

NATIONAL COMPANY LAW TRIBUNAL, COURT-V, NEW DELHI

C.A.2178/ND/2019 IN

Company Petition No. (IB) 2590/(ND) /2019

In the matter of:

Shipyard Co.

Operational Creditor

V.

G.R.S. Ispat Company Private Limited
PU-108 Pitampura, New Delhi-110034

Corporate Debtor

AND

In the matter of:

Mr. Navjit Singh

Applicant/Resolution Professional

Under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 for liquidation of the Corporate Debtor

Judgment delivered on: 29.07.2020

Coram:

ABNI RANJAN KUMAR SINHA, MEMBER (JUDICIAL)

K.K. VOHRA, MEMBER (TECHNICAL)

Present:

For the Resolution Professional: Mr. Navjit Singh, (RP)

Mr. Anuj Arora, Advocate

For Ex-Management

: Mr. Saket Saroha, Ex-Director



ORDER

Per: K.K. Vohra, Member (T)

1. This is an application filed by the Resolution Professional (RP) under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 (Code) With the following players:
 - a. Allow present application filed on behalf of RP under Section 33 (2) of read with Section 33(1)(b) (i)(ii)(iii) of the Code seeking inter alia orders for liquidation of the Corporate Debtor (CD);
 - b. Condone the delay which might be caused due to corona virus pandemic and lockdown declared by Government of India;
 - c. Accept the application filed under Sec 43/66 for avoidance of transaction and be accepted under Chapter III of the Code;
 - d. Direct financial creditors to release the fee along with other expenses of RP during CIRP period;
 - e. Appoint the present RP Sh Navjit Singh as a Liquidator in terms of Section 34 of the Code for the CD;
 - f. Pass such other order as it deems fit in interest of justice and in facts and circumstances of the present case.
2. The facts in brief are that the Operational Creditor (OC), Shipyard Co., had filed an application under Sec 9 of the Code for initiation of Corporate Insolvency Resolution Process (CIRP) against the CD. The said application was admitted by this Tribunal on 28.11.19 initiating CIRP and appointed Mr. Navjit Singh as the Interim Resolution Professional (IRP).



3. The IRP made the Public Announcement in respect of initiation of CIRP as well as intimated to all suspended directors of the CD. The IRP collected and verified claims received and constituted Committee of Creditors (CoC).
4. The first meeting of CoC was held on 27.12.2019. The second meeting of CoC was held on 12.02.20 in which the IRP was appointed as Resolution Professional (RP). In the fourth meeting held on 05.05.2020, after considering all the facts, CoC decided to liquidate the CD. Minutes of 4th meeting of CoC have been placed on record.
5. RP has now filed present application with a prayer for liquidation of the CD as the CoC in its Fourth meeting approved the Resolution for Liquidation.
6. Minutes of 4th meeting of CoC record that there were no tangible fixed assets of the CD and the RP informed that issuance of Form-G (Invitation for EoI) had already been rejected by the CoC in the third meeting (page 13 of application). CoC decided in the same meeting that there is no feasibility and viability in continuing with the CIRP and therefore passed a resolution (Resolution 1 at page 15 of the application) with 100% voting shares in favour of the initiation of liquidation in terms of Sec 33 of the Code. Resolution 4 in the same meeting approved appointment of RP as Liquidator.
7. Mr. Saket Saroha, one of the suspended directors of the CD also appeared at the time of virtual hearing on 20.07.2020 and Mr. Saroha has not raised any objection against the liquidation of the CD.
8. In view of the submissions made by the parties, the liquidation has to follow as recommended by the CoC in terms of Section 33 (2) of the Code.



9. The CoC has also approved appointment of RP as Liquidator. The RP has filed its written consent dated 24.05.2020 to act as a Liquidator.

10. In the factual background and in conformity with the decision of the CoC with 100% voting share, the **payer for Liquidation of the CD, namely G.R.S. Ispat Company Private Limited, is hereby allowed.** Further, it is directed that:

- A. Mr. Navjit Singh Registration No. IBBI/IPA-001/IP-P-00314/2017-18/10578, is appointed as Liquidator in terms of Section 34(1) of the Code;
- B. Mr. Navjit Singh is directed to issue Public Announcement stating that CD is in liquidation, in terms of Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 (Regulations);
- C. The delay, if any, in filing of application has been condoned;
- D. The Registry is directed to communicate this Order to the Registrar of Companies, NCT of Delhi & Haryana and to the Insolvency and Bankruptcy Board of India;
- E. The Order of Moratorium passed under Section 14 of the Code shall cease to have its effect and a fresh Moratorium under Section 33(5) of the Code shall commence;
- F. The Liquidator shall follow up and investigate the financial affairs of the CD in accordance with provisions of Sec 35 (I) of the Code;
- G. The Liquidator may file proper applications under Section 43/66 for avoidance of transactions;
- H. The Liquidator shall be entitled to receive fee in accordance with Sec 34 (8) of the Code as well as ratified by the CoC in its 4th meeting;



- I. It is seen that the CoC ratified the fee of IRP/RP and other expenses in second meeting held on 12.02.2020 (Resolution under Item no. 8A, page 68 of Written Submissions of RP dated 29.02.20) and in fourth meeting held on 05.05.2020 (Resolutions under item nos. 2, 3 and 5, page 21 of Application dated 24.05.20). Accordingly, the CoC shall release payment of fee and other expenses to RP.
- J. The Liquidator shall also follow pending application, if any, for its disposal during the process of liquidation including initiation of steps for recovery of dues of the CD per law.
- K. The Liquidator shall submit a Preliminary Report to the Adjudicating Authority within seventy-five days from the liquidation commencement date as per Regulation 13 of the Regulations.
11. Copy of this order be sent to the financial creditors, CD and the Liquidator for taking necessary steps.
12. C.A. 2178/ND/2020 filed in IB 2590 (ND) /2019 is disposed of in the aforesaid terms.

Sd/-

(K. K VOHRA)
MEMBER (T)

Sd/-

(ABNI RANJAN KUMAR SINHA)
MEMBER (J)