



NATIONAL COMPANY LAW TRIBUNAL
COURT ROOM NO. 1,
MUMBAI BENCH

Item No. 07

IA(IBC)(LIQ.)/ 49(MB)2025 IN C.P. (IB)/3598(MB)2019

CORAM:

SH. PRABHAT KUMAR SH. SUSHIL MAHADEORAO KOCHEY
HON'BLE MEMBER (TECHNICAL) HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF THE HEARING ON 29.07.2025

NAME OF THE PARTIES: KAY BEE FOUNDRY SERVICES PVT LTD
VS TOUGH CASTING PVT LTD

Section 9, 33(1) (b) (i) to (iii) r/w 33(3) of the Insolvency and Bankruptcy Code,
2016

ORDER

- 1) CS P.S. Thakar for the Applicant present.
- 2) This is an Interlocutory Application filed by the **Bharat Ramakant Upadhyay** under Section 33 of the Insolvency and Bankruptcy Code, 2016 (the Code) for initiating Liquidation Process against **Tough Casting Pvt Ltd** (Corporate Debtor).
- 3) The facts leading to the case in hand are as follows:
 - a. Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor was initiated by this Tribunal vide order dated **03.09.2024**, upon admission of a Company Petition under Section 9 of the Insolvency and Bankruptcy Code, 2016 (the Code) and the Applicant herein was appointed as the Interim Resolution Professional (IRP) of the Corporate Debtor and was later on confirmed as Resolution Professional.



- b. The Applicant submits that the applicant published the Public Announcement in FORM-A in the 2 newspapers as required under the IBC Code, 2016 on 05.09.2024 and had received the claims from the creditors in response to the public announcement.
 - c. The Applicant further states that the COC had decided in its COC meeting to publish the FORM G for invitation of expression of interest in the matter and accordingly the RP had published the FORM G in in English (Business Standard) (All India) and in Marathi language (Pudhari Newspaper). The last date for receiving the EOI was 15th November, 2024. It is further submitted that, pursuant to the Form G published, he received only 1 EOI i.e. from Kay Bee Foundry Services Private Limited.
- 4) The Applicant further submitted that the COC has deliberated in detail on the resolution plan submitted by the Kay Bee Foundry Services Private Limited in the CoC Meeting held on 14th February, 2025 and finally rejected the resolution plan by 100% vote. It is further submitted that the COC has approved the resolution with 100% voting in favour of the commencement of the liquidation of the company and further the COC members proposed Mr. Abhijit Gokhale, with Registration No. IBBI/IPA-002/IP-NO0964/2020-2021/13092, to be appointed as the Liquidator in the same meeting.
- 5) We have considered the submission of the learned Counsel and the matter place on record. Section 33 (2) of the Code provides that “*Where the resolution professional, at any time during the corporate insolvency resolution process but before confirmation of resolution plan, intimates the Adjudicating Authority of the decision of the committee of creditors approved by not less than sixty-six per cent. of the voting share to liquidate the corporate debtor, the Adjudicating Authority shall pass a*



liquidation order as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1)”. In the present case CoC has passed a Resolution by 100% vote to liquidate the Corporate Debtor. Accordingly this Tribunal considers it appropriate to liquidate the Corporate Debtor by passing following orders:-

ORDER

- a) The Application be and the same is allowed. The Corporate Debtor, Tough Casting Private Limited, shall be liquidated in the manner as laid down in Chapter-III of the Code.
- b) **Mr. Abhijit Gokhale**, having Registration No. **IBBI/IPA-002/IP-N00964/2020-2021/13092** is appointed as Liquidator of **Tough Casting Private Limited**.
- c) That the Liquidator for conduct of the Liquidation proceedings would be entitled to the fees as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016.
- d) The Moratorium declared under Section 14 of the IBC 2016 shall cease to operate here from.
- e) Liquidator shall issue public announcement stating that Corporate Debtor is in liquidation.
- f) The Liquidator shall endeavour to sale the Company as a going concern during the liquidation in terms of Regulation 32A of the Liquidation Process Regulations. In case he is not able to do so within a period of 90 days from this date, he shall proceed in accordance with clauses (a) to (d) of Regulation 32 of the Liquidation Process Regulations.
- g) Subject to Section 52 of the Code no suit or other legal proceedings shall be instituted by or against the Corporate Debtor. This shall however not apply to legal proceedings in relation to such transactions as may be



notified by the Central Government in consultation with any financial sector regulator.

- h) All powers of the Board of Directors, Key Managerial Personnel and partners of the Corporate Debtor shall cease to have effect and shall be vested in the Liquidator.
- i) The Liquidator shall exercise the powers and perform duties as envisaged under Sections 35 to 50 and 52 to 54 of the Code read with the Liquidation Process Regulations.
- j) Personnel connected with the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as will be required for managing its affairs.
- k) This Order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor, except when the business of the Corporate Debtor is continued during the liquidation process by the Liquidator.
- l) The Liquidator shall submit progress reports as per Regulation 15 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- m) The Liquidator is hereby Authorized to represent the Corporate Debtor before the Government Authorities, if need be.
- n) Registry shall furnish a copy of this Order to the **Insolvency and Bankruptcy Board of India, New Delhi; Regional Director (Western Region), Ministry of Corporate Affairs; Registrar of Companies & Official Liquidator, Maharashtra; the Registered Office of the Corporate Debtor;** and the Liquidator, **Mr. Abhijit Gokhale**, having E-mail ID **abhijitgokhale07@gmail.com**.



- 6) With the aforesaid observations and directions, the Interlocutory Application bearing IA(IBC)(LIQ.)/ 49(MB)2025, stands disposed of as Allowed.

Sd/-
PRABHAT KUMAR
MEMBER (TECHNICAL)

Nitesh Puri

Sd/-
SUSHIL MAHADEORAO KOCHEY
MEMBER (JUDICIAL)