

**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
MUMBAI BENCH, COURT II**

**I.A. NO. 421/MB/C-II/2021**

In

**C.P (IB) No. 638/MB/C-II/2017**

**Under Regulation 44(2) of The IBBI  
(Liquidation Process) Regulations, 2016  
r.w. Rule 11 of NCLT Rules, 2016  
Seeking Extension of The Liquidation  
Process of the Corporate Debtor.**

Filed by

**Mr. Vijay Pitamber Lulla,**

**Liquidator of**

**Vidhya Pharmachem Private Limited.**

O/at 201, Satchitanand Building, 12<sup>th</sup>

Floor, Khar (West), Mumbai – 400 052.

Email:

**...Applicant/Liquidator**

In the matter of

**Sequent Scientific Limited**

**...Petitioner/Operational Creditor**

Versus

**Vidhya Pharmachem Private Limited,**

**...Corporate Debtor**

**Order Pronounced on: 13.05.2021**

*Coram:*

**Mr. Ravikumar Duraisamy**

**Hon'ble Member Technical**

**Mr. H. P. Chaturvedi**

**Hon'ble Member Judicial**

*Appearances:*

For the Liquidator

: Mrs. Jesal Singh, Advocate.

**ORDER**

*Per: Ravikumar Duraisamy, Member.*

1. The present application is moved by **Mr. Vijay Pitamber Lulla**, (hereinafter called as “the Applicant”) **Under Regulation 44(2) of The IBBI (Liquidation Process) Regulations, 2016 r/w Rule 11 of NCLT Rules, 2016. Seeking Extension of the Liquidation Process of the Corporate Debtor Vidhya Pharmachem Private Limited**, (hereinafter called as the “Corporate Debtor”) and for passing any other order/suitable direction in the matter.
2. The Applicant / Liquidator has prayed for grant of reliefs as being sought for in this Application are stated as under :-
  - (a) To pass an order, excluding the period lost due to Lockdown declared w.e.f. 25.03.2020 till lockdown is not lifted in terms of the new IBC amendment vide Regulation 47A which clearly stipulates that the period lost due to the lockdown in various states caused on account of COVID-19 will be excluded and shall not be treated as part of liquidation period till lockdown is not lifted and thereby excluding the period of days lost from 25.03.2020 to 31.12.2020.
  - (b) The period of Liquidation to be extended by one after w.e.f. 17.01.2021 for the reasons as stated below.
3. The Applicant / Liquidator submits that the Corporate Insolvency Resolution Process (CIRP) in respect of **Vidhya Pharmachem Private Limited**, (“Corporate Debtor”) was initiated vide this Bench Order dated

07.05.2018. Thereafter the Applicant Mr. Vijay Pitamber Lulla was appointed as Resolution Professional in the 1<sup>st</sup> CoC Meeting held on 02.08.2018.

4. As the RP did not receive any Resolution Plans for the Corporate Debtor, the CIRP of the Corporate Debtor could not be achieved and so an application for taking the Corporate Debtor into Liquidation u/s 33 of I&B Code, 2016 was filed before this Bench. The said Application was allowed by this Court on 10.04.2019 and Mr. Vijay Pitamber Lulla was appointed as the Liquidator of the Corporate Debtor. The said order was received by the Liquidator on 03.05.2019 upon which he took charge of the Corporate Debtor.
5. The Applicant further states that the process of Liquidation initiated by him which is stated as under :-
  - (a) As per the Code, the Liquidator performed his duties as a Liquidator from the date of receipt of order passed by Hon'ble Tribunal.
  - (b) The Liquidator issued public announcement on 08.05.2019 in "Form B" for the purpose of inviting claims against the Corporate Debtor. The said form was published in the following newspapers namely, The Free Press Journal and Navshakti.
  - (c) Subsequent to which, the Liquidator received claims from two Financial Creditors i.e. Bank of Baroda, Financial Creditor has exclusive charge on all the tangible assets of the Corporate Debtor i.e.

Land and Building and Plant and Machinery, decided to enforce its security.

- (d) The Liquidator informed that in the hearing held on 29.08.2019, the Liquidator had sought directions from this Tribunal for selling of assets of the Corporate Debtor. This Tribunal vide its order dated 29.08.2019 further directed the Liquidator that first option to be opted is for e-bidding, then only private sale is possible.
- (e) The Liquidator submits that one of the properties of Corporate Debtor situated at Ahmedabad, which was mortgaged with Bank of Baroda was sold by them through e-auction and the proceeds of the sale have been recovered by the bank.
- (f) The Liquidator submit that remaining assets of Corporate Debtor which comprises of Plant and Machinery, Office at Borivali and Godown at Bhiwandi all are mortgaged to Bank of Baroda are still in process to be sold.
- (g) The Liquidator submits that he is in talks with prospective buyer for the sale of rest of the property of the Corporate Debtor, but due to lockdown in the country, due to spread of novel Coronavirus-19, no conclusive progress has been achieved.
- (h) It is further submitted that as per Regulation 44(2) of the Insolvency and Bankruptcy Code, 2016, if the Liquidator fails to liquidate the Corporate Debtor within (one year), Liquidator shall make an application to the Adjudicating Authority to continue such liquidation, and specifying the additional time that shall be required for liquidation.

