

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

IA-05/2024 in CP(IB)-1262/MB/2021

Under Section 33 of the IBC, 2016

Anurag Kumar Sinha

...Applicant/
Resolution Professional

In the matter of

State Bank of India

...Financial Creditor

v/s

R J Bio-Tech Limited

...Corporate Debtor

Order Pronounced on: **29.02.2024**

Coram:

Ms. Anu Jagmohan Singh
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances:

For the Applicant: Mr. Manoj Kumar Mishra, Advocate.

ORDER

This is an Interlocutory Application filed on 28.01.2024 by Mr. Anurag Kumar Sinha, Resolution Professional, under Section 33 of the Insolvency and Bankruptcy Code, 2016 Regulations, 2016, seeking liquidation of **R J Bio-Tech Limited**.

Brief facts of the Application:

1. This Tribunal vide an order dated 20.09.2022 in Company Petition bearing C.P.(IB)-1262(MB)/2021 filed under Section 7 of the IBC, 2016, by the Financial Creditor viz. State Bank of India (hereinafter referred to as the "Financial Creditor") is admitted the petition and Corporate Insolvency Resolution Process (CIRP) was initiated on R J Bio-Tech Limited (hereinafter referred to as the "Corporate Debtor"). Mr. Anurag Kumar Sinha was appointed as Interim Resolution Professional (IRP) by this Tribunal vide the above admission order. He was later appointed as Resolution Professional (RP) of the Corporate Debtor by the CoC.
2. The Applicant submits that he issued public announcement in Form-A on 24.09.2022 inviting claims from creditors and he received various claims for a total of Rs.53,81,32,944/- out of which Rs.53,64,07,911/- was admitted. There was only one Financial Creditor, the original Petitioner with a claim of Rs.53,70,81,516/- out of which Rs.53,56,20,483/- was admitted. Therefore, the CoC was constituted with SBI as sole-member Committee. Thereafter, he issued an advertisement in Form G inviting Expression of Interests (EoI) from Prospective Resolution Applicants (PRAs) for submitting Resolution Plans for the Corporate Debtor. However, he received only one EoI as on last date stipulated for receipt of EoI i.e. 02.01.2023. As only one EoI was received, Form G was published once again on 17.01.2023, in response to that, four EoIs were received as on last date stipulated for receipt of EoI i.e. 01.02.2023.

3. Subsequently, in the Seventh CoC meeting held on 16.03.2023, Request for Resolution Plan (RFRP) was approved and the same was issued on 16.03.2023.
4. As the 180 days of CIRP was coming to an end, extension of 90 days was recommended by the CoC in its Seventh meeting and the same was obtained from this Tribunal. Thus, the CIRP was extended till 19.06.2023.
5. The Applicant further submits that out of four PRAs, only two PRAs submitted Resolution Plans. The CoC had negotiations with the Resolution Applicants to improve their offer, for which they sought further time.
6. As the PRAs sought further time to resubmit their improved plans, CoC recommended to seek further extension of CIRP period by 60 days. The RP filed Application for the same and this Tribunal extended the CIRP period for further 60 days i.e. till 18.08.2023.
7. In the 12th CoC meeting held on 17.06.2023, the second round of negotiation was took place with the PRAs on a one-to-one basis, during which, they improved their offers, however, the same was far below the expectation of the CoC. The PRAs again sought time to consider the request of the CoC to improve their offer further. In the 13th CoC meeting held on 30.06.2023, third round of negotiation took place with the PRAs. After deliberations, the CoC decided that both PRAs shall submit their final offer latest by 01.07.2023. Accordingly, the RP received only one final resolution plan with an offer of Rs.2.58 crores.
8. Meanwhile, the Case Lead Officer (CLO) of the SBI, the sole-Member of the CoC changed and the new CLO decided to have one more round of negotiation with the PRAs. Therefore, 17th CoC meeting was held on

07.08.2023 in which both PRAs attended through online. In the meeting, the CoC requested both PRAs to improve their offer and submit final offer latest by 07.08.2023.

