

IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH - II

I.A. No. 1468 of 2022 in
CP (IB) No.682/07/HDB/2018
u/s. 30(6) of IBC, 2016

In the matter of

M/S MANTENA LABORATORIES LIMITED

Mr. Kambhammettu Sri Vamsi,
Resolution Professional of
M/s Mantena Laboratories Limited,
R/o A85, DX4, Level 2,
Sri Varasiddhi Nivas, Road No.11,
Film Nagar, Jubilee Hills,
Hyderabad – 500 033.

.... Applicant

In the matter of:

M/s. Edelweiss Asset Reconstruction Co. Ltd,
Edelweiss House,
Off. CST Road, Kalina,
Mumbai – 400 098.

....Financial Creditor

Vs.

M/s Mantena Laboratories Limited,
Regd Office at: 7-1-235/42, Plot No.42,
Flat No.202, 3rd Floor,
Suresh Arcade, Balkampert,
Prasanthinagar,
Opp : Nature Cure Hospital,
Hyderabad – 500 018.

....Corporate Creditor

Date of Order : 06.02.2024

CORAM:

Sri Rajeev Bhardwaj, Hon'ble Member (Judicial)

Sri Sanjay Puri, Hon'ble Member (Technical)

Counsels on record:

For the Applicant : Mr. V.S.R. Avadhani, Advocate

Order reserved on : 09.01.2024

Per : Bench

ORDER

1. This Application is filed by the Resolution Professional (RP) of the Corporate Debtor (CD) M/s. Mantena Laboratories Limited under Section 30(6) of the IBC r/w Regulation 39(4) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations 2016, seeking approval of the Resolution Plan of Mr. Shiv Charan along with Mrs. Bharti Agarwal & Mrs. Pushpalata Bai, as approved by the Committee of Creditors (CoC) with 79.41% of voting.

Brief facts of the Application:

2. The CD was admitted into Corporate Insolvency Resolution Process (CIRP) by this Tribunal vide Order¹ dated 06.08.2021 and appointed the Applicant as Insolvency Resolution Professional (IRP).
3. In adherence to the said Order, the IRP issued a Public Announcement in Form A (not found in the application), inviting claims from the Creditors of the CD. In pursuance of the public announcement, the IRP received claims from the following creditors and constituted the CoC:

¹ Pg 11-20 of the Application (Annexure-A).

S.No.	Financial Creditors	Claims submitted (Rs.)	Claims admitted (Rs.)	Voting %
SECURED CREDITORS				
01	Edelweiss Asset Reconstruction Co. Ltd.	93,67,28,270	93,67,28,270	73.43
02	Bank of Maharashtra	15,99,40,391	15,99,40,391	12.54
03	ICICI Bank Limited	7,62,53,601	7,62,53,601	5.98
04	India SME Asset Reconstruction Co. Ltd	1,86,36,303	1,86,36,303	1.46
	Total :	1,19,15,58,565	1,19,15,58,565	93.41
UNSECURED CREDITORS				
01	Paisalo Digital Limited	8,40,58,762	8,40,58,762	6.59
	Grand Total :	1,27,56,17,327	1,27,56,17,327	100

4. During the 1st CoC meeting² held on 09.09.2021, the Committee resolved to appoint the IRP as Resolution Professional (RP).
5. It is noteworthy that, the suspended director/promoter lodged an appeal under Section 61(1) of the Code on 16.08.2021, challenging the Order dated 06.08.2021 issued by this Tribunal. The appeal was filed before the Hon'ble NCLAT, Chennai Bench, i.e., CP (AT) No. 214 of 2021. The Hon'ble NCLAT, Chennai Bench, vide Order³ dated 13.09.2021 issued notice to the parties and did not grant any stay. Notably, the CP (AT) No. 214 of 2021 filed by the suspended director/promoter was dismissed by the Hon'ble NCLAT, Chennai Bench through a judgment⁴ dated 13.12.2021.

² Pg 21-46 of the Application (Annexure-B).

³ Pg 47-48 of the Application (Annexure-C).

⁴ Pg 88-109 of the Application (Annexure-H).

