S.No.12

IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – II
VC AND PHYSICAL (HYBRID) MODE

ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
30.10.2026 AT 10:30 A.M.

Company Petition IB/204/9/HDB/2025
U/s 9 of IBC

IN THE MATTER OF:
Varahi Pharma Pvt Ltd **…Petitioner/s**

Vs

APTRA Synthesis Pvt Ltd **…Respondent/s**

C O R A M:-
SHRI. RAJEEV BHARDWAJ, HON'BLE MEMBER (JUDICIAL)
SHRI. SANJAY PURI, HON'BLE MEMBER (TECHNICAL)

O R D E R

Orders pronounced, recorded vide separate sheets.

In the result, CP IB/204/9/HDB/2025 is dismissed.

Sd/- **Sd/-**

MEMBER(T) **MEMBER(J)**

Apoorva/Vinod

IN THE NATIONAL COMPANY LAW TRIBUNAL

HYDERABAD BENCH, COURT-II

C.P (IB) No. 204/9/HDB/2025

[Under Section 9 of Insolvency and Bankruptcy Code, 2016]

IN THE MATTER OF VARAHI PHARMA PVT. LTD. Vs. APTRA SYNTHESIS PVT. LTD.

Between:

M/s. Varahi Pharma Pvt. Ltd.
403 Vineyard Mist 456 A & B,
Defence Colony, Sainikpuri,
Hyderabad-500094.

.....Petitioner

AND

M/s. Aptra Synthesis Pvt. Ltd.,
Plot No. 74, H. No. 5-5-35/18/1&3,
4th Floor, Mythri Towers, APIIC Road,
Prashanti Nagar, Hyderabad- 500072.

.....Respondent

Date of Order: 30.10.2026

Coram:

Hon'ble Shri Rajeev Bhardwaj, Member (Judicial)

Hon'ble Shri Sanjay Puri, Member (Technical)

Counsels Present

For Petitioner/OC : Mr. Krishna Grandhi, Ld. Senior Counsel along with Mr. Maligi Madhusudhana Reddy & Mr. Avinash Alladi, Ld. Counsels.

For Respondent/CD : Mr. S. Rajagopalan, Ld. Counsel

1. The present Petition was filed under Section 9 of Insolvency and Bankruptcy Code, 2016, by M/s. Varahi Pharma Private Limited (hereinafter referred to as the "**Operational Creditor**" or "**OC**") seeking initiation of Corporate Insolvency Resolution Process against the M/s. Aptra Synthsis Private Limited (hereinafter referred to as the "**Corporate Debtor**" or "**CD**").

Petition

2. M/s. Varahi Pharma Private Limited (OC) is engaged in the business of drug manufacturing, whereas M/s. Aptra Synthsis Private Limited (CD) is engaged in the manufacture of Active Pharmaceutical Ingredients (APIs), pellets (semi-finished formulations) and intermediates.

3. It is submitted that the OC and the CD entered into a Sale of Business Agreement dated 14.06.2023 for the sale of a bulk drug manufacturing plant and its associated infrastructure situated at Tumukunta Village, Hindupur Mandal, Sri Sathya Sai District, Andhra Pradesh, by way of a slump sale on a going-concern basis. The transaction included equipment, land, infrastructure, trade rights, permits, approvals, licences, commercial vehicles and other assets described in the particulars of the business. In furtherance of the said Agreement, Registered Sale Deed Nos. 158 of 2024 and 159 of 2024 were executed for the transfer of land, and Invoice No. VPPL/2023-24/021 dated 06.01.2024 was raised towards the sale of plant, machinery and associated electrical installations.

4. It is submitted that, in terms of the Sale of Business Agreement, the CD was required to pay a total consideration of Rs. 18,00,00,000/-, together with applicable taxes, within three months from the date of execution of the Agreement. However, the CD paid only Rs. 14,74,81,164/-, leaving an outstanding balance of Rs. 3,25,18,836/-, apart from GST amounting to Rs. 2,09,93,219/-. It is further submitted that the OC had already handed over possession of the manufacturing unit to the CD and

transferred the assets in terms of the Agreement. Despite the same, the CD failed to discharge its outstanding liability, notwithstanding the attempts made by the OC to resolve the matter amicably.

