

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD
Court 2**

C.P. (I.B) No.466/NCLT/AHM/2019

**Coram: HON'BLE Ms. MANORAMA KUMARI, MEMBER JUDICIAL
HON'BLE Mr. CHOCKALINGAM THIRUNAVUKKARASU, MEMBER TECHNICAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH
OF THE NATIONAL COMPANY LAW TRIBUNAL ON 31.08.2020**

Name of the Company: Ganga Rasayanie (P) Ltd
V/s
Baroda Agro Chemicals Ltd

Section : 9 of the Insolvency and Bankruptcy Code, 2016

<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
1.				
2.				

1.
2.

**ORDER
(through video conferencing)**

The Order is pronounced in the open court vide separate sheet.



**CHOCKALINGAM THIRUNAVUKKARASU
MEMBER TECHNICAL**

Dated this the 31st day of August, 2020



**MANORAMA KUMARI
MEMBER JUDICIAL**

**BEFORE ADJUDICATING AUTHORITY (NCLT)
AHMEDABAD BENCH
AHMEDABAD**

C.P. No. (IB) 466/9/NCLT/AHM/2019

In the matter of:

M/s. Ganga Rasayanie Private Limited
1/45, Shivaji Nagar,
Shree Ganesh CHS Ltd.
Dr. A.B. Road, Worli
MUMBAI 400 030

Petitioner
[Operational Creditor]

Versus

M/s. Baroda Agro Chemicals Ltd.
Survey No. 40
Yash Kamal Industrial Estate
Baska-Tajpura Road
Vill. Panelav
Taluka Halol
VADODARA 389 356
Gujarat State

Respondent
[Corporate Debtor]

Order delivered on 31st August, 2020

**Coram: Hon'ble Ms. Manorama Kumari, Member (J)
Hon'ble Mr. Chockalingam Thirunavukkarasu, Member (T)**

Appearance:

Advocate Mr. Uday M. Joshi for petitioner.

ORDER

Per se : Ms. Manorama Kumari, Member (Judicial)

1. Mr. Nitin Porwal, Director, being authorised person, on behalf of M/s. Ganga Rasayanie Private Limited filed this Petition under Section 9 of The Insolvency and Bankruptcy Code, 2016 [hereinafter referred to as "the Code"] read with Rule 6 of The Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 [hereinafter referred to as "the Rules"], as operational creditor/applicant.

Chockalingam

Manorama

2. The applicant/operational creditor is a private limited company registered under the provisions of Companies Act, 1956 having identification No. U24117WB1977PTC031074 and having its registered office at Mumbai and engaged in the activity of trading in various products.
3. The respondent/corporate debtor is a limited company registered under the provisions Companies Act, 1956 on January 17, 1996 and having identification No. U24219GJ1996PLC028630 and having registered office at Vadodara, Gujarat State. Authorised share capital of the respondent company is Rs. 3,00,00,000/- and paid up share capital is Rs. 84,09,070/- The respondent company is engaged in the activity of trading in various products.
4. The applicant has stated that pursuant to the supply of 16450 kgs. of Garosol 110 @ Rs. 53/- per kg. plus GST @ 18%, the applicant had raised invoice dated 07.12.2017 amounting to Rs. 10,28,783/- on the respondent. That, against the said invoice, the respondent had made payment of Rs. 4.00 lacs leaving a balance of Rs. 6,28,783/- which still remains unpaid by the respondent. Thus, the total outstanding amount to be paid by the corporate debtor works out to **Rs. 6,28,783/- (Rupees six lacs twenty-eight thousand seven hundred eighty-three only)** where the date of default is 7th December, 2017.
5. It is further stated by the applicant that having failed to receive the payment, demand notice in form 4 was issued calling upon the respondent to clear the operational debt of Rs. 6,28,783/-.
6. The applicant in support of its claim has furnished copy of documents like invoice dated 07.12.2017, demand notice

Shoekah

Chamran

issued under Rule 5, acknowledgement of delivery of demand notice, account confirmation as on 08.09.2018, bank certificate, statement in tabular format giving details of amount payable etc.

Findings:

7. On perusal of the records it is found that the application filed on 21st June, 2019 was notified for the first time on 12th July, 2019. Despite giving number of opportunities the respondent has not filed any reply. Therefore, the application is heard in absence of the respondent.
8. Heard the learned advocate appearing on behalf of the applicant and perused the documents furnished along with the application.
9. The instant petition is signed and filed by one Mr. Nitin Porwal, Director of the company on the basis of authorisation given by another Director of the applicant company. No resolution is passed by the company authorising the other Director who has issued authorisation letter to Mr. Nitin Porwal. Similarly, the undated demand notice is signed and issued by the same Director Mr. Nitin L. Porwal without any authority. Therefore, the issuance of demand notice is without any authority is bad in the eye of law.
10. On perusal of the records it is also found that the applicant has not produced an affidavit to the effect that no notice is given by the corporate debtor relating to a dispute of the unpaid operational debt which is mandatory as per Section 9 (2) (b) of the Insolvency and Bankruptcy Code, 2016.

11. Under the facts and circumstances the petition is bad in the eyes of law and not maintainable on the very reason that the demand notice is issued without any authority.

12. In the result, company petition No. CP (IB) 466 of 2019 stands dismissed and disposed of without cost. However, this will not stand in the way of the Petitioner invoking the appropriate forum seeking to enforce its claim against the Respondent, as this petition has been dismissed on the issue of maintainability taking into consideration the provisions of IB Code, 2016.



Chockalingam Thirunavukkarasu
Adjudicating Authority
Member (Technical)



Ms. Manorama Kumari
Adjudicating Authority
Member (Judicial)

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