

**IN THE NATIONAL COMPANY LAW TRIBUNAL**

**BENCH – VI, NEW DELHI**

**C.P (IB)/469/(ND)/2025**

*An application under section 9 of the Insolvency and Bankruptcy Code, 2016 read with rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.*

IN THE MATTER OF:

**M/s Bjain Pharmaceuticals Private Limited,**

Having its registered office at:

T ~23, Cross River Mall,  
Plot No. 9B & 9C, CBD, Shahdara,  
Delhi – 110032.

**...APPLICANT/OPERATIONAL CREDITOR**

**VERSUS**

**M/s AMISHI CONSUMER TECHNOLOGIES PVT LTD**

Having its registered office at:

3rd & 4th Floor, Ambience Tower Gaushala Marg,  
Kishan Garh, Pocket B-C, Sector A,  
Vasant Kunj, New Delhi – 110070.

**...RESPONDENT /CORPORATE DEBTOR**

**Order Delivered on: 02.07.2026**

**CORAM:**

**JUSTICE JYOTSNA SHARMA**  
**HON'BLE MEMBER (JUDICIAL)**

**MS. ANU JAGMOHAN SINGH**  
**HON'BLE MEMBER (TECHNICAL)**

**APPEARANCES:**

For the Applicant:

For the Respondent: Adv. Aayush Kothari, Adv. Dhruv Mishra a/w Avdhoot Prabhu.

## ORDER

1. The instant application is filed by Mr. Nishant Jain, Authorised Representative of **M/s Bjain Pharmaceuticals Private Limited** (hereinafter referred as 'Applicant'/ 'Operational Creditor') under Section 9 of the Insolvency and Bankruptcy Code, 2016 (for brevity 'the CODE/IBC') read with rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity 'the Rules') with a prayer to initiate Corporate Insolvency Resolution Process ("CIRP") against **M/s AMISHI CONSUMER TECHNOLOGIES PVT LTD** (hereinafter referred as 'Respondent/Corporate Debtor'). The total amount due by the Corporate Debtor **Rs. 1,32,02,182/-** (One Crore Thirty-Two Lakhs Two Thousand One Hundred Eighty-Two Only).
2. The Respondent Company "**M/s AMISHI CONSUMER TECHNOLOGIES PVT LTD**" having its registered office situated at 3rd & 4th Floor, Ambience Tower Gaushala Marg, Kishan Garh, Pocket B-C, Sector A, Vasant Kunj, New Delhi – 110070. Since the registered office of the Respondent/Corporate Debtor is in New Delhi, this Tribunal having territorial jurisdiction over the NCT of Delhi is the Adjudicating Authority in relation to the prayer for initiation of Corporate Insolvency Resolution Process in respect of Respondent/Corporate Debtor.
3. **Averments of the Applicant:**
  - I. That the Applicant / Operational Creditor is a private limited company incorporated on 23.12.2006. It is classified as non-government company and is registered at Registrar of Companies, Delhi. The Applicant / Operational Creditor is an Indian pharmaceutical company that deals in a wide range of mother tinctures, homoeopathic dilutions, bio-chemics, bio-combinations, and specialty products, including tablets, syrups, and drops.
  - II. That the Respondent / Corporate Debtor is a private limited company incorporated on 15.12.2016. It is classified as non-government company and is registered at Registrar of Companies, Delhi. The

Respondent / Corporate Debtor is a manufacturer and supplier of personal care products.

- III. That the Respondent approached the Applicant in December 2021 for purchasing goods for its business operations. The Corporate Debtor has purchased various goods on credit from the Applicant on various dates against which the Applicant has issued various invoices for the goods supplied to the Corporate Debtor. Subsequently, the Corporate Debtor began defaulting on payments due under the respective invoices, failing to pay its dues on the agreed dates.
- IV. That the Applicant/Operational Creditor sent a Demand Notice dated 24.04.2025 in Form-3 under Section 8 of the Insolvency and Bankruptcy Code, 2016 to the Corporate Debtor demanding payment of its outstanding dues of an amount of Rs. 1,32,02,182/- as on 14.01.2025, through speed post dated 25.04.2025 and email dated 24.04.2025. However, despite receipt of the said Demand Notice dated 24.04.2025 through email dated 24.04.2025, the Corporate Debtor has neither made the payment of the outstanding dues nor raised any objection with respect to the said Demand Notice.
- V. That in these facts and circumstances, the Applicant is constrained to file the present application under Section 9 of Insolvency and Bankruptcy Code, 2016 for initiating Corporate Insolvency Resolution Process against the Corporate Debtor, who despite receiving the Demand Notice in Form -3 dated 24.04.2025 under Section-8 of the Insolvency and Bankruptcy Code, 2016 has failed to pay an amount of Rs. 1,32,02,182/- which is due and payable by the Corporate Debtor to the Applicant/Operational Creditor.

