

**IN THE NATIONAL COMPANY LAW TRIBUNAL
“CHANDIGARH BENCH, CHANDIGARH”**

CP (IB) No.239/Chd/Hry/2018

**Under Section 9 of Insolvency and
Bankruptcy Code, 2016**

In the matter of:

M/s Real Soya Enterprises, a proprietorship firm,
Having registered office at 44,
Sector 'E', Sanwer Road, Indore- 452015,
Madhya Pradesh, India,
Through its Proprietor Poonam Mangharamani

...Petitioner-Operational Creditor

Versus

M/s Sahs Lifesciences Private Limited,
Having registered office at Khasra No.86,
Near Nishan Public School, Daniyalpur Road,
P.O. Tikri, Kailash, Karnal, Haryana- 132001,
Through its Director

...Respondent-Corporate Debtor

Order delivered on 24.12.2018.

**Coram: HON'BLE MR. JUSTICE R.P.NAGRATH, MEMBER (JUDICIAL)
HON'BLE MR. PRADEEP R.SETHI, MEMBER (TECHNICAL)**

For the Petitioner : Mr. Gursheer Singh Bhandal, Advocate

For the Respondent : None

Per: R.P.Nagrath, Member (Judicial)

ORDER

The instant petition filed by the Financial Creditor under Section 7 of the Insolvency and Bankruptcy Code, 2016 (for brevity the '**Code**') read with Rule 4(1) of the Insolvency and Bankruptcy (Application to Adjudicating

Authority) Rules, 2016 (for brevity '**Rules**') for initiating the Insolvency Resolution Process, was admitted on 19.12.2018. The matter was fixed for today for passing of the formal order of declaring moratorium and appointment of Interim Resolution Professional.

2. In the present case, the operational creditor has chosen not to propose a Resolution Professional, as an Interim Resolution Professional (IRP). Vide letter file No. IBBI/IP/EMP/2018/01 dated 28.06.2018 of the Insolvency and Bankruptcy Board of India, it is stated that in cases where the operational creditor has made an application for CIRP and has not proposed an IRP, the appointment of IRP can be made from the bench wise list of Insolvency Professionals who have expressed interest to become IRP. The panel is stated to be valid for six months from July 2018 to December 2018. Annexure A-4 of the letter dated 28.06.2018 is the panel of Insolvency Professionals (IP) relating to Chandigarh Bench of the Tribunal. Sr. No. 9 thereof, relates to Mr. Joy Kumar Jain with IP Registration No. IBBI/IPA-001/IP-P00134/2017-18/10276, E-mail ID: joykumarjain@gmail.com. The Law Research Associate has made inquiry from the database of Insolvency and Bankruptcy Board of India and the present status in respect of Mr. Joy Kumar Jain, IP is that there is nothing adverse on record. In view of the above, we declare the Moratorium in terms of sub-section (1) of Section 14 of the Code as under:-

- (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;

- (b) transferring, encumbering, alienating or disposing of by the corporate debtor 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 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;
- (d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.

3. It is further directed that 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. The provisions of Section 14(3) shall however, not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator and to a surety in a contract of guarantee to a corporate debtor.

4. The order of moratorium shall have effect from the date of this order till completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of Section 31 or pass an order for liquidation of corporate debtor under Section 33 as the case may be.

5. Further, we issue the following directions in respect of the appointment of the Interim Resolution Professional:-

- i.) Appoint Mr. Joy Kumar Jain, 12, Mousari Avenue, DLF City, Phase 3, Gurugram, Haryana- 12002, having Registration No. IBBI/IPA-001/IP-P00134/2017-18/10276, E-mail ID: joykumarjain@gmail.com, as an Interim Resolution Profession;
- ii.) The term of appointment of Mr. Joy Kumar Jain, shall be in accordance with the provisions of Section 16(5) of the Code;
- iii.) In terms of Section 17 of the 'Code', from the date of this appointment, the powers of the Board of Directors shall stand suspended and the management of the affairs shall vest with the Interim Resolution Professional and the officers and the managers of the 'Corporate Debtor' shall report to the Interim Resolution Professional, who shall be enjoined to exercise all the powers as are vested with Interim Resolution Professional and strictly perform all the duties as are enjoined on the Interim Resolution Professional under Section 18 and other relevant provisions of the 'Code', including taking control and custody of the assets over which the 'Corporate Debtor' has ownership rights recorded in the balance sheet of the 'Corporate Debtor' etc. as provided in Section 18 (1) (f) of

the 'Code'. The Interim Resolution Professional is directed to prepare a complete list of inventory of assets of the 'Corporate Debtor';

- iv.) The Interim Resolution Professional shall strictly act in accordance with the 'Code', all the rules framed thereunder by the Board or the Central Government and in accordance with the 'Code of Conduct' governing his profession and as an Insolvency Professional with high standards of ethics and moral;
- v.) The Interim Resolution Professional shall cause a public announcement within three days as contemplated under Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 of the initiation of the Corporate Insolvency Resolution Process in terms of Section 13 (1) (b) of the 'Code' read with Section 15 calling for the submission of claims against 'Corporate Debtor';
- vi.) It is hereby directed that the 'Corporate Debtor', its Directors, personnel and the persons associated with the management shall extend all cooperation to the Interim Resolution Professional in managing the affairs of the 'Corporate Debtor' as a going concern and extend all

cooperation in accessing books and records as well as assets of the 'Corporate Debtor';

- vii.) The Interim Resolution Professional 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 constitution of the committee to this Tribunal on or before the expiry of thirty days from the date of his appointment, and shall convene first meeting of the committee within seven days of filing the report of constitution of the committee; and
- viii.) The Interim Resolution Professional is directed to send regular progress report to this Tribunal every fortnight.

A copy of this order and the order dated 19.12.2018 be communicated to both the parties. The learned counsel for the petitioner shall deliver copy of this order and order dated 19.12.2018 to the Interim Resolution Professional forthwith. The Registry is also directed to send copies of both these orders to the Interim Resolution Professional at his email address forthwith.

Sd/-
(Justice R.P. Nagrath)
Member (Judicial)

Sd/-
(Pradeep R. Sethi)
Member (Technical)

December 24, 2018
Mohit Kumar