



IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH : C-IV

IA-2068/2022 in CP(IB)-197/MB/2018

Under Section 60(5) of the IBC, 2016

In the matter of

Sudhakar Narkhede & Anr.

...Applicants

v/s.

Amit Gupta

...Respondent/
RP

In the matter of

ICICI Bank

...Financial Creditor

v/s.

Unimark Remedies Ltd.

...Corporate Debtor

Order Pronounced on: **17.04.2023**

Coram:

Mr. Prabhat Kumar

Hon'ble Member (Technical)

Mr. Kishore Vemulapalli

Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Applicant: Ms. Karishma Mungekar i/b Ekta Tripathi, Advocates.

For the Respondent: Ms. Pooja Mahajan a/w Ms. Mahima Singh, Ms. Arveena Sharma & Mr. Jineshkumar Gandhi i/b Arihant Associates, Advocates. Mr. Amit Gupta, Resolution Professional.



ORDER

Per: Kishore Vemulapalli, Member (Judicial)

This is an Application filed by Sudhakar Narkhede and Ramkrishna Jamsandekar, for and on behalf of themselves and other employees (comprising of 52 Nos.) working at the factory of the Corporate Debtor at Vapi, Gujarat & Head Office, Mumbai seeking direction to the Resolution Professional(RP) to disburse and pay the unpaid salaries of the Applicants/employees for the period from May 2021 onwards for Vapi and from July 2020 to December 2020 (excluding November 2020); and March 2021 onwards for Mumbai H.O. and also to issue Form 16 to all employees for F.Y. 2021-22 to enable them to file their Income Tax returns.

Brief Facts of the Case:

1. The CIRP of the Corporate Debtor viz. Unimark Remedies Ltd. was commenced vide an admission order dated 03.04.2018 of Court-1 of this Bench in CP(IB)-197/MB/2018 filed by ICICI Bank; a Financial Creditor. Mr. Amit Gupta was appointed as IRP of the Corporate Debtor. As per the regulations, the IRP called for the claims of the creditors and upon receipt of claims, CoC was constituted. Thereafter, Information Memorandum was prepared and then called for Expression of Interests from the public. Thereafter the prospective resolution applications were presented in the CoC for approval of the resolution plan. The CoC has approved the Resolution Plan submitted by the consortium of the Asset Reconstruction (I) Ltd., Intas Pharmaceuticals and Shamrock Pharmachemi Pvt. Ltd.



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2. The Applicants submit that pursuant to the commencement of insolvency proceedings against the Corporate Debtor w.e.f. 03.04.2018, the employees working at the factory and Head Office have not received their salaries from May 2021 onwards (at Vapi factory); from July to September 2020 and March 2021 onwards (at H.O., Mumbai). The Applicants further submit that an amount of Rs.10,47,32,434/- (Rs.4,89,36,801/- for Vapi + Rs.5,57,95,633 for Mumbai HO) is outstanding salaries to be paid to the employees.
3. The Applicants further submits that due to non-payment of salaries, the employees are facing starvation and deprivation. Due to lack of fund, the operations of the Corporate Debtor have come to a complete standstill, the essential utilities such as gas, electricity and water supply are disconnected due to which the employees are unable to convert the raw materials into stock. Since the RP has not paid salaries, the employees not having money to sustain themselves. However, the RP has taken a stance of 'no work no payment', an unlawful and reprehensible decision.
4. The Applicants further submit that the RP's office has verbally informed the HR head of the Corporate Debtor not to issue Form 16 to the employees. In the absence of Form 16, the employees will not be able to file their personal income tax return and will also have to shell out a penalty of Rs. 5,000/- each for the same.
5. The Applicants further submit that the RP has not performed his duties as per Sections 20(1) and 25(1) and failed to keep the Corporate Debtor as a



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going concern since February 2022, resulting in loss of livelihood of the employees and contract workers of the Corporate Debtor.

6. There is no reply from the Respondent/RP.

Findings:

7. The salaries and other expenses incurred during the CIRP period will fall under CIRP costs, which will be considered in Resolution Plan as per law and paid in accordance with the proposal contained in the Plan. The IA seeking approval of the Resolution Plan is already heard and reserved for orders on 09.02.2023. We find that the prayers in present application shall stand addressed upon approval of CoC approved plan pending before us.

8. In view of this, we find that nothing remains in the present application. Accordingly, this application is **dismissed** as infructuous.

Sd/-

PRABHAT KUMAR
MEMBER (TECHNICAL)

Sd/-

KISHORE VEMULAPALLI
MEMBER (JUDICIAL)