NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
PRESENT: HON'BLE SHRI BIKKI RAVEENDRA BABU – MEMBER JUDICIAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 24.07.2018 AT 10.30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA No. 103 &131 of 2018 in CP(IB) no. 102/10/HDB/2017
NAME OF THE COMPANY	Admiron Life Sciences Pvt Ltd
NAME OF THE PETITIONER(S)	
NAME OF THE RESPONDENT(S)	
UNDER SECTION	10 OF IBC

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature
1. G. MadhuSudhan Rao	Resolution Professional	madhucs1@gmail.com 9177715558.	

Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

Res:- G. Madhusudhan Rao RP. 9177715558

ORDER

Learned RP Mr. G.Madhusudhan Rao present.

Common order pronounced in open court.

IA 103/2018 is disposed of approving the Resolution Plan in annexure A16 of the Application.

IA 131/2018 is disposed of permitting RP to act as facilitator for implementation of Approved Resolution Plan from this day till the date of implementation of Approved Resolution Plan.

Vide separate common order.

MEMBER JUDICIAL

IN THE NATIONAL COMPANY LAW TRIBUNAL

HYDERABAD BENCH, HYDERABAD

I.A.No. 103 of 2018

In

C.P.(IB)No.102/10/HDB/2017

Admiron Life Sciences Private Limited,

H.No.1-155/1/A, Chanda Nagar,

Hyderabad,

TG 500050 IN

(Rep. by its Resolution Professional, G.Madhusudhana Rao)

...Applicant/Corporate Debtor

Vs

State Bank of India

Industrial Finance (Panjagutta Branch)

Topaz Building, Amrutha Hills,

Panjagutta, 500082.

...Respondent/Financial Creditor

I.A.No. 131 of 2018

In

C.P.(IB)No.102/10/HDB/2017

Admiron Life Sciences Private Limited,

H.No.1-155/1/A, Chanda Nagar,

Hyderabad,

TG 500050 IN

(Rep. by its Resolution Professional, G.Madhusudhana Rao)

...Applicant/Corporate Debtor

Vs

State Bank of India

Industrial Finance (Panjagutta Branch)

Topaz Building, Amrutha Hills,

Panjagutta, 500082.

...Respondent/ Financial Creditor

Date of Order: 24.07.2018

CORAM:-

Hon'ble Shri Bikki Raveendra Babu, Member Judicial

1. Learned Counsel Mr.Y.Suryanarayana present for Corporate Debtor.
2. Learned Counsel Mr.S.Keshava Rao present for Financial Creditor i.e. State Bank of India.
3. Learned RP Mr.G.Madhusudhan Rao present.
4. Mr.T.S.Praveen Kumar and Mr.D.V.A.S Ravi Prasad present for Cure Chem.

Common Order

IA 103/2018

1. This application is filed by the Resolution Professional on behalf of the Corporate Debtor

seeking approval of the Resolution Plan approved by the Committee of Creditors.

2. The facts that are necessary for the disposal of this application are as follows:-

3. M/s. Admiron Life Sciences Private Limited/Corporate Debtor initiated Corporate Insolvency Resolution Process by filing a petition U/s. 10 of the Insolvency and Bankruptcy Code, read with Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) rules, 2016 and Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 vide CP(IB) 102/10/HDB/2017.

4. This Adjudicating Authority vide its orders dated 28.07.2017 admitted the petition and there after imposed Moratorium on 09.08.2017.

5. This Adjudicating Authority appointed Mr.VenkateswarluBharathula, Insolvency Professional as Interim Resolution Professional.

6. The IRP made a public announcement about the commencement of Corporate Insolvency Process and invited claims. The IRP constituted the

Committee of Creditors with SBI/ Financial Creditor with 100% voting rights.

7. The IRP appointed two Registered Valuers as required under Regulation 27 of IBBI (CIRP) Regulations 2016.

8. In the first meeting of the CoC, SBI Sam Branch Kachiguda Hyderabad(sole Financial Creditor) unanimously passed a resolution replacing the IRP with Mr.Madhusudhan Rao as Resolution Professional subject to the approval of this Authority.