6. Additionally, the suspended director/promoter sought recourse before the Hon'ble High Court of Telangana through Writ Petition (WP) No. 23816 of 2021, seeking a declaration that the Applicant's action in making public announcement dated 12.08.2021 (published on 13.08.2021) was illegal, arbitrary, and contrary to Regulation 6 of the Regulations. It is pertinent to mention that the Hon'ble High Court, vide Order⁵ dated 05.10.2021, granted a stay of the proceedings, which was received on 08.10.2021.
7. Upon receiving notice, the Applicant filed a Counter to vacate stay petition. Following the hearing, the Hon'ble High Court, vide Order⁶ dated 02.11.2021, dismissed the said Writ Petition. Subsequent to this Order, the Respondents submitted an Interlocutory Application bearing No.722 of 2021, before this Tribunal, raising the same grounds as those dismissed by the Hon'ble High Court in W.P. No. 23816 of 2021. This application was also dismissed by this Tribunal in an Order⁷ dated 01.12.2021.
8. During the 2nd CoC meeting⁸ held on 17.11.2021, the CoC approved the draft invitation for Expression of Interest (EoI) with the following eligibility criteria, for submission of Resolution Plan for the CD by the Prospective Resolution Applicants (PRAs):
 - For Individuals/Firm/Body Corporate: Minimum net worth of Rs.5 Crores or more as of March 31, 2021, OR
 - For Financial Institutions/Funds/PE Investors Asset Reconstruction Company: Minimum Assets under

⁵ Pg 49-51 of the Application (Annexure-D).

⁶ Pg 52-57 of the Application (Annexure-E).

⁷ Pg 58-59 of the Application (Annexure-F).

⁸ Pg 60-87 of the Application (Annexure-G).

management/Committed funds available of INR 10 Crores or more as of March 31, 2021 AND

- PRA shall not be an ineligible person as prescribed under section 29A of the Code.
9. Following the CoC's approval, on 24.11.2021 the Applicant published a public announcement in Form G, inviting PRAs to submit their EoIs.
10. The Applicant informed the CoC during its 3rd meeting held on 17.12.2021 about receiving the EoIs from the following entities:
- a. Bommidala Enterprises Pvt. Ltd.
 - b. Choice Finserv Pvt. Ltd.
 - c. Mr. Shiv Charan, in consortium with Mrs. Bharti Agarwal and Mrs. Pushpalata Bai
 - d. Mr. Ramakrishna Vara Prasada Raju Mantena
 - e. Mr. Alok Mittal
11. As decided by the CoC, an Application was filed before this Tribunal for exclusion of 33 days from the CIRP period due to the stay granted by the Hon'ble High Court in WP 23816 of 2021, and the same was allowed by this Tribunal vide Order⁹ dated 25.03.2022.
12. Pursuant to the EoI invitations, the Applicant apprised the CoC members during its 4th CoC meeting¹⁰ held on 02.02.2022, about the receipt of two Resolution Plans on 27.01.2022 from Mr. Shiv Charan along with Mrs. Bharti Agarwal and Mrs. Pushpalata Bai (in consortium) & Mr. Rama Krishna Vara Prasad Raju Mantena. Based on the request email dated

⁹ Pg 110-114 of the Application (Annexure-I).

¹⁰ Pg 115-130 of the Application (Annexure-J).

21.01.2022 from one of the PRAs Mr. Rama Krishna Vara Prasad Raju Mantena, the CoC approved the extension of the last date of receipt of Resolution Plans till 27.01.2022.

13. It is noteworthy that, the Applicant has filed an application bearing IA No. 63 of 2022 under section 19 of the Code, seeking the cooperation of the suspended management to hand over all the requisite documents, which is pending adjudication before this Tribunal. Due to the non-cooperation and non-submission of books of account and other papers by the suspended management, the Applicant could not undertake the determination of fraudulent and other transactions as mandated under the Code and the Statutory Audit under the Companies Act, 2013, for the Financial Years 2020-21 and 2021-22.
14. The CoC in its 5th meeting held on 11.02.2022, approved the appointment of Legal Counsel to address various matters filed against the CD.
15. During 7th CoC meeting convened on 25.02.2022, the CoC resolved to file an application for extension of the CIRP for a period of 22 days and the same was allowed by this Tribunal vide Order¹¹ dated 9.03.2022.
16. During the 9th CoC meeting¹² held on 09.03.2022, it was decided that the list of issues to be voted upon would be put to vote through the electronic voting system. One of the matters subject to vote was the approval of the Final Modified Resolution Plan. The voting period was scheduled from 11.03.2022 to 26.03.2022.

