



S.No. 8

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1**
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
01.07.2022 AT 10:30 AM THROUGH VIDEO CONFERENCE

Company Petition(IB) 223/9/2021
U/s 9 of IBC, 2016

IN THE MATTER OF:

Vasthi Trading Pvt Ltd

... Operational Creditor

Vs

Farmax India Ltd

...Corporate Debtor

CORAM

**DR.VENKATA RAMAKRISHNA BADRINATH NANDULA, HON'BLE MEMBER
(JUDICIAL)**

SH.VEERA BRAHMA RAO AREKAPUDI, HON'BLE MEMBER (TECHNICAL)

ORDER

Orders passed in CP No.223/2021, recorded vide separate sheets. In the result Company Petition is allowed and corporate debtor is put into CIRP as per the terms mentioned in the order.

Sd/-

MEMBER (T)

Sd/-

MEMBER (J)



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

CP (IB) No. 223/9/HDB/2021

U/S 9 of IBC, 2016, r/w Rule 6 of I & B(AAA) Rules, 2016

Between

Vasthi Trading Pvt.Ltd
15-7-367&368/201,Second Floor,
Diamond Square Complex,
Begum Bazar,Hyderabad
Telangana- 500012

...Operational Creditor

Versus

Farmax India Ltd.,
Survey No. 658, Bowrampet Village,
Qutubullapur Mandal,
Sub-Urban of Hyderabad,
Telangana, 500043.

...Corporate Debtor

Date of order: 01.07.2022

Coram:

Dr. N.Venkata Ramakrishna Badarinath, Hon'ble Member (Judicial)
Shri Veera Brahma Rao Arekapudi, Hon'ble Member (Technical)

Appearance:

For Petitioner: Shri.Sneha Agarwal, Company Secretary.
For Respondent: Shri Venkata Rami Reddy, Advocate



PER: BENCH

ORDER

1. This Petition is filed under Section 9 of Insolvency and Bankruptcy Code (hereinafter to be referred as “Code”), read with Rule 6 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, seeking admission of the petition, 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. 1,05,23,214 (One crore five lakhs Twenty-Three thousand Two Hundred and Fourteen only)
2. The averments in brief of the Application and rejoinder are that;
 - (i) The Petitioner, herein after referred to as “Operational Creditor”, is a Private Limited registered office in Hyderabad, is in business of supplying unbranded rawa.
 - (ii). The Respondent, herein after referred to as “Corporate Debtor”, is a Private Limited Company incorporated under the Companies Act, 1956., is in business of planting, growing , producing, raising process of all types of seeds, grains, vegetables etc. and other allied process of agricultural produce.
 - (iii). The Operational creditor supplied unbranded rawa to the Corporate Debtor on credit basis and raised invoices from time to time on demand of it . The Operational Creditor, issued Form-3 demand notice on 02.03.2021 for the raw material supplied to Corporate Debtor, No



reply is received from the Corporate Debtor. The Petitioner in its rejoinder stated that the Corporate debtor was given enough time to make repayment but failed. Thus, submitting, prayed the Adjudicating Authority to allow the petition.

3. Counter and Memo filed by Corporate Debtor states that :-
 - (i) The Corporate Debtor is partly denying averments stated in the application and submitted that the debt due is only Rs.1,02,12,250 (Rupees one Crore Two Lakhs Twelve Thousand Two Hundred And fifty only) but not of Rs. 1,05,23,214 (One crore five lakhs Twenty-Three thousand Two Hundred and Fourteen only) as alleged in the application.
 - (ii) The Corporate Debtor is facing lot of financial crises along with huge pressure from other creditors also. Further submitted that the Corporate debtor is in contact with the Operational Creditor for settlement but couldn't not agree on terms of settlement.
 - (iii) The Corporate Debtor filed a memo stating to pass appropriate orders by Tribunal.
4. In light of the context put forth, the point that emerges for consideration is :

Whether there is an operational debt as claimed by the applicant due and payable by Corporate Debtor, If so, whether the Corporate debtor defaulted in payment of same ?.



5. We have heard the Learned PCS Ms.Sneha Agarwal, for the Operational Creditor and Learned Counsel for the Corporate Debtor, Shri. Venkata Rami Reddy, perused the records.

6. A perusal of counter filed by Corporate Debtor shows that, the Corporate Debtor has not disputed the debt and only disputed the quantum of the debt. As per Section 5(6) of the code,

"Dispute" includes a suit or arbitration proceedings relating to

(a) the existence of the amount of debt;

(b) the quality of goods or service; or

(c) the breach of a representation or warranty;

7. Therefore as per above section, dispute if any as to debt, shall be regarding existence of debt. In the case in hand, the existence of debt is not disputed, as according to corporate debtor, the quantum of debt alone is in dispute. Hence, the operational debt in this case remain undisputed stands admitted and established. Since, it is not the case of corporate debtor that it discharged the said debt, the default also stands established.

8. Therefore for above reasons, this 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 following directions:

(A) Corporate Debtor, *LN Industries India Ltd* is admitted in Corporate Insolvency Resolution Process under section 9 of the Insolvency & Bankruptcy Code, 2016,



- (B) 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;
- (C) 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.
- (D) Notwithstanding anything contained in any other law for the time being in force, a license, permit, registration, quota, concession, clearances 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, permit, registration, quota,



concessions, clearances or a similar grant or right during the moratorium period.

- (E) 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.
- (F) That the order of moratorium shall have effect from the 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.
- (G) That the public announcement of the initiation of Corporate Insolvency Resolution Process shall be made immediately as prescribed under section 13 of Insolvency and Bankruptcy Code, 2016.
- (H) Accordingly, this Tribunal appoints Shri Chinna Gurappa having registration No. IBBI/IPA-003/IP-N00261/2020-2021/13035 Residing at Flat No. E1, plot No.45, Surya Residency, Siddarth Nagar, Vengal Rao Nagar Post, Near ICICI Bank, Kalyan nagar branch Hyderabad, Telangana, 500038 as IRP. The aforesaid IRP has no disciplinary proceedings pending against him. Proposed IRP filed Form-B issued by the Institute of Insolvency Professional. 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.

- (I) The petitioner is directed to pay a sum of Rs.1,00,000/- (Rupees one lac only) to the Interim Resolution Professional to meet out the expenses to perform the functions assigned to him in accordance with Regulation 6 of IBBI (Insolvency Resolution Process for Corporate Person) Regulations, 2016. This shall, however, be subject to adjustment by the Committee of Creditors as accounted for by Interim Resolution Professional and shall be paid back to the petitioner.

9. Accordingly, this Petition is admitted.

10. The registry is directed to communicate order of this Tribunal to IBBI, as well as the IRP appointed to conduct CIRP.

Sd/-

(Veera Brahma Rao Arekapudi)
Member (Technical)

Sd/-

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

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