



IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT - 2

ITEM No.301
C.P. (IB)/254(AHM)2023

Order under Section 7 IBC

IN THE MATTER OF:

SKYLEAD CHEMICALS LTD THROUGH ITS RP MR. TEJASApplicant

K SHAH

VS

.....Respondent

MOLINA CHEMICALS PRIVATE LIMITED

Order delivered on: 02/08/2024

Coram:

Mrs. Chitra Hankare, Hon'ble Member(J)

Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open Court vide separate sheet.

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DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

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CHITRA HANKARE
MEMBER (JUDICIAL)



**IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD (COURT - II)
CP (IB) No. 254 of 2023**

(Under Section 7 of the Insolvency and Bankruptcy Code, 2016 r.w Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016)

IN THE MATTER OF:

Rolence pharma & Chemicals LLP

Through its authorized
Mr. Narayan Ram Chaudhary,
Having Registered Office at:
Survey No.281/1,
Village-Juna Sadulkla, 8-A N.H.,
B/H Sarvoday Hotel,
Ravapar Nadi Road
Morabi, Gujarat, India -363642

...Financial Creditor

Versus

Molina Chemicals Private Limited

(Formerly known as Skylink Chemicals Private Limited).
Having Registered office at
C-502, Shree Ram Vatika,
Nr. Swaminarayan Mandir
Near Haridarshan Char Rasta,
Nava Naroda Ahmedabad
Gujarat-382330

... Corporate Debtor

Order pronounced on 02.08.2024



Coram:

**MRS. CHITRA HANKARE
HON'BLE MEMBER (JUDICIAL)**

**MR. VELAMUR G VENKATA CHALAPATHY
HON'BLE MEMBER (TECHNICAL)**

Present:

For the Applicant : Mr. Sumit Parikh, Adv.
For the Respondent : MR. Arjun Padhiyar, Adv.

JUDGEMENT

1. This application has been filed by the Resolution Professional of M/s Skylead Chemicals Limited (presently under CIRP, admitted vide order dated 30.11.2022) ID No. L24110GJ1985PLC008225 situated at Survey No. 315, Bhavnagar- Sihor Road, Navagam, (Kardej) Bhavnagar, Gujarat, under Section 7 of the Insolvency and Bankruptcy Code, 2016 against the Corporate Debtor viz. Molina Chemicals Private Limited (formerly known as Skylink Chemicals Pvt ltd) ID No. U24110GJ1991PTC016014 having its registered office at C – 502, Shree Ram Vatika Near Swaminarain Mandir, Nava Naroda Ahmedabad, Gujarat



seeking thereof to initiate Corporate Insolvency Resolution Process (hereinafter referred to as "CIRP") against the Corporate Debtor for the amount of debt due and defaulted amounting to Rs.1,36,08,114/- disbursed from various dates as per ledger account starting from 09.04.2014 to 27.04.2016. The amount claimed in the application amounts to Rs.152,52,473/- which includes interest calculated at 6% from the date of the agreement (22.08.2014 to 21.08.2019). Thereafter an amount of interest charged at 12% from date of default i.e. 22.08.2019 till 31.08.2023 has been calculated and an amount of Rs.2,88,60,585/- has been claimed as default in the application. An amount of only Rs.1,37,603/- is stated to have been paid by the CD up to 25.04.2016.

2. In part II of the application, it is stated that the Corporate Debtor was incorporated on 25.07.1991 with the Nominal Capital of Rs.5,00,00,000/- (Rupees Five Crore Only) and the Paid-Up Share Capital of Rs.1,31,00,000/- (One Crore Thirty-One Lakh Only). A copy of the loan agreement dated 22.08.2014 has been enclosed. It is stated that the date of last acknowledgment of debt was on 20.04.2022 when the ledger confirmation for the financial year 2021-22 was



obtained. Further there are various correspondence emails from the Financial Creditor to the CD (respondent) demanding payment, the last being on 06.03.2023. The respondent had by acknowledging the ledger account for the financial year from 2014-15 till 2021-22, further vide its letter dated 19.04.2021 acknowledged the debt and expressed inability to pay. In order to pursue this application, the applicant had also appraised the CoC in its 11th meeting conducted on 30.06.2023. The CIRP was ordered on the applicant vide orders of this tribunal dated 30.11.2022. Earlier, the tribunal had rejected the application which was set aside by the Hon'ble NCLAT. The applicant has also filed a copy of the Form D filed before the NeSL.

