<u>NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH COURT III</u>

102. I.A.(LIQ) 56/2024
I.A.5429/2023
In
C.P. (IB)-386(MB)/2022

CORAM: MS. LAKSHMI GURUNG, MEMBER (J)
SH. ANIL RAJ CHELLAN, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON **16.12.2024**

NAME OF THE PARTIES: PMC YM-Pharma Private Limited

VS

Kevin Ventures LLP.

<u>Appearance</u>

For Applicant /RP : Adv. Animesh Khandelwal a/w. Rashi Gupta

For Respondent : Adv. Haridas G Dave for R-1 & R-2 a/w. Respondent in person

SECTION 9 OF THE IBC, 2016

<u>ORDER</u>

<u>Hearing Through: Virtually and Physical (Hybrid) Mode</u>

<u>I.A.5429/2023</u>

1. This application has been filed under section 19(2) seeking cooperation by the suspended directors.
2. Ld. counsel for the Applicant bring to our notice to the order dated 05.07.2024 wherein time was granted to the Respondents to file reply subject to cost of Rs. 15,000/- by each respondent to be paid to the Bharatkosh.

3. Both the Respondents are physically present in the court and undertake to pay the cost within 4 weeks failing which Respondents have remained to be present in the court.
4. List on **20.01.2025**, high on board.

I.A.(LIQ) 56/2024

1. Heard, Ld. Counsel for the RP. The CoC has proposed the name of Mr. Ananthachari Mahesh as the liquidator of the corporate debtor. However, during the course of the hearing query was put to the counsel if there is any objection to the appointment of liquidator from the list furnished by IBBI and no objection was expressed. The fees would be as recommended by the CoC or as per IBBI (Liquidation Process) Regulations, 2016 whichever is higher.

2. Accordingly, I.A. 56/2024 **is allowed**. Separate detailed order attached.

Sd/-
ANIL RAJ CHELLAN
Member (Technical)

Sd/-
LAKSHMI GURUNG
Member (Judicial)

---Rajeev---

IN THE NATIONAL COMPANY LAW TRIBUNAL,

MUMBAI BENCH COURT-III

I.A. 56/2024

IN

C.P.(IB)386/MB/C-III/2022

Under Section 33 of the Insolvency and Bankruptcy Code, 2016.

Rakesh Kumar Relan	)
Resolution Professional of	)
Kevin Ventures LLP	)
IP Registration No.	)
IBBI/IPA-001/IP-P-02009/2020-21/13119	)
Address: B1/701, Ganga Satellite,	)
Waowarie, Near Kedari Petrol Pump,	)
Pune- 411040	)

Applicant/Resolution Professional

IN THE MATTER OF

M/s. PMC YM-Pharma Private Limited

Operational Creditor

Vs.

M/s. Kevin Ventures LLP

Corporate Debtor

Order delivered on: 16.12.2024

Coram:

Hon'ble Ms. Lakshmi Gurung, Member (Judicial)

Hon'ble Sh. Anil Raj Chellan, Member (Technical)

Appearances:

For the Applicant: Adv. Animesh Khandelwal a/w. Adv. Rashi Gupta

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1. The present Application has been filed under Section 33 of the Insolvency and Bankruptcy Code, 2016 by Mr. Rakesh Kumar Relan, Resolution Professional seeking the following reliefs: -

   a. *Allow the present application;*

   b. *Pass an order for the Liquidation of the Corporate Debtor i.e. M/s. Kevin Ventures LLP in accordance with the provisions of Section 33 of the Code;*

   c. *Pass an order for the appointment of Mr. Ananthachari Mahesh having IBBI Registration no. IBBI/IPA-001/IP-P01723/2019-2020/12673 to act as Liquidator of the Corporate Debtor; or*

   d. *Pass such further orders as this Hon'ble Adjudicating Authority may deem fit in light of the facts and circumstances.*

Brief Facts

2. The Corporate Insolvency Resolution Process ('**CIRP**") in the matter of the M/s. Kevin Ventures LLP ("hereinafter referred to as **"Corporate Debtor'**) was commenced pursuant to the directions of this Adjudicating Authority vide order dated 14.09.2023 wherein inter alia Mr. Rakesh Kumar Relan was appointed to act as the Interim Resolution Professional (**"IRP"**) in the matter of CIRP of the Corporate Debtor.

3. The IRP had been carrying out the functions vested under the provisions of the Code. Accordingly, the IRP filed the report on 07.10.2023 regarding the constitution of committee of creditors (**"CoC"**) and list of creditors as per Regulations 13(2)(d) and Regulation 17 of the IBBI (CIRP) Regulations, 2016. On the basis of receipt of claims, duly verified by the IRP, the status of claims received and admitted till date, is given below:

Sr. No.	Name of the Claimant	Nature of Claim	Date of receipt of claim	Claimed Amount (INR)	Admitted Amount (Provisional)	Amount not Admitted/Rejected (Provisional)
1.	M/s. PMC YM-Pharma Private Limited	Operational Creditor	27.09.2023	480,94,264/-	273,09,675/-	207,84,589/-

4. In view of the aforementioned admitted list of creditors, the Committee of Creditors of the Corporate Debtor was constituted with following creditor (Operational Creditor):-

Operational Creditor	Amount Claimed	Amount Admitted	Voting %
M/s. PMC YM-Pharma Private Limited	4,80,94,264/-	2,73,09,675/-	100%

5. Thereafter the CoC in its 1st meeting held on 14.10.2023 resolved to replace the erstwhile IRP with the Applicant i.e. Mr. Rakesh Kumar Relan in pursuance of which an IA was filed. That the said IA was

allowed and Mr. Rakesh Kumar Relan was appointed as the Resolution Professional (RP) of the Corporate Debtor.

