

**NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI**

C.P. (IB)No.39/GB/2019

In the matter of:

Punjab National Bank
(A Body Corporate constituted under the Banking
Companies (Acquisition and Transfer of Undertakings)
Act, 1970, Mahabir Market Branch [PAN
No.AAACP0165G], SRCB Road, Fancy Bazar, Guwahati
– 781001, Assam, Phone 0361 – 2540487, Email [Id.-
bo3213@pnb.co.in](mailto:bo3213@pnb.co.in)

...Financial Creditor

V/s

Sonapur Herbal Centre Pvt. Ltd., incorporated on
31.06.2000, CIN No.U85191ML2000PTC006265,
Registered Office situated at Them Market, Khanapara,
District- Ri Bhoi, Meghalaya- 793001, Ph.9957577741,
Email Id. sonapurherbal@yahoo.com

...Corporate Debtor

Order delivered on 17th September, 2021.

Coram:

Hon'ble Shri H. V. Subba Rao, Member (J):

Hearing through

And

Hon'ble Shri Prasanta Kumar Mohanty, Member (T): Video Conference

Appearance: For the Petitioner /FC - Mr. S. Dutta, Advocate

For the Respondent /CD - Mr. Bikash Sharma, Advocate

ORDER

[Per: Mr. Prasanta Kumar Mohanty, Member (T)]

1. The present I. B. Petition [CP (IB) No.39/GB/2019] is filed by the FC Punjab National Bank under Section 7 of the Insolvency and Bankruptcy Code, 2016 (herein after referred to as a "Code"), seeking initiation of Corporate Insolvency Resolution Process ("CIRP") against the Corporate Debtor namely, Sonapur Herbal Centre Pvt. Ltd.,

for the default committed by the Corporate Debtor in making repayment of advance availed from the Petitioner/FC.

2. The Petitioner is a Body Corporate constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, having one of its Branches known as Mahabir Market Branch [with PAN No.AAACP0165G], SRCB Road, Fancy Bazar, Guwahati – 781001, Assam, Phone 0361 – 2540487, Email Id.-bo3213@pnb.co.in.

3. The Respondent Corporate Debtor (CD) Company, namely Sonapur Herbal Centre Pvt. Ltd., is a Private Limited Company incorporated on 31.06.2000 with CIN No.U85191ML2000PTC006265 having its Registered Office situated at Them Market, Khanapara, District- Ri Bhoi, Meghalaya- 793001, Ph.9957577741, Email Id. sonapurherbal@yahoo.com and having Nominal / Authorised Share Capital of Rs.5,00,00,000.00 (Rupees Five crores) only and paid-up Share Capital of the Respondent (CD) Company is Rs.4,29,00,000.00 (Rupees Four crores Twenty Nine Lacs) only.

4. The Petitioner has also proposed Shri Yogesh Gupta [C/o. M/s. S. Jaykishan, Chartered Accountants] Suite No.2D and 2E, 12 Ho-Chi-Minh Sarani, Kolkata- 700071, Ph- (033) 4003-5801, having IP Registration NO.IBBI/IPA-001/IP-P00349/2017-18/10650, Email yogeshgupta31@rediffmail.com to be appointed as IRP.

5. It is stated that total amount of Debt granted to the CD Company was Rs.18,29,84,000.00 (Rupees Eighteen crores Twenty Nine lacs Eighty Four thousand) only being the sum total of Rs.16,00,00,000.000 (TL) and Rs.2,29,84,000.00 (FITL). The details of disbursement of the Term Loan and FITL component upon restructuring are as under:

Date(s) of Disbursement of Term Loan	Sl.No.	Date	Amount in (Rs.)
	1	29.06.2010	12375607.00
	2	29.06.2010	21832117.00
	3	30.06.2010	792276.00
	4	29.09.2010	15000000.00

	5	23.11.2010	15000000.00
	6	03.02.2011	25000000.00
	7	18.04.2011	30000000.00
	8	30.06.2011	40000000.00
	Total		16,00,00,000.00
	1	30.12.2014	2,29,84,000.00
	Total		2,29,84,000.00

