

Note on the CIRP of Sharon Bio-Medicine Limited

Company Petition bearing C.P. No. 246/I&BP/NCLT/MAH/2017 (“Company Petition”) filed by Peter Beck und Partner Vermoegensverwaltung Ltd. and M/s. Culross Opportunities under Section 7 of the Insolvency and Bankruptcy Code, 2016 (“Code”), against Sharon Bio Medicine Limited (“Corporate Debtor”), was admitted by the Hon’ble National Company Law Tribunal, Mumbai (“Hon’ble Tribunal”) on 11.04.2017 and the Corporate Insolvency Resolution Process (“CIR Process”) for the Corporate Debtor was initiated. Vide order dated 25.04.2017, the Hon’ble NCLT appointed the Mr. Dinkar T. Venkatasubramanian as the Interim Resolution Professional for the Corporate Debtor and later confirmed as Resolution Professional (“RP”) by the members of the Committee of Creditors (“CoC”) on 22.05.2017.

After following the due process of law as prescribed under the IBC, the resolution plan (“Resolution Plan”) submitted by Peter Beck und Partner Vermoegensverwaltung Ltd. (“Resolution Applicant”) for the Corporate Debtor was approved by members of the CoC and later approved by the Hon’ble Tribunal on 28.02.2018 (“Plan Approval Order”).

The Plan Approval Order was challenged by the Promoters before the National Company Law Appellate Tribunal (“NCLAT”) and the Supreme Court. The challenge was ultimately dismissed by the NCLAT on 19.12.2018 and by the Hon’ble Supreme Court on 05.04.2019.

However, the Resolution Applicant had not implemented the Resolution Plan for the Corporate Debtor and had contravened the terms of the approved Resolution Plan approved by the Hon’ble Tribunal.

Since, the resolution applicant had not implemented the resolution plan, SBI on behalf of financial creditors (“Lenders”) filed an appeal before NCLT on 06.12.2019 sought directions for re-initiation of CIRP in order to invite fresh bids from prospective resolution applicants. Pursuant to the application, the resolution applicant indicated his willingness to implement the resolution plan. Hence, the lenders in September 2020 agreed to give a final opportunity to the resolution applicant for implementation of the resolution plan by 07.11.2020.

As part of the terms of the approved resolution plan, the company completed the capital reduction process on 04.11.2020. However, the resolution applicant yet again failed to implement the resolution plan.

The NCLT vide its order dated 02.02.2021 directed the resolution applicant to infuse funds within 2 weeks, directed the lenders to provide bank details for infusion of funds and waived off the requirement of submission of bank guarantee as stipulated in the resolution plan.

On 18.02.2021 the SBI on behalf of financial creditors filed an appeal before NCLAT against the NCLT order dated 02.02.2021. The NCLAT vide its order dated 05.01.2022 directed the resolution applicant to submit the bank guarantee as stipulated in the resolution plan within 30 days and implement the resolution plan within 2 months. However, the resolution applicant did not abide by the directions of the NCLAT and failed to provide the bank guarantee within 30 days from the date of the order passed by the NCLAT.

On account of the failure by the resolution applicant, SBI, on behalf of the Lenders, filed an application before NCLT on 08.02.2022 seeking directions for liquidation of the company as going concern and appointment of liquidator.

The resolution applicant, instead of implementing the resolution plan, filed an appeal before Hon’ble Supreme Court on 02.02.2022 seeking modification of the NCLAT order dated 05.01.2022. During the hearing held before Hon’ble Supreme Court on 28.02.2022, the Id. counsel of resolution applicant on instructions submitted that it would not be possible for him to comply with the NCLAT order dated 05.01.2022.

The Hon’ble Supreme Court vide its order dated 28.02.2022 in Civil Appeal No. 1305-1306 of 2022 has, *inter alia*, dismissed the appeal and given liberty for initiation of fresh Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor and take all consequential actions in furtherance thereof, in accordance with law.

In light of the direction passed by Hon’ble Supreme Court, State Bank of India filed an application bearing IA No. 1062/2022 and an additional affidavit (“Lender’s Application”) on behalf of all the Lenders of Corporate Debtor for granting 105 days for inviting EOI; inviting resolution plans from interested prospective resolution applicants; appointment of undersigned i.e. Mr. Pulkit Gupta (IBBI IP Registration No. IBBI/IPA-001/IP-P-

02364/2021- 2022/13697) as the Resolution Professional and to take all necessary actions for completion of resolution process of the Corporate Debtor.

The Hon'ble NCLT, Mumbai Bench -1 vide order dated 3rd June 2022 allowed the aforesaid lender's application and appointed undersigned as the Interim Resolution Professional. The Hon'ble NCLT, Mumbai Bench 1 also permitted the withdrawal of the liquidation application that had been filed on 8.2.2022.

This intimation regarding re-initiation of CIRP and appointment of IRP in respect of Sharon Bio-Medicine Limited is being issued for your information and record.

Please note that the undersigned will be considering the claims submitted by all the creditors and admitted by the erstwhile Resolution Professional during the former CIRP of corporate debtor initiated vide order dated 11.04.2017.

In case of any query or clarification, please contact ip.sbml@in.ey.com

Thanking you

Mr. Pulkit Gupta

Interim Resolution Professional

IP Registration No: IBBI/IPA-001/IP-P-02364/2021-2022/13697

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