

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH**

CP (IB) NO. 3912 OF 2019

**APPLICATION BY OPERATIONAL CREDITOR TO INITIATE
CORPORATE INSOLVENCY RESOLUTION PROCESS UNDER
THE INSOLVENCY AND BANKRUPTCY CODE, 2016.**

*(Under Section 9 of the Insolvency and Bankruptcy Code, 2016 read
with Rule 6 of the Insolvency and Bankruptcy (Application to
adjudicating Authority) Rules, 2016)*

In the matter of

M/s Jyoti Polycontainers Pvt. Ltd

Address : Plot No. R-554/555, TTC
MIDC, Rabale, Navi Mumbai-
400701.

.....Operational Creditor

Versus

**Sai-Tech Pharmaceuticals Private
Limited.**

Registered Office : 212 The Great
Eastern Chambers, Plot No. 28,
Sector-11, CBD Belapur, Navi
Mumbai Thane MH 400614.

.....Corporate Debtor

Order delivered on: 09.09.2021

Coram:

Hon'ble Shri H.V. Subba Rao, Member (Judicial)

Hon'ble Shri Chandra Bhan Singh, Member (Technical)

Appearance:

For the Applicant: CA Ms. Vishal Jain

Per: Shri H.V. Subba Rao, (Judicial Member)

ORDER

1. This Company Petition is filed by M/s Jyoti Polycontainers Pvt. Ltd, (hereinafter called "Operational Creditor") seeking to set in

motion the Corporate Insolvency Resolution Process (CIRP) against Sai-Tech Pharmaceuticals Private Limited (hereinafter called "Corporate Debtor") by invoking the provisions of Section 9 of Insolvency and Bankruptcy Code (hereinafter called the "Code") read with Rule 6 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

2. **The brief facts of the petition are stated herein below:**

- a. The Operational Creditor sold, delivered and issued sale Invoices totalling to Rs. 6,71,644/- (Rupees Six Lakhs Seventy One thousand Six hundred Forty Four Only), in response to Purchase Orders to the satisfaction of the Corporate Debtor from 20.09.2018 to 08.05.2019.
- b. The Operational Creditor received total payment of Rs. 50,000/- (Rupees Fifty Thousand Only). Thus leaving an outstanding balance of Rs. 6,21,644/- (Six Lakhs Twenty One thousand Six Hundred and Forty Four).
- c. The corporate Debtor had made the last payment on 30.04.2019 for a sum of Rs. 50,000/- (Rupees Fifty thousand only).
- d. Thereafter the Operational Creditor followed up for the outstanding payments with the Corporate Debtor number of times via telephonic calls and personal visits but there were no payments made.
- e. Thereafter the Directors of Operational Creditor in their Board of Director Meeting held on 01.08.2019 discussed in the detail the long pending outstanding dues recoverable from Corporate Debtor and decided to initiate the process under the Insolvency and Bankruptcy Code, 2016 and

authorised Mr. Hiren Bhawanji Shah (Director) on behalf of the Operational Creditor.

- f. The Operational Creditor served a Demand notice dated 07.08.2019 to the Corporate Debtor on their Registered address as well as alternative address vide Speed Post dated 07.08.2019 demanding the outstanding payment of Rs. 6,21,644/- (Rupees Six Lakhs Twenty One thousand Six hundred Forty Four Only) along with Interest amounting to Rs. 90,596/- (Rupees Ninety thousand five hundred Ninety Six Only) and GST thereon at Rs./16,307/- (Rupees Sixteen thousand Three hundred Seven Only) totalling to Rs. 7,28,547/- (Rupees Seven Lakh Twenty Eight thousand Five hundred Forty Seven Only).
- g. There is no reply received from the Corporate Debtor towards the Demand Notice dated 07.08.2019 which was received by them on 08.08.2019 at their registered address.
- h. There was no credit from the Corporate Debtor from the date of receipt of the Notice till the expiry of 10 days from such date, and even thereafter till date.
- i. The Operational Creditor has appointed CA Mr. Vishal Jain, as the Professional Representative, to represent them before the Hon'ble National Company Law Tribunal, Mumbai.
- j. In the Facts and circumstances noted above, the Corporate Debtor is not able to honour its payments and is liable to be admitted as Insolvent under the Corporate Insolvency Resolution Process.
- k. The Operational Creditor craves leave to submit documents evidencing the acts of default with the Corporate Debtor.

Hence, the present petition under Section 9 of the Insolvency and Bankruptcy Code, 2016.

3. Since the Corporate Debtor has failed to appear before this bench despite service of notice, the Corporate Debtor was set ex-parte by this bench vide order dated 15.04.2021.
4. Heard the counsel appearing for the Operational Creditor and perused the record. The counsel appearing for the Operational Creditor invited the attention of this bench to the relevant invoices, Demand Notice and track report of service of Demand Notice on the corporate debtor along with other relevant documents which are annexed to the company petition and successfully demonstrated the existence of debt and default. Since the corporate debtor remained ex-parte, the claim of the Operational Creditor remained un challenged. To add this the subject matter of the invoices relates to 2018 and the company petition being filed on 06.11.2019 is well within limitation. The petitioner has also suggested the name of proposed Interim Resolution Professional in part-3 of the Petition along with his consent letter in Form-2.
5. After hearing the counsel appearing for the Operational Creditor and upon perusing the material available on record this bench is satisfied that the above company petition fulfills all the necessary requirements for admission Under Section 9 of the Code and is liable to be admitted.
6. Accordingly, the above company petition admitted by passing the following:

ORDER

- (a) The above Company Petition No. (IB) -3912(MB)/2019 is hereby allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against Sai-Tech Pharmaceuticals Private Limited.
- (b) This Bench hereby appoints **Mr. Anurag Jain**, Insolvency Professional, Registration No: IBBI/IPA-001/IP-P01049/2017-2018/11732 (jainkpooja@gmail.com) having office at 1401 Oriental Height, Sector-44, Plot-158 Seawoods West, Navi Mumbai-400706 as the interim resolution professional to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.
- (c) The Operational Creditor shall deposit an amount of Rs. 1 Lakh towards the initial CIRP cost by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order.
- (d) That this Bench hereby prohibits 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; transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein; 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 Securitization and Reconstruction of Financial

Assets and Enforcement of Security Interest Act, 2002; the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.

- (e) That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
- (f) That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- (g) That the order of moratorium shall have effect from the date of pronouncement of this order till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, as the case may be.
- (h) That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
- (i) During the CIRP period, the management of the corporate debtor will vest in the IRP/RP. The suspended directors and employees of the corporate debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP/RP.
- (j) Registry shall send a copy of this order to the Registrar of Companies, Mumbai, for updating the Master Data of the Corporate Debtor.

Accordingly, this Petition is allowed.

The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

Sd/-

CHANDRA BHAN SINGH
MEMBER (TECHNICAL)

Sd/-

H.V. SUBBA RAO
MEMBER (JUDICIAL)