


**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH**

**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 21.08.2019 AT 10.30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA No.626 & 702/2019 in CP(IB) No.369/7/HDB/2018
NAME OF THE COMPANY	Apex MRI Centre Pvt Ltd
NAME OF THE PETITIONER(S)	Reliance Commercial Finance Limited
NAME OF THE RESPONDENT(S)	Apex MRI Centre Pvt Ltd
UNDER SECTION	7 of IBC

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature
JVL Bharati (For RP)	Adv	9958601847	

Counsel for Respondent(s):

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

ORDER

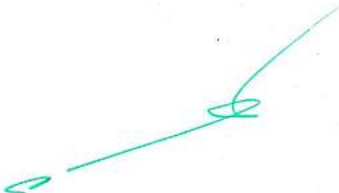
Matter is listed today for orders in IA No.702/2019.

Orders passed vide separate orders in IA No.702/2019.

IA No.626/2019, is listed today.

List it for hearing on 26.08.2019.


Member (T)


Member (J)

Pavani

IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH

IA No. 702 of 2019

CP (IB) 369/7/HDB/2019

U/s 33 (2) of IBC, 2016

In the matter of Reliance Commercial Finance Limited
Versus M/s Apex MRI Centre Private Limited :-

Sridhar Venkataraya Sundararaja
Resolution Professional
M/s Apex MRI Centre Private Limited

Applicant /
Resolution Professional

Date of order: 21.08.2019

Coram:

Hon'ble Shri Ratakonda Murali, Member (Judicial)

Hon'ble Shri Narendra Kumar Bhola, Member (Technical)

Parties / Counsels present:

For Applicant: Ms. JVL Bharati, Advocate

- Heard on: 13.08.2019

PER; SHRI RATAKONDA MURALI
MEMBER (JUDICIAL)

ORDER

1. The Resolution Professional filed this Application under Section 33 (2) of Insolvency & Bankruptcy Code, 2016 (IBC), seeking orders for Liquidating M/s Apex MRI Centre Private Limited / Corporate Debtor and further to appoint the Resolution Professional/ Applicant herein as Liquidator.

2. This Tribunal admitted the petition filed by Reliance Commercial Finance Limited / Financial Creditor under Section 7 of IBC and initiated Corporate Insolvency Resolution Process (CIRP) against Corporate Debtor / M/s Apex MRI Centre Private Limited.
3. Pursuant to order stated supra, the Applicant herein issued public announcement in Financial Express (English) and Mana Telangana (Telugu) in Khammam Edition on 17.04.2019 inviting claims and fixed last date of receipt of claims as 26.04.2019.
4. The Applicant on 02.05.2019 along with representatives of Reliance Commercial Financial Creditors i.e. Reliance Commercial Finance Ltd and HDFC Bank Ltd visited the Corporate Debtor Company and they found that the entire premises was occupied by a new tenant "Ushodaya Hospitals" and the Applicant was told that the Managing Director of Corporate Debtor Company has absconded. Further there were no employees and accounting records/files available in the premises.
5. In response to the Public Announcement and after collation of the claims, the Committee of Creditors (CoC) was constituted comprising of following Financial Creditors as per Section 21 of IBC as under.

S.No.	Name of the Financial Creditor	Amount of claim in Rs.	% voting share
01	HDFC Bank Ltd	9,42,25,752	55.3%
02	SREI Equipment Finance Ltd	4,17,03,377	24.5%
03	Reliance Commercial Finance Ltd	3,45,77,091	20.3%
	Total	17,05,06,220	100%

No claims are stated to have been received from any Operational Creditors or Government authorities. In all the IRP / RP conducted four CoC meetings.

6. In the 1st CoC meeting held on 09.05.2019, the Applicant herein appointed two registered valuers to determine the fair value and liquidation value of the assets of the Corporate Debtor as under :-

Name of the Registered Valuer	Fair value (in Lakhs)	Liquidation Value (in lakhs)
Ramesh Kumar Pattisapu	168.10	117.67
Chandraprakash & Associates	179.49	125.64
Average	173.80	121.66

7. The Applicant herein was confirmed as Resolution Professional in the 2nd CoC meeting held on 28.05.2019 with 100% voting share. The Resolution Professional issued publication in Form-G inviting Expression of Interest (EOI). In response to the publication, EOIs

were received from M/s Induss Hospitals and M/s Naipunya Diagnostics Private Limited.