5. It is submitted that the OC issued a Demand Notice in Form 3 dated 06.09.2024, calling upon the CD to discharge the outstanding amount along with applicable interest. The said Demand Notice was duly served upon the CD on 12.09.2024. In response thereto, the CD issued a Reply Notice dated 23.09.2024, wherein it acknowledged that the entire sale consideration had not been paid, while claiming to have made payments aggregating to Rs. 16,91,49,235/-. However, the CD failed to furnish any documentary evidence substantiating the said payments.

6. It is further submitted that the CD communicated its objections regarding the quantum of the outstanding amount to the National E-Governance Services Limited (NeSL), the Information Utility, without reporting any pre-existing dispute concerning the dues. According to the OC, the outstanding principal amount payable by the CD is Rs. 5,35,12,055/-, together with interest of Rs. 61,18,326/-, aggregating to Rs. 5,96,30,381/-.

7. It is submitted that despite receipt of the Demand Notice, the CD failed to discharge its outstanding liability and continued to commit default. Therefore, the OC is constrained to file Petition under Section 9 of the Insolvency and Bankruptcy, 2016.

Counter

8. It is submitted that the present Petition is not maintainable either in law or on facts and is liable to be dismissed in limine in view of the existence of serious and bona fide pre-existing disputes between the parties.

9. It is submitted that the disputes between the parties existed much prior to the issuance of the Demand Notice dated 06.09.2024 and had already formed the subject matter of proceedings initiated by Mr. Shekhar Reddy

Gangula, a Director and Shareholder of the Petitioner Company, before this Adjudicating Authority in C.P. (IB) No. 36/241/2024. In the said Petition filed under Section 241 of the Companies Act, 2013, the Petitioner herein was arrayed as Respondent No. 1, whereas the CD herein was arrayed as Respondent No. 6. The said proceedings involved detailed allegations and disputes concerning Sale Deed bearing Document No. 159 of 2024, executed before the Joint Sub-Registrar, Hindupur, Andhra Pradesh, and Sale Deed bearing Document No. 158 of 2024, executed before the Joint Sub-Registrar, Hindupur-I, Andhra Pradesh.

10. It is submitted that the disputes between the parties pertain, inter alia, to the payments made by the CD, non-delivery of original title deeds and outstanding electricity dues. According to the CD, it had already paid Rs. 16,91,49,235/- out of the total sale consideration of Rs. 18,00,00,000/- . However, the Board of Directors of the OC failed to hand over the original link title deeds, namely, Document No. 13454 of 2011 and Rectification Sale Deed bearing Document No. 12379 of 2012. It is alleged that the said original title deeds were handed over to a third party as collateral security for availing loans by the OC.

11. Further, electricity dues amounting to Rs. 3,14,33,381/-, pertaining to Service Connection No. ATP611 and relating to the period prior to the year 2020, remained outstanding. It is averred that the OC has neither obtained a No Dues Certificate from the Andhra Pradesh Southern Power Distribution Company Limited in respect of the said service connection nor furnished the same to the CD.

12. It is submitted that the CD had filed its Counter in the proceedings under Section 241 of the Companies Act, 2013, specifically disputing the claims and allegations raised by Mr. Shekhar Reddy Gangula, Director and Shareholder of the OC. Despite being aware of the subsisting disputes and pending proceedings, the OC issued the Demand Notice dated 06.09.2024. Upon receipt thereof, the CD issued a detailed Reply Notice

dated 23.09.2024, disputing the alleged operational debt and bringing to the notice of the OC the existence of prior and continuing disputes between the parties.

13. It is further submitted that the transactions and claims forming the basis of the present Petition had already been the subject matter of disputes in the proceedings under Section 241 of the Companies Act, 2013. Although the said Petition was subsequently withdrawn by Mr. Shekhar Reddy Gangula on 16.03.2025, the pleadings filed therein clearly establish that disputes between the parties existed much prior to the issuance of the Demand Notice.

14. Further, is submitted that the present Petition arises out of the same transactions, allegations and claims that formed the subject matter of the proceedings under Section 241 of the Companies Act, 2013. The OC has allegedly suppressed material facts concerning the said proceedings and instituted the present Petition with the sole intention of exerting pressure upon the CD to recover a disputed amount.