9. This Adjudicating Authority vide its orders dated 01.12.2017 made in CA No.180/2017 appointed Mr.Madhusudhan Rao as Resolution Professional.

10. The Committee of Creditors in its 4th Meeting resolved to apply to this Authority praying for extension of duration of Corporate Insolvency Resolution Process Period by further 90 days in order to complete the CIRP Process. Basing on the said resolution, the Resolution Professional filed an Application IA 223/2018 before this Authority. It is stated by the Applicant that IA 223/2018 is allowed on 16.01.2018.

11. The Applicant further stated two Resolution Plans were received from the prospective investors in response to the Expression of Interest. Resolution Professional opened the Bids and placed it before the COC members. COC reviewed the Resolution Plans in terms of Net Present Value, terms of repayment, Highest Bid Value, experience of the entities etc.

12. It is also stated that the Resolution Professional circulated a copy of section 29A of Insolvency and Bankruptcy Code(Amendment) Act, 2017 dated 19.01.2018 to the COC members and COC members discussed on the compliance of section 29A of the IB Code.

13. The Resolution Professional circulated the notarized affidavits received from the Resolution Applicants in respect of both the Resolution Plans.

14. The Resolution professional also circulated Section 30, Section 31 of the IBC,2016 along with Regulations of 37,38 and 39 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations 2016 to the COC members.

15. The Resolution Professional examined the compliance of the Sec 30(2) of IBC, 2016 with respect to the both Resolution Plans in terms of the following:-

    a. Provides for the payment of insolvency resolution process costs in a manner specified by the Board in priority to the repayment of other debts of the Corporate Debtor.

    b. Provides for the repayment of the debts of Operational Creditors in such manner as may be specified by the Board which shall not be less than the amount to be paid to the Operational Creditors in the event of a liquidation of the Corporate Debtor under section 53.

    c. Provides for the management of the affairs of the Corporate Debtor after approval of the Resolution Plan;

    d. The implementation and supervision of the Resolution Plan.

    e. Does not contravene any of the provisions of the law for the time being in force;

    f. Confirms to such other requirements as may be specified by the Board.

16. It is also stated by the Resolution Professional that COC examined the compliance of Regulations 37 and 38 of the Insolvency and Bankruptcy Board of India.

17. COC Banker SBI negotiated with the highest bidder for improvement of their Bid value and for upfront deposit, etc. After final negotiations with the Bidder, the COC member Bank i.e., SBI found and selected the highest Bidder i.e. M/s. AARISHI MEDKARE PRIVATE LIMITED.

18. The said Company submitted final Bid for Rs.43.20 Crores towards acquisition of M/s. Admiron Life Sciences Pvt LTd (Corporate Debtor) and its assets and Rs.7.50 Crores towards purchase of Collateral securities of the Company. The next highest bidder offered aggregate price of Rs.50.01 crores i.e. Rs.43 crores towards acquisition of assets of the Company under slum sale process and Rs.7.01 crores towards purchase of the Collaterals.

19. The Resolution Professional explained the COC that Information memorandum which has been prepared and submitted by IRP to Prospective Investors contain the collateral properties also.

20. In the 7th COC meeting SBI which is the sole Financial Creditor of the Corporate Debtor, holding 100% voting rights approved the Resolution Plan submitted by the highest bidder i.e M/s. AARISHI MEDKARE PVT LTD in respect of the acquisition of the Corporate Debtor and its assets and passed the following Resolution:-

"Resolved that the Resolution Professional shall submit the approved Resolution Plan and other relevant certificates to the Adjudicating Authority i.e Hon'ble NCLT, Hyderabad to get the approval at the earliest".

21. The RP stated that basing on the records he did not observe, found or determined any of the following transactions:-

a. Preferential transactions under section 43;

b. Undervalued transactions under section 45;

c. Extortionate credit transactions under section 50; and

d. Fraudulent transactions under section 66.

22. Resolution Professional stated that the Resolution cost is paid by the Company and there are no dues to the work men for a period of 24 months pending for payment.

23. Resolution Professional furnished the certificate stating that the Resolution Plan met all the requirements of the Code and Regulations.

