



**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH-IV**

**CP (IB) No. 1282/MB-IV/2021**

Under **Section 9** of the I&B Code, 2016

In the matter of:

**Mahamaya Lifesciences Private Limited**

[CIN: U24233DL2002PTC115261]

...Operational Creditor/Applicant

V/s

**Divya Agro Chem Private Limited**

[CIN: U24219MH2009PTC192776]

...Corporate Debtor/Respondent

Order Dated: 24.02.2023

*Coram:*

Mr. Prabhat Kumar

Hon'ble Member (Technical)

Mr. Kishore Vemulapalli

Hon'ble Member (Judicial)

*Appearances (via videoconferencing):*

For the Petitioner(s) : Mr. Kunal Kanungo, Advocate.

For the Respondent(s) : Mr. Tajas, Advocate.

***Per: Kishore Vemulapalli, Member Judicial***

1. This is an Application being C.P. (IB) No. 1282/MB/C-IV/2021 filed on 22.12.2021 by Mr. Raman Narayanan, Vice President-Commercial of Mahamaya Lifesciences Private Limited, the Operational Creditor/Applicant, under section 9 of Insolvency &



Bankruptcy Code, 2016 (I&B Code) against Divya Agro Chem Private Limited, Corporate Debtor, for initiating Corporate Insolvency Resolution Process (CIRP).

2. The Operational Creditor has filed Board Resolution dated 01.12.2021 in support of authorization in favour of signatory of this Application authorising him to file the present company application on behalf of the Operational Creditor.
3. The Corporate Debtor and the Operational Creditor are in the business of Agro-Chemical products. The total amount claimed is Rs.2,52,98,098/-, along with interest @18% p.a., in relation to supplies of the material made from 25.09.2017 to 09.02.2018. The amount due under each invoice fell due after 3 months from the invoice date. Accordingly, these 4 invoices are in default from 24.12.2017 to 10.04.2018. The Operational Creditor further sent the ledger reconciliation to the Corporate Debtor vide email on 28.08.2018. The Corporate Debtor issued an email dated 06.09.2018 to the Operational Creditor informing it about issuance of Post Dated Cheques (PDCs). Thereafter 8 PDCs' were issued between the period of September, 2018 to October, 2018 in favour of the Operational Creditor and these cheques were dishonoured by the bank on its presentation "due to insufficient funds" in the account of the Corporate Debtor. Pursuant to the said dishonour of cheques, the Operational Creditor issued Legal notices under Section 138 of Negotiable Instruments Act,1881 to the Corporate Debtor on 16.10.2018 and 16.11.2018 for repayment of outstanding dues alongwith interest @18% p.a. to the Corporate Debtor.
4. Subsequently, part payments were made by the Corporate Debtor during the period of March, 2018 and December, 2018 to the tune of



Rs.15,24,330/- which is reflected in the Bank Statements. Additionally, the Operational Creditor also purchased certain products from the Corporate Debtor to reduce the total outstanding of the Corporate Debtor during the period of February, 2018 to June, 2018.

5. The Operational Creditor has submitted the copies of all the communications exchanged between both the parties from the period of February, 2018 to June, 2020. The Corporate Debtor vide email dated 05.10.2018 has admitted its liability with respect to the outstanding dues and promised to repay the same by 31.12.2018 but evidently, failed to do so. The last payment of Rs.2,00,000/- was made by the Corporate Debtor on 31.12.2018.
6. The Applicant issued a Demand Notice u/s 8 of the Insolvency And Bankruptcy Code, 2016 dated 08.12.2021 upon the Corporate Debtor via post successfully delivered to the Corporate Debtor on 10.12.2021. The Corporate Debtor neither paid the outstanding amount nor replied to the said demand notice.
7. The Corporate Debtor was set *ex-parte* on 24.08.2022.
8. We have carefully gone through the documents and pleadings available on record and considered the arguments of both the sides.
9. All the 4 invoices pertain to supply of identical material, hence, the value of all the invoices is aggregated in the petition, which comes to more than Rs. 1 crore i.e. the threshold limit prescribed u/s 4 of the Insolvency and Bankruptcy Code,2016. There is no dispute about outstanding as evident from the Affidavit enclosed with the Petition. The Corporate Debtor has neither responded to the Demand Notice nor to the present petition raising any dispute.



