BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH

C.P. (I.B) No.497/7/NCLT/AHM/2018

Coram: Hon'ble Mr. HARIHAR PRAKASH CHATURVEDI, MEMBER (JUDICIAL)
Hon'ble Mr. PRASANTA KUMAR MOHANTY, MEMBER (TECHNICAL)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 06.11.2019

Name of the Company: Bank of Baroda
V/s.
Alps Pharmaceuticals Pvt. Ltd.

Section of the Companies Act : Section 7 of the Insolvency and Bankruptcy Code

S.NO.	NAME (CAPITAL LETTERS)	DESIGNATION	REPRESENTATION	SIGNATURE
1.	Jaimil Doshi	Adv	Petitioner	
	Krina Parekh	Adv		
2.	For Arjun Sheth	~~Advocate~~ Adv & Solicitors		

ORDER

The Petitioner is represented through respective Learned Counsel(s).

The case is fixed for pronouncement of order today.

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

The CP(IB) 497/7/NCLT/AHM/2018 is admitted.

(PRASANTA KUMAR MOHANTY)
MEMBER (TECHNICAL)

(HARIHAR PRAKASH CHATURVEDI)
MEMBER (JUDICIAL)

Dated this the 6th day of November, 2019.

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NATIONAL COMPANY LAW TRIBUNAL AHMEDABAD

BEFORE THE ADJUDICATING AUTHORITY
(NATIONAL COMPANY LAW TRIBUNAL)
AHMEDABAD BENCH
AHMEDABAD

C.P. (I.B.) No. 497/7/NCLT/AHM/2018

Coram: Hon'ble Mr. Harihar Prakash Chaturvedi, Member (Judicial)
Hon'ble Mr. Prasanta Kumar Mohanty, Member (Technical)

<u>In the matter of:</u>

DENA BANK now BANK OF BARODA
Incorporated under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (Act V of 1970)

Having Registered/Head Office at Dena Corporate Centre, C-10, G Block, Bandra Kurla Complex, Bandra(E), Mumbai - 400051

Having its Branch Office at:
Dena Bank, Station Road Kalol Branch at; Bazaar Road, Near Tower Chowk, Station Road, Kalol - 382721, Dist: Gandhinagar.

.....**Applicant - Petitioner – Financial Creditor (FC)**

Versus

ALPS PHARMACEUTICALS PVT. LTD.
Having its Registered Office at:
24, Royal Crescent, Nr. Asopalav Bunglows, Thaltej, Ahmedabad GJ 380054 IN

.....**Respondent-Corporate Debtor (CD)**

<u>Appearance:</u>
Advocate, Shri Arjun Sheth for the Applicant/Financial Creditor
Advocate, Shri Vimal A. Purohit and Shri Dipen A. Sankeresur for the Respondent/Corporate Debtor.

Order Pronounced and delivered on 06/11/2019.

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

1. The present I.B. Petition is filed by the Financial-Creditor **Dena 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" in Short) against the Corporate-Debtor-Company namely, **Alps Pharmaceuticals Private Limited** for the default committed by the Corporate Debtor in making repayment of the Loan/CC facility availed from the Bank. The Applicant (FC), Dena Bank(DB) is a Bank, incorporated under the provisions of the Banking Companies (Acquisition & Transfer of Undertakings) Act, 1970. The application has been filed by the duly authorised officer, **Shri Arvindkumar Purushottamdas Parmar**, Chief Manager at Dena Bank, Zonal Office Gandhinagar, Plot No. 320-321, Sector-16, Gandhinagar, Gujarat – 382016.

2. The Respondent Corporate Debtor (CD) Company, namely Alps Pharmaceuticals Private Limited was incorporated on 16/04/1980 with CIN: U24230GJ1980PTC047642.

3. The nominal share capital of the Respondent (CD) Company is **Rs.1,50,00,000/-** (Rupees One Crore Fifty Lakhs only) and the paid-up capital of the company is **Rs.1,09,28,800/-** (Rupees One Crore Nine Lakhs Twenty Eight Thousand Eight Hundred Only). The Registered Office of the Corporate Debtor Company is situated at: **24, Royal Crescent, Nr. Asopalav Bunglows, Thaltej, Ahmedabad GJ 380054 IN.**

4. The Respondent (CD) Company is **manufacturing Injection and Tablets and supplies mainly to the Government Department of Uttar Pradesh and Uttranchal.**

5. It is submitted that the Respondent Company applied for various loan facilities and the same was originally sanctioned and further enhanced the **CC limit from Rs.22.00 Crores to Rs.26.00 Crores and LC of RS.3.50 Crores on 29/04/2013** by the petitioner Bank for total aggregate facilities of **Rs.29,50,00,000/- (Twenty Nine Crores Fifty Lakhs only)** with certain terms and conditions including collateral securities of properties. The Corporate Debtor availed the Cash Credits and LC limit executing various documents and some documents executed by the

mortgagors/guarantors with **Corporate Guarantee of Parth Parenteral Private Limited** in favour of the Bank binding themselves as liable to pay the loan facilities availed by the Corporate Debtor. Various loans/credit facilities granted by the applicant Bank are narrated as under:

