

SL. No.2

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
COURT HALL NO: II**

Hearing Through: VC and Physical (Hybrid) Mode

CORAM: SHRI. RAJEEV BHARDWAJ, HON'BLE MEMBER (J)

CORAM: SHRI. SANJAY PURI, - HON'BLE MEMBER (T)

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
HYDERABAD BENCH, HELD ON 01.02.2024 AT 10:30 AM**

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA (IBC)/990/2023 in CP (IB) No.416/9/HDB/2020
NAME OF THE COMPANY	Ariston Pharma Novatech Pvt Ltd
NAME OF THE PETITIONER(S)	Granules India ltd
NAME OF THE RESPONDENT(S)	Ariston Pharma Novatech Pvt Ltd
UNDER SECTION	9 of IBC

ORDER

IA (IBC)/990/2023

Orders pronounced, recorded vide separate sheets. In the result, this application is allowed.

Sd/-
MEMBER (T)

Sd/-
MEMBER (J)

IN THE NATIONAL COMPANY LAW TRIBUNAL

HYDERABAD BENCH - II

**I.A.No.990 of 2023 in
CP (IB) No.416/09/HDB/2020**

In the matter of

M/S. ARISTON PHARMA NOVATECH PRIVATE LIMITED

Between:

Manjeet Bucha,
Resolution Professional of
M/s. Ariston Pharma Novatech Pvt Ltd,
D.No.204, 2nd Floor, Shakti Sai Complex,
Chapel Road, Abids,
Hyderabad – 500 001.

....Applicant

Vs

Andhra Pradesh Mahesh Co-op Urban Bank Ltd.,
No.2-22-276/1, 1st Floor, Plot No.144,
Bhagyanagar Co-op. Housing Society Ltd.,
Kukatpally, Hyderabad – 500 072.

....Respondent 1

Office of Additional Superintendent of Police,
Crime Branch,
Rani Sarai, Regal Square, Indore,
Madhya Pradesh.

.... Respondent 2

Date of order: 01.02.2024

CORAM:

Sri Rajeev Bhardwaj, Hon'ble Member (Judicial)

Sri Sanjay Puri, Hon'ble Member (Technical)

Counsels present:

For the Applicant : Mr. Manjeet Bucha, RP

Heard on : 04.01.2024

Per : Sanjay Puri, Member (Technical)

ORDER

1. This application is filed by the Resolution Professional (RP) of the Corporate Debtor (**CD**) M/s. Ariston Pharma Novatech Private Limited, seeking directions to the Respondent No.1, to release the attachment/lien/prohibition order over the Bank Account of the CD bearing CA/5262 maintained with Andhra Pradesh Mahesh Co-Op Urban Bank Limited, Kukatpally Branch, and to allow the Applicant to take control of the said Bank Account. The Applicant also sought directions to the Andhra Pradesh Mahesh Co-Op Urban Bank Limited, to unfreeze the Account of the CD and restrain the Statutory Authority from levying any further attachment or lien on the Account of the CD and to update the Authorized Signatory to operate the Bank Account by RP.
2. The Applicant submits that, the Corporate Insolvency Resolution Process (CIRP) of the CD was commenced by an Order¹ of this Tribunal dated 18.01.2023. This was in response to the insolvency Petition filed by the Operational Creditor (OC) under Section 9 of the Code. The Applicant was appointed as the Interim Resolution Professional (IRP), and a moratorium was declared.

¹ Pg 10-19 of the Application (Annexure-1)

