BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT 1

IA/169(AHM)2021 in CP(IB) 85 of 2019

Coram: MADAN B. GOSAVI, MEMBER (JUDICIAL)
VIRENDRA KUMAR GUPTA, MEMBER (TECHNICAL)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING THROUGH VIDEO CONFERENCING BEFORE THE AHMEDABAD BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 07.06.2021

Name of the Company:	Gordhanbhai Ratnabhai Godhani RP For Pet Metal Pvt Ltd V/s Maloo Bhatt and Company & Ors
Section:	33(1),33(2),34(1) IBC,2016

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open Court vide separate sheet.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)
Dated this the 7th day of June, 2021

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

Prakash

BEFORE THE ADJUDICATING AUTHORITY
(NATIONAL COMPANY LAW TRIBUNAL)
AHMEDABAD BENCH
AHMEDABAD

I.A. No. 169 of 2021 in

C.P. (I.B.) No.85/9/NCLT/AHM/2019

[Application u/s. 33(1), 33(2) and 34(1) of the Insolvency and Bankruptcy Code, 2016]

Through,

Mr. Gordhanbhai Ratnabhai Godhani,

Resolution Professional of:

M/s. Pet Metal Private Limited
Having address:
16, Sakarta Society,
Kargil Chowk, Punagam,
Surat – 395010, Gujarat, India.

..... Applicant/ RP

In the matter of:

M/s. Maloo Bhatt & Company & Ors.
204-207, Parshwa Complex,
Near Cash N Carry,
Ellorapark, Vadodara – 390023,
Gujarat, India.

..... Operational Creditor

Versus

M/s. Pet Metal Private Limited
512, Gayatri Chambers,
Nr. Rajpath Hotel, R.C.Dutt Road,
Vadodara-390007.

..... Corporate Debtor

Coram: **Madan B. Gosavi, Member (Judicial)**
Virendra Kumar Gupta, Member (Technical)

Appearance:

Learned CA Mr. Viral K. Shah for the Operational Creditor.
Learned RP Mr. Gordhanbhai R. Godhani is present.

Order Reserved on: 2nd June, 2021
Order delivered on 7th June, 2021

[Per : Shri Madan B. Gosavi, Member (Judicial)]

1. This Interlocutory Application No.169 of 2021 in CP(IB) No.85/9/NCLT/AHM/2019 under Section 33(1), 33(2) and 34(1) of the Insolvency Bankruptcy Code, 2016, filed by Mr. Gordhanbhai Ratnabhai Godhani, Resolution Professional of the Corporate Debtor, M/s. Pet Metal Private Limited for passing order of liquidation.

2. The Corporate Debtor was admitted in Corporate Insolvency Resolution Process ("CIRP") under Section 9 of the I.B. Code vide order dated 20.08.2020 on the application filed by M/s. Maloo Bhatt & Co, the Operational Creditor for committing default in paying the operational debt of Rs.3,02,303/-.

3. This Authority vide order dated 20.08.2021 appointed Mr.Gordhanbhai R. Godhani as Interim Resolution Professional ("IRP"). The IRP made public announcement of CIRP of the Corporate Debtor on 26.08.2020 in Form "A" for submission of claim by the Creditors. Thereafter three creditors have filed their claims to the tune of Rs.98,25,000/-.

4. The IRP formed the Committee of Creditor ("CoC") consisting of three members having 100% voting of shares. The IRP was appointed as RP in the first CoC meeting dated 21.09.2020 and he proceeded with the CIRP.

5. The RP convened the second meeting of CoC on 14.10.2020 by issuing notice dated 12.10.2020 and also convened the third meeting of CoC on 05.02.2021 subsequent to issuance of notice dated 03.02.2021. In the third meeting of COC, it was resolved to liquidate the Corporate Debtor by considering the fact that it was not a going concern and neither the resolution plan was received till the third CoC meeting nor there was any hope to receive any resolution plan (Annexure-E).

6. As there was no resolution plan received. Hence, the CoC in its third meeting dated 05.02.2021 passed resolution to liquidate the Corporate Debtor vide 100% voting. The CoC further resolved to appoint the present RP to act as a Liquidator (Annexure-F).

7. We heard the Learned Counsel. We perused the record.

8. We have gone through the record and heard the argument of the Applicant. It appears that the RP has published the Form G for receiving the Expression of Interest ("EOI"), but there was no resolution plan received and there is no hope to receive any resolution plan as the Corporate Debtor is not going concern. The CoC in its third meeting dated

05.02.2021 has passed the resolution to liquidate the Corporate Debtor as a going concern and also assessed the Liquidation Cost to the tune of Rs.2,52,700/- as envisaged Regulations 39(c) and 39(b) of the IBBI (Insolvency Resolution for Corporate Persons) Regulations, 2016 respectively. The amount of liquidation cost shall be contributed by the members of the CoC. In view of the above observation, the present application is allowed.

ORDER

1. The Corporate Debtor to be liquidated as per Chapter III and under Section 34(1) of the I.B. Code, 2016. The Applicant/ Resolution professional, **Mr. Gordhanbhai Ratanbhai Godhani (Registration No. IBBI/IPA-001/IP-P01201/2018-2019/11921) is hereby appointed as a Liquidator** of the Corporate Debtor.

2. All the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor hereafter ceased to exist. All these powers henceforth vest with the Liquidator.

3. The personnel of the Corporate Debtor are directed to extend all co-operations to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.

4. The Liquidator will charge fees for conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified by IBBI and

the same shall be paid to the Liquidator from the proceeds of the liquidation estate under Section 53 of the Code.

5. That once having liquidation process initiated, subject to Section 52 of the Code, no suit or other legal proceedings shall be instituted by or against the Corporate Debtor save and except the liberty to the liquidator to institute suite or other legal proceeding on behalf of the corporate debtor with prior approval of this Adjudicating Authority as mentioned in Sub-Section 6 of Section 33 of the I.B. Code.

6. The Liquidator shall co-ordinate with all the authorities and the respected Government Authorities and shall provide complete information to facilitate the process of Liquidation.

7. The Liquidator is at liberty to seek any directions, if need be from this Tribunal during the Liquidation Process.

8. The Liquidator shall take necessary legal action to recover the trade receivables and other credits such as loans and advances from the parties which are reflected in the latest balance sheet of the Corporate Debtor, if any. This direction is hereby given in concurrence of the jurisdiction prescribed under Section 33(5) of the Code.

9. This liquidation order shall be a deemed to be 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.

10. The Moratorium declared vide order dated 20.08.2020 on CP(IB) No.85/9/NCLT/AHM/2019, henceforth cease to exist.

11. The present I.A. No. 169 of 2021 is allowed directing the appointed Liquidator to initiate liquidation process as envisaged under Chapter – III of the Code by following the liquidation process given in the Insolvency and Bankruptcy Board of India (liquidation process) Regulations, 2016.

12. Copy of this order be sent to the Registrar of Companies, Gujarat, Ahmedabad within 07 days for information and necessary action.

13. Accordingly the present I.A. No.169 of 2021 is allowed and stands disposed of.

(Virendra Kumar Gupta)	**(Madan B. Gosavi)**
Member (Technical)	**Member (Judicial)**

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