

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

IA (IBC)(Liq.)/07/KOB/2024

IN

CP(IBC)/17/KOB/2024

*Under Section 33(2) of IBC, 2016 r/w Rule 11 & 32
NCLT Rules, 2016)*

***In the matter of A.P. Steel Re Rolling Mill
Limited***

MEMO OF PARTIES:

JOSSY STEEPHEN KATTUR

Resolution Professional, A.P. Steel Re Rolling
Mill Limited, Skyline Imperial Gardens, Next to
IMA House, Kaloor, Kochi - 682025

(IP Reg No. IBBI/IPA-002/IPNo.1056/2021-
22/13627)

... Applicant

Order delivered on: 19.11.2024

Coram:

Hon'ble Member (Judicial) : Shri. Jyoti Kumar Tripathi

Hon'ble Member (Technical) : Shri. Ravichandran Ramasamy

Appearances:

For the Applicant : Mr. Akhil Suresh, Advocate

ORDER

Per Coram

1. The present application is filed by Mr. Jossy Steephen Kattur, Resolution Professional (hereinafter referred to as "RP") of A.P.



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Steel Re Rolling Mill Limited (hereinafter referred to as "Corporate Debtor") under 33(2) of the Insolvency and Bankruptcy Code, 2016 r/w Rule 11 & 32 NCLT Rules, 2016 for passing an order on liquidation of the Corporate Debtor.

2. The facts as narrated in the application and explained by the Learned counsel for the Applicant/RP summarised hereunder:

- i. M/s. S.N. Steels, Palakkad, an operational creditor, filed a petition under Section 9 of IBC, 2016, read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, seeking initiation of the CIRP against the Corporate Debtor, A.P. Steel Re Rolling Mill Limited, for an operational debt default of Rs.2,64,38,134/- plus 12% interest from 24.03.2022, amounting to Rs.60,88,914/- as of 24.02.2024.
- ii. On 02.05.2024, this Tribunal admitted the petition and appointed the Applicant as the RP for the Corporate Debtor. Following this, on 04.05.2024, the Applicant made a public announcement in the Kerala and Coimbatore editions of Business Line and the Palakkad edition of Mathrubhoomi, inviting claims from creditors. The Corporate Debtor has received claims totalling Rs.316,214,321/- wherein Rs.234,347,025/- is admitted by RP.
- iii. Upon reviewing the company's financial records, the RP found that the Corporate Debtor had ceased operations in FY 2022,



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had no cash flow, and was no longer a going concern, with no employees currently engaged. Given these challenges, the CoC decided it would be impractical to seek prospective resolution applicants through an EOI and resolved not to publish Form G for inviting EOIs.

- iv. In the 3rd CoC meeting held on 10.06.2024, the sole financial creditor, Federal Bank holding 100% voting rights, resolved to proceed with liquidation under Section 33(2) of the IBC, 2016. This application was filed on 28.08.2024
 - v. The Applicant has given his consent to be appointed as liquidator
3. Section 33(1)(a) of the IBC, 2016 mandates that the Adjudicating Authority shall pass an order of liquidation where no valid resolution plan is received before the CIRP expires. Sub-section (2) thereof requires the Adjudicating Authority to pass the liquidation order where the Resolution Professional intimates to the Adjudicating Authority the decision of the Committee of Creditors approved by not less than 66% of the voting share to liquidate the Corporate Debtor. Moreover, the Hon'ble Supreme Court in the matter of **K. Sashidhar Versus Indian Overseas Bank & Ors in Civil Appeal No. 10673 of 2018** has held that the commercial decision of CoC is non-justifiable. In this case, it is seen that CoC with a 100% majority has passed the resolution seeking liquidation of the Corporate Debtor.



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4. We have heard the Learned Counsel for the Applicant and perused the materials available on record. On 10.06.2024, the 3rd meeting of the CoC in its commercial wisdom has decided unanimously to liquidate the Corporate Debtor under Section 33(2) of the IBC, 2016. Considering the above, we are of the opinion that the decision of the CoC should not be interfered with.
5. In the result, **A.P. Steel Re Rolling Mill Limited**, Corporate Debtor is ordered to be **liquidated**.
6. The CoC also passed the resolution to appoint the present RP/Applicant Mr. Jossy Steephen Kattur, to act as liquidator of the Corporate Debtor during the liquidation process. As per IBBI vide its circular number Liq-12011/214/2023-IBBI/840 dated 18/07/2023 in the exercise of its powers conferred under section 34 (4) (b) of the Code, had recommended that an IP other than the RP/IRP may be appointed as liquidator in all the cases where liquidator (read liquidation) order is passed henceforth.
7. However, we are of the view that, since CoC resolved to appoint the current Resolution Professional, Mr. Jossy Steephen Kattur, as the liquidator for the Corporate Debtor during the liquidation process, and considering the circumstances, including the fact that there was no requirement to publish Form G to invite expressions of interest from prospective resolution applicants, that the Applicant had no opportunity to explore the potential of the CIRP, in the best interest of the Corporate Debtor to proceed with the current Resolution Professional as liquidator.



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8. Hence, we hereby appoint, **Mr. Jossy Steephen Kattur**, having his office at **Barons 16, Skyline Imperial Gardens, Next to IMA House, Kaloor, Kochi -682025** with registration **IBBI/IPA-002/IP-N01056/2021-2022/13627** and email id **jossysk@gmail.com**, as the **Liquidator** of the Corporate Debtor, M/s. A.P. Steel Re Rolling Mill Limited.
9. The Liquidator is directed to forthwith take into his custody all the assets, properties, and actionable claims of the corporate debtor and take necessary steps to ensure the preservation, protection security and maintenance of those properties as provided under section 35(1)(b) & (d) of IBC 2016.
10. The Liquidator is directed to adhere to Section 33(1) (ii) & (iii) and discharge his powers and duties as specified under Section 35 to 41 of IBC, 2016 and meticulously adhere to the Rules and Regulations issued by IBBI in this regard from time to time.
11. Public Notice as contemplated under section 33(1) of the Code shall be issued in one morning, English daily and in one-morning regional language newspapers.
12. All the powers of the Board of Directors of the Corporate Debtor and of its key managerial personnel, shall cease to exist in accordance with Section 34 (2) of the Code. These powers shall henceforth vest in the Liquidator. The personnel of the Corporate Debtor shall extend all assistance and cooperation to the



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Liquidator as may be required by him in the Liquidation process of the Corporate Debtor.

13. 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 a 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.
14. 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.
15. In terms of Section 33(1) (b) (iii), the Liquidator shall file a copy of this Order with the Registrar of Companies, Kerala, within whose jurisdiction the Corporate Debtor is registered.
16. The fee of the Liquidator is to be determined as provided under Regulation 4 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation 2016.
17. As per Regulation 13 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation,2016, the liquidator shall submit a preliminary report to the Adjudicating Authority within



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75 days from the liquidation commencement date providing various details/information as mentioned in the said regulation.

18. The Registry is directed to send e-mail copies of the order to the party and their learned counsel for information and to take necessary steps.
19. A Certified Copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

SD/-

RAVICHANDRAN RAMASAMY
(MEMBER TECHNICAL)

SD/-

JYOTI KUMAR TRIPATHI
(MEMBER JUDICIAL)

Signed on this the 19th day of November, 2024.

Krishna./LRA

Certified to be True Copy
20.11.24
Deputy Registrar
National Company Law Tribunal
Kochi Bench

