

IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH

CP. No. 1081/2017

Under section 9 of IBC, 2016

In the matter of  
Mona Pharmachem,  
D-201, Star Galaxy Apartment, Opp. St.  
Opp. St. Anne's School, L. T. Road,  
Borivali West, Mumbai - 400 092.  
..... Petitioner

Vs.

Uttara Foods and Feed Private Limited,  
Venkateshwara House, S. No.114A2,  
Pune, Sinhagad Road, Pune - 411030.  
..... Respondent

Order delivered on: 19.07.2017

**Coram:**

Hon'ble Mr. B.S.V. Prakash Kumar, Member (J)  
Hon'ble Mr. V. Nallasenapathy, Member (T)

For the Petitioner: Ms. Vishaki Bhatia, Adv.

For the Respondent: None.

*Per V. Nallasenapathy, Member (T)*

**ORDER**

1. Mona Pharmachem, the Petitioner/Operational Creditor herein, filed this Insolvency and Bankruptcy Petition against the Respondent/Corporate Debtor, Uttara Foods and Feeds Private Limited, claiming that a sum of Rs.22,26,672/- along with interest is unpaid and the first date of default happened on 9.8.2014. The Petitioner initiated this proceeding against the Respondent under section 9 of Insolvency and Bankruptcy Code, 2016 (the Code) read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (the Rules) seeking reliefs.

2. The Petitioner states that the amount is due in respect of medicines supplied to the Respondent for which bills were raised from 10.6.2014 to 25.4.2015. The payment is pending for the first invoice itself which was raised on 10.6.2014 and fell due on 9.8.2014. Even though the Respondent has made part payment for three of the invoices subsequently raised, still there is an outstanding of Rs.22,26,672/-. The Operational Creditor says that the invoices provide for 24% interest per annum on the delayed payment and has claimed interest in addition to the principle due of Rs. 22,26,672/-.
3. The Operational Creditor issued a demand notice on 15.03.2017 under the Insolvency and Bankruptcy Code attaching the invoices demanding a sum of Rs. 22,26,672/-. Even though, the said notice was acknowledged by the Corporate Debtor, there is no reply for the same.
4. The Operational Creditor has given a list of invoices for which payments are due after adjusting the part payments made by the Corporate Debtor. A certificate dated 01.06.2017 from Indian Overseas Bank, Borivali (W) Br., where the Petitioner is having a bank account is enclosed stating that a sum of Rs. 22,26,672/- is unpaid towards the invoices raised by the Operational Creditor. The Operational Creditor filed an affidavit in support of this Application wherein it was stated that the 10 days period available for the Corporate Debtor to reply for the demand notice expired on 13.03.2017 and till date no reply is received from the Corporate Debtor.
5. This Petition was filed on 09.06.2017, the Operational Creditor has sent the copy of the application to the Corporate Debtor on 13.06.2017 which was delivered on 14.06.2017. When the application was listed on 13.06.2017 this Bench directed the Operational Creditor to inform the Corporate Debtor about the next date of hearing which was on 16.06.2017. Accordingly, the Operational Creditor issued notice informing the next date of hearing and the same was served on the Corporate Debtor on 15.06.2017 as per the affidavit of service filed by the Operational Creditor. However, the Corporate Debtor failed to appear.
6. The Operational Creditor has clearly proved that there is debt of Rs. 22,26,672/- and the Corporate Debtor defaulted in making the payment from

09.08.2014. This Bench having satisfied with the Application filed by the Operational Creditor which is in compliance of provisions of section 8&9 of the Insolvency and Bankruptcy Code admits this Application declaring Moratorium with the directions as mentioned below:

- i) That this 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 the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002; the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.
- ii) 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.
- iii) 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.
- iv) That the order of moratorium shall have effect from 19.07.2017 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, as the case may be.
- v) That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.

7. Accordingly, this Petition is admitted.

8. This Bench makes a reference to the Insolvency and Bankruptcy Board of India (IBBI) for the recommendation of Insolvency Professional for appointment as Interim Resolution Professional.
9. The Registry is directed to forward a copy of this order to IBBI and post this matter after receipt of reply from IBBI for the appointment of IRP.
10. The Registry is hereby directed to communicate this order to both the parties.

Sd/-

V. NALLASENAPATHY  
Member (Technical)

Sd/-

B.S.V. PRAKASH KUMAR  
Member (Judicial)