

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

IA 630 of 2020 in CP(IB) 327 of 2019

Coram: Mr. MADAN BHALCHANDRA GOSAVI, MEMBER (JUDICIAL)  
Mr. 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 11.11.2020

Name of the Company: Tejas K Shah RP of Shree Saibaba Ispat India  
Pvt Ltd

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)

  
(MADAN B GOSAVI)  
MEMBER (JUDICIAL)

Dated this the 11<sup>th</sup> day of November, 2020.

**BEFORE THE ADJUDICATING AUTHORITY  
NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
COURT -I**

**I.A. No. 630 of 2020  
IN  
CP(IB) No. 327/9/NCLT/AHM /2019**

**In the matter of :**

[An Application is filed under Section 33(1), 33(2) & 34(1) of the  
Insolvency & Bankruptcy Code, 2016]

AND

**In The Matter Of:**

**CA Tejas K Shah**

Resolution Professional for  
Shree Saibaba Ispat India Private Limited  
having address at:  
B 201 , Narayankrupa Avenue,  
Opp. Prenatirth Derasar,  
Jodhpur, Satellite,  
Ahmedabad-Gujarat- 380015

And

**In The Matter Of:**

**Jaydev Rajubhai Rathod**

having office at:  
High Court Road,  
Oghad No Kacho,  
Bhavnagar, Gujarat-364002

....Applicant

**V/s.**

**Shree Saibaba Ispat India Private Limited**

having registered office at:  
C-6 Summeru Township,  
opp. Varahi society,  
Ghogha Road,  
Bhavnagar-Gujarat- 364002

....Respondent

**Order Reserved on: 4<sup>th</sup> November, 2020**  
**Order Pronounced on: 11<sup>th</sup> November, 2020**

**Coram: MADAN B GOSAVI, MEMBER(J)**  
**VIRENDRA KUMAR GUPTA, MEMBER (T)**

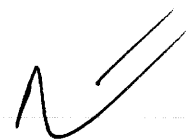
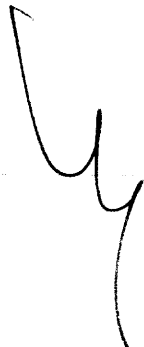
**Appearance:**

Learned Counsel Mr. Atul Sharma appeared for the Applicant.

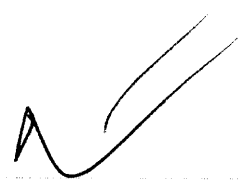
**ORDER**

**[Per: MADAN B GOSAVI, Member (J) ]**

1. The present Interlocutory Application is filed by the Resolution Professional seeking for passing an Order of liquidation under Section 33(1), 33(2) & 34(1) of the Insolvency & Bankruptcy Code, 2016 for initiation of Liquidation Process of **Shree Saibaba Ispat India Private limited** the Corporate Debtor.
2. The facts, in brief, are that :
  - I. This Adjudicating Authority admitted Corporate Debtor in to Corporate Insolvency Resolution Process vide its order dated 18<sup>th</sup> March, 2020 in CP(IB) No. 327/NCLT/AHM/2019 and appointed the Mr. Tejas Shah as "IRP".



- II. The IRP has made the Public announcement in terms of Section 15 of the Insolvency & Bankruptcy Code, 2016 and invited claims from all creditors in prescribed Form 'A', which was published in the newspapers viz. **'Economics Times (English)' and 'Sandesh (Gujarati)'** on 24<sup>th</sup> April, 2020.
- III. Pursuant to the publication Form A, the applicant did not receive any claim from the creditors till 06.05.2020, however, it was only on 15<sup>th</sup> May, 2020, wherein, only one claim was received by the applicant from the Original Applicant i.e. Mr. Jaydevbhai Rajubhai Rathod. Since, there was no claim received from any Financial Creditor, workers, employee or from any Operational Creditor other than the applicant Operational Creditor, the Corporate Insolvency Resolution Process has been initiated.



IV. The Committee of Creditors was constituted with only one Operational Creditor i.e. Mr. Jaydevbhai Rajubhai Rathod. In this regard the Committee of Creditors is constituted with only one Operational Creditor as its member :

Sr. No.	Name of the Operational Creditor	Debt amount in Rs.	% of voting
1	Jaydevbhai Rajubhai Rathod	6,00,000/-	100%
	<b>Total</b>	<b>6,00,000/-</b>	<b>100%</b>

- V. Subsequently, the CoC was constituted and the report certifying the constitution of CoC was filed on 20.05.2020.
- VI. It is stated that the IRP duly convened the first CoC meeting on 28<sup>th</sup> May, 2020, wherein the CoC had *inter-alia* resolved to appoint IRP as Resolution Professional with 100% voting through Video Conferencing.
- VII. It is stated that the applicant has appointed two registered Valuer on 4<sup>th</sup> June, 2020 viz. (1) Mr. Chirag Shah (2) Mr. Hiten Prajapati for financial assets. The Applicant has prepared the

Information Memorandum which was shared with the CoC member after receiving confidential undertaking from CoC member on 11.06.2020.