6. The RP *inter alia* placed the agenda and the draft documents in relation to the publication of expression of interest/Form G before the Committee of Creditors in the 3rd meeting of CoC held on 22.12.2023. That the said agenda with respect to issuance of Form G and inviting the resolution plans was accepted by the CoC of the Corporate Debtor with 100% majority.

7. It is submitted that the RFRP/IM and other documents were issued to the Prospective Resolution Applicants and last date for submission of Resolution Plans was 27.01.2024. However, no resolution plans were received from the Prospective Resolution Applicants. It is submitted that due to non-cooperation by the Suspended Management, the Applicant had filed an application under Section 19(2) of the Insolvency and Bankruptcy Code, 2016 (Code) against the Suspended Management for seeking cooperation.

8. That since no plans were received, the Applicant called 6th meeting of CoC held on 04.03.2024 to seek the approval of liquidation of the Corporate Debtor and the said agenda for the approval of the liquidation of the Corporate Debtor was approved by the CoC with 100% majority. The extract of Resolution put for voting is as follows:

> ***"RESOLVED THAT*** *in pursuant to Section 33 (2) of the Insolvency & Bankruptcy Code, 2016 and the rules made thereunder, the consent of members of the CoC be and is hereby accorded to approve the filing of application with Hon'ble NCLT, Mumbai Bench III, for initiation of liquidation of Corporate Debtor and to appoint the existing Resolution Professional, who will give his consent, to act as liquidator of the CD.*

> ***RESOLVED FURTHER THAT*** *the consent of the members of CoC be and is hereby accorded to fix the Liquidator's fees as prescribed under Regulation 4 of the IBBI (Liquidation Process) Regulations.*
>
> ***RESOLVED FURTHER THAT*** *the Resolution Professional be and is hereby authorized to do all such acts, deeds and things as may be required or considered necessary or incidental thereto for initiating liquidation of the Corporate Debtor"*

9. It is submitted that the voting on the Liquidation of the Corporate Debtor was conducted on 08.03.2024. The voting result for approval of liquidation of the Corporate Debtor is as follows:

Sl. No.	**Name of CoC Member**	**Voting %**	**Vote Casted**
1.	M/s. PMC YM-Pharma Private Limited	100%	100%

<u>OBSERVATIONS/ANALYSIS/FINDINGS</u>

10. Heard the learned counsel for the Resolution Professional and perused the records. The CoC has proposed the name of Mr. Ananthachari Mahesh as the Liquidator of the corporate debtor. However, during the course of the hearing query was put to the counsel if there is any objection to the appointment of liquidator from the list furnished by IBBI and no objection was expressed. Under the facts and circumstances of the present case, we deem fit to appoint liquidator from the list provided by IBBI.

11. It is observed from the minutes of the 6th CoC meeting dated 04.03.2024 that the sole CoC has, with 100% majority, passed all the above quoted Resolutions and thus decided to liquidate the Corporate Debtor as there are no Resolution Plans received from any Prospective Resolution Applicants. Under the above facts and circumstances of the present case, we hereby allow this Interlocutory Application No. 56 of 2024 by passing the following:

ORDER

a. The I.A. 56 of 2024 is **allowed** and order is passed for **liquidation of the Corporate Debtor M/s. Kevin Ventures LLP** from the date of uploading of this order.

b. **Mr. Hasti Mal Kachhara**, having Registration No. IBBI/IPA-002/IP-N00342/2017-2018/10992, email- hastimal.kachhara@gmail.com is hereby appointed as the Liquidator of the Corporate Debtor.

c. The fees would be as recommended by the CoC or as the per IBBI (Liquidation Process) Regulations, 2016 whichever is higher.

d. The Liquidator appointed in this case shall take course for liquidation process as envisaged under Chapter-III of the Code by following the liquidation process given in the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016 and issue Public Notice stating that the Corporate Debtor is in liquidation.

e. All powers of the board of directors and key managerial personnel of the Corporate Debtor shall cease to have effect and shall be vested with the Liquidator.

f. That the Corporate Debtor to be liquidated in the manner as laid down under the Code and the Regulations thereunder.

g. Liquidator to send this order to the ROC under which this Company has been registered.

h. That 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.

i. On having liquidation process initiated, the moratorium under section 14 of the Code shall cease to have effect and a fresh moratorium shall commence under Section 33(5) of the Insolvency and Bankruptcy Code. Accordingly, 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 proceedings on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority.

j. That on having liquidation process initiated, 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.

k. Liquidator is also directed to consider the Transaction Audit Report, Valuation Report and other relevant documents and if deemed fit to initiate appropriate action against suspended directors.

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.

With the above directions, this application i.e. I.A. No. 56 of 2024 is hereby **allowed and stands disposed of.**

Sd/-	Sd/-
ANIL RAJ CHELLAN Member (Technical)	LAKSHMI GURUNG Member (Judicial)

---Rajeev, PS---