



**IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT – V**

C.P. (I.B) No. 558/MB/2024

Under Section 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudication Authority) Rule 2016)

In the matter of

M/s Royel Krishi Rasayan Private Limited

D – 38/1, Kurkumbh MIDC,

Kurkumbh, Taluka – Daund, District - Pune –
413802, India

...Petitioner/Operational Creditor

Vs

M/s Maharashtra Bio Fertilizers India Pvt. Ltd.

Shop No. 1, Plot No. 4, Gat No. 121/1, Mauje,

Harangul (Bk), Near Railway Bridge, Barshi

Road, MIDC Latur, Latur, Maharashtra - 413531

... Respondent/Corporate Debtor

Order Dated: 21.11.2024

Coram:

Ms. Reeta Kohli, Hon'ble Member (Judicial)

Ms. Madhu Sinha, Hon'ble Member (Technical)

Appearances:

For the Petitioner: Adv. Deepali Jaiswar (VC)

For the Respondent: Adv. Raina Birla (VC)



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ORDER

Per: Reeta Kohli, Member (Judicial)

1. This Company Petition is filed by **M/s Royel Krishi Rasayan Private Limited** (hereinafter referred as “**the Petitioner/Operational Creditor**”) on 07.06.2024 seeking to initiate Corporate Insolvency Resolution Process (hereinafter referred to as “**CIRP**”) against **M/s Maharashtra Bio Fertilizers India Pvt. Ltd.** (hereinafter called “**Corporate Debtor**”) by invoking the provisions of **Section 9** of the Insolvency and Bankruptcy Code, 2016 (hereinafter called “**Code**”) read with Rule 6 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016, for an Operational Debt of **Rs. 2,38,34,471/-**, and the Date of Default being **04.04.2023**.

2. **Brief facts and submissions of the Operational Creditor**

- I. The Operational Creditor is engaged in the business of importing and supplying Organic Fertilizer, Plant Growth Promoters, Sulphate Nutrients, Water Soluble Fertilizer and Solvent Fertilizer in India. The Operational Creditor also stated that the Corporate Debtor is a MSME and is among India's leading manufacturers of Agrochemicals, plant growth regulators and micro-nutrients.
- II. As submitted by the Operational Creditor, during 2023, the Corporate Debtor approached the Operational Creditor for the purchase of agrochemicals to be utilized as raw material in the production of MBF product and the said request made by the Corporate Debtor was accepted by the Operational Creditor.
- III. It was further submitted that pursuant to the Corporate Debtor's orders, the Operational Creditor supplied Agro-Chemicals and other materials in accordance with the purchase orders raised by the Corporate Debtor.



- IV. As submitted, the Operational Creditor raised invoices for the goods supplied to the Corporate Debtor and the said invoices were duly acknowledged by the Corporate Debtor without any objection.
- V. The Operational Creditor also alledged that no dispute was ever raised by the Corporate Debtor regarding the delivery, quality, or product specifications of the supplied goods, and the said goods were never returned by the Corporate Debtor.
- VI. It was further submitted that the Operational Creditor supplied products worth Rs. 4,80,52,653/- to the Corporate Debtor. While the Corporate Debtor made payments amounting to Rs. 2,78,07,545/-, a balance of Rs. 2,38,34,471/- still remains due and payable by the Corporate Debtor.
- VII. As alleged, the Operational Creditor approached the Corporate Debtor numerous times for the payment of the outstanding debt due and in furtherance of the same, conducted several meetings and made numerous telephonic calls to the Corporate Debtor requesting settlement of the outstanding payment. Despite the aforementioned efforts, the Corporate Debtor failed to discharge its liability.
- VIII. As stated by the Operational Creditor, with no other recourse available, a demand notice dated 21.05.2024 was served upon the Corporate Debtor at its registered office address, demanding payment of the outstanding debt. However, as contended, the Corporate Debtor did not provide any concrete reply to the said Demand Notice and thus, the Operational Creditor filed the present application before this Hon'ble Tribunal for initiating corporate insolvency resolution process under Section 9 of the Insolvency & Bankruptcy Code, 2016.