15. It is submitted that the OC was the owner of land comprising Plot Nos. 233, 234, 235, 236, 237 and 238, situated in Survey Nos. 98 (Part) and 103 (Part), together with an RCC building measuring 11,816 sq. ft. and an ACC building measuring 1,000 sq. ft., approximately 20 years old, situated at APIIC Growth Centre, Tumukunta Village, Hindupur Mandal, Sri Sathya Sai District, Andhra Pradesh. The said property was acquired by the OC pursuant to a Sale Deed dated 07.08.2017, executed by the Andhra Pradesh State Financial Corporation, Anantapur, in favour of the OC and registered as Document No. 5110 of 2017 in the office of the Sub-Registrar, Hindupur.

16. It is further submitted that the OC acquired another parcel of open land admeasuring 7,130.07 sq. yds., equivalent to 5,961.45 sq. mts., comprising Plot Nos. 229, 230, 231 and 232, situated in Survey Nos. 97 (Part), 98 (Part) and 103 (Part) at APIIC Growth Centre, Tumukunta

Village, Hindupur Mandal, Sri Sathya Sai District, Andhra Pradesh. The said property was acquired pursuant to a Sale Deed dated 08.03.2022, executed by the Andhra Pradesh State Financial Corporation, Anantapur, in favour of the OC and registered as Document No. 2865 of 2022 in the office of the Sub-Registrar, Hindupur.

17. It is submitted that the market value of the land admeasuring 5,961.45 sq. mts., comprising Plot Nos. 229, 230, 231 and 232, situated in Survey Nos. 97 (Part), 98 (Part) and 103 (Part), was Rs. 78,43,077/- as on 08.03.2022, and the said property was purchased by the OC through a public auction.

18. It is submitted that, owing to financial difficulties, the OC offered to sell its entire assets situated at Hindupur, including the land and buildings, to the CD for a total consideration of Rs. 15,00,00,000/-. The Board of Directors of the OC, at its meeting held on 28.04.2023, and the shareholders holding 95.18% of the shareholding of the OC, at the Extraordinary General Meeting held on 24.05.2023, approved and authorised the sale of the following properties:

    i) Plot Nos. 233, 234, 235, 236, 237 and 238, situated in Survey Nos. 98 (Part) and 103 (Part) at APIIC Growth Centre, Tumukunta Village, Hindupur Mandal, Sri Sathya Sai District, Andhra Pradesh; and

    ii) Open land admeasuring 7,130.07 sq. yds., equivalent to 5961.45 sq. mts., covered by Plot Nos. 229, 230, 231 and 232 situated in Sy. No. 97 (Part), 98 (Part) and 103 (Part) at APIIC Growth Centre, Tumkunta Village, Hindupur Mandal, Sri Sathya Sai District, AP.

19. It is submitted that, subsequently, the CD entered into a Memorandum of Understanding and a Sale of Business Agreement dated 14.06.2023 with the OC, whereby the CD agreed to purchase the entire Hindupur unit, including equipment, land, infrastructure, trade rights, permits, approvals, licences, commercial vehicles and all other associated assets,

by way of a slump sale on an "as is where is" basis and as a going concern, for a total consideration of Rs. 18,00,00,000/-. Pursuant thereto, the CD paid an advance amount of Rs. 1,50,00,000/-.

20. It is submitted that the OC, being the seller, was required to obtain a No Objection Certificate (NOC) from the Andhra Pradesh Industrial Infrastructure Corporation (APIIC) to demonstrate compliance with the mandatory procedures governing the transfer. The transaction contemplated the transfer of the following assets:
    i) The RCC building measuring 11,816 square feet and ACC building measuring 11,000 square feet situated on Plot Nos. 233, 234, 235, 236, 237 and 238 in Survey Nos. 98 (Part) and 103 (Part) at APIIC Growth Centre,
    ii) Open land admeasuring 7,130.07 square yards, equivalent to 5,961.45 square meters, covered by Plot Nos. 229, 230, 231 and 232 situated in Survey Nos. 97 (Part), 98 (Part) and 103 (Part) at APIIC Growth Centre, and
    iii) Equipment, infrastructure, trade, rights, permits, approvals, licences attached thereto, commercial vehicles and assets of every description and nature, on a slump sale basis, on an “as is where is” basis and as a going concern.

