

NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III

110. I.A. 2347/2021 (33(3))
I.A. 475/2021
I.A. 50/2021
IN
C.P.(IB)-1929(MB)/2019

CORAM: SHRI H.V. SUBBA RAO, MEMBER (J)
SHRI CHANDRA BHAN SINGH, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL
COMPANY LAW TRIBUNAL ON **29.11.2021**

NAME OF THE PARTIES: Finquest Financial Solutions Private Limited

V/s

Anoushka Medicare & Diagnostics Private Limited

SECTION 7 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

Mr. Avinash R Khanolkar, counsel appearing for the Resolution Professional
/ Applicant in IA 475 / 2021 and IA 2347 / 2021, Mr. Prakhar Tandon,
counsel appearing for the applicant are present through virtual hearing.

I.A. 2347/2021

The above Interlocutory Application is allowed detailed order follows:

List this matter on 13.12.2021.

Sd/-
CHANDRA BHAN SINGH
Member (Technical)

Sd/-
H.V. SUBBA RAO
Member (Judicial)

**IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III**

I.A. 2347 OF 2021

Under Section 33 of Insolvency & Bankruptcy Code,
2016

Filed by

Mr. Vishram N. Panchpor

Resolution Professional of:

M/s. Anoushka Medicare and Diagnostic Private
Limited

...Applicant

In the matter of

C.P. No. 1929 of 2019

**M/s. Finquest Financial Solutions Private
Limited**

Chandermukhi Building,

Nariman Point,

Mumbai – 400021

...Petitioner

Versus

**M/s. Anoushka Medicare and Diagnostic Private
Limited**

6th Floor, Adhikari Chambers, Oberoi Complex,

New Link Road, Andheri West,

Mumbai – 400053

...Corporate Debtor

Order delivered on: 29.11.2021

Coram:

Hon'ble Shri H.V. Subba Rao, Member (Judicial)

Hon'ble Shri Chandra Bhan Singh, Member (Technical)

Appearance:

For the Applicant: Mr. Avinash R. Khanolkar, Advocate

1. The above application I.A. No. 2347/2021 is filed by Resolution Professional, Mr. Vishram N. Panchpor seeking liquidation of M/s. Anoushka Medicare and Diagnostic Private Limited (hereinafter referred as Corporate Debtor) under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 (hereinafter called as “the Code”), praying for the following reliefs;
 - a. *To pass an order U/s. 33(1)(i) of the Code directing commencement of the Liquidation Process against the Corporate Debtor as per the CHAPTER III of the Code;*
 - b. *To pass an Order appointing Mr. Vishram Narayan Panchpor as Liquidator of the Corporate Debtor;*
 - c. *To pass an Order U/s. 35 of the Code granting the powers to the Liquidator as envisaged by the Code under such provisions;*
 - d. *To permit the Applicant to handover the assets which are lying with the Corporate Debtor; to such owner who provide related documents to the Applicant to prove ownership of such asset;*
 - e. *To pass an Order directing ceasing the effect of Moratorium imposed vide an Order dated 11.12.2019 U/s. 14 of the Code &;*
 - f. *To pass any other order on the interest of Equity, Justice and Good Conscience.*

2. Heard the arguments of the counsel appearing for the Resolution Professional:
 - A. It is submitted by the Counsel appearing for the Applicant (hereinafter called as “the Counsel”) that despite the publication of Form – G for three times on 18.12.2020, 11.04.2021 and 02.06.2021, respectively inviting Expression of Interest (EoI) to submit Resolution Plan, the Applicant did not receive any effective Resolution Plan for the Corporate Debtor.
 - B. The Counsel further submits that, one interested person viz. Shri Tushar Kumar Desai in consortium with the Director (with suspended powers) of the Corporate Debtor placed an EoI with the Applicant on

06.01.2021 and 30.04.2021, respectively in response to the published notices of Form - G.

C. Further the Counsel submits that, the EoIs were not meeting the criteria of the Law therefore, they were rejected, and necessary communications were sent to the said parties on 16.01.2021, 10.05.2021 and 14.05.2021, respectively. The Counsel submits that till the nearing date of the scheduled last date of the CIRP the Applicant has neither received any effective EOI nor any Resolution Plan for the Corporate Debtor. Hence, the Applicant issued a notice for 8th Meeting of the CoC which was proposed to be held on 27.02.2021 on Tuesday.

D. On the receipt of the said notice the one member of the CoC, the Cosmos Bank having 89.24% voting share requested the Applicant to post pone meeting for a week as they are in process of discussion over the settlement of the account of the Corporate Debtor with the Promoters of the Corporate Debtor.

E. At last as the time of the CIRP has been elapsed and there is no other remedy available with the applicant but to seek Liquidation of the Corporate Debtor as per the provisions of the S. 33 (1) (a) of the Code. Therefore, this application is preferred by the Applicant on ground of efflux of time.

F. The Counsel submits that, on the CoC's request the Applicant/ Resolution Professional Mr. Vishram Narayan Panchpor has given his consent to act as a Liquidator to carry on the process of Liquidation of the Corporate Debtor.

3. After hearing the arguments of the Counsel appearing for the Applicant and upon perusing the records, this bench notes that more than 600 days has been lapsed without any resolution in this case. The Applicant having no other remedy other than to seek Liquidation of the Corporate Debtor as per the provisions of the Section 33 (1) (a) of the Code filed the above I.A. for liquidation. Relying on the settled principle of law regarding the Commercial

Wisdom of the Applicant, we hereby allow this Interlocutory Application Number 2347 of 2021 and passed the following:

ORDER

1. The above I.A. No. 2347/2021 is allowed and the Corporate Debtor M/s. Anoushka Medicare and Diagnostic Private Limited is ordered to be liquidated.
 - a. **Mr. Vishram Narayan Panchpor**, having Registration No. IBBI/IPA-002/IP-N00269/2017-2018/10782 and having office at: B 506, 5th Floor, Building No. 83, Chembur Sindhoo CHS, Tilak Nagar, Chembur, Mumbai - 400089, is hereby appointed as the Liquidator as provided under Section 34(1) of the Code.
 - b. That the Liquidator for conduct of the liquidation proceedings would be entitled to the fees as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016.
 - c. The Liquidator appointed in this case to initiate liquidation process as envisaged under Chapter-III of the Code by following the liquidation process given in the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
 - d. The Liquidator appointed under section 34(1) of the Code. Will have 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 with the liquidator.
 - e. That the Corporate Debtor to be liquidated in the manner as laid down in the Chapter by issuing Public Notice stating that the Corporate Debtor is in liquidation with a direction to the Liquidator to send this order to the ROC under which this Company has been registered.
 - f. All the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor hereafter ceased to exist. All these powers henceforth vest with the Liquidator.

- g. That the personnel of the Corporate Debtor are directed to extend all co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
- h. That on having liquidation process initiated, 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.
- i. 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.

With the above directions, this application i.e. I.A. No. 2347 of 2021 is hereby allowed and disposed of.

Sd/-

CHANDRA BHAN SINGH
MEMBER (TECHNICAL)

Sd/-

H.V. SUBBA RAO
MEMBER (JUDICIAL)