IN THE NATIONAL COMPANY LAW TRIBUNAL,  
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I.A. NO. 421/MB/C-II/2020

In

C.P. (IB) No.638/MB/C-II/2017

- (i) Pursuant to the aforesaid Regulation, Liquidator submits a Report wherein it gives a brief on the Progress made by the Corporate Debtor till date along with reasons accorded therein for requesting additional time required for carrying out the entire process of Liquidation as the same could not be completed for the reasons as specified in the present application and the report.
- (j) By virtue of the aforesaid provision, the Liquidator submits that this Bench has pleased to pass an order, granting additional period of one year for carrying out the smooth implementation of the liquidation processes as laid down under the Code for the assets of the Corporate Debtor which are remained to be liquidated and distributed as per Section 53 of the Code.
- (k) In addition to the above, the Liquidator further sought exclusion of some period for counting the Liquidation Process as per Regulation 47A of the Insolvency and Bankruptcy Code (Liquidation Process) Regulations, 2016, due to the pandemic situation of COVID-19 induced lockdown is to be excluded for the purposes of computation of the timeline for any task that could not be completed for such lockdown. The Liquidator was unable to carry out his requisite duties under the Code. It is also stated that even now the restrictions are not fully lifted in the State of Maharashtra and there is difficulty in movement of people. The assets of the Corporate Debtor are situated at Borivali and Wada District and hence due to COVID no much headway is made in sale of balance asset.

- (l) It is also stated that, the Liquidator's Advocate Mrs. Raina Birla fell down with COVID-19 in the month of January and hence she could not able to file this Application in January, 2021. Hence a request for condonation of delay in filing this Application is also prayed for.
- (m) The CIRP of the Corporate Debtor was initiated vide an Order dated 07.05.2018 of this Bench. Further the Liquidation Process of the Corporate Debtor was initiated vide Order of this Tribunal dated 10.04.2019 by appointing the present Applicant as Liquidator. Hence the present Application for the above reliefs are sought for.
6. We have perused the records and duly considered the reasons, grounds submitted by the Liquidator in respect of the present application, the main grounds seeking for extension of liquidation process are described in the preceding paras of this Order.
7. The Liquidation Process was initiated by this Tribunal, vide an Order dated 10.04.2019 appointing Mr. Vijay Pitamber Lulla as Liquidator and directing him to take necessary actions in accordance with the relevant provisions of the Insolvency and Bankruptcy Board of India, for completion of Process of Liquidation.
8. Having heard the submissions of the Learned Counsel for the Applicant, we are of the view that the prescribed period for completing the Liquidation Process needs to be extended. The present IA deserves to be allowed partly. Consequently, the liquidation period is extended by **six months from the date of the Order**. Further the period consumed during the lockdown period has to be excluded/exempted from counting the

period prescribed for Liquidation period by following the *suo moto* decision of Hon'ble Supreme Court in "*Miscellaneous Application No. 665/2021 in SMW(C) No. 3/2020*" by extending/exempting the period from 15<sup>th</sup> March 2020 till 14<sup>th</sup> March 21 and again now until further order. For the sake of convenience the relevant portion of the Order dated 27.04.2021 is being reproduced herein below:

*"We also take judicial notice of the fact that the steep rise in COVID-19 Virus cases is not limited to Delhi alone but it has engulfed the entire nation. The extraordinary situation caused by the sudden and second outburst of COVID-19 Virus, thus, requires extraordinary measures to minimize the hardship of litigant–public in all the states. We, therefore, restore the order dated 23rd March, 2020 and in continuation of the order dated 8th March, 2021 direct that the period(s) of limitation, as prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings, whether condonable or not, shall stand extended till further orders.*

*It is further clarified that the period from 14th March, 2021 till further orders shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.*

*We have passed this order in exercise of our powers under Article 142 read with Article 141 of the Constitution of India. Hence it shall be a binding order within the meaning of Article 141 on all Courts/Tribunals and Authorities."*

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8. By following the above referred decision of the Hon'ble Supreme Court the present **IA No.421 of 2021 In CP(IB) No. 638 of 2017** is partly allowed and stands disposed of.

Sd/-

**RAVIKUMAR DURAISAMY**  
**MEMBER (TECHNICAL)**

13.05.2021  
AAH/SAM

Sd/-

**H. P. CHATURVEDI**  
**MEMBER (JUDICIAL)**

**NATIONAL COMPANY LAW TRIBUNAL**  
**MUMBAI BENCH**  
**COURT-II**

11. IA 421/2021 IN C.P.(IB)-638(MB)/2017

**CORAM: SHRI H.P. CHATURVEDI, HON'BLE MEMBER (J)**  
**SHRI RAVIKUMAR DURAISAMY, HON'BLE MEMBER (T)**

**ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE  
NATIONAL COMPANY LAW TRIBUNAL ON 13.05.2021**

**NAME OF THE PARTIES: - IA 421/2021 Vijay P Lulla Liquidator for  
Vidhya Pharmachem Private Limited**  
**IN THE MATTER OF**  
**Sequent Scientific Ltd**  
**V/s**  
**Vidhya Pharmachem Pvt.Ltd**

**Section: 9, Regulation 44(2), Liquidation process Regulation, 2016**

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**ORDER**

The matter is taken up through Virtual Hearing (VC). The case is taken up today for pronouncement of order in respect of the IA. Ld. Counsel Ms. Jesal Singh appeared for the applicant.

The order is pronounced vide separate sheet. **IA 421/2021** is **allowed** in the light of the Judgement of the Hon'ble Supreme Court.

Sd/-

**RAVIKUMAR DURAISAMY**  
**Member (Technical)**

Sd/-

**H.P. CHATURVEDI**  
**Member (Judicial)**

Dated this the 13<sup>th</sup> day of May, 2021  
Sushil