



S.No.

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1**
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
24-08-2023 AT 10:30 AM

CP (IB) No. 65/7/HDB/2023
u/s. 7 of IBC, 2016

IN THE MATTER OF:

Canara Bank

...Financial Creditor

VS

M/s. Versatile Pharma Pvt Ltd

...Corporate Debtor

C O R A M:-

DR. VENKATA RAMAKRISHNA BADARINATH NANDULA, HON'BLE MEMBER (JUDICIAL)
SH. CHARAN SINGH, HON'BLE MEMBER (TECHNICAL)

ORDER

The matter though ordered to be listed today, has been omitted to list by the former Court Officer. However, taken up on being mentioned by the Ld. Counsel for the Financial Creditor Ms.Divya and the Ld. Counsel for the Corporate Debtor Mr. G. Bhupesh.

Heard the Ld. Counsel for both sides and the following order is dictated and pronounced in the open court today.

Ld. Counsel for the Petitioner submitted that this company petition is filed for initiation of CIRP against Corporate Debtor on the strength of the order passed in OA 96/2018 by the Debt Recovery Tribunal against the Corporate debtor and others, directing them to pay the Company Petitioner herein, an amount of Rs. 4,47,41,336.94 together with costs and future interest @ 16.45% p.a. Ld. Counsel further submitted that the order of the DRT was not complied with by the Respondent/Corporate Debtor, as such the existence of financial debt of a sum over rupees one Crore due by the Corporate Debtor to the company



petitioner and its default has been established by the company petitioner. In support of the submissions as above, Ld. Counsel filed, the order of the DRT, Hyderabad dated 20.02.2020 in OA 96/2018. Thus, submitting Ld. Counsel prayed for allowing the CP and to initiate CIRP against the Corporate Debtor.

Despite opportunity, the Corporate Debtor did not choose to file counter and contest the matter. Learned Counsel for the corporate debtor Mr. Bhupesh, however, prayed for dismissal of the petition stating that the same is not maintainable.

In the above back drop, we have carefully perused the record. The order allowing the OA 96/2018 by the Debt Recovery Tribunal dated 20.02.2020 categorically establishes that the Corporate Debtor and others were ordered to pay Rs. 4,47,41,336.94 together with costs and future interest @ 16.45% p.a to the Company Petitioner. The plea of the Company Petitioner that even though recovery proceedings are initiated against the corporate debtor before the DRT, no amount has been recovered till date remain unrebutted, as the corporate debtor despite the opportunity, did not choose to file its rebuttal to the company petition. Thus, existence of financial debt of a sum over Rupees One Crore in favour of the Company Petitioner payable by the Corporate Debtor stands established. The Financial Creditor also filed the record of default of the subject debt by the Corporate Debtor issued by NESL. Thus, default in repayment of the financial debt is also established. Hence, we are satisfied that the petitioner has established the debt and its default by the respondent/corporate debtor.

Hon'ble Supreme Court of India, in *M/s. Innoventive Industries Ltd. Vs. ICICI Bank & Anr.*, held in para 30 held that,

“ The moment the adjudicating authority is satisfied that a default has occurred, the application must be admitted unless it is incomplete, in which case it may give notice to the applicant to rectify the defect within 7 days of receipt of a notice from the adjudicating authority.”



In the result, Company petition is admitted. CIRP is ordered against Corporate Debtor, moratorium imposed and Interim Resolution Professional is hereby appointed.

Let a fair copy of this order be prepared and issued forthwith.

SD/-
MEMBER (T)

SD/-
MEMBER (J)

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**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1**

CP (IB) No. 65/7/HDB/2023

Under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of National Company Law Tribunal Rules, 2016.

Between:

M/s. Canara Bank Limited
Branch Office, ARM Branch,
O/o MCH No. 10-3-163 & 10-3-163/A, Plot No.85, Sy No.628,
Beside Rail Nilayam, Secunderabad – 500026
Represented by Authorized Officer, H B Chandrika D/o K H Basavaraj.