I **Cash Credit Facility: Rs.19,78,05,518/-**

II **Letter of Credit Facility: Rs.2,14,65,140/-**

Plus interest thereon as per and in accordance with the terms of sanction (Interest Claim Sheet not annexed). Thus, total aggregate limit of **Rs.29,50,00,000/-** Crores were sanctioned by the Applicant Bank vide sanction letter dated **29/04/2013** with certain terms and conditions including **hypothecation of goods, book debts and other moveable assets to secure multiple facilities** which was duly accepted/acknowledged by the Corporate Debtor (page no. 119-137, paper book). Mortgage of the property has been created on **23/08/2013** (page no. 163 to 186 of the paper book). **The same was disbursed on 29/04/2013.**

6. The Corporate-Debtor has defaulted payment and the **date of default is 12/08/2015** as stated by the Petitioner Bank. **CIBIL Report** (page no. 248 to 315 of the paper book) has been filed by the Bank which confirms that the Account is **in default.**

7. The statements of accounts of the Corporate debtor have been filed and the Petitioner Bank has submitted a Certificate to this effect under Banker's Book of Evidence Act, 1891. (Page no. 212-224 and 246-247 of paper book).

8. The Financial Creditor also filed an IA 248/19 for substituting the name of Dena Bank with Bank of Baroda on account of the amalgamation of the Dena Bank with the Bank of Baroda vide the notification of the Government of India dated 20/1/2019. Thus, the IA filed has been admitted and the name of the Dena Bank is substituted with the Bank of Baroda.

9. The Petitioner Bank, in support of its contentions has annexed the details of Financial Debt, Records and evidences of default including copies of all the sanction letters, the workings showing the amount claimed to be in default and its calculation in tabular form as on **12/08/2015** along with Valuation reports including the **Affidavit dated 12/07/2019** in support of its Application filed.

10. **The present application has been filed by the** Financial Creditor under Section 7 of the Insolvency and **Bankruptcy** Code, 2016 read with Rule 4 of the **Insolvency** and Bankruptcy Code before this

Adjudicating Authority to initiate the Corporate Insolvency Resolution Process.

11. The Financial Creditor, to substantiate their claim, has enclosed following documents: -

   i. Statement of Accounts of the Corporate Debtor maintained by Dena Bank (now Bank of Baroda) along with Certificate issued under Banker's Book Evidence Act, 1891 (Page no.212-224 of paper book)

   ii. Copy of the Original Application No. 723 of 2016 dated 09/12/2016 (along with the annexures) filed before the Debt Recovery Tribunal-1 at Ahmedabad against the Corporate Debtor and the Guarantors to the CD, along with the relevant documents (Page no.17 to 42 of paper book)

   iii. Copy of Valuation certificate/report in respect of secured assets(Page no.43 to 63 of paper book)

   iv. Copy of Sanctioned letter No. GMO/ADV/1132/2013 dated 29/04/2013 for **renewel/enhancement of CCH limit and fresh limit** of Inland L/C aggregating to Rs.29.50 Crores (Page no.64 to 90 of paper book)

   v. Copy of Demand Promissory Note for Rs.29,50,00,000/- dated 09/05/2013. (Page no. 99 of paper book)

vi. Copy of General letter of lien & Set off for borrowing arrangements from borrowers dated 09/05/2013 (Page no. 100 of paper book)

vii. Copy of Letter of Guarantee dated 09/05/2013 (Page no.101 to 106 of paper book)

viii. Copy of Corporate Guarantee dated 09/05/2013 (Page no.107 to 111 of paper book)

ix. Copy of General Undertaking dated 09/05/2013 (Page no.112 to 114 of paper book)

x. Copy of Letter of Continuity dated 09/05/2013 (Page no.115 of paper book)

xi. Copy of the Power of attorney for book debts dated 09/05/2013 (Page no.116 to 117 of paper book)

xii. Copy of the Agreement of Hypothecation dated 09/05/2015 (Page no.119 to 137 of paper book)

xiii. Copy of letter of Confirmation of Guarantee dated 09/05/2013 (Page no.138 of paper book)

xiv. Copy of Letter of Consent dated 09/05/2013 by Guarantors (Page no.139 of paper book)

xv. Copy of the Letter of General Lien and Set off dated 09/05/2013 from Guarantors (Page no.140 of paper book)

xvi. Copy of Reregistered deed for extension of mortgage of immovable properties for credit facilities aggregating to Rs. 2950 Lakhs bearing registration no. 924 dated 23/08/2013 registered with Sub-Registrat, Almora, Uttrakhand (Page no.163 to 186 of paper book)

xvii. Copy of letter Acknowledgement debts and security dated 31/12/2015 (Page no.187 of paper book)

xviii. Copy of Demand notice dated 13/06/2015 by Applicant u/s 13(2) of the SARFAESI Act, 2002. (Page no.188 to 191 of paper book)

xix. Copy of extract of Ledger/statement of accounts certified to be true under the Banker's Books of Evidence Act, 1891 (Account No. 042613001014) (Page no.212 to 224 of paper book)

xx. Copy of extract of Ledger/statement of accounts certified to be true under the Banker's Books of Evidence Act, 1891 (Account No. 1351OIB00011) (Page no.225 of paper book)

xxi. Copy of Interest Certificate under the Banker's Books of Evidence Act, 1891 (Page no. 226 of paper book)

xxii. CIBIL report (Page no. 246 to 315 of paper book)

12. In the present matter, this Tribunal, vide its order dated 23/10/2018 had directed the Petitioner Bank to serve the notice of date of hearing to the Corporate Debtor and file the proof of service of notice before this Tribunal. Thereafter, the Respondent, Corporate Debtor appeared