

**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 31.01.2020

**CAUSE LIST - 2**

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 |
|-----------------------|------------------------------|--------------------------|---------------------------|---------------------------------------|--------------------------------|---------------------|
| CP258/16,<br>TP108/17 | For hearing on<br>IA 09/2020 | Sec 433<br>of CA<br>1956 | Encarta Pharma<br>Pvt Ltd | Rama-<br>chandra D<br>Chrudhaw<br>IRP | Vikram<br>Hospitals<br>Pvt.Ltd | Madhusudha<br>n T.  |

ADVOCATE FOR PETITIONER/s:

Anil Kumar. H  
Admitati

9886098898

CA JIGAR SHAH  
(on behalf of RP)

9898150677

ADVOCATE FOR RESPONDENT/s:

ABHISHEK PATIL

9916417509

ABHAY J SIMHA

7829736067

Ashtil

Abhay

## ORDER

1. I.A. No.09 of 2020 in C.P. No. 258 of 2016 (T.P No. 108 of 2017) is filed by Mr. Ramachandra D. Choudhary Resolution Professional (hereinafter referred to as 'Applicant/Resolution Professional') under Section 33(1), 33(2) and 34 (1) of the I & B Code, 2016, by inter alia seeking to pass an order to place the Company under Liquidation process in accordance with the provision of the Code.
2. Heard Shri Anil Kumar.H, Learned Counsel for the Petitioner. Shri Jigar Shah, Chartered Accountant on behalf of the RP and Mr. Abhishek Patil Learned Counsel for the Respondents. We have carefully perused the pleadings of the parties and extant provisions of the Code and the Rules made thereunder.
3. The Learned Counsel for the Petitioner submits that even though the Resolution plan dated 21.09.2019 was received from Mr. Balaji Singh in respect of the Corporate Debtor for reviving the Company, the CoC was not able to take a final decision on it issue due to delay in paying the EMD amount of Rs. 26,00,000/- (Rupees Twenty Six Lakhs only) in time. Though it was paid subsequently, the statutory period of the CIRP was already over on 5.10.2019. Therefore there is no other alternative for the CoC to consider the Resolution Plan and thus the instant application is filed seeking to put the Company under liquidation as per the provisions of Code.
4. It is not in dispute that the object of the code and the responsibility of the Adjudicating Authority is to see that the Corporate Debtor should be a going concern by all means, by exercising powers and its maximisation of value of its assets. In case, all the efforts fails, thereafter only the Adjudicating Authority can place the Corporate Debtor under the process of liquidation. Admittedly the Respondent No.1, Vikram Hospital Private Limited is a reputed hospital established in the year 2000 in Mysore and serving the majority of people. Unfortunately, due to some financial difficulties faced by the Corporate Debtor, the Corporate Debtor



has gone into CIRP. Therefore the primary object of the Adjudicating Authority is to see that the Respondent No.1, the Vikram Hospital Private Limited is to be restored by exercising discretion by condoning the delay/extending/excluding the time prescribed under the provisions of the Code as to facilitate the COC to conduct another meeting to consider the resolution plan etc. Therefore we are of the opinion that in order to fulfil the object of the code, we would like to direct the RP to convene another COC meeting to consider the Resolution plan dated 21.09.2019 submitted by Mr. Balaji Singh, as per the parameters as prescribed under the provisions of the Codes and Rules thereunder.

5. Therefore, we here direct the Applicant/RP to convene another COC meeting within the period of 2 (two) weeks from today and consider the said Resolution Plan dispassionately by keeping in view the object of the Code so as to revive the operations of Hospital rather than to put it under Liquidation. Mr. Vikram, the Promoter of the Respondent No.1, who is present to day is also directed to extend full co-operation to operate with the RP along with Balaji Singh, Resolution Applicant and the Resolution Professional is directed to involve both in the process of taking decision on the Resolution Plan.
6. Post the case on **20.02.2020**.

**MEMBER (T)****MEMBER (J)**