

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH, COURT-V**

**I.A No.3302 of 2023**

**In**

**CP (IB) No.749/MB/2019**

Under Section 33(1)(a) of The  
Insolvency and Bankruptcy Code,  
2016

In the Matter of

**Shri. Avil Menezes,**

Resolution Professional for M/s Ambica  
Polad Pvt. Ltd ,106, 1<sup>st</sup> Floor, Kanika Atrium2,  
Cross Road A, Behind Courtyard Marriot,  
Chakala, Andheri(E) Mumbai- 400 093

... Applicant /Resolution

Professional

**In the matter of**

**M/s Laxmi Corporation**

...Operational Creditor

V/s

**M/s Ambica Polad Pvt Ltd**

....Corporate Debtor

**Order dated on 10.01.2024**

**Coram:**

Reeta Kohli, Hon'ble Member (Judicial)

Madhu Sinha, Hon'ble Member (Technical)

**For the Applicant:**

Mr. Rahesh Gupta, Advocate.

**Order**

***Per: Reeta Kohli, Hon'ble Member (Judicial)***

1. This is an Application filed under Section 33 of the Insolvency and Bankruptcy Code, 2016 (Hereinafter referred to as the Code) by the Applicant who is also the Resolution Professional (RP) of the Corporate Debtor seeking the following reliefs:
  - a) *Pass an order directing the initiation of Liquidation of the Corporate Debtor in accordance with Chapter III of Part II of the IBC, 2016.*
  - b) *Appoint Mr. Avil Menezes having IP Registration Number (IBBI Regulation No. IBBI/IPA-001/IP/P-00017/2016-2017/10041) as liquidator of the Corporate Debtor in accordance with Section 34 of the code.*
  - c) *Pass ad interim and interim reliefs in terms of Clause (a) and (b).*
  - d) *Pass any other order that this Hon'ble Adjudicating Authority may deem fit in the facts and circumstances of the case.*

**FINDINGS.**

2. The Applicant in the present application has submitted mentions that the Corporate Debtor was admitted to CIRP vide an order dated 17.10.2022 wherein Applicant was appointed as Interim Resolution Professional. Pursuant to the receipt of the CIRP Admission order dated 17.10.2022 on 19.10. 2022, a Public Announcement in Form A under Regulation 6 of the 'Insolvency and Bankruptcy Board of India (*Insolvency Resolution Process for Corporate Persons*) Regulations', 2016 'CIRP Regulations' was made by applicant on 20.10.2022 in *Times of India* (English Newspaper) and *Maharashtra Times* (Marathi Newspaper) of Aurangabad edition intimating commencement of CIRP and inviting claims from the Creditors of the Corporate Debtor. The Interim Resolution Professional (IRP) was subsequently made a Resolution Professional in the first CoC meeting dated 18.11.2022 with unanimous vote. The Resolution Professional Published Form-G on 16.12.2022. Two expression of interest were submitted for consideration. The case of the applicant further is that no Resolution Plans came forward for discussion before CoC. Thus in the 7<sup>th</sup> meeting of CoC dated 08.06.2023, the resolution for liquidation was passed by CoC with 100% voting and the Applicant was instructed to file for liquidation application. The Applicant Resolution Professional filed IA No.3302/2023 under Section 33 of *The Insolvency and Bankruptcy Code, 2016* seeking liquidation of the Corporate Debtor.
3. While dilating the facts, the Applicant submitted that on the last date of submission of Resolution Plan i.e. on 01.03.2023 two password protected Resolution Plans were received vide e-mail from 'Vitthal Ispat Private Limited' and 'Akani Ispat Private Limited'.

However, both the PRAs failed to provide unconditional Bid Bond Guarantee (BBG) of 20 lakhs and hence the plans received could not be discussed in the meeting. The PRAs requested for grant of extension of time to deposit BBG. In the facts and circumstances of the case and in view of the request made by both the PRAs the CoC in its fourth meeting dated 06.03.2023 was pleased to grant extension for submission of Bid Bond Guarantee (BBG).