3. **Facts and submissions of the Corporate Debtor**

- I. The Corporate Debtor is engaged in the business of manufacturing compost, agrochemicals, plant growth regulators and micro nutrients. As



submitted, the Corporate Debtor, at the outset, denied all contentions raised by the Operational Creditor.

- II.** The Corporate Debtor submitted that its products are utilized by farmers across 20 states and can be applied during the farming of more than 30 crops. Furthermore, the Corporate Debtor's facility is situated in Maharashtra's D+ Zone, a designated backward area as per notification no: PSI-2019/CR 46/IND-8 dated 16 September 2019 issued by Government of Maharashtra. As stated by the Corporate Debtor, it has been providing employment to over 300 people in the region for the past 15 years and maintains business relationships with approximately 50 active suppliers and 3000 active distributors and dealers across the country.
- III.** The Corporate Debtor further contended that the Operational Creditor has made false statements regarding the commencement of their business relationship in 2023. As submitted, the business transactions between the parties commenced in the financial year 2018-19 for the purchase of various types of Agrochemical Fertilizers.
- IV.** The Corporate Debtor also stated that while the initial quality of goods supplied by the Operational Creditor was satisfactory, it subsequently deteriorated. Despite this, the Corporate Debtor maintained regular payments of approximately 4 to 5 crores annually based on the assurances provided by the Operational Creditor.
- V.** The Corporate Debtor submitted that during the COVID-19 pandemic, it experienced significant financial stress and liquidity crunch. However, as stated, the Corporate Debtor continued making payments despite these challenges until the second wave of COVID-19, when the company's financial situation further deteriorated, leading to irregular payments.
- VI.** The Corporate Debtor also submitted that the date of default as mentioned by the Operational Creditor in the present Petition is 04.04.2023. However, as submitted, the Corporate Debtor has been continuously making



payments, with the most recent payment being made on 20.05.2024. Thus, in light of the same, the Corporate Debtor contended that the Operational Creditor is misusing the Insolvency and Bankruptcy Code by treating this Hon'ble Bench as a recovery forum.

- VII.** The Corporate Debtor further submitted that it remains committed to resolving its outstanding obligations, and the same is evident from the payment history reflected in the account statement annexed by the Operational Creditor.
- VIII.** The Corporate Debtor also submitted that it does not intend to default and is prepared to resolve the matter with the Operational Creditor. Furthermore, as contended, the Corporate Debtor is actively working on a plan to address its financial situation and is in the process of arranging the necessary funds for payment. However, during the course of arguments, the Ld. Counsel for the Corporate Debtor stated that despite efforts to arrange the said necessary funds, the Corporate Debtor was unable to resolve the issue.
- IX.** Thus, in light of the abovementioned submissions, the Corporate Debtor prayed before this Hon'ble Tribunal to dismiss the present Petition.

4. Findings

- I.** In view of the submissions made by the Learned Counsel of both the parties and on the strength of documents and pleadings placed on record, it is evident that an amount of Rs. 2,38,34,471/- is due and payable by the Corporate Debtor and thus, the present Petition has been preferred by the Operational Creditor before this Hon'ble Tribunal.
- II.** On perusal of the reply submitted by the Corporate Debtor and also in view of the arguments advanced, it is evident that there is no denial and dispute concerning the outstanding amount due and payable to the Operational Creditor. As far as the liability of the Corporate Debtor is concerned, the



