

**BEFORE THE ADJUDICATING AUTHORITY  
(NATIONAL COMPANY LAW TRIBUNAL)  
AHMEDABAD BENCH  
AHMEDABAD**

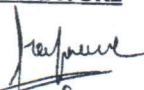
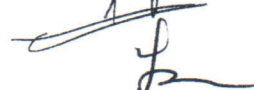
C.P. (I.B) No. 566/NCLT/AHM/2019

Coram: Hon'ble Ms. MANORAMA KUMARI, MEMBER JUDICIAL  
Hon'ble Mr. CHOCKALINGAM THIRUNAVUKKARASU, MEMBER TECHNICAL

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH OF  
THE NATIONAL COMPANY LAW TRIBUNAL ON 17.09.2019**

Name of the Company: Prutha Enterprise  
V/s.  
Origin Formulations Pvt. Ltd.

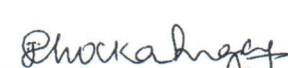
Section of the Companies Act: Section 7 of the Insolvency and Bankruptcy Code

S.NO.	NAME (CAPITAL LETTERS)	DESIGNATION	REPRESENTATION	SIGNATURE
1.	CA (COR.) HITEN PARIKH	PCA	Res.	
	Sanjay <del>Parikh</del>	PCA	Res.	
2.				

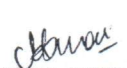
**ORDER**

The Respondent is represented through learned PCA.

The Order is pronounced in the open court, vide separate sheet.

  
**CHOCKALINGAM THIRUNAVUKKARASU**  
MEMBER TECHNICAL

Dated this the 17th day of September, 2019

  
**MANORAMA KUMARI**  
MEMBER JUDICIAL



**BEFORE ADJUDICATING AUTHORITY (NCLT)  
AHMEDABAD BENCH**

**C.P. No.(IB) 566/7/NCLT/AHM/2018**

**In the matter of:**

**Prutha Enterprise**  
210 Signature Complex  
Opp. Suvarna Bungalows  
100<sup>th</sup> Hebatpur Road  
Thaltej  
AHMEDABAD  
Gujarat State

**Petitioner**  
[Financial Creditor]

**Versus**

**Origin Formulations Private Limited**  
4<sup>th</sup> Floor, Narayankrupa Square  
Behind Old Nataraj Cinema  
Beside Sakar V, Off Ashram Road  
Ahmedabad 380 009  
Gujarat State

**Respondent**  
[Corporate Debtor]

**Order delivered on 17<sup>th</sup> September, 2019**

**Coram: Hon'ble Ms. Manorama Kumari, Member (J)  
Hon'ble Mr. Chockalingam Thirunavukkarasu, Member (T)**

**Appearance:**

PCS Mr. Ashish C. Doshi for applicant/Financial creditor  
CA (Dr.) Hiten Parikh for respondent

**ORDER**

**[Per : Ms. Manorama Kumari, Member (Judicial)]**

1. Mrs. Asmita Sandeep Andani, proprietor, on behalf of M/s. Prutha Enterprise, filed this petition under section 7 of The Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "the Code") read with Rule 4 of The Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter referred to as "the Rules") seeking reliefs



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under Section 7(5)(a) and Section 13(1)(a)(b)(c) of the Code.

2. That the applicant M/s. Prutha Enterprise, having registered office at Hebatpur Road, Ahmedabad is a proprietary firm of Mrs. Asmita Sandeep Andani.
3. The respondent M/s. Origin Formulations Private Limited is a company incorporated under the Companies Act, 1956 on 23.12.2010 having identification No. U24230GJ2010PTC063358 and having its registered office at Narayankrupa Square, Off. Ashram Road, Ahmedabad, Gujarat State. That Authorised share capital of the respondent company is Rs. 7,00,00,000 and paid up share capital is Rs. 7,00,00,000
4. That, the applicant/financial creditor has submitted that against the total unsecured loan of Rs. 1,55,00,000/- sanctioned on 06.05.2017, a total sum of Rs. 1,38,90,791/- **(Rupees one crore thirty-eight lacs ninety thousand seven hundred ninety-one only)**, as per the details given in the following table, as on 31.03.2019, is due from the respondent/corporate debtor.

