

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH - II, CHENNAI**

IA(IBC)/650(CHE)/2023

in

CP(IB)/272(CHE)/2021

(filed under Section 33(2) of the Insolvency Bankruptcy Code, 2016)

In the matter of **RAI ISPAT PRIVATE LIMITED**

MR.ASIR RAJA SELVAN,
Resolution Professional,
Rai Ispat Private Limited.

... Applicant

Order Pronounced on **06th July 2023**

CORAM

SANJIV JAIN, MEMBER (JUDICIAL)
SAMEER KAKAR, MEMBER (TECHNICAL)

Present: -

For Applicant : Mr.A.G.Sathyanarayana, Advocate

ORDER

(Hearing conducted through VC)

Per: SAMEER KAKAR, MEMBER (TECHNICAL)

This above captioned application is filed by **MR.ASIR RAJA SELVAN**, Resolution Professional of Rai Ispat Private Limited (Corporate Debtor) under Section 33(2) of the Insolvency Bankruptcy Code, 2016 seeking to order Liquidation of the Corporate Debtor viz., Rai Ispat Private Limited and to appoint the applicant herein as the Liquidator.

2. It is submitted by the Applicant that CIRP in respect of Corporate Debtor was initiated by this Adjudicating Authority vide

order 16.03.2022 and the Applicant herein was appointed as the Interim Resolution Professional.

3. Pursuant to that, the Applicant effected paper publication in Form-A. In turn he received claim from one Financial Creditor for Rs.26,73,22,719.70/- and from one Operational Creditor viz., Moorgate Industries for a sum of Rs.12,51,80,263.01. CoC was constituted from the said claimants with the Financial Creditor having 100% voting rights. 1st meeting of the CoC was held on 16.04.2022, wherein CoC deferred to appoint the applicant as the Resolution Professional. Thereafter, one more creditor filed the claim and the Creditor was admitted as an Operational Creditor.

5. 2nd meeting of the CoC was held on 24.06.2022, wherein the CoC accorded to appoint Ms.Subramaniam Aneetha as the Resolution Professional (RP) of the CD.

6. On 27.06.2022 the Sole Financial Creditor in the CoC, sent an e-mail to the IRP and stated that there are no assets in the Corporate Debtor and requested the IRP to take action for processing liquidation of the Corporate Debtor.

7. In the 3rd meeting of the CoC held on 01.07.2022, the IRP was requested to take appropriate action for direct dissolution of the Corporate Debtor. Further, the Financial Creditor vide e-mail dated 08th July 2022 confirmed to withdraw the appointment of Ms.Subramaniam Aneetha as RP.

8. Accordingly, the applicant filed IA/1500/2022 praying for direct dissolution of the Corporate Debtor. It was dismissed as withdrawn vide order dated 08.02.2023. Subsequently, the present application has been filed.

9. Heard the submissions of Ld. Counsel for the Applicant and perused the documents on record. It is seen that in the 4th meeting of the CoC held on 18.07.2022, the CoC having Financial Creditor with 100% voting rights, resolved to liquidate the Corporate Debtor. The Resolution passed by the CoC is reproduced below: -

"RESOLVED THAT pursuant to Section 54 of the Insolvency and Bankruptcy Code 2016 and Rule 14 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation 2016 the consent of the Committee of Creditors be and is hereby accorded to proceed for liquidation of the Corporate Debtor subject to the necessary approvals from the Adjudicating Authority.

RESOLVED THAT Mr.Asir Raja Selvan shall act as the Liquidator with a remuneration of Rs.1,00,000/- per month till the dissolution of the Corporate Debtor"

10. The Applicant/RP has submitted FORM-H as per Regulation 39 (4) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations 2016 and the same is placed at pages 271-278 of the application. The Applicant/RP has also accorded the written consent in Form AA to act as the Liquidator of the

Corporate Debtor. The Applicant has placed on record a valid AFA till 01.03.2024.

11. Though the CoC resolved to dissolve the Corporate Debtor, but the same cannot be ordered by this Adjudicating Authority since the Corporate Debtor is presently under CIRP and not in Liquidation. However, in the interest of justice, based on the abovesaid resolution of the CoC this Adjudicating Authority is of the view that this present application deserves to be allowed and liquidation be ordered in the matter. Accordingly, we order liquidation of the Corporate Debtor.

12. **Mr.Asir Raja Selvan** with **Reg. No: [IBBI/IPA-002/IP-N00498/2017-2018/11554]** (**e-mail ID: asir.cs@gmail.com**) is appointed as the Liquidator of the Corporate Debtor to carry out the liquidation process subject to the following terms of the directions: -

- a) The Liquidator shall strictly act in accordance with the provisions of IBC, 2016 and the attendant Rules and Regulations including Insolvency and Bankruptcy (Liquidation Process) Regulations, 2017 as amended up to date enjoined upon him.
- b) The Liquidator shall issue the public announcement that the Corporate Debtor is in liquidation. In relation to officers/ employees and workers of the Corporate Debtor, taking into consideration Section 33(7) of IBC, 2016, this order shall be deemed to be a notice of discharge.
- c) The Liquidator shall investigate the financial affairs of the Corporate Debtor particularly, in relation to

preferential transactions/ undervalued transactions and such other like transactions including fraudulent preferences and file a suitable application before this Adjudicating Authority.

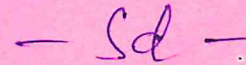
- d) The Registry is directed to communicate this order to the Registrar of Companies, Chennai and the Insolvency and Bankruptcy Board of India;
- e) In terms of section 178 of the Income Tax Act, 1961, the Liquidator shall give necessary intimation to the Income Tax Department. In relation to other fiscal and regulatory authorities which govern the Corporate Debtor, the Liquidator shall also duly intimate about the order of liquidation.
- f) The order of Moratorium passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and a fresh Moratorium under Section 33(5) of the Insolvency and Bankruptcy Code shall commence.
- g) The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016.
- h) The Liquidator is directed to investigate the financial affairs of the Corporate Debtor in terms of the provisions of Section – 35(1) of IBC, 2016 read with relevant rules and regulations and also file its response for disposal of any pending Company Applications during the process of liquidation.
- i) The Liquidator shall submit a Preliminary report to this Tribunal within 75 (seventy-five) days from the liquidation commencement date as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016. Further such other or further reports as are required to be filed under the relevant Regulations, in addition, shall also be duly filed by him with this Adjudicating Authority.
- j) Copy of this order be sent to the Financial creditors, Corporate Debtor and the Liquidator for taking

necessary steps and for extending the necessary cooperation in relation to the Liquidation process of the Corporate Debtor, viz., company-in-liquidation.

13. With the above directions, this IA(IBC)/650(CHE)/2023 stands **allowed** and **disposed of**.



SAMEER KAKAR
MEMBER (TECHNICAL)



SANJIV JAIN
MEMBER (JUDICIAL)