

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT - II**

TCP No. 886/IBC/MB/2017

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

Dr. Jariwala Laboratory Diagnostics LLP

Having registered office at: 1st Floor, Nav
Manmandir CHS. Opp Maratha Sahakari
Bank, Near Eksar Talao, Eksar Road,
Borivali (W), Mumbai – 400092.

.....Operational Creditor

Vs

Plus Lab Sync Pvt. Ltd
(U85100MH2014PTC259070)

Having registered office at :- 613/A Wing,
Corporate Avenue Coop Premises,
Sonawala Road, Goregaon (East), Mumbai
400063.

.....Corporate Debtor

Order delivered on:- 10.11.2021

Coram:

Hon'ble Member (Judicial) : Mr. Ashok Kumar Borah
Hon'ble Member (Technical) : Mr. Shyam Babu Gautam

Appearances:

For the Operational Creditor : Mr. Dipesh Siroya

For the Corporate Debtor : None Present

ORDER

Per :- Shyam Babu Gautam, Member Technical

1. This Transfer Company Petition (TCP) from the High Court of Bombay, is filed by *Dr. Jariwala Laboratory & Diagnostics LLP* (hereinafter called “Operational Creditor”) seeking to initiate Corporate Insolvency Resolution Process (CIRP) against *Plus Lab Sync Pvt. Ltd.* (hereinafter called “Corporate Debtor”) alleging that the Corporate debtor committed default in making payment to the Operational Creditor.
2. The present petition is a transferred Company Petition from the High Court of Bombay, before this Adjudicating Authority on the ground that the Corporate Debtor failed to make payment of Principal sum of Rs. 6,54,315/- (Rupees Six Lakhs Fifty Four Thousand Three Hundred and Fifteen Only) together with further interest @ 24% per annum aggregating to Rs. 52,345/- (Rupees Fifty Two Thousand Three Hundred and Forty Five only). The Total Outstanding Balance payable at the time of filing the present petition i.e. on 02.09.2016 was Rs. 7,06,660/- (Rupees Seven Lakh Six Thousand Six Hundred and Sixty Only), further an interest of Rs. 7,06,660/- @ 24% from the date of filing of the present petition till payment and or realization. Therefore, total amount due and payable as per Particulars of Claim is Rs. 14,13,320/- (Rupees Fourteen Lakhs Thirteen Thousand Three Hundred and Twenty).
3. **The Submissions of the Operational Creditor are as follows:**

- a. The Operational Creditor is a Limited Liability Partnership registered under the Limited Liability Partnership Act, 2008 is a medical testing laboratory carrying out lab investigations through various branches spread across Mumbai.
- b. The Corporate Debtor Company is a Private Limited Company and is engaged in the business of human health activities.
- c. The Operational Creditor has filed the present petition for a debt of Rs. 6,54,315/- along with a further interest @ 24% p.a. the said outstanding amount is with regard to the undisputed outstanding invoices and other bills. The Operational Creditor sent a statutory notice dated 04.03.2016 under section 433 and 434 of the Companies Act, 1956. The Operational Creditor also sent an email dated 05.03.2016 thereby attaching the notice.
- d. The Operational Creditor submits that in or around August, 2015 the Corporate Debtor Company approached the Operational Creditor with various blood samples collected by the Corporate Debtor and requested the Operational Creditor to provide its services of carrying out specialized blood testing for the blood samples as provided by the Corporate Debtor Company. The Operational Creditor indicated the consideration amount towards each test report to be paid by the Corporate Debtor vide email dated 27.09.2015. the Corporate Debtor Company agreed and assured to pay the said amount.
- e. Thereafter based upon assurances the Operational Creditor agreed to provide its services to the Corporate Debtor. Further on regular basis the Corporate Debtor Company commenced

outsourcing various blood samples to the Operational Creditor Company for it to carry out specialized blood testing.

- f. The Corporate Debtor Company for the month of September and October, 2015 requested the Operational Creditor that the Corporate Debtor would pay entire billed amount for September, 2015 within 7 days from the generation of invoice. Accordingly, the Operational Debtor provided its services to the Corporate Debtor. In relation to the same, the Operational Creditor raised invoices for each blood report for the month of September 2015. The said invoices were issued to the Corporate Debtor Company and were received by them. The Operational Creditor again provided services in the month of October, 2015 for which the Operational Creditor raised the invoices.
- g. The Operational Creditor time and again called upon the Respondent to settle the outstanding invoices, but the Corporate Debtor failed and neglected to pay.
- h. In view of the continuous failure on the part of the Corporate Debtor Company to pay the outstanding amount, the Operational Creditor sent a statutory notice dated 04.03.2016, calling upon the Corporate Debtor Company to pay the amount of Rs. 6,54,315/- together with interest @ 24%. However, the Corporate Debtor despite of the said notice neither replied to the said notice nor paid the said money to the Operational Creditor.

4. No Submissions from the Corporate Debtor :-

- a. The Corporate Debtor has not appeared before this Bench despite a number of opportunities being given. No reply has been received

on record till date neither to the Petition or to the Notice sent by the Operational Creditor. Notices for intimation of dates of hearing have also been sent and affidavit of service has been produced on record by the Operational Creditor dated 09.08.2021. The Corporate Debtor has nowhere denied his liability to pay the amount claimed. The Corporate Debtor has nothing to say in its defense.

FINDINGS

5. We have heard the submissions of the Counsel appearing for the Operational Creditor. It is seen from the records that this Tribunal had given sufficient chances to the Corporate Debtor to file its Reply but, the Corporate Debtor Company did not file the same. This Bench also directed the Operational Creditor to serve the Notice to the Corporate Debtor Company by way of substituted service by publication in the Newspaper. To which the Operational Creditor also filed affidavit of service enclosing the Newspaper clipping intimating the next date of hearing. But the Corporate Debtor Company choose to remain absent. Further on the final hearing held on 08.09.2021 this Bench considered the submissions of the Operational Creditor and the proceedings were set as ex-parte.
6. We have observed that the Operational Creditor has produced on record the copies of the consolidated Invoices for the month of September and October raised by the Operational Creditor towards payment due for the tests done. the Operational Creditor has also produced on record copies of emails dated 05.12.2015 and 07.12.2015 requesting the Corporate Debtor Company to clear the outstanding bills.

12. The Operational Creditor has successfully demonstrated and proved the debt and default. Hence this Bench is left with no option except to admit the above Company Petition, since the above Company Petition in hand satisfies all necessary legal ingredients for admission under Section 9 of the Code.
13. For the foregoing reasons, the above Company Petition is liable to be admitted, and accordingly the same is admitted by passing the following:

ORDER

- a. **The above Transfer Company Petition No. (IB) - 886(MB)/2017 is hereby allowed** and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against Plus Lab Sync Pvt. Ltd.
- b. This Bench hereby appoints as the Interim Resolution Professional having registered office at Mr. Alok Kumar Murarka having registration No. IBBI/IPA – 001/IP-P01934/2019-2020/13006, email – murarkalok@gmail.com, to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.
- c. The Operational Creditor shall deposit an amount of Rs.2 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 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 concerned Registrar of Companies for updating the Master Data of the Corporate Debtor.

Accordingly, this Petition is admitted.

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

Sd/-

**SHYAM BABU GAUTAM
(MEMBER TECHNICAL)**

Sd/-

**ASHOK KUMAR BORAH
(MEMBER JUDICIAL)**