6. It is stated that the total amount in default in the Term Loan account [A/c No.321300IC00000043] including uncharged interest calculated up to 31.10.2019 stands at Rs.18,46,31,206.70 (Rupees Eighteen crores Forty Six lacs Thirty One thousand Two hundred Six and paise Seventy) only as on 31.10.2019. The dates of default in the Term Loan Account, therefore, occurred on 31.05.2016 and 30.09.2016. Total defaulted amount in the Funded Interest Term Loan (FITL) account [A/c No.321300IC00000113] including uncharged interest stands at Rs.3,35,91,363.91 (Rupees Three crores Thirty Five lacs Ninety One thousand Three hundred Sixty Three and paise Ninety One) only as on 31.10.2019. The dates of default in the FITL Account, therefore, occurred on 30.04.2016, 31.05.2016 and 30.09.2016. Therefore, the total defaulted amount in the Term Loan (TL) and in the Funded Interest Term Loan (FITL) comes to Rs.18,46,31,206.70 + Rs.,35,91,363.91 = Rs.21,82,22,569.91 (Rupees Twenty One crores Eighty Two lacs Twenty Two thousand Five hundred Sixty Nine and paise Ninety One) only. The loan accounts became Non-Performing Asset (NPA) on 30.09.2016 and are still continuing as NPA accounts.

Statements of Accounts along with Interest Calculation, Capitalized Penal Interest Calculation Sheets and Certificates in accordance with the Bankers Book of Evidence AC, 1891 (18 of 1891) has been filed with the Petition marked as **ANNEXURES I-A, I-B, I-C, I-D, I-F, I-I and I-J.**

7. It is stated that the Financial Creditor has sanctioned a Term Loan limit of Rs.16,00,00,000.00 crores (Rupees Sixteen crores) only and subsequently a Funded Interest Term Loan (FITL) of Rs.2,29,84,000.00 (Rupees Two crores Twenty Nine lacs Eighty Four thousand) only aggregating to Rs.18,29,84,000.00 (Rupees Eighteen crores Twenty Nine lacs Eighty Four thousand) only in favour of the Corporate Debtor.

8. It is stated that the Punjab National Bank as the Financial Creditor had sought to lodge this application under the Code of 2016 with respect to its finance in the form of Term Loan Limit of Rs.16,00,00,000.00 crores (Rupees Sixteen crores) only and subsequently a Funded Interest Term Loan (FITL) of Rs.2,29,84,000.00 (Rupees Two crores Twenty Nine lacs Eighty Four thousand) only respectively aggregating to Rs.18,29,84,000.00 (Rupees Eighteen crores Twenty Nine lacs Eighty Four thousand) only and the said loans were secured by way of the following:-

- (i) Hypothecation of Assets to secure Term Loan dated 29.06.2010 for Rs.16,00,00,000.00 crores (Rupees Sixteen crores) only **(Annexure I-V)**.
- (ii) Supplementary Agreement for Reschedulement of Term Loan dated 30.12.2014 **(Annexure I-AH)**.
- (iii) E.M. created by the Corporate Debtor over a piece or parcel of land measuring 7 Bighas – 2 Kathas – 10 Lechas covered by Dag No.210 and 437 of KP Patta No.110 Revenue Village – Kamarkuchi Non K, under Mouza – Panbari, Sub-Registry Office- Guwahati, District – Kamrup (M), Assam standing in the name of Corporate Debtor by deposit of KP Patta No.10 dated 02.11.2007 **(Annexure I-Y)**.
- (iv) E.M. created by the Corporate Debtor over a piece or parcel of land measuring 11 Bighas – 2 Kathas – 10 Lechas covered by Dag No.138 and 139 of KP Patta No.112 & 113 Revenue Village – Kamarkuchi Non K, under Mouza – Panbari, Sub-Registry Office- Guwahati, District – Kamrup (M), Assam standing in the name of Corporate Debtor by deposit of Registered Sale Deed No.8547 of 2008 dated 04.06.2008. **(Annexure I-AB)**.
- (v) E.M. created by the Corporate Debtor over a piece or parcel of land measuring 9 Bighas – 3 Kathas – 8 Lechas covered by Dag No.72 and of KP Patta No.114 Revenue Village – Kamarkuchi Non K, under Mouza – Panbari, Sub-Registry Office- Guwahati, District – Kamrup (M), Assam standing in the name of Corporate Debtor by deposit of **Registered Sale Deed No.9324 of 2008 dated 23.06.2008. (Annexure I-AC)**.

