

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH - II**

**IA No. 245 of 2021 in
CP (IB) No. 206/10/HDB/2019**

U/s 33(2) of Insolvency and Bankruptcy Code, r/w NCLT Rules, 2016

**In the matter of M/s Shivaani Alloy Steel Castings
Ltd**

M/s Shivaani Alloy Steel Castings Limited

Rep by Resolution Professional

Mr. Ramesh Babu Palutla

(IBBI/IPA-02/IP-N00303/2017-18/1861)

#201 Karan Residency, 1-8-131 to 143

Pender Ghast Road, Sindhi Colony

Secunderabad 500003

..... Applicant

IN THE MATTER OF

M/s Shivaani Alloy Steel Castings Limited Corporate Applicant

AND

M/s State Bank of India Respondent/ Financial Creditor

Date of Order: 13.06.2024

Coram:

Hon'ble Sri Rajeev Bhardwaj, Hon'ble Member (Judicial)

Hon'ble Sri Sanjay Puri, Hon'ble Member (Technical)

Parties / Counsels Present:

For the Applicant: Mr. Ramesh Babu

Per : Bench

ORDER

1. The present application is filed by Mr. Ramesh Babu Palutla, Resolution Professional (**RP**) under Section 33(2) of the Code praying for the liquidation of the Corporate Debtor, (hereinafter referred as "**CD**") M/s Shivaani Alloys Steel Castings Limited.

Brief facts of the application

2. The application for CIRP¹ filed by Corporate applicant under Section 10 of IBC² read with the applicable Rules³ was admitted by this Authority vide order dated 24.04.2019⁴ and one Murali Prasad Nalam was appointed as Interim Resolution Professional (**IRP**).
3. The IRP issued public announcement in Form A on 01.05.2019 through daily newspapers inviting claims from the creditors of the CD. In response he received claims from Financial Creditor (SBI) and other Operational Creditors, and prepared a list of the claims received.
4. The IRP then constituted the Committee of Creditors (**CoC**) as per Section 21 of Code with sole FC i.e. SBI, which had security interest on the CD's assets with 100% voting rights. The details of the same were intimated to this Authority through a memo which was filed on 28.05.2019.
5. The CoC in its 1st Meeting held on 30.05.2019 decided to replace IRP with another Insolvency Professional as RP and accordingly an IA 496/2019 was filed before this Authority. This Authority vide order⁵ dated 10.06.2019 appointed the present applicant Mr. Ramesh Babu

¹ Corporate Insolvency Resolution Process

² Insolvency and Bankruptcy Code 2016

³ Rule 7 of Insolvency and Bankruptcy (Application to Adjudicating Authority Rules) 2016

⁴ Annexure A-1 at Page 45-52 of application

⁵ Annexure A-1 at Pg 53-55

Palutla as RP for continuation and completion of CIRP.

6. The present applicant took charge from IRP on 29.06.2019 and informed the bankers and other statutory authorities about the same.
7. The RP and his team inspected factories of the CD located at Plot No.85 to 87, IDA Patancheru, Sangareddy District, Telangana (Unit I) and Sy.No.105, Ankenpally village, Sadashivpet Mandal, Sangareddy District, Telangana (Unit II) on 04.07.2019. He did not find any activity on these sites, nor did he find any signs of activity in the months preceding the visit. Upon enquiry, it was learnt that the factories have been lying idle⁶ since October, 2012 (Unit-II) and September, 2013 (Unit-I).
8. In the 2nd CoC Meeting a list of updated claims was placed before the CoC. During this meeting the CoC also approved the fee of registered valuers and expenses for publication of Form G (Invitation for EOI for resolution plans). The eligibility criteria for the prospective resolution applicants was also finalised by RP in consultation with CoC in this meeting.
9. On 14.07.2019 RP published Form G and the last date for EOI was fixed as 29.07.2019. In response he received four EOI's out of which one was from the joint applicants- Dr. Bramhanand Singh and Mrs. Saritha Singh who were the suspended Board of Directors. The EOI of the suspended Directors was found to be defective with regard to the net worth criteria. The other applicants whose EOI was found to be compliant were i) M/s Kamini Metaliks Private Limited ii) M/s Triunity Impex Private Limited and iii) M/s Prudent ARC Limited.
10. In the subsequent meetings, the list of these three applicants was circulated to the CoC. The CoC also approved the costs of security,

⁶ Annexure A-3- (A copy of letter dated 03.07.2019 by Dr. Bramhanand Singh, Managing Director of CD stating that units were not in operation since 6-7 years)

transaction, audit, insurance of assets and costs attendants with compliances, subject to obtaining competitive quotation. Evaluation matrix submitted by RP was also approved by CoC with some modifications.

