

IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH : C-IV



IA-14/2024 in CP(IB)-3138(MB)/2019

Under Section 33(1) of IBC, 2016.

**Hitesh Kothari**

...Resolution Professional/  
Applicant

*In the matter of*

**JMC Metals Private Limited**

.....Operational Creditor

Vs.

**Jans Copper Private Limited**

.....Corporate Debtor

Order pronounced on : **13.08.2024**

*Coram:*

Ms. Anu Jagmohan Singh  
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli  
Hon'ble Member (Judicial)

*Appearance:*

For the Applicant: : Mr. Harsh Kesharia, Advocate.

**ORDER**

1. This is an Interlocutory Application filed on 22.01.2024 by Mr. Hitesh Kothari, Resolution Professional of the Corporate Debtor under Section 33(2) of Insolvency and Bankruptcy Code, 2016, seeking liquidation of **Jans Copper Private Limited**.



2. **Brief facts of the Case:**

- A. This Tribunal vide an order dated 24.02.2023 in Company Petition (IB)-3138(MB)/2019, filed under Section 9 of the IBC, 2016 by **JMC Metals Private Limited** (hereinafter referred to as the “Operational Creditor”) admitted the Petition and Corporate Insolvency Resolution Process (CIRP) was initiated against **Jans Copper Private Limited**, (hereinafter called as the “Corporate Debtor”). The applicant was appointed as Interim Resolution Professional by this Tribunal vide the admission order dated 24.02.2023. He was later appointed as Resolution Professional (RP) of the Corporate Debtor by the CoC.
- B. The Applicant submits that upon receiving the intimation, the Applicant made public announcement in Form A on 10.03.2023 in two local newspapers i.e. one in English and one in vernacular language. He further submits that Form G published on 14.05.2023 with last date for receiving the Expression of Interests (EoI) as 29.05.2023. Thereafter the time for submission of Plan was extended up to 31.08.2023.
- C. The Applicant further submits that he received resolution plan from suspended board director viz. Mr. Naresh Jain on 30.08.2023, which was considered by the CoC in its Seventh meeting held on 27.10.2023. In the said meeting, the CoC asked the PRA to revise the plan upward and the PRA sought 10 days’ time for the same. The Applicant received the revised plan on 28.11.2023, which was forwarded to the CoC for their consideration.



D. The Applicant further submits that the revised resolution plan of Mr. Naresh Jain put to voting of the CoC and through e-voting concluded on 21.12.2023, the CoC unanimously rejected the Resolution Plan and voted for liquidation of the Corporate Debtor. The resolution for liquidation was passed with 100% voting of the CoC. The same is reproduced below:

*“RESOLVED THAT the consent of the members of the CoC is and hereby accorded to liquidate the Corporate Debtor, Jans Copper Private Limited under Section 33(2) of Insolvency Bankruptcy Code, 2016”.*


*“RESOLVED FURTEHR THAT Resolution Professional IP Hitesh Kothari be and is hereby authorised to file an application before Hon’ble NCLT, Mumbai Bench for giving effect to aforesaid resolution.”*

3. Considering the facts and circumstances as submitted by the Applicant in the Application and by the Counsel appearing for the Applicant, this Bench is of the considered view that the Corporate Debtor be liquidated. Accordingly, this Bench orders that -

- a. The Corporate Debtor viz. **Jans Copper Private Limited** (CIN: U27310MH2011PTC215149) is ‘under liquidation’ w.e.f. the date of this order.
- b. Mr. Sanjay Ramdas Mahajan, an Insolvency Professional, having IBBI Registration No. IBBI/IPA-001/IP-P02122/2021-2022/13523, email: sanjaymahajan@hotmail.com mob.: 9820134530 is hereby appointed as

the 'Liquidator' to conduct liquidation process of Jans Copper Private Limited as provided under Section 34(1) of the Code.

- c. The Liquidator would be entitled to the fees as mutually agreed between the Liquidator and the CoC or as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016 to conduct the liquidation proceedings.
- d. The Liquidator appointed in this case to initiate liquidation process as envisaged under Chapter-III of the Code by following the liquidation process given in the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016. The Liquidator to send this order to the RoC under which this Company has been registered.
- e. The Liquidator appointed under Section 34(1) of the Code, will have all powers of the Board of Directors, key managerial personnel and the partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested with the Liquidator.
- f. The personnel of the Corporate Debtor are directed to extend all co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
- g. The Corporate Debtor to be liquidated in the manner as laid down in the Chapter by issuing Public Notice stating that the Corporate Debtor is in liquidation with a direction to the Liquidator to send this order to the RoC under which this Company has been registered.

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- h. All the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor hereafter ceased to exist. All these powers henceforth vest with the Liquidator.
- i. The personnel of the Corporate Debtor are directed to extend all co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
- j. On having liquidation process initiated, subject to Section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor save and except the liberty to the Liquidator to institute suit or other legal proceedings on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority.
- k. The Liquidator shall take necessary legal action to recover the Trade Receivables and other Credits such as Loans and Advances from the parties which are reflected in the latest Balance Sheet of the Corporate Debtor, if any. This direction is hereby given in concurrence of the jurisdiction prescribed u/s. 33(5) of the Code.
- l. This liquidation order u/s 33(7) shall be deemed to be a 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.
- m. Moratorium declared vide Order dated 24.02.2023 in CP(IB)-3138(MB)/2019, henceforth ceased to exist.



- n. The Liquidator shall submit the progress report of liquidation periodically.
4. As the CIRP period was ending on 04.12.2023, the Applicant prayed in this Application for an extension of 45 days of CIRP so as to fall the date of filing of this Application within the valid period of CIRP. As prayed by the Applicant, this Bench hereby extends the CIRP till 25.01.2024.
5. The CoC is directed to clear all dues payable to the Resolution Professional before handing over all the charge to the newly appointed Liquidator.
6. With the above directions, the IA-14/2024 in CP(IB)-3138(MB)/2019 filed u/s 33 of the IBC, 2016 by the Applicant is hereby **allowed** and disposed of.

Sd/-

**Anu Jagmohan Singh**  
**Member (Technical)**

Sd/-

**Kishore Vemulapalli**  
**Member (Judicial)**

13.08.2024/pvs