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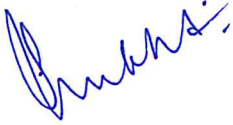
**NATIONAL COMPANY LAW TRIBUNAL  
BENGALURU BENCH  
COURT NO.1**

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,  
BENGALURU BENCH, BENGALURU, HELD ON 27.02.2020

**PRIORITY CAUSE LIST – 1**

PRESENT: 1. Hon'ble Member (J), Shri Rajeswara Rao Vittanala  
2. Hon'ble Member (T), Shri Ashutosh Chandra

CP/CA No.	Purpose	Sec	Name of Petitioner	Petitioner Advocate	Name of Respondent	Respondent Advocate
CP(IB)No. 171/BB/2018	For hearing - IA 38/2020	Sec 10 of I&B code 2016	M/s Cryo-Save (India) Pvt Ltd	M S Viswanatha n, K S Vadivelu Advocate		S A Associates R7, MGC & Co., for R-10



SHUBHARANJANI ANANTH  
COUNSEL FOR APPLICANT.

ADVOCATE FOR PETITIONER/s:

ADVOCATE FOR RESPONDENT/s:

**ORDER**

Heard Ms. Shubharanjani Ananth, learned counsel for Resolution Professional.

I.A No.38/2020 is disposed of by separate order.

Post the C.P for report of the Liquidator on **15.04.2020**



**MEMBER (T)**



**MEMBER (J)**

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

I.A. No.38 of 2020 in  
C.P. (IB) No.171/BB/2018  
U/s 33(1) & (2) of IBC, 2016

**In the matter of:**

**Ms. Subramaniam Aneetha,**  
*Resolution Professional of*  
*M/s. Cryo-Save (India) Pvt Ltd*  
*A2 Sarada Apartments,*  
*17/6, Sringeri Mutt Road,*  
*R.A. Puram, Mandaveli,*  
*Chennai-600 028.*

- Applicant /RP

**Date of Order: 27<sup>th</sup> February, 2020**

**Coram:** 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)  
2. Hon'ble Shri Ashutosh Chandra, Member (Technical)

**Parties/Counsels Present:**

For the Applicant/RP : Ms. Shubharanjani Ananth

For Financial Creditor : ---

**ORDER**

**Per:** Rajeswara Rao Vittanala, Member (J)

1. I.A. No. 38 of 2020 in C.P. (IB) No.171/BB/2018 is filed by Ms. Subramaniam Aneetha, Resolution Professional of M/s. *Cryo-Save (India) Pvt Ltd.* (hereinafter referred to as 'Applicant/Resolution Professional') under Section 33(1) & (2) of the I&B Code, 2016 by inter alia seeking to pass an Order of Liquidation of the Corporate Debtor M/s. Cryo-Save India Pvt Ltd., and appointing the RP to continue as Liquidator.
2. Briefs facts of the case, as mentioned in Application, are as follows:



- (a) The Corporate Debtor (CIN No. U85100KA2008PTC060530) is in the business of stem cells banking secured from the umbilical cord blood from the new born babies at the time of child birth. The stem cell banking includes collection of blood samples, transportation, processing and Cryo-preservation. The preserved stem cells shall be used for treatment of any blood related disorder/diseases. The Corporate Debtor appears to have operated with 8 branches in the major cities of India and through its franchisees models in the additional 45 locations in the country. The business activities of the Corporate Debtor was pursuant to Licence issued by the Drug Controller General of India under Ministry of Health and Welfare. Also, the Laboratory of the Corporate Debtor was accredited for its activities by National Accreditation Board for Testing and Calibration.
- (b) It is submitted that the Corporate Debtor had been processing the Blood Samples with unique International processing protocol without any chemicals in an automated process. It ensures non contamination of blood samples from the environment (Air & Water). The Corporate Debtor had one of the world class laboratory in around 10,000 Sq. ft at Bangalore and was rated as one among the top six operators in this business segment. It is stated owing to inability of the Corporate Debtor to collect its receivables to the tune of Rs.4.98 Crores as against liability of Rs.8.63 Crores, the Corporate Debtor admitting to a default has filed Petition under Section 10 of the Code. By an order dated 9<sup>th</sup> August 2019, the Adjudicating Authority was pleased to place the Corporate Debtor under Corporate Insolvency Resolution Process (CIRP) and had appointed the Applicant as the Interim Resolution Professional (IRP). The IRP assumed charge on 19<sup>th</sup> August 2019 and was confirmed as the





Resolution Professional in the 1<sup>st</sup> meeting of the Committee of Creditors held on 18.09.2019.