#### **4. Submission of the Corporate Debtor:**

- I. That the Respondent submits that on bare perusal of the respective Purchase Orders(s) annexed at Annexure A-5 to the Application, it was agreed between the parties prior to the raising the Purchase Order,

that the terms of payment would be 90 days from the Invoice date. Contrary to the said understanding and agreement, the Invoices so issued by the Applicant stipulate the due date as 45 days. The Respondent submits that, by imposing a 45-day payment term, the Applicant has acted in deviation of the agreed terms, thereby unilaterally advancing the due date of payment in breach of the mutual understanding between parties. This Respondent craves leave to refer and rely upon the list of the Purchase Orders and the corresponding Invoices, as and when produced.

- II. Furthermore, each Purchase Order (annexed at Annexure A-5 @pg. 43) to the Application, explicitly specified the quantum of goods requisitioned and the corresponding delivery date. However, a review of the Tax Invoice(s) provided in support of the Applicant's alleged claim reveals, on its face, that the delivery of the goods was not only substantially delayed beyond the contractual delivery date stipulated in the relevant Purchase Order, but that the quantity of goods delivered was also materially less than that which was requisitioned. Such delay and shortfall in the delivery of goods, arising from the Applicant's gross negligence, have caused significant and demonstrable harm to the Respondent's business operations. As a result, the Applicant is liable to compensate the Respondent for the damages sustained by reason of such inadequate and untimely performance.
- III. That Prior to the alleged Demand Notice dated 24.02.2025, this Respondent had in fact vide its mail dated 22.01.2025, addressed to the Applicant, requested for a reconciliation of their accounts. On a perusal of the said mail, it is apparent that balance outstanding payable was Rs.52,20,677 /- (Rupees Fifty-Two Lakh Twenty Thousand Six Hundred Seventy-Seven Only). A copy of the Respondent's mail dated 22.01.2025 is annexed hereto as "Annexure A-1". Save and except the said amount, this Respondent denies it is liable to pay any amount, much less the amount to be outstanding as

alleged in the Computation Statement (Annexure A8 @ pg.572, Volume IV).

**5. Rejoinder by the Applicant/Operational Creditor:-**

- I. That the contents of the correspondent paragraph save and except what is matter of record, are wrong and denied. It is wrong and denied that there existed any understanding or agreement between the Respondent and the Applicant providing for a 90-day payment term or that the Applicant imposed a 45-day payment term or that the Applicant has acted in deviation of the agreed terms or unilaterally advanced the due date of payment in breach of the mutual understanding between parties. It is submitted that as per Clause 5(5) of the Contract Manufacturing Agreement dated 20.12.2021 executed between the Applicant and the Respondent, it was expressly agreed that the Respondent shall make payment to the Applicant within 30 days from the date of the invoice. However, in the purchase orders, the Respondent unilaterally and without the consent of the Applicant used to mention payment term of 90-days from the date of invoice, which was not acceptable to the Applicant. Subsequently, in the invoices raised by the Applicant, the Applicant allowed 45-days period for making the payment from raising of invoice. The Respondent accepted the goods along with the invoices, without raising any objections or disputes to the same. Hence, the contention that the invoices were raised in violation of any pre-existing 90-day payment understanding is baseless and contrary to the contractual terms mutually agreed upon. Furthermore, the Respondent has failed to produce any document or correspondence to substantiate its plea of a 90-day payment term. In the absence of any such material on record, the assertion remains a vague, bald and unsubstantiated statement, devoid of any evidentiary value.

