

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI
C. P. NO. 1053/I & BP/NCLT/MAH/2017

**Coram: B.S.V. Prakash Kumar, Member (Judicial) &
V. Nallasenapathy, Member (Technical)**

In the matter of under Section 10 of Insolvency and Bankruptcy Code, 2016 and Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority), Rules 2016)

And

Amar Remedies Ltd.

Corporate Applicant.

Applicants' Counsel: Mr. Nilesh Sharma a/w Ashish Pyasi, Advocates for the Applicant i/b. Dhir & Dhir Associates.

ORDER

(Heard 15.06.2017)

(Pronounced on 16.06.2017)

Per V. Nallasenapathy, Member (Technical)

This Company Petition is filed by Amar Remedies Ltd., u/s 10 of Insolvency and Bankruptcy Code 2016 ("the Code") r/w Rule 7 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules 2016 for initiation of Corporate Insolvency Resolution Process. Previously this Debtor Company was before BIFR bearing reference No.55/2014. Thereafter, the Company was also before AAIFR bearing appeal No.4/2016. This Petition was filed by the Company on 29.5.2017.

2. The Corporate Debtor says that its registered office is at 386, Block No. 3, IInd Floor, Sane Guruji Premises, 386 S.V. Savarkar Marg, Prabhadevi, Mumbai-400 025, incorporated on 18-04-1984 vide CIN – L99999 MH 1984PLC 32687 on the file of Registrar of Companies Maharashtra, having Authorised share capital of Rs.28 crores and paid up share capital of Rs. 26.16 crores.

3. The Board of Directors of the Corporate Debtor in their meeting held on 17.05.2017 authorised Smt. Pratima P. Shah, Director of the Company, to file necessary application for initiation of Corporate Insolvency process in terms of Section 10 of the Code. The Board also proposed, Ms. Jayashree Shukla Dasgupta, 152, Balco Apartments, 58, I. Extension, Delhi- 110 092, Registration No. IBBI/IPA-002/IP-N00039/2016-17/1734, as interim resolution professional, who has given her consent with a declaration that no disciplinary proceedings are pending against her.

4. The Corporate Debtor has disclosed that it owes a sum of Rs. 463.99 crores to various Financial Creditors in annexure-V to the application. The Corporate Debtor has also enclosed documents to show that mortgages and charges were created in favour of the Financial Creditors in terms of certificate of registration of mortgage, etc. under Section 132 of the Companies Act 1956 issued by the office of the Registrar of Companies, Maharashtra. Further, the Corporate Debtor has enclosed the sanction letters issued by various Financial Institutions sanctioning facilities in favour of the Corporate Debtor.

5. The Corporate Debtor has enclosed a legal notice dated 27.12.2012 issued by Bank of India, Mumbai Mid-Corporate Branch, Bank of India Building, M.G. Road, Fort, Mumbai, claiming a sum of Rs. 4,93,72,342/-, which is a statutory notice u/s 433 & 434 of Companies Act 1956. The Corporate Debtor also enclosed a recall notice dated 02.07.2013 issued by Saraswat Co-op. Bank Ltd., Senapati Bapat Marg, Dadar, Mumbai requiring to pay a sum of Rs. 87,64,90,270/-. The Corporate Debtor says that the debt due to various financial institutions to the extent of Rs. 463.99 crores as disclosed in the petition is in default. The above shows that there are debts which are in default.

6. The Corporate Debtor has enclosed the audited financial statements for the year ended 31.03.2016 & 31.03.2017 and the provisional financial statement up to 25.05.2017. A list of assets and liabilities of the corporate debtor as on 25.05.2017 is also enclosed with the application. The Corporate Debtor also enclosed the list of financial creditors and operational creditor as on 25.05.2017. The Corporate Debtor has disclosed the particulars of debt owed by the Corporate Debtor to or by persons connected with it, the name and the address of the members of the Corporate Debtor with the details of their shareholdings, details of personal guarantees and the affidavit in support of the petition.

7. On reading the petition and the supporting documents annexed with the petition, this Bench is of the view that the corporate debtor has committed a default and the petition contains the particulars as required u/s 10 of the Code. Hence, this Bench hereby admits this petition, declaring moratorium with consequential 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 16.6.2016 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.

(vi) That this Bench hereby appoints, Ms. Jayashree Shukla Dasgupta, 152, Balco Apartments, 58, I. Extension, Delhi- 110 092, Registration No. IBBI/IPA-002/IP-N00039/2016-17/1734, Email Id: jayashree.shukla0@ gmail.com, as Interim Resolution Professional to carry the functions as mentioned under Insolvency & Bankruptcy Code.

(vii) Accordingly, this Petition is admitted.

Sd/-

V. NALLASENAPATHY
Member (Technical)

Sd/-

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