- (vi) E.M. created by the Corporate Debtor over a piece or parcel of land measuring 9 Bighas – 0 Kathas – 0 Lechas covered by Dag Nos. 210(old) and 409(new) of KP Patta No.92 and 93 Revenue Village – Kamarkuchi Non K, under Mouza – Panbari, Sub-Registry Office- Guwahati, District – Kamrup (M), Assam standing in the name of Corporate Debtor by deposit of **Registered Sale Deed No.2555 of 2011 dated 17.03.2011 along with Deed of Rectification being Deed No.2953 of 2011 dated 31.03.2011. (Annexure I-AE & AF).**
- (vii) E.M. created by the Corporate Debtor over a piece or parcel of land measuring 7 Bighas – 0 Kathas – 0 Lechas covered by Dag No.290 Part of 30 years Grant Patta Revenue Village – Kamarkuchi Non K, under Mouza – Panbari, Sub-Registry Office- Guwahati, District – Kamrup (M), Assam standing in the name of Corporate Debtor by deposit of **Registered Sale Deed No.15618 of 2007 dated 28.11.2007. (Annexure I-AL).**

9. It is submitted that the Corporate Debtor which had created equitable mortgage of its aforementioned properties by deposit of title deeds in favour of the Financial Creditor and also confirmed the same by signing and executing Confirmation Letters dated 15.05.2008, 29.06.2010, 29.06.2010, 17.05.2011 and 23.01.2015 (**Annexures I-Z, I-AA, I-AD, I-AG and I-AM**).

10. The Personal Guarantors have executed security documents including Deed of Guarantee dated 29.06.2010, Agreement of Guarantee dated 12.01.2015 and Supplementary Agreement of Guarantee dated 12.01.2015 (**Annexures I-X, I-AJ and I-AK**). The estimated value of the hypothecated and mortgaged properties standing in the name of the Corporate Debtor as per Valuation Report dated 12.12.2018 prepared by the registered and empanelled valuer Sri Nripen Chandra Das, is Rs.19,08,15,000.00 (Rupees Nineteen crores Eight lacs Fifteen thousand) only (**Annexure I-AZ**).

The Certificate of Registration of Charge along with list of index of registered charges created by the Corporate Debtor in favour of the Financial Creditor as available on the website www.mca.gov.in (**Annexure I-K**).

11. It is stated that the Financial Creditor as an Applicant had filed an Original Application bearing O.A. NO.336/2017 before the Debts Recovery Tribunal at Guwahati against the Corporate Debtor and the Personal Guarantors as Defendants for recovery of Rs.16,00,70,323.36 (Rupees Sixteen crores Seventy thousand Three hundred Twenty Three and paise Thirty Six) only and the said application is pending for disposal. Further, the Corporate Debtor had also filed a Title Suit being TS No.01/2017 before the Civil Judge No.2 Kamrup, Metro, Guwahati challenging the Section 13(2) notice issued by the Financial Creditor Bank under SARFAESI Act, 2002 and the said case is pending disposal before the learned Civil Court. The learned Civil Court was pleased to dismiss the Petition [Mic. (J) Case No.01/2017] for granting Ad-Interim and permanent injunction vide Order dated 18.05.2017 and the Corporate Debtor as Appellant preferred an Appeal before the Hon'ble Gauhati High Court (FAO No.33/2017) and the said Appeal is pending before the Hon'ble Gauhati High Court and the Hon'ble Gauhati High Court had directed the Corporate Debtor not to take any coercive step under the SARFAESI Act, 2002.

12. It is further stated that Record of Default with the Information Utility, CRILIC (Central Repository Information on large Credits) Report as on 30.09.2019 dated 15.11.2019 is annexed with the Petition marked as ANNEXURE (I-AN).

