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**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH**

**PRESENT: HON'BLE SHRI RATAKONDA MURALI- MEMBER JUDICIAL
HON'BLE SHRI NARENDER KUMAR BHOLA- MEMBER TECHNICAL**

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 27.02.2020 AT 10.30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CP(IB) No. 603/9/HDB/2019
NAME OF THE COMPANY	Pro Young International Pvt Ltd
NAME OF THE PETITIONER(S)	Pragathi Bio care Pvt Ltd
NAME OF THE RESPONDENT(S)	Pro Young International Pvt Ltd
UNDER SECTION	9 of IBC

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

ORDER

Order is passed vide separate order.


MEMBER (T)

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MEMBER (J)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

CP (IB) No. 603/9/HDB/2019
U/s. 9 of Insolvency & Bankruptcy Code, 2016
R/w Rule 6 of I & B (AAA) Rules, 2016

In the matter of:

M/s. Pragati Bio Care Pvt. Ltd.
Having its office at 55 & 56
Vikasipura Main Road
Near Vinayaka Temple
Behind J.C. Industrial Area
Yellanchanahalli
Bangalore – 560 062

...Petitioner/Operational Creditor

VERSUS

M/s. Pro Young International Pvt. Ltd.
TF6, 3rd Floor, Empire Square
Road NO.36, Jubilee Hills
Hyderabad – 500 072
Telangana.

... Respondent/ Corporate Debtor

Date of order: 27.02.2020

Coram:

Hon'ble Shri Ratakonda Murali, Member (Judicial)
Hon'ble Shri Narender Kumar Bhola, Member (Technical)

Parties / Counsels present:

For the Petitioner : Mr. K. Mohan, Advocate

For the Respondent: Mr. S. Ramesh Gupta,
Mr. K. Ramana Murthy, Advocates

Per: Hon'ble Shri Narender Kumar Bhola, Member (Technical)

Heard on: 28.01.2020, 07.02.2020, 11.02.2020, 24.02.2020





ORDER

1. The instant Company Petition is filed by M/s. Pragathi Bio Care Pvt. Ltd. /Operational Creditor alleging that M/s. Pro Young International Pvt. Ltd. / Corporate Debtor had defaulted an amount of Rs.83,34,399/- (Rupees Eighty Three Lakhs Thirty Four Thousand Three Hundred and Ninety Nine only) along with interest @ 24% per annum, totaling to Rs.1,07,04,623/- (Rupees One Crore Seven Lakhs Four Thousand Six Hundred and Twenty Three only).

Hence this petition is filed under Section 9 of Insolvency and Bankruptcy Code, 2016, r/w Rule 6 of Insolvency & Bankruptcy (Application to the Adjudicating Authority) Rules, 2016, seeking admission of the Petition, initiation of Corporate Insolvency Resolution Process, granting moratorium and appointment of Interim Resolution Professional as prescribed under the Code and Rules thereon.

2. The averments of the petition filed by the Petitioner/Operational Creditor in brief are described hereunder:

- i. M/s. Pragathi Bio Care Pvt. Ltd. / Operational Creditor is a Company incorporated under the Companies Act, 1956 and is engaged in the business of nutraceutical and cosmeceutical products and has its business operations across India and abroad. The Corporate Debtor / M/s. Pro Young International Pvt. Ltd. had placed several purchase orders for supply of medicinal drugs / products on the Operational Creditor. The Operational Creditor delivered the drugs against the purchase orders placed by the Corporate Debtor and raised the following invoices, as per the details mentioned below:





Sl.No.	Invoice Nos.	Date	Amount	Interest @ 24% p.a.
1.	T000098	16.01.2018	13,99,674/-	4,47,895/-
2.	T000111	10.02.2018	9,22,241/-	2,76,672/-
3.	T000131	09.03.2018	1,274/-	4,280/-
4.	T000142	28.03.2018	21,55,315/-	6,03,488/-
5.	S209	20.04.2018	6,12,999/-	1,59,379/-
6.	S278	10.05.2018	17,59,970/-	4,22,392/-
7.	S420	30.05.2018	14,83,826/-	3,56,118/-
Interest @ 24% per annum upto date				22,70,224/-
Grand Total			1,07,04,623/-	

