

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

**C.P.(IB)-4201(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*

**Shree Chemicals**

Address for Correspondence: 103,  
Navyojana Sadan, Near Diana Cinema  
Tardeo, Mumbai- 400034.

**.....Operational Creditor**

**Vs**

**Bionext Pharma Private Limited**

Having Registered Office at: Plot No. C-  
373, Midc, TTC Industrial Area Pawane,  
Village Turbhe Navi Mumbai- 400705.

**.....Corporate Debtor**

**Order delivered on: 03.06.2022**

***Coram:***

**Hon'ble Member (Judicial) : Justice P.N. Deshmukh (Retd.)**

**Hon'ble Member (Technical) : Shri Shyam Babu Gautam**

***Appearances:***

For the Financial Creditor : Ms. Heena Vichare

For the Corporate Debtor : Mr. Paresh Chandiramani

**ORDER****Per- Justice P.N. Deshmukh (Retd.), Member Judicial**

1. The Present Application is filed under section 9 of Insolvency and Bankruptcy Code, 2016 (for brevity 'IBC, 2016') read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity 'the Rules') by Shree Chemicals an unregistered partnership firm (for brevity 'Operational Creditor') through its Partner, Mrs. Rajashree Rajendra Chavan, who has been duly authorised vide authority letter dated 20.09.2019 for initiating Insolvency Resolution Process (CIRP) against Bionext Pharma Private Limited (for brevity 'Corporate Debtor') for default in repaying Principal amount of **₹1,63,310** together with interest of **₹4,14,440**, aggregating to **₹5,77,750** as on 11.07.2017.
2. As against the material supplied by the Operational Creditor, the Operational Creditor raised invoices against the Corporate Debtor on various occasions, aggregating to principal sum of ₹1,63,310. This Operational Creditor has issued Section 8 notice (Form 3 & Form 4) on 26.09.2019 which was delivered on 28.09.2019, the Operational Creditor has further sent Section 8 notice (Form 3 & Form 4) through e-mail on 01.10.2019. The Corporate Debtor has not replied to Section 8 notice. As per the records, the Corporate Debtor was present

before this bench on various occasions and sought time for settlement. It is seen from the record that last and final opportunity was also granted to the Corporate Debtor for settlement, in spite of that, no settlement has been arrived between the parties. Moreover, Corporate Debtor has not filed any reply to the petition and has not raised any dispute over the claim nor against the interest claimed over the principal sum.

3. The Operational Creditor has annexed copy of ***the chart providing details of the invoices***. The Operational Creditor has also filed the copies of ***tax invoices; purchase order; Copies of Bank Statement; Copy of balance confirmation /ledger account*** along with the copy of ***Section 8 notice***.
4. On perusal of the application and material annexed to this application, we are of the considered view that this Operational Creditor has proved existence of debt and default and the Petitioner has filed the present Petition before this Tribunal on 25.11.2019 and as such the Notification effected in increasing the threshold limit from Rupees One Lakh to Rupees One Crore as on and from 24.03.2020 does not apply to the present case. Under the said circumstances, since the debt and default on the part of the Corporate Debtor being proved, we hereby admit this petition by appointing ***Ms. Sudha Bhushan*** (Insolvency Professional) as IRP with a direction to the IRP to compute this claim by deducting the payments made by the Corporate Debtor during the pendency

of this Company Petition. The Petitioner shall pay the remuneration of the IRP as well as initial costs to the IRP until constitution of the Committee of Creditors, Accordingly this petition is admitted with the direction as follows:-

- a. **The above Company Petition (IB)4201/(MB)/2019 is hereby allowed** and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against M/s Bionext Pharma Private Limited.
- b. This Bench hereby appoints **Ms. Sudha Bhushan**, having Registration No: **IBBI/IPA-001/IP-P01519/2018-2019/12305**, E-mail: **sudhag999@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 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.
5. The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

Sd/-

**SHYAM BABU GAUTAM**  
**(MEMBER TECHNICAL)**

Sd/-

**JUSTICE P.N. DESHMUKH**  
**(MEMBER JUDICIAL)**

03.06.2022