13. It is stated that the latest and complete copy of the Financial Contract reflecting all amendments and waivers to date are as given hereunder:-

- (i) Request by the Corporate Debtor requesting financial assistance vide Project Report (DPR)/proposal from the Financial Creditor **(Annexure I-M)**.
- (ii) Applications dated 27.02.2014 and 13.11.2014 for additional Term Loan and/or Restructuring /Reschedulement of the existing Term Loan **(Annexures I-N and I-O)**.
- (iii) Sanction Letter No. NEC/Credit dated 04.05.2010 issued by the Financial Creditor to the Corporate Debtor **(Annexure I-P)**.

- (vi) Sanction Advice dated 24.12.2014 for Restructuring of the Term Loan and FITL issued by the Financial Creditor to the Corporate Debtor (**Annexure 0I-Q**).
- (v) Term Loan Agreement dated 29.06.2010 for Rs.16,00,00,000.00 crores (Rupees Sixteen crores) only executed by the Corporate Debtor in favour of the Financial Creditor (**Annexure I-U**).
- (vi) Hypothecation of Assets to secure Term Loan dated 29.06.2010 for Rs.16,00,00,000.00 crores (Rupees Sixteen crores) only executed by the Corporate Debtor in favour of the Financial Creditor (**Annexure I-V**).
- (vii) Supplementary Agreement for Reschedulement of Term Loan dated 30.12.2014 executed by the Corporate Debtor in favour of the Financial Creditor (**Annexure I-AH**).
- (viii) FITL Agreement dated 30.12.2014 executed by the Corporate Debtor in favour of the Financial Creditor (**Annexure I-AI**).

14. The Petitioner / Financial Creditor, in order to prove the existence of financial debt, amount due and date of default, has attached the following documents with the Petition:-

- (i) Term Loan Agreement dated 29.06.2010 for Rs.16,00,00,000.00 crores (Rupees Sixteen crores) only executed by the Corporate Debtor in favour of the Financial Creditor (**Annexure I-U**).
- (ii) Hypothecation of Assets to secure Term Loan dated 29.06.2010 for Rs.16,00,00,000.00 crores (Rupees Sixteen crores) only executed by the Corporate Debtor in favour of the Financial Creditor (**Annexure I-V**).
- (iii) Undertaking dated 29.06.2010 for Rs.16,00,00,000.00 crores (Rupees Sixteen crores) only executed by the Corporate Debtor in favour of the Financial Debtor (**Annexure I-W**).
- (iv) Supplementary Agreement for Reschedulement of Term Loan dated 30.12.2014 executed by the Corporate Debtor in favour of the Financial Debtor (**Annexure I-AH**).

- (v) FITL Agreement dated 30.12.2014 executed by the Corporate Debtor in favour of the Financial Debtor **(Annexure I-AI)**.
- (vi) Extract of minutes of Board Resolution of the Corporate Debtor both dated 27.05.2010 **(Annexure I-R and I-S)**.
- (vii) Extract of minutes of Board Resolution of the Corporate Debtor dated 29.12.2014 **(Annexure I-R and I-T)**.
- (viii) Deed of Guarantee dated 29.06.2010 signed and executed by Sri Sanjay Goswami, Smt. Srabana Goswami, Sri Suresh Sharma, Sri Purushottam Lal Murarka and Sri Paban Kumar Sharma as Personal Guarantors in favour of the Financial Creditor **(Annexure I-X)**.
- (ix) Agreement of Guarantee dated 12.01.2015 signed and executed by Sri Harsh Sharma and Smt. Seema Murarka as Personal Guarantors for the limit of Rs.2,29,84,000.00 (Rupees Two crores Twenty Nine lacs Eight Four thousand) only in favour of the Financial Creditor **(Annexure I-AJ)**.
- (x) Supplementary Agreement of Guarantee dated 12.01.2015 signed and executed by Sri Purushottam Lal Murarka and Sri Suresh Sharma, as Personal Guarantors for the overall limit in favour of the Financial Creditor **(Annexure I-AK)**.
- (xi) Confirmation Letters dated 15.05.2008, 29.06.2010, 29.06.2010, 17.05.2011 and 23.01.2015 confirming the deposit of Title Deeds for creation of Equitable Mortgage by the Corporate Debtor **(Annexures I-Z, I-AA, I-AD, I-AG and I-AM)**.
- (xii) Recall Notice Letter dated 25.05.2017 to the Corporate Debtor **(Annexure I-AP)**.
- (xiii) Demand Notice dated 06.10.2016 to the Corporate Debtor under Section 13(2) of the SARFAESI Ac, 2002 **(Annexure I-AQ)**.
- (xiv) Representation dated 04.12.2016 by the Corporate Debtor **(Annexure I-AR)**.
- (xv) Reply dated 14.12.2016 by the Financial Creditor **(Annexure I-AS)**.

