



**IN THE NATIONAL COMPANY LAW TRIBUNAL  
ALLAHABAD BENCH,  
PRAYAGRAJ**

**CP (IB) No.89/ALD/2022**

**An application under Section 9 of the Insolvency & Bankruptcy Code, 2016 read with Rule 6 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016**

**IN THE MATTER OF:**

Global New Energies & Technologies

**Working Office:**

3/12, 1<sup>st</sup> Floor, Raj Kutir, 1/12, Vijay Khand,  
Near Mithaiwala Crossing, Gomati Nagar,  
Lucknow (U.P.) India-226010  
Phone: 0522-3144503

**Registered Office:**

A-902, Saraswati Riverview Apartments,  
Gomati Nagar Extension, Gomati Nagar,  
Lucknow (UP), India-226010

**...Applicant/Operational Creditor**

*Versus*

**Diversification Agriculture Producer Company Limited**

*Having Its Registered Office at*  
3/26216, Janakpur Nagar,  
Khanalampura, Saharanpur-247001

**...Respondent/Corporate Debtor**

**Order pronounced on : 06.10.2023**

**CORAM:**

Sh. Praveen Gupta	: Member (Judicial)
Sh. Ashish Verma	: Member (Technical)



**PRESENT-**

Sh. Saurabh Yadav alongwith : *For the Operational Creditor*  
Sh. Abhishek Tripathi, Advs.

Corporate Debtor : *Ex-parte v.o.d. 11.08.2023*

**ORDER**

1. The instant application is filed on 12.08.2021 by **M/s Global New Energies & Technologies** (hereinafter referred as '**Applicant**'/ '**Operational Creditor**') under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as the "**I & B Code, 2016**") read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter referred as "**the Rules**"). The prayer made therein is to initiate Corporate Insolvency Resolution Process (hereinafter referred as '**CIRP**') in respect of **M/s Diversification Agriculture Producer Company Limited** (hereinafter referred as '**Respondent**'/ '**Corporate Debtor**') due to default in payment of total outstanding amount of Rs.1,50,32,457/- (Rupees One Crore Fifty Lakhs Thirty Two Thousand Four Hundred Fifty Seven Only).



**2.** Briefly stated facts of the present case as averred by the Applicant/Operational Creditor in its application filed in Form-5 containing part I, II, III, IV & V are that:-

**i.** The Applicant namely, Global New Energies & Technologies (hereinafter, Operational Creditor) is having its registered office at A-902, Saraswati Riverview Apartment, Gomti Nagar Extension, Gomti Nagar, Lucknow, U.P-226010.

**ii.** The Corporate Debtor namely, M/s Diversification Agriculture Producer Company Limited is a Farmer Producer Organization and is registered with RoC Kanpur. It is a dealer of the products of the Operational Creditor.

**iii.** As stated in the application that the Operational Creditor entered into an agreement with the Corporate Debtor for distribution of the products such as solar sprayer, battery operated sprayers and agriculture laser land levelers. After completion of the contractual requirements and supply of products as agreed, the Operational Creditor raised various GST Invoices on different dates for the supply of said products. Copies of



Invoices have been annexed as **Annexure-4** with the Application. Details of all the GST Invoices raised on various dates are enumerated below in the table:-