24. On this application this Authority ordered notice to the Financial Creditor and the representatives of the Corporate Debtor. This Authority also ordered notice to the Resolution Applicants and file proof of service.

25. Resolution Professional served the notice on both the Resolution Applicants and filed proof of service.

26. Operational Creditor M/s. Cure Chem present before this Authority through a counsel. This Adjudicating Authority granted time to Operational Creditor to file its objections, if any within one week.

27. The Operational Creditor M/s.Cure Chem represented by its Authorized Signatory filed a memo stating that they conveyed their acceptance for approval of the Resolution Plan and gave No Objection for approval of the Resolution Plan. A similar memo is also filed by the Resolution Professional.

28. IA 131/2018 is also filed by the Resolution Professional for continuation of Resolution Professional as facilitator with the same duties and powers like a Resolution Professional for smooth implementation of the Approved Resolution Plan from the date of expiry of the CIRP Period till the date of completion of implementation of the Approved Resolution Plan on the same remuneration of Rs.1.8 Lakhs.

29. The CIRP Period end by 23.04.2018.

30. It is stated in the Resolution Plan that the term and implementation of the Resolution Plan is three months from the date of approval of the same by the Adjudicating Authority.

31. It is stated by the Resolution Professional that the Corporate Debtor is a going concern with 200 work men and in order to protect and hand over the assets of the Corporate Debtor to the Resolution Applicant it is necessary for the Resolution Professional to act as facilitator.

32. The Resolution Professional filed the Resolution Plan as approved by the COC as Annexure A-16 to the Application seeking approval of this Authority u/s 30(6) of the Code.

33. Section 31 deals with the approval or rejection of the Resolution Plan, as approved by the CoC, by the Adjudicating Authority. The approval of the Resolution Plan is under sub-section (1) of section 31. Section 31 of the IB Code deals as follows:-

Approval of Resolution Plan.

31.(1) If the Adjudicating Authority is satisfied that the Resolution Plan as approved by the committee of creditors under sub-section (4) of section 30 meets the requirements as referred to in sub-section (2) of section 30, it shall by order approve the Resolution Plan which shall be binding on the Corporate Debtor and its employees, members, creditors, guarantors and other stakeholders involved in the Resolution Plan.

(2) Where the Adjudicating Authority is satisfied that the Resolution Plan does not confirm to the requirements referred to in sub-section (1), It may, by an order, reject the Resolution Plan.

(3) After the order of approval under sub-section (1), -

(a) The moratorium order passed by the Adjudicating Authority under section 14 shall cease to have effect; and

(b) The resolution professional shall forward all records relating to the conduct of the corporate insolvency resolution process and the Resolution Plan to the Board to be recorded on its database.

34. Before approving the Resolution Plan, as approved by the CoC., it is the duty of the Adjudicating Authority that it should satisfy that the Resolution Plan, as approved by the CoC., under sub-section (4) of section 30 meets the requirements as referred to sub-section (2) of Section 30.

35. Therefore, it is necessary to refer to sub-section (2) of section 30, which reads as follows:-

Submission of Resolution Plan. Sec.30

30.(1) A Resolution Applicant may submit a Resolution Plan to the resolution professional prepared on the basis of the information memorandum.

(2) The resolution professional shall examine each Resolution Plan received by him to confirm that each Resolution Plan-

(a) Provides for the payment of insolvency resolution process costs in a manner specified by the Board in priority to the repayment of other debts of the Corporate Debtor;

(b) Provides for the repayment of the debts of operational creditors in such manner as may be specified by the Board which shall not be less than the amount to be paid to the operational creditors in the event of a liquidation of the Corporate Debtor under section 53;

(c) Provides for the management of the affairs of the Corporate Debtor after approval of the Resolution Plan;

(d) The implementation and supervision of the Resolution Plan;

(e) Does not contravene any of the provisions of the law for the time being in force.

(f) conforms to such other requirements as may be specified by the Board.

(3) The resolution professional shall present to the committee of creditors for its approval such Resolution Plans which confirm the conditions referred to in sub-section (2).

