

IN THE NATIONAL COMPANY LAW TRIBUNAL
JAIPUR BENCH, JAIPUR

**CORAM: SHRI DEEP CHANDRA JOSHI,
HON'BLE JUDICIAL MEMBER**

**SHRI RAJEEV MEHROTRA,
HON'BLE TECHNICAL MEMBER**

Company Petition No. (IB)- 27/10/JPR/2022

IN THE MATTER OF:

M/S WIZARD PRIVATE LIMITED

CIN-U24232RJ2000PTC016627

R/o: 223, Mokhapada,
Kaithunipole, Kota, Rajasthan-
324006.

... Corporate Applicant/ Debtor

For the Applicant : Sunil Gogra, Adv.
For the Respondent : None appeared

Order Pronounced On: 31.01.2024

ORDER

Per: Shri Rajeev Mehrotra, Technical Member

1. The instant Application is filed under Section 10 of the Insolvency and Bankruptcy Code, 2016 ('Code') read with Rule 7(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 ('Rules') for initiation of Corporate Insolvency Resolution Process ('CIRP') in respect of *M/s Wizard Biotech Private Limited*, the Corporate Debtor being the Applicant Company itself. The instant Application is filed through its

Sdr

Sdr

director, *Mr. Rajeev Bajinath Bajpai*, who has been authorised vide Board Resolution dated 02.02.2022.

2. The Applicant, *M/s Wizard Biotech Private Limited*, is a company incorporated under the provisions of the Companies Act, 1956 on 11.09.2000 bearing CIN U24232RJ2000PTC016627. The registered office of the Applicant company is situated at 223, Mokhapada, Kaithunipole, Kota, Rajasthan-324006. The Company has authorised share capital of Rs. 50,00,000/- (Rupees Fifty Lakh Only) and paid-up share capital of Rs. 50,00,000/- (Rupees Fifty Lakh Only).
3. The Corporate Debtor has three (3) Shareholders and Director namely *Mr. Rajeev Bajpai*, *Mr. Bijinath Shivshankar Bajpai* (deceased) and *Ms. Richa Rajeev Bajpai*. The Applicant has stated that the present Shareholders of the Corporate Debtor have passed a Special Resolution in the shareholders meeting dated 02.03.2022 for the filing the present Application under Section 10(3)(c) of the Code. Copy of the special resolution dated 02.03.2022 is annexed as Annexure-E of the Application.
4. The Corporate Debtor submitted that one Financial Creditor, Axis Bank Limited has filed a case before Debt Recovery Tribunal ('DRT'), Mumbai for default of an amount of Rs. 6,24,11,928/- (Rupees Six Crore Twenty-Four Lakh Eleven Thousand Nine Hundred Twenty-Eight Only) wherein following assets are mortgaged with the Financial Creditor: -

Sd/-

Sd/-

Sr. No.	Details of Immovable property mortgaged	Title ownership of property mortgaged	Documents to show about disposal of above mortgaged asset by the Financial Creditor
1.	Unit no. 112, 1 st Floor, Blue Rose Industrial Estate, Survey No. 41 (part), 42 and 128 bearing CTS No. 164(part) of Village Magathane at Western Express Highway, Borivali (East), Mumbai	Rajeev Baijnath Baipai	Possession notice and Panchnama dated 04.05.2011 issued by Axis Bank
2.	Residential Flat No. 604, 6 th Floor, C-Wing, Vishal Residency, Survey No. 89, Hissa No. 2 situated at Village-Ghodbunder Near GCC Club, Mira Bhyander Road, Mora Road, Taluka Thane, Maharashtra	Rajeev Baijnath Baipai	Possession notice and Panchnama dated 04.05.2011 issued by Axis Bank
3.	Leasehold property at plot no. 768, at Nahari ka naka (East), Scheme, Jaipur	Baijnath Shivshankar Bajpai-now deceased	Possession notice dated 02.12.2011 issued by Axis Bank

5. The aforementioned properties have been taken over by the Financial Creditor under SARFAESI Act and all properties have been disposed of through auction. The audited balance sheet of the Corporate Debtor depicts following assets and liabilities as follows:

Details of the Assets:

Particulars	Amount (In Rs.)
Fixed Asset	36,06,24/-
Trade Receivable	60,37,05/-
Cash & Cash Equivalent	4,884/-
Short Term Loans & Advances	16,87,079/-
Total	26,56,292/-

Sd/-

Sd/-

Details of Creditors:

<i>Particulars</i>	<i>Amount (In Rs.)</i>
<i>Financial Creditors (Axis Bank Ltd.)</i>	<i>3,63,01,035/-</i>
<i>Operational Creditors</i>	<i>12,18,4,028/-</i>
<i>Total</i>	<i>4,84,85,063/-</i>

Copy of the Audited Balance sheet for last two Financial Years 2019-20 and 2020-21 along with the Income Tax returns are annexed as Annexure-H (Colly) of the Application.