**DETAILS OF GST INVOICES RAISED BY THE OPERATIONAL CREDITOR**

<b>S. No.</b>	<b>GST Invoice No.</b>	<b>Date of Invoice</b>	<b>Product Description</b>	<b>Quantity</b>	<b>Amount (in Rs.)</b>
1.	09AAQFG4351E1ZA/0001	07.06.2018	Miyachi Power Agriculture Sprayer	150	6,00,096
2.	D9AAQFG4351E1Z1/0001	12.03.2018	Miyachi Power Agriculture Sprayer	100	5,50,032
3.	09AAQFG4351E1ZA/0004	12.03.2019	Miyachi Power Agriculture Sprayer	100	5,50,032
4.	D9AAQFG4351E1Z1/0004	12.03.2019	Miyachi Power Agriculture Sprayer	100	5,50,032.00
5.	09AAQFG4351E1ZA/0021	20.06.2018	Miyachi Power Agriculture Sprayer	80	4,80,077.00
6.	D9AAQFG4351E1Z1/0004	12.03.2019	Miyachi Power Agriculture Sprayer	80	4,80,077.00
7.	09AAQFG4351E1ZA/0020	20.06.2018	Miyachi Power Agriculture Sprayer	50	2,00,032.00
8.	D9AAQFG4351E1Z1/0020	12.03.2019	Miyachi Power Agriculture Sprayer	50	2,00,032.00
9.	09AAQFG4351E1ZA/0025	22.08.2018	Miyachi Power Agriculture Sprayer	47	126915.00
10.	D9AAQFG4351E1Z1/0004	12.03.2019	Miyachi Power Agriculture Sprayer	47	126915
11.	09AAQFG4351E1ZA/0001	24.10.2017	Agriculture Sprayer	150	619500.00
12.	D9AAQFG4351E1Z1/0001	12.03.2019	Agriculture Sprayer	150	619500.00
13.	09AAQFG4351E1ZA/0060	27.12.2018	Hakuto GPS Enabled Laser Land Leveler with Controller, Receiver, Transmitter, Scrapper Bucket	10	32,36,800.00
14.	D9AAQFG4351E1Z1/0060	12.03.2019	Hakuto GPS Enabled Laser	10	32,36,800.00



			Land Leveler with Controller, Receiver, Transmitter, Scrapper Bucket		
15.	09AAQFG4351E1ZA/0076	12.02.2019	Miyachi Power Agriculture Sprayer	50	1,75,000.00
16.	D9AAQFG4351E1Z1/0078	12.03.2019	Miyachi Power Agriculture Sprayer	50	1,75,000.00
17.	09AAQFG4351E1ZA/0079	20.02.2019	Miyachi Power Agriculture Sprayer	100	350000.00
18.	D9AAQFG4351E1Z1	12.03.2019	Miyachi Power Agriculture Sprayer	100	350000.00
19.	09AAQFG4351E1ZA/0084	12.03.2019	Hakuto GPS Enabled Laser Land Leveler with Controller, Receiver, Transmitter, Scrapper Bucket	10	30,46,400.00
20.	D9AAQFG4351E1Z1/0084	12.03.2019	Hakuto GPS Enabled Laser Land Leveler with Controller, Receiver, Transmitter, Scrapper Bucket	10	30,46,400.00
21.	09AAQFG4351E1ZA/0087	29.03.2019	Hakuto GPS Enabled Laser Land Leveler with Controller, Receiver, Transmitter, Scrapper Bucket	10	30,46,400.00
22.	D9AAQFG4351E1Z1/0087	12.03.2019	Hakuto GPS Enabled Laser Land Leveler with Controller, Receiver, Transmitter, Scrapper Bucket	10	30,46,400.00
23.	09AAQFG4351E1ZA/0010	23.10.2019	Hakuto GPS Enabled Laser Land Leveler	04	233332.00



			with Controller, Receiver, Transmitter, Scrapper Bucket		
24.	D9AAQFG4351E1Z1/0010	23.10.2019	Hakut GPS Enabled Laser Land Leveler with Transmitter	04	233332.00

**iv.** It is also stated in the application that the Corporate Debtor delayed the payments of the bills raised on different dates for the supply of solar sprayer, battery operated sprayers and agriculture laser land levelers. Bills for a total sum of Rs. 1,46,74,112 were raised which was due for payment by the Corporate Debtor. The Operational Creditor received only Rs. 43,06,900/- towards the payment of the bills raised. It is mentioned in Part-IV of the application that the principal amount due is of Rs. 1,03,67,212 (Rupees One Crore Three Lakhs Sixty Seven Thousand Two Hundred and Twelve only) along with interest @ 12% p.a which amounts to Rs. 46,65,245 till June 2022 for 30 months.

**v.** It is also stated in the application that the Corporate Debtor has acknowledged and accepted its debt and asked to remove the defects with respect to equipments which was



cured by the Operational Creditor and further transactions between the parties continued.