11. The RP had requested the Directors to provide details of inventory and receivables shown in the provisional balance sheet of the company, but no satisfactory answer was provided by them. The Directors however indicated that no value would be realised from the inventory and receivables shown in the statements. The COC and the RP expressed concerns with the non-submission of details (other than shareholder list) delaying valuation of assets and preparation of Information Memorandum.
12. The RP then circulated the Evaluation Matrix, Request for Resolution Plan (RFRP) and Information Memorandum to all four prospective resolution applicants on 13.08.2019.
13. The joint applicants – Dr Bramhanand Singh and Mrs. Saritha Singh submitted another net worth certificate on 13.08.2019 for reconsideration of their eligibility. However, they were still found to be ineligible as they could not meet the eligibility criteria.
14. The RP sought certain information and documents from suspended Directors. However, despite continuous follow-up he could not get the same. Consequently, the RP filed an IA No. 774/2019 before this Authority on 29.08.2019 under Section 19(2) of IBC praying for the directions to the Directors to cooperate and submit the information to him. The Directors appeared before this Authority themselves and undertook to file the same.⁷
15. The RP received resolution plans from two resolution applicants, i.e. i)

⁷ Annexure A-4, Copt of NCLT order in IA 774/2019

M/s Kamini Metaliks Private Limited ii) M/s Triunity Impex Private Limited, apart from the one from the Promoters/Directors – Dr Bramhanand Singh and Mrs Saritha Singh. The plan from the promoters/directors was without the required EMD and other documents. As Dr Bramhanand Singh and Mrs Saritha Singh were not considered eligible, they filed IA No. 766/2019 before this Authority, with a prayer that they be considered eligible to submit the resolution plan. This Authority vide order⁸ dated 22.11.2019, also held the these applicants as ineligible to be the resolution applicants.

16. The resolution plans from eligible applicants were placed before CoC. The 7th CoC meeting was held on 01.10.2019. As the orders of this authority in IA 766/2019 were still to be received, through IA No. 903/2019 the RP sought extension of CIRP by 90 days, which was allowed by this authority.
17. In the 8th Meeting held on 14.11.2019 and 16.11.2019, the CoC, finding that the none of the two eligible resolution plans could meet its expectations, decided to liquidated the CD in terms of Section 33(2) of IBC. Accordingly, the RP was directed to file necessary application before this Authority.
18. Following the directions of the CoC, the RP then filed IA No. 1094/2019 for liquidation of CD. This IA for Liquidation was opposed by the suspended Director(s), and during the hearing before this Authority on 03.02.2020, they prayed before the Bench for a chance to submit a resolution plan. To inspire the CoC's confidence, they also handed over a Demand Draft for Rs1.50 Cr to the counsel representing SBI, the sole member of the CoC. The matter was then posted for 10.02.2020, for submitting the outcome of the decision taken by the CoC.
19. In the 9th meeting thereafter, on 07.02.2020 the CoC maintained that

⁸ Annexure A-5- Copy of NCLT order in IA 766/2019

the resolution plan directly submitted to them by the Ex-Management with another investor was acceptable to the bank and should be considered under CIRP. The RP however informed the CoC that neither the plan was in response to the EoI, nor was it in time. Copy of the same was also not made available to him.

