

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 4057 OF 2019

DR. REDDY'S LABORATORIES LIMITED

Appellant(s)

VERSUS

D. SRINIVASULU & ANR.

Respondent(s)

O R D E R

The National Company Law Tribunal (hereinafter referred to as 'NCLT' for brevity), in the facts of the present case, referred to the demand notice issued by the Operational Creditor to the Corporate Debtor dated 18.03.2017 and the reply given thereto, and found that an amount of Rs.2.73 crores, which had been admitted by the Corporate Debtor, had not been paid. Based on this finding, it admitted the application filed under Section 9 of the Insolvency and Bankruptcy Code, 2016. By an order dated 16.10.2017, the National Company Law Appellate Tribunal(hereinafter referred to as 'NCLAT' for brevity) allowed the appeal stating that a pre-existing dispute was clearly made out. When the matter came to this Court, by its order dated 24.08.2018, this Court allowed the appeal and remanded the matter to the NCLAT.

Pursuant to remand, on 14.01.2019, the NCLAT reiterated its earlier findings and found that as a pre-existing dispute existed, the appeal ought to be allowed and

the NCLT admitting the matter should be dismissed.

Having heard learned counsel for both the parties, we are of the view that E-mail dated 04.07.2016 clearly and unequivocally stated as follows:

" Dear Sir,
Refer to Reconciliation of the account amount payable to you as per our account Rs.2,64,41,770/-."

The demand notice dated 18.03.2017 clearly referred to the amount mentioned in the aforesaid e-mail, to which the reply given was as follows:

"19. That there are no amounts which are payable by our client to your client much less the illegal claim of Rs.2,73,20,633/- which is not a legally enforceable debt much less an operational debt as claimed by your client. Even assuming with prejudice there are any amounts payable by our client to your client, the same is liable to be set off against our client's claim of Rs.28,80,00,000/- against your client and hence there is no amount payable by our client to your client. Therefore the total amount which is due and payable by your client to our client is Rs.28,80,00,000/-. Our client did not waive off its claims against your clients at any point of time. Further, your client's actions and inactions have caused our client to go into severe losses and our client has huge outstanding amounts payable to third parties which costs were incurred for reasons solely attributable to your client."

It will be noticed from the reply that there is a complete denial of the amount of Rs.2.64 crores, which was stated to be payable as on 04.07.2016 and which is subsumed within the amount of Rs.2,73,20,633/- referred to in this paragraph. Secondly, apart from contentions in law taken up in this paragraph, the only thing that is mentioned is that

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Rs.28.80 crores have to be set off against the said amount without, in any manner, indicating that this amount has arisen only after 04.07.2016.

In this view of the matter, we are of the view that the NCLT was right in admitting the aforesaid petition. Accordingly, the order of the Appellate Tribunal is set aside and that of the NCLT is restored.

The appeal is allowed in the aforesaid terms.

....., J.
[ROHINTON FALI NARIMAN]

....., J.
[V. RAMASUBRAMANIAN]

New Delhi;
October 21, 2019.

ITEM NO.44

COURT NO.5

SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No. 4057/2019

DR. REDDY'S LABORATORIES LIMITED

Appellant(s)

VERSUS

D. SRINIVASULU & ANR.

Respondent(s)

(With IA No. 66739/2019 - EX-PARTE STAY)

Date : 21-10-2019 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN
HON'BLE MR. JUSTICE V. RAMASUBRAMANIAN

For Appellant(s)

Mr. B. Adinarayan Rao, Sr. Adv.
Mr. Mullapudi Rambabu, Adv.
Mr. N. Eswara Rao, Adv.
Ms. Prity Kumari, Adv.
M/S. M. Rambabu And Co., AOR

For Respondent(s)

Mr. Sourav Roy, Adv.
Mr. Ruchir Ranjan Rai, Adv.
Mr. Mahesh Kumar, Adv.
Mr. Harsh Anand, Adv.
Mr. Gaurav Mujumdar, Adv.
Ms. Devika Khanna, Adv.
Mr. Yash Ahlawat, Adv.
Mrs. V. D. Khanna, AOR

UPON hearing the counsel the Court made the following
O R D E R

The appeal is allowed in terms of the signed order.
Pending application stands disposed of.

(NIDHI AHUJA)
COURT MASTER (SH)

(NISHA TRIPATHI)
BRANCH OFFICER

[Signed order is placed on the file.]