

**IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH  
COURT III**

**I.A. 1032 OF 2021**

Under Section 33(2) of Insolvency & Bankruptcy Code, 2016

Filed by

**Mr. Arun Rajabhau Joshi**

Resolution Professional of:

Govindam Metals & Alloy Private Limited

**...Applicant**

In the matter of

**C.P. No. 3634 of 2019**

**Kamlesh Satish Agarwal Goyal**

**Proprietor of Meera Tradelinks**

**606, Pune Krushi Uttapanna,**

**Bazar Samiti, Marketyard, Pune - 411037**

**...Petitioner**

Versus

**Govindam Metals & Alloy Private Limited**

**B - 15, Phase (I), Addi MIDC,**

**Jalna - 431203**

**...Corporate Debtor**

**Order delivered on: 09.12.2021**

**Coram:**

Hon'ble Shri H.V. Subba Rao, Member (Judicial)

Hon'ble Shri Chandra Bhan Singh, Member (Technical)

**Appearance:**

For the Resolution Professional: Ms. Prajakta Menezes, Advocate

1. The above application I.A. No. 1032/2021 is filed by Interim Resolution Professional, Mr. Arun Rajabhau Joshi seeking liquidation of Govindam

Metals & Alloy Private Limited (hereinafter referred as Corporate Debtor) under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 (hereinafter called as “the Code, praying for following reliefs:

- a. *Pass the Liquidation order under Section 33(2) of the Code and appoint Mr. Fanendra Harakchand Munot as the Liquidator of the Corporate Debtor.*
- b. *Pass necessary directions under Section 35(1) of the Insolvency and Bankruptcy Code, 2016.*
- c. *And any other which the Hon’ble NCLT may deem fit in the facts and circumstances of the present case.*

2. The brief facts of the application are as follows:

- A. The Applicant mentioned that this Tribunal vide its order dated 17.01.2020 in Company Petition No. 3634 of 2019 admitted the petition under Section 7 of the Code, filed by Kamlesh Satish Agarwal Goyal (hereinafter referred to as the “Financial Creditor”) who is a proprietor of Meera Tradelinks and Corporate Insolvency Resolution Process (CIRP) was initiated against Govindam Metals & Alloy Private Limited, (hereinafter called as the “Corporate Debtor”). The Applicant herein was appointed as the Interim Resolution Professional (IRP) of the Corporate Debtor by this Tribunal vide this Order dated 17.01.2020.
- B. The Applicant published Public Notice inviting claims from the Creditors of the Corporate Debtor which was published in Times of India (English) and Dainik Anand Nagari (Marathi) in Aurangabad edition newspaper on 24.01.2020 and 25.01.2020 respectively and on Insolvency and Bankruptcy Board of India (hereinafter called as the “IBBI”) on 24.01.2020.
- C. The Committee of Creditors, (hereinafter called as the “CoC”) was constituted on 12.02.2020, whereby in the first meeting the CoC held

on 20.02.2020, the applicant was appointed as the Resolution Professional of the Corporate Debtor to conduct the CIRP of the Corporate Debtor in accordance with the relevant provisions of the Code.

D. The CoC in its 1<sup>st</sup> meeting which held on 20.02.2020, the Applicant informed the CoC that since there is only one asset left of Land and Building and with other few debtors no chance of revival of the Corporate Debtor, therefore the only option would be to Liquidate the Corporate Debtor. Thereafter, the Committee decided to put the following resolution for e-voting, the relevant extract of the resolution and voting result is reproduced herein below for ready reference:-

*“RESOLVED THAT, After Considering the financials of the Company, the Committee of Creditors hereby decides to go for liquidation with immediate effect”*

*“FURTHER RESOLVED THAT, existing IRP i.e., Mr. Arun Joshi is hereby authorized to continue his role as interim resolution professional till the new RP cum Liquidator is appointed and shown on the website of the NCLT”*

*“FURTHER RESOLVED THAT, existing IRP be and is hereby authorised to file miscellaneous application to NCLT, Mumbai for grant of order of liquidation under Section 33(2) read with Section 60(2) of IBC,2016 and to take necessary steps till the new RP cum Liquidator is appointed.”*

E. The Applicant states that, the Hon’ble NCLT, Mumbai Bench vide order dated 30.07.2020 approved the appointment i.e., Mr. Fanendra Harakchand Munot (Registration No: IBBI/IPA-001/IP-0515/2017-18/10916) as Resolution Professional for the Corporate Debtor.

3. Heard the arguments of the counsel appearing for the Resolution Professional and perused the record. It is observed from the minutes of the 1<sup>st</sup> CoC meeting held on 20.02.2020 that the CoC has, with 98.33% majority, decided to Liquidate the Corporate Debtor, as there is only one asset left of land and

building and with other few debtors no chance of revival of the Corporate Debtor

4. Mr. Fanendra Harakchand Munot, has agreed to act as liquidator to carry on the process of Liquidation and given his consent to act as Liquidator.
5. Relying on the settled principle of law regarding the Commercial Wisdom of the CoC, we hereby allow this Interlocutory Application Number 1032 of 2021 and pass the following:

### **ORDER**

- i. The above I.A. No. 1032/2021 is allowed and the Corporate Debtor Govindam Metals & Alloy Private Limited is ordered to be liquidated.
- ii. **Mr. Fanendra Harakchand Munot**, having (Registration No. IBBI/IPA-001/IP-0515/2017-18/10916) and having office at: 6th Floor, Mafatlal House Building, H. T. Parekh Marg, Backbay Reclamation, Mumbai - 400020, is hereby appointed as the Liquidator as provided under Section 34(1) of the Code.
- iii. That the Liquidator for conduct of the liquidation proceedings would be entitled to the fees as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016.
- iv. 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.
- v. 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.

- vi. That 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.
- vii. 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.
- viii. That 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.
- ix. That 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 proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority.
- x. 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.

With the above directions, this application i.e. I.A. No. 1032 of 2021 is hereby allowed and disposed of.

Sd/-

**CHANDRA BHAN SINGH**  
**MEMBER (TECHNICAL)**

Sd/-

**H.V. SUBBA RAO**  
**MEMBER (JUDICIAL)**