- (xvi) Letter dated 21.12.2016 by the Financial Creditor (**Annexure I-AT**).
- (xvii) Reply dated 26.12.2016 and letter dated 28.12.2016 by the Corporate Debtor (**Annexure I-AU**).
- (xviii) Letter dated 28.12.2016 by the Corporate Debtor (**Annexure I-AV**).
- (xix) OTS proposal dated 11.02.2019 by the Corporate Debtor (**Annexure I-AW**).
- (xx) Audited Balance Sheets cum Financial Statements of the Corporate Debtor for the Financial Year ending 2017 and for the year ending 2018 (Reflecting the Loan) (Annexures I-AX and I-AY).

15. It is submitted that the Petition has been filed by the Financial Creditor exclusively for resolution of the outstanding dues/debts in the Term Loan and FITL accounts sanctioned by it. The Financial Creditor has exclusive charge over the hypothecated and mortgage properties and the Petition is well within the period of limitation under Article 137 of the Limitations Act for filing the present application under Section 7 of the IBC, 2016.

16. It is also submitted that the interest being accumulating over the defaulted amount till date, the default on behalf of the Corporate Debtor is of continuous nature and hence still in force.

17. The Petitioner /Financial Creditor has prayed for the following relief/s:

- "1. To admit the application and pass an order for initiating the Corporate Insolvency Resolution Process under Section 7 of the Insolvency and Bankruptcy Code, 2016 ("Code");
- 2. To appoint Shri Yogesh Gupta [C/o. M/s. S. Jaykishan, Chartered Accountants] Suite No.2D and 2E, 12 Ho-Chi-Minh Sarani, Kolkata- 700071, Ph- (033) 4003-5801, having IP Registration NO.IBBI/IPA-001/IP-P00349/2017-18/10650, Email yogeshgupta31@rediffmail.com to be appointed as an Interim Resolution Professional in terms of Section 16 of the Code, as proposed;

3. To cause a public announcement of initiation of Corporate insolvency resolution process and calling for submission of claims under Section 15 of the Code; and
4. To declare a moratorium in terms of Section 14 of the Code;

18. When the matter came up on 10.02.2021, it was informed during the proceedings, by the learned Counsels for the Petitioner/FC and the Respondents/CD that the Hon'ble Gauhati High Court has passed certain Orders in the Writ Petition filed by the CD before the Hon'ble Gauhati High Court accordingly, the matter was adjourned on that day with a direction to the learned Counsels of both the Financial Creditor and the Corporate Debtor to submit the copy of the Judgement passed by the Hon'ble High Court in the aforesaid Writ Petition. The relevant part of the Order of this Bench dated 10.02.2021 is reproduced hereunder for clarity:-

"2. It is informed during the proceedings, by the learned Counsels for the Petitioner and the Respondents that the Hon'ble Gauhati High Court has passed certain Orders in the Writ Petition filed by the CD before the Hon'ble Gauhati High Court. In view of the Order passed by the Hon'ble Gauhati High Court, the matter is adjourned as prayed for. Copy of the order of the Hon'ble High Court has not been submitted either by the Petitioner or by the Respondents before the Registry. The Learned Counsels of both the FC and the CD are hereby directed to submit the copy of the Hon'ble High Court by 03.03.2021."

