

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

IA 809 of 2021

In

CP (IB) 1490/MB/C-II/2017

(Under Section 33(2) of the Insolvency and Bankruptcy Code, 2016)

Order Delivered on 23.07.2021

In the Application of

Mr. Mahesh Surekha

Address: 173, Udyog Bhavan, Sonawala Road, Goregaon East, Mumbai -
4000063

...Applicant/Resolution Professional

In the matter of

Kumar Brothers Pharma Private Limited

...Operational Creditor

Versus

Vascular Therapeutics India Private Limited

...Corporate Debtor

Coram:

Shri Ashok Kumar Bohra : Member (Judicial)

Shri Shyam Babu Gautam : Member (Technical)

Appearance (through Video Conferencing):

For the Applicant : Mr. Mahesh Surekha, FCA

ORDER

Per: Shyam Babu Gautam, Member (Technical)

1. The present application is filed by the Resolution Professional upon the instructions of the Committee of Creditors (CoC) seeking liquidation of the Corporate Debtor, *viz.*, Vascular Therapeutics India Private Limited, on the ground that there is no possibility for resolution of the Corporate Debtor.
2. This Adjudicating Authority *vide* its order dated 21.08.2020 on a Petition filed by Kumar Brothers Pharma Private Limited (*Operational Creditor*) under section 9 of the Insolvency and Bankruptcy Code, 2016 (*the Code*), directed initiation of the Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor and appointed Mr. Mahesh Surekha as the Interim Resolution Professional (IRP) of the Corporate Debtor. The Applicant published a Public Announcement in Newspapers on 27.08.2020
3. The Applicant visited the office of the Corporate Debtor but the office of the Corporate Debtor was closed. On enquiring with the Guards of the premises of the Corporate Debtor, the Applicant was able to reach to the father of one of the member of the Board of the suspended Director and informed the Applicant that the Business of the Corporate Debtor is closed since last 5 years and there are no employees. The offices of the Corporate Debtor are on rental basis and are closed. One of the member of the suspended Board of

Directors, Mr. Amir Khan is settled in USA and is not willing to return to India.

4. The Applicant submits that Mr. Amir Khan, joined on WEBEX meeting. The first CoC meeting was held on 17.09.2020 where the only member of CoC is the Operational Creditor. The Interim Resolution Professional was confirmed as the Resolution Professional.
5. The second CoC meeting was held on 27.10.2020. The existing Auditor of the Corporate Debtor was asked to complete the audit up to 21.08.2020. After completion of the audit, following assets were available:- 1) Cash and Bank balance with UBI; 2) Deposit with UBI; 3) Cars in non-operating condition.
6. One of the member of the Board of suspended Director have informed that in a matter in arbitration, claim has been filed by India Medtronics Private Limited for Rs. 2,2344,670 on the Corporate Debtor and the Corporate Debtor have filed claim on the India Medtronics Private Limited for Rs. 1.54 Crores. The Corporate Debtor has shown balance receivable from Covidien Healthcare (India) Ltd. Rs. 16,77,459/-. The Corporate Debtor has to collect the amount from India Medtronics Private Limited.
7. In the third CoC meeting held on 17.11.2020, it was decided that the Applicant should apply for liquidation. The Applicant states that the valuer had been appointed and the valuation report was expected. But the CoC states that as there were limited assets of the Corporate Debtor, the valuation can be completed. It had also been

decided in the third CoC meeting that the Applicant should not sale the Corporate Debtor as going concern.

8. The liquidation cost is worked out as under :-

CIRP cost for filing the liquidation application:-	Rs. 1,00,000/-
Public Announcement	:- Rs. 30,000/-
Public Announcement (for E auctions)	:- Rs. 30,000/-
Public Announcement (for stakeholder Meeting)	:- Rs. 30,000/-
E Auction site fees	:- Rs. 60,000/-
Meeting fees	:- Rs. 30,000/-
Application in NCLT	:- Rs. 1,00,000/-
Sundry Expenses	:- Rs. 30,000/-

Rs. 4,10,000/-

Therefore, the estimated liquidation cost is Rs. 4,10,000/-

9. This Bench, therefore, hereby orders as follows: -

- a. Upon perusal of the documents, records made available and submissions of the Applicant in the 3rd CoC meeting held on 17.11.2020, the CoC with majority of 100% approved to Liquidate the Corporate Debtor and directed the RP to file an application under section 33 (2) of the IBC for liquidation of the Corporate Debtor.
- b. In view of the decision of the CoC, we are inclined to admit the IA 809/2021 in CP 1490/2017 to initiate liquidation

process against the Corporate Debtor. Accordingly, the Adjudicating Authority Orders for initiation of Liquidation of the Corporate Debtor.

- c. This Bench hereby appoints Mr. Mahesh Surekha as Liquidator having [Reg. No.IBBI/IPA-001/IP-P00413/2017-18/10736], having his office at 173, Udyog Bhavan, Sonawala , email:- mahesh@mrsureka.com, as Liquidator in terms of section 34(1) of the Code.
- d. The Fees payable to the Liquidator shall be in compliance with Regulation 4 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016.
- e. The Applicant/RP shall forthwith hand over possession of the Corporate Debtor, its assets and all documents in his possession, to the newly appointed Liquidator;
- f. The Liquidator shall initiate the liquidation process as envisaged under Chapter-III of the Code and the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016;
- g. Whenever the Liquidator issues any publication in the newspapers, the said shall be published in widely circulated newspapers in the State in which the Registered office of the Company is incorporated.

- h. Public Notice shall be issued in two newspapers, *viz.*, in *Times of India/Business Standard* (English) and *Navshakti* (Marathi), stating that the Corporate Debtor is in liquidation, as required in terms of section 33(1) of the Code;
- i. All the powers of the Board of Directors and key managerial persons of the Corporate Debtor shall cease to exist. All these powers shall henceforth be vest with the Liquidator;
- j. 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;
- k. On initiation of the liquidation process but 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, as provided in section 33(5) of the Code read with its proviso;
- l. 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;

- m. The Court Officer shall forward a copy of this Order to – (i) the Applicant/ RP, (ii) the Liquidator and (iii) the Registrar of Companies, Maharashtra, Mumbai, immediately upon pronouncement of this Order; and
- n. A copy of this order shall additionally be served by the Applicant/ RP on the Registrar of Companies, Maharashtra, Mumbai, within whose jurisdiction the Corporate Debtor has been registered, for updating the Master Data of the Corporate Debtor.
- o. The IA **809 of 2021 is allowed.** File to be consigned to records.

Dated 23rd July, 2021

Sd/-
(SHYAM BABU GAUTAM
MEMBER (TECHNICAL)

Sd/-
(ASHOK KUMAR BORAH)
MEMBER (JUDICIAL)