

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH, HYDERABAD**

CP (IB) No. 81/7/HDB/2017

U/s 7 of IBC 2016

R/w rule 4 of I&B

(Application to Adjudicating Authority) Rules, 2016

**In the Matter of**

1. Mr. Gondimalla Madhu Mohan  
H.No. 1-8-702/4, Flat No. 101 & 103  
Vijetha Madhuram, Near Shankar Mutt,  
Nallakunta, Hyderabad 500044.
2. Mrs. Kolanu Jaya Reddy  
H.No. 16-11/20/7/D/1,  
Flat No. 401, BMP Srushti Apartments  
Saleem Nagar Colony, Malakpet,  
Hyderabad 500044.
3. Mr. K. Subba Reddy  
H.No. 2-2-20/20 Flat No: 303,  
DD Colony, Bagh Amberpet,  
Hyderabad-500013.
4. Mr. Pabba Amarnath  
H.No.3-5-684, Narayanguda,  
Hyderabad.

CERTIFIED TO BE TRUE COPY  
OF THE ORIGINAL



...Applicants/Financial Creditors

**VERSUS**

Aayusiddhi Life Sciences Private Limited  
(CIN: U24231TG2006PTC050135)  
Flat No: 502, 3-5-704,  
Sarodaya Enclave  
Himayathnagar Hyderabad 500029.

...Respondent/Corporate Debtor

Date of order: 8.9.2017

**CORAM**

Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)

Hon'ble Shri Ravikumar Duraisamy, Member (Technical)

**Parties Present**

Counsels for Applicants/ Financial Creditors: Shri A Nagraj Kumar, Adv.

Counsel for Corporate Debtor/Respondent: Shri Y. Suryanarayana, Adv.



**Per: Ravikumar Duraisamy, Member (Technical)**

**ORDER**

1. The present Company petition bearing CP No. 81/7/HDB/2017 was filed under Section 7 of Insolvency and Bankruptcy Code 2016 read with Rule 4 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 to initiate Corporate Insolvency Resolution Process against Aayusiddhi Life Sciences Private Limited.
2. Four individuals have filed a Joint Application claiming as Financial Creditors to initiate CIRP against Corporate Debtor namely Aayusiddhi Life Sciences Private Limited.
3. The above referred Application was filed on 16<sup>th</sup> May 2017, and registry of NCLT vide letter dated 25<sup>th</sup> May 2017, requested the Applicants to comply with certain defects within 7 days of date of letter.

4. The case was first listed before Adjudicating Authority on 15<sup>th</sup> June 2017. The counsel requested some more time to submit requested documents/clarify the legal position and maintainability of case. Petitioner was also directed to take personal notice to Corporate Debtor and submit proof of service and case was posted to 21.06.2017. The case was further posted on 28.06.2017, 30.06.2017, 04.07.2017, 06.07.2017, 24.07.2017 (the Petitioner wanted to file Rejoinder and Requested time to file the same) and case was again posted on 28.07.2017, 02.08.2017, 04.08.2017, and 08.08.2017.

5. Brief facts of the present Company Petition are stated here under:

- (i) Mr. Gondimalla Madhu Mohan is First Financial Creditor/Applicant No.1 in present Petition who was one of the Directors of the Aayusiddhi Life Sciences Private Limited Claiming an amount due of Rs 2,10,28,045/- from the Respondent Company i.e. from Aayusiddhi Life Sciences Private Limited as on 31.03.2015, and a letter for repayment of loan dated:08.08.2016 is sent through registered post to Corporate Debtor.
- (ii) Mrs. Kolanu Jaya Reddy is Second Financial Creditor/Applicant No.2 in present Petition claiming an amount due of Rs.15,80,000/- from the Respondent Company i.e. Aayusiddhi Life Sciences Private Limited and a letter for repayment of loan dated: 08.08.2016 is sent through registered post to Corporate Debtor.
- (iii) Mr. K. Subba Reddy is Third Financial Creditor/Applicant No. 3 in present Petition claiming an amount due of Rs. 11,00,000/- from Respondent Company i.e. Aayusiddhi Life Sciences Private Limited and a letter for repayment of loan dated: 21.01.2016 is sent through registered post to Corporate Debtor.





(iv) Mr. Pabba Amarnath, Fourth Financial Creditor/Applicant No. 4 in present Petition claiming an amount due of Rs. 2,50,000/- from Respondent Company i.e. Aayusiddhi Life Sciences Private Limited and a letter for repayment of loan dated: 10.02.2016 is sent through registered post to Corporate Debtor.

