

**IN THE NATIONAL COMPANY LAW TRIBUNAL
CUTTACK BENCH
CUTTACK**

**IA (IB) 12/CB//2021
in
CP (IB) No. 163/CTB/2019**

In the Matter of:

An Application under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 for
an order of Liquidation of the Corporate Debtor;

and

In the Matter of:

M/s Pohoja Print Solutions Pvt. Ltd.;

... Operational Creditor

versus

M/s Nova Steels (India) Limited;

... Corporate Debtor

and

In the Matter of

Mr. Santha Kumar S, S/o Mr. Selvarengan aged about 47 years acting as the Resolution
Professional for M/s Nova Steels (India) Limited, having registered office at SR. MIG
No. 49, Parijat Extension, Nehru Nagar, Bilaspur, Chhattisgarh- 495 001;

...Resolution Professional (RP)/Applicant

Order reserved on 22.07.2021

Order pronounced on: 10.08.2021

Coram:

Shri Rajasekhar V.K. : Member (Judicial)

Shri Satya Ranjan Prasad : Member (Technical)

sd

IN THE NATIONAL COMPANY LAW TRIBUNAL
CUTTACK BENCH

IA (IB) 12/CB//2021
in CP (IB) No. 163/CTB/2019

In re: Liquidation of M/s Nova Steels (India) Limited

Appearances (through video conferencing)

For the Applicant : Mr. Santha Kumar S Resolutional
Professional

ORDER

Per: Rajasekhar V.K., Member (Judicial)

1. This IA has been filed under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 by the Resolution Professional in the matter of M/s Nova Steels (India) Limited making the following prayers: -
 - a) *Pass an order for commencement of the Liquidation process under Section 33 of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the NCLT Rules, 2016.*
 - b) *Pass an order appointing the Applicant namely, S. Sant Kumar as the Liquidator*
 - c) *Pass any other as this Tribunal deems fit.*
2. The brief facts are that the application IA (IB) No. 12/CB/2021 filed in the matter of M/s Pohoja Print Solutions Pvt. Ltd in CP (IB) No. 163/CTB/2019 under Section 9 of the Insolvency and Bankruptcy Code, 2016 ('IBC' for brevity) was admitted by this Adjudicating Authority on 20th February 2020. The first meeting of the Committee of Creditors (COC) was held on 19.03.2020 and the second and third meetings on 05.09.2020 and 16.01.2021 respectively. The applicant is presently the Resolution Professional in the matter.
3. It is stated that the Statutory Auditor of the Corporate Debtor, in its report has been qualifying that the Corporate Debtor is not a going concern, for more than 15 years and, therefore, the Corporate Debtor has no business activity for the last several years. A copy of the report of the Statutory Auditor has been placed

Sd

IN THE NATIONAL COMPANY LAW TRIBUNAL
CUTTACK BENCH

IA (IB) 12/CB//2021
in CP (IB) No. 163/CTB/2019

In re: Liquidation of M/s Nova Steels (India) Limited

on record and marked as Annexure-C with this petition. The applicant has obtained necessary information of the status and liabilities of the Corporate Debtor from the Suspended Board and the Statutory Auditor of the Corporate Debtor. That all the fixed assets of the Corporate Debtor were taken by the Banks by invoking SARFAESI Act. As the company is out business, there are no trade receivable or stock/inventory.

4. It is further stated that in the third CoC meeting held on 16.01.2021, it was discussed that the Corporate Debtor has no value in the books of accounts and has no assets to its name (both fixed and current). There is no business by the Corporate Debtor as on date and hence the Corporate Debtor defaulted to make payment to the Operational Creditor. There is no value of the Corporate Debtor in the books of accounts and the invitation of the Resolution Plan would be futile exercise and waste of time and money. In view of the same, a resolution was passed by the CoC with approval from the Operational Creditor that direct Liquidation process may be commenced without going through CIR Process as the same is of no significance in the present circumstances. The said resolution was passed with 100% approval of the CoC. A copy of the resolutions passed in the third CoC meeting is placed on record and marked as Annexure-C with this petition.
5. It is further stated that the resolution for liquidation of the Corporate Debtor was approved with 100% votes. Relevant documents in this regard have been enclosed with the application.
6. In this respect, it is relevant to reproduce section 33(2) of the Insolvency and Bankruptcy Code, which is as under:

“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 the voting share) to

Sd

IN THE NATIONAL COMPANY LAW TRIBUNAL
CUTTACK BENCH

IA (IB) 12/CB//2021
in CP (IB) No. 163/CTB/2019

In re: Liquidation of M/s Nova Steels (India) Limited

liquidate the corporate debtor, the Adjudicating Authority shall pass a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1)."

