

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-V**

I.A No.1 of 2022

In

CP (IB) No.4505/MB/2019

Under Section 33(1)(a) of The
Insolvency and Bankruptcy Code,
2016

In the Matter of

Shri. Raj Kumar Mahto,

Deemed Resolution Professional for M/s Purvi
Metals Pvt. Ltd, Krishna Keval Housing Society,
Flat No.0/16, 4th Floor, Kondhwa, Khurd, Pune-
410 048

... Applicant /Resolution
Professional

In the matter of

**M/s NBS Engineering Solutions
Pvt. Ltd**

...Operational Creditor

V/s

M/s Purvi Metals Pvt Ltd

....Corporate Debtor

Order dated on 23.02.2024

Coram:

Reeta Kohli, Hon'ble Member (Judicial)

Madhu Sinha, Hon'ble Member (Technical)

For the Applicant:

Ms.Arati Suryavanshi, Advocate.

Order

Per:Madhu Sinha , Hon'ble Member (Technical)

1. This is an Application filed under Section 33 of the Insolvency and Bankruptcy Code, 2016 (Hereinafter referred to as the Code) by the Applicant who is also the Resolution Professional (RP) of the Corporate Debtor seeking the following reliefs:
 - a. *To approve the liquidation of the Corporate Debtor in terms of section 33(1) of the Insolvency and Bankruptcy Code,2016.*
 - b. *To Pass any other order that this Hon'ble Tribunal may deem fit in the facts and circumstances of the case.*

FACTS OF THE CASE.

2. The Applicant in the present application has submitted that the Corporate Debtor was admitted to CIRP vide an order dated

17.02.2020 in CP No.4505 of 2019 wherein Applicant was appointed as Interim Resolution Professional.

3. The IRP issued a Public Announcement in Form A under Regulation 6 of the 'Insolvency and Bankruptcy Board of India (*Insolvency Resolution Process for Corporate Persons*) Regulations', 2016 'CIRP Regulations' was made by applicant on 22.02.2020 in two newspapers i.e. *Free Press Journal* (English Newspaper) and *Tarun Bharat* (Marathi Newspaper) intimating commencement of CIRP and inviting claims from the Creditors of the Corporate Debtor.
4. In pursuance of the aforementioned Public Announcement, the IRP admitted total claims of Rs. 297,163,886/- which was filed by following creditors:

Sr.No	Category	Particulars	Amount(Rs.)	Votes
1	Financial Creditor	Union Bank of India (Thane Branch)	Rs.25,158.8,949/-	84.66%
2	Financial Creditor	Reliance AR Santacruz (East)	Rs.4,55,74,937/-	15.34%
Total			Rs.29,71,63,886/-	100%

5. After collation of the aforementioned claims received against the Corporate Debtor and determination of the financial position of the Corporate Debtor, the IRP constituted the Committee of Creditors (CoC) of the Corporate Debtor consisting Union Bank of India with 84.66 % and Reliance-AR with 15.34% and the formation of CoC was intimated by

IRP to this Hon'ble Tribunal, Mumbai on 16.03.2020. After formation of CoC, nationwide lockdown was imposed, due to which the further work could not be proceed.

6. In the second CoC Meeting on 21.09.2020, the CoC members did not grant approval for the issuance of Expression of Interest, the appointment of an Interim Resolution Professional to act as Resolution Professional, the appointment of Registered Valuers, and the appointment of a Forensic Auditor. Furthermore, due to the non-approval, the deemed Interim Resolution Professional was not able to issue the Expression of Interest for the Resolution of the Corporate Debtor.
7. In the meantime, the two lockdowns were declared, which restrained the deemed Interim Resolution Professional from carrying out important tasks except holding CoC meetings.
8. As a consequence of the lockdown, an Interlocutory Application bearing filing No. 27091138/06357/2021 (IA No. 2973 of 2021) was filed before the Hon'ble Tribunal for the exclusion of 243 days with effect from 01.04.2020 till 30.11.2021 in the first wave of COVID-19 and the exclusion of 152 days from 01.04.2021 till 31.08.2021 in the second COVID-19 wave, totaling a period of 395 days under Regulation 40(C) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process of Corporate Person) Regulation, 2016 on 16.12.2021, and the said Interlocutory Application was allowed by the Hon'ble Tribunal via order

dated 05.01.2024.

9. In the Sixth CoC meeting held on 17.06.2021, the CoC members opined that the Corporate Debtor was not a going concern in any process; therefore, the Corporate Debtor should be directly referred for liquidation.
10. In the 8th CoC meeting, the CoC members concluded that, in view of no Expression of Interest being proposed by CoC members, the applicant/IRP was approved to initiate and move an application before the Hon'ble Tribunal for Liquidation as there were no valuable assets in the Company.
11. During the 9th CoC meeting held on 20.10.2021, the CoC members determined that since there were no sufficient assets to be recovered, it would not be prudent to pursue the Expression Of Interest (EoI). The liquidation of the corporate debtor was approved by 100% voting
12. After hearing the submissions made by the Counsel appearing for the Applicant and upon perusing the material available on record, the Counsel for the Applicant submits that no Expression of Interest (EOI) and Resolution Plan has been received and since the Corporate debtor is not operational and does not have assets that can be realised as observed from the Minutes of the 9th CoC Meeting, there is no option except to put the Corporate Debtor Company into Liquidation as per the *Code*. In view of the fact that there are no assets available of the corporate debtor, the CoC considered it appropriate to direct the applicant to move an appropriate application for

seeking permission of liquidation of the corporate debtor. After having appreciated the contention of the applicant, we deem it appropriate to agree with the commercial wisdom of the CoC to allow present application for liquidation.

13. Accordingly, the above Interlocutory Application Number 1 of 2023 is stands disposed of. The Prayers are allowed, directing the Liquidation of the Corporate Debtor. Accordingly, we pass the following order.

ORDER

14. The above I.A. No. 1 of 2022 is allowed in terms of the above said and is disposed of.

15. The Corporate Debtor **M/s Purvi Metals Private Limited** is ordered to be liquidated.

16. Ms. Bharati Manoj Daga , having IP Registration Number IBBI/IPA-001/IP-P-01963/2020-2021/13070, is hereby appointed as the Liquidator as provided under *Section 34(1)* of the *Code*.

17. That the Liquidator for conduct of the liquidation proceedings would be entitled for fees as per table mentioned in Regulation 4(3) of the *IBBI (Liquidation Process Regulations), 2016*.

18. 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*.

19. The Liquidator is 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.
20. 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.
21. 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.
22. 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.
23. 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.

SD/-

**Madhu Sinha
Member (Technical)**

SD/-

**Reeta Kohli
Member (Judicial)**

/Priyanka/