¹¹ Pg 131 of the Application (Annexure-K).

¹² Pg 132-152 of the Application (Annexure-L).

17. The Applicant briefed the CoC in its 10th meeting held on 24.03.2022 about the communication dated 23.02.2022, received from Bank of Maharashtra.
18. Meanwhile, the Suspended Director approached the Hon'ble Supreme Court, challenging the Order of dismissal dated 13.12.2021, passed by the Hon'ble NCLAT, Chennai Bench, vide Civil Appeal No. 2550 of 2022 (diary No 1780 of 2022). The Hon'ble Supreme Court, in an Order¹³ dated 25.03.2022, stayed the proceedings. Following the Order of the Hon'ble Supreme Court, the voting was immediately suspended on 25.03.2022. Subsequently, after hearing both parties, the Hon'ble Supreme Court dismissed the Civil Appeal No. 2550 of 2022 through an Order¹⁴ dated 28.11.2022.
19. Upon the dismissal of Civil Appeal No. 2550 of 2022 by the Hon'ble Supreme Court, the Applicant scheduled the voting period from 30.11.2022 to 02.12.2022. The CoC, with a majority of 79.41%, approved the Resolution Plan¹⁵ submitted by Mr. Shiv Charan along with Mrs. Bharti Agarwal and Mrs. Pushpalata Bai on 03.12.2022, designating them as the Successful Resolution Applicant (SRA).
20. The CoC's decision to approve the Resolution Plan was communicated to the Successful Resolution Applicant (SRA) on 03.12.2022 and issued a Letter of Intent (LoI)¹⁶ to SRA on the same day which was unconditionally accepted by the SRA. The SRA extended its Binding Submission Bank Guarantee (BSBG)¹⁷

¹³ Pg 153 of the Application (Annexure-M).

¹⁴ Pg 154-155 of the Application (Annexure-N).

¹⁵ Pg 160-198 of the Application (Annexure-P).

¹⁶ Pg 156-159 of the Application (Annexure-O).

¹⁷ Pg 205 of the Application (Annexure-R).

submitted for an amount of Rs. 20,00,000/- vide UTR No. FDRLR52022012500496492 dated 25.01.2022 to the Applicant at the time of submitting the proposed Resolution Plan as the Performance Guarantee in terms of the Request for Resolution Plan (RFRP).

21. Additionally, the Applicant has provided a Compliance Certificate in Form-H¹⁸ under Regulation 39(4) of the Regulations, demonstrating the compliance of the Plan with mandatory requirements under the Code and Regulations, and the letter confirming the extension of BSBG as the Performance Guarantee¹⁹ by the SRA, duly evidencing the receipt of performance security required under sub-regulation (4A) of Regulation 36B.
22. Moreover, the Fair Value and Liquidation Value for the CD were deliberated and approved in the 4th CoC meeting held on 02.02.2022. Subsequently, in the 7th CoC meeting held on 25.02.2022, the CoC adopted the Fair Value and Liquidation Value for the CD, which were Rs.13.25 crores and Rs. 9.78 crores, respectively.

23. **Summary of the Plan/Restructuring Proposal:**

The distribution for the financial outlay of Rs.18.99 crores (excluding the amount earmarked towards working capital/improvement of operations/Capital expenditure) is outlined below:

S.No.	Particulars	Amount (Rs.Crores)
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¹⁸ Pg 199-204 of the Application (Annexure-Q).

¹⁹ Pg 205 of the Application (Annexure-R).

1	Estimated CIRP cost*. Further CIRP costs will be paid by the Resolution Applicant on submission of actuals by the Resolution Professional.	0.31
2	Secured Financial Creditors (15.49% of admitted claim).	18.46
3	To the employees & workmen	Nil
4	To the Operational Creditors	Nil
5	Towards unpaid Statutory Dues i.e. PF/Service tax/VAT/Gratuity etc. (100% of admitted claim).	0.05
6	Payment to the Unsecured Financial Creditors (2% of admitted claim).	0.17
7	Payment to other than Operational and Financial Creditors (other than related parties claims). (It is presumed that the liquidation value payable to them is Nil).	Nil
	Total :	18.99

*** CIRP cost if exceeds the estimation, the same will be borne by the Resolution Applicant on submission of actuals by the Resolution Professional.**

24. The Schedule of implementation of the Plan is as follows:

Event	Estimated timeline
Infusion of Rs.18.99 Crores by the Resolution Applicant for payment towards CIRP cost and Operational Creditor, Statutory dues and Unsecured Financial Creditors.	Rs.7.50 Crores – within 30 days from the date of NCLT Order. Rs.11.49 Crores – within 90 days from the date of NCLT Order.

