



**NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH**  
**COURT III**

6. I.A. 2704/2023  
IN  
C.P.(IB)-184(MB)/2022  
CORAM: SH. H.V. SUBBA RAO, MEMBER (J)  
MS. MADHU SINHA, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL  
COMPANY LAW TRIBUNAL ON **28.06.2023**

NAME OF THE PARTIES: Anagha Steel Marketing Limited.  
(Formerly Known as ESSAR  
STEEL MARKETING LIMITED.)

SECTION 10 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

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**ORDER**

Adv. Shivani Patil, for the Applicant in I.A. 2704/2023 is present.

**I.A. 2704/2023**

Heard the counsel appearing for the Applicant and the above application is  
**allowed. Detail order would follow:**

List the main Company Petition on **04.08.2023.**

Sd/-  
MADHU SINHA  
Member (Technical)  
Shubham

Sd/-  
H.V. SUBBA RAO  
Member (Judicial)



**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
MUMBAI BENCH COURT III**

**I.A. 2704 OF 2023**

Under Section 33 of Insolvency &  
Bankruptcy Code, 2016

Filed by

**Atul Mehta**

(Resolution Professional of Anagha Steel  
Marketing Limited)

Having registered office at: 201-206, Shiv  
Smriti, 49A, Above Corporation Bank, Dr.  
Annie Besant Road, Worli- 400018

...Applicant

In the matter of

**C.P. No. 184 of 2022**

**Anagha Steel Marketing Limited**

(Formerly Known as Essar Steel Marketing  
Limited)

**Order delivered on: 28.06.2023**

**Coram:**

Hon'ble Shri H.V. Subba Rao, Member (Judicial)

Hon'ble Ms. Madhu Sinha, Member (Technical)

**Appearance:**

For the Resolution Professional: Ms. Shivani Patil, advocate

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The above application is filed by Resolution Professional, Mr. Atul Mehta seeking liquidation of Anagha Steel Marketing Limited., (hereinafter referred as Corporate Debtor) under Section 33 of

Insolvency and Bankruptcy Code, 2016 (*hereinafter "IBC, 2016"*) read with Rule 11 of the National Company Law Tribunal Rules, 2016 for the following reliefs:

- a. *To pass an order under Section 33 of the Insolvency and Bankruptcy Code, 2016 to initiate the Liquidation Process against the Corporate Debtor.*
- b. *To appoint Mr. Surendranath Nair having IBBI registration number IBBI/IPA-003/IP-N00244/2019-2020/12835 as the Liquidator of the Corporate Debtor at monthly remuneration of Rs. 1,00,000/- plus GST.*
- c. *Pass any such order/directions as this Hon'ble Bench may deem fit and proper in the facts and circumstances of the case.*

**The brief facts of the Application are as follows:**

1. It is submitted that an order for initiation of CIRP of the corporate Applicant was passed on 23<sup>rd</sup> December 2022 by this Hon'ble Tribunal wherein the bench appointed Mr. Atul Mehta, Insolvency Professional as the Interim Resolution Professional (*hereinafter "IRP"*). to conduct the Corporate Insolvency Resolution Process and to manage the affairs of the corporate debtor.
2. It is further submitted that in the 8<sup>th</sup> meeting of committee of creditors held on 19<sup>th</sup> June 2023, the COC in its commercial wisdom decided to liquidate the corporate debtor and a resolution for liquidation was put for e-voting. The CoC with 99.98% voting rights passed a resolution for liquidation of the corporate debtor. Hence, in view of the same, the applicant is filing this present application under provisions of section 33 of the IBC, 2016 seeking initiation of Liquidation of the Corporate Debtor.

3. It is submitted that an application u/s 10 of the IBC 2016 was filed by a Corporate Applicant namely Anagha Steel Marketing Limited for initiating Corporate Insolvency Resolution Process against the corporate debtor. This Hon'ble Tribunal passed an order dated 23<sup>rd</sup> December 2022 thereby initiating Corporate Insolvency resolution Process against the Corporate debtor and appointing Mr. Atul Mehta, Insolvency Professional, as the Interim Resolution Professional.
4. It is submitted that as per Regulation 6(1) of the IBBI Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (hereinafter "Regulations") the Applicant made a public announcement in Form A on 13<sup>th</sup> January 2023 in two newspapers viz 'Free Press Journal' in English and 'Navakal' in Marathi (Mumbai Edition) for inviting the creditors of the corporate debtor to submit their claim before the IRP on or before 24<sup>th</sup> January 2023.
5. The Applicant submits that after the public announcement, the Interim Resolution Professional received claims from two Financial Creditors. Based on the claims received and admitted the committee of creditors (hereinafter "COC") was constituted and an Application bearing no. 746 of 2023 for bringing on record report certifying constitution of committee of creditors was filed with the Hon'ble National Company Law Tribunal on 1<sup>st</sup> February 2023. It is submitted that the same was taken on record and disposed of by this bench vide order dated 28<sup>th</sup> February 2023.

