

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

I.A. 2113 OF 2022

Under Section 33 of Insolvency &
Bankruptcy Code, 2016

Mr. Prabhakar Kumar

Resolution Professional/
...Applicant

In the matter of

C.P.(IB) No. 292/MB/2021

M/s Ventura Metal & Alloys

Financial Creditor

Vs.

Shree Radhe Metaliks Private Limited

Corporate Debtor

Order pronounced on: 24.03.2023

Coram:

Mr. Prabhat Kumar
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Applicant/RP

: Mr. Pooja Damir Miglani,
Practising Company Secretary

ORDER

Per: Prabhat Kumar, Member (Technical)

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1. The above application I.A. No. 2113/2022 is filed by Resolution Professional, Mr. Prabhakar Kumar (hereinafter referred to as the “Applicant”) on 21.07.2022 seeking liquidation of Shree Radhe Metaliks Private Limited (hereinafter referred to as the “Corporate Debtor”) under Section 33 (1) of the Insolvency and Code, 2016 (hereinafter called as “the Code”).
 2. The brief facts of the application are as follows:
 - a. The Applicant mentions that this Tribunal vide its order dated 24.12.2021 in Company Petition No. 292/IBC/MB/2021 admitted the petition under Section 7 of the Code, filed by M/s Ventura Metal & Alloys (the Financial Creditor) and Corporate Insolvency Resolution Process (hereinafter referred to as the “CIRP”) was initiated against the Corporate Debtor. The Applicant was appointed as the Interim Resolution Professional of the Corporate Debtor by this Tribunal and subsequently was confirmed as Resolution Professional.
 - b. The CoC its in third meeting held on 11th April 2022, which was adjourned to 04.06.2022, did not approve the publication of Form-G for Expression of Interest (EOI) to invite eligible prospective Resolution Applicant to submit resolution plans for want of non-viability and sustainability of the Corporate Debtor due to Corporate Debtor is not a going concern and there are not many assets in the name of the Corporate Debtor.

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- c. Therefore, the CoC in its Fourth Meeting held on 20.06.2022, passed a resolution with 100% voting for liquidation of the Corporate Debtor and authorized the applicant to file application u/s 33(2). The relevant extract of the resolution for liquidation is reproduced hereinunder: -

“RESOLVE THAT, in pursuant to Section 33(2) of IBC 2016 and the rules made thereunder, the consent of members of the CoC be and is hereby accorded to approve the filing of application with Hon’ble NCLT, Mumbai Bench, regarding the initiation of liquidation of Corporate Debtor.

3. After hearing the submissions made by the Counsel appearing for the Applicant and upon perusing the material available on record, this bench is of the opinion that the Corporate Debtor is required to be liquidated in the manner as laid down in the IBC 2016.

ORDER

4. The above I.A. No. 2113/2022 is allowed and the Corporate Debtor Shree Radhe Metaliks Private Limited is ordered to be liquidated as a going concern for the first attempt and if it fails, then sale by other methods should be tried.
- a. Mr. Prabhakar Kumar, having Registration No. IBBI/IPA-002/IP-N00774/2018-2019/12373, email- cirp.srmp1@gmail.com,

is hereby appointed as the Liquidator as provided under Section 34(1) of the Code.

- b. That the Liquidator for conduct of the liquidation proceedings would be entitled to the fees as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016.
- c. 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.
- d. The Liquidator appointed under section 34(1) of the Code. 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.
- e. 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.
- f. 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.
- g. 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.

- h. 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.
- i. The liquidator shall be at liberty to pursue pending the Interlocutory Application pertaining to avoidance transactions, if any.
- j. With the above directions, the I.A. No.2113/2022 filed u/s 33 (1) by the applicant is hereby allowed and disposed of.

Sd/-

PRABHAT KUMAR
Member (Technical)
/NP/

Sd/-

KISHORE VEMULAPALLI
Member (Judicial)