



**IN NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH, COURT- V**

**C.P. 3771/IB/MB/2019**

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

*In the matter of*

**Mr. Harshad V. Vora**

40, Carnac Siding Road, Iron Market,  
Steelyard Building Gate, Mumbai –  
400009

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

**Vs**

**Tetrahedron Laboratories Private  
Limited**

201-A, Harmony, Netaji Subhash  
Chandra Bose, Road, Thane West,  
Thane, Maharashtra – 400601

**..... Corporate Debtor**

**Order Reserved On: 16.12.2022**

**Order Pronounced On: 15.02.2023**

**Coram:**

Hon'ble Shri. Kuldip Kumar Kareer, Member (Judicial)

Hon'ble Smt. Anuradha Sanjay Bhatia, Member (Technical)

*Appearances (via Videoconferencing)*

**For the Applicant:** Mr. Rajeshwar K Gupta

**For the Respondent:** None Present



*Per: Shri. Kuldip Kumar Kareer, Member (Judicial)*

**ORDER**

1. The above Company Petition is filed by Mr. Harshad V. Vora hereinafter called as the ("**Operational Creditor**") seeking to initiate Corporate Insolvency Resolution Process (**CIRP**) against Tetrahedron Laboratories Private Limited hereinafter referred to as the ("**Corporate Debtor**") by invoking the provisions of Section 9 Insolvency and Bankruptcy code (hereinafter called "**Code**") read with Rule 6 of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for a Resolution of Operational Debt of Rs. 15,29,217/.
2. Succinctly put, the case of the Petitioner/Operational Creditor is that the Petitioner/Operational Creditor supplied goods to the Respondent/Corporate Debtor which were duly received and acknowledged. As on 31.05.2013, there was balance of Rs. 15,29,217/- against the Corporate Debtor. The Petitioner got issued a demand notice in prescribed Form-3 of IBC on 3<sup>rd</sup> June, 2019, following which a payment of Rs. 2 lacs was made by the Corporate Debtor on 20<sup>th</sup> June, 2019 leaving a balance of 13,29,217/- as principle amount excluding interest. It is further been claimed as per the terms incorporated in the invoices, the Petitioner is entitled to charge interest @ 30% per annum in case the payment is not made within a week after the grace period of 30 days. Despite the service of notice in Form-3, which was sent to the Corporate Debtor by email on 04.06.2019, the Corporate Debtor has failed to pay the dues. No reply was sent on behalf of the Corporate Debtor in response to the said notice. Hence the Petition under Section 9 of IBC of the Code whereby a prayer has been made to initiate CIRP against the Corporate Debtor.
3. Upon notice, a representative of the Corporate Debtor appeared on 03.02.2020 seeking time for settlement as well as filing the reply, but no reply was filed despite the fact that another notice was ordered to be issued to the Corporate Debtor vide order dated 03.08.2022. The notice was duly served upon the Corporate Debtor on 29.08.2022 but again none appeared on behalf of the



Corporate Debtor with the result that ex-parte proceedings were initiated as on 16.12.2022.

4. We have heard the Counsel for the Petitioner and have gone through the record.
5. The Petitioner/Operational Creditor claims to have supplied goods to the Respondent/Corporate Debtor vide invoices (Annexure P-3) dated 28.12.2018, 05.01.2019 and 18.01.2019 for a sum of Rs. 4,13,130/-, Rs.5,74,987/- & Rs. 5,41,100/- respectively aggregating to Rs. 15,29,217/-. The Petitioner got served a demand notice dated 03.06.2019. Copy of the demand notice in Form-3 has been attached with the Petition.
6. Despite the service of notice, the Respondent/Corporate Debtor has neither paid the entire outstanding amount nor has cared to put in appearance to oppose the Petition under Section 9 of the Code. A perusal of the interim order passed by this Bench reveals that initially a representative of the Corporate Debtor appeared and sought time to settle the matter with the Operational Creditor but subsequently, the Corporate Debtor absented from the proceedings and despite a second notice having been served, did not appear with the result that ex-parte proceedings were initiated. In this manner, the Corporate Debtor has not set up any defence in this case.
7. Considering the fact, a sum of Rs. 13,29,217/- was the outstanding against the Corporate Debtor on account of principle amount against supply of goods. As per the terms and condition mentioned on the invoices issued by the Operational Creditor, the Corporate Debtor was also liable to pay interest @ 24% per annum in case of non-payment. Therefore, in our considered view, it stands established that there has been a debt and the Corporate Debtor has committed default in payment of the same and the present Petition has also been filed within the period of limitation. Therefore, a good case of admission of the Petition under Section 9 is made out. Accordingly, the Petition is admitted in the following terms.



**ORDER**

- A. The above Company Petition No. (IB) 3771 of 2019 is hereby allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against **Tetrahedron Laboratories Private Limited**.
- B. Since the Operational Creditor has suggested the name of IRP to perform the duties of the Interim Resolution Professional (IRP) in the petition, this Bench hereby appoints **Mr. Uday Shreeram Sakrikar**, Insolvency Professional, Registration No: IBBI/IPA-001/IP-P01230/2018-2019/11927, having Email id [ipudaysakrikar@gmail.com](mailto:ipudaysakrikar@gmail.com) 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. (2) Lakhs towards the initial CIRP costs by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order. The IRP shall spend the above amount only towards expenses and not towards his fee till his fee is decided by COC.
- 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.
- K. Accordingly, the **C.P.(IB) 3771 of 2019** is admitted.



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

**Sd/-**  
**ANURADHA SANJAY BHATIA**  
**MEMBER (TECHNICAL)**

**Sd/-**  
**KULDIP KUMAR KAREER**  
**MEMBER (JUDICIAL)**