- II. That the contents of the corresponding paragraph of the reply, save and except what is a matter of record, are wrong and denied. It is wrong and denied that a review of the Tax Invoice(s) provided in support of the Applicant's claim reveals that the delivery of the goods was delayed beyond the contractual delivery date stipulated in the relevant Purchase Order or that the quantity of goods delivered was also less than that which was requisitioned or that such delay or shortfall in the delivery of goods allegedly arising from the Applicant's negligence, have caused significant or harm to the Respondent's business operations or that the Applicant is liable to compensate the Respondent for the damages sustained by reason of such inadequate and untimely performance. It is submitted that Clause 6.9 of the Contract Manufacturing Agreement dated 20.12.2021 expressly provides that Respondent/ Corporate Debtor shall have the right to reject such quantities of the products which do not conform to the specifications, standards and other instructions given by Respondent / Corporate Debtor from time to time. It is further submitted that Clause 8.1 of the said Agreement stipulates that in the event of any such rejection, Respondent / Corporate Debtor was required to issue a written notice of 30 days to the OC communicating such non-conformity or rejection. However, at no point of time was any such dispute, rejection or 30-day written notice ever raised or received by the Respondent / Corporate Debtor. The Respondent's failure to exercise its contractual right under Clauses 6.9 and 8.1 clearly establishes that the goods supplied were duly accepted without objection. Accordingly, the present allegations of delay, deficiency, or nonconformity are afterthoughts, false, and devoid of any evidentiary value, raised merely to evade legitimate payment obligations under the contract.
- III. That the contents of the corresponding paragraph of the reply, save and except what is a matter of record, are wrong and denied. It is

wrong and denied that the balance outstanding payable was Rs. 52,20,677 /- as on 22.01.2025. It is submitted that the Applicant vide email dated 16.01.2025 had called upon the Respondent to pay the outstanding dues of Rs. 1,25,15,630/- as on the said date. Subsequently, the statutory demand notice dated 24.04.2025 along with unpaid invoices, was sent to the Respondent, however, the Respondent has failed to respond to the same. The Respondent has not annexed its ledger account in support of its contentions. The Respondent has failed to specifically identify which invoices are not payable nor has it provided any reasons or justification for the same in its reply.

**Analysis and Findings:-**

4. We have heard Ld. Counsels for the applicant as well as the Ld. Counsel for the Respondent and perused the averments made in the application, reply and the rejoinder. The relevant documents annexed with the submissions have also been examined.
5. The present Application has been filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 seeking initiation of Corporate Insolvency Resolution Process against the Corporate Debtor for an alleged operational debt of Rs. 1,32,02,182/-. The primary objections raised by the Corporate Debtor pertain to (i) the alleged discrepancy in payment terms, (ii) alleged delay and short supply of goods resulting in damages, and (iii) dispute regarding the quantum of outstanding amount.
6. The first contention of the Corporate Debtor is that the parties had agreed upon a payment term of 90 days from the invoice date as reflected in the purchase orders, whereas the invoices raised by the Operational Creditor stipulated a payment period of 45 days, thereby unilaterally altering the agreed terms. In this regard, the Operational Creditor has relied upon Clause 5(5) of the Contract Manufacturing Agreement dated 20.12.2021, which specifically provides that payment shall be made within 30 days from the date of invoice.

The relevant para 5.5 of the Contract Manufacturing Agreement is reproduced as below-:

*“5.5 AMISHI shall make the payment to B JAIN after 30 days of raising the invoice (which cannot be earlier than date of dispatch). B JAIN shall not be entitled to any other payment except charges referred to above and other duties payable in this Agreement or mutually agreed.”*

It has further been explained that although the Corporate Debtor mentioned a 90-day payment period in certain purchase orders, the same was never accepted by the Operational Creditor and the invoices subsequently raised allowed a payment period of 45 days. Significantly, the Corporate Debtor accepted the supplies and invoices without any contemporaneous protest or objection regarding the payment terms.

We find merit in the submission of the Operational Creditor. The Corporate Debtor has failed to place on record any material evidencing a mutually agreed modification of the payment terms contained in the Contract Manufacturing Agreement. Mere reference to unilateral stipulations in purchase orders, without proof of acceptance by the Operational Creditor, cannot override the express contractual provisions. Furthermore, no correspondence contemporaneous to the transactions has been produced to show that the Corporate Debtor ever objected to the invoices on account of the payment terms mentioned therein. Accordingly, this objection does not establish the existence of any genuine dispute.

- 7.** The second objection raised by the Corporate Debtor is that the goods were supplied belatedly and in quantities lesser than those requisitioned under the purchase orders, causing loss and damage to its business operations. The Operational Creditor has categorically denied these allegations and has referred to Clauses 6.9 and 8.1 of the Contract Manufacturing Agreement, which conferred upon the Corporate Debtor the right to reject non-conforming goods and mandated issuance of a written notice within 30 days in the event of rejection or non-conformity. The relevant para 6.9 and 8.1 of the Contract Manufacturing Agreement is reproduced as below-:

6.9 AMISHI shall have the right to reject such quantities of the said Products, which do not confirm to the specifications, standards and other instructions given by AMISHI from time to time. BJAIN shall at its costs rectify the defects as instructed by AMISHI before effecting delivery to AMISHI.

