

**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
DIVISION BENCH – II, CHENNAI**

**IBA/690/2020**

(filed under Section 9 Rule 6 of the Insolvency and Bankruptcy  
(Application to adjudicating Authority) Rules, 2016)

In the matter of ***Techmed Health Centre and Diagnostic Private  
Limited.***

**TRANSASIA BIO-MEDICALS LIMITED**

8, Chandivali Studio Road,  
Andheri East, Powai, Mumbai,  
Maharashtra - 400072

*...Applicant/Operational Creditor*

-Vs-

**TECHMED HEALTH CENTRE AND DIAGNOSTIC PRIVATE LIMITED**

320-A Velachery Main Road,  
Ramana Nursing Home, Velachery  
Chennai - 600042

*...Respondent/Corporate Debtor*

*Order pronounced on 25th April 2022*

CORAM:

**Justice (Retd.) S. RAMATHILAGAM, MEMBER (JUDICIAL)  
ANIL KUMAR B, MEMBER (TECHNICAL)**

For Petitioner: M/s Giridhar& Sai, Advocates  
G.S.Vivekmani, Advocate  
Pooja. P, Advocate  
Sheik Mohammed Rafiq, Advocate  
For Respondent: Ex-Parte

O R D E R

***Per:ANIL KUMAR B, MEMBER (TECHNICAL)***

Under consideration this Application is filed by Transasia Bio-  
Medicals Limited ("Operational Creditor") under Section 9 of the  
Insolvency and Bankruptcy Code, 2016 (IBC, 2016) for initiation of



Corporate Insolvency Resolution Process (CIRP) against Techmed Health Care Centre and Diagnostic Private Limited ("Corporate Debtor").

2. The Corporate Debtor herein bearing CIN No.U85110TN2008PTC069612 registered under Companies Act, 1956 having its registered office at 320-A Velachery main road Ramana nursing home Velachery, Chennai TN 600042.

3. From, Part- III of the Application it can be seen that the Operational Creditor had not proposed the name of the IRP and had left it to the discretion of this Tribunal. Further From Part IV of the Application it can be seen that, the Operational Creditor had claimed Rs. 1,72,81,738/- (Rupees One Crore Seventy Two Lakhs Eighty One Thousand Seven Hundred Thirty Eight only) to be the total debt amount claimed. The date of default as mentioned in Part IV of the application is 13.03.2019.

4. From, Part- V of the Application it can be seen that the Applicant has placed the Minimum Purchase Agreements (MPA), Memorandum of Understanding (MOU) and various Invoices and debit notes.

5. Learned Counsel for the Applicants submitted that the Applicant is engaged into manufacturing and trading of diagnostics



medical equipment and consumables (reagents) and also provides annual maintenance for these medical equipment placed/sold to customers.

6. It was submitted by the Learned Counsel for the Applicant that the Corporate Debtor approached the Applicant for installation of various instruments in its centres for performance of In Vitro Diagnostics tests (IVD) and executed Minimum Purchase Agreements (MPA) and Memorandum of Understanding (MOU).

7. Learned Counsel for the Applicant submitted that the Applicant would place the instruments at the site of the Corporate Debtor in consideration of which the Corporate Debtor agreed to purchase the consumables and reagents directly from the Applicant for Minimum Purchase Amount to be used with respect to the instruments, failing which the applicant was entitled to raise debit notes for 50% of the value of shortfall and for maintenance charges. Further, if the MPA per instrument was not achieved within six months from the date of installation of instrument, the Corporate Debtor would be required to purchase the instrument at the price determined and was required to make the payment within three months in three equal monthly instalments.

8. Learned Counsel for the Applicant submitted that the Corporate Debtor violated the terms of the MPA and MOU and



accordingly a sum of Rs.1,72,81,738/- became due payable by the Corporate Debtor. The breakup of amount due is as follows:

<b>Particulars</b>	<b>Amount in Rs.</b>
Recovery of 50% value of shortfall for MPA	72,20,045
Interest on delayed payments	7,66,746
Maintenance charges and recovery on account of underperformance	27,87,396
Invoices for purchase of instruments	63,23,620
Outstanding for purchase of reagents and chemicals	1,83,931
<b>Total</b>	<b>1,72,81,738</b>

9. Learned Counsel for the Applicant submitted that the Applicant has issued a Demand Notice under Section 8 of IBC, 2016 to the Corporate Debtor on 13.02.2020, which was delivered to the Corporate Debtor. Further, the Operational Creditor has also filed an Affidavit as mandated under Section 9(3)(b) of IBC, 2016 stating that the Corporate Debtor after the receipt of the Demand Notice has failed to pay the unpaid 'operational debt' nor raised any dispute in relation to the same. Under such circumstances, the Operational Creditor has filed the present Application before this Tribunal on 30.08.2020 seeking initiation of CIRP as against the Corporate Debtor.

10. In relation to the Corporate Debtor, it is seen from the records that there was no appearance on the part of the Corporate Debtor and this Tribunal passed ex-parte order vide daily dated 13.08.2021 against the Corporate Debtor.

11. Heard the submissions made by the Learned Counsel for the Operational Creditor. From the records it is seen that the consideration for purchasing equipment from the Applicant was that the Corporate Debtor was required to purchase consumables and reagents for a minimum purchase amount with respect to the instrument and in the event of failure to meet the agreed minimum purchase amount the Corporate Debtor was required to repay the value for the instruments that was installed at its centres.