VIII. The Applicant states that he had published Expression of Interested (EoI) in prescribed Form G on 2<sup>nd</sup> July, 2020 inviting the resolution plans from the prospective resolution applicants and the said form was duly published in **Times of India (English) and Desh Pradesh ni Aajkal (Gujarati)** on 2<sup>nd</sup> July, 2020.

IX. In the fifth meeting of CoC dated 14<sup>th</sup> September, 2020 it was resolved that :

*“ RESOVED THAT the Corporate Debtor namely Shree Saibaba Ispat(India) Private Limited (In CIRP) shall be liquidated”.*

*“RESOVED THAT the Resolution Professional CA Tejas Shah having IP Registration No. IBBI/IPA-001/IP-P00089/2017-18/10185 is hereby recommended to NCLT for the appointment as the Liquidator of the Corporate Debtor”.* Hence, the

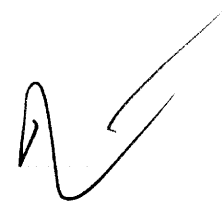
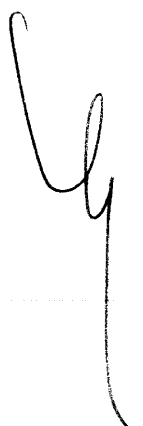
Resolution Professional herein authorised to file the Application before this Adjudicating Authority under Section 33 of the Insolvency & Bankruptcy Code, 2016.

It is stated that the CoC had further resolved to pay the Liquidation remuneration of Rs. 25,000/- + GST with 100% physical voting though video conference.

3. Learned Counsel for the Applicant appeared and narrated these basic facts. In addition to this, he drew our attention to the required resolutions passed by the CoC in terms of provisions of IBBI (Liquidation Process) Regulations, 2016. Considering to the facts of the case, we are of the view that liquidation is the only option. The CoC has also held so. It appears that there were no significant assets value, the required resolutions have been passed and compliance report in Form-H has also been filed. The Corporate Debtor is also not going concern, accordingly, we hold that the Corporate Debtor needs to be liquidated and thus we pass following order:

**ORDER**

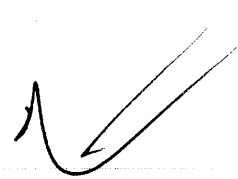
1. We hereby pass the order of liquidation of the Corporate Debtor Company **M/s. Shree Saibaba Ispat (India) Private Limited**. We allow IA No. 630 of 2020. The Liquidation of the Corporate Debtor is effective from the date of this order.
2. The Moratorium declared vide order dated 18.03.2020 in CP(IB) No.327/9/NCLT/AHM/2019, henceforth, ceases to exist.
3. As per the Section 34(1) of the I.B. Code, the Applicant/ Resolution professional, **CA Tejas Shah (Registration No. IBBI/IPA-001/IP-P00089/2017-18/10185** residing at B 201, Narayankrupa Avenue, opp. Prenatirth Derasar, Jodhpur, Satellite, Ahmedabad- 380015, is hereby appointed as a '**Liquidator**' of the Company **M/s. Shree Saibaba Ispat (India) Private Limited** which has been duly approved by CoC in its 5<sup>th</sup> meeting dated 14<sup>th</sup> September, 2020.



4. All the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor hereafter cease to exist. All these powers henceforth, vest with the Liquidator.
5. 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.
6. 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.



7. 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.
8. This liquidation order shall be 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.
9. The Registry is directed to upload this order on the Official Website within maximum two working days from the date of this order. The authenticated copy of this order also be sent by the registry to the Financial Creditor, Corporate Debtor, Registrar of the Company, Resolution Professional cum



Liquidator by Speed-post within one week from  
this order.

10. **Accordingly, I.A. No. 630 of 2020 is allowed  
and stands disposed of a.w. main CP(IB) No.  
327 of 2019.**



(VIRENDRA KUMAR GUPTA)  
MEMBER (T)



(MADAN B GOSAVI)  
MEMBER (J)

Signed on this, the 11<sup>th</sup> November, 2020

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