- ii. It is averred so many email communications and reminders were sent to the Corporate Debtor but no payments were received. After continuous persuasion, three post-dated cheques received against part payment of Rs.25,53,120/-. The details are as follows:

S.No.	Cheque No.	Date	Amount Rs.
1.	663836	05.11.2018	5,53,120/-
2.	663837	15.11.2018	10,00,000/-
3.	663838	26.11.2018	10,00,000/-
Total			25,53,120/-

- iii. It is averred the Corporate Debtor promised that the cheques will be honoured upon presentation and all the above three cheques were presented on 05.11.2018 and they were dishonoured with an endorsement "insufficient funds". Further, as per the request of Corporate Debtor, the said cheques on presentation were again dishonoured on 14.01.2019.
- iv. Hence this application seeking to trigger CIRP against Corporate Debtor for default of operational debt.





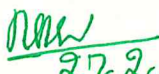
3. In this case, notice was ordered to the corporate debtor. Notice was served on the corporate debtor. Proof of service is filed by the operational creditor about service of notice on the corporate debtor. However, there was no representation for the corporate debtor. None appeared for the corporate debtor on receipt of notice by the corporate debtor. On one occasion, viz. 01.11.2019, a junior advocate of Shri Rama Murthy appeared and stated that Shri Rama Murthy, advocate will file Vakalat for the corporate debtor. However, it was not filed. Thereafter, one Shri S. Ramesh Gupta, advocate filed Vakalat for the Corporate Debtor. However, he has not filed any reply/ counter on behalf of the corporate debtor. Even cost was imposed on the corporate debtor for filing reply/ counter. However, cost was not paid. Therefore, the corporate debtor was treated as 'absent'. Thereafter, the matter was listed for suggesting name of proposed Interim Resolution Professional (IRP). The operational creditor filed consent of the proposed IRP in Form-2.
4. We have heard the learned counsel for the operational creditor. In this case, as stated above Shri S. Ramesh Gupta, advocate has filed Vakalat for the corporate debtor. However, reply was not filed on behalf of the corporate debtor. There is no contest of the case of the operational creditor by the corporate debtor. The operational creditor has filed Demand Notice dated 30.01.2019. The operational creditor has further relied on the invoices shown as Annexure-A7. There was no reply to the Demand Notice shown as Anneuxre-A1. The case of the operational creditor is that the corporate debtor committed default of the operational debt to the tune of Rs.83,34,399/-, apart from the interest at the rate of 24% per annum. The total amount of default is Rs.1,07,04,623/-. On two occasions, cheques given by the corporate debtor were bounced. Thus, the operational creditor is able to establish the debt and default. The petition is in order. The petition deserves to be admitted. Accordingly the petition is admitted.

5. Hence, the Adjudicating Authority admits this Petition under Section 9 of IBC, 2016, declaring moratorium for the purposes referred to in Section 14 of the Code, with the following directions:-

- i. The Bench hereby prohibits 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; Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein; any action to foreclose, recover or enforce any security interest created by the Corporate Debtor in respect of its property including any action under Securitization and Reconstruction of Financial Assets and Enforcement of Security interest Act, 2002 (54 of 2002); the recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.
- ii. That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
- iii. That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- iv. That the order of moratorium shall have effect from 27.02.2020 till the completion of the Corporate Insolvency Resolution Process or until this Bench approves the Resolution Plan under Sub-Section (1) of Section 31 or passes an order for liquidation of Corporate Debtor under Section 33, whichever is earlier.

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- v. That this Bench hereby appoints Mr. B. Vijaya Kumar, 101, Sri Shailaja Nivas, Bhavani Nagar, Dilsukhnagar, Hyderabad – 500 060, IBBI Registration No. IBBI/IPA-001/IP-P01645/2019-20/12579, as Interim Resolution Professional to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.
- vi. That the Public announcement of Corporate Insolvency Resolution Process shall be made immediately as specified under section 13 of the code.
- vii. Accordingly, this Petition is admitted.
- viii. Registry to send a copy of this order to the Registrar of Companies, Hyderabad for appropriately changing the status of Corporate Debtor herein on the MCA-21 site of Ministry of Corporate Affairs.


27.2.2020
NARENDER KUMAR BHOLA
MEMBER (TECHNICAL)


27.2.2020
RATAKONDA MURALI
MEMBER (JUDICIAL)

Syamala /
Karim