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8.1 Notice of Rejection: In the event of any non-conformance to the clauses as regards the quality of the product comes to the notice of AMISHI, AMISHI shall provide BJAIN written notice within thirty (30) days from the date on which the Product was delivered to the final destination specifying the nature of such non-conformance. Claims of latent defects must be asserted by AMISHI by written notice to B JAIN within thirty business days after the defect is discovered. AMISHI shall provide BJAIN with documentation, including representative Product samples if requested by BJAIN, of any adulteration, non-obvious damage, failure to meet Product Specifications or shortage.

Upon examination of the material on record, we find that the Corporate Debtor has failed to produce any documentary evidence showing rejection of goods, issuance of deficiency notices, complaints regarding delayed deliveries, invocation of contractual remedies, or any claim for damages during the subsistence of the business relationship. No correspondence contemporaneous to the supplies has been placed on record to substantiate the allegations of delayed or deficient performance. The Corporate Debtor continued to accept the supplies and did not exercise its contractual right of rejection as contemplated under the Agreement. In the absence of any contemporaneous evidence demonstrating dissatisfaction with the goods supplied, the allegations raised in the reply appear to be unsupported and cannot be construed as a pre-existing dispute.

8. The third objection pertains to the quantum of outstanding dues. The Corporate Debtor has relied upon an email dated 22.01.2025 where it is contended that the amount payable was only Rs. 52,20,677/-. However, the Corporate Debtor has neither furnished its ledger account nor identified the specific invoices which are allegedly disputed. It has also failed to provide any

computation explaining how the outstanding liability is restricted to Rs. 52,20,677/-. On the other hand, the ledger account furnished by Operational Creditor clearly reflects the outstanding amount of Rs. 1,32,02,182/-.

Thereafter, a statutory demand notice dated 24.04.2025 under Section 8 of the Code was duly served upon the Corporate Debtor. Despite receipt thereof, the Corporate Debtor neither replied to the demand notice nor raised any dispute regarding the operational debt within the statutory period prescribed under the Code. The absence of any response to the demand notice assumes significance and lends support to the case of the Operational Creditor.

- 9.** Section 9 of Insolvency & Bankruptcy Code 2016 entitles an operational creditor to file an application before Adjudicating Authority where after the expiry of 10 days from the date of delivery of demand notice or invoices, the payment or notice of dispute is not received. Further Section 9(5) provides that if the application is complete in all respect and there is no payment of unpaid operational debt or there is no notice of dispute received by the Operational Creditor the application may be admitted.
- 10.** In the matter before us admittedly no notice of dispute was ever sent by the Corporate Debtor or received by the Operational Creditor in reply to demand notice. Moreover, from the averments there does not appear existence of any pre-existing dispute with regard to subject matter which could qualify as genuine pre-existing dispute. In our view the petitioner has been able to prove the existence of operational debt beyond statutory threshold limit which remains unpaid and therefore petition deserves to be admitted.
- 11.** In view of the above facts and circumstances, we are satisfied that the present petition filed by the Operational Creditor fulfils the criteria laid down under the provisions of the Code. The Petitioner establishes that the Corporate Debtor is in default of Rs. 1,32,02,182/- and that the default is more than the minimum amount stipulated under section 4 (1) of the Code (stipulated at the relevant point of time). In the light of the above facts and circumstances, it is, hereby ordered as follows: -

