IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH, KOLKATA
(Special bench)

IA (IB) No. 1436/KB/2020
In
CP (IB) No. 1235/KB/2018

Under section 33 of Insolvency & Bankruptcy Code, 2016

In the matter of

Syndicate Bank …Financial Creditor

Versus

Visa Pharmaceuticals Private Limited
(CIN: U24232WB2010PTC145229)

…Corporate Debtor

And

Kannan Tiruvengadam
Resolution Professional of Visa Pharmaceuticals Private Limited

...Applicant

Date of hearing: 29.12.2020
Date of pronouncement: 18.01.2021

Coram:

Shri Rajasekhar V.K. : Member (Judicial)

Appearances (through video conference):
For the Applicant : Mr. Avik Chaudhuri, Advocate

ORDER

Per: Rajasekhar V.K., Member (Judicial)

1. This court convened by video conference today.

2. The Petition bearing C.P. (IB) No. 1235/KB/2019 was filed by the Financial Creditor under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter, the Code) for initiation of Corporate Insolvency Resolution Process (hereinafter, CIRP) against Visa Pharmaceuticals Private Limited, the Corporate Debtor. The Corporate Debtor was admitted into CIRP by this Tribunal through its order dated 03.12.2019 and had appointed Mr. Kannan Tiruvengadam as Interim Resolution Professional (hereinafter, the IRP).

3. The IRP made the public announcement in Form A under section 15 of the Code read with regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulation, 2016 for inviting the claim from the creditors under the forms prescribed under the Code. In response, claim was received from 1 (One) Financial Creditor *viz*., Syndicate Bank their claims in Form C as prescribed under the Code and the Committee of Creditors (hereinafter, the CoC) was formed consisting of the abovesaid creditor having 100% voting shares.

4. In the first CoC meeting held on 30.12.2019, CoC approved the appointment of IRP as Resolution Professional (hereinafter, the RP).

5. The said RP has filed the present application bearing IA (IB) No. 1436/KB/2020 praying for initiation of Liquidation proceeding against the Corporate Debtor.

6. The learned counsel appearing for the RP submitted that:

   a. Corporate Debtor was engaged in the business of trading in pharmaceutical products. As far as the RP has been able to ascertain, at the time of initiation of CIRP, the Corporate Debtor had no significant trading activities and has no immoveable properties of any kind. The Resolution Professional is aware of only one bank account of the

Corporate Debtor maintained with Syndicate Bank which also does not have any significant funds.

b. The Corporate Debtor owes an amount in excess of ₹ 24 crores as financial debt to the Syndicate Bank which is the only creditor of the Corporate Debtor and has 100% voting share in the CoC.

c. The period for completion of CIRP, Keeping in mind the exclusion of 75 days during lockdown, has expired on 14.08.2020.

d. In these circumstances, the CoC in their 4th meeting held on 10.08.2020 passed the Resolution for initiation of liquidation process against the Corporate Debtor.

e. The RP does not wish to continue as the liquidator of the Corporate Debtor.

7. I have heard the ld. Counsel appearing for the RP and have perused the records. It is appears from the third progress report that the RP could not prepare Information memorandum due to non-access of the books and accounts, records, physical office of the Corporate Debtor due to alleged non-cooperation from the personnel of Corporate Debtor.

8. It further appears that the RP had sent several emails to the personnel of the Corporate Debtor, however, none were replied to. The RP's representative had also visited the registered office as well as the stock points of the Corporate Debtor, however, the representative was not allowed to enter the premises.

9. The RP has made continuous efforts to take the Corporate Debtor towards resolution but to no avail. The period of CIRP, including the period of lockdown, has already expired on 14.08.2020. No resolution plan is in sight. Therefore, there is no alternative but to order the liquidation of the Corporate Debtor.

10. Section 33(2) of the Code enjoins the Adjudicating Authority to pass an order for liquidation of the Corporate Debtor where the resolution professional, at any time during the CIRP but before confirmation of the resolution plan,

intimates the Adjudicating authority of the decision of the CoC approved by not less than sixty-six percent of the voting share, to liquidate the Corporate Debtor. In the present case, the CoC has resolved by 100% voting share to liquidate the Corporate Debtor.

11. This Bench, therefore, hereby orders as follows: -

a. IA (IB) No. 1436/KB/2020 filed by Mr. Kannan Tiruvengadam, RP of Visa Pharmaceuticals Private Limited, the Corporate Debtor, is is allowed and the Corporate Debtor is ordered to be liquidated in terms of section 33(2) of the Code read with sub-section (1) thereof;.

b. Mr. Chandra Kumar Jain having registration no. IBBI/IPA-001/IP-P00214/2017-2018/10414, email id: ckcacs@yahoo.co.in is appointed as Liquidator as provided under section 34(1) of the Code, subject, however, to his possessing a valid Authorisation for Assignment (AFA) issued by the Insolvency Professional Agency (IPA) of which he is a professional member, in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2019.

c. The Liquidator shall initiate liquidation process as envisaged under Chapter-III of the Code and the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

d. Liquidator is directed to issue a public announcement stating that the Corporate Debtor is in liquidation, in one of the leading English newspaper as well as in one newspaper published in regional language of Kolkata edition of the said newspapers stating that the Corporate Debtor is in liquidation.

e. All the powers of the Board of Directors, and of key managerial persons, shall cease to exist in accordance with section 34(2) of the Code. All these powers shall henceforth vest in the Liquidator.

f. The personnel of the Corporate Debtor are directed to extend all assistance and co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.

g. On initiation of the liquidation process but subject to section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor save and except the liberty to the Liquidator to institute suit or other legal proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority, as provided in section 33(5) of the Code read with its proviso.

h. In accordance with section 33(7) of the Code, this liquidation order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor except to the extent of the business of the Corporate Debtor continued during the liquidation process by the Liquidator.

i. In terms of section 33(1)(b)(iii), the Liquidator shall file a copy of this Order with the Registrar of Companies, West Bengal, Kolkata, within whose jurisdiction the Corporate Debtor is registered. Additionally, the Registry shall also forward a copy of this Order to the Registrar of Companies, West Bengal, Kolkata.

12. The application bearing **IA (IB) No. 1436/KB/2020** shall stand disposed of in accordance with the above direction.

13. **CP (IB) No. 1235/KB/2018** to come up for filing of periodical report on **27.04.2021**.

14. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their ld. counsel for information and for taking necessary steps.

15. Certified copy of this order be issued, if applied for, upon compliance of all requisite formalities.

Rajasekhar V.K.
Member (Judicial)

18.01.2021

SR (LRA)