

S.No. 7

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1
SPECIAL BENCH**

ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
09-09-2022 AT 11:30 A.M. THROUGH VIDEO CONFERENCE.

IA(IBC) 923/2022
C.P. (IB)/57(HYD)2021
U/s 7 of IBC, 2016

IN THE MATTER OF:

State Bank of India Vs

...Financial Creditor

Vs

Prismack Biotechics Ltd

...Corporate Debtor

C O R A M:-

JUSTICE TELAPROLU RAJANI, HON'BLE MEMBER (JUDICIAL)
SH. VEERA BRAHMA RAO AREKAPUDI, HON'BLE MEMBER (TECHNICAL)

ORDER

IA923/2022 IA is allowed and the Corporate Debtor is put under liquidation as per the terms and conditions in the order.

Sd/-

MEMBER (T)

Sd/-

MEMBER (J)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1**

IA (IBC) 923/2022 in CP (IB) No. 57/7/HDB/2021

*Under Section 33(1) and 34 of the Insolvency and Bankruptcy Code, 2016 read with Rule 11
of National Company Law Tribunal Rules, 2016.*

IN THE MATTER OF PRISMACK BIOTECHNICS LIMITED

Filed by:

Maligi Madhusudhana Reddy
Resolution Professional of
Prismack Biotechnics Limited
MMR Lion Corp, 4th Floor, HSR Eden,
Beside Cream Stone, Road No. 2 Banjara Hills,
Hyderabad, Telangana- 500034

... Applicant/Resolution Professional

Date of Order: 09.09.2022

Coram: -

Justice Telaprolu Rajani, Hon'ble Member (Judicial)
Shri. Veera Brahma Rao Arekapudi, Hon'ble Member (Technical)

Appearance: -

For the Applicant: - Maligi Madhusudhana Reddy, Resolution Professional

PER: BENCH

1. This is an Application filed by the Resolution Professional (*Hereinafter referred as "Applicant"*) under Section 33(2) read with the Section 34 of the Insolvency and Bankruptcy Code, 2016 (*Hereinafter referred to as IBC, 2016*) seeking orders for liquidation of Prismack Biotechnics Limited (*Hereinafter referred as "Corporate Debtor"*) by this Adjudicating Authority.
2. The gist of the application is as follows: -
 - 2.1 It is submitted that the State bank of India, Khairatabad Branch Hyderabad (*Hereinafter referred as Financial Creditor*) had filed an Application under Section 7 of the IBC, 2016 bearing CP (IB) No. 57/7/HDB/2021 for initiation of Corporate Insolvency Resolution Process (*Hereinafter referred as CIRP*) against the Corporate Debtor and the same was admitted by this Adjudicating Authority vide order dated 07.02.2022 and appointed the Applicant herein, as the Interim Resolution Professional and is continuing as Resolution Professional.
 - 2.2 It is submitted that the Applicant made Public Announcement in Form 'G' in April, 2022 in two newspapers, based upon which only two responses were received from the prospective applicants which were not to the satisfaction of the Financial Creditor.
 - 2.3 It is submitted that Committee of Creditors (*Hereinafter referred as CoC*) in its meeting held on 06.07.2022 directed the Applicant to extend the time further for receipt of Resolution Plans. Based upon the directions the

Applicant caused another Public Announcement in Form 'G' in two newspapers inviting Resolution Plans from the prospective Applicants.

- 2.4 It is submitted that in spite of issue of another public announcement in the newspapers there was no response for receipt of Resolution Plans. Further the Applicant convened a meeting of CoC on 27.07.2022 and placed before meeting the fact of non-receipt of Resolution Plans in response to the second public announcement in Form 'G' whereupon the members of the CoC have directed the Applicant to file the necessary Application with Adjudicating Authority for extension of CIRP period for 30 days on account of obtaining the necessary approvals from the CoC for recommendation of Liquidation of Corporate Debtor.
- 2.5 It is submitted that as per the direction of the CoC the Applicant filed an Interlocutory Application for extension for CIRP period and this Adjudicating Authority granted extension for the same from 06.08.2022 to 05.09.2022.
- 2.6 It is submitted that CoC instructed the Applicant to convene a meeting to take a decision to liquidate the Corporate Debtor in terms of Section 33(2) of the IBC, 2016. Thereafter the Applicant convened the 10th CoC meeting on 01.09.2022 and the members of the CoC approved the Liquidation of the Corporate Debtor with 100% voting share subject to approval of this Adjudicating Authority. The copy of minutes of 10th CoC meeting wherein the CoC has recommended for Liquidation of Corporate Debtor is enclosed with this Application as Annexure-2. The copy of the resolutions passed by CoC meeting as well as the voting sheet of the CoC

approving the Liquidation of the Corporate Debtor is enclosed as Annexure-1 and 3 respectively.

