

**THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH-IV**

**I.A. 1298 OF 2023**

Under Section 33(2) of Insolvency &  
Bankruptcy Code, 2016

Mr. Mahesh Sureka

Resolution Professional/  
...Applicant

In the matter of

**C.P.(IB) No. 3093/MB/2019**

Union Bank of India

Financial Creditor

Vs.

Kharewali Steel Private Limited

Corporate Debtor

***Order delivered on: 19.04.2023***

***Coram:***

**Mr. Prabhat Kumar**  
Hon'ble Member (Technical)

**Mr. Kishore Vemulapalli**  
Hon'ble Member (Judicial)

***Appearances (via videoconferencing):***

For the Applicant/RP : Mr. Yahya Batatawala,  
Advocate

**ORDER**

***Per:* Kishore Vemulapalli, Member (Judicial)**

1. The above application I.A. No. 1298/2023 is filed by Resolution Professional, Mr. Mahesh Sureka (hereinafter referred to as the "Applicant") seeking liquidation of Kharewali Steel Private Limited

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(hereinafter referred to as the “Corporate Debtor”) under Section 33 (1) of the Insolvency and Code, 2016 (hereinafter called as “the Code”).

2. The brief facts of the application are as follows:
  - a. The Applicant mentions that this Tribunal vide its order dated 13.12.2022 in Company Petition No. 3093/IBC/MB/2019 admitted the petition under Section 7 of the Code, filed by Union Bank of India (hereinafter referred to as the “Financial Creditor”) and Corporate Insolvency Resolution Process (hereinafter referred to as the “CIRP”) was initiated against the Corporate Debtor. The Applicant was appointed as the Interim Resolution Professional of the Corporate Debtor by this Tribunal.
  - b. Ld. Counsel for the Applicant submits that pursuant to the publication of Form-A on 15.12.2022, the Resolution Professional received only one claim i.e. from Union Bank of India.
  - c. The Applicant in 1<sup>st</sup> CoC meeting on 10.01.2023 apprises the CoC that he had visited the Registered Office of the Corporate Debtor which was already sold on 01.02.2019 to some other person and copy of sale agreement was also issued. Further, the Applicant also visited the personal assets of the Corporate Debtor i.e. Bungalow, the same is also occupied by some other person and further visited the site at Palghar District wherein no plant and machinery was available except broken shed.

- d. The Applicant met with the Suspended Board Members and requested them to cooperate and provide the data, information, record, books of accounts etc. Despite various reminders/emails addressed to the Suspended Board, the no information was provided. The Applicant further submits that the during the course of discussion with the CoC in its second CoC meeting dated 14.02.2023, he sought approval for appointment of registered valuers and for filing of application u/s 19(2) of the Code. However, the only CoC member i.e. Union Bank of India informed that there is no asset of any type such as cash in hand, bank balance, stock, debtor except broken shed in form of scrap, the CoC is of the view that there will be no outcome and therefore decided to close the CIRP by applying for liquidation.
- e. Accordingly, the CoC passed a resolution with 100% voting to liquidate the Corporate Debtor and confirmed the appointment of law firm for filing application u/s 19(2) & 33 of the Code.
3. The Applicant has not proposed the name of the liquidator.
4. After hearing the submissions made by the Counsel appearing for the Applicant and upon perusing the material available on record, this bench is of the opinion that the Corporate Debtor is required to be liquidated in the manner as laid down in the IBC 2016.
5. We have heard the counsel and perused the material available on record. We feel that no resolution seems feasible in this case,

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accordingly, this is fit case for Liquidation of the Corporate Debtor in terms of Section 33 of the Code.

**ORDER**

6. The I.A. No. 1298/2023 is allowed and the Corporate Debtor i.e. Kharewali Steel Private Limited is ordered to be liquidated as a going concern in the first attempt and if it fails, then sale by all other methods, as prescribed under the Code, shall be taken.
- a. **Mr. Vikram Bhatnagar**, having Registration No. IBBI/IPA-003/IP-N00183/2018-2019/12197, email vikrambhatnagar2002@yahoo.com, Mobile-9617084912 is hereby appointed as the Liquidator as provided under Section 34(1) of the Code.
  - b. That the Liquidator for conduct of the liquidation proceedings would be entitled to the fees as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016.
  - c. 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.
  - d. The Liquidator 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.

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- e. 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.
- f. 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.
- g. 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.
- h. This liquidation order u/s 33(7) 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.
7. With the above directions, the I.A. No.1298/2023 filed u/s 33 (2) by the applicant is hereby **allowed** and disposed of.

**Sd/-**  
**PRABHAT KUMAR**  
Member (Technical)  
/NP/

**Sd/-**  
**KISHORE VEMULAPALLI**  
Member (Judicial)