

**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
NEW DELHI COURT III**

**Item No. 305**  
IB-278(ND)/2022

**IN THE MATTER OF:**

M/s. Alcon Laboratories (India) Pvt Ltd

**.....APPLICANT/PETITIONER**

**Vs**

Emco Tech Equipments Pvt Ltd

**.....RESPONDENT**

**SECTION**

**U/s 9 of IBC, 2016**

**Order delivered on 05.01.2024**

**CORAM:**

**SHRI BACHU VENKAT BALARAM DAS, HON'BLE MEMBER (JUDICIAL)**

**SHRI ATUL CHATURVEDI, HON'BLE MEMBER (TECHNICAL)**

**PRESENT:**

For the Applicant : Mr. Siddhant Kant, Mr. Nikhil Mathur, Advocates.

For the Respondent :

**ORDER**

In compliance with the order dated 12.12.2023, the Applicant has placed on record copies of the orders passed by the Hon'ble Supreme Court of India in the matter of **M/s. Emco Tech Equipments Pvt. Ltd. vs. M/s. Alcon Laboratories (India) Pvt. Ltd.** in Civil Appeal No 7983 of 2023 and the order dated 22.11.2023 passed by Hon'ble NCLAT in Company Appeal (AT) (Ins.) No. 215 of 2023. The Hon'ble NCLAT has set aside the order passed by this Adjudicating Authority and admitted the application filed under Section 9 IBC, 2016. The Hon'ble NCLAT also directed this Tribunal to appoint IRP and to pass other orders under Section 14 of the Code. An appeal was filed before the Hon'ble Supreme Court of India in Civil Appeal No. 7983 of 2023 against the order of the Hon'ble NCLAT, which was also dismissed vide order dated 11.12.2023.

We have perused the order passed by the Hon'ble NCLAT and Hon'ble Supreme Court of India. The Hon'ble NCLAT in its order dated 22.11.2023 has admitted the application filed under Section 9 of IBC, 2016 and directed this Tribunal to appoint IRP and to pass other orders under Section 14 of the Code.

a) In view of the directions of the Hon'ble NCLAT, we appoint Ms. Sunita Umesh as IRP as the Insolvency Resolution Professional of the Corporate Debtor from the available list of panel of Resolution Professionals as maintained by IBBI. The registration number of the IRP is IBBI/IPA-001/IP-P00080/2017-18/10165, the office address of the IRP is M/s.UCC & Associates LLP, Chartered Accountants, 1315, Ansal Tower, 38 Nehru Place, New Delhi-110019 and the e-mail id of the IRP is sunita.umesh@uccglobal.in and the contact no of the IRP is +919810266702.

The IRP shall file a valid Authorization for Assignment along with Written Consent in Form-2 and Registration Certificate within 3 days of the pronouncement of this order.

b) We also declare a moratorium in terms of Section 14 of the Code. The necessary consequences of imposing the moratorium flows from the provisions of Section 14(1)(a), (b), (c) & (d) of the Code. Thus, the following prohibitions are imposed:

- 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;*
- 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 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 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.*  
*[Explanation.-For the purposes of this sub-section, it is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a licence, permit, registration, quota,*

*concession, clearance or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license, permit, registration, quota, concession, clearances or a similar grant or right during the moratorium period;]*”

- c) It is made clear that the provisions of moratorium shall not apply to transactions which might be notified by the Central Government or the supply of the essential goods or services to the Corporate Debtor as may be specified, are not to be terminated or suspended or interrupted during the moratorium period. In addition, as per the Insolvency and Bankruptcy Code (Amendment) Act, 2018 which has come into force w.e.f. 06.06.2018, the provisions of moratorium shall not apply to the surety in a contract of guarantee to the corporate debtor in terms of Section 14(3)(b) of the Code.
- d) In pursuance of Section 13(2) of the Code, we direct the IRP, as the case may be to make a public announcement immediately with regard to the admission of this application under Section 9 of the Code. The expression immediately means within three days as clarified by Explanation to Regulation 6(1) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- e) During the CIRP period, the management of the Corporate Debtor shall vest in the IRP/RP, in terms of Section 17 of the IBC. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within one week from the date of receipt of this order, in default of which coercive steps will follow. There shall be no future opportunity given in this regard.
- f) The IRP is expected to take full charge of the Corporate Debtor’s assets, and documents without any delay whatsoever. He is also free to take

police assistance and this Court hereby directs the Police Authorities to render all assistance as may be required by the IRP in this regard.

- g) The IRP or the RP, as the case may be shall submit to this Adjudicating Authority periodical report with regard to the progress of the CIRP in respect of the Corporate Debtor.
- h) The Operational Creditor shall deposit a sum of Rs. 2,00,000/- (Rupees Two Lakhs only) with the IRP to meet the expenses arising out of issuing public notice and inviting claims. These expenses are subject to the approval of the Committee of Creditors (“CoC”).
- i) In terms of the Code, the Registry is hereby directed to communicate a copy of the order to the Operational Creditor, the Corporate Debtor, the IRP and the Registrar of Companies, NCT of Delhi and Haryana, by Speed Post and by email, at the earliest but not later than seven days from today. The Registrar of Companies shall update his website by updating the status of the Corporate Debtor and specific mention regarding admission of this petition must be notified.
- j) The Registry is further directed to send a copy of this order to the Insolvency and Bankruptcy Board of India (“IBBI”) for their record.

Sd/-  
**(ATUL CHATURVEDI)**  
**MEMBER (TECHNICAL)**

Sd/-  
**(BACHU VENKAT BALARAM DAS)**  
**MEMBER (JUDICIAL)**