8. After deliberations by CoC members in the 3rd CoC meeting held on 29.06.2019, Information Memorandum and Evaluation Matrix were issued to prospective Resolution Applicants.
9. The CoC members evaluated the Resolution Plan submitted by M/s Naipunya Diagnostics Private Limited and rejected the same with 100% voting share since the offer of Rs. 65 lakhs made by the Resolution Applicant was much lower than the Fair Value (Rs. 173.80 Lakhs) and Liquidation Value (Rs. 121.66 Lakhs). The Resolution Professional / Applicant herein also stated that CoC has further authorized the Applicant to move an Application under Section 33 (2) of IBC, 2016 to liquidate the Corporate Debtor Company. Minutes of the 4th CoC Meeting is marked as Annexure-2.
10. It is also stated in the Application that Corporate Debtor has no assets except some medical equipment which is not functional.
11. We heard Counsel for Resolution Professional. The present Application is filed by the Resolution Professional under Section 33(2), Section 34(1) & Section 60(5) of the Code seeking initiation of liquidation process of M/s Apex MRI Centre Private Limited (Corporate Debtor).
12. As per the result of the e-voting on 20.07.2019, the CoC members with 100 % of the voting share in the COC, voted against Resolution Plan submitted by M/s

Naipunya Diagnostics Pvt Ltd and the Resolution Plan accordingly stands rejected by the COC. Hence, CoC passed a resolution for liquidating the Corporate Debtor Company.

13. 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.

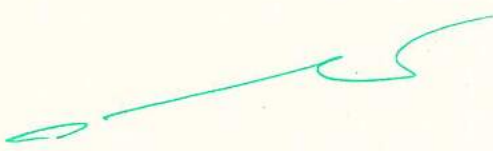
14. As Per Section 33(1) (a) of the Code if the Resolution Plan is not received under Section 30(6) within CIRP period, the Tribunal has no other option but to pass a liquidation order. The Resolution Professional has not

filed any Resolution Plan before this Tribunal under Section 30(6) within CIRP period and the Resolution Plan submitted by the M/s Apex MRI Centre Private Limited was rejected by the COC with 100% voting share. 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 other than passing an order of liquidation requiring the Corporate Debtor, namely M/s Apex MRI Centre Private Limited, to be liquidated in the manner laid down in Chapter 3 of Part 2 of the Insolvency and Bankruptcy Code, 2016.

15. As per Section 34(1) of the Code after passing order of liquidation of corporate Debtor, the Resolution Professional appointed for CIRP Process should act as Liquidator for conducting Liquidation Process. Accordingly Shri Sridhar Venkatraya Sundararaja (Regn No. IBBI/IPA-002/IP-N00146/2017-18/10382) is appointed as the Liquidator. The Resolution Professional has given his consent for appointing him as a liquidator.

ORDER

16. In the result, the Application is allowed and Corporate Debtor M/s Apex MRI Centre Private Limited is ordered to be liquidated.
 17. The Resolution Professional Shri Sridhar Venkatraya Sundararaja is appointed as the Liquidator to continue the Liquidation Process who has given his consent on 16.08.2019.
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18. 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.
 19. 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.
 20. The Liquidator is directed to issue Public Announcement stating that the Corporate Debtor is under liquidation, in terms of Regulation 12 of the IBBI (Liquidation Process) Regulations, 2016.
 21. The Order of Moratorium passed under Section 14 of the Code shall cease to have its effect.
 22. 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.
 23. 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.
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24. 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.
25. The Liquidator shall submit a Preliminary Report within 75 days from the Liquidation Commencement date as per Regulation 13 of the IBBI (Liquidation Process) Regulations, 2016.
26. The Application is disposed of accordingly.

NKB
21.8.19
(Narender Kumar Bhola)
MEMBER (TECHNICAL)

[Signature]
21.8.19
(Ratakonda Murali)
MEMBER (JUDICIAL)

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