21. It is averred that the OC held two separate and distinct title deeds in respect of the aforesaid properties, necessitating the execution of separate conveyance deeds. Accordingly, Sale Deeds bearing Document Nos. 158 of 2024 and 159 of 2024, both dated 06.01.2024, were registered in the office of the Sub-Registrar, Hindupur.

22. It is further submitted that, as evident from Annexure II to the Business Transfer Agreement, the machinery installed and erected by the OC at the factory premises was attached to the earth solely for operational efficiency. Since the machinery could be dismantled, removed and sold as independent units, it is contended that the entire Sale of Business Agreement was not required to be compulsorily registered or subjected

to stamp duty on the footing that the entire transaction constituted a transfer of immovable property.

23. It is submitted that Sale Deed bearing Document No. 159 of 2024 pertains to Plot Nos. 233, 234, 235, 236, 237 and 238, situated in Survey Nos. 98 (Part) and 103 (Part) at APIIC Growth Centre, Tumukunta Village, Hindupur Mandal, Sri Sathya Sai District, Andhra Pradesh. The CD had paid a sum of Rs. 5,55,27,000/- towards the consideration under the said Sale Deed.

24. It is submitted that the OC failed to hand over the original link title deeds, namely, Document No. 13454 of 2011 and Rectification Sale Deed bearing Document No. 12379 of 2012. According to the CD, the said title deeds were furnished to a third party as collateral security for availing loans from M/s. Venkat Narayan Ingredients Private Limited. It is further submitted that M/s. Venkat Narayan Ingredients Private Limited has instituted C.P. No. 66 of 2026, which is pending adjudication before this Adjudicating Authority.

25. It is submitted that the CD had already paid Rs. 16,91,49,235/- towards the total sale consideration of Rs. 18,00,00,000/-, leaving a balance of Rs. 1,08,50,765/-. However, the CD was constrained to withhold payment of the said balance on account of serious disputes and contractual defaults allegedly attributable to the OC. The CD further discovered that electricity dues amounting to Rs. 3,14,33,381/-, pertaining to the factory premises and relating to the period prior to the year 2020, remained outstanding.

26. It is contended that these disputes, grievances and objections had already been raised in the proceedings under Section 241 of the Companies Act, 2013, thereby establishing the existence of genuine and bona fide pre-existing disputes between the parties.

27. It is averred that the CD is a solvent company carrying on its business as a going concern. The present Petition involves seriously disputed questions of fact requiring a detailed examination of contractual obligations, title documents, outstanding liabilities, accounts and the inter se rights and obligations of the parties, which cannot be adjudicated in summary proceedings under Section 9 of the Code. Accordingly, the CD submits that the present Petition is liable to be dismissed.

Rejoinder

28. It is submitted that the contention of the CD that the present Petition is wholly misconceived and liable to be rejected at the threshold is untenable. Placing reliance on the judgment of the Hon'ble Supreme Court in **E.S. Krishnamurthy v. Bharath Hi-Tech Builders Pvt. Ltd., (2022) 3 SCC 161**, the OC contends that once an application is complete and the existence of default is established, the Adjudicating Authority cannot reject the application on equitable or technical considerations.

29. It is averred that the Petition filed under Section 241 of the Companies Act, 2013, was subsequently withdrawn by the concerned Petitioner and that there was no communication between the OC and the CD raising any valid dispute prior to the issuance of the Demand Notice under Section 8 of the Code. It is further submitted that the CD had paid only Rs. 14,74,81,164/-, as evidenced by the bank account statements relied upon by the OC. According to the OC, the CD has itself acknowledged the existence of outstanding dues that have remained unpaid for a considerable period.

30. It is submitted that the allegation of the CD that the original title deeds were handed over to a third party is incorrect and, in any event, cannot constitute a pre-existing dispute concerning payment of the outstanding sale consideration. The OC contends that certified copies of the link title

documents had already been furnished to the CD and that no charge or encumbrance had been created in favour of any third party.

31. It is further submitted that the outstanding electricity dues and the alleged failure to furnish a No Dues Certificate from the Andhra Pradesh Southern Power Distribution Company Limited cannot be construed as pre-existing disputes. According to the OC, the transaction was structured as a slump sale on a going-concern and "as is where is" basis, under which the assets and liabilities associated with the business undertaking were to be transferred to the purchaser. In support of this contention, the OC places reliance on Section 2(42C) of the Income-tax Act, 1961.