3. The CD maintains a current account with the number CA/5262 at Andhra Pradesh Mahesh Co-Op Urban Bank Limited, Kukatpally Branch. Respondent No.2 directed Respondent No.1 to freeze the account of the CD under Section 102 of the Criminal Procedure Code (Cr PC). This directive was based on the FIR² Crime No. 1/21 u/s. 8/22 of the NDPS Act, filed against Mr. Vedprakash Vyas, Suspended Board of Director of CD, and CD at Crime Branch Indore, MTH Compound, Indore, concerning MDMA drug.
4. The mentioned Bank Account³ holds a balance of Rs.26,18,114.70 as of 28.11.2022.
5. The Applicant has informed Respondent No.2 about the initiation of the CIRP of the CD through a letter⁴ dated 18.05.2023. In the same communication, the Applicant has requested Respondent No. 2 to revoke the debit freeze on the said Bank Account.
6. It is stated that, the debit freeze on the CD's account is in violation of the moratorium under Section 14 of the IBC.
7. It is contended that as a consequence of the moratorium, proceedings against the CD before the Special Magistrate, NDPS Act Court, Indore, in FIR Crime No. 1/21 lodged at Crime Branch Indore, stand abated. However, it's crucial to note that this protection does not extend to the Directors of the CD. Proceedings against the Directors will continue unaffected by the moratorium, as this relief is exclusively granted to the CD itself.

² Pg 20-25 of the Application (Annexure-2)

³ Pg 26-27 of the Application (Annexure-3)

⁴ Pg 28-29 of the Application (Annexure-4)

8. It is submitted that, once the proceedings stand abated, any actions taken or currently in progress as part of those proceedings should also be considered abated. Consequently, the freezing of the CD's bank account, carried out in connection with the said proceedings, should also be deemed abated. Therefore, it is requested that Respondent No.1 be directed to defreeze the account of the CD.
9. Furthermore, it is mentioned that freezing of the Bank Account could impose unwarranted hardship on the CD, currently undergoing CIRP. It is especially so, when such action may not be deemed necessary for the investigation of the present FIR considering the nature of the accusations made therein. Judgment of Hon'ble Supreme Court in the case of **Sandeep Khaitan**⁵ is also cited.
10. It is contended that the provisions of Section 25 of the IBC impose a duty on the RP to take custody and control of all the assets of the CD, for conducting the resolution process efficiently and effectively.
11. Additionally, the Applicant submits that the Authorized Signatory of the said Bank Account be updated, and the RP be authorized to operate the said Bank Account in accordance with the resolution process.
12. The Applicant submitted a memo on 21.09.2023, stating that, in accordance with the order dated 25.08.2023, the Applicant reissued the Notice to Respondents 1 and 2 on 26.08.2023. The

⁵ Sandeep Khaitan Resolution Professional of National Plywood Industries Limited Vs. JSVM Plywood Industries Ltd & Anr, Criminal Appeal No. 447 of 2021

Notice was served to the Respondents through electronic means as well. However, it was noted that the Notice to Respondent 2 was returned with the remark "Refused."

Decision:

13. In this case, both Respondents have remained unrepresented despite being put to notice. The matter is therefore decided on merits based on the facts narrated in the application.
14. CIRP in this case commenced on 18.01.2023, consequent upon which the erstwhile management of the CD was suspended and the CD was taken over by the RP. Commencement of CIRP also brought in effect the Moratorium under section 14 of IBC, consequent upon which this Authority prohibited all of the following:
 - (i) 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;
 - (ii) Transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;
 - (iii) 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 (54 of 2002);
 - (iv) The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor;
 - (v) Notwithstanding anything contained in any other law for the time being in force, a license, permit, registration, quota, concession, clearances or a similar grant or right

given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license, permit, registration, quota, concession, clearances or a similar grant or right during the moratorium period.

15. Due to the moratorium mentioned above, all ongoing proceedings against the Corporate Debtor (CD) have abated, including any actions initiated through FIR lodged against the CD. With the suspension of the former management and the Resolution Professional (RP) assuming control over the CD's affairs, the continuation of any legal actions against the CD, for the criminal acts committed under the former management, is not permissible.
16. Since freezing of the Corporate Debtor's (CD) bank account occurred as a result of the FIR lodged against the CD, the continuation of the bank account freeze is untenable. Respondent No.1 is hereby directed to lift the freeze on bank account No. CA/5262 and authorize the Resolution Professional (RP) as the designated signatory for operation. The bank's records should also be updated to reflect this change.

This application is allowed with the above remarks.

Sd/-
(SANJAY PURI)
MEMBER (TECHNICAL)

Sd/-
(RAJEEV BHARDWAJ)
MEMBER (JUDICIAL)

VL