

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (Court - I)
KOLKATA**

IA (IB) No. 602/KB/2022
in
CP (IB) No. 103/KB/2020

*An application under section 33 of Insolvency & Bankruptcy Code, 2016 read
with section 60(5) of the Insolvency & Bankruptcy Code, 2016*

In the matter of

Gouri Iron & Steel Private Limited (in CIRP)

... Corporate Applicant

-And-

In the matter of:

Arun Kumar Sharma,

Resolution Professional of Gouri Iron & Steel Private Limited

... Applicant

Order reserved on : 11th November, 2022

Order pronounced on : 24th November, 2022

Coram:

Shri Rohit Kapoor, Member (Judicial)

Shri Balraj Joshi, Member (Technical)

Appearances (through video conferencing/ physical):

For the Resolution Professional:

Mr. Debasis Lahiri, Adv

ORDER

Per: Balraj Joshi, Member (Technical)

1. This court was convened via video conferencing.

2. This is an application filed by the Resolution Professional with the approval of the Committee of Creditors (CoC) seeking liquidation of the Corporate Debtor, *viz.*, Gouri Iron & Steel Private Limited [CIN: U27101WB2002PTC094371], on the ground that the Committee of Creditors ('CoC') has decided to liquidate the Corporate Debtor by 100 % votes. The Applicant has sought for the following reliefs:
 - a. *A liquidation order for the Corporate Debtor under section 33(1)(a) of the Insolvency and Bankruptcy Code, 2016;*
 - b. *To appoint Uttam Tekriwal, an insolvency professional having registration no. IBBI/IPA-001/IP-P02192/2020-2021/13365 as the Liquidator of the Corporate Debtor;*
 - c. *Ad interim orders in terms of prayers above;*
 - d. *Such further and/or other order or orders and/or direction or directions as this Tribunal may deem fit and proper.*
3. This Adjudicating Authority *vide* its order dated 25th November 2021 on a Petition filed by Paragon Finance Limited ('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. Netai Basak** as the Interim Resolution Professional ('IRP'). The applicant was appointed as the Resolution Professional ('RP') *vide* order dated 9th February 2022..
4. The Applicant submits that in the 8th CoC meeting held on 14th April 2022, the members of the CoC with 100% voting rights have decided to liquidate the Corporate Debtor under section 33 of the Code since no valid Expression of Interest/ Resolution Plan was received even after publishing Form G two times on 28.01.2022 and 17.02.2022.
5. It is further submitted that in the said COC meeting, it was further resolved that Mr. Uttam Tekriwal, having given his consent to act as Liquidator, be appointed as the Liquidator of the Corporate Debtor, subject to the approval of this Adjudicating Authority.

6. In the said CoC meeting, the liquidation cost of the Corporate Debtor was estimated to be ₹2,10,000/- plus GST (excluding liquidator's fee). Therein the liquidator's monthly fees amounting to ₹40,000/- was also approved with 100% votes, which was approved to be in accordance with regulation 4(2)(b) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
7. Hence, the RP has filed the instant application under section 33 of the Code, before the Adjudicating Authority for liquidation of the Corporate Debtor on expiry of the CIRP period.
8. We have considered the submission made by the learned Counsel on behalf of the Applicant/RP and perused the record.
9. According to section 33(1)(a) of the Code, if before the expiry of the insolvency resolution process period, the Adjudicating Authority does not receive a resolution plan, it shall pass order for the liquidation of the Corporate debtor. Further, 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 corporate insolvency resolution process but before confirmation of resolution plan, intimates the Adjudicating Authority of the decision of the committee of creditors approved by not less than sixty-six percent of voting share to liquidate the corporate debtor.
10. In the instant matter, no resolution plan was received by the CoC and therefore in the 8th CoC meeting, the CoC, by 100% votes, decided to liquidate the Corporate Debtor. As such, this Adjudicating Authority is also satisfied that liquidation process of the Corporate Debtor should be initiated.
11. This Bench, therefore, hereby orders as follows: -
 - a. Prayers as sought for in **I.A. (IB) No. 602/KB/2021** filed by Mr. Arun Kumar Sharma, Resolution Professional of Gouri Iron & Steel Private Limited, the Corporate Debtor, is allowed and the

Corporate Debtor is ordered to be liquidated in terms of section 33 of the Code;

- b. **Mr. Uttam Tekriwal** [Reg. No. IBBI/IPA-001/IP-P02192/2020-2021/13365], having email id- **ip.uttamtekriwal@gmail.com**, is hereby appointed as Liquidator is hereby appointed as Liquidator as provided under section 34(5) of the Code.
- c. 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.
- d. Public Notice shall be issued in the same newspapers in which advertisements were issued earlier, i.e., *Financial Express* (English)(Kolkata Edition) and *Aajkal* (Kolkata Edition) (Bengali) , stating that the Corporate Debtor is in liquidation.
- 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.
- 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. In terms of section 33(1)(b)(iii), the Liquidator shall file a copy of this Order with the Registrar of Companies, West Bengal, Kolkata, within whose jurisdiction the Corporate Debtor is registered. Additionally, the Registry shall also forward a copy of this Order to the Registrar of Companies, West Bengal, Kolkata.

12. The application bearing **IA (IB) No. 602/KB/2022** shall stand disposed of in accordance with the above directions.
13. 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.
14. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.
15. List the main **CP (IB) No. 103/KB/2020** for reporting progress on **28.12.2022**.

[Balraj Joshi]
Member [Technical]

[Rohit Kapoor]
Member [Judicial]

Signed on this, the 24th day of November, 2022

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