25. Furthermore, the RA proposes to establish a monitoring committee comprising the following members:

- Resolution Professional
- Two Representatives of the Financial Creditors

- Two Representatives of the Resolution Applicant

26. The Applicant submits that, after the CIRP admission on 06.08.2021, two instances of stay on CIRP Proceedings were granted, as mentioned earlier, by the Hon'ble High Court of Telangana (from 05.10.2021 to 10.11.2021) and by the Hon'ble Supreme Court of India (from 25.03.2022 to 28.11.2022). Accounting for these stay exclusions and the only extension of 22 days sought by the Applicant for extension of the CIRP Process, the CIRP Process of the CD has effectively been completed in 202 days with the filing of this present application.
27. Therefore, the Resolution Plan approved by CoC complies with the provisions of the Code and Regulations. In light of these circumstances, the present Applicant has filed the Application under Section 30(6) of the Code read with Regulation 39(4) of the Regulations for the approval of the Resolution Plan by this Tribunal, which was approved by the CoC in its 9th CoC meeting.

Decision:

28. We have carefully considered the submissions made by the Applicant RP and also gone through the entire record.
29. We are of the view that the instant Resolution Plan satisfies the requirements of Section 30 (2) of the Code and Regulations 37, 38, 38 (1A) and 39 (4) of the Regulations. We also found that the Resolution Applicant is eligible to submit the Resolution Plan under Section 29A of the Code.
30. Therefore, we hereby approve the Resolution Plan dated 28.02.2022 submitted by **Mr. Shiv Charan along with Mrs. Bharti Agarwal & Mrs. Pushpalata Bai**, along with

annexures, schedules forming part of the Resolution Applicant annexed to the Application and order as under:

- i. The Resolution Plan along with the annexures and schedules forming part of the plan shall be binding on the Corporate Debtor, its employees, members, creditors, including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force is due, guarantors and other stakeholders involved in the Resolution Plan.
- ii. All crystallized liabilities and unclaimed liabilities of the Corporate Debtor as on the date of this order shall stand extinguished on the approval of this Resolution Plan.
- iii. The approval of the Resolution Plan shall not be construed as waiver of any statutory obligations/liabilities of the Corporate Debtor and shall be dealt with by the appropriate Authorities in accordance with law. Any waiver sought in the Resolution Plan, shall be subject to approval by the Authorities concerned as held by Hon'ble Supreme Court in the matter of ***Ghanashyam Mishra And Sons Private Limited Versus Edelweiss Asset Reconstruction Company Limited*** in Civil Appeal No.8129 of 2019 dated 13.04.2021.
- iv. It is hereby ordered that the Performance Bank Guarantee furnished by the Resolution Applicant shall remain as performance Bank Guarantee till the amount proposed to be paid to the creditors under this plan is fully paid off and the plan is fully implemented.

- v. The Memorandum of Association (MoA) and Articles of Association (AoA) shall accordingly be amended and filed with the Registrar of Companies (RoC) Hyderabad for information and record. The Successful Resolution Applicant, for effective implementation of the Plan, shall obtain all necessary approvals, under any law for the time being in force, within such period as may be prescribed.
- vi. Henceforth, no creditors of the erstwhile Corporate Debtor can claim anything other than the liabilities referred to supra.
- vii. The moratorium under Section 14 of the Code shall cease to have effect from this date.
- viii. The Applicant shall forward all records relating to the conduct of the CIRP and the Resolution Plan to the IBBI along with copy of this order for information.
- ix. The Applicant shall forthwith send a copy of this order to the CoC and the Resolution Applicant.
- x. The Registry is directed to furnish free copy to the parties as per Rule 50 of the NCLT Rules, 2016.
- xi. The Registry is directed to communicate this order to the Registrar of Companies, Hyderabad for updating the master data and also forward a copy to IBBI.

As a result, this application is allowed as prayed for.

Sd/-
(SANJAY PURI)
MEMBER (TECHNICAL)

Sd/-
(RAJEEV BHARDWAJ)
MEMBER (JUDICIAL)

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