6. Further, the Corporate Debtor is not doing any business activities at present. As per the financials of the Company there is negative amount of reserves and surplus of Rs. 5,08,28,771/- (Rupees Five Crore Eight Lakh Twenty-Eight Thousand Seven Hundred Seventy-One Only) as on 28.02.2022. The Applicant has submitted that the existing directors have no personal assets as inheritance.
7. The Applicant has annexed particulars of Financial Creditors and Operational Creditors in Part III of Form-6 of the Application. It is further submitted that as per the Part-III of the Application, the amount of default against Axis Bank ('Financial Creditor') as on 31.03.2021 is Rs. 3,63,01,035/- (Rs. Three Crore Sixty-Three Lakh One Thousand and Thirty-Five Only) and against the Operational Creditors as on 31.03.2021 is Rs.

Sd/-

Sd/-

1,21,84,028/- (Rupees One Crore Twenty-One Lakh Eighty-Four Thousand and Twenty-Eight Only).

8. In order to prove the aforementioned default, the Corporate Debtor has placed on record the copy of notices issued by the State Bank of India under Section 13(2) and Section 13(4) of SARFAESI Act, 2002 along with its Financial Statements.
9. The Applicant has filed an Affidavit of Service vide Diary No. 2119/2022 dated 15.07.2022 in compliance of the Order dated 20.06.2022. Another Affidavit has been filed wherein the Applicant has undertaken that it does not fall under any of the categories stipulated in Section 11 of the Code and is not ineligible to file an Application under Section 10 of the Code.
10. The Applicant has served the copy of the proceedings to the Creditors on several occasions, however, no response has been received from them. There is no dispute that the Applicant has admittedly defaulted in payment of its debt which was over the threshold prescribed under Section 4 of the Code and therefore, the Applicant entitled to file the present Application in terms of sub-section (1) of Section 10 of the Code.
11. In compliance of the requirements of Section 10(3)(a) of the Code, the Applicant Company has filed copies of Audited Financial Statements of the Corporate Debtor for the Financial Years 2019-20 to 2020-21, Provisional

Sd/-

Sd/-

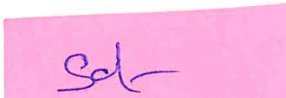
Statement of the Corporate Debtor/Applicant up to 28.02.2022 and Income Tax returns for assessment year 2019-20 & 2020-21.

12. Further in compliance with Section 10(3)(b) of the Code, the Applicant has proposed the name of *Mr. Rajeev Sharma* as the Interim Resolution Professional ('IRP'). The Applicant Company has obtained written communication in Form-2 from the Insolvency Professional for appointment as an IRP. In Form-2 filed along with the Application, it has been affirmed by the proposed IRP that he is a registered Insolvency Professional and qualified to practice as an Insolvency Professional. Further, it has been affirmed/ confirmed that no disciplinary proceedings are pending against the proposed IRP.
13. In view of the above, it is clear that a default has occurred, the present Application under Section 10 is complete and the Applicant is not ineligible under Section 11 of the Code. Further, it is evident that the requirements prescribed under sub-section 3(a) and (b) of Section 10 of the Code have also been complied with.
14. The Insolvency and Bankruptcy Code, 2016 is a complete Code in itself. The provisions of the Code are to be mandatorily followed. Adherence to the statutory requirements has to be *in toto*. Section 10(4)(a) of the Code mandates the Adjudicating Authority to admit the application if it is complete.

Sd/-

Sd/-

15. In view of the foregoing, we are satisfied that the present Application is complete and that the Applicant has committed a default. Therefore, as the Application is complete the present petition is admitted under section 10(4)(a) of the Code. The Corporate Insolvency Resolution process shall commence from the date of this order under sub-section 5 of Section 10 of the Code.
16. A moratorium in terms of Section 14 of the Code is being issued prohibiting the following:
- *Institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;*
 - *Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;*
 - *Any action to foreclose, recover or enforce any security interest created by the Corporate Debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;*
 - *Recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.*



17. It is further directed that:

- *The supply of essential goods or services to the Corporate Debtor as may be specified shall not be terminated or suspended or interrupted during the moratorium period.*
- *The provisions of sub-section (1) of section 14 of the Code shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.*

18. *Mr. Rajeev Sharma* holding IP Registration No. *IBBI/IPA-001/IP-P00366/2017-18/10695* is appointed as Interim Resolution Professional, who shall take statutorily prescribed steps inter-alia as envisaged under Section 15, 17 and 18 of the Code. Further the IRP is directed to submit his report at the earliest. The Applicant shall deposit a sum of Rs. 1,00,000/- (Rupees One Lakh Only) to the bank account of the abovementioned IRP within 10 days from the pronouncement of this order.

19. The order of moratorium shall have effect from the date of this order till the completion of the corporate insolvency resolution process as per sub-section (4) of Section 14 of the Code.

20. Let a copy of this order be supplied to the Applicant as well as the Interim Resolution Professional to carry out the CIRP at the earliest.

sd-

sd-

21. A copy of this order shall also be communicated to IBBI for its records.

Sd/-

**DEEP CHANDRA JOSHI,
JUDICIAL MEMBER**

Sd/-

**RAJEEV MEHROTRA,
TECHNICAL MEMBER**