



**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, COURT NO. II  
KOLKATA**

**I.A. (IB) NO. 1121/KB/2024**

**IN**

**C.P. (IB) NO. 74/KB/2020**

***An Application under Section 60(5) of the Insolvency and Bankruptcy  
Code, 2016***

**IN THE MATTER OF:**

**Radico Khaitan Limited**

**...Operational Creditor**

**And**

**Concept Biosciences India Private Limited**

**...Corporate Debtor**

**And**

**IN THE MATTER OF:**

**Concept Biosciences India Private Limited, being represented by Mr.  
Sanjay Kumar Poddar, the Liquidator**

**...Applicant**

**Versus**

**1.Radico Khaitan Limited**

**... Respondent No.1**

**2. Mahima Lifesciences Private Limited**

**... Respondent No. 2**

**Date of Pronouncement of Order: 7<sup>th</sup> January, 2025**



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Coram:

Smt. Bidisha Banerjee, Member (Judicial)

Shri. D. Arvind, Member (Technical)

Appearance:

For the Operational Creditor: Mr. Ayan Dutta, Adv.  
Mr. Sumit Biswas, Adv.  
Mr. R. Bhoumick, Adv.

For the Respondent No.2 : Mr. Himanshu Kitli, Adv.

For the Erstwhile IRP: Mr. Ajay Kumar Agarwal, RP

For the Liquidator : Ms. Nimisha Agarwal, Adv.  
Mr. Deep Gupta, Adv.  
Mr. Sanjay Poddar, CA

**ORDER**

**Per: Bidisha Banerjee, Member (Judicial)**

1. The Court congregated through hybrid mode.
2. The Ld. Counsels of both the parties were heard.
3. The instant application has been filed by Concept Biosciences India Private Limited, being represented by Mr. Sanjay Kumar Poddar, the Liquidator against Radico Khaitan Limited, hereinafter referred to as the 'Respondent No. 1' and Mahima Lifesciences Private Limited, hereinafter referred to as the 'Respondent No. 2' under section 60(5) of the Insolvency and Bankruptcy Code, 2016, for brevity, '**I&B Code**' to seek the following reliefs:

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- i. To release the Liquidator as the SCC Members are unwilling to carry on the process.
- ii. Such further and/ or other orders and/or direction or directions as the Tribunal deems fit and proper.

**Facts Of The Case**

4. An application being C.P.(L.B.) No. 74/KB of 2020 under Section 9 of the Insolvency and Bankruptcy Code, 2016 was filed by Radico Khaitan Limited, the Operational Creditor before this Tribunal against the Corporate Debtor.

5. By an Order dated 01.04.2022 the said application was admitted and Corporate Insolvency Resolution Process was initiated against the Corporate Debtor (now in liquidation). A copy of the said Order of Admission dated 01.04.2022 passed by this Tribunal annexed hereto and marked as **Annexure "A"**.

6. An Order of liquidation dated 14th May, 2024 was passed by this Tribunal under Section 33 of the said Code and Mr. Sanjay Kumar Poddar was appointed as the Liquidator of the Corporate Debtor.

**Submissions of the Ld. Counsel of the Petitioner:**

7. A public announcement of Form B was published on 16.05.2024 in two newspapers namely Aajkal and Business Standard. A copy of the paper



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publication dated 16.05.2024 is annexed hereto and marked as Annexure "C".

8. It is submitted that there are two SCC Members Radico Khaitan Limited and Mahima Lifesciences Private Limited. However, a letter has been received from Respondent No. 2 for withdrawing themselves from the SCC. A copy of the letter is annexed hereto and marked as Annexure "D".

9. Further, an application has been filed by Mahima Lifesciences Private Limited before this Tribunal for withdrawing themselves from the Liquidation process.