19. However, an order was passed in the aforesaid Writ Petition (C) by the Hon'ble High Court on 17.03.2021 and the copy of the same has been filed by the learned Counsel for the Financial Creditor. The relevant part of the Order of the Hon'ble High Court is reproduced hereunder for reference:-

"There is an offer which has been made before this Court by the Senior Counsel Mr. K. N. Choudhruty and the same has been accepted on principle by the concerned Bank. One of the terms of offer as suggested by the learned Senior Counsel is that they shall be depositing an amount of Rs.5 crore with the Bank on or before 24.03.2021.

In view of the same, we simply adjourn the matter to give space and time to the parties to reach a conclusion."

20. Subsequently, when the matter came up before this Bench on 24.03.2021, during the proceedings, the learned Counsel for the Financial Creditor has submitted that

Rs.5.00 crores (Rupees Five crores) only has been deposited by the Respondent /CD with the FC Punjab National Bank as per the Order of the Hon'ble High Court and he prayed for some time to discuss the matter with the FC for further course of action. The matter was adjourned on that day as requested for by posting the same on 03.05.2021. The Order passed by this Bench on 24.03.2021 is reproduced hereunder:

"ORDER

Date of Order: 24.03.2021

The matter is taken up for hearing through Video Conferencing. The Learned Counsel Mr. S. Dutta is present for the Applicant / FC and the Learned Counsel Mr. Bikash Sharma is present from the side of the respondents/CD. Heard both sides.

2. *Order of the Hon'ble Gauhati High Court in WP(C) dated 17.03.2021 is filed. Part of the Order of the Hon'ble High Court is reproduced here:*

"There is an offer which has been made before this Court by the senior counsel Mr. K. N. Choudhury and the same has been accepted on principle by the concerned Bank. One of the terms of offer as suggested by the learned senior counsel is that they shall be depositing an amount of Rs.5 crore with the Bank on or before 24.03.2021.

In view of the above, we simply adjourn the matter to give space and time to the parties to reach a conclusion.

Put up on 24.03.2021."

3. *During the proceedings today, the Learned Counsel for the Applicant has submitted that Rs.5.00 crores (Rupees Five crores) only has been deposited by the Respondent with the FC Punjab National Bank as per the order of the Hon'ble High Court. Hence, the Learned Counsel for the Applicant has prayed for some time to discuss the matter with the FC for further course of action.*

4. *The Application under Section 7 of IBC is filed on 27.11.2019 and 482 days have passed since the Application filed which needs to be admitted or rejected within Fourteen (14) days.*

5. *The FC is at liberty to withdraw the Application, if it does not want to pursue.*

6. *The matter is adjourned as prayed for by both the Applicant and the Respondents.*

7. *List the matter on 03.05.2021."*

21. This Bench had taken up the matter on 03.05.2021, 10.08.2021 and 26.08.2021 and passed the following orders:

03.05.2021:

“ORDER

Date of Order: 03/05/ 2021

1. The matter is taken up for hearing through Video Conferencing. Learned counsel for the parties are present. The learned Lawyer appearing for the FC submits that Hon'ble High Court Gauhati has given four months' time from 24/03/2021 to the CD to clear the agreed amount. The CD has already deposited Rs.5.00 crores earlier. This development has been confirmed by the learned Lawyer appearing for the CD. In view of the development, the learned Counsel of the FC prays for adjournment of the matter for four months. The order of the Hon'ble High Court has not been filed.

2. It is observed that the application filed under Sec 7 of IBC has been dragged for more than five hundred (500) days at the Admission/Rejection stage. This is not a Recovery court. The objectives of the IBC shall not be allowed to be defeated. The Applicant has to make its stand clear whether to pursue the application filed or not. However, in the interest of justice, the prayer of the Applicant is accepted as a last chance and matter is adjourned.

3. However, it is made clear that since the Application is filed under Section 7 of IBC and five hundred days have already crossed since the application filed, the matter may be disposed of on merit or dismissal of the Application for non-prosecution on next date. The Applicant is directed to file the copy of the Judgement of the Hon'ble High court within seven days today.

