



**THE NATIONAL COMPANY LAW TRIBUNAL  
NEW DELHI, COURT – III**

**IA – 4890(ND)/2023**

**In**

**IB – 809(ND)/2021**

Order under Section 33(1) of the Insolvency and Bankruptcy Code, 2016.

**IN THE MATTER OF:**

**METALITE ECO FUTURE LABS PRIVATE LIMITED**

.....Corporate Applicant

**AND**

**SUNIL KUMAR AGARWAL**

.....Applicant/Resolution Professional

Order Pronounced On: 21.11.2023

**Coram:**

**Shri Bachu Venkat Balaram Das**

Hon'ble Member (Judicial)

**Shri Atul Chaturvedi**

Hon'ble Member (Technical)

**Present:**

For the Liquidator: Mr. Manoj Kumar Garg, Advocate

For the Respondent: Mr. Gaurav Gupta, Advocate



## **ORDER**

### **PER: BACHU VENKAT BALARAM DAS, MEMBER (JUDICIAL)**

1. The instant Application has been filed by the Applicant under Section – 33(1)(a) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the NCLT Rules, 2016 seeking following reliefs: -

*a) Allow this Application for Liquidation of the Corporate Debtor - M/s. Metalite Eco Future Labs Private Limited;*

*b) Appoint Mr. Sunil Kumar Agarwal as a Liquidator.*

2. This Adjudicating Authority vide Order dated 14.03.2023 admitted the Application filed by M/s. Metalite Eco Future Labs Private Limited, Applicant, under Section – 10 of the IBC, 2016 read with Rule – 7 of the IBC, Rules 2016 and appointed Mr. Sunil Kumar Agarwal as IRP.

3. The IRP made a public announcement for the invitation of claims in Form-A dated 15.03.2023 and the same was published in two newspapers in Financial Express & Jansatta and claims were invited. Further, no claims were received from Operational Creditors. Accordingly, CoC was formed with their respective voting shares.

4. The First CoC meeting was held on 11.04.2023 and IRP was appointed as RP. The status report in respect of CIR process was taken on record by this Adjudicating Authority on 18.05.2023. The Registered valuers were appointed as per Regulation 27 of IBBI Regulations, 2016. The summary of Valuation Report Regarding Securities & Financial Assets (including Inventory) is as follows: -

IA – 4890/ND/2023 in IB – 809/ND/2021  
D.O.O – 21.11.2023



S.No.	Name of Valuer	Fair Value (INR)	Liquidation Value
1.	Mr. Gyaneshwar Sahai	89,52,564	89,52,564
2.	Inmacs Valuers Pvt. Ltd.	89,46,362	89,46,362
	<b>Total</b>	<b>1,78,98,926</b>	<b>1,78,98,926</b>
	<b>Average Value</b>	<b>89,49,463</b>	<b>89,49,463</b>

The summary of Valuation Report of plant and Machinery is as follows: -

S.No.	Name of Valuer	Fair Value (INR)	Liquidation Value
1.	Er. Brahmpal Bhardwaj	26,06,317	23,33,420
2.	Inmacs Valuers Pvt. Ltd.	28,40,129	22,72,103
	<b>Total</b>	<b>54,46,446</b>	<b>46,05,523</b>
	<b>Average Value</b>	<b>27,23,223</b>	<b>23,02,762</b>

5. The Form – G for EOI were issued on 12.05.2023.30.05.2023 & 16.06.2023 and same were published in two newspapers in Hindi and english edition as per regulation 36 A (1) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.



6. The Resolution Professional did not receive any resolution plans from Resolution Applicants upto 15.08.2023. Further, he also submitted that Prospective Resolution Applicants i.e., M/s. Yogayatan Ports Pvt. Ltd. and M/s. Subhlaxmi Investment Advisory Pvt. Ltd. intimated him via email that they are not participating in the process of submission of Resolution plan.

7. In the 6<sup>th</sup> CoC meeting, the Applicant apprised the members as per Section 33 of the Code, in case no Resolution Plan under Section 30(6) of the Code is received by the Resolution Professional within the time period of CIRP of the Corporate Debtor, the natural outcome is liquidation of the Corporate Debtor. Further, in the 6<sup>th</sup> CoC meeting a resolution for liquidation of the Corporate Debtor under Section – 33 was approved by the CoC. The Resolution was passed with 98.50% vote.

8. In respect of compliance regarding Regulation – 39 of the CIRP Regulations, the applicant has filed compliance certificate in Form-H. The copy of Form-H (Compliance Certificate) is annexed as Annexure A-9 to the present application.