**vi.** It is further stated by the Applicant/Operational Creditor that the Corporate Debtor has once again acknowledged its liability for payment of debt amount in the ledger account maintained for supply of materials of the Operational Creditor vide an email dated 29.08.2019.

**vii.** Furthermore, it is stated in the application that after receiving no response from the Corporate Debtor regarding payment of the outstanding debt, the Operational Creditor served demand notice dated 11.03.2022 to the Corporate Debtor for payment of the operational debt in terms of section 8(1) of the I & B Code, 2016. Copy of demand notice has been annexed as **Annexure -1** with the Application.

**viii.** The total amount of debt as mentioned in Part -IV of the application is Rs. 10367212/- (Rupees One Crores Three Lakhs Sixty Seven Thousand Two Hundred and Twelve Only) as on 23.10.2019 toward the supply of Solar Sprayer, Battery Operated Sprayers and Agriculture Laser Land Levelers on various dates.



**DETAILS OF UNPAID OPERATIONAL DEBT**

<b>S. No.</b>	<b>Details</b>	<b>Amount (in Rs.)</b>
1.	Total Billed Amount	1,46,74,112.00
2.	Amount paid by FPO	43,06,900.00
3.	Balance Amount	1,03,67,212.00
4.	Interest amount for the period of 02 years and 06 months till 06/2022 @18% p.a	46,52,245.00
5.	<b>Total Amount</b>	<b>1,50,32,457.00</b>

3. As per the records, the registry of this court as well as the Applicant issued notices to the Corporate Debtor but it failed to be present on all the dates fixed for hearing. After failure of the Corporate Debtor to appear before this tribunal through its counsel or authorized representative, publication was also made in the newspapers namely Indian Express (English) and Hindustan (Hindi) dated 20.04.2023. However neither any representation is made nor any reply has been filed before this tribunal. Therefore, this Hon'ble Tribunal vide order dated 11.08.2023 had set the respondent as ex-parte and the case has been heard by the submissions made by the Ld. Counsel of the Operational Creditor.



## **FINDINGS AND ORDER**

4. We have considered the submissions made by the Ld. Counsel of the Operational Creditor and perused the records also.
5. It is now a settled law that under Section 9 of the Code, to initiate CIRP, the Applicant is required to prove that the debt is due, it has not been paid and the debt is an undisputed debt. It is significant to state that in the present case, there has not been any notice of dispute served to the Operational Creditor against the amount of debt of Rs. 1,50,32,457/- raised by the Operational Creditor through various GST Invoices and Demand notices which has been annexed as **Annexure-1** and **Annexure-4** respectively with the application. Therefore, in the present matter, we are inclined to initiate the CIRP of the Corporate Debtor on account of fulfillment of all ingredients of Section 9 as provided in section 9(3) and section 9(5)(i).
6. Taking into account the provisions of Section 9 of the I & B Code, 2016, we find that the application made under sub-section (1) of Section 9 along with documents and fees as



mentioned in its sub-section (2) is complete. The payment of the unpaid operational debt has not been made which is well above the threshold limit of Rs.1 crore. The date of default as per the petition has been found to be 23.10.2019 when the last invoice was raised by the Operational Creditor. The petition u/s 9 is filed on 20.05.2022, hence, petition is found to have been filed well within the limitation period. In terms of section 9(3) of I & B Code 2016, the Operational Creditor has submitted the copies of invoices demanding payment and demand notice given to the Corporate Debtor for payment of goods supplied. Now, after finding that all the conditions for admission of application under Section 9(5)(i) of the I & B Code 2016 against the Corporate Debtor, has been fulfilled and the Ld. Counsel of the Corporate Debtor has failed to demonstrate before us anything about there being any pre-existing dispute as regards the payment of the operational debt, we find this application fit for admission under Section 9(5)(i) of the I & B Code, 2016 for starting CIRP against the Corporate Debtor i.e ***Diversification Agriculture Producer Company Limited.***



