

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV**

IA No. 1211/2022

Under Section 33(1) of Insolvency & Bankruptcy
Code, 2016

Anup Kumar Singh,

Resolution Professional /
...Applicant

In the matter of

CP (IB) No.1800/MB/C-IV/2019

Srei Equipment Finance Limited

...Financial Creditor

Vs.

Muktar Minerals Private Limited

...Corporate Debtor

Order Pronounced on: 01.02.2023

Coram:

Mr. Prabhat Kumar

Hon'ble Member (Technical)

Mr. Kuldip Kumar Kareer

Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Applicant/RP

:

Mr. Deep Dighe, Advocate;

Per: Prabhat Kumar (Member Technical)

1. The application is filed by Mr. Anup Kumar Singh, Applicant/ Resolution Professional, seeking liquidation of Muktar Minerals 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”).

The brief facts of the Application are as follows:

2. That this Tribunal vide an order dated 05.05.2021 in C.P.(IB)1078(MB)/2020 admitted the Petition under section 7 of the Code, filed by Srei Equipment Finance Limited (hereinafter referred to as the “Financial Creditor”) and Corporate Insolvency Resolution Process (CIRP) was initiated against Muktar Minerals Private Limited, (hereinafter called as the “Corporate Debtor”). The Applicant herein was appointed as the Interim Resolution Professional (IRP) of the Corporate Debtor by this Tribunal vide this Order and later on confirmed as Resolution Professional.
3. In CIRP, the final list of Prospective Resolution Applicants was published on 27.12.2021 as per Regulation 36(A)(12) of IBBI (Insolvency Resolution Process For Corporate Persons) Regulations, 2016 wherein 5 Prospective Resolution Applicants were shortlisted. The Applicant/RP received 1 Resolution Plan and the same was found not complying with the provisions of Code and hence, could not be placed before the COC.
4. In the 8th COC meeting held on 28.04.2021, the Committee of Creditors (CoC) resolved for liquidation of the Corporate Debtor as a going concern.

"RESOLVED THAT pursuant to Section 33(2) of the Insolvency and Bankruptcy Code, 2016 (Including all the amendments and modifications for the time being in force) approval of the committee of creditors be and is hereby accorded for the approval of Liquidation of the Corporate Debtor, Muktar Minerals Private Limited as envisaged under the Insolvency and Bankruptcy Code, 2016.

FURTHER RESOLVED THAT the Resolution Professional, Mr. Anup Kumar Singh shall be appointed as the Liquidator in terms of Section 34(1) of the Insolvency and Bankruptcy Code, 2016.

FURTHER RESOLVED THAT the Committee of Creditors hereby authorizes the Resolution Professional, Mr. Anup Kumar Singh to take necessary actions as required to make an application to the Adjudicating Authority and to do all such acts, deeds as necessary for giving effect to the above resolution."

5. The said resolution was passed with 100% votes from the CoC members. The Resolution Professional has presented this application seeking order for Liquidation of the Corporate Debtor as per Sec 33(2) of the Code.
6. Section 33(1)(a) of the Insolvency And Bankruptcy Code, 2016 states that-

" 33. Initiation of liquidation. -

(1) Where the Adjudicating Authority, -

(a) before the expiry of the insolvency resolution process period or the maximum period permitted for completion of the corporate insolvency resolution process under section 12 or the fast track

*corporate insolvency resolution process under section 56, as the case may be, does not receive a resolution plan under sub-section (6) of section 30;
(i) pass an order requiring the corporate debtor to be liquidated in the manner as laid down in this Chapter”*

7. In view of above, this Bench is of the considered view that this is a fit case to allow the application and liquidate the Corporate Debtor under the provisions of Section 33 of the Insolvency And Bankruptcy Code, 2016.

ORDER

8. Mr. Anup Kumar Singh, Resolution Professional having Registration No. IBBI/IPA-001/IP-P00153/2017-18/10322 is hereby appointed as Liquidator to conduct liquidation process of Muktar Minerals Private Limited as provided under Section 34(1) of the Code.
9. That the Liquidator would be entitled for the fees to conduct the Liquidation Proceedings as decided in the Eighth COC meeting.
10. 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.
11. 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.

12. 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.
13. 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.
14. 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.
15. 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.
16. With the above directions, the IA No. 1211/2022 filed u/s 33(1) by the applicant is hereby **Allowed and Disposed of**.

Sd/-

PRABHAT KUMAR
Member (Technical)

Sd/-

KULDIP KUMAR KAREER
Member (Judicial)