

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

IA/4840/2020  
IN  
(IB)/1083(PB)/2019

*Application filed u/s 33(2) of the IBC, 2016*

**In the matter of**

**Bank of India**

*---Financial Creditor*

**Vs.**

**Prominent Metal Private Limited**

*---Corporate Debtor*

**And**

**In the matter of**

**Vivek Parti, RP**

*---Applicant/Resolution Professional for Prominent Metal Private Limited*

**---Applicant/Resolution Professional**

**And**

IA/4831/2020  
IN  
(IB)/1083(PB)/2019

*Application filed u/s 60(5) & 23 of the IBC, 2016 r/w Rule 11 of NCLT Rules,  
2016 & Regulation 34 of the Insolvency and Bankruptcy (Insolvency  
Resolution Process for Corporate Persons) Regulations, 2016*

**In the matter of**

**Vivek Parti, RP**

*---Applicant/Resolution Professional for Prominent Metal Private Limited*

**Vs.**

**Bank of India**

*---Financial Creditor/CoC/Respondent*

And

IA/4830/2020  
IN  
(IB)/1083(PB)/2019

*Application filed u/s 60(5), 27, 33 & 34 of IBC, 2016*

**In the matter of**

**Bank of India**

*---Applicant/CoC/Financial Creditor*

**Vs.**

**Vivek Parti, RP**

*---Respondent/Resolution Professional for Prominent Metal Private Limited/Respondent*

**Order delivered on: 16.02.2021**

**CORAM:**

**SHRI B.S.V PRAKASH KUMAR**

**HON'BLE ACTG. PRESIDENT**

**SHRI HEMANT KUMAR SARANGI**

**HON'BLE MEMBER (TECHNICAL)**

For the RP: Mr. B.B. Sawhney, Senior Advocate  
With Mr. Lakshay Sawhney  
& Mr. Madhav Nanda, Advocates

For the BoI/CoC: Mr. Ashish Rana, Advocate

**COMMON ORDER**

**Per: B. S.V. PRAKASH KUMAR, ACTING PRESIDENT**

**Order Pronounced on: 16.02.2021**

It is an IA/4840/2020 filed u/s 33(2) of the Insolvency & Bankruptcy Code, 2016 ("the Code") by the Resolution Professional (RP) seeking liquidation order and praying to be appointed as

Liquidator based on the resolution passed by the CoC in its 11<sup>th</sup> meeting held on 23.10.2020 with a requisite majority of 100% of the voting share. Simultaneously, RP filed another application **IA/4831/2020** u/s 60(5) & 23 of the IBC, 2016 r/w Rule 11 of NCLT Rules, 2016 & Regulation 34 of the Insolvency and Bankruptcy (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, seeking to direct the CoC/Financial Creditor i.e. 'Bank of India' to pay the CIRP cost for the period 26.10.2020. In the meantime, the CoC filed an application **IA/4830/2020** u/s 60(5), 27, 33 & 34 of the I&B Code, 2016 for seeking replacement of the Resolution Professional.

2. On perusal of these applications, it appears that (IB)-1083(PB)/2019 was admitted by this Tribunal on 25.07.2019 and the Applicant herein was appointed as IRP and subsequently confirmed by the CoC to act as RP. The Resolution Professional submitted that during the course of Corporate Insolvency Resolution Process of the Corporate Debtor as many as 11 CoC meetings were held. Further, at the instance of the CoC, Form-G was published and republished by the RP on 28.10.2019, 03.01.2020, 07.02.2020 and 01.08.2020 respectively, inviting EoIs from



the Prospective Resolution Applicants ("PRAs"), pursuant to which, four persons have submitted their EoI, of which one Prospective Resolution Applicant i.e. M/s. Ranjana Enterprises, have submitted Resolution Plan, which was revised from time to time. On 11.10.2020, the Resolution Applicant submitted an updated and revised resolution plan before the Resolution Professional and the same was presented before the CoC at its 11<sup>th</sup> meeting held on 23.10.2020 through video conferencing, which was unanimously (100% voting) rejected by the CoC and directed the Resolution Professional to proceed u/s 33 of IBC, 2016 to liquidate the Corporate Debtor.

3. In view of the 11<sup>th</sup>CoC meeting, RP filed an application u/s 33(2) seeking liquidation order and praying to be appointed as Liquidator along with another application seeking to direct the CoC/Financial Creditor i.e. 'Bank of India' to pay the CIRP cost for the period upto 26.10.2020. Simultaneously, the sole CoC Member, viz. Bank of India, filed an application seeking replacement of the Resolution Professional and submitted that the RP without finalizing the minutes of the 11<sup>th</sup>CoC meeting has filed an application seeking liquidation of the



Corporate Debtor and for his appointment as Liquidator, whereas the sole member of CoC repeatedly informed the RP about its intention to replace the Resolution Professional or to appoint another person as Liquidator, as the CIRP cost mentioned as Rs. 50 Lakhs against the liquidation value of Rs. 58 Lakhs. Looking at the applications and averments, we are of considered opinion that the liquidation value of Corporate Debtor is around Rs. 58 lakhs, whereas the CoC has already incurred a CIRP cost of Rs. 60 Lakhs (as mentioned in application filed by the CoC) and the estimated liquidation costs by the RP is around Rs. 38.66 Lakhs. Therefore, this Tribunal is of the considered view that the RP is not entitled to be paid for any further cost in relation to the CIRP of the Corporate Debtor. Further, it is seen that the sole CoC Member sought for the replacement of the Resolution Professional and by concealing the said fact the RP has moved this Application for Liquidation of the Corporate Debtor. Under the said circumstances, we hereby order for liquidation of the Corporate Debtor by appointing the Liquidator as suggested by the sole CoC Member viz. Mr. Umesh



Gupta as Liquidator who has also given his consent and no objection, with directions as follows:

- a. **Mr. Umesh Gupta**, holding Registration No. **IBBI/IPA-001/IP-P00848/2017-2018/11431**, having email [umesh@vamindia.in](mailto:umesh@vamindia.in), ph. no. **9910024854** is appointed as the Liquidator in terms of Section 34 of the Code;
- b. Registry is directed to communicate this Order to the Registrar of Companies, NCT of Delhi & Haryana and to the Insolvency and Bankruptcy Board of India;
- c. The Order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence;
- d. This order shall be deemed to be a notice of discharge to the officers, employees and the workmen of the corporate debtor as per Section 33(7) of the Insolvency and Bankruptcy Code, 2016;
- e. The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 and in accordance with the relevant rules and regulations.
- f. The Liquidator shall follow up and continue to investigate



the financial affairs of the Corporate Debtor in accordance with provisions of Section 35(1) of the Code.

- g. The liquidator shall also follow up the pending applications for their disposal during the process of liquidation including initiation of steps for recovery of dues of the Corporate Debtor as per law.
- h. The Liquidator shall submit a Preliminary Report to the Adjudicating Authority within seventy-five days from the liquidation commencement date as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016;
- i. Copy of this order be sent to the financial creditors, corporate debtor and the Liquidator for taking necessary steps.

4. Accordingly, IA/4840/2020, IA/4831/2020 & IA/4830/2020 stand disposed of.

Sd/-

(BSV PRAKASH KUMAR)  
ACTNG PRESIDENT

Sd/-

(HEMANT KUMAR SARANGI)  
MEMBER (TECHNICAL)

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