7. The Operational Creditor has not proposed the name of any Interim Resolution Professional (hereinafter referred as “**IRP**”) in the present application. Hence, this Adjudicating Authority appoints Mr. Ankit Agarwal having Registration No.IBBI/IPA-002/IP-N01070/2020-2021/13514, R/o 62A, KK Hospital Road ,Near Swamvar Wedding Hall (Rajendra Nagar), Bareilly, Uttar Pradesh, 243122, Email- [ankitagarwalcs@gmail.com](mailto:ankitagarwalcs@gmail.com). The verification of the said IRP has been carried out by the Law Research Associate of this Tribunal, Ms. Ankita Sharma, and it is found that there is no proceeding pending against the proposed IRP. Upon verification from the website of IBBI, it is found that IRP holds valid authorization till 08.03.2024.
8. Accordingly, this application is admitted u/s 9(5)(i) of the I & B Code, 2016 under the following terms and conditions:-
- i. The application filed by the Operational Creditor under 9 of the Insolvency & Bankruptcy Code, 2016 for initiating the Corporate Insolvency Resolution Process against the Corporate Debtor i.e. **Diversification**



***Agriculture Producer Company Limited*** is hereby admitted.

- ii.** We hereby declare a moratorium u/s 14 and public announcement in accordance with Sections 13 and 15 of the I & B Code, 2016.
- iii.** This Adjudicating Authority hereby appoints Mr. Ankit Agrawal as IRP as discussed in para 07 above.
- iv.** The IRP shall cause a public announcement of the initiation of the Corporate Insolvency Resolution Process and call for the submission of claims under Section 15. The public announcement referred to in clause (b) of sub-section (1) of Section 15 of the Insolvency & Bankruptcy Code, 2016 shall be made immediately.
- v.** Moratorium under Section 14 of the Insolvency & Bankruptcy Code, 2016 prohibits the following: -
  - a)** 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;

- b)** 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 Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);
- c)** The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.
  
- vi.** The supply of essential goods or services rendered to the Corporate Debtor as may be specified shall not be terminated, suspended, or interrupted during the moratorium period.
  
- vii.** The provisions of sub-section (1) of Section 14 of I & B Code, 2016 shall not apply to such transactions as



may be notified by the Central Government in consultation with any financial sector regulator.

**viii.** The IRP shall after collation of all the claims received against the Corporate Debtor and the determination of the financial position of the Corporate Debtor constitute a Committee of Creditors and shall file a report certifying the constitution of the Committee to this Tribunal on or before the expiry of thirty days from the date of his appointment, and shall convene the first meeting of the Committee within seven days of filing the report of Constitution of the Committee.

**ix.** The Committee of the Creditors shall appoint a Resolution Professional as per section 22 of I & B Code, 2016. A monthly progress report shall be filled by the Resolution Professional providing the details of work done in respect of completing the CIRP within the time line as prescribed under the provision of section 12 of the I & B Code, 2016.



- x.** The order of moratorium shall have effect from the date of admission till the completion of the Corporate Insolvency Resolution process.
  
- xi.** However, at any time during the Corporate Insolvency Resolution Process period, if the Adjudicating Authority approves the resolution plan under subsection (1) of Section 31 or passes an order for liquidation of the Corporate Debtor under Section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.
  
- xii.** The Interim Resolution Professional should convene a meeting of the Committee of Creditors and submit the resolution passed by the Committee of Creditors and shall identify the prospective Resolution Applicant in accordance with I & B Code, 2016 read with the relevant rules & regulation framed thereunder.
  
- xiii.** The Operational Creditor/Applicant is directed to deposit Rs.1,00,000/- (One Lakh Only) with the IRP appointed hereinabove within two weeks from this



order. IRP can claim the preliminary expenses and fees subject to approval by the CoC and after the constitution of the CoC.

9. Registry is hereby directed to communicate the order to the Operational Creditor, the Corporate Debtor, the IRP and the jurisdictional Registrar of Companies by Speed Post as well as through email.
10. List the matter on 10.11.1023 for filing of the first monthly progress report.
11. Certified copy of the order may be issued to all the concerned parties, if applied for, upon compliance with all requisite formalities.
12. Ordered Accordingly

-Sd-

**(Ashish Verma)**  
**Member (Technical)**

-Sd-

**(Praveen Gupta)**  
**Member (Judicial)**

**Dated : 6<sup>th</sup> October, 2023**

Ankita Sharma  
(LRA)