4. The Applicant in the next CoC meeting dated 27.04.2023 appraised about the status of Resolution Plans and informed the CoC that in spite of repeated reminders and follow-ups, no Bid Bond Guarantee (BBG) of 20 lakhs was submitted by any of the Resolution Applicant and thus with the permission of the CoC, the applicant invited the representatives of both the RAs for further discussion. The representatives requested the CoC for granting some more time for submission of Bid Bond Guarantee (BBG). Pursuant to the request made once again, the CoC granted another 15 days of extension for submission of Bid Bond Guarantee (BBG) and further stated that in case of failure to deposit the Bid Bond Guarantee (BBG) no further extension shall be granted and the Resolution Applicants shall be treated as non-responsive. The Applicant further submitted that he apprised the CoC in their 6<sup>th</sup> meeting dated 16.05.2023 that he has received another request from Resolution Applicant of 'Akani Ispat Private Limited' requesting extension up to 30<sup>th</sup> May 2023 and 'Vitthal Ispat Private Limited' requesting extension up to 25<sup>th</sup> May 2023 for depositing the Bid Bond Guarantee (BBG) amount. Pursuant to which, the CoC while expressing its displeasure, rejected the request of the Resolution Applicants and thus in the subsequent 7<sup>th</sup> CoC meeting dated 08.06.2023 decided to go in for liquidation. The case of the Applicant further is that despite having

been granted various extensions, the Resolution Applicants have not been able to comply with the timelines and have failed to even submit the Bid Bond Guarantee (BBG). Thus the CoC considered it appropriate to go for liquidation.

5. After having considered the submission made by the Applicant and going through the minutes of the CoC meetings. This Tribunal deems it appropriate to allow the present I.A. No. 3302 of 2023 directing for initiation of liquidation of the Corporate Debtor. In view of the guidelines of IBBI dated 18.07.2023 wherein it has been categorically stated that the Resolution Professional is not allowed to continue as a liquidator **we reject the Prayer-B** of the present application and appoint Mr. Dinesh Kumar Aggarwal having IP Registration Number IBBI/IPA/002/IPN00890/2019-2020/12843 as liquidator. In view of the aforesaid the I.A. No. 3302 of 2023 stands disposed of. **Prayer A is allowed and Prayer B is declined.**

### **ORDER**

- a) **The above I.A. No. 3302 of 2023 is allowed in terms of the above said and is disposed of.**
- b) The Corporate Debtor **M/s Ambica Polad Private Limited** is ordered to be liquidated.
- c) Mr. Dinesh Kumar Aggarwal, having IP Registration Number IBBI/IPA/002/IPN00890/2019-2020/12843, is hereby appointed as the Liquidator as provided under *Section 34(1)* of the *Code*.

- d) That the Liquidator for conduct of the liquidation proceedings would be entitled for fees as per table mentioned in Regulation 4(3) of the *IBBI (Liquidation Process Regulations), 2016*.
- e) The Liquidator appointed in this case to initiate liquidation process as envisaged under Chapter-III of the Code by following the liquidation process given in the *Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016*.
- f) The Liquidator is appointed under section 34(1) of the Code. All powers of the board of directors, key managerial personnel and the partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested with the liquidator.
- g) That the Corporate Debtor to be liquidated in the manner as laid down in the Chapter by issuing Public Notice stating that the Corporate Debtor is in liquidation with a direction to the Liquidator to send this order to the ROC under which this Company has been registered.
- h) That the personnel of the Corporate Debtor are directed to extend all co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
- i) That on having liquidation process initiated, 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.

- j) 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.

**SD/-**

**Madhu Sinha**  
**Member (Technical)**

**SD/-**

**Reeta Kohli**  
**Member (Judicial)**

/Priyanka/