3. An agreement was executed on 22.08.2014 between M/s Skylead Chemicals Limited and M/s Skylink Chemicals Pvt Ltd. The respondent CD (now called Monila Chemicals Pvt Ltd) had already eroded its networth long back and paid off its creditors and acknowledged an amount of Rs 1,34,99,393/- as due to the applicant vide this agreement and a board resolution was passed on 14.08.2014 in this regard to effect recovery negotiate a resolution with the CD.



A similar board resolution was approved by the CD vide its board resolution dated 22.08.2014. A recall notice was issued to the CD vide letter dated 14.08.2019 and on 15.04.2021 by the applicant along with principal and interest followed by a final demand notice on 04.03.2022. A fresh notice was issued on 23.05.2022 in the name of Molina Chemicals Pvt Ltd which was situated at a different address demanding the outstanding amount of Rs.1,36,08,112/- as per the agreements mentioned in this para. The RP issued a demand notice through email on 28.01.2023 to the CD.

4. The CD had vide its letter dated 19.04.2021 had acknowledged the amount payable including the two agreements and the letters received stating that they do not have funds to repay at this stage inspite of the agreement giving 5 years period to repay. The CD had also acknowledged various ledger statements during the period from 2015 which are submitted by the applicant. The CoC had also approved for initiation of CIRP against the CD in the 11th meeting dated 18.07.2023. The respondent CD has in his reply to this petition has reiterated the same points of lack of funds, loss of business.



5. Heard the submissions of both the parties and also perused the documents on record. The debt is long due, but the agreement and the confirmation of ledger balances and the acknowledgment of debt covers the period for filing this application within the stipulated period under Limitation. Further, the recovery if any could be made through this would help the applicant who acquires the status of financial creditor (Unsecured) to repay its other debts.
6. In view of the above, we pass the following order:

ORDER

- I. CP(IB) No. 254 of 2023 is allowed.
- II. The CIRP is ordered to be initiated against the corporate debtor - Molina Chemicals Private Limited (Formerly known as Skylink Chemicals Private Limited).
- III. The Financial Creditor has proposed the name of Mr. Gomti Ramchandra Choudhary, having Reg. No. IBBI/IPA-001/IP-P-02625/2022-2023/14275; Email ID: cagomtirchoudhary@gmail.com as the Interim Resolution Professional (IRP) who has also filed his consent in Form - 2 and also upon verification from the IBBI website, it is seen that the said person holds valid



AFA till 30.06.2025. Mr. Gomti Ramchandra Choudhary, is appointed as the IRP is directed to take charge of the Corporate Debtor's management immediately. The IRP is also directed to cause public announcement as prescribed under Section 15 of the IBC, 2016 within 03 days from the date the copy of this Order is received, and call for submissions of claim by the creditors in the manner as prescribed under Reg. 6 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

- IV. We direct the Applicant/Financial Creditor to deposit a sum of Rs. 2.00 lacs (Rupees two lacs only) with the IRP to meet the expenses for performing functions assigned to him in accordance with regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016. The needful shall be done within one week from the date of receipt of this order by the Financial Creditor. The amount, however, be subject to adjustment by the Committee of Creditors, as accounted for by IRP and shall be paid back to the Financial Creditor.



- V. As a consequence of the application being admitted in terms of Section 7(5) of IBC, 2016, moratorium as envisaged under the provisions of Section 14 (1) shall follow in relation to the Corporate Debtor, prohibiting actions as per clauses (a) to (d) of Section 14 (1) of the Code. However, during the pendency of the moratorium period, terms of Section 14(2) to 14(4) of the Code shall remain in force.
- VI. A copy of the order shall be communicated to the applicant, IRP and the corporate debtor. A copy of the order along with a complete copy of the application be served to IRP by the applicant within 7 days of the order. In addition, a copy of the order shall also be forwarded to IBBI for its records and to take steps for updating the Master Data of the corporate debtor in the MCA portal and shall forward the compliance report to the Registrar, NCLT.

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**DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)**

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**CHITRA HANKARE
MEMBER (JUDICIAL)**