



SL. No.123

**NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH  
COURT HALL NO: II**

**Special Bench (Video Conference)**

**CORAM: Justice Telaprolu Rajani, Hon'ble Member (Judicial))  
CORAM: Shri Veera Brahma Rao Arekapudi, Hon'ble Member (Technical)**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,  
HYDERABAD BENCH, HELD ON 09.09.2022 AT 12:30 PM THROUGH VIDEO CONFERENCE**

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CP (IB) No.516/9/HDB/2019
NAME OF THE COMPANY	Nexus Well-Hope Agri Tech International Ltd
NAME OF THE PETITIONER (S)	Gauri Agrotech Products Pvt Ltd
NAME OF THE RESPONDENT(S)	Nexus Well-Hope Agri Tech International Ltd
UNDER SECTION	9 of IBC

**ORDER**

Order pronounced vide separate sheets. Hence, CP(IB)/516/9/HDB/2019 is hereby allowed.

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**MEMBER (T)**

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**MEMBER (J)**



**IN THE NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH, HYDERABAD**

C.P. (IB) No.516/9/HDB/2019  
Under Section 9 of the IB Code, 2016  
r/w Rule 6 of the Insolvency and Bankruptcy  
(Application to Adjudicating Authority) Rules, 2016.

In the matter of  
**M/S NEXUS WELL-HOPE AGRI TECH INTERNATIONAL LIMITED**

**Between:**

M/S Gauri Agrotech Products Private Limited,  
Regd. Office at Gut No.79 & 91, Gundewadi,  
Bhokardan Road, Jalna,  
Maharashtra – 431 203.

...Petitioner/Operational Creditor

**A N D**

M/S Nexus Well-Hope Agri Tech International Limited,  
Regd. Office at Door No. 8-1-301/86 & 87, Plot No.101,  
Shaikpet Nala, Sai Priya Residency,  
Lakshmi Nagar Colony,  
Hyderabad, Telangana – 500 008.

...Respondent/Corporate Debtor

**Date of Order: 09.09.2022**

**Coram:**

Justice Telaprolu Rajani, Member, Judicial  
Sri Veera Brahma Rao Arekapudi, Member, Technical

**Counsel present:**

For the Operational Creditor: Mr. Manav Gecil Thomas

For the Respondent: None appeared

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**Per : Bench**

**ORDER**

1. Under consideration is an Application filed by M/S Gauri Agrotech Products Private Limited (hereinafter referred to as the "Applicant/Operational Creditor") under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "the Code, 2016"), read with Rule 6 of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016, seeking initiation of Corporate Insolvency Resolution Process (hereinafter referred to as "CIRP") against M/S Nexus Well-Hope Agri Tech International Limited (hereinafter referred to as the "Respondent/Corporate Debtor").
2. Brief facts of the matter, as submitted by the Applicant are as follows:
  - a) The Applicant and the Corporate Debtor have been involved in a trade relationship, in furtherance of which, the former had agreed to supply certain goods, pursuant to the request of the latter, as and when orders for the same would be placed by the Corporate Debtor.
  - b) The supply of soybean meal was to be made at two units of the Corporate Debtor, one situated in Bangalore and the other in Coimbatore. Goods had been supplied by the Applicant, pursuant to the purchase orders that were placed by the Corporate Debtor and corresponding invoices had been raised by the Applicant, for each delivery, on the date of delivery.
  - c) The agreed terms of transactions specified that the payment for each invoice raised was to be made from the date of the invoice.

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- d) The Applicant sought for the payment of the outstanding amount from the Corporate Debtor on various occasions through e-mails, telephonic conversations and personal meetings. However, the Corporate Debtor had been unduly prolonging the credit period for a time far exceeding the period agreed upon in the terms of the transactions.
- e) The Corporate Debtor had failed to make the payment towards all the invoices raised and defaulted on the payment of an amount of Rs. 97,65,235/- (Rupees Ninety Seven Lakhs Sixty Five Thousand Two Hundred and Thirty Five Only), out of which Rs. 60,55,725/- is towards 14 invoices raised on supply to the unit in Bangalore and Rs. 37,09,510/- is towards 20 invoices raised on supply to the unit in Coimbatore.
- f) The Applicant issued a demand notice, dated 27.04.2019, under Section 8 of the Code, 2016, to the Corporate Debtor), claiming the aforementioned amount and informing it that any further delay in payment would result in the institution of the application for the initiation of the Corporate Insolvency Resolution Process against the Corporate Debtor.
- g) The Corporate Debtor replied to the said demand notice, raising baseless charges about the quality and quantity of the goods that had been supplied by the Applicant. Such complaint has never been raised previously and hold no water under the Code, 2016.
- h) Therefore, there exists a debt in as much as that the Corporate Debtor has failed to pay the due of Rs.97,65,235/- (Rupees Ninety Seven Lakhs Sixty Five Thousand Two hundred and Thirty Five Only) to the Operational Creditor, in respect of the goods supplied. The debt, thus, stands alive and undischarged.

Hence, the instant Application under Section 9 of the Code, 2016, seeking initiation of CIRP against the Corporate Debtor.

