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SC orders interim stay on NCLAT order on Orchid Pharma resolution process

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The Supreme Court has ordered an interim stay on the National Company Law Appellate Tribunal's (NCLAT's) ruling on the resolution of debt-ridden Orchid Pharma.

The NCLAT in November set aside the National Company Law Tribunal's (NCLT's) approval of a resolution plan by Gurgaon-based Dhanuka Laboratories for Orchid and remitted the matter to the NCLT, observing that it quoted an amount below the liquidation value and could not be approved.

State Bank of India, which is an important member in the Committee of Creditors (CoC), filed the appeal with the Supreme Court to set aside the NCLAT order, alleging that the appellate tribunal erred in overriding the commercial wisdom of the CoC.

A majority of the committee members had approved Dhanuka's plan. The NCLAT passed the order based on an appeal by Accord Life Spec, part of the ₹1,700-crore Accord Group, established by Dravida Munnetra Kazhagam leader and former Union minister of state S Jagathrakshakan, whose resolution plan was rejected by the NCLT, Chennai, while approving Dhanuka's plan.

Confirming that the Supreme Court has issued an interim stay on the NCLAT order, Vipin Warrier, partner of law firm India Law LLP, who has been advising and representing the resolution professional, said a possibility that could have followed the NCLAT order was the liquidation of Orchid Pharma, which would have affected all the stakeholders, including around 1,400 employees of the company. He said the apex court had issued notice to the respondents — Accord Life Spec, Orchid Pharma, and Dhanuka Laboratories — and it was returnable in four weeks.

Orchid Pharma owes banks more than ₹3,000 crore. Earlier, the NCLT nullified a resolution plan by US-based Ingen Capital after it was approved since the investor allegedly did not bring in money in accordance with the norms.

Accord, in its appeal at the NCLAT, alleged that Dhanuka's actual resolution value proposed was ₹570 crore as against liquidation value of ₹1,309 crore. It requested the appellate tribunal to set aside the NCLT decision approving Dhanuka's plan. It has also filed another appeal against the NCLT's decision to reject Accord's plan.

The NCLAT dismissed the second appeal. The resolution plan submitted by Accord was also less than the liquidation value.

The NCLT, in its order in June, this year, said while Dhanuka's resolution plan value was ₹570 crore, which is lower than the liquidation value of ₹1,309 crore (according to the resolution professional's explanation), Orchid Pharma had a cash and bank balance of ₹321.98 crore. This and some factors brought the plan value to around ₹1,116.04 crore, close to the liquidation value.

Domestic pharma market bounces back to growth phase in November

After seeing 5.1 per cent growth in October, the domestic pharma market has bounced back in November. The Indian pharma market (IPM) registered a 14.5 per cent year-on-year growth in November, one of the best growths seen in more than 32 months.

Data from market research firm AIOCD AWACS showed that in November last year, the IPM had clocked a 7 per cent growth. In terms of moving annual turnover (MAT), which considers the past 12 months' turnover, the MAT November growth is at 9.8 per cent. Acute therapies, which accounts for 47 per cent of the IPM, has exhibited growth of 8.9 per cent, while Chronic therapies which accounts for 33 per cent of the IPM has exhibited growth of 11.7 per cent.

The Indian pharma market registered 14.5% YoY growth in November

On MAT November 2019, anti-infective market being the largest market exhibits growth of 8.6 per cent, cardiac market 12.2 per cent, anti-diabetic market 13.6 per cent, gastrointestinal 8.9 per cent, vitamins and minerals 8.9 per cent, and pain and analgesics at 9.7 per cent.

Commenting on the November numbers AIOCD said, "We need to look into the seasonality as well. Last year, the Diwali was in November and had impacted the sale and thus had a low base (growth of 7 per cent). As the Diwali shifted to October in 2019, November had no pressure. Hence, on the lower base of November 2018, November 2019 did well."

It added, "If we look at an average of growths for October 2019 (5.1 per cent) and November 2019 (14.5 per cent), the average of two is 9.8 per cent, which is the MAT growth of IPM (9.8 per cent). So, we are looking at a steady growth phase."

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