NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH

2

PRESENT: HON'BLE SHRI RATAKONDA MURALI– MEMBER JUDICIAL
HON'BLE SHRI NARENDER KUMAR BHOLA– MEMBER TECHNICAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 14.10.2019 AT 10.30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION.	IA No.835/2019 in CP(IB) No.593/9/HDB/2018
NAME OF THE COMPANY	Yag Mag Labs Pvt Ltd
NAME OF THE PETITIONER(S)	Cosmic Chemicals
NAME OF THE RESPONDENT(S)	Yag Mag Labs Pvt Ltd
UNDER SECTION	9 of IBC

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature
AVS Krishna Mohan	RP	avskmohan@gmail.com 8008705290	[signature]

Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

ORDER

Liquidation order is passed vide separate orders.

Member (T) **Member (J)**

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IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH - I

I.A. No. 835 of 2019
IN
CP (IB) NO. 593/9/HDB/2018

Under Section 33 (1) of IBC, 2016

IN THE MATTER OF COSMIC CHEMICALS VERSUS
YAGMAG LABS PVT LTD

A.V.S. KRISHNA MOHAN,
RESOLUTION PROFESSIONAL
FOR YAGMAG LABS PVT LTD
Flat No. 402, Bhaskar Enclave, Road No. 7,
Nagarjuna Nagar, Srinagar Colony,
Hyderabad – 500073 Telangana ... Applicant/
Resolution Professional

<u>Date of order: 14.10.2019</u>

<u>Coram:</u>

Hon'ble Shri Ratakonda Murali, Member (Judicial)
Hon'ble Shri Narender Kumar Bhola, Member (Technical)

<u>Appearances:</u>

For the Applicant: Shri A.V.S. Krishna Mohan, Resolution Professional (party in person)

Heard on: 01.10.2019

PER: SHRI NARENDER KUMAR BHOLA
MEMBER (TECHNICAL)

1. Under consideration before us is the Interlocutory application filed by Resolution Professional / Applicant herein under section 33 (1) (a) and 34 (1) of the insolvency and bankruptcy code, 2016 seeking liquidation of the Corporate Debtor Yag Mag Labs Private Limited and

appointment of liquidator r/w rule 11 of the NCLT rules, 2016.

2. The averments made in the Application in brief are:-

(1) This Tribunal vide order passed in CP (IB)/ 593/9/HDB/2018, admitted the Petition filed by COSMIC CHEMICALS/Operational Creditor against YAGMAG LABS PRIVATE LIMITED/ Corporate Debtor under Section 9 of the Insolvency and Bankruptcy Code, 2016 (IBC) and appointed Mr. Ram Murthy Kommera, IBBI/ IPA 002/IP-N00595/2017-18/11776, as Interim Resolution Professional vide its order dated 18th February 2019. Subsequently, Mr. AVS Krishna Mohan,/Applicant herein having IP Regn. No. IBBI/ IPA 001/IP-P00521/2017-18/10946 was appointed as Resolution Professional of Yag Mag Labs Private Limited replacing Mr. Ram Murthy Kommera, Interim Resolution Professional vide order dated 30th April 2019.

(2) Consequent on his taking over as Resolution Professional, Public Announcement was made on 21.02.2019. The Committee of Creditors (CoC) was formed on 15.03.2019 and meetings were held at periodic intervals.

(3) The 2nd meeting of CoC was conducted on 11.05.2019, 3rd meeting on 31.05.2019, 4th meeting on 15.07.2019 and 5th meeting held on 10.08.2019.

(4) It is stated that in the Fifth meeting of the Committee of Creditors, held on 10th August 2019, it was decided by the members of CoC that the time frame of 180 days was ending on August 17, 2019 and the CoC with voting share of 93.68% passed resolution to seek extension of time limit of resolution process and moratorium by another 90 days with effect from 14.08.2019 which was

allowed/granted by the Tribunal vide orders passed in IA No. 720/2019 on 30.08.2019.

(5) The Resolution Professional apprised the CoC members with the details of estimated Liquidation Cost and the committee after thorough deliberations approved the same as per provisions of Section 39 B of IBC on Liquidation cost. The details are as under:-

LIQUIDATION COST	(Amt in Rs.)
Public Announcement for Liquidation	33,000
Public Announcement for list of stake holders	33,000
Valuation fee for valuation of Financial Assets	30,000
Fee payable to Audit professionals for audit of liquidation account	20,000
Fee payable to legal professionals for filing cases against debtors, and for GST/ VAT refunds	40,000
Expenses for filing IAs with NCLT	10,000
TOTAL	1,66,000

(6) It is the case of Applicant / Resolution Professional that in the 6th CoC meeting, the members of Committee of Creditors (CoC) representing 100% of the voting share in the CoC and 100% of the COC members present, approved/passed the resolution for Liquidating the Corporate Debtor Yagmag Labs Pvt Ltd and appointing Mr.A.V.S.Krishna Mohan, Resolution Professional as Liquidator. The Minutes of the 6th meeting of Committee of Creditors held on 21st September, 2019 is annexed and marked as Annexure I. Further Form AA consent of the Resolution Professional under Section 34 (1) of the Code is annexed and marked as Annexure III.

