IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

IA No. 1390/KB/2020
in
CP (IB) No. 1239/KB/2018

Under section 33 of Insolvency & Bankruptcy Code, 2016

In the matter of

Syndicate Bank
And
Union Bank of India

...Financial Creditor

Versus

Visa Drugs & Pharmaceutical Private Limited

...Corporate Debtor

And

Uday Narayan Mitra
RP of Visa Drugs & Pharmaceutical Private Limited

… Applicant

Order reserved on:21.01.2021
Order pronounced on:02.02.2021

Coram:

Shri Rajasekhar V.K.	:	Member (Judicial)
Shri Harish Chander Suri	:	Member (Technical)

Appearances (through video conferencing):

For the Applicant	:	Mr. Utsav Mukherjee,Advocate Mr. Uday Narayan Mitra, RP Mr. Manish Jain, CS

ORDER

Per: Harish Chander Suri, Member (Technical)

1. This court convened *via* video conference today.

2. This is an application filed by the Resolution Professional seeking liquidation of the Corporate Debtor, *Visa Drugs & Pharmaceutical Private Limited.*

3. This Adjudicating Authority *vide* its order dated 05.12.2019 admitted the Petition filed by Syndicate Bank & Union Bank of India *(*Financial Creditors*)* under section 7 of the Insolvency and Bankruptcy Code, 2016 read with rule 4 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules 2016 against the Corporate Debtor, and appointed the Applicant herein as the Interim Resolution Professional (IRP).

4. The Interim Resolution Professional in terms of section 15 of the Code, made public announcement on 11.12.2019, in Financial Express (English) and Ek Din (Bengali), fixing 19.12.2019 as the last date for submitting the claim.

5. The Corporate Debtor was admitted into CIRP on 05.12. 2019.The Corporate debtor was notified of the same and the Committee of Creditors was constituted on 27.12.2029 for the resolution process. Despite non-cooperation on behalf of the Corporate Debtor and the ongoing Covid 19 pandemic, various steps were taken up for the purpose of Resolution of the Corporate Debtor. The steps include publication of Expression of Interest (EoI) was published in Form 'G' on 18.02.2020 in *Business Standard* (Vernacular Daily at Kolkata) and Ek Din (Regional Language) and

JugMarg and Yug Marg Haryana Edition. Extension of date for invitation for expression of interest republished on 05.03.20220 in *Business Standard* (Vernacular Daily at Kolkata) and Ek Din (Regional Language) and on 06.03.2020 JugMarg and Yug Marg Haryana Edition. Site visit and taking possession of the factory premises, appointment of valuers and preparation of Information Memorandum and approval of RFRP. Pursuant to the Covid Pandemic, a nationwide lockdown was imposed and Section 40C of the IBC promulgated according to which all timelines of CIRP stood extended.

6. However, despite multiple publications for submissions of Expression of Interest with the last date for the same being 16.08.2020, upon which 5 applicants expressed interest upon which the eligibility criteria was shared with them and the last date for submission of documents being 14.10.2020, no prospective resolution applicant expressed any interest in submission of a resolution plan or submitted a resolution plan and consequently, despite extension of the CIRP period vide order dated 10.11.2020, the Committee of Creditors voted unanimously in favor of liquidation of the Corporate Debtor vide voting concluded on 23.11. 2020 and sought consent for the Applicant to continue as the Liquidator, consent for which was duly given.

7. We have considered the submission made by the Applicant/RP in person and perused the record.

8. 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 represent case, the CoC has resolved by 100% voting share to liquidate the Corporate Debtor.

9. This Bench, therefore, orders as follows: -

a. IA No. 1390/KB/2020 filed by Uday Narayan Mitra, the RP of the Corporate Debtor, 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. Uday Narayan Mitra [Reg. No. IBBI/IPA-001/IP-P00793/2017-18/11360], is hereby 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. Public Notice shall be issued in the same newspapers in which advertisements were issued earlier, 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.

10. The application bearing **IA (IB) No. 1390/KB/2020** shall stand disposed of in accordance with the above directions.

11. **CP (IB) No. 1239/KB/2018** to come up for filing of periodical report on 26.04.2021.

12. 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.

13. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

Harish Chander Suri
Member (Technical)

Rajasekhar V.K.
Member (Judicial)

Order dated on 02.02.2021

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