



LexAlert

October 3, 2019, New Delhi, INDIA

***RELEASE OF THIRD-PARTY ASSETS PERMITTED DURING MORATORIUM UNDER THE BANKRUPTCY***

If you have questions or would like additional information on the material covered herein, please contact:

Mr. Alishan Naqvee, Partner  
([anaqvee@lexcounsel.in](mailto:anaqvee@lexcounsel.in))

Ms. Swet Shikha, Associate  
([sshikha@lexcounsel.in](mailto:sshikha@lexcounsel.in))

LexCounsel, Law Offices C-10, Gulmohar Park New Delhi 110 049, INDIA.  
Tel.:+91.11.4166.2861  
Fax:+91.11.4166.2862

Recommended by:

**RELEASE OF THIRD-PARTY ASSETS PERMITTED DURING MORATORIUM UNDER THE BANKRUPTCY CODE**

Can you rescue your raw materials or unfinished products from a company after it goes under insolvency?

The answer is yes, as held by the National Company Law Tribunal ("NCLT"), Chandigarh Bench.

Many entities who supplied raw materials or unfinished products to companies for contract manufacturing/processing complained of their raw materials being stuck whenever any of such manufacturing companies fell under the purview of the (Indian) Insolvency and Bankruptcy Code, 2016 ("Code"). In terms of the Code, the moment an insolvency petition is admitted with respect to a company (called "corporate debtor"), a Resolution Professional is appointed suspending the board of directors of the corporate debtor and a moratorium is declared on *inter alia* all claims and demands against the corporate debtor. Before the judgment being reported herein, a parallel view prevailed that during moratorium period, even the raw materials or unfinished products supplied by third parties cannot be returned by the corporate debtor or Resolution Professional to such third parties.

The NCLT has recently resolved this crucial and practical problem, and has clarified that the materials owned by a third party, kept in possession of a corporate debtor under trust or under well-structured contractual arrangement including bailment, do not form part of the assets of the corporate debtor. Resultantly, such assets can be released by the Resolution Professional.

In this case, the NCLT accordingly directed for release of the raw materials of Sun Pharmaceutical Industries Limited kept at the premises of Parabolic Drugs Limited (corporate debtor).

CHAMBERS  
ASIA



Case Details: CA 206/2019 filed by Sun Pharmaceutical Industries Ltd. in C.P.(IB)-102/CHD/2018 [Weather Makers Pvt. Ltd vs. Parabolic Drugs Limited]

[Feedback](#)

**Disclaimer:** LexCounsel provides this e-update on a complimentary basis solely for informational purposes. It is not intended to constitute, and should not be taken as, legal advice, or a communication intended to solicit or establish any attorney-client relationship between LexCounsel and the reader(s). LexCounsel shall not have any obligations or liabilities towards any acts or omission of any reader(s) consequent to any information contained in this e-newsletter. The readers are advised to consult competent professionals in their own judgment before acting on the basis of any information provided hereby.