4. The matter is adjourned to 10.08.2021.”

10.08.2021:

“ORDER

Date of Order: 10.08.2021

The matter is taken up for hearing through Video Conferencing. The Learned Counsel Mr. S. Dutta is present for the Applicant / FC and the Learned Counsel Mr. Bikash Sharma is present from the side of the respondents/CD. Heard both the learned Counsels. The matter is going on for more than 500 days at the admission/rejection stage of the Application. Today the learned Counsel appearing for the Petitioner has submitted that the Respondent Company has paid total Rs.15.00 crores and still they are yet to pay interest of Rs.1.00 crore plus.

2. On the other hand, the learned Counsel appearing for the Respondent has submitted that it has paid Rs.19.00 crores plus as they have paid Rs.5.00 crores earlier. On 23.07.2021 they have also paid another amount of Rs.14.00 crores

plus. Hence, total amount paid is Rs.19.00 crores plus. There is no amount payable by the CD to the FC. Hence, the Petition should be dismissed. The learned Counsel for the Petitioner has further submitted that he is yet to get clear position from the FC. **Since there is no clarity with regard to the amount paid by the Respondent Company whether it is Rs.15.00 crores plus or Rs.19.00 crores plus, both the Petitioner as well as the Respondents are hereby directed to file an Affidavit by tomorrow 12.30 PM relating to the exact amount paid by the CD/exact amount received by the FC, further, any amount is leftover to be paid by the CD to the FC. Since the application is filed under Section 7 of IBC, this matter needs to be disposed of without further loss of time.**

3. **List the matter tomorrow i.e. on 11.08.2021."**

26.08.2021:

"ORDER

Date of Order: 26.08.2021

Matter is taken up for hearing through video conferencing. Heard the learned Counsels appearing on behalf of the Petitioner and the Respondents.

2. Counsel for the Petitioner Mr. S Dutta is not well and was represented by his Junior Counsel Ms. Rimly Haloi. She prayed for some time.

3. The matter under IBC is going on for the last 2 years and it needs to be disposed of on merit without further loss of time.

4. The counsel of the Respondent has submitted that it has paid full amount to the FC as claimed by them before the Hon'ble High Court, Guwahati. The amount paid by them is Rs.21.81 crores (Rupees Twenty-One Crores and Eighty-One Lakhs Only). Further, the CD has submitted a letter to FC for waiver of any further amount beyond the claim amount made before Hon'ble High Court, Guwahati. On the other hand, the FC has filed an affidavit confirming that it has received Rs.21.81 crores (Rupees Twenty-One Crores and Eighty-One Lakhs Only) but balance and the deferred interest up to 31.07.2021 is Rs.1.55 crores (Rs. One Crores and Fifty-Five Lakhs Only) is still outstanding.

5. Since the amount claimed by the FC before the Hon'ble High Court, Guwahati has been reportedly paid, the Respondent CD is directed to file the copy of the application filed by the FC before the Hon'ble High Court relating to the amount to be paid to the FC within 3 days from today for disposal of the matter.