... Financial Creditor

versus

M/s Versatile Pharma Pvt. Ltd
Registered office at Plot No.92,
Phase-II, IDA Cherlapally Hyderabad
TG 500051 IN.

...Corporate Debtor

Date of Order: 24.08.2023

CORAM:-

**DR. VENKATA RAMAKRISHNA BADARINATH NANDULA,
HON'BLE MEMBER (JUDICIAL)
SH. CHARAN SINGH, HON'BLE MEMBER (TECHNICAL)**

Appearance:-

For the Applicant: - Mr. Manav Gecil Thomas, Advocate along with
Ms. Divya, Advocate

For the Respondent: - Mr. G. Bhupesh, Advocate



PER: BENCH

1. This Petition is filed *under Section 7 of Insolvency and Bankruptcy Code (hereinafter to be referred as “Code”), read with Rule 4 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016*, seeking admission of the Petition for initiation of Corporate Insolvency Resolution Process (CIRP), granting moratorium and appointment of Interim Resolution Professional as prescribed under the Code and Rules thereon, contending that the Respondent defaulted in the payment of alleged debt of Rs. 7,28,62,445.28 (Rupees Seven Crores Twenty Eight Lakh Sixty Two Thousand four hundred Forty-five and twenty eight only) which includes Principal and interest computed up to 02.02.2023 and date of default is 20.02.2020.
2. **The contentions of the Application in brief are:**
 - 2.1. The corporate debtor initially availed a term loan of Rs 350 Lakhs on 28.06.2007 against execution of various loan documents were executed.
 - 2.2. On 30.04.2010 the corporate debtor further availed one more term loan of Rs. 205 Lakhs. Thereafter, the Financial Creditor permitted to reschedule the credit facilities availed and even thereafter the Corporate



Debtor committed default, following which the loan account was classified as NPA on 31.01.2015.

2.3. A notice dated 20.05.2014 was issued by the Financial Creditor to the Corporate Debtor recalling the credit facilities availed by the Corporate Debtor, followed by a Demand Notice on 04.02.2015, demanding repayment of the loans availed. However, according to the Financial Creditor, the corporate debtor had failed to make payments to the Financial Creditor till date. The Amount Claimed in Default is Rs. 7,28,62,445.28/- (Rupees Seven Crores Twenty-Eight Lakh Sixty-Two Thousand Four Hundred Forty-Five point Twenty-Eight Paisa Only) inclusive of the interest, computed up to 02.02.2023 and the date of default is 20.02.2020.

3. The record reveals that pursuant to receipt of notice, none appeared for the Corporate Debtor on 13.03.2023. However, the proof of service filed by the Financial Creditor, discloses that the notice to the Corporate Debtor was returned unserved with endorsement “addressee left without instructions”. Hence, as per the direction of this Tribunal on 13.03.2023, Ld. Counsel for the Financial Creditor caused notice to the



Corporate Debtor by way of paper publication as “substitute service of notice”.

- 3.1. On 20.04.2023, Shri G. Bhupesh, Advocate for the Corporate Debtor appeared for the Corporate Debtor, however, counter has not been filed by the Corporate Debtor despite availing sufficient time. Hence chance to file counter was forfeited vide this Tribunal order dated 13.07.2023 and the same was not contested. Hence, matter is heard today.
4. In the light of above factual backdrop, the following point is framed for the consideration by this Tribunal;

Whether a financial debt of a sum over Rs. 1 crore due and payable by the Respondent to the Company Petitioner exists? If so whether the same is not paid by the Corporate Debtor?

5. We have heard Mr. Manav Gecil Thomas and Ms. Divya Ld. Counsels for the financial creditor and Shri G. Bhupesh, Ld. Counsel for the Corporate Debtor, perused the record and case law.



Point

Whether a financial debt of a sum over Rs. 1 crore due and payable by the Respondent to the Company Petitioner exists? If so whether the same is not paid by the Corporate Debtor?

