



IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH : C-IV

IA-921/2019 in CP(IB)-197/MB/2018

Under Section 60(5) of the IBC, 2016

In the matter of

Mehul Parekh & Sandip Parekh

...Applicants

v/s.

Amit Gupta

...Respondent/

Res. Professional

In the matter of

ICICI Bank

...Financial Creditor

v/s.

Unimark Remedies Ltd.

...Corporate Debtor

Order Pronounced on: **17.04.2023**

Coram:

Mr. Prabhat Kumar

Hon'ble Member (Technical)

Mr. Kishore Vemulapalli

Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Applicant: Mr. Sahil Mahajan, Advocate.

For the Respondent: Ms. Pooja Mahajan a/w Ms. Mahima Singh, Ms. Arveena Sharma & Mr. Jineshkumar Gandhi i/b Arihant Associates, Advocates. Mr. Amit Gupta, RP present in person.



ORDER

Per: Kishore Vemulapalli, Member (Judicial)

1. This is an application filed by Mr. Mehul Parekh and Mr. Sandip Parekh (promoters of the Corporate Debtor) seeking intervention of this Bench on the valuation of the Corporate Debtor alleging it to have been determined at lower value. The applicants have submitted that if the relief prayed in the application is not granted, the creditors and employees of the Corporate Debtor will suffer irreparable harm.
2. The applicants have also stated certain facts that demonstrating how the value of Corporate Debtor is determined lower.
3. We have perused the Application and heard the Counsel. At the outset, we feel that Applicants have no locus to file this application which is indirectly intended to oppose the CoC approved resolution plan pending before us in MA-23/2019.
4. We further note that Hon'ble NCLAT in Appeal No. 418/2020 declined to interfere with the order dated 20.01.2020 passed by Court-5 of Mumbai Bench of NCLT whereby fresh decision for fresh valuation, limited to intangible assets was challenged. The Hon'ble NCLAT held that *"as no party has a right to say whether the Adjudicating Authority should go for further valuation before approval of the plan or not and it is open to the Adjudicating Authority to satisfy itself of the plan approved by the Committee of Creditors, to ascertain whether to approve the plan under Section 31 of the I&B Code or not. As the matter is pending since long, we hope that the Adjudicating Authority*



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(NCLT), Mumbai Bench will pass appropriate order under Section 31 in the application taking into consideration the valuation and the plan as approved by the Committee of Creditors”.

5. Further an order dated 19.11.2020 was passed by the Bench in IA-1141/2020, which was an application of Corporation Bank holding about 7% of shares. Vide this order, the order dated 20.01.2020 was reaffirmed by this Bench. We note that this order was again challenged in Appeal No. 1120/2020 before NCLAT and it held vide its order dated 23 December 2020 that -

“It appears to us that it was not appropriate to keep shuttling the matter on an issue on which the Resolution Professional has acted after the Orders were passed by the third Hon’ble Member. The Corporation Bank had objections with regard to the valuation done earlier and thereafter another Valuer has been appointed and it appears that Report has been filed. Still Appellant is objecting. When such developments have taken place, on technical issues, we do not intend to interfere with the Impugned Order.”

6. In view of the above decision of Hon’ble NCLAT upholding valuation of intangible only and declining to interfere any further in the interest of Corporate Debtor, the present application is hereby **dismissed**.

Sd/-

PRABHAT KUMAR
MEMBER (TECHNICAL)

Sd/-

KISHORE VEMULAPALLI
MEMBER (JUDICIAL)