(4) The committee of creditors may approve a Resolution Plan by a vote of not less than seventy five per cent of voting share of the financial creditors.

(5) The Resolution Applicant may attend the meeting of the committee of creditors in which the Resolution Plan of the Applicant is considered:

Provided that the Resolution Applicant shall not have a right to vote at the meeting of the committee of creditors unless such Resolution Applicant is also a financial creditor.

(6) The resolution professional shall submit the Resolution Plan as approved by the committee of creditors to the Adjudicating Authority.

36. Sub-section (2) of Section 30 casts duty on the Resolution Professional to examine the Resolution Plan received by him to confirm that such Resolution Plan provides for the payment of insolvency resolution process costs, provides for

the repayment of the debts of operational creditors in such manner as may be specified by the Board which shall not be less than the amount to be paid to the operational creditors in the event of a liquidation of the Corporate Debtor under section 53 of the Code, Provides for the management of the affairs of the Corporate Debtor after approval of the Resolution Plan; the implementation and supervision of the Resolution Plan, does not contravene any of the provisions of the law for the time being in force, conforms to such other requirements as may be specified by the Board.

37. Therefore, this Adjudicating Authority has to necessarily examine whether the requirements of sub-section (2) of section 30 have been complied with or not.

38. A perusal of the Resolution Plan approved by the COC which is Annexure A-16 provides for transfer of all the assets of the Corporate Debtor in favour of Resolution Applicant.

39. Upon payment of total consideration as per the Resolution Plan, 100% of the total paid up Share Capital with total voting rights of the Corporate Debtor shall be transferred in favour of the

Resolution Applicant and Resolution Applicant may be discharged from liabilities of all kinds of the Corporate Debtor.

40. The Resolution Plan also provides for taking necessary approvals for waiver of all the costs relating to increase of capital if needed, allotment of Securities, Transfer of Shares and any other costs involved in change or control and shareholding of the Company.

41. The Resolution Plan provides for payment of consideration within a period of three months.

42. The Resolution Applicant shall pay first installment of 10% of total consideration upon approval of the Resolution Plan by the COC, the balance shall be paid within a period of three months as stipulated by the COC and upon the receipt of the approval of the Resolution Plan by the Adjudicating Authority.

43. The Resolution plan also provides for the management of the affairs of the Corporate Debtor after approval of the Resolution Plan.

44. It is stated in the Resolution Plan that the Resolution Applicant is not disqualified U/s 29(A) of the IB Code.

45. The only Operational Creditor that appeared before this Authority gave consent for the approval of the Resolution Plan.

46. In view of the finding that the Resolution Plan is approved by the COC is in accordance with the sub-section 2 of section 30 and the Resolution Applicant is not disqualified u/s.29(a) of the Code, this Authority hereby approve the Resolution Plan Annexure A-16 of the Application IA 103/2018.

47. This Adjudicating Authority hereby declare that the Resolution Plan is binding on the Corporate Debtor, employees of the Corporate Debtor, members of the Corporate Debtor, creditors of the Corporate Debtor, guarantors of the Corporate Debtor and other stakeholders involved in the Resolution Plan.

48. The Resolution Applicant/ Resolution Professional (facilitator) is at liberty to seek the waiver of costs relating to increase of capital, transfer of shares, allotment of Securities from the appropriate Authorities under the Companies Act and as per the provisions of the Companies Act and other statutes, as per approved Resolution Plan.

49. This Adjudicating Authority hereby declare that the moratorium order passed by this Authority u/s 14 shall cease to have effect.

50. The Resolution Professional shall forward all records relating to the CIRP Process and the Resolution Plan to the IIBBC to be recorded at its data base.

51. IA 103/2018 is disposed off accordingly approving the Resolution Plan Annexure A-16 of the Application IA 103/2018.

52. The Resolution Plan provides for its implementation within a given period. Therefore, it is necessary to permit the RP to act as facilitator for implementation of the approved Resolution Plan from this day till the date of implementation of approved Resolution Plan.

53. IA 131/2018 is disposed off accordingly.

24.7.18.

BIKKI RAVEENDRA BABU

MEMBER JUDICIAL