10. No specific date of default is stated in Part IV of the Application and the Operational Creditor states that the default is continuous in nature. However, the date of default on the part of the Corporate Debtor in relation to the last invoice is 10.04.2018. The present Application has been filed on 22.12.2021. The ld. Counsel for the Operational Creditor has relied upon decision of Hon'ble Supreme Court in the case of *Suo Motu Writ Petition (C) No. 3 Of 2020*, whereby it was ordered that "in cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply." In view of this, we find that this petition is well within limitation for initiation of CIRP against the Corporate Debtor under Section 9 of I&B Code, 2016.
11. On perusal of the documents submitted by the Applicant, it is clear that an operational debt amounting to more than Rs.1,00,00,000/- (Rupees One Crore Only) is due and payable by the Corporate Debtor to the Applicant and there is default by the Corporate Debtor in payment of debt amount. The application is complete and has been filed under the proper form. Hence, the Application filed by the Operational Creditor is liable to be admitted.
12. The Applicant has proposed the name of Mr. Kamal Rajkumar Sharma, Registered Insolvency Resolution Professional having Registration No. IBBI/IPA-001/IP-P-01850-2019-2020-12870 to carry out the functions as mentioned under Insolvency and Bankruptcy Code, 2016.



**ORDER**

This Application being C.P. (IB) No. 1282/NCLT/MB/C-IV/2021 filed under Section 9 of I&B Code, 2016, filed by Mahamaya Lifesciences Private Limited, Operational Creditor/ Applicant against Divya Agro Chem Private Limited, Corporate Debtor for initiating Corporate Insolvency Resolution Process is **admitted**. We further declare moratorium u/s 14 of I&B Code with consequential directions as mentioned below:

I. That this Bench as a result of this prohibits:

- a) 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;
- 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 Securitization and Reconstruction of Operational Assets and Enforcement of Security Interest Act, 2002;
- d) the recovery of any property by an owner or lessor where such property is occupied by or in possession of the corporate debtor.



- II. That the supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period.
- III. That the provisions of sub-section (1) of Section 14 of I&B Code shall not apply to
- a. such transactions as may be notified by the Central Government in consultation with any Operational sector regulator;
  - b. a surety in a contract of guarantee to a Corporate Debtor.
- IV. That the order of moratorium shall have effect from the date 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 of I&B Code or passes an order for the liquidation of the corporate debtor under section 33 of I&B Code, as the case may be.
- V. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of I&B Code.
- VI. That this Bench hereby appoints Mr. Kamal Rajkumar Sharma, a registered insolvency resolution professional having Registration Number [IBBI/IPA-001/IP-P-01850-2019-2020-12870], as Interim Resolution Professional to carry out the functions as mentioned under I&B Code, the fee payable to IRP/RP shall comply with the IBBI Regulations/Circulars/Directions issued in this regard.
- e) The Operational Creditor shall deposit a sum of Rs. 5,00,000/- (Rupees five lakh only) with the IRP to meet the expenses arising out of issuing



Public Notice and inviting claims. These expenses are subject to approval by the Committee of Creditors (CoC).

- f) A copy of this Order be sent to the Registrar of Companies, Maharashtra, Mumbai, for updating the Master Data of the Corporate Debtor.
- g) The Registry is directed to immediately communicate this order to the Operational Creditor, the Corporate Debtor and the Interim Resolution Professional even by way of email or WhatsApp. **Compliance report of the order by Designated Registrar is to be submitted today.**

Sd/-

Prabhat Kumar  
Member (Technical)  
/Akshata/

Sd/-

Kishore Vemulapalli  
Member (Judicial)