20. In the meanwhile, on 10.02.2020, considering the divergence of view on the resolution plan submitted by the ex-management, and the fact no other plan had been found acceptable, this Authority directed publication of a fresh EOI to complete CIRP within the time permitted under Section 12 of IBC, and closed the IA No. 1094/2019 filed by the RP for liquidation of the Corporate Debtor (CD).
21. The RP then published a fresh EOI on 19.02.2020 as directed by this Authority on 10.02.2020 with the last date for submission as 05.03.2020. In response, three EOIs were received. Subsequently, the IM⁹ and RFRP¹⁰ were issued to all three prospective resolution applicants on 15.03.2020, with the last date for receipt of resolution plans and EMD set for 15.04.2020.
22. The timeline was extended to 01.07.2020 due to the COVID-19 lockdown. Despite the extension, no resolution plans were received by the RP in response to the RFRP issued on 15.03.2020. It is notable that while the promoters, along with an investor, submitted an EOI in response to the fresh EOI published on 19.02.2020 and were in the final list of PRAs, they also did not submit any resolution plan in response to the RFRP dated 15.03.2020.
23. An IA 294 of 2020 was however filed by Dr Bramhanand Singh praying to approve the plan considered by the Bank in 9th CoC Meeting held on 07.02.2020. During one of the hearings on this IA, this Authority vide order dated 20.11.2020 (uploaded on 26.11.2020) permitted the RP to

⁹ Information Memorandum

¹⁰ Request For Resolution Plan

take necessary steps for placing the proposals before the CoC.

24. Subsequently, the RP sent a letter dated 27.11.2020 to the promotor – Dr Bramhanand Singh asking him to submit his plan by complying with the provisions of IBC. Another letter was sent on 04.12.2020, asking him to submit plan with requisite enclosures.¹¹
25. The correspondence¹² with Dr Brahma Nand Singh, the promotor of the CD, ensued and a revised resolution plan was eventually received on 05.03.2021. This plan submitted by the suspended Director(s) along with an investor Mr K.S.Sharma was placed before CoC in its 19th meeting, and was deliberated upon extensively. However, before the plan could be put to vote in 20th CoC meeting, Mr K.S.Sharma withdrew as joint resolution applicant. Left with no viable plan, the CoC in its 20th meeting held on 04.05.2021, decided to liquidate the CD and submitted ballot paper assenting liquidation. The present application has been filed consequent to the decision of the CoC.
26. Even thereafter, the CoC and the RP have continued to engage themselves with the suspended Director. Yet another plan was received from them, which was discussed and deliberated upon in 22nd CoC meeting held on 05.02.2022, but was not assented by the FC i.e SBI, the sole member of the CoC.

The Decision

27. Upon hearing the RP and after perusing the records, it is apparent that despite all possible steps as required under the Code having been taken during the CIRP, the CoC did not receive any viable proposal for revival of the Company. Hence, this Adjudicating Authority deems it proper to allow this Application and orders Liquidation of the Corporate Debtor/Applicant M/s Shivaani Alloy Steel Castings Ltd.

¹¹ Annexure A-16 – (Copies of letters)

¹² Annexure A-17

ORDER

- a. Liquidation of **M/S.SHIVAANI ALLOY STEEL CASTINGS LIMITED** , shall be conducted in the manner as laid down in Chapter III of Part II of the IBC, 2016.
- b. Mr. Madasa Kumar¹³ is appointed as Liquidator as proposed by the CoC.
- c. The Liquidator shall issue public announcement stating that Corporate Debtor is in Liquidation.
- d. The Moratorium declared under Section 14 of the IBC, 2016 shall cease to operate here from.
- e. Subject to section 52 of the IBC 2016 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.
- f. 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.
- g. 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 Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016.
- h. Personnel connected with the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as will be required for managing its affairs.

¹³ Having Registration No. IBBI/IPA-001/OP-P01590/2019-2020/12465

- i. The Liquidator shall be entitled to such fees as may be specified by the Board in terms of Section 34 (8) of the Code.
- j. 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.
- k. Copy of the Order shall be furnished to the IBBI, to the Regional Director (South Eastern Region), Ministry of Corporate Affairs; Registrar of Companies & Official Liquidator, Telangana, the Registered Office of the Corporate Debtor; and the Liquidator.

With the above directions, this Application is allowed and stands disposed of.

Sd/-

(SANJAY PURI)
MEMBER (TECHNICAL)

Sd/-

(RAJEEV BHARDWAJ)
MEMBER (JUDICIAL)

Namratha