32. It is submitted that the proceedings under Section 241 of the Companies Act, 2013, were initiated by the stakeholders of the OC and not by the CD, whereas the present Petition has been instituted by the OC in respect of the outstanding consideration arising from the sale of its business undertaking. The OC denies that the present Petition has been filed as a substitute for debt recovery proceedings or with the intention of exerting pressure upon the CD. It is further contended that the CD, in its Reply Notice issued in response to the Demand Notice under Section 8 of the Code, had itself acknowledged the existence of outstanding dues.

33. It is averred that there was no mandatory requirement for the OC, being the seller, to obtain an NOC from APIIC and that the responsibility to conduct proper due diligence before entering into the transaction rested upon the CD. It is further submitted that C.P. No. 66 of 2026, pending before this Adjudicating Authority, is unrelated to the present Petition and is being dealt with separately by the OC.

34. It is submitted that the CD has claimed to have paid Rs. 16,91,49,235/- and contended that the outstanding amount is only Rs. 1,08,50,765/-. However, according to the OC, the particulars of payments and the bank account statements furnished by it establish that the CD has failed to

discharge an outstanding liability of Rs. 5,96,30,381/-, inclusive of interest.

35. In view of the foregoing, the OC contends that the CD has failed to establish the existence of any genuine or bona fide pre-existing dispute concerning the operational debt claimed in the present Petition. It is further submitted that the allegations relating to outstanding electricity dues, non-delivery of original title deeds and discrepancies in payments are vague, and have been raised merely as an afterthought to evade payment of the outstanding dues. Accordingly, the OC submits that the objections raised by the CD are devoid of merit.

Findings

36. The CD and OC on 14.06.2023 entered into a Sale of Business Agreement dated 14.06.2023 for the transfer of a Bulk Drug Manufacturing Unit (hereinafter referred to as the "**Agreement**"), situated at Tumkunta Village, Hindupur Mandal, Andhra Pradesh, on a slump sale basis for a total consideration of Rs. 18,00,00,000/-. The recitals of the Agreement provide that the transaction involves the transfer of the undertaking for a lump-sum consideration without assigning individual values to its assets and liabilities. The said transfer was agreed to be effected on a going-concern basis, inclusive of equipment, land, infrastructure, trade rights, permits, approvals, licences, commercial vehicles and other assets of every description and nature, as specified in the Business Particulars forming part of the Agreement.

37. In terms of the Agreement, the CD was required to pay Rs. 1,50,00,000/- as a token advance, while the balance consideration was payable within 90 days from the date of execution of the Agreement. Accordingly, the CD issued eight cheques aggregating to Rs. 1,50,00,000/- towards the token advance. Annexure II to the Agreement (**page 67 of the Petition**) contains a list of equipment and instruments forming part of the slump

sale, without assigning separate values to the individual items. Further, the parties executed a Memorandum of Understanding (**MoU**) dated 14.06.2023, reiterating the payment obligations of the CD. Significantly, the MoU describes the transaction as a transfer of ownership of the bulk drug manufacturing plant, which was to be completed upon execution of the sale deeds.

38. Pursuant to the aforesaid Agreement and MoU, a registered Sale Deed bearing Document No. 159 of 2024 dated 06.01.2024 was executed, whereby the CD acquired Plot Nos. 233, 234, 235, 236, 237 and 238, situated in Survey Nos. 98 (Part) and 103 (Part), admeasuring 8,942.40 sq. mts., at APIIC Growth Centre, Tumkunta Village, Hindupur Mandal, Sri Sathya Sai District, Andhra Pradesh, for a consideration of Rs. 5,55,27,000/-. It is also observed that the Andhra Pradesh Industrial Infrastructure Corporation Limited (APIIC) issued a No Objection Certificate (NOC) in respect of the aforesaid plots.

39. Similarly, another registered Sale Deed bearing Document No. 158 of 2024 dated 06.01.2024 was executed, whereby the CD acquired open land admeasuring 7,130.07 sq. yds., equivalent to 5,961.45 sq. mts., comprising Plot Nos. 229, 230, 231 and 232, situated in Survey Nos. 97 (Part), 98 (Part) and 103 (Part), at APIIC Growth Centre, Tumkunta Village, Hindupur Mandal, Sri Sathya Sai District, Andhra Pradesh, for a consideration of Rs. 78,44,000/-.