12. Since the Corporate Debtor has failed to honour the terms as agreed between the parties in the MPA and MOU agreement the Applicant became entitled to demand the costs.

13. Thus from the records, it is categorically clear that there is no pre-existing dispute between the parties and the Corporate Debtor failed to pay the remaining outstanding amount of Rs.1,72,81,738/- (Rupees One Crore Seventy Two Lakhs Eighty One Thousand Seven Hundred Thirty Eight only) which is due and payable to the Applicant Operational Creditor. This Adjudicating Authority is of the considered view that there is a debt and default on the part of the Corporate Debtor.

14. Thus we are constrained to **Admit** this Application and initiate Corporate Insolvency Resolution Process against the Corporate Debtor under Section 9 of the IBC, 2016. As a consequence of the Application being admitted in terms of Section 9 (5) of the Code, the



moratorium as envisaged under the provisions of Section 14(1) and as extracted hereunder shall follow in relation to the Corporate Debtor:

- a. *The institution of suits or continuation of pending suits or proceedings against the respondent including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;*
- b. *Transferring, encumbering, alienating or disposing of by the respondent any of its assets or any legal right or beneficial interest therein;*
- c. *Any action to foreclose, recover or enforce any security interest created by the respondent in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;*
- d. *The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the respondent.*

*Explanation.-For the purposes of this sub-section, it is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a licence, permit, registration, quota, concession, clearance or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license or a similar grant or right during moratorium period;*

15. However, during the pendency of the moratorium period in terms of Section 14(2) (2A) and 14(3) as extracted hereunder:

- (2) *The supply of essential goods or services to the Corporate Debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.*
- (2A) *Where the interim resolution professional or resolution professional, as the case may be, considers the supply of goods or services critical to protect and preserve the value of*



*the Corporate Debtor and manage the operations of such Corporate Debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except where such Corporate Debtor has not paid dues arising from such supply during the moratorium period or in such circumstances as may be specified.*

- (3) *The provisions of sub-section (1) shall not apply to*
- (a) *such transactions, agreements or other arrangement as may be notified by the Central Government in consultation with any financial sector regulator or any other authority;*
  - (b) *a surety in a contract of guarantee to a corporate debtor.*

16. The duration of the period of moratorium shall be as provided in Section 14(4) of the Code and for ready reference reproduced as follows:

- (4) *The order of moratorium shall have effect from the date of such order till the completion of the Corporate Insolvency Resolution Process:*

*Provided that where at any time during the Corporate Insolvency Resolution Process period, if the Adjudicating Authority approves the Resolution Plan under sub-Section (1) of Section 31 or passes an order for liquidation of 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.*

17. Since the Operational Creditor has not named the Insolvency Resolution Professional, this Tribunal based on the latest list furnished by Insolvency and Bankruptcy Board of applicable for the period between Jan 2022 – June 2022 appoints **Mr. S. Vasudevan having Registration Number IBBI/IPA-002/IP-N00573/2017-2018/11740 (email Id : kvasu1956@gmail.com)** as the



“Interim Resolution Professional” subject to the condition that no disciplinary proceedings are pending against such an Interim Resolution Professional named and disclosures as required under IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 are made within a period of one week from the date of this order.

18. The IRP is directed to take charge of the Corporate Debtor’s management immediately. The IRP is also directed to cause public announcement as prescribed under Section 15 of the IBC, 2016 within three days from the date the copy of this Order is received, and call for submissions of claim by the creditors in the manner as prescribed under Regulation 6 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

19. The IRP appointed shall take in this regard such other and further steps as are required under the Statute, more specifically in terms of Section 15, 17, 18 of the IBC, 2016 and file his report within 30 days before this Bench. The powers of the Board of Directors of the Corporate Debtor shall stand superseded as a consequence of the initiation of the CIRP in relation to the Corporate Debtor in terms of the provisions of IBC, 2016.



20. The IRP shall comply with the provisions of Sections 13 (2), 15, 17 & 18 of the Code. The Directors of the Corporate Debtor, its Promoters or any person associated with the management of the Corporate Debtor are/is directed to extend all assistance and cooperation to the IRP as stipulated under Section 19 of IBC, 2016 for the purpose of discharging his functions under Section 20 of IBC, 2016.

21. The IRP shall conduct the Corporate Insolvency Resolution Process in respect of the Corporate Debtor as stipulated under Chapter VIII of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

22. The Operational Creditor is directed to pay a sum of **Rs.1,00,000/-**(Rupees One Lakh Only) to the Interim Resolution Professional upon the Interim Resolution Professional filing the necessary declaration form as required under the provisions of the Code to meet out the expenses to perform the functions assigned to her in accordance to Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

23. Based on the above terms, the Application stands **Admitted** in terms of Section 9(5) of IBC, 2016 and the moratorium shall come in to effect as of this date. A copy of the Order shall be



communicated to the Operational Creditor as well as to the Corporate Debtor above named by the Registry. In addition, a copy of the Order shall also be forwarded to IBBI for its records. Further, the Interim Resolution Professional above named who is figuring in the list of Resolution Professionals forwarded by IBBI be also furnished with copy of this Order forthwith by the Registry, who will also communicate the initiation of the CIRP in relation to the Corporate Debtor to the Registrar of Companies concerned.

-Sd-

**B. ANIL KUMAR**  
MEMBER (TECHNICAL)

-Sd-

**Justice (Retd.) S. RAMATHILAGAM**  
MEMBER (JUDICIAL)

*Sudhir*