same stands admitted in the reply to the present Petition filed by the Corporate Debtor. In the said reply, it has been admitted that the Operational Creditor, in accordance with the purchase orders placed, delivered the agrochemicals and other materials timely to the Corporate Debtor and then issued invoices thereof. An attempt has been made on the part of the Corporate Debtor to justify the non-payment of the outstanding amount by stating that the business of the Corporate Debtor was severely affected due to the Covid-19 pandemic and particularly during its second wave, which led to significant financial stress and liquidity crunch. Further, despite all the efforts put in by the Corporate Debtor to pay off the amount due to the Operational Creditor, including the most recent payment made on 20.05.2024, the Corporate Debtor was unable to meet its commitments fully. The case of the Corporate Debtor further is that it is actively working on a plan to address its financial situation and is in the process of arranging the necessary funds for payment. However, it is pertinent to note that during the course of arguments, the Ld. Counsel for the Corporate Debtor admitted that despite efforts to arrange the said necessary funds, the Corporate Debtor was unable to resolve the issue.

- III.** Thus, given the above-stated facts, the debt and default on the part of the Corporate Debtor stands established.
- IV.** Keeping in view of the totality of the circumstances of the present case and in view of the fact that there is an admitted debt due towards the Operational Creditor and admittedly there is a default duly acknowledged by the Corporate Debtor, with no pre-existing dispute in question, it is a fit case for admission. While the Corporate Debtor has contended that the business relationship commenced in 2018-19 rather than 2023 as stated by the Operational Creditor, this contention does not constitute a pre-existing dispute regarding the quality, delivery, or specifications of the goods supplied, as evidenced by the Corporate Debtor's continued business



relationship with the Operational Creditor and regular payments made until the onset of financial difficulties. Furthermore, the amounts stated to be due in this case is above the threshold limit as stipulated under Section 4(1) of IBC and in view of the settled law wherein the Hon'ble NCLAT has been pleased to hold in the matter of ***Naresh Choudhary vs. Sterling Enamelled Wires Pvt. Ltd Company Appeal (AT)(Insolvency) No. 39 of 2023 & I.A. No.137 of 2023***

"17. We have no hesitation in observing that in the present case, all requisite conditions necessary to trigger CIRP under Section 9 stands fulfilled with operational debt having been acknowledged and default committed thereto and there being no real pre-existing disputes discernible from given facts. For the foregoing reasons, we are of the view that the Adjudicating Authority has rightly admitted the application of the Operational Creditor filed under Section 9 of IBC."

5. Thus, present company petition is hereby **admitted** to CIRP by passing the following order:

ORDER

- a. The above Company Petition No. 558/IBC/MB/2024 is hereby allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against **M/s Maharashtra Bio Fertilizers India Pvt. Ltd.**
- b. The Petitioner has proposed the name of **Mr. Arun Nandlal Agrawal**, bearing Registration No. IBBI/IPA-003/IP-N00282/2020-2021/13234, with place of residence at Arun Agrawal and Company, Opp. Kshrisagar Hospital, R.P. Road, Jalna, Maharashtra - 431203, as Interim Resolution Professional. The IRP proposed by the Petitioner, is hereby appointed as Interim Resolution Professional to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.



- c. The Petitioner shall deposit an amount of Rs. 2 Lakhs towards the initial CIRP costs by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order. The IRP shall spend the above amount towards expenses and not towards fee till his fee is decided by CoC.
- d. That this Bench hereby declare moratorium in terms of Section 14 of Insolvency and Bankruptcy Code, 2016 prohibiting 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 Securitization 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.
- e. That the order of moratorium shall have effect from the date of pronouncement 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, as the case may be.
- f. 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.
- g. 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.



- h. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
- i. During the CIRP period, the management of the Corporate Debtor will vest in the IRP/RP. The board of directors of the Corporate Debtor shall stand suspended. The members of the suspended board of directors and the employees of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP/RP.
- j. Registry shall send a copy of this order to the Registrar of Companies, Mumbai, for updating the Master Data of the Corporate Debtor.
- k. Accordingly, C.P. No. 558/IBC/MB/2024 is **admitted**.
- l. The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

Sd/-

MADHU SINHA

Member (Technical)

/Jhanvi/

Sd/-

REETA KOHLI

Member (Judicial)