Opening balance as on 01.01.2019	1,31,50,000/-
Interest for the period from 15.12.2018 to 31.03.2019	8,23,101/-
TDS on interest	(82310/-)

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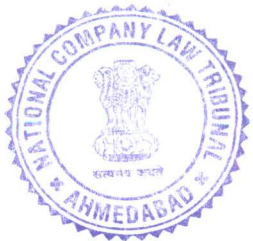


Detailed calculation of amount claimed with interest is placed at **Exhibit B** to the application at **page No. 9**.

5. The applicant has submitted copy of the following documents: -

Sr. No.	Particulars	Page Nos.
01	Form 1	1-5
02	Written communication in form 2	6-8
03	Ledger account till 31.03.2019	9
04	Various correspondence and confirmations	10-16
05	Affidavit in support of application	17-18
06	Memorandum of appearance in form NCLT-12	19
07	Authority letter	20
08	Proof of service of petition	21

6. The respondent company has filed affidavit in reply inter alia stating that the financial creditor had made advances to the corporate debtor since 2017 and the respondent has to pay an amount of Rs. 1,38,90,791/- to the financial creditor. That, due to persistent losses incurred by the respondent company, it is unable to match the liabilities. Thus, inspite of the fact that the promotes want to make payment to the petitioner, it is unable to make the payment due to non-operation of the account maintained by the respondent company. That, as of date the corporate debtor does not have any clarity over the opening of the bank accounts and its banking operations, it is unable to make specific date for repayment of the dues of the applicant.
7. During the course of hearing also, the learned lawyer appearing on behalf of the respondent admitted the debt.



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**Findings**

8. Heard both sides at length, perused the documents annexed with application and also gone through the reply filed by the respondent.
9. On perusal of the reply it is found that the respondent has fairly admitted the debt by way of affidavit.
10. In the instant application, from the material placed on record by the Applicant, this Authority is satisfied that the Corporate Debtor committed default in paying the financial debt to the Applicant and the respondent company has acknowledged the debt.
11. In the instant case, the documents produced by the Financial Creditor clearly establish the 'debt' and there is default on the part of the Corporate Debtor in payment of the 'financial debt'.
12. There is no dispute in the case that the petitioner is the financial creditor. The application is also furnished in the prescribed form - 1 of the Rules and the prescribed fee has also been paid. Along with the application, the applicant proposed the name of the Resolution Professional namely Mr. Parag Sheth, 404, Sachet 2, Opp. GLS University, Maradia Plaza, C.G. Road, Ahmedabad 380 006, Gujarat State (Email ID [pksheth@hotmail.com](mailto:pksheth@hotmail.com)) having registration



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No. IBBI/IPA-002/IP-N00142/2017-2018/10381 to act as an interim resolution professional. Form 2 of the proposed interim resolution professional has been annexed and placed at page No. 6-8 to the application where declaration is made that no disciplinary proceeding is pending against him with the Board or Indian Institute of Insolvency Professionals of ICAI.

13. On perusal of record and as also discussed above, it is held that there is existence of default and that the application under Section 7 (2) of the Code is also complete in all respect.
14. In view of the above, the petitioner/financial creditor having fulfilled all the requirements of Section 7 of the Code, the instant petition deserves to be admitted.
15. The petition is, therefore, admitted and the moratorium is declared for prohibiting all of the following in terms of sub-section (1) of Section 14 of the Code: -
  - (i) 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;

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- (ii) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;
  - (iii) 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);
  - (iv) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.
16. It is further directed that the supply of goods and essential services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period. The provisions of sub-section (1) shall, however, not apply to such transaction as may be notified by the Central Government in consultation with any financial sector regulator.
17. The order of moratorium shall have effect from the date of receipt of authenticated copy 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.



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18. This Petition stands disposed of accordingly with no order as to costs.
  
19. Communicate a copy of this order to the Applicant, Financial Creditor, Corporate Debtor and to the Interim Insolvency Resolution Professional.

*Chockalingam*

**Chockalingam Thirunavukkarasu  
Adjudicating Authority  
Member (Technical)**

*Manorama*

**Ms. Manorama Kumari  
Adjudicating Authority  
Member (Judicial)**

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