

**IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH**

I.A. No. 22/2021, IA No. 308/2021

In

C.P. (IB) No. 356/ALD/2019

In the matter of:

An application under section 33(2) of the Insolvency and Bankruptcy Code, 2016.

In the matter of:

Shriyank Wadhwa

...

Financial Creditor

Versus

Chaudhary Ingots Pvt. Ltd.

...Corporate Debtor

And

In the matter of:

Sandeep Goel

(Resolution Professional of Chaudhary Ingots Pvt. Ltd)

...Applicant

Coram:

Shri Rajasekhar V.K.

:

Member (Judicial)

Shri Virendra Kumar Gupta

:

Member (Technical)

Appearances (through video conference):

For Applicant

:

Mr. Rishab Tripathi, Advocate

Date of hearing: 24.11.2021

Date of pronouncement : 29.11.2021

ORDER

Per: Rajasekhar V.K., Member (Judicial)

1. This court convened *via* video conferencing.
2. This is an application filed by the Resolution Professional upon the instructions of the Committee of Creditors (CoC) seeking liquidation of the Corporate Debtor, *viz.*, Chaudhary Ingots Pvt. Ltd. [CIN: U27104UP2001PTC026354], on the ground that no resolution plan was approved by the Committee of Creditors ('CoC'). The Applicant has sought for the following reliefs:



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- a. *"Pass an order under section 33 of the Insolvency & Bankruptcy Code, 2016 for liquidation of the Corporate Debtor i.e. Chaudhary Ingots Pvt. Ltd.*
 - b. *Pass an order for appointment of the present Resolution Professional as liquidator in respect of the Corporate Debtor;"*
3. This Adjudicating Authority *vide* its order dated 03.01.2020 on a Petition filed by Mr Shriyank Wadhwa (*'Financial Creditor'*) under section 7 of the Insolvency and Bankruptcy Code, 2016 (*'the Code'*) directed initiation of the Corporate Insolvency Resolution Process (*'CIRP'*) against the Corporate Debtor and appointed Mr. Devendra Singh as the Interim Resolution Professional (*'IRP'*) who was replaced by Mr. Sandeep Goel, as the Resolution Professional (*'RP'*), as confirmed by this Adjudicating Authority *vide* Order dated 13.03.2020.
 4. Further stated that RP had invited expression of interest from prospective applicants, but no resolution plan was received despite issue of Form G twice on 16.06.2020 and 04.06.2020.
 5. However, on 23.11.2020 in the 6th meeting of the CoC, it was resolved with 97.04% voting share to recommend liquidation of the Corporate Debtor as no resolution plan was received for the corporate debtor. In the present application, the RP has given his written consent to act as liquidator which is placed at page 102 of the present application. He is stated to have a valid authorisation for assignment.
 6. Hence, the RP has filed an application under section 33(2) of the Code, before the Adjudicating Authority for liquidation of the Corporate Debtor.
 7. Section 33(2) of the Code enjoins the Adjudicating Authority to pass an order for liquidation of the Corporate Debtor where the resolution professional, at any time during the CIRP but before confirmation of the resolution plan, intimates the Adjudicating Authority of the decision of the CoC approved by not less than sixty-

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six percent of the voting share, to liquidate the Corporate Debtor. In the present case, the CoC has resolved by 97.04% voting share to liquidate the Corporate Debtor. This Bench, therefore, hereby orders as follows: -

- a. Prayers as sought for in IA No.22/ALD/2021 filed by Mr. Sandeep Goel, RP of Chaudhary Ingots Private Limited, the Corporate Debtor, is allowed and the Corporate Debtor is ordered to be liquidated in terms of section 33(2) of the Code read with sub-section (1) thereof;
- b. Mr. Sandeep Goel as RP is hereby appointed as liquidator as provided under section 34(1) of the Code, subject, however, to his possessing a valid Authorisation for Assignment (AFA) issued by the Insolvency Professional Agency (IPA) of which he is a professional member, in terms of Regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016. The Liquidator shall initiate liquidation process as envisaged under Chapter-III of the Code and the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- c. Public Notice shall be issued in the same newspapers in which advertisements were issued earlier stating that the Corporate Debtor is in liquidation.
- d. As a consequence of the application being allowed, the Moratorium as envisaged under section 14 of the Code, 2016 shall cease to have effect and a fresh Moratorium under Section 33(5) of the Code shall commence from the date of this order.
- e. All the powers of the Board of Directors, and of key managerial persons, shall cease to exist in accordance with section 34(2) of the Code. All these powers shall henceforth vest in the Liquidator.
- f. The personnel of the Corporate Debtor are directed to extend all assistance and co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.


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IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH

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- g. On initiation of the liquidation process but 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 proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority, as provided in section 33(5) of the Code read with its proviso.
- h. In accordance with section 33(7) of the Code, this liquidation order 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.
- i. The liquidator shall be paid fees in accordance with the provisions of Regulations, 2016 as amended with effect from 25th July, 2019 in the order of priority as prescribed in Section 53 of the of the Code.
- j. In terms of section 33(1)(b)(iii), the Liquidator shall file a copy of this Order with the Registrar of Companies, Kanpur, Uttar Pradesh, within whose jurisdiction the Corporate Debtor is registered. Additionally, the Registry shall also forward a copy of this Order to the Registrar of Companies, Kanpur, Uttar Pradesh.
- k. The Liquidator is directed to 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 Board of India (Liquidation Process) Regulations, 2016. The Liquidator is further is directed to file the quarterly progress reports before this Adjudicating Authority.
8. The application bearing **IA No.22/2021** shall stand disposed of in accordance with the above directions.

IA NO. 308/2021

9. The application has been filed under Sec 60(5) IBC read with Rule 11 NCLT Rules, by a claimant, Maa Chinnamastika Cement and Ispaat Pvt. Ltd. seeking

direction for the RP to admit the claim filed by it.

10. In view of the order passed in IA No.22/2021 *supra*, there is no purpose in directing the RP to collate the claim. The claimant can now file the claim with the Liquidator afresh in accordance with the Liquidation Process Regulations. Therefore, the present application bearing IA NO. 308/2021 becomes infructuous, and is dismissed as such. The applicant is at liberty to file its claim before the liquidator in the liquidation process.
11. In the result, IA No. 22/2021 is allowed and IA 308/2021 stands dismissed and disposed of.
12. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
13. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.
14. List the main CP (IB) No. 356/ALD/2019 for reporting progress on 24.01.2022.

— Sd —

Virendra Kumar Gupta
Member (Technical)

Swati Gupta (LRA)

— Sd —

Rajasekhar V.K.
Member (Judicial)