40. It is the case of the OC that, against the total agreed sale consideration of Rs. 18,00,00,000/-, the CD paid only Rs. 14,74,81,164/-, leaving an unpaid balance of Rs. 3,25,18,836/-. The OC further claims GST amounting to Rs. 2,09,93,219/-, thereby arriving at a total outstanding principal amount of Rs. 5,35,12,055/- (Rs. 3,25,18,836/- actual consideration + Rs. 2,09,93,219/- as GST). Together with interest of Rs.

61,18,326/-, the OC claims an aggregate outstanding amount of Rs. 5,96,30,381/-.

41. On the other hand, the CD contends that it has already paid Rs. 16,91,49,235/- towards the total agreed consideration of Rs. 18,00,00,000/-, leaving a balance of Rs. 1,08,50,765/-. However, the CD submits that it was constrained to withhold payment of the said balance on account of disputes and alleged breaches of contractual obligations attributable to the OC.

42. Before examining the rival contentions on merits, we consider it necessary to determine whether the debt claimed by the OC constitutes an "operational debt" within the meaning of Section 5(21) of the Code, which is a prerequisite for maintaining a Petition under Section 9.

43. Section 5(21) of the Code defines "operational debt" as follows::
"(21) "operational debt" means a claim in respect of the provision of goods or services including employment or a debt in respect of the payment of dues arising under any law for the time being in force and payable to the Central Government, any State Government or any local authority."

44. From the aforesaid definition, it is evident that for an amount to qualify as an operational debt under the Code, it must first constitute a "claim" within the meaning of Section 3(6), giving rise to a "debt" as defined under Section 3(11). Further, such debt must fall within the scope of Section 5(21), namely, a claim arising in respect of (i) the provision of goods or services, including employment; or (ii) statutory dues payable to the Central Government, any State Government or any local authority.

45. Thus, only if the claim falls within one of the three categories as listed above, can it be classified as an operational debt. If the amount claimed

does not fall under any of the above categories, then the claim cannot be categorised an operational debt, even though there may be a liability or obligation from one person to another.

46. We refer to the observations of the Hon'ble Supreme Court in ***Consolidated Construction Consortium Ltd. v. Hitro Energy Solutions Pvt. Ltd., (2022) ibclaw.in 09 SC***, wherein, after referring to the Report of the Bankruptcy Law Reforms Committee, the Hon'ble Supreme Court observed as follows:

> *"29. The primary source is Volume I of the Report of the Bankruptcy Law Reforms Committee16. It notes that "[e]nterprises have financial creditors by way of loan and debt contracts as well as operational creditors such as employees, rental obligations, utilities payments and trade credit". It provides that a corporate debtor will have financial and operational liabilities, and explains the difference as follows:*
>
> > *".....**Operational contracts typically involve an exchange of goods and services for cash. For an enterprise, the latter includes payables for purchase of raw-materials, other inputs or services, taxation and statutory liabilities, and wages and benefits to employees.**"*
> >
> > *(emphasis supplied)*
>
> *Further, the Report also notes:*
>
> > *"Here, the Code differentiates between financial creditors and operational creditors. Financial creditors are those whose relationship with the entity is a pure financial contract, such as a loan or a debt security. **Operational creditors are those whose liability from the entity comes from a transaction on operations**. Thus, the wholesale vendor of spare parts whose spark plugs are kept in inventory by the car mechanic and who gets paid only after the spark plugs are sold is an operational creditor. Similarly, the lessor that the entity rents out space from is an operational creditor to whom the entity owes monthly rent on a three-year lease. The Code also provides for cases where a creditor has both a solely financial transaction as well as an operational transaction with the entity. In such a case, the creditor can be considered a financial creditor to the extent of the financial debt and an operational creditor to the extent of the operational debt."*
> >
> > *(emphasis supplied)*

30. It is thus clear that operational creditors are those whose debt arises from operational transactions, i.e., ***transactions which are undertaken in relation to the operation of an enterprise****. As the examples in the BLRC Report suggest, these generally include transactions involving goods or services which are considered necessary for the operational functioning of an entity."*