- a) The Application bearing Company Petition CP IB-469/ND/2025, filed by the Applicant under Section 9 of the Code r/w Rule 6 of the Adjudicating Authority Rules for initiating CIRP against the Respondent is hereby admitted.
- b) The Operational Creditor has proposed the name for the Interim Resolution Professional (“IRP”) in Part -III of the Petition. Therefore, we appoint name Mr. Amit Talwar as Interim Resolution Professional (“IRP”) having email- [amittalwarcs@gmail.com](mailto:amittalwarcs@gmail.com). His registration number is IBBI/IPA-002/IP-N01178/2021-2022/13887. Therefore, the IRP shall file a valid Authorization for Assignment along with Written Consent in Form-2 and Registration Certificate within 3 days of the pronouncement of this order.
- c) Therefore, Mr. Amit Talwar having Registration Number IBBI/IPA-002/IP-N01178/2021-2022/13887, is hereby appointed as Interim Resolution Professional (IRP) of the Corporate Debtor to carry out the functions as per the Code, subject to submission of Form AA, Disclosure and a valid Authorization for Assignment in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professional) Regulations, 2016.
- d) We direct the applicant to deposit a sum of Rs. 2 lacs with the Interim Resolution Professional, namely Mr. Amit Talwar, to meet out the expense to perform the functions assigned to him in accordance with regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016. The needful shall be done within one week from the date of receipt of this order by the Operational Creditor. The amount, however, be subject to adjustment by the Committee of Creditors, as accounted for by Interim Resolution Professional, and shall be paid back to the Operational Creditor.
- e) We also declare moratorium in terms of Section 14 of the Code. The necessary consequences of imposing the moratorium flows from the provisions of Section 14 (1) (a), (b), (c) & (d) of the Code. Thus, the following prohibitions are imposed:

*(a) 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;*
- (b) Transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;*
- (c) 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;*
- (d) 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) The IB Code 2016 also prohibits Suspension or termination of any 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, 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, concessions, clearances or a similar grant or right during the moratorium period.”*
- f) It is made clear that the provisions of moratorium shall not apply to transactions which might be notified by the Central Government or the supply of the essential goods or services to the Corporate Debtor as may be specified, are not to be terminated or suspended or interrupted during the moratorium period. In addition, as per the Insolvency and Bankruptcy Code (Amendment) Act, 2018 which has come into force w.e.f. 06.06.2018, the provisions of moratorium shall not apply to the surety in a contract of guarantee to the corporate debtor in terms of Section 14 (3) (b) of the Code.
- g) Therefore, the IRP shall file a valid Authorization for Assignment along with Written Consent in Form-2 and Registration Certificate within 3 days of the pronouncement of this order.
- h) In pursuance of Section 13(2) of the Code, we direct the IRP, as the case may be to make a public announcement immediately

with regard to the admission of this application under Section 9 of the Code. The expression immediately means within three days as clarified by Explanation to Regulation 6(1) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

- i) During the CIRP period, the management of the Corporate Debtor shall vest in the IRP/RP, in terms of Section 17 of the IBC. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within one week from the date of receipt of this order, in default of which coercive steps will follow. There shall be no future opportunity given in this regard.
- j) The Interim Resolution Professional shall perform all his functions contemplated, inter-alia, by Sections 15, 17, 18, 19, 20 & 21 of the Code and transact proceedings with utmost dedication, honesty and strictly in accordance with the provisions of the Code, Rules and Regulations. It is further made clear that all the personnel connected with the Corporate Debtor, its promoters or any other person associated with the Management of the Corporate Debtor are under legal obligation under Section 19 of the Code to extend every assistance and cooperation to the Interim Resolution Professional as may be required by him in managing the day-to-day affairs of the 'Corporate Debtor'.
- k) The IRP or the RP, as the case may be shall submit to this Adjudicating Authority periodical report with regard to the progress of the CIRP in respect of the Corporate Debtor.
- l) In case there is any violation committed by the ex-management or any tainted/illegal transaction by ex-directors or anyone else, the Interim Resolution Professional would be at liberty to make appropriate application to this Tribunal with a prayer for passing an appropriate order. The Interim Resolution Professional shall be under duty to protect and preserve the value of the property of the 'Corporate Debtor' as a part of its obligation imposed by Section 20 of the Code and perform all his functions strictly in accordance with the provisions of the Code, Rules and Regulations.

- m) In terms of the Code, the Registry is hereby directed to communicate a copy of the order to the Operational Creditor, the Corporate Debtor, the IRP and the Registrar of Companies, NCT of Delhi and Haryana, by Speed Post and by email, at the earliest but not later than seven days from today. The Registrar of Companies shall update his website by updating the status of the Corporate Debtor and specific mention regarding admission of this Application must be notified.
- n) The Registry is further directed to send a copy of this order to the Insolvency and Bankruptcy Board of India ("IBBI") for their record.
- o) A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

No order as to costs.

**- SD/-**

**(ANU JAGMOHAN SINGH)  
MEMBER (T)**

**- SD/-**

**(JYOTSNA SHARMA)  
MEMBER (J)**