7. From a reading of the above provision, it is clear that when a Resolution Professional at any time during the CIRP but before confirmation of Resolution Plan approaches the Adjudicating Authority with the decision of the COC approved by not less than sixty six percent of the voting share, the Adjudicating Authority shall pass a liquation order. In this case the CoC with 100% voting right approved the resolution for liquidation of the Corporate Debtor. Hence, this is a fit case to order liquidation under Section 33(2) of the IBC, 2016.
8. For the aforesaid reasons, IA (IB) 12/CB/2021 is **ALLOWED** with the following order: -

ORDER

- (i) The Corporate Debtor, M/s Nova Steels (India) Limited is ordered to be liquidated with immediate effect under Section 33(2) of IBC, 2016.
- (ii) The Resolution Professional Mr. Santha Kumar S. (Registration No. IBBI/IPA-001/IP-P00930/2017-2018/11549) Resolution Professional of M/s Nova Steels (India) Limited having its registered office at SR. MIG No. 49 Parijat Extension, Nehru Naga Bilaspur- 45 001, Chhattisgarh. is hereby appointed as Liquidator of the Corporate Debtor, since he has given his consent to be so appointed. This appointment is subject to his possessing a valid Authorisation for Assignment (AFA) issued by the Insolvency Professional Agency (IPA) of which he is a professional member, in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2019.

Sd

**IN THE NATIONAL COMPANY LAW TRIBUNAL
CUTTACK BENCH**

IA (IB) 12/CB//2021
in CP (IB) No. 163/CTB/2019

In re: Liquidation of M/s Nova Steels (India) Limited

- (iii) The Liquidator is directed to adhere to Section 33(1) (ii) & (iii) and discharge his powers and duties as specified under Section 35 to 41 of IBC, 2016 and meticulously adhere to the Rules and Regulations issued by IBBI in this regard from time to time.
- (iv) Public Notice as contemplated under section 33(1) of the Code shall be issued in English daily "Hitavada" and once in the regional language newspaper "Dainik Bhaskar".
- (v) All the powers of the Board of Directors of the Corporate Debtor and of its key managerial personnel shall cease to exist in accordance with section 34(2) of the Code. These powers shall henceforth vest in the Liquidator.
- (vi) The personnel of the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as may be required by him in the Liquidation process of the Corporate Debtor.
- (vii) 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 a 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.
- (viii) 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.
- (ix) In terms of Section 33(1)(b)(iii), the Liquidator shall file a copy of this Order with the Registrar of Companies, Chhattisgarh, Bilaspur, within whose jurisdiction the Corporate Debtor is registered. Additionally, the Registry

Sd _____

**IN THE NATIONAL COMPANY LAW TRIBUNAL
CUTTACK BENCH**

IA (IB) 12/CB//2021
in CP (IB) No. 163/CTB/2019

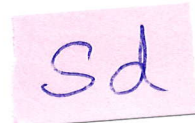
In re: Liquidation of M/s Nova Steels (India) Limited

shall also forward a copy of this Order to the Registrar of Companies, Chhattisgarh, Bilaspur.

- (x) The application bearing IA (IB) No. 12/CB/2021 shall stand disposed of in accordance with the above directions.
- (xi) CP (IB) No.163/CTB/2019 to come up for filing of periodical report by the Liquidator on 29.10.2021.
- (xii) 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.
- (xiii) Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.



Satya Ranjan Prasad
Member (Technical)



Rajasekhar V.K.
Member (Judicial)

Signed on this 10th day of August, 2021

Ravijeet_P.S.