

IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH  
KOLKATA

IA No.124/KB/2021  
in  
CP (IB) No.972/KB/2018

*Under section 33(1)(a) of Insolvency & Bankruptcy Code, 2016*

*In the matter of:*

Bell Finvest (India) Limited  
(CIN: U32200MH1994PLC080907)

... Financial Creditor

*Versus*

Duckbill Drugs Private Limited  
(CIN: U24232WB1994PTC063258)

...Corporate Debtor

*And*

Bhupendra Singh Narayan Singh Rajput  
RP of Duckbill Drugs Private Limited

... Applicant

Order reserved on: 03/02/2021  
Order pronounced on: 13/04/2021

*Coram:*

Shri Rajasekhar V.K. : Member (Judicial)  
Shri Harish Chander Suri : Member (Technical)

*Appearances (through video conferencing):*

For the Applicant : Ms. Debaleena Ganguly, Advocate  
Ms. B. Gayatri, Advocate

ORDER

**Per: Rajasekhar V.K., Member (Judicial)**

1. This Tribunal convened *via* video conference.
2. This is an application filed by the Resolution Professional seeking liquidation of the Corporate Debtor, *viz.*, Duckbill Drugs Private Limited [CIN: U24232WB1994PTC063258], on the ground that no Resolution Plan received by him and the CoC by 100% voting share approved liquidation of the Corporate Debtor.
3. This Adjudicating Authority *vide* its order dated 17/12/2019 on a Petition filed by Bell Finvest (India) Limited (*Financial Creditor*) under section 7 of the Insolvency and Bankruptcy Code, 2016 (*the Code*) directed initiation of the Corporate Insolvency Resolution Process ('CIRP') against the Corporate Debtor and appointed the Applicant herein as the Interim Resolution Professional (IRP), a copy of the order dated 17/12/2019 is annexed with the application and marked with the **Letter "A"**.
4. In terms of section 15 of the Code, public announcement in Form 'A' was made on 24/12/2019 in "*Morning India*" (English) and "*Duranta Barta*" (Bengali). Copies of the said publications are annexed with the application and marked with the **Letter "B"**.
5. On 10/01/2020, the IRP had submitted to the Adjudicating Authority the report on constitution of the Committee of Creditors, a copy whereof is annexed with the application and marked with the **Letter "C"**.
6. The first meeting of CoC was held on 17/01/2019, wherein the IRP was confirmed as RP. A photocopy of the minutes of the first meeting of the Committee of Creditors is annexed with the application and marked with the **Letter "D"**.

7. The 2<sup>nd</sup> and 3<sup>rd</sup> CoC meetings were held on 30/01/2020 and 09/07/2020. Apart from the usual business being carried out in the 2<sup>nd</sup> CoC meeting, the following were the important agenda, which was discussed and resolved:

- (a) To fix remuneration of the Interim Resolution Professional;
- (b) To appoint Valuers; and
- (c) To initiate application u/s 19 of the Code.

The copy of the minutes dated 30/01/2020 and 09/07/2020 are annexed with the application and marked collectively with the **Letter “E”**.

8. At the 4<sup>th</sup> CoC meeting held on 20/10/2020, the RP informed the CoC that in spite of all efforts to communicate with the suspended management either by speed post or by email or personal visit, till the filing of this application, no cooperation has been received from the suspended directors. However, an application u/s. 19 of the Code had been filed before this Adjudicating Authority on 17/03/2020 for non-cooperation by the suspended members of the Board of Directors of the Corporate Debtor. In the meantime, 180 days CIRP period had ended on 14/06/2020 and application for extension or exclusion of CIRP period has not been filed so far. The instant application has been filed for maximisation of the value and to avoid future CIRP cost and time. A copy of the minutes of the 4<sup>th</sup> CoC meeting dated 20/10/2020 is annexed with application and marked with the **Letter “F”**.

9. At the 5<sup>th</sup> CoC meeting held on 09/11/2020, it was discussed that liquidation process has to be started and that the RP has expressed his unwillingness to act as a liquidator in the present pandemic situation. A copy of the said minutes of the 5<sup>th</sup> CoC meeting is annexed with the application and marked with the **Letter “G”**.

10. At the 6<sup>th</sup> COC meeting held on 17/12/2020 CoC has passed a resolution with 100% voting share for liquidation of the Corporate Debtor as the 180 days CIRP period has been ended 14/06/2020 and no response received from the Corporate Debtor. A copy of the minutes of the said 6<sup>th</sup> CoC meeting is annexed with the application and marked with the **Letter “H”**.
11. The Resolution Professional has expressed his unwillingness to act as a Liquidator of the Corporate Debtor.
12. We have considered the submission made by the Ld. Counsel appearing for the Applicant and perused the records.
13. This is a case where no Resolution Plan was received and the period of CIRP has expired on 14.06.2020. Therefore, there is no alternative but to order the liquidation of the Corporate Debtor.
14. This Bench, therefore, hereby orders as follows: -
  - a. IA No. 124/KB/202 filed by Mr Bhupendra Singh Narayan Singh Rajput, IRP/RP of Duckbill Drugs Private Limited, the Corporate Debtor, is allowed and the Corporate Debtor is ordered to be liquidated in terms of section 33(2) of the Code read with sub-section (1) thereof.
  - b. Since the RP has not given his consent to act as Liquidator, Mr. Santanu Brahma [Reg. No. IBBI/IPA-001/IP-P01482/2018-2019/12251], E-mail ID: [ip.santanubrahma@gmail.com](mailto:ip.santanubrahma@gmail.com), telephone no. 98300 72700, is hereby appointed as liquidator as provided under section 34(4)(c) of the Code, subject, however, to his possessing a valid Authorisation for Assignment (AFA) issued by the Insolvency Professional Agency (IPA) of which he is a professional member, in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2019.
  - c. The RP is hereby directed to handover all documents in his possession in

respect of the Corporate Debtor to the Liquidator appointed in this matter within 15 days from today.

- d. The Liquidator shall initiate liquidation process as envisaged under Chapter-III of the Code and the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- e. Public Notice shall be issued once in "*Business Standard*" in English and once in "*Aajkaal*" (Bengali) stating that the Corporate Debtor is in liquidation.
- f. All the powers of the Board of Directors, and of key managerial persons, shall cease to exist in accordance with section 34(2) of the Code. All these powers shall henceforth vest in the Liquidation.
- g. The personnel of the Corporate Debtor are directed to extend all assistance and co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
- h. 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.
- i. In accordance with section 33(7) of the Code, 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.
- j. In terms of section 33(1)(b)(iii), the Liquidator shall file a copy of this

Order with the Registrar of Companies, West Bengal, Kolkata, within whose jurisdiction the Corporate Debtor is registered. Additionally, the Registry shall also forward a copy of this Order to the Registrar of Companies, West Bengal, Kolkata.

15. The application bearing **IA No. 124/KB/2021** shall stand disposed of in accordance with the above directions.
16. **CP (IB) No. 972/KB/2018** to come up for filing of periodical report on **05/07/2021**.
17. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
18. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

Harish Chander Suri  
Member (Technical)

Rajasekhar V.K.  
Member (Judicial)

Signed on this, the 13<sup>th</sup> day of April, 2021.

hb.