

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH
COURT – IV**

25. IA 1774/2021
IN
C.P. (IB)/2131(MB)2019

CORAM:

SHRI RAJESH SHARMA
MEMBER (Technical)

SHRI KISHORE VEMULAPALLI
MEMBER (Judicial)

ORDER SHEET OF THE HEARING HELD ON **06.04.2022**

Name of the Party: Rajkumar Mahto

Section 9, 33(1) (b) (i) to (iii) r/w 33(3) of Insolvency and Bankruptcy Code, 2016

ORDER

The Court is convened through Video Conference.

IA-1774/2021

1. Mr. Manoj Mishra, Ld. Counsel for the Resolution Professional present.
2. This is an application filed by Mr. Rajkumar Mahto Resolution Professional, seeking Liquidation of Shree Oshiya Ferro Alloys Private Limited, (hereinafter referred as Corporate Debtor) under Section 33(1) (a) and 34(1) of Insolvency and Bankruptcy Code, 2016 (hereinafter called as “the Code”).
3. That this Tribunal vide an order dated 16.01.2020 in Company Petition No. 2131 of 2019 admitted the Petition under Section 9 of the Code, filed by Mehsons Steel Private Limited (hereinafter referred to as the “Operational Creditor”) and Corporate Insolvency Resolution Process (CIRP) was initiated against the Corporate Debtor. The Applicant herein was appointed as the Interim Resolution Professional

(IRP) of the Corporate Debtor by this Tribunal vide this Order. The applicant was confirmed as Resolution Professional in the first meeting of Committee of Creditors held on 13.02.2020.

4. That the Applicant submits that the published an advertisement for invitation of claim by Creditors on 22nd January 2020 in Free Press Journal (Mumbai edition) and Tarun Bharat (Mumbai edition).
5. The Applicant submits that the Form-G invitation for Expression of Interest (EOI) was published on 05.10.2020. It is further submitted that after publishing of invitation for Expression of Interest, the Applicant did not receive any Expression of Interest by any prospective Resolution Applicant.
6. The Applicant submits that in its 6th Committee of Creditors (CoC) meeting held on 21st May 2021 had given its approval for the liquidation of the Company and accordingly a resolution was passed by Committee of Creditors for the liquidation of the Company.
7. That the Committee of Creditors has given its approval for liquidation of the Company is reproduced herein below:

“RESOLVED THAT pursuant to section 33(2) of IBC, 2016 and other applicable provisions, if any, of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, the Committee of Creditors hereby decides that Shree Oshiya Ferro Alloys Private Limited (“Corporate Debtor”) under CIRP, be liquidated as there was no Resolution Plan came forward since issuance of Expression of Interest”.

“RESOLVED further that the CoC hereby directs Mr. Rajkumar Mahto, Resolution Professional to intimate the Adjudicating Authority the decision of the CoC to liquidate the Corporate Debtor”.

8. That the Resolution Professional has given his consent in the requisite Form-2 to act as a liquidator of the Corporate Debtor subject to approval of the Adjudicating Authority.
9. The Applicant submits that the CoC is constituted having sole single member i.e. Mehsons Steel Private Limited who is the Operational Creditor approved with 100% voting in the 6th CoC meeting held on 21.05.2021 to liquidate the Corporate Debtor.
10. The Applicant submits that Mr. Rajkumar Mahto, Resolution Professional as a Liquidator of the Corporate Debtor is approved at Rs.40,000/- (Forty Thousand per month) (Exclusive of applicable tax) and Rs.15,000/- (Fifteen Thousand) as legal expensive and miscellaneous expensive of Rs. 5000/- (Five Thousand) has been approved estimated legal expensive has been approved as Rs. 15,000/- per month and publication etc. on actual cost basis.
11. Considering the facts and circumstances as submitted by the Counsel appearing for the RP, the Bench is of the considered view that the Corporate Debtor be liquidated. Accordingly, this Bench orders that -
 - k. IA No. 1774 of 2021 filed by the Applicant for the liquidation of Shree Oshiya Ferro Alloys Private Limited is allowed.
 - l. Mr. Rajkumar Mahto, Resolution Professional having Registration No.: IBBI/IPA-002/IP-N00723/2018-2019/12209 hereby appointed as the Liquidator to conduct liquidation process of Shree Oshiya Ferro Alloys Private Limited as provided under Section 34(1) of the Code.

- m. The Liquidator would be entitled to the fees as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016 to conduct the liquidation proceedings.
- n. 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.
- o. 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.
- p. 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.
- q. 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.
- r. That on 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 suit or other legal proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority.

- s. 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.
- t. With the above directions, the IA-1774/2021 in CP(IB)-2131(MB)/2019 filed u/s 33(1) by the Applicant is hereby **allowed** and disposed of.

Sd/-

KISHORE VEMULAPALLI
Member (Judicial)

/skd/

Sd/-

RAJESH SHARMA
Member (Technical)