

IN THE NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH AT AHMEDABAD

ITEM No. 118
IA/118(MP)2021 in CP(IB) 34 of 2019

Order under Section 33(1) IBC, 2016

IN THE MATTER OF:

Jagdish Kumar Paruilkar RP of Kapil Steels Ltd.
V/s
Manish Malviya & Ors.

.....Applicant

.....Respondent

Order delivered on ..01/10/2021

Coram:

Dr. Deepti Mukesh, Hon'ble Member(J)
Mr. Virendra Kumar Gupta, Hon'ble Member(T)

PRESENT:

For the Applicant :
For the Respondent :

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open court vide separate sheet.


VIRENDRA KUMAR GUPTA
MEMBER (TECHNICAL)

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DR. DEEPTI MUKESH
MEMBER (JUDICIAL)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH AT AHMEDABAD**

**I.A. No. 118 of 2021
IN
C.P. (IB) 34 OF 2019**

**[An Application under Section 33 & 34 of the Insolvency and
Bankruptcy Code, 2016]**

Through:

Mr. Jagdish Kumar Parulkar
Resolution Professional,
M/s Kapil Steels Limited,
B-56, Wallfort City, Bhatagaon
Ring Road No.1, Raipur
Chhattisgarh-492 001

Applicant/RP

In the matter between:

Corporation Bank
63, M.G. Road
Singapore Market
Regal Square
Indore

Financial Creditor

Versus

M/s Kapil Steels Limited
101-103, Indore Trade Centre
3/2 South Tukoganj
Indore-452 001

Corporate Debtor

Order delivered on October 01, 2021.

Coram: Dr. Deepti Mukesh, Hon'ble Member (J)
Virendra Kumar Gupta, Hon'ble Member (T)

Present:

For the Applicant: Adv. Mr. Aditya J Pandya
For the Respondent: Adv. Mr. Rajat Lohia

Order

[Per: VIRENDRA KUMAR GUPTA, Member (T)]

1. The present application is filed by the Resolution Professional Mr. Jagdish Kumar Parulkar for Liquidation of the Corporate Debtor under section 33 of Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "**IB Code**"). The Corporate Debtor was admitted into CIRP vide order of this Adjudicating Authority dated 28.07.2020, and Mr. Mangesh Vitthal Kekre having Registration No. IBBI/IPA-001/IP-P00539/2017-2018/10964 was appointed as IRP.
2. During the course of CIRP, IRP made a public announcement in form-A for submission of claim by the creditors on date 07.08.2020, thereafter COC was constituted by IRP in compliance with section 21 of IB Code read with Rule 6 & 8 of The Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (hereinafter referred to as a

“CIRP Regulations”) on 27.08.2020. COC in its 2nd meeting dated 29.09.2020 by 100% voting decided to replace IRP by appointing a new Resolution Professional namely Mr. Jadish Kumar Parulkar having Registration No. IBBI/IPA-001/IP-P00671/2017-2018/11143 and same was confirmed by this Authority vide order dated 22.10.2020.

3. The COC in the meeting dated 24.11.2020 decided to publish EOI and thereafter Resolution Professional published form-G on 28.11.2020. The last date for submission of EOI was 28.12.2020. Thereafter in 4th COC meeting dated 04.01.2021 COC resolved to publish Form-G once again, the Resolution Professional again published Form-G on 09.01.2021, and the last date for submission of EOI was 11.03.2021.
4. Two plans were received in pursuance of form-G publication. The COC in its 5th meeting dated 20.03.2021 discussed resolution plans submitted by the Resolution Applicants and in 6th COC meeting dated 21.05.2021 both resolution plans were put for voting. The COC rejected both resolution plans by 100% voting share through E-Voting on the ground that both resolution plans were on the lower side as compared to the fair value and liquidation value of Corporate Debtor. The COC in the said meeting

also resolved to liquidate Corporate Debtor by 100% vote and also resolved to appoint Resolution Professional as Liquidator. A copy of consent letter of the Resolution Professional dated 24.06.2021 giving consent to act as Liquidator is also on record.

5. On perusal of records of 6th minutes of meeting, it is found that COC has passed a resolution in respect to Liquidation costs to the tune of Rs. 20 Lakh Approx (excluding fees of Liquidator). COC also resolved, under Regulation 39C to sale the Corporate Debtor as a going Concern. The COC has also assessed the remuneration of Liquidator.
6. The initial period of 180 days expired on 24.01.21. However, on 04.02.2021 extension of 90 days was granted, in effect of which last date for completion of CIRP was 05.05.2021.
7. We have heard the counsel for the Applicant and perused the material on record. It is noted that resolution plan received has been rejected by COC as such plan has found on the lower side. Corporate Debtor was admitted into CIRP on 28.07.2020. No other resolution plan has been submitted. 270 days have expired on 05.05.2021 and even 330 days have expired on 03.07.2021 but before expiry of 330 days, COC has resolved in its 6th meeting by

100 % vote to liquidate the Corporate Debtor. COC has also resolved that liquidator may first try to sale the Corporate Debtor as a going concern. The resolution as regard to the determination of CIRP/liquidation cost, liquidator's fee and in case of short-fall who shall contribute such cost, have been passed. Thus, compliance to all relevant regulations has been done. In these circumstances, we are of the view that there is no other option than to initiate the liquidation proceeding in the respect of the Corporate Debtor. We also direct Liquidator to firstly, try to sale the Corporate Debtor as a going concern in terms of resolution of COC to this effect.

8. Accordingly, we allow this application and pass the following order:

ORDER

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- i. We hereby pass the order for initiation of liquidation of Corporate Debtor M/s Kapil Steels Limited and consequently allow IA No. 118 of 2021. The Liquidation of the Corporate Debtor is effective from the date of this order.
 - ii. The Moratorium declared vide order dated 28.07.2020 on CP(IB) No.34/7/NCLT/AHM/2019, henceforth, ceases to exist, but moratorium under section 33(5) shall trigger from the date of this order.

- iii. As per Section 34(1) of the IBC,2016 the Applicant/Resolution Professional, Mr. Jagdish Kumar Parulkar (Registration No. IBBI/IPA-001/IP-P00671/2017-18/11143) is hereby appointed as a Liquidator of the Corporate Debtor i.e. M/s Kapil Steels Limited having CIN No. U27105MP1987PLC003834, who shall complete the liquidation process as per the provision of Insolvency and Bankruptcy Code, 2016 r.w Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation, 2016. He is further directed to Endeavour to sale the Corporate Debtor firstly as a going concern as per the resolution passed by COC.
- iv. The personnel(s) of the Corporate Debtor are directed to extend all co-operations to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor, further, the Liquidator shall also provide all co-operation to a various Government agency(s)/ authority(s) in ongoing investigations/ inquiry or inquiries initiated hereafter.
- v. This liquidation order shall be deemed to be notice of discharge to the officers, employees, and workmen of the Corporate Debtor except to the extent of the business of the

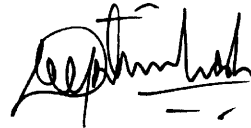
Corporate Debtor continued during the liquidation process by the Liquidator.

- vi. A copy of this order be served to the Financial Creditor, Corporate Debtor, Registrar of the Company, Resolution Professional, and Liquidator by Speed-post within one week from this order.

9. Accordingly, the present I.A. No. 118 of 2021 stand allowed and disposed of.



(Virendra Kumar Gupta)
Member (Technical)



(Dr. Deepti Mukesh)
Member (Judicial)