(7) It is the further case of Applicant that there are trade receivables, deposits and other receivables from various Govt Authorities, as per the Financial Statements of the company. The Resolution Professional has been following up with the respective debtors and Govt Authorities for recovery and refunds.

3. We heard the Resolution Professional. The present Application is filed by the Resolution Professional under Section 33 (1) of IBC, 2016 seeking initiation of liquidation process of M/s. Yag Mag Labs Private Limited/Corporate Debtor.

4. The Resolution Professional / Applicant herein informed the Tribunal that in the 6th CoC meeting held on 21.09.2019 the members of CoC with 100% voting share approved for liquidating the Corporate Debtor Company. Hence, the CoC passed a resolution for liquidating the Corporate Debtor Company.

5. Section 33 of Insolvency and Bankruptcy Code, 2016 read as follows:

(1) Where the Adjudicating Authority, —

(a) before the expiry of the insolvency resolution process period or the maximum period permitted for completion of the corporate insolvency resolution process under section 12 or the fast track corporate insolvency resolution process under section 56, as the case may be, does not receive a resolution plan under sub-section (6) of section 30; or

(b) rejects the resolution plan under section 31 for the non-compliance of the requirements specified therein, it shall—

(i) pass an order requiring the corporate debtor to be liquidated in the manner as laid down in this Chapter;

(ii) issue a public announcement stating that the corporate debtor is in liquidation; and

(iii) require such order to be sent to the authority with which the corporate debtor is registered.

10. As per Section 33(1) (a) of the Code, if the Resolution Professional has not received any Resolution Plan under Section 30(6) with in CIRP period, the Tribunal is left with no other option but to pass a liquidation order. The Resolution Professional has not filed any Resolution Plan before this Tribunal under Section 30(6) with in CIRP period. By relying on Section 33(1) (a) of the Code, the Resolution Professional having not submitted any Resolution Plan within CIRP period leads to passing an order of liquidation. We see no other alternative except passing an order of liquidation requiring the Corporate Debtor/ Yag Mag Labs Private Limited to be liquidated in the manner laid down in Chapter 3 of Part 2 of the Insolvency and Bankruptcy Code, 2016.

11. As per Section 34(1) of the Code after passing the order of liquidation of Corporate Debtor, the Resolution Professional appointed for CIRP Process shall act as Liquidator for conducting Liquidation Process. Accordingly Mr. AVS Krishna Mohan,/Applicant herein having IP Regn. No. IBBI/ IPA 001/IP-P00521/2017-18/10946 is appointed as the Liquidator. The Resolution Professional has given his consent for appointing him as a liquidator.

ORDER

12. In the result, the Application is allowed and Corporate Debtor M/s Yag Mag Labs Private Limited is ordered to be liquidated.

13. The Liquidator is directed to proceed with the process of liquidation in manner laid down in Chapter III of Part 2 of the Insolvency and Bankruptcy Code, 2016 by following the liquidation process given in IBBI (Liquidation Process) Regulations, 2016.

14. All powers of the Board of Directors, key managerial personnel and the partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested in the Liquidator.

15. The Liquidator is directed to issue Public Announcement stating that the Corporate Debtor is in liquidation, in terms of Regulation 12 of the IBBI (Liquidation Process) Regulations, 2016.

16. The Order of Moratorium passed under Section 14 of the Code shall cease to have its effect.

17. This order is deemed to be a notice of discharge to the officers, employees and the workmen of the Corporate Debtor as per Section 33(7) of the Code.

18. Since Liquidation order has been passed no suit or other legal proceedings shall be instituted by or against the Corporate Debtor, save and except as mentioned in Section 52 of the Code, as to institution of legal proceedings by the Liquidator, he is at liberty to initiate suit or legal proceedings with prior approval of this Adjudicating Authority, but this direction shall not apply to legal proceedings in relation to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

19. We hereby direct that the fee shall be paid to the Liquidator as envisaged under Regulation 4 of IBBI (Liquidation process) Regulations, which forms part of the liquidation cost.

20. The Liquidator shall submit a Prelimina6ry Report within 75 days from the Liquidation Commencement date as per Regulation 13 of the IBBI (Liquidation Process) Regulations, 2016.

The Application is disposed of accordingly.

14.10.19 14.10.19

NARENDER KUMAR BHOLA
MEMBER (TECHNICAL)

RATAKONDA MURALI
MEMBER (JUDICIAL)

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