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3. The Corporate Debtor has been set *ex-parte*, vide order dated 30.09.2019. It is pertinent to mention here the circumstances that led to the Corporate Debtor being set *ex-parte*. Under orders of this Tribunal, dated 08.08.2019, 30.08.2019 and 17.09.2019, notices were issued thrice, to the Corporate Debtor by the Financial Creditor, calling upon the Corporate Debtor to appear before the Tribunal. Upon the failure of the Corporate Debtor in appearing before this Tribunal, it was directed, vide order dated 17.09.2019, that substituted service, by way of paper publication, be taken up. The publication was made in an English daily, namely, "Telangana Today", dated 27.09.2019, in spite of which, the Corporate Debtor did not appear before this Tribunal. The Applicant has also filed a copy of the correspondence carried out through e-mail, dated 26.09.2019. Hence, the order setting the Corporate Debtor *ex-parte*.
4. We have heard the learned counsel for the Applicant and perused the documents on record.
5. The Applicant has placed on record the invoices which are due to be cleared by the Corporate Debtor. Further, the Applicant had issued a demand notice, as mandated by Section 8 of the Code, 2016. Such notice had been received and replied to, by the Corporate Debtor. A certificate issued by the HDFC Bank, Jalna Branch, certifying that the account of the Applicant held in the said bank has not received the sum of Rs. 97,65,235 or any part thereof, from the Corporate Debtor, between 08.06.2017 to 10.05.2019, is also attached. Further, the Applicant has complied with all the requirements as stipulated under the provisions of the Code, 2016, for the purpose of initiating the CIRP against the Corporate Debtor. In these circumstances, we are satisfied that

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the Applicant has proved its case by placing evidence with regard to the debt owed by the Corporate Debtor and its default.

6. Before proceeding further, it may be of some significance to note here that the total amount of debt that is due in the instant Application is below the current threshold amount of Rupees One Crore, which is mandatory for the initiation of the CIRP. We deem it prudent to clarify the issue. The instant Application was filed in the year 2019, when the threshold amount for the initiation of CIRP was only Rupees One Lakh. It has been judicially settled that the increase in the threshold amount will have a prospective effect and not a retrospective one.
7. The National Company Law Tribunal, New Delhi Bench in its judgment in *BLS Polymers Ltd. v. RMS Power Solutions (P) Ltd.* [2021 SCC OnLine NCLT 66] held that the notification, dated 24.3.2020, numbered as CG-DL-E-24032020-218898, which enhanced the threshold limit from Rupees One Lakh to Rupees One Crore to initiate insolvency proceedings under the Code, 2016 is only applicable in respect of defaults that occurred on or after the date of notification, i.e., 24.3.2020 and not prior to that. In the case at hand, as per the invoices, the amounts were due and payable prior to the issuance of the said notification, dated 24.03.2020. Hence, the notification increasing the threshold amount has no application here.
8. Accordingly, the instant petition is, hereby, admitted and this Adjudicating Authority orders the commencement of the Corporate Insolvency Resolution Process which shall ordinarily get completed within the timelines stipulated in the Code, 2016, reckoning from the date of this order.

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9. No name has been proposed with regard to the Interim Resolution Professional (hereinafter referred to as the "IRP"), who has to be appointed and it has been left to the discretion of this Tribunal. Hence, we appoint Mr. Maheswara Rao Gokada, bearing Registration No.: IBBI/IPA-003/IP-N00381/2021-2022/13921, E-Mail ID: mrgokada@gmail.com, from the list of the panel of the Insolvency and Bankruptcy Board of India (for 01 July, 2022 to 31 December, 2022), as the IRP for the Corporate Debtor. The IRP is directed to file his consent and the Authorisation for Assignment within three days from the date of receipt of this order.
10. The IRP is directed to take charge of the Corporate Debtor's management immediately. He is also directed to cause public announcement as prescribed under Section 15 of the 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. Moratorium is, hereby, 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 Code, 2016. It is, hereby, ordered to prohibit all of the following, namely:
- 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;*

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- 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.*
- e) *Notwithstanding anything contained in any other law for the time being in force, a license, permit, registration, quota, concession, clearances or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license, permit, registration, quota, concessions, clearances or a similar grant or right during the moratorium period.*
12. However, the supply of essential goods or services of the Corporate Debtor shall not be terminated or suspended or interrupted during moratorium period. Further, the provisions of Sub-section (1) of Section 14 of the Code, 2016, shall not apply to such transactions, arguments or arrangements as notified by the Central Government in consultation with a financial sector regulator or any other authority.

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13. The Applicant is directed to pay, within 10 days from the date of this order, a sum of Rs.1,50,000/- towards the advance fee of the IRP and expenses towards the CIRP, which shall be ratified later on by the Committee of Creditors.
14. The IRP shall comply with the provisions of Sections 13 (2), 15, 17 and 18 of the Code, 2016. The directors of the Corporate Debtor, its promoters or any person associated with the management of the Corporate Debtor is expected to extend all assistance and cooperation to the IRP as stipulated under Section 19 and for discharging his function under Section 20 of the Code, 2016.
15. The Operational Creditor and the Registry are 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 the Code, 2016.
16. The Registry is directed to communicate this Order to the Operational Creditor, the Corporate Debtor and the IRP.
17. The Registry shall also communicate this order to the Registrar of Companies, Hyderabad, for updating the status of Corporate Debtor in website of the MCA.
18. Accordingly, this Application is admitted.

  
**Veera Brahma Rao Arekapudi**  
Member, Technical

  
**Justice Telaprolu Rajani**  
Member, Judicial