

DIVISION BENCH  
COURT - I

**NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH  
KOLKATA**

CP(IB) 1281/KB/2019

Mentioning

**CORAM: 1. HON'BLE MEMBER(J), SHRI RAJASEKHAR V.K.  
2. HON'BLE MEMBER(T), SHRI BALRAJ JOSHI**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING ON 28<sup>TH</sup> JANUARY, 2022, 10:30 A.M**

NAME OF THE COMPANY	State Bank of India Vs Sri Bir Ispat Private Limited
UNDER SECTION	SEC. 33(1)(a) of Insolvency & Bankruptcy Code, 2016

**CORRIGENDUM ORDER**

1. In the order dated 21.12.2021, some typographical errors have been noticed which have corrected as follows:
  - (a) In the main cause title “**CP(IB) No. 1281/KB/2020**” shall be read as “**CP(IB) 1281/KB/2019**”.
  - (b) In Para 4, at Page 2 of the order the date “**11.01.2021**” shall be read as “**10.01.2020**”.
  - (c) At Para 14(i), at Page 5, of the order for the words “**Registrar of Companies, West Bengal Kolkata**” the words “**Registrar of Companies, Jharkhad Ranchi**” shall be substituted.
2. The rest of the order shall stand unchanged.

**Balraj Joshi**  
Member (Technical)

**Rajasekhar V.K.**  
Member (Judicial)

IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH  
KOLKATA

IA (IB) No. 877/KB/2021  
in  
CP (IB) No. 1281/KB/2020

*An application under section 33(1)(a) of Insolvency & Bankruptcy Code, 2016.*

*In the matter of:*

**State Bank of India**

... Financial Creditor

Versus

**Sri Bir Ispat Private Limited**

... Corporate Debtor

-And-

*In the matter of:*

**Daulat Ram Jain,**

Resolution Professional of Sri Bir Ispat Private Limited

... Applicant

**Coram:**

**Shri Rajasekhar V.K., Member (Judicial)**

**Shri Balraj Joshi, Member (Technical)**

***Appearances (through video conferