

SL. No.2

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
COURT HALL NO: II**

(PHYSICAL HEARING)

**CORAM: JUSTICE TELAPROLU RAJANI – HON’BLE MEMBER (J)
CORAM: SHRI CHARAN SINGH - HON’BLE MEMBER (T)**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
HYDERABAD BENCH, HELD ON 18.01.2023 AT 02:30 PM**

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CP (IB) No.416/9/HDB/2020
NAME OF THE COMPANY	Ariston Pharma Novatech Pvt Ltd
NAME OF THE PETITIONER(S)	Granules India Ltd
NAME OF THE RESPONDENT(S)	Ariston Pharma Novatech Pvt Ltd
UNDER SECTION	9 of IBC

ORDER

This Application allowed, vide separate order.

Sd/-
MEMBER (T)

Sd/-
MEMBER (J)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH-II HYDERABAD**

C.P. (IB) No.416/9/HDB/2020
Under Section 9 of the IB Code, 2016
r/w Rule 6 of the Insolvency and Bankruptcy
(Application to Adjudicating Authority) Rules, 2016.

In the matter of
M/S ARISTON PHARMA NOVATECH PRIVATE LIMITED

Between:

M/S Granules India Limited,
2nd floor, 3rd Block, My Home Hub,
Madhapur, Ranga Reddy District,
Telangana State, India-500 081.

...Applicant/Operational Creditor

A N D

M/S Ariston Pharma Novatech Private Limited,
Regd. Office at Door No. 5-5-35/136/B,
Ground floor, Prasanthi nagar,
IDA, Kukatpally, Hyderabad,
Telangana State, India.

...Respondent/Corporate Debtor

Date of Order: 18.01.2023

Coram:

Hon'ble Justice Telaprolu Rajani, Member (Judicial)
Hon'ble Sri Charan Singh, Member (Technical)

Counsel present:

For the Operational Creditor: Shri. M.V. Hanumantha
For the Respondent: Shri. D. Bhanu Pratap

Heard on: 17.01.2023

Per : Bench

ORDER

1. This application is filed by the Petitioner M/s. Granules India Limited Operational Creditor (OC) against the Respondent Corporate Debtor (CD) M/s. Ariston Pharma Nova Tech Private Limited seeking to initiate corporate insolvency resolution process (CIRP) against the Corporate Debtor for the default committed by the Corporate Debtor in discharging the debt due to the Operational Creditor.
2. Facts of the case, briefly, are as follows:
The Corporate Debtor (CD) is a Hyderabad based Company engaged in the business of Bulk drugs manufactures. Operational Creditor (OC) is also in the same business. OC supplied goods worth of Rs. 1,70,25,187/- (Rupees One Crore Seventy Lakhs Twenty Five Thousand One Hundred Eighty Seven Only) as per the orders placed by the Corporate Debtor, from time to time. The Operational Creditor raised invoices for the same and requested for

payment of the amounts. The Corporate Debtor did not make any payment and no dispute was raised with regard to the goods supplied. A notice was issued by the Operational Creditor under Section 8 of IB Code, 2016, demanding to pay the outstanding amount. The Corporate Debtor, in spite, of receiving the said notice did not reply. Neither did he make any payment. Hence this application seeking the above mentioned relief.

3. The Corporate Debtor filed counter, contending that due to some ill health, the father of the Managing Director, of the Corporate Debtor Company died and subsequently, the Managing Director Shri Vedprakash Vyas was unable to attend the office. On 16.10.2019, the Managing Director underwent treatment for the knees and both the knees were operated, due to which, he could not attend the office on 15.03.2020. Thereafter, Lockdown was announced and all offices of the Corporate Debtor Company were closed.
4. Tragedy happened on 04.01.2021 when the Managing Director of the Corporate Debtor Company was remanded by NDPS Police, on false allegations. Surprisingly, on 11.01.2021 and on 12.01.2021 the

Indore Police again visited and served notices to the Banks in which the Corporate Debtor Company's operations were happening. The accounts were frozen. Due to non-availability of the Managing Director, the Corporate Debtor Company could not run properly. Every effort in releasing the Managing Director from the clutches of the false allegations, failed. The Corporate Debtor has been informing the Operational Creditor about the happenings, but to the surprise of the Corporate Debtor, the Operational Creditor approached this Tribunal by way of this application. The non payment was neither wilful nor wanton. The amounts claimed and the interest charged are disputed. The Corporate Debtor, after filing counter did not choose to appear and was set ex-parte.

5. Heard the Counsel for the Operational Creditor and perused the written submissions filed by the Operational Creditor. From the counter, it is clear that the debt is admitted. Though the interest is disputed, a perusal of the invoices would show that 18% interest was mentioned as would be charged if demand is not made on or before due date. Hence the dispute with regard to the interest does not seem to be genuine. The counter discloses that the Corporate Debtor went into

difficulties and he is not in a position to repay the debt due to the Operational Creditor.

6. After hearing the counsel for the petitioner and perusing the record, we are of the view that in the instant case there is an operational debt and there has been a default in repayment of the same. We are satisfied that the Operational Creditor has proved its case by placing evidence that default has occurred in repaying the debt. Hence, the contentions of the Corporate Debtor are overruled.
7. Further the Operational Creditor has fulfilled all the stipulations as required under the provisions of the IB Code, 2016 for the purpose of initiating Corporate Insolvency Resolution Process. In these circumstances, having been satisfied with the submissions made by the Petitioner/Operational Creditor, we are inclined to admit the instant Application.
8. Accordingly, the instant application is hereby admitted and we order the commencement of the Corporate Insolvency Resolution Process (CIRP) which shall ordinarily be completed within the timelines

stipulated in the IB Code, 2016 (as amended), reckoning from the day this order is passed.

9. The Operational Creditor has not named anyone as Interim Resolution Professional (IRP) and has requested this Adjudicating Authority to appoint an Insolvency Resolution Professionals as IRP. The Insolvency and Bankruptcy Board of India (IBBI) has recommended a panel of Insolvency Professionals for appointment as Insolvency Resolution Professional for the period from January 1, 2023 to June 30, 2023 in compliance with Section 16(3)(a) of the Code in order to avoid delay. Accordingly, this Tribunal appoints Mr. Manjeet Bucha, having Registration No. IBBI/IPA-002/IP-N00808/2019-2020/12551 e-mail: manjeetbucha@gmail.com, Mobile No: 9346955001, as Interim Resolution Professional. As per the IBBI website, his AFA is valid upto 30th June, 2023. He is directed to file Authorization for Assignment within three days from the date of this order.

10. The IRP is directed to take charge of the Respondent/Corporate Debtor's Management immediately. He is also directed to cause public announcement as prescribed under section 15 of the IB Code, 2016 within three days from the date the

copy of this order is received and call for submissions of claim in the manner as prescribed.

11. We direct the Operational Creditor/Petitioner to pay a sum of Rs.2,00,000/- towards the advance fee of IRP and expenses towards CIRP, which shall be ratified later on by CoC.
12. The moratorium is hereby declared which shall have effect from the date of this order till the completion of CIRP. For the purposes referred to in Section 14 of the IB Code, 2016. It is hereby ordered to prohibit all of the following namely:-
 - 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 or 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 rights 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 Operational 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.*
 - v. *Notwithstanding anything contained in any other law for the time being in force, a license, permit, registration, quota, concession, clearances 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, concessions, clearances or a similar grant or right during the moratorium period.

13. The supply of essential goods or services of the Corporate Debtor shall not be terminated or suspended or interrupted during moratorium period. Further, if the IRP considers supply of any goods or services critical to protect and preserve the value of the Corporate Debtor and manage the operations of such Corporate Debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except where such Corporate Debtor has not paid dues arising from such supply during the moratorium period. Furthermore, the provisions of Sub-section (1) of Section 14 shall not apply to such transactions, agreements or other arrangement as may be notified by the Central Government in consultation with any operational sector regulator or any other authority.
14. The IRP shall comply with the provisions of Sections 13(2), 15, 17 & 18 of the Code. The Directors, Promoters or any other person associated with the

management of Corporate Debtor are directed to extend all assistance and co-operation to the IRP as stipulated under Section 19 and for discharging his functions under Section 20 of the I&B Code, 2016.

15. The Petitioner/Operational Creditor as well as the Registry is directed to send the copy of this Order to IRP so that he could take charge of the Corporate Debtor's assets etc. and make compliance with this Order as per the provisions of I&B Code, 2016.
16. The Registry is directed to communicate this Order to the Operational Creditor and the Corporate Debtor.
17. The Registry shall also communicate this Order to the ROC, Hyderabad for updating the status of the Corporate Debtor in the MCA website.
18. Accordingly, this Petition is admitted.

Sd/-

Charan Singh
Member, Technical

Sd/-

Justice Telaprolu Rajani
Member, Judicial