10. That the 1st SCC Meeting was duly held on 21.05.2024 wherein only one SCC member Radico Khaitan Limited attended the meeting and expressed their intent to withdraw their application being C.P.(I.B.) NO. 74/KB/2020. A Copy of the minutes of the meeting dated 21.05.2024 is annexed hereto and marked as Annexure "E".

11. It is submitted that the SCC Members do not want to contribute to the unpaid CIRP Costs and Liquidation Costs and stated that they will withdraw themselves from the process.

12. It is further submitted that the liquidator is unable to perform his duties due to the actions of the SCC members. Due to the unavailability of valuation report, transaction audit report and little/no interest of the SCC members in the process the liquidator cannot fulfil the objective of the liquidation process.

13. We have heard the Ld. Counsels of both the parties and perused the documents on record.



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**Analysis and Findings**

14. We find that by an order dated 01.04.2022, an application under section 9 for initiation of the Corporate Insolvency Resolution Process has been admitted against **Concept Biosciences India Private Limited**, the Corporate Debtor.

15. That by an order dated 14<sup>th</sup> May, 2024, liquidation was allowed by this Tribunal under Section 33 of the I&B Code and Mr. Sanjay Kumar Poddar has been appointed as the Liquidator of the Corporate Debtor.

16. We note that there are two SCC Members, Radico Khaitan Limited and Mahima Lifesciences Private Limited, wherein a letter has been received from Mahima Lifesciences for withdrawing themselves from the SCC.

17. We also find that in the 1<sup>st</sup> SCC Meeting which was held on 21.05.2024, it was only Radico Khaitan Limited who attended the meeting and expressed their intent to withdraw the application being C.P (I.B.) NO. 74/KB/2020.

18. At this juncture, we would refer to the relevant provisions of the I&B Code which are stated below:

35.(1).....

*(2) In cases not covered under sub-regulation (1) or where the liquidator is of the opinion that fresh valuation is required under the circumstances, **he shall within seven days] of the liquidation commencement date, appoint two registered valuers to determine the realisable value of***



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***the assets or businesses under clauses (a) to (f) of  
regulation 32 of the corporate debtor:***

Under Regulation 35(2) the registered valuers are to be appointed within 7 days from the Liquidation Commencement Date. However, the SCC members stated that there are no known assets and of unavailability of books of Accounts of the Corporate Debtor for the purpose of valuation. Thus, the valuers were not consented to be appointed during the CIRP Period and further in the Liquidation Process by the SCC.

19. As per Regulation 13 and 34 Preliminary Report and Asset Memorandum is to be prepared by the Liquidator. Due to the unavailability of books of Accounts and the Valuation Reports, the same cannot be prepared.

**13. Preliminary report.**

**The liquidator shall submit a Preliminary Report to the Adjudicating Authority within seventyfive days from the liquidation commencement date, detailing-** (a) the capital structure of the corporate debtor;

(b) the estimates of its assets and liabilities as on the liquidation commencement date based on the books of the corporate debtor:

Provided that if the liquidator has reasons to believe, to be recorded in writing, that the books of the corporate debtor are not reliable, he shall also provide such estimates based on reliable records and data otherwise available to him;



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(c) whether, he intends to make any further inquiry in to any matter relating to the promotion, formation or failure of the corporate debtor or the conduct of the business thereof; and

(d) the proposed plan of action for carrying out the liquidation, including the timeline within which he proposes to carry it out and the estimated liquidation costs.

20. In the aforesaid backdrop, no useful purpose would be served by continuing with the liquidator and therefore we hereby order the release of the liquidator as prayed for in the instant application.

21. The **I.A (IB) NO. 1121/KB/2024** stands **allowed** and **disposed of**.

22. Urgent certified copy of this order, if applied or, be supplied to the parties, subject to compliance with all requisite formalities.

Sd/-

**D. Arvind**  
**Member (Technical)**

Sd/-

**Bidisha Banerjee**  
**Member (Judicial)**

**This Order is signed on this, the 7<sup>th</sup> Day of January, 2025**

Oindrila, K. (LRA)





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