6. It is submitted that in the first meeting of committee of creditors held on 9<sup>th</sup> February 2023, the CoC unanimously passed a resolution for appointment of IRP as the Resolution Professional to continue managing the affairs of the corporate debtor.
7. It is submitted that the Applicant also circulated the Information Memorandum to all the Members of the committee of creditors via e-mail dated 28<sup>th</sup> February 2023.
8. It is submitted that Resolution Professional received more claims from the creditors of the corporate debtor. Hence on verifying and admitting the said claims, the Resolution Professional filed an Application no. 898 of 2023 with this Hon'ble Tribunal for bringing on record the revised report certifying constitution of committee of creditors. The same was taken on record by order dated 14<sup>th</sup> March 2023 passed by this Hon'ble Tribunal.
9. It is further submitted that in the 3<sup>rd</sup> meeting of Committee of Creditors which was held on 9<sup>th</sup> March 2023 the Resolution Professional informed the CoC that as per the Provisional Balance sheet as on 15<sup>th</sup> December 2022 provided by the Corporate Applicant there are no assets and that there was only cash and bank equivalent. Hence, no valuers were appointed by the Resolution Professional.
10. It is submitted that the Resolution Professional appointed M/s Arun Agarwal and Associates to carry out Transaction Audit under the Provisions of the Code. The Applicant submits that in compliance with Regulation 36A of the CIRP Regulations, the

Applicant published Form G expression of interest in two local newspapers viz 'The Free Press Journal' (in English) and 'Navakaal' (in Marathi) on 17<sup>th</sup> April 2023 for inviting resolution Applicants to submit their expression of interests on or before 2<sup>nd</sup> May 2023.

11. It is submitted that the Applicant did not receive any Expression of Interest from any prospective Resolution Applicant.
12. It is submitted that in the 8<sup>th</sup> Meeting of committee of creditors held on 19<sup>th</sup> June 2023, the COC decided to pass a resolution for initiating liquidation of the corporate debtor. One of the members of the CoC having 99.928% voting rights proposed name of Mr. Surendranath Nair bearing IBBI registration No. IBBI/IPA-003/IP-N00244/2019-2020/12835 to act as the Liquidator of the corporate debtor with remuneration of Rs.1,00,000/- plus GST. Whereas the other two members of the CoC having 0.014% voting rights proposed the name of Mr. Hemant Shetye, Insolvency Professional to act as the Liquidator of the corporate debtor with remuneration of Rs.60,000/-.
13. Accordingly, the Applicant put both the resolutions for e-voting. The relevant extract of the resolution put for e-voting at the 8<sup>th</sup> meeting of the committee of creditors is reproduced as follows:
  - I. **"RESOLVED THAT** the corporate debtor to be liquidated as a non-going concern under Section 33 of the Code."  
**"FURTHER RESOLVED THAT** the consent of Mr. Surendranath Nair as a liquidator is noted and Mr. Surendranath Nair is and hereby appointed as Liquidator

*for remuneration of Rs.1,00,000/- plus GST and other taxes per month to carry on the liquidation process of the company."*

**II. "RESOLVED THAT** *the corporate debtor to be liquidated as a non-going concern under Section 33 of the Code."*

**"FURTHER RESOLVED THAT** *the consent of Mr. Hemant Shetye as a liquidator is noted and Mr. Hemant Shetye is and hereby appointed as Liquidator for remuneration of Rs,60,000/- plus GST and other taxes per month to carry on the liquidation process of the company."*

14. It is submitted that the CIRP of the corporate debtor ended on 21<sup>st</sup> June 2023 as per order dated 23<sup>rd</sup> December. Hence, in absence of any Resolution Plan, the Committee of Creditors of the Corporate Debtor with 99.98% voting rights after ascertaining the feasibility and viability of the corporate debtor, in their commercial wisdom passed a resolution for initiation of liquidation process against the Corporate Debtor as a non-going concern and further for appointment of Mr. Surendranath Nair to act as the Liquidator.

15. Heard the arguments of the counsel appearing for the Applicant and perused the material available on record. It is observed from the minutes of the 8<sup>th</sup> COC meeting dated 19<sup>th</sup> June 2023 that the COC has, with 99.98% majority, decided to liquidate the Corporate Debtor and relying on the settled principle of law regarding the Commercial Wisdom of the COC, we hereby allow this Interlocutory Application Number 2704 of 2023 by passing the following:

**ORDER**

- a. The I.A. 2704 of 2023 is allowed and liquidation order is passed against the Corporate Debtor Anagha Steel Marketing Limited.
- b. **Mr. Surendranath Nair**, having Registration No. *IBBI/IPA-003/IP-N00244/2019-2020/12835* is hereby appointed as the Liquidator as provided under Section 34(1) of the Code.
- c. 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.
- d. 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.
- e. The Liquidator appointed under section 34(1) of the Code. Will have 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.
- f. 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.
- g. 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.

- 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.

With the above directions, this application i.e. I.A. No. 2704 of 2023 is hereby **allowed and disposed of**.

**Sd/-**

**MADHU SINHA**  
**MEMBER (TECHNICAL)**  
*---Rajeev kr---*

**Sd/-**

**H.V. SUBBA RAO**  
**MEMBER (JUDICIAL)**