9. Since the CIRP period of 330 days will be expiring on 18.08.2023, in the 18th CoC meeting held on 17.08.2023, the CoC recommended for seeking further extension of CIRP by 60 days i.e. till 18.10.2023. The final resolution plans received were informed to the CoC, however, no decision was taken on the resolution plans as the CoC was not satisfied with the offer. After, negotiation, the final plans were received, out of which, the highest offer was Rs. 2.65 crores.
10. In the 23rd CoC meeting held on 21.11.2023, the CoC recommended for further extension of 45 days i.e. till 03.12.2023. Accordingly, the Applicant filed IAs before the Tribunal which are pending for disposal.
11. In the 24th CoC meeting held on 03.01.2024, the sole CoC member informed that they have already rejected both the resolution plans through e-voting on 06.01.2024. As the plans were rejected, liquidation was proposed. In pursuant to the 24th CoC meeting, resolution for Liquidation of the Corporate Debtor was put to e-voting from 13.01.2024 to 16.10.2024, in which the CoC with 100% majority of voting approved liquidation of the Corporate Debtor and authorized the RP to file appropriate application with the Tribunal. The relevant resolution is reproduced below:

“RESOLVED THAT pursuant to the provisions of Sec. 33 of Code, and applicable rules and regulations, the approval of the CoC is hereby provided for liquidation of Corporate Debtor”.

“RESOLVED FURTHER THAT the Committee of Creditors hereby authorize the Resolution Professional of the Corporate Debtor to do all

acts, deeds and matters as may be necessary to give effect to this resolution”.

12. The Applicant further submits that the CoC proposed Mr. Harish Kant Kaushik, an Insolvency Professional, having IBBI Registration Number : IBBI/IPA-001/P-01469/2018-2019/12340 to act as Liquidator of the Corporate Debtor during the process.
13. The proposed Liquidator has given its Letter of Consent to act as Liquidator of the Corporate Debtor.
14. Considering the facts and circumstances as submitted by the Applicant in the Application and by the Counsel appearing for the Applicant, this Bench is of the considered view that the Corporate Debtor be liquidated. Accordingly, this Bench orders that -
 - a. The Corporate Debtor viz. R J Bio-Tech Limited (CIN: L24234MH2005PLC158420) is 'under liquidation' w.e.f. today.
 - b. Mr. Harish Kant Kaushik, an Insolvency Professional, having IBBI Registration Number : IBBI/IPA-001/P-01469/2018-2019/12340), is hereby appointed as the 'Liquidator' to conduct liquidation process of R J Bio-Tech Limited as provided under Section 34(1) of the Code.
 - b. The Liquidator would be entitled to the fees as mutually agreed between the Liquidator and the CoC or as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016 to conduct the liquidation proceedings.

- 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. The Liquidator to send this order to the RoC under which this Company has been registered.
- 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. The personnel of the Corporate Applicant are directed to extend all co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
- f. On having liquidation process initiated, subject to Section 52 of the Code, no suit or other legal proceedings shall be instituted by or against the Corporate Debtor save and except the liberty to the liquidator to institute suit or other legal proceedings on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority.
- g. The Liquidator shall take necessary legal action to recover the Trade Receivables and other Credits such as Loans and Advances from the parties which are reflected in the latest Balance Sheet of the Corporate Debtor, if any. This direction is hereby given in concurrence of the jurisdiction prescribed u/s. 33(5) of the Code.
- h. This liquidation order u/s 33(7) shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate

Applicant except to the extent of the business of the Corporate Applicant continued during the liquidation process by the Liquidator.

- i. Moratorium declared vide Order dated 20.09.2022 in CP(IB)-1262(MB)/2021, henceforth ceased to exist.
 - j. The Liquidator shall submit the progress report of liquidation periodically.
15. With the above directions, the IA-05/2024 in CP(IB)-1262(MB)/2021 filed u/s 33 by the Applicant is hereby **allowed** and disposed of.

Sd/-
Anu Jagmohan Singh
Member (Technical)

Sd/-
Kishore Vemulapalli
Member (Judicial)