

NATIONAL COMPANY LAW TRIBUNAL

NEW DELHI BENCH

(IB)-877(ND)/2018

CORAM:

**PRESENT: MR. L. N. GUPTA
HON'BLE MEMBER(T)**

**MS. INA MALHOTRA
HON'BLE MEMBER (J)**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING BEFORE NEW
DELHI BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON
18.11.2019.**

**NAME OF THE COMPANY: M/s. Leo Ispat Ltd. V/s. M/s. Arjun Ispat
India Pvt. Ltd.**

SECTION OF THE COMPANIES ACT: 9 of IBC 2016

S.NO.	NAME	DESIGNATION	REPRESENTATION	SIGNATURE
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**Present: Mr. Amol Vyas, Advocate for RP
Mr. Abhishek Anand and Mr. Mohan Sharma, Advocates for Ex-
Directors**

ORDER

CA 834/2019 has been filed by the RP praying for directions for liquidating the assets of the Corporate Debtor by invoking Section 33 & 34 of the IBC. The said resolution has been passed by the COC as Item No. 11 on their Agenda in the meeting held on 17th June 2019. The decision to go in for liquidation and not into to invite any resolution proposal had been considered by the COC and is duly recorded as Item No. 10. This was done in view of the fact that there is no business or asset of the Corporate Debtor and therefore upon due deliberation of the COC, it has decided that on account of lack of any business inviting any resolution proposal for the CD would be an act of futility.

The said resolution was approved by the only Financial Creditor and Member of the COC i.e. Oriental Bank of Commerce. This application was filed on 28th June 2019 but has been pending since then. Keeping in view that 180 days are also over, the averments made in the said application which is duly

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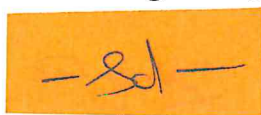
supported by the affidavit of the RP, this Bench finds merit in the prayer made. Objections to the aforesaid prayer has been made by the Ld. Counsel appearing for the Ex-management. It is also submitted that resort to Section 230-232 of the Companies Act should be taken into consideration. It is not open for the Ex-Management to raise this objection. There is no scheme proposed by anyone and in the wisdom of the COC, the decision to go in for liquidation cannot be questioned by anyone else. It is also noted that scheme, if any, can also be taken into consideration at the liquidation stage. In view of the same, this prayer for liquidation is allowed. CA 834/2019 is allowed.

The name of the RP has been proposed as the Liquidator in this case. His consent is also on record. We accordingly confirm the appointment of Mr. Rajnish Singhvi as the Liquidator. He is directed to take all steps as required.

Reply to CA 751/2019 has been filed by the Ex-Directors. RP has duly drawn the attention of this Bench to the Balance sheet given by the Ex-Management. It is submitted that in the Balance Sheet for the year ending 31st March 2017, there was an inventory of Rs. 1,81,42,733/-. The same stood reduced to Rs. 41,48,540/- in FY 2018. At the time of the handing over the assets of the Corporate Debtor, there is NIL inventory. The same is totally inexplicable as there is no business of the Corporate Debtor during this period and the inventory appears to have been Swindled. Liquidator shall seek explanation for the sharp decline in the value of inventory of the Corporate Debtor from the statutory auditors and apprise this Bench through an affidavit within 2 weeks.

After considering the aforesaid submissions, it would be expedient to direct Mr. Rishi Miglani, one of the Ex-Management to sit with the Liquidator and give all details to his satisfaction.

Be listed as and when the connected application is listed and affidavit of Liquidator regarding the decline in value of inventory is received.



(L. N. Gupta)
Member (T)



(Ina Malhotra)
Member (J)