9. In view of the above facts and circumstances, we are satisfied that since no Resolution Plan is received within the time period of CIRP of the Corporate Debtor, therefore, the only alternative available is to Liquidate the Corporate Debtor. Hence, we are directing that Corporate Debtor be liquidated in terms of Section 33(1) of the Code read with sub-clause (i) of clause (b). The present Application was filed by the RP in the interest of justice and the same is bona fide in nature.



10. In light of the above facts and circumstances, it is hereby ordered as follows:

**i.** The **IA-4890/2023** filed by Mr. Sunil Kumar Agrawal, the Resolution Professional of M/s. Metalite Eco Future Labs Private Limited, the Corporate Debtor is **allowed**.

**ii.** The Insolvency and Bankruptcy Board of India (“IBBI”) vide its circular number Liq-12011/214/2023-IBBI/840 dated 18/07/2023 in the exercise of its powers conferred under Section 34(4)(b) of the Code has recommended that an IP other than the RP/IRP may be appointed as Liquidator in all the cases where Liquidation order is passed henceforth and the Liquidator can be appointed from the panel list of the IBBI.

**iii.** Therefore, this Adjudicating Authority appoints Ms. Shruti Gupta as the Liquidator of the Corporate Debtor from the available list of panel of Resolution Professionals/Liquidators as maintained by the IBBI. The Registration number of the Liquidator is IBBI/IPA-001/IPP00303/2017-2018/10567, and the e-mail id of the Liquidator is guptashrutica@gmail.com. Therefore, the Liquidator shall file a valid Authorization for Assignment along with Written Consent in Form-2 and Registration Certificate within 3 days of the pronouncement of this order. Accordingly, Ms. Shruti Gupta is appointed as the Liquidator.

**iv.** Mr. Sunil Kumar Agrawal, the Resolution Professional of the Corporate Debtor is relieved from the present assignment as the Resolution Professional. The present Resolution Professional is directed to hand over the relevant documents and control of the Corporate Debtor to the newly appointed Liquidator forthwith.

**v.** The Liquidator will charge fees for the conduct of the liquidation proceedings in proportion to the value of the Liquidation estate assets as specified by the IBBI and the same shall be paid to the Liquidator from the proceed of the Liquidation estate under Section 53 of the Code.



**vi.** The Liquidator shall initiate the Liquidation process as envisaged under Chapter-III of the Code and the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

**vii.** Public Notice shall be issued in the same newspapers in which advertisements were issued earlier stating that the Corporate Debtor is in Liquidation. The Liquidator will also serve a copy of this order to the various Government Departments such as Income Tax, GST, VAT, etc., who are likely to have any claim upon the Corporate Debtor so that the authorities concerned are informed of the Liquidation order timely. The Liquidator will also provide a copy of this order to the trade unions/employee associations of the Corporate Debtor so that the workman/employees can also be informed of this Liquidation order through their association.

**viii.** All the powers of the Board of Directors, and of key managerial personnel, shall cease to exist in accordance with Section 34(2) of the Code. All these powers shall henceforth vest in the Liquidator.

**ix.** The personnel of the Corporate Debtor are directed to extend all assistance and cooperation to the Liquidator as required by him in managing the Liquidation process of the Corporate Debtor.

**x.** The Order of Moratorium passed under Section 14 of the Code shall cease to have its effect and a fresh Moratorium under Section 33(5) of the Code shall commence. 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 the 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.

**xi.** In accordance with Section 33(7) of the Code, 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.



**xii.** The Liquidator shall follow up and continue to investigate the financial affairs of the Corporate Debtor in accordance with provisions of Section 35(1) of the Code.

**xiii.** The Liquidator shall also follow up the pending applications for disposal during the process of Liquidation including initiation of steps for recovery of dues of the Corporate Debtor as per law.

**xiv.** The Liquidator shall submit Preliminary Report to the Adjudicating Authority within seventy-five days from the Liquidation commencement date as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016.

**xv.** The Liquidator and the Registry are hereby directed to send a copy of this order within 3 days from the date of this order to the Registrar of Companies, NCT of Delhi & Haryana. The Registrar of Companies shall take further necessary action upon receipt of a copy of this order.

**xvi.** The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.

**xvii.** The Registry is further directed to send a copy of this order to the IBBI for their record.

**xviii.** A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities. No order as to costs.

**SD/-**

**(ATUL CHATURVEDI)  
MEMBER (TECHNICAL)**

**SD/-**

**(BACHU VENKAT BALARAM DAS)  
MEMBER (JUDICIAL)**