IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI BENCH BENCH III

IA-3582/2021
In
CP (IB) – 812/ND/2018
Filed under Section 33
Of the IBC, 2016

In the matter of Ryan Laboratries Pvt. Ltd. (CD)

Monitoring Committee of CD &anr
Through Sh. Susheel Kumar Gupta
Chairman of Monitoring Committee/ Erstwhile Resolution Professional

... Applicant

Order delivered on 14thof September, 2021

CORAM:
SHRI P.S.N. PRASAD, HON'BLE MEMBER (JUDICIAL)
SHRI NARENDER KUMAR BHOLA, HON'BLE MEMBER (TECHNICAL)

Parties/Counsels present

For Applicant :Mr. Partho Bhattacharya (Advocate),Mr. Susheel Kumar Gupta (erstwhile RP)

ORDER

Per: NARENDER KUMAR BHOLA, MEMBER (T)

1. This relates to IA- 3582/2021 filed in CP (IB) – 812/ND/2018 by Monitoring Committee through Mr. Susheel Kumar Gupta (hereinafter referred to as 'Applicant No.2') under Section 33(1)of the Insolvency and

15/9/2021

Bankruptcy Code, 2016 read with Rule 11 of the NCLT Rules, 2016. The prayer made in the Application is to pass an order of liquidation pertaining to the Corporate Debtor (CD) viz., Ryan Laboratories Pvt. Ltd.

2. Originally CP (IB) – 812/ND/2018 was admitted by this Adjudicating Authority vide Order dated 03.10.2018, the Corporate Insolvency Resolution Process (CIRP) was initiated against the Corporate Debtor and Mr. Susheel Kumar Gupta ('Applicant No.2') was appointed as Interim Resolution Professional vide the same order.
3. It is submitted that public announcement was made by the Applicant No.2 on 13.10.2018 and last date to file the claims was 24.10.2018.It is stated that the Applicant No.2 was confirmed as Resolution Professional by CoC in its meeting dated 08.11.2018. The Applicant No.2 has carried out the CIR Process of the CD as per the IB Code, 2016 and relevant regulations. This adjudicating authority also extended the CIR Period beyond 330 days vide order dated 10.02.2020 as the Resolution Plan was under consideration before the CoC.
4. It is further submitted that this adjudicating authority

vide order dated 19.10.2020 approved the resolution plan submitted by the Applicant No.2. It stated that Respondent No.3/Resolution Applicant ('M/s Badrivas Biotech Pvt. Ltd.') approached this authority for the extension of time for making payments, however, this tribunal directed the Respondent No.3 to approach the monitoring committee vide order dated 07.01.2021.

5. It is averred that the resolution applicant has failed to fulfil its own terms of the said resolution plan and by written representation before the monitoring committee sought various amendments in the resolution plan after almost 14 months of approval of the resolution and the same is rejected by the monitoring committee.It is further stated that since the resolution applicant has failed to comply the resolution plan in letter & spirit of the code, the monitoring committee has proposed liquidation of the Corporate debtor, the same was approved by the stakeholders of the corporate debtor vide meeting dated 15.07.2021 and the Applicant No.2 has proposed to act as a liquidator subject to the approval of this adjudicating authority.

6. Since theResolution Applicant has failed to fulfil its terms as per Resolution Plan approved by this authority vide order dated 19.10.2020 in IA-2216/2020, the Corporate Debtor has to be ordered for liquidation.

ORDER

7. In view of the facts and circumstances recorded by Applicants inIA- 3582/2021 filed in CP (IB) – 812/ND/2018 and in exercise of powers conferred under Sub-Clauses (i) (ii) and (iii) of Clause (a) of Sub-Section (1) of Section 33 of the I&B Code, 2016, this Authority proceeds to pass following Liquidation Order:-

I. This Authority hereby orders for liquidation of the Corporate Debtor (CD) viz., M/s. Rayan Laboratories Pvt.Ltd. which shall be conducted in the manner as laid down in Chapter III of part II of the Insolvency & Bankruptcy Code, 2016 and the resolution plan bearing IA-2216/2020 approved vide order dated 19.10.2020 is hereby rejected due to non-compliance of the Resolution Plan by the Resolution Applicant;

II. This Authority hereby appoints Mr.Susheel Kumar Gupta having registration no. IBBI/IPA-001/IP-P00846/2017-18/11419 as Liquidator who shall issue a public announcement stating therein that the Corporate Debtor is in liquidation;

III. Subject to Section 52 of the Insolvency & Bankruptcy Code, 2016, no suit or other legal proceedings shall be instituted by/or against the Corporate Debtor. However, a suit and other legal proceedings may be instituted by the Liquidator, on behalf of the Corporate Debtor, with the prior approval of this Authority.

IV. This Authority makes it clear that Para (IV) hereinabove shall not apply to legal proceedings in relation to such transactions as notified by the Central Government in consultation with any financial sector regulator.

V. This Order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor, except when the business of the

Corporate Debtor is continued during the liquidation process by the Liquidator.

VI. All the 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 viz., Mr. Susheel Kumar Gupta, in addition to it, the Company Liquidator shall exercise the powers and duties as enumerated in Sections 35 to 50, 52 to 54 of the Insolvency & Bankruptcy Code, 2016, r/w Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

VII. The personnel of the Corporate Debtor shall extend all assistance and co-operation to the Liquidator as may be required by him in managing the affairs of the Corporate Debtor.

VIII. The Liquidator shall be entitled to charge such fees for the conduct of the liquidation proceedings and in such proportion to the value of liquidation estate as specified under regulation 4(2) of the IBBI (Liquidation Process) Regulations, 2016.

IX. The Registry is directed to communicate this order with immediate effect to the concerned Registrar of Companies (ROC)with which the Corporate Debtor is registered, OL, Registered Office of the Corporate Debtor and Liquidator viz. Mr. Susheel Kumar Gupta, for information and compliance.

8. The performance guarantee amounting to Rs.20 Lacs deposited by the Resolution Applicant stands forfeited and the forfeited amount shall be included in the assets of Corporate Debtor by the Liquidator. Any other relief sought by the Applicants, if not granted, shall be deemed to be rejected by this Adjudicating Authority.

9. In terms of the above, IA-3582/2021 filed in CP (IB) – 812/ND/2018 by the Applicants under Section 33(1) of the Insolvency & Bankruptcy Code, 2016, for initiation of the Liquidation Proceedings against the Corporate Debtor viz., M/s Rayan Laboratories Pvt. Ltd. is **partly allowed**.

-Sd-
(NARENDER KUMAR BHOLA)
MEMBER (TECHNICAL)

-Sd-
(P.S.N. PRASAD)
MEMBER (JUDICIAL)

15/9/2021
Deputy Registrar
National Company Law Tribunal
CGO Complex, New Delhi-110003