- 2.7 It is submitted that the members of the CoC have approved the appointment of the current Applicant, Mr. Maligi Madhusudhana Reddy, Insolvency Professional, registered with the Insolvency and Bankruptcy Board of India vide registration No. IBBI/IPA-001/IP-P00843/2017-2018/11427 with Authorization for Approval valid till 29.11.2022 as Liquidator of the Corporate Debtor subject to approval of the Adjudicating Authority and fixed the Liquidator's remuneration at 50% of the scale of the fee stated in the Regulations. The Applicant in compliance of the above regulation has attached consent form for favorable consideration by the Adjudicating Authority. The same is enclosed as Annexure-4. Hence this Application is file under Section 33(2) of the IBC, 2016 praying to pass an order to Liquidate the Corporate Debtor.
3. We have heard the Applicant and perused the record. Even according to the Applicant, no resolution plan has received the approval by the CoC within the timeline prescribed under the IBC, 2016. Further, it is evident from the CoC minutes that no concrete proposal was before the CoC to even to have hope of resolution even by the time of seeking extension of another 30 days by the petitioner.
4. We are fully conscious of the fact that the primary object of IBC, 2016 is resolution and liquidation is the last resort. At the same time keeping the timelines prescribed under the IBC, 2016 is paramount, lest asset value

gets deteriorated. Therefore, taking into consideration the provisions of law as well as the documents on record, this Adjudicating Authority is of the view that since the efforts to obtain resolution of the Corporate Debtor have failed and the only option left, under the circumstances being early liquidation process, we allow this Application, directing the liquidation of the Corporate Debtor.

5. Before we part with, we would like to refer to the ruling of Hon'ble Supreme Court in **Innoventive Industries Limited Vs. ICICI Bank & Anr¹**, wherein it has been held as follows: -

"From the viewpoint of creditors, good realization can generally be obtained if the firm is sold as a going concern. Hence, when delays induce liquidation, there is value destruction. Further, even in liquidation, the realization is lower when there are delays. Hence, delays cause value destructions. Thus, achieving a high recovery rate is primarily about identifying and combating the sources of delay"

6. We therefore hope that the Liquidator whom we have appointed would sincerely endeavor to sell the Corporate Debtor as a going concern without delay however, by observing the relevant provisions contained in IBC as well as in IBBI (Liquidation Process) Regulations and thus ensure that one of the objects of the IBC viz. maximization of the assets of the Corporate Debtor is not diluted.

¹ Civil Appeal No. 8337-8338 of 2017

ORDER

- A. This Adjudicating Authority hereby orders for liquidation of Prismack Biotechnics Limited, the Corporate Debtor herein, which shall be conducted in the manner as laid down in Chapter III of part II of the Code, 2016;
- B. Shri. Maligi Madhusudan Reddy, Insolvency Professional, having Registration No.-IBBI/IPA-001/IP-P00843/2017-2018/11427 with Authorization for Approval valid till 29.11.2022, Address: MMREDDY AND CO., 4th Floor HSR Eden, Road No.2, Banjara Hills, Hyderabad, Telangana, 500034, Email-id: mmreddyandco@gmail.com, is hereby appointed as Liquidator;
- C. He shall issue public announcement stating that the Corporate Debtor is in liquidation in terms of Regulation 12 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- D. The moratorium declared under Section 14 of the IBC,2016 shall cease to have effect from the date of the order of liquidation;
- E. Subject to Section 52 of the IBC, 2016, no suit or other legal proceedings shall be instituted by/or against the Corporate Debtor. This shall however 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.

*IA (IBC) 923/2022 in CP (IB) No.57/7/HDB/2021
Under Section 33 of the Insolvency and Bankruptcy Code, 2016.*

Date of order: 09.09.2022

- F. All the powers of the Board of Directors, Key Managerial Personnel and partners of the corporate Debtor shall cease to have effect and shall be vested in the Liquidator.
- G. The Liquidator shall exercise the powers and perform duties as envisaged under Sections 35 to 50 and 52 to 54 of the Code read with the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- H. Personnel connected with the Corporate Debtor shall extend all assistance and co-operation to the Liquidator as would be required for managing its affairs.
- I. The CoC has recommended the name of existing Interim Resolution Professional as the Liquidator at a fee of 50% of applicable fees under Regulation 39D of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 plus GST, net of other Liquidation costs, and of the amount distributed, for the balance period of Liquidation as given in the resolution passed by the CoC in its meeting held on 01.09.2022.
- J. The Applicant is directed to serve the copy of this order to Registrar of Companies, Regional Director, Official Liquidator of Hyderabad, Registered office of the Corporate Debtor for information and compliance.
- K. In terms of the above, IA No.923 of 2022 in CP (IB) No. 57/7/HDB/2021 filed by the Resolution Professional under Section 33(2) of the IBC, 2016,

*IA (IBC) 923/2022 in CP (IB) No.57/7/HDB/2021
Under Section 33 of the Insolvency and Bankruptcy Code, 2016.*

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for initiation of Liquidation Proceedings against the Corporate Debtor
viz., Prismack Biotechnics Limited stands allowed.

Sd/-

**VEERA BRAHMA RAO AREKAPUDI
MEMBER (TECHNICAL)**

Sd/-

**JUSTICE TELAPROLU RAJANI
MEMBER (JUDICIAL)**

Rohit (LRA)