

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH, COURT-II**

**I.A. (I.B.C)(liq) No. 6/KB/2024
in
CP (IB) No. 112/KB/2022**

IN THE MATTER OF:

State Bank of India.

...Financial Creditors

Versus

Danla Metaliks Private Limited

... Corporate Debtor

AND

IN THE MATTER OF:

Mr. Aditya Kumar Tibrewal

Applicant/ Resolution Professional

*An Application under section 33(2) of the Insolvency and bankruptcy code,
2016 for liquidation in the matter of Danla Metaliks Private Limited.,
Corporate Debtor*

Order pronounced on: 19/03/2024

Coram:

Smt Bidisha Banerjee, Member (Judicial)

Shri D. Arvind, Member (Technical)

Appearances (through hybrid mode):

For the RP

1. Sidhartha Sharma, Advocate
2. Arjun Asthana, Advocate
3. Sitikanto Mitra, Advocate
4. Aman Katanuka, Advocate

In Re Liquidation of Danla Metaliks Private Limited

ORDER

Per: Bidisha Banerjee, Member (Judicial)

1. This court convened *via* hybrid mode.
2. **I.A. (I.B.C)(liq) No. 6/KB/2024** is an application filed praying for liquidation of the Corporate Debtor.

Brief facts

3. This Adjudicating Authority vide its order dated 25 August 2023 directed initiation of the Corporate Insolvency Resolution Process ('CIRP') of **Danla Metaliks Private Limited** ("Corporate Debtor"), on a Petition filed by state Bank of India ("Financial Creditor ") against **Danla Metaliks Private Limited** under section 7 of the Insolvency and Bankruptcy Code, 2016 ('the Code') and appointed **Mr. Aditya Kumar Tibrewal** as the Interim Resolution Professional ('IRP').
4. In terms of section 15 of the Code, public announcement was made and the Committee of Creditors ("CoC") was formed with viz. State Bank of India. The CoC appointed Interim Resolution Professional as the Resolution Professional with voting share 100%.
5. The RP wrote several emails to the erstwhile directors of the Corporate Debtor seeking books of accounts, Financial Statement, Article of association and Memorandum of association. But the erstwhile directors did not give any documents even after publication in newspaper seeking the cooperation of erstwhile directors. The RP did not found the office of Corporate Debtor and the residential address of the suspended board of directors as per MCA record.
6. In the 4th CoC meeting, the RP informed CoC that the only PRA in the matter has withdrawn their names as a PRA vide an email dated 12.01.2024 and they had requested to refund EMD. The RP informed CoC that 180 days of CIRP is ending on 21st February 2024.

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7. The RP made 2nd Publication of EOI in form G on 19.01.2024, wherein the last date for receipt of EOI was 03.02.2024. But no EOI was received till 03.02.2024.
8. Therefore, the CoC passed Resolution with 100% votes to liquidate the Corporate Debtor.

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9. This is an application filed by RP seeking liquidation of the Corporate Debtor, viz., **Danla Metaliks Private Limited**, on the ground that there is no scope of resolution, especially in the view of the fact there is no plan received during CIRP.
10. The Applicant has sought for the following reliefs:
 - a. *Issue necessary orders / Direction approving the Liquidation of Danla Metaliks Private Limited*
 - b. *Issue necessary orders / Direction approving the Appointment of Mr. Sanjai Kumar Gupta as the Liquidator of Danla Metaliks Private Limited., as approved by CoC.*
 - c. *And/or to pass such other order or orders as this Hon'ble Tribunal may deem fit and proper.*

Analysis and Findings

11. We have considered the submission made by the Ld. Counsel and perused the record.
12. Section 33(2) of the Code enjoins the Adjudicating Authority to pass an order for liquidation of the Corporate Debtor when CoC approves Liquidation of Corporate Debtor with 66% votes.
13. Hence, we do find merit in the prayers made in **I.A. (I.B.C)(liq) No. 6/KB/2024**, and deem it fit to order liquidation of the Corporate Debtor.
14. This Bench, therefore, hereby orders as follows: -

In Re Liquidation of Danla Metaliks Private Limited

- a. Prayers as sought for in **I.A. (I.B.C)(liq) No. 6/KB/2024** filed by RP, is allowed and **Danla Metaliks Private Limited.**, the Corporate Debtor is ordered to be liquidated in terms of section 33(1) of the Code;
- b. **Mr. Sanjai Kumar Gupta** having registration no. **IBBI/IPA-001/IP-P00592/2017-2018/11045**,
Email:casanjaigupta@gmail.com is hereby appointed as Liquidator is hereby appointed as Liquidator as provided under section 34(1) of the Code subject to a valid Authorisation for Assignment (AFA) issued by the Insolvency Professional Agency (IPA) of which she is a professional member,
- 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 newspapers 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.

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- 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, within whose jurisdiction the Corporate Applicant is registered. Additionally, the Registry shall also forward a copy of this Order to the Registrar of Companies, Maharashtra.
- 15.** The application bearing **I.A. (I.B.C)(liq) No. 6/KB/2024** shall stand **disposed of** in accordance with the above directions.
- 16.** List the main **CP (IB) No. 112/KB/2022** for reporting progress on **03.05.2024**.
- 17.** 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.
- 18.** Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

D. Arvind
Member [Technical]

Bidisha Banerjee
Member [Judicial]

Order pronounced on the 19th March, 2024.

NKS[LRA]