

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV

IA No. 767/MB.IV/2020

in

CP (IB) No.3806/MB.IV/2018

Under section 33 of Insolvency &
Bankruptcy Code, 2016

Milind B. Kasodekar ... Applicant/
RP of Asmi Metal Products Private Limited

In the matter of

Asmi Metal Products Private Limited
(Corporate Debtor)

Order pronounced on 21st September, 2020

Coram:

Shri Rajasekhar V.K. : Member (Judicial)

Shri Rajesh Sharma : Member (Technical)

Appearances (through video conferencing)

For the Applicant : Mr. Avinash R Khanolkar,
Advocate

Mr Milind B. Kasodekar, RP in
person.

ORDER

Per: Rajasekhar V.K., Member (Judicial)

1. This court convened *via* video conferencing.

2. This is an application filed by the Resolution professional upon the instructions of the Committee of Creditors (CoC) seeking liquidation of the Corporate Debtor, *viz.*, Asmi Metal Products Private Limited, on the ground that there is no possibility for resolution of the Corporate Debtor.
3. This Adjudicating Authority *vide* its order dated 14.10.2019 on a Petition filed by ISMT Limited (*operational creditor*) under section 9 of the Insolvency & Bankruptcy Code, 2016 (*the Code*) directed initiation of the Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor and appointed the Applicant herein as the Interim Resolution Professional (IRP).
4. Public announcement was made on 18.10.2019, in *Financial Express* (English) and *Loksatta* (Marathi), fixing 29.10.2019 as the last date for submitting the claim. The newspaper inserts are placed on record as Exhibit II at pp.49-50 of the IA.
5. The CoC was duly constituted on 13.11.2019, with a single Financial Creditor, *viz.*, Bank of Maharashtra.
6. Thereafter, in the 2nd meeting of the CoC meeting held on 21.01.2020, the Applicant herein was confirmed as the Resolution Professional (RP). Minutes of the said meeting dated 21.01.2020 are placed on record as Exhibit III at pp.53-55 of the IA.
7. The Committee of Creditors, at its third meeting held on 11.02.2020, noted that the Corporate Debtor did not have any asset except for one parcel of vacant land, which too was mortgaged in favour of the Financial Creditor, *i.e.*, Bank of Maharashtra. Therefore, there was no possibility of any resolution applicant being interested. Therefore,

no expressions of interest were invited. It was also resolved that the Corporate Debtor should be liquidated.

8. Learned Counsel for the RP submitted during the course of hearing that there are no prospective buyers for the land even though the same was advertised under separate Sarfaesi proceedings by the sole Financial Creditor. This submission is taken on record.
9. The Applicant/ Resolution Professional, Mr. Milind Kasodekar, has agreed to act as liquidator to carry on the process of liquidation and given his consent dated 11.02.2020 to act as Liquidator, in the prescribed Form.
10. On verification, we are of the considered view that this is a fit case to pass an order under sub-section (1) of section 33 of the Code for liquidation of the Corporate Debtor in the absence of any resolution plan.
11. This Bench, therefore, hereby orders as follows: -
 - a. IA No.767/MB.IV/2020 filed by Mr Milind B. Kasodekar, RP of Asmi Metal Products Private Limited, the Corporate Debtor, is allowed and the Corporate Debtor is ordered to be liquidated in terms of section 33(2) of the Code read with sub-section (1) thereof;
 - b. Mr. Milind B. Kasodekar [Registration No.IBBI/IPA-002/IP-N00116/2017-2018/10285], the Applicant/RP herein, is hereby appointed as Liquidator as provided under section 34(1) of the Code.
 - c. The Liquidator appointed in this case to initiate liquidation process as envisaged under Chapter-III of the Code and the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

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- d. Public Notice shall be issued in two newspapers, viz., in *Financial Express* (English) and *Loksatta* (Marathi), stating that the Corporate Debtor is in liquidation.
- e. All the powers of the Board of Directors, key managerial persons, shall cease to exist. All these powers shall henceforth vest in the Liquidator.
- f. 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. On initiation of the liquidation process but 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, as provided in section 33(5) of the Code read with its proviso.
- h. This liquidation order 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. A copy of this order shall be served on the Registrar of Companies, Maharashtra, Pune, within whose jurisdiction the Corporate Debtor has been registered.

Sd/-

Rajesh Sharma
Member (Technical)

21.09.2020

Sd/-

Rajasekhar V.K.
Member (Judicial)