6. The Financial Creditors also recommended Mr. Ahalada Rao Vummenthala as Insolvency Resolution Professional (IRP).

7. Managing Director of the Respondent Company in his Affidavit dated 04.07.2017 opposed the admission of Application as Stated below:

(i) That the instant Application filed by Mr. G. Madhu Mohan and other Applicants is liable to be dismissed at the threshold since the said application is not only incomplete but for the reasons that the Applicants have approached this Hon'ble Tribunal with unclean hands by supressing various material facts and thereby to mislead this Hon'ble Tribunal and obtain orders to suit their malafide intentions.



(ii) The Applicant No.1 is a practicing tax consultant and Shri. K. Sailendra (Managing Director of Respondent Company, here in referred as K.S/MD) was his client during the period, 2010-2014. Applicant No.1 and K.S enjoyed very healthy and cordial relationship as he was advising K.S on his financial matters, K.S developed full trust and faith in Applicant No.1. Somewhere in the year 2012, the Applicant No.1 approached K.S with a request to provide him personal loan and K.S obliged Applicant No.1 by advancing him an amount of ₹ .70,00,000/- during the period of 2012-2014. Subsequently, when K.S started following for the payment of his loan, K.S learnt that the Applicant No.1 was finding it difficult to repay the said personal loan. At this Juncture, Applicant No.1 informed K.S about the Respondent Company and also that Applicant No.1 is having some investment therein.

When K.S persistently requested Applicant No.1 to repay the said loan, Applicant No.1 came out with an offer that K.S also invest in the Respondent Company. Applicant No.1 lured K.S by painting a rosy picture about the then current net worth and the future of the Respondent Company. Unsuspecting of the designs of the Applicant No.1 and by reposing blind faith in his words, K.S started making investment in the Respondent Company.

(iii) Respondent Company was originally incorporated under the name V K Drugs Private Limited by one Mrs. K. Vijaya Reddy (sister of Applicant No.2) and one Mr. K. Krishna and Mrs. K. Sunitha (wife of Mr. K. Krishna) was appointed on Board. Thereafter Several Changes in Board, K.S along with Applicant No1 and Applicant No 2 joined the Board. Applicant No.1 induced K.S to become its Managing Director for administrative ease of business. And was appointed as the Managing Director of the Respondent Company with effect from 16.07.2014.

(iv) K.S later realized that Applicants No.1 and No.2 had nefarious intentions behind making him Managing Director of the Respondent Company and also make him invest therein. However, by then, he already had invested a huge sum of Rs3.04 Crores (approximately) in Equity capital of Respondent Company, which if aggregated with the personal loan to the Applicant No.1 amounted to Rs.3.74 Crores approx. At this juncture, K.S realize that there were several gaps and missing links in the state of affairs of the Company and that the whole scheme of the Applicant No.1 was designed with fraudulent and malafide intentions. In june,2014, due to personal dispute amongst erstwhile Directors, Mrs K. Sunitha, one of the erstwhile Director of the Company was brutally murdered and Mrs. K. Vijaya Reddy, an ex-director, who happens to be the sister of the Applicant No.2, and also a close accomplice of Applicant No.1, was squarely exposed and when K.S tried to raise the glaring irregularities of the transactions conducted in the Respondent Company, the Applicant No 1 asked K S to remain





silent and for obvious reasons, he had no alternative but to remain as a mute spectator fearing the potential threat to his life. And he was compelled to sign the financial statements without a murmur.

- (v) K.S further submit that having realised that the Company needed further expertise and investments and with his financial sources going dry, he started searching for potential investors. At this juncture, he happened to meet Mr. Narendra Babu, Mr. Uday Kumar Reddy, Mr. M. Muralidhar Rao and Mrs K. Kavitha Reddy and additional investments of Rs. 90 lakhs were brought into the Company by way of unsecured loans by Uday Kumar Reddy and Kavitha Reddy. One Mr. Pawan Kumar has also extended a sum of Rs.25 lakhs as an unsecured loan. Further, K.S invested an additional amount of Rs.1.41 Crores into the Company.
- (vi) The Applicant NO.1 sent an email, dated 08.08.2016, demanding repayment of Rs.2.10 Crores, claimed to have been lent as an unsecured loan to the Company, for which replied on 13.08.2016, requesting him to produce all the related papers and documents in the forthcoming Board Meeting. However, the Applicant No.1 never produced any such related papers or documents which could prove his claim. The Applicant No.1 resorted to officially relieve himself clandestinely from the Board and filed his resignation with the Registrar of Companies (Form NO. DIR -11) without even bringing his intention to the notice of the Board at any point of time. K.S received Applicant No.1 resignation letter by way of registered Post and subsequent e-mail from the Ministry of Corporate Affairs. The Board while taking note of the said resignation, took liberty to bring to the notice of the Registrar of Companies about the fraudulent conduct of the Applicant No.1.
- (vii) K.S further submit that, the Applicant No.1 in order to pre-empt any legal action from the Respondent Company, filed the instant Application containing false and fraudulent claims against Respondent Company.