47. We also refer to the observations of the Hon'ble NCLAT in ***Pr. Director General of Income Tax (Admn. & TPS) v. Synergies Dooray Automotive Ltd. and Ors., (2019) ibclaw.in 443 NCLAT***, wherein it was held as follows:

"29. 'Operational Debt' in normal course means a debt arising during the operation of the Company ('Corporate Debtor'). ***The 'goods' and 'services' including employment are required to keep the Company ('Corporate Debtor') operational as a going concern****. If the Company ('Corporate Debtor') is operational and remains a going concern, only in such case, the statutory liability, such as payment of Income Tax, Value Added Tax etc., will arise."*

48. From the aforesaid judgments, it is evident that operational debts arise from transactions undertaken in relation to the operation of an enterprise, ordinarily involving the provision of goods or services necessary for its operational functioning. It is in the light of these principles that we proceed to examine the nature of the transaction underlying the present claim.

49. In the present case, the Agreement dated 14.06.2023 was executed for the transfer of the entire bulk drug manufacturing undertaking on a slump sale basis for a lump-sum consideration of Rs. 18,00,00,000/-, without assigning individual values to its assets and liabilities. The transaction involved the transfer of ownership of the undertaking as a going concern, including its immovable properties, plant, machinery, equipment and other associated assets.

50. We observe that the transaction was essentially for the acquisition of ownership of an entire manufacturing undertaking, rather than the

procurement of goods or services for the operational functioning of the CD. The registered sale deeds and the list of equipment forming part of the Agreement were incidental to the transfer of the undertaking and cannot be viewed independently of the principal Agreement. Further, there is nothing on record to establish that the acquisition of the said undertaking was necessary for the CD to continue its existing business operations as a going concern.

51. Applying the principles laid down by the Hon'ble Supreme Court in ***Consolidated Construction Consortium Ltd. (supra)*** and the Hon'ble NCLAT in ***Synergies Dooray Automotive Ltd. (supra)***, we find that the debt claimed by the OC arises from the transfer of ownership of a manufacturing undertaking as a whole, rather than from a transaction involving the provision of goods or services in relation to the operational functioning of the CD. Merely because the undertaking included movable assets such as plant, machinery and equipment, the outstanding consideration under the composite Agreement cannot, by itself, be characterised as operational debt. The present claim, by its very nature, does not arise in respect of the provision of goods or services, including employment, nor does it pertain to statutory dues payable to the Central Government, any State Government or any local authority. Accordingly, we are of the considered view that the debt claimed does not fall within any of the categories contemplated under Section 5(21) of the Code and, therefore, cannot be classified as an operational debt.

52. Additionally, we observe that the CD, in its reply to the Demand Notice, disputed the claim of the OC on the ground that the original link document bearing Document No. 2865 of 2022 dated 11.03.2022, pertaining to the property conveyed under registered Sale Deed bearing Document No. 158 of 2024, had not been handed over to the CD. The CD also expressed apprehensions regarding the bona fides of the Directors and shareholders of the OC in withholding the said document. Thus, the

CD raised objections concerning the fulfilment of the obligations of the OC under the transaction.

53. Further, the CD has also raised certain objections concerning the outstanding electricity dues pertaining to the period prior to the transfer of the undertaking. The CD contends that, in view of the non-handover of the original link document and other unresolved issues relating to the transaction, it withheld payment of the remaining consideration. We observe that the objections raised by the CD pertain to the underlying transaction and the amount claimed by the OC, thereby indicating the existence of disputes between the parties regarding the outstanding consideration.

54. In view of the foregoing, we hold that the foundational requirement for maintaining a Petition under Section 9 of the Code has not been satisfied, as the debt claimed by the OC does not constitute an operational debt within the meaning of Section 5(21) of the Code. Further, we find that pre-existing disputes exist between the parties concerning the underlying transaction and the outstanding consideration claimed by the OC. Consequently, the present Petition is liable to be dismissed.

Accordingly, the **C.P (IB) No. 204/9/HDB/2025** is **dismissed** and disposed of.

Sd/-
SANJAY PURI
MEMBER (TECHNICAL)

Sd/-
RAJEEV BHARDWAJ
MEMBER (JUDICIAL)