6. Considering the prayer made by the Junior Counsel for adjournment, the matter is adjourned for a short period.

7. **List the matter on 02.09.2021."**

22. The CD M/s. Sonapur Herbal Centre Pvt. Ltd. has filed Affidavit on 07.09.2021 wherein it is stated that-

- (i) The Corporate Debtor considering future prospect and reputation of the Company agreed to pay outstanding as mentioned hereinabove in affidavit in full and final within a period of four months, accordingly the Hon'ble High Court in WP(C) No.1032 of 2020 (Sonaur Herbal Pvt. Ltd. Vs. Punjab National Bank) was pleased to grant time of four months to pay outstanding. Consequently, the Corporate Debtors paid an amount of Rs.19,81,10,727.00 (Rupees Nineteen Crores Eighty One Lacs Ten thousand Seven hundred Twenty Seven) only, against the demand of the Financial Creditor of Rs.19,81,10,727.00 (Rupees Nineteen Crores Eighty One Lacs Ten thousand Seven hundred Twenty Seven) only as mentioned in the affidavit in opposition filed by the Financial Creditor before the Hon'ble Gauhati High Court in W.P.(C) No.1032 of 2020. Moreover the Financial Creditor has admitted the amount of repayment of Rs.21,81,10,727.00 (Rupees Twenty One crore Eighty One lac Ten thousand Seven hundred Twenty Seven) only in affidavit submitted before this Tribunal.
- (ii) **It is pertinent to mention that the Financial Creditor has submitted its affidavit in which they stated that after filing of this proceeding, the Financial Creditor has received total amount of Rs.21.81 crores. However, they claimed further Rs.1,55,08,327.26 as balance interest, charges etc.**
- (iii) **The Hon'ble Tribunal after hearing both parties directed on 02.09.2021, the Corporate Debtor to submit affidavit after payment of Rs.1,22,569.91 (Rupees One lac Twenty Two thousand Five hundred Sixty Nine and paise Ninety One) only. However, the Corporate Debtor paid complete outstanding of Rs.1,58,15,895.00 (Rupees One crore Fifty Eight lacs Fifteen thousand Eight hundred Ninety Five) only along with all interest, charges without going into dispute.**

- (iv) **The Financial Creditor after receipt of the said amount, returned all property documents and accepted the said amount which is more than the directed amount of Rs.1,22,569.91 (Rupees One lac Twenty Two thousand Five hundred Sixty Nine and paise Ninety One) only by this Bench and claimed amount before this Bench by the Financial Creditor. Hence, this petition may be dismissed since nothing is remaining in application.**
- (v) **The Corporate Debtor submits that the Hon'ble Tribunal may dismiss this Petition CP(IB) No.39 of 2019 considering the fact that claim amount in application has been paid. More particularly order dated 24.03.2021 passed by the Hon'ble Gauhati High Court and order dated 02.09.2021 passed by this Hon'ble Tribunal have been complied by the Corporate Debtor.**

ORDER

23. It is now observed from the records / documents / Affidavits made available and the arguments advanced by the Counsels of both the parties that:-

- (1) **The Applicant FC (Punjab National Bank) had filed an Application under Section 7 of IBC for initiating Corporate Insolvency Resolution Process in respect of the Corporate Debtor M/s. Sonapur Herbal Centre Pvt. Ltd. for default amount of Rs.21,82,22,569.91 (Rupees Twenty One crores Eighty Two lacs Twenty Two thousand Five hundred Sixty Nine and paise Ninety One) only which included the FITL amount of Rs.3,35,91,363.91 (Rupees Three crore Thirty Five lacs Ninety One thousand Three hundred Sixty Three and paise Ninety One) only.**
- (2) **After receipt of Rs.21,81,10,727.00 (Rupees Twenty-One Crore and Eighty-One lac Ten thousand Seven hundred Twenty Seven) only, the Financial Creditor has claimed further Rs.1,57,04,052.09 (Rupees One crore Fifty Seven lac Four thousand Fifty Two and paise Nine) only towards up-to-date balance and deferred interest. Hence, the total claim amount made by the Financial Creditor is Rs.23,39,26,622.00**

(Rupees Twenty Three crore Thirty Nine lac Twenty Six thousand Six hundred Twenty Two) only.

(3) The Corporate Debtor has paid the entire claim amount with up-to-date interest of the Financial Creditor of Rs.23,39,26,622.00 (Rupees Twenty Three crore Thirty Nine lac Twenty Six thousand Six hundred Twenty Two) only.

24. We consider nothing survives in this Petition and hence the matter is disposed of as the amount claimed by the Financial Creditor has been fully paid by the Corporate Debtor.

25. The Applicant FC is hereby directed to hand over the documents, all securities etc. obtained for this advance to the Respondent / CD within 10 (Ten) working days from today and file a compliance report within 5(Five) days thereafter with the Registry.

26. Hence this Application filed under Section 7 of IBC is disposed of as nothing survives when the entire amount claimed by the Applicant / Financial Creditor has been fully paid by the Corporate Debtor.

Sd/-

**(Prasanta Kumar Mohanty)
(Member (Technical)
& Adjudicating Authority**

//D/17.09.2021//

Sd/-

**(H. V. Subba Rao)
Member (Technical)
& Adjudicating Authority**