(viii) The Applicant No.1 has claimed, in the instant Application that an amount of Rs.2,10,28,045/- is due to him as “unsecured Loan” by the Company. The said claim comprises of illogical payments made to third parties, to which the Company never owed any amount nor was a party to the claimed transactions. It is baffling to note that the Applicant No.1 has, while failing to provide any logical justification to the claimed transactions has made self-contradictory statements in the supporting documents provided by him. It is glaring to note that, in one of the transactions, an amount of Rs.60.13 lacks seems to have been paid to some Company on behalf of Mrs. K. Vijaya, to which the Respondent Company was never a party.

(ix) Applicant No.1 adopted several ingenious modus operandi to establish himself as financial creditor of the Respondent Company, which is depicted herein below:



- a) Finished goods of the Company were sold in cash, without recording the same in the Books of the Company,
- b) Cash amounts so realised were deposited in the personal accounts of the Applicant No.1 and 2.
- c) The cash amounts so deposited were brought back in the Company under the head “unsecured Loan” or claimed to have been paid to the Creditors on behalf of the Company.

8. During the hearing held on 15.06.2017, the Learned Counsel for the Petitioners submitted that Petitioners already complied with the requisite condition with regard to IBC. However, Bench was not satisfied with the compliance. The Learned Counsel for the Petitioners, therefore, requested some more time to submit the requisite documents/clarify the legal position regarding maintainability of the case. Petitioners were directed to take personal notice to the Corporate Debtor and submit proof of service before the next date of hearing and case was posted on 21.06.2017.



9. During the hearing held on 21.06.2017, the Learned Counsel for the Respondent took notice for the Respondent and requested one week time to file his reply. The Learned Counsel for the Petitioners was also directed to submit necessary documents on legal position as per Central Government Rules dated 07.12.2016, and case was posted/adjourned on various occasions as requested by the Counsels on 28.06.2017, 30.06.2017 and 04.07.2017.
10. During the hearing held on 04.07.2017, the Learned Counsel for the Corporate Debtor, Shri. Y. Suryanarayana, submitted that he was going to file reply on same day and on request of both the Counsels, matter was posted on 06.07.2017, and again on request of both the Counsels on 06.07.2017, case was posted on 24.07.2017.
11. During the hearing held on 24.07.2017, the Learned Counsel for the Petitioners wanted to file a Rejoinder and same was allowed and matter was posted on 28.07.2017, and again the matter was posted on 02.08.2017 and 04.08.2017.
12. During the hearing held on 04.08.2017, it was recorded that the objection raised by the Registry was not complied with and matter was posted on 08.08.2017.
13. During the hearing held on 08.08.2017, Shri Y. Suryanarayana, Learned Counsel for the Respondent disputed about the claim of the Petitioners and also issue of share certificates. Shri A. Nagaraj Kumar, Learned Counsel for the Petitioners, after hearing all the contentions of the Respondent, decided to withdraw the present Company Petition bearing CP(IB)/81/7/HDB/2017, requesting to file a fresh application after complying with all the defects and also sought liberty to file a fresh application.
14. Heard Shri A. Nagaraj Kumar, Learned Counsel for the Petitioners and Shri Y. Suryanarayana, Learned Counsel for the Respondent and perused all the





documents submitted by the counsels filed in the above Company Petition bearing CP No. CP(IB)/81/7/HDB/2017.

15. In the above facts and circumstances of the case and as prayed by the Learned Counsel for the Petitioners, we permit the Petitioners to withdraw present Company Petition with a liberty to file afresh in accordance with the law. Accordingly the CP No. CP(IB)/81/7/HDB/2017 is disposed off as withdrawn.

16. No order as to costs.



*Sd/-*

**Ravikumar Duraisamy**  
Member (Technical)

*Sd/-*

**Rajeshwara Rao Vittanala**  
Member (Judicial)

**CERTIFIED TO BE TRUE COPY  
OF THE ORIGINAL**

*[Signature]*  
For Dy. Regr./Asst. Regr./Court Officer/  
National Company Law Tribunal, Hyderabad Bench

प्रमाणित प्रति  
**CERTIFIED TRUE COPY**  
केस संख्या  
CASE NUMBER CP(IB)/81/7/HDB/2017  
निर्णय का तारीख  
DATE OF JUDGEMENT... 8-8-2017  
प्रति तैयार किया गया तारीख  
COPY MADE READY ON... 5-10-2017