



**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH**

IA (IBC)(Liq.)/6/KOB/2024

IN

CP(IBC)/29/KOB/2022

(Under Section 33 of IBC)

In the matter of Vysali Pharmaceuticals Limited

MEMO OF PARTIES:

KIZHAKKEKARA KURIAKOSE JOSE

Resolution Professional, Vysali Pharmaceuticals Limited, K K Jose & Associates, Yenvee Complex, Temple Road, Aluva-683101

(IP Reg No. IBBI/1PA/IP-001/IP01310/2018-2019/12220)

... Applicant

Order delivered on: 03.12.2024

Coram:

Hon'ble Member (Judicial) : Shri. Jyoti Kumar Tripathi

Hon'ble Member (Technical) : Shri. Ravichandran Ramasamy

Appearances:

For the Applicant : Mr. Vinod PV, Advocate
Mr. K K Jose (RP in person)

ORDER

Per Coram

1. The present application is filed by Mr. Kizhakkekara Kuriakose Jose, Resolution Professional (hereinafter referred to as "RP") of Vysali Pharmaceuticals Limited (hereinafter referred to as "Corporate Debtor") under Section 33 of the Insolvency and



Bankruptcy Code, 2016 for passing an order on liquidation of the Corporate Debtor.

2. The facts as narrated in the application and explained by the Learned counsel for the applicant/RP summarised hereunder:

i. CD was admitted to CIRP vide order dated 13.10.2023 on an application by Kerala State Industrial Development Corporation Ltd(KSIDC), the FC under section 7 and thereafter applicant was appointed RP in the first meeting of COC. The COC was constituted with single creditor which is KSIDC. The CD has received claims totalling to Rs. 96,22,98,731 wherein Rs. 94,43,37,286.45 is admitted by RP. It is stated that first EOI on 01.02.2024 for resolution plan failed. Subsequently CIRP was extended vide order dated 18.04.2024 for 90 days. The second EOI was invited with revised eligibility criteria excluding pharma experience. Due to lapse of CIRP, further extension was sought for 60 days till 07.09.2024 was granted by this Tribunal making total CIRP to 330 days. The plan submitted by the only PRA from second EOI was discussed in COC but was not found feasible. Hence 12th COC dated 06.09.2024 resolved to liquidate the CD. This application was filed on 09.09.2024

ii. It is stated that in the tail end of CIRP, a proposal from a shareholder, Mr. MP George was received who is a retired drug controller and CEO of BAL Pharma Ltd, Bangalore. The COC in its 12th meeting hence resolved to explore the possibility of sale



of CD as going concern as under regulation 39C and 32(e) of IBBI(Liquidation) regulation 2016.

- iii. It is stated that the RP has given his consent to be appointed as liquidator and the COC has agreed to the same.
 - iv. The estimated cost of Liquidation is stated as Rs. 1,44,11,396 and the fees of the Liquidator is stated as Rs.37,52,248.
 - v. There is no mention of the value of liquid assets in CD available to meet liquidation costs or any plan for contribution to liquidation cost.
 - vi. The details of pending cases, the liquidation value and fair value and whether the business of CD will be discontinued after liquidation order of NCLT is not stated in the application.
 - vii. The delay in filing the liquidation application after expiry of CIRP was condoned by this bench on 24.09.2024.
3. Section 33(1)(a) of the Insolvency and Bankruptcy Code, 2016 mandates that the Adjudicating Authority shall pass an order of liquidation where no valid resolution plan is received before the expiry of the CIRP. Sub-section (2) thereof requires the Adjudicating Authority to pass the liquidation order where the Resolution Professional intimates to the Adjudicating Authority the decision of the Committee of Creditors approved by not less than 66% of the voting share to liquidate the Corporate Debtor. Moreover, the Hon'ble Supreme Court in the matter of **K. Sashidhar Versus Indian Overseas Bank & Ors in Civil Appeal**



No. 10673 of 2018 has held that the commercial decision of CoC is non-justifiable. In this case, it is seen that CoC with a 100% majority has passed the resolution seeking liquidation of the Corporate Debtor.

4. We have heard the Learned Counsel for the applicant and perused the materials available on record. On 06.09.2024, the 12th meeting of the CoC in its commercial wisdom has decided unanimously to liquidate the Corporate Debtor under Section 33(2) of the IBC, 2016 along with a proposal to explore sale of CD as going concern under regulation 32(e) of IBBI(Liquidation) regulation 2016. Considering the above, we are of the opinion that the decision of the CoC should not be interfered with.
5. In the result, **Vysali Pharmaceuticals Limited**, Corporate Debtor is ordered to be **liquidated**.
6. As per IBBI vide its circular number Liq-12011/214/2023-IBBI/840 dated 18/07/2023 in the exercise of its powers conferred under section 34 (4) (b) of the Code, had recommended that an IP other than the RP/IRP may be appointed as liquidator in all the cases where liquidator (read liquidation) order is passed henceforth. However, we are of the view that since the CoC passed the resolution to appoint the present RP/Applicant Mr. Kizhakkekara Kuriakose Jose, to act as liquidator of the CD during the liquidation process, it may be in the best interest of the CD to continue with the present RP as the liquidator. Hence, we hereby appoint **Mr. Kizhakkekara Kuriakose Jose**, having his office at



KK Jose & Associates, Yenvee Complex , Temple Road ,Aluva ,Kerala ,683101, IBBI Reg: **IBBI/IPA-001/IP-P00445/2017-2018/10788**, email id: **kkjoseca@gmail.com**, as the **Liquidator** of the Corporate Debtor, **Vysali Pharmaceuticals Limited**. The Liquidator is directed to submit his consent to act as Liquidator, if not already given, within 10 days of receipt of this order.

7. The Resolution Professional shall hand over the relevant documents and control of the Corporate Debtor to the liquidator appointed forthwith, except in case where RP continues as the liquidator.
8. The Liquidator is directed to forthwith take into his custody all the assets, properties, and actionable claims of the corporate debtor and take necessary steps to ensure the preservation, protection security and maintenance of those properties as provided under section 35(1)(b) & (d) of IBC 2016.
9. The Liquidator is directed to adhere to Section 33(1) (ii) & (iii) and discharge his powers and duties as specified under Section 35 to 41 of IBC, 2016 and meticulously adhere to the Rules and Regulations issued by IBBI in this regard from time to time.
10. Public Notice as contemplated under section 33(1) of the Code shall be issued in one morning, English daily and in one-morning regional language newspapers.
11. All the powers of the Board of Directors of the Corporate Debtor and of its key managerial personnel, shall cease to exist in



accordance with Section 34 (2) of the Code. These powers shall henceforth vest in the Liquidator. The personnel of the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as may be required by him in the Liquidation process of the Corporate Debtor.

12. 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 a 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.
13. 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.
14. In terms of Section 33(1) (b) (iii), the Liquidator shall file a copy of this Order with the Registrar of Companies, Kerala, within whose jurisdiction the Corporate Debtor is registered.
15. The fee of the Liquidator is to be determined as provided under Regulation 4 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation 2016.



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16. As per Regulation 13 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation, 2016, the liquidator shall submit a preliminary report to the Adjudicating Authority within 75 days from the liquidation commencement date providing various details/information as mentioned in the said regulation.
17. The Registry is directed to send e-mail copies of the order to the party and their learned counsel for information and to take necessary steps.
18. A Certified Copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

Sd /-

RAVICHANDRAN RAMASAMY
(MEMBER TECHNICAL)

Sd /-

JYOTI KUMAR TRIPATHI
(MEMBER JUDICIAL)

Signed on this the 3rd day of December, 2024.

Rohit.