

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

CP (IB) 135/9/HDB/2017

U/S 9 of IBC, 2016 R/W 6 of I&B
(Application to Adjudicating Authority) Rules, 2016

In the matter of

M/s. HCL Technologies Ltd.,
806, Siddhartha, 96, Nehru Place,
New Delhi-110019.

... Petitioner/ Operational Creditor

Versus

M/s. GVK Bio Sciences Pvt. Ltd.,
28/A, IDA Nacharam NRM4 Building, Hyderabad
Andhra Pradesh-500076.

... Respondent/ Corporate Debtor

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OF THE ORIGINAL

Date of Order: 14.08.2017

CORAM:

Hon'ble Shri. Rajeswara Rao Vittanala, Member (Judicial)

Hon'ble Shri Ravikumar Duraisamy, Member (Technical)

Parties / Counsels present

For the petitioner: Shri. Harshavardhan Abburi, Advocate

For the Respondent: Shri. V.S. Raju and Shri V.B. Raju,
Advocates

Per: Rajeswara Rao Vittanala, Member (Judicial)



ORDER

1. The Company Petition bearing No. CP (IB) 135/9/HDB/2017 is filed by HCL Technologies Limited, under Section 9 of Insolvency and Bankruptcy Code, 2016, R/w Rule 6 of Insolvency and Bankruptcy (Application to Adjudicating Authority), 2016, by inter-alia, seeking to initiate Corporate Insolvency Resolution Process (CIRP) in respect of GVK Bio Science Pvt Ltd.
2. Brief facts of the case, are as under:-

- a) HCL Technology (Petitioner/ Operational Creditor) is a Company registered under the Companies Act 1956.
- b) GVK Bio Science Pvt. Ltd (Respondents/ Corporate Debtor) is a Company registered under the Companies Act on 17 December 2000 and its authorised share capital is 70 crore and paid up capital is Rs. 66,98,24,520/- .
- c) The corporate debtor has issued purchase Order No. 15190111/CorpSDM15 dated 11 June 2014, issued for rendition of services pertaining to validation of OC/ RDC/ TMS for data management, implementation in production environment.

The following are the details of purchase orders and invoices amount due with interest.

| Purchase Order No. (A) | Purchase Order date (B) | Invoice No. (C) | Invoice Dt. (D) | Invoice Amount (E) | Amount Pending (F) | Interest @15% (till March 22, 2017) (G) |
|--------------------------|-------------------------|-----------------|-----------------|--------------------|--------------------|-----------------------------------------|
| 15190111 | 11-Jun-2014 | 11162085 | 29-Oct-14 | 11,79,780 | 1,68,000 | 60,480 |
| 15190111 | 11-Jun-2014 | 1162273 | 22-Dec-14 | 2,35,956 | 2,35,956 | 79,708 |
| 15190111 | 11-Jun-2014 | 11162277 | 24-Dec-14 | 2,35,956 | 2,35,956 | 79,514 |
| 15190111 | 11-Jun-2014 | 11163414 | 31-Dec-15 | 1,64,554 | 1,64,554 | 30,296 |
| 15190111 | 11-Jun-2014 | 11163415 | 31-Dec-15 | 1,64,554 | 1,64,554 | 30,296 |
| 15190111 | 11-Jun-2014 | 11163416 | 31-Dec-15 | 1,64,554 | 1,64,554 | 30,296 |
| 15190111 | 11-Jun-2014 | 11163417 | 31-Dec-15 | 1,51,386 | 1,51,386 | 27,872 |
| 15190111 | 11-Jun-2014 | 114000114 | 01-Jan-16 | 65,16,947 | 8,25,290 | 1,41,430 |
| 15190111 | 11-Jun-2014 | 114000115 | 31-Jan-16 | 21,37,568 | 21,37,568 | 3,66,315 |
| 15190111 | 11-Jun-2014 | 114000116 | 31-Jan-16 | 2,18,449 | 43,79,379 | 7,50,494 |
| 15190111 | 11-Jun-2014 | 114000117 | 31-Jan-16 | 43,79,379 | 5,54,594 | 95,041 |
| Total | | | | | 91,81,790 | 16,91,740 |
| Grand Total (F+G) | | | | | | 1,08,73,530 |



d) When the Corporate Debtor failed to pay outstanding amount of Rs. 1,08,73,530/- (Rs. 91,81,790/- + Rs.16,91,740 as interest calculated for deliverables @ 15% p.a. till 22nd March, 2017). They issued a demand notice in Form no. 3 under rule 5(1)(a) of IBC, 2016 dated 23rd March 2017 by calling upon respondent to pay the said outstanding amount.

e) When the respondent failed to pay the said amount, the present petition is filed seeking to initiate CIRP against the Corporate Debtor.

3. We have heard Shri. Harshavardhan Abburi, learned Counsel for petitioner.

4. The case was listed registered for admission on various dates viz: 01.08.2017, 03.08.2017, 07.08.2017, 09.08.2017, 10.08.2017, 11.08.2017 & 14.08.2017, The office raised objection about incompleteness of the petition vide letter dated 31.07.2017. The case was adjourned on above dates at the request of the both parties.

5. Shri. V.S. Raju, learned counsel for respondent has opposed the petition by filing counter dated 09.08.2017.

6. Shri. Vijay Kumar Reddy, learned counsel for petitioner has filed a memo on 14th August 2017, by stating as follows:

“ It is respectfully submitted that on the last date of hearing i.e. August 11, 2017, this Hon’ble Tribunal has made certain observations in the captioned matter and in view of the same the Operational Creditor i.e., HCL Technologies Limited humbly requested that this Hon’ble Tribunal may kindly grant leave to the Operational Creditor to withdraw the C.P. (IB) No./ 135/09/ HDB/ 2017 with a liberty to file a fresh company petition against the Corporate Debtor i.e. GVK Bio Sciences Private Limited before this Hon’ble Tribunal. Hence Memo”.



Therefore, the learned counsel for the petitioner request the tribunal to permit him to withdraw the present petition, with a liberty to file a fresh CP.

7. Shri. V.B. Raju learned counsel for the respondent has no objection for withdrawal of the case as prayed by the petitioner.
8. In view of the above circumstances, of case, the Company. Petition bearing No. (IB)/135/09/HDB/2017 is disposed of as withdrawn by granting liberty to the petitioner to approach this Tribunal for the same cause of action, under the provisions of IBC (Adjudicating to Authority Rules), 2016 and NCLT Rules 2016. No order as to costs.



Sd/-

Ravikumar Duraisamy
Member(Technical)

Sd/-

Rajeswara Rao Vittanala
Member (Judicial)

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JK
fd Dy. Regr./Asst. Regr./Court Officer/
National Company Law Tribunal, Hyderabad Bench

प्रमाणित प्रति
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केस नंबर
CASE NUMBER *CP(LB)/135/09/HDB/2017*
निर्णय का तारीख
DATE OF JUDGEMENT *14.8.2017*
प्रति प्रेषित तिथि का तारीख
COPY MADE READY ON *18.9.2017*