

**NATIONAL COMPANY LAW TRIBUNAL
COURT No. – I, MUMBAI BENCH**

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IA No. 1790/2019

IA No. 2087/2019

IA No. 2305/2019

IA No. 2246/2019

IA No. 2415/2019

IA No. 619/2020

IA No. 2214/2020

in

C.P.(IB)- No. 30(MB)/2017

Marmagoa Steel Ltd.

***** ****

Dated 10th February, 2021

ORDER

Sr. No. 12

The matter is taken up on VC. Mr. Saurabh Bachhawat, Advocate and associates for the Applicant in IA No. 1790 of 2019 and Mr. Rohit Gupta, Advocate with associates for the Applicant in IA No. 2415 of 2019, Counsel for the Applicant in IA No. 2305 of 2019 and Mr. Devrajan Raman, for the Resolution Professional of the Corporate Debtor are present.

IA No. 1790 of 2019 filed by Asset Reconstruction Company (India) Ltd (Financial Creditor), IA No. 2305 of 2019 filed by Pridhvi Asset Reconstruction and Securitization Company Ltd (Financial Creditor), IA No. 2415 of 2019 filed by MSTC (Operational Creditor) respectively seek liquidation of the Corporate Debtor.

It is submitted that the Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor was ordered on 20.03.2017 and Mr. Pravin Navandar was appointed as the IRP of the Corporate Debtor.

The Resolution Plan submitted by the Resolution Applicant was approved by this Bench vide order dated 02.07.2018. It is submitted that the Resolution Applicant has failed to

honour/implement the terms and conditions of the Resolution Plan. The Resolution Applicant has filed IA No. 619 of 2020 expressing its inability to implement the Resolution Plan for reasons beyond its control. The IA No. 619 of 2020 would be considered separately. Heard on the Applications for liquidation bearing IA No. 1790 of 2019, IA No. 2305 of 2019 and IA No. 2415 of 2019. There is no quarrel that the Corporate Debtor may have to go into liquidation. Accordingly, these Applications have been filed. The Resolution Plan admittedly has failed. Thus, we are satisfied that the order for liquidation is required to be passed in respect of the Corporate Debtor.

Accordingly, IA No. 1790 of 2019, IA No. 2305 of 2019 and IA No. 2415 of 2019 are allowed. We hereby order liquidation of the Corporate Debtor under Section 33 of the I & B Code, 2016 (the Code) with the following directions:

- a) The Corporate Debtor i.e. Marmagoa Steel Ltd shall be liquidated in the manner as laid down in Chapter-III of the Code.
- b) Mr. Pravin Navandar, having Registration No.IBBI/IPS-001/IP-P00008/2016-2017/10027 is hereby appointed as the Liquidator of the Corporate Debtor.
- c) He shall issue public announcement stating that Corporate Debtor is in liquidation.
- d) The Moratorium declared under Section 14 of the IBC 2016 shall cease to operate herefrom.
- e) Subject to section 52 of the Code no suit or other legal proceedings shall be instituted by or against the Corporate Debtor. This shall however not apply to legal proceedings in relation to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- f) All powers of the Board of Directors, Key Managerial Personnel and partners of the Corporate Debtor shall cease to have effect and shall be vested in the Liquidator.
- g) The liquidator shall exercise the powers and perform duties as envisaged under Sections 35 to 50 and 52 to 54 of the Code, read with Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016.
- h) Personnel connected with the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as will be required for managing its affairs.
- i) The Liquidator shall be entitled to such fees as may be specified by the Board in terms of Section 34 (8) of the Code.

- j) This Order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor, except when the business of the Corporate Debtor is continued during the liquidation process by the Liquidator.
- k) Copy of the Order shall be furnished to the IBBI, to the Regional Director (Western Region), Ministry of Corporate Affairs; Registrar of Companies & Official Liquidator, Maharashtra, the Registered Office of the Corporate Debtor; and the Liquidator.

IA No. 619 of 2020

The representative of the Resolution Applicant and his Counsel are present. This is an Application filed by the Resolution Applicant seeking certain exemptions and protection in the event of liquidation. The IA however, would be heard at length subsequently.

IA No. 2246 of 2019

This is an Application filed by the RP seeking orders in case the liquidation order under Section 33 of the Code is passed and to preserve the assets of the Corporate Debtor for meeting his professional fees. The Application being premature is rejected as infructuous.

IA No. 2087 of 2019

This is an Application filed by the Resolution Professional of the Corporate Debtor seeking payment of his fees.

List IA No.619 of 2020 and IA No.2087 of 2019 on 20.04.2021 for hearing.

IA No. 2214 of 2020

This is an Application filed by Assets Reconstruction Company India Limited (Applicant in IA No. 1790 of 2019) seeking liquidation of the Corporate Debtor (as prayed in IA No. 1790 of 2019) and for appropriate direction to the Resolution Applicant for non-implementation of the Resolution Plan.

The counsel for the Applicant is present. Apart from seeking liquidation as already sought in IA No. 1790 of 2019, the Applicant seeks direction against the Resolution Applicant under Section 73 of the I & B Code, 2016 for punishment and penalty. As already indicated by today's orders, the IA No. 1790 of 2019 has been disposed of.

In the present Application the Resolution Applicant has not been made a party against whom adverse orders are sought. Accordingly, this Application cannot be said to be in order. Application is accordingly rejected for non-joinder of necessary party. The rejection however would not come in the way of the Applicant for taking necessary steps in accordance with the law against the person / entity responsible for the non-implementation, if any of the Resolution Plan.

Sd/-
V. NALLASENAPATHY
Member (Technical)

Sd/-
JANAB MOHAMMED AJMAL
Member (Judicial)