- (c) It is stated that in the 2<sup>nd</sup> Meeting of the Committee of Creditors held on 16<sup>th</sup> November 2019. The Resolution Professional confirmed to the Committee of Creditors that the Information Memorandum was ready. However, there was no prospects of reviving the Corporate Debtor in the absence of any Fixed Assets and /or Employees. The Resolution Professional further informed the Committee of Creditors that a sum of Rs.4.98 Cores was due and payable by various persons to the Corporate Debtor as per the books of the Corporate Debtor. In these circumstances, the two Financial Creditors being:

Sl.No	Name of the Financial Creditor	Amount Claimed (Rs.)	Voting Share (%)
1.	IDFC First Bank Ltd	67,30,095.38	65%
2.	DEUTSCHE Bank	36,22,631.68	35%
<b>Total</b>		<b>1,03,52,727.06</b>	<b>100%</b>

Unanimously resolved and consented to liquidate the Corporate Debtor and instructed the Resolution Professional to approach this Hon'ble Adjudicating Authority by way of the Present Application.

- (d) It is stated that the Applicant had tendered in the said 2<sup>nd</sup> meeting of Committee of Creditors as estimation of the expenditure to be incurred in connection with the Liquidation of the Corporate Debtor. Accordingly, it is hereby declared that a sum of rs.27.25 Lakhs is the estimated Expenditure that may be incurred in connection with the Liquidation of the Corporate Debtor and such declaration is being made pursuant to Section



33B of the Insolvency and Bankruptcy Code of India (Liquidation Process) Regulations, 2016 (as amended).

(e) It is stated that, in the 2<sup>nd</sup> meeting of Committee of Creditors, the Applicant has also consented to act as the Liquidator and the Committee of Creditors as approved the Professional Fee payable to her for this purpose. In the 2<sup>nd</sup> Meeting of the Committee of Creditors dated 16.11.2019 the Form of Consent tendered by the Resolution Professional to act as Liquidator is enclosed. That the Resolution Professional/Liquidator undertakes to explore the possibility of Corporate Debtor as a going concern as per Section 33C of the Insolvency & Bankruptcy Code of India (Liquidation Process) Regulations, 2016 (as amended).

3. Heard Ms. Shubharanjani Ananth, learned counsel for Resolution Professional. We have carefully perused the pleadings of the party and extant provisions of the Companies Act, 2013 and the Rules made thereunder and the Law on the issue.

4. Ms. Shubharanjani Ananth, learned Counsel for the Resolution Professional, while reiterating contentions made in the Application, further filed a memo dated 25.02.2020 by *inter alia* stating that the Resolution Professional before the commencement of CIRP, submits that before the commencement of CIRP Corporate Debtor has already waived/written-off a sum of Rs.57,36,582/- and the same had been ascertained from the books of the Corporate Debtor. The COC in its 2<sup>nd</sup> Meeting held on 16.11.2019 had considered the pros and cons of the Liquidation before filing the Application. Thus filed this instant I.A on the ground that the receivables are stated to be Rs.1,46,92,689/- from several people are likely to be realized. Therefore, the learned Counsel urged this Tribunal let to the process



of the Liquidation be ordered rather to proceed with CIRP so as to remain as going concern.


5. During 2nd COC held on 16.11.2019, it is mentioned that the IDFC First Bank Ltd claimed Rs.67,30,095.38/- and DEUTSCHE Bank claimed Rs.36,22,631.68/- totalling Rs.1,03,52,727.06/-. Therefore, the COC during this meeting, it was informed by the Resolution Professional that the collection made by the individual customers roughly amounting to Rs.4.98 Crores. It is verified with the contracts and books of account of the Corporate Debtor. It is also stated there was no prospects of reviving the Company as there is no fixed assets and/or employees in the Company. It is not in dispute the instant Company Petition is filed in accordance with law and the Resolution Professional namely Ms. Subramaniam Aneetha, has consented to act as Liquidator, who has filed consent FORM-AA. Therefore, instead of availing maximum time as available under the provision of Code, it would be just and proper to direct the Liquidator to conclude liquidation process in question, as expeditiously as possible but not later than six months from the date of this order.
6. For the aforesaid reasons and circumstances, we are of the considered opinion that the instant Application deserves to be disposed of with necessary directions.
7. In the result, I.A. No.38 of 2020 in C.P. (IB) No.171/BB/2018 is hereby disposed of with the following directions:
  - 1) We hereby ordered that *M/s. Cryo-Save (India) Pvt Ltd*, the Corporate Debtor, to be liquidated in the manner as laid down in Chapter III (Liquidation Process) of Part II of the Code.
  - 2) We hereby appointed Ms. Subramaniam Aneetha, the existing Resolution Professional as Liquidator, subject to the terms and conditions to be agreed upon by the parties in the light of the



extant provisions of the Code and rules made thereunder under by IBBI.

- 3) We hereby directed the Liquidator to issue immediate public announcement by stating that the Corporate Debtor is in liquidation and to try to conclude liquidation process in question, as expeditiously as possible as but not later than six months from the date of this order.
- 4) The Registry is directed to communicate this order to the Registrar of Companies, Karnataka for information and necessary action.
- 5) The liquidator is directed to strictly adhere to the extant provisions of the Code and the Rules made there under framed by IBBI from time to time and also directed to take expeditious steps to complete the liquidation process in the light of various orders.

  
**(ASHUTOSH CHANDRA)**  
**MEMBER, TECHNICAL**

  
**(RAJESWARA RAO VITTANALA)**  
**MEMBER, JUDICIAL**

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