I.B. Code on the date of commencement of insolvency, this adjudicating authority declares moratorium for prohibiting all of the following, namely: -

- I.(a) The institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, 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.*
- II. The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during the moratorium period.*
- III. The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.*

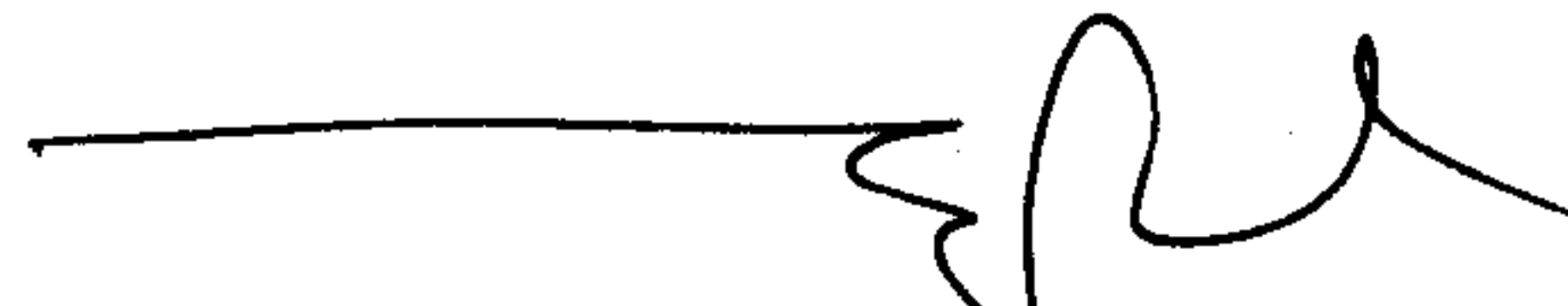
*IV. The order of moratorium shall have effect from the date of such order till the compilation of the corporate insolvency resolution process.*

31. An authentic copy of this order to be communicated by the Petitioner as well as by this Registry to the Corporate-Debtor-Company, as well as to the Interim-Resolution-Professional and the Registrar of Companies at the earliest.

32. The present IB-Petition stands admitted.



**(Prasanta Kumar Mohanty)**  
**Adjudicating Authority &**  
**Member (Technical)**



**(Harihar Prakash Chaturvedi)**  
**Adjudicating Authority &**  
**Member (Judicial)**

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