6. Ld. Counsel for the Petitioner submitted that this company petition is filed for initiation of CIRP against Corporate Debtor on the strength of the order passed in OA 96/2018 by the Debt Recovery Tribunal against the Corporate debtor and others, directing them to pay the Company Petitioner herein, an amount of Rs. 4,47,41,336.94 together with costs and future interest @ 16.45% p.a. Ld. Counsel further submitted that the order of the DRT was not complied with by the Respondent/Corporate Debtor, as such the existence of financial debt of a sum over rupees one Crore due by the Corporate Debtor to the company petitioner and its default has been established by the company petitioner. In support of the submissions as above, Ld. Counsel filed, the order of the DRT, Hyderabad dated 20.02.2020 in OA 96/2018. Thus, submitting Ld. Counsel prayed for allowing the CP and to initiate CIRP against the Corporate Debtor.



7. Despite opportunity, the Corporate Debtor did not choose to file counter and contest the matter. Learned Counsel for the corporate debtor Mr. Bhupesh, however, prayed for dismissal of the petition stating that the same is not maintainable.
8. In the above back drop, we have carefully perused the record. The order allowing the OA 96/2018 by the Debt Recovery Tribunal dated 20.02.2020 categorically establishes that the Corporate Debtor and others were ordered to pay Rs. 4,47,41,336.94 together with costs and future interest @ 16.45% p.a to the Company Petitioner. The plea of the Company Petitioner that even though recovery proceedings are initiated against the corporate debtor before the DRT, no amount has been recovered till date remain unrebutted, as the corporate debtor despite the opportunity, did not choose to file its rebuttal to the company petition. Thus, existence of financial debt of a sum over Rupees One Crore in favour of the Company Petitioner payable by the Corporate Debtor stands established. The Financial Creditor also filed the record of default of the subject debt by the Corporate Debtor issued by NESL. Thus, default in repayment of the financial debt is also established.



Hence, we are satisfied that the petitioner has established the debt and its default by the respondent/corporate debtor.

9. Hon'ble Supreme Court of India, in M/s. *Innoventive Industries Ltd. Vs. ICICI Bank & Anr.*, held in para 30 held that,

“ The moment the adjudicating authority is satisfied that a default has occurred, the application must be admitted unless it is incomplete, in which case it may give notice to the applicant to rectify the defect within 7 days of receipt of a notice from the adjudicating authority.”

10. We also found that the company petition is in order. Therefore, we hereby admit this Petition under Section 7 of IBC, 2016, declaring moratorium for the purposes referred to in Section 14 of the Code, with following directions:

ORDER

- (1) 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;

- (2) 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.
- (3) 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.
- (4) That the order of moratorium shall have effect from date of this order 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.
- (5) That this Bench hereby appoints Shri Kalvakolanu Murali Krishna Prasad having IBBI Registration No. IBBI/IPA-001/IP-P00967/2017-18/11588, whose contact details are as under:

e-mail : kmk123ip@gmail.com

Address: 8-27, Jillelguda, Mythripuram Colony, Vyshalinagar, PO, Hyderabad, West Marredpally, Telangana ,500079

to act as Interim Resolution Professional to carry the functions as mentioned under the Insolvency & Bankruptcy Code. Authorization for Assignment is valid up to 24-11-2023. This information is also available in IBBI Website. Thus, there is compliance of Regulation 7A of IBBI (Insolvency Professionals) Regulations, 2016, as amended. Therefore, the proposed IRP is fit to be appointed as IRP since the relevant provision is complied with.



- (6) That the Public announcement of Corporate Insolvency Resolution Process shall be made immediately as specified under section 13 of the Code.
- (7) The Petitioner/Financial Creditor is directed to deposit an amount Rs.2,00,000/- with the IRP to meet the initial CIRP expenses including the fee of IRP.
- (8) The Financial Creditor is directed to communicate this order to the IRP appointed in this case.
- (9) The Registry of this Tribunal is directed to send a copy of his order to the Registrar of Companies, Hyderabad for marking appropriate remarks against the Corporate Debtor on website of Ministry of Corporate Affairs as being under CIRP.

The Petition is admitted accordingly.

SD/-

(Charan Singh)
Member (Technical)

SD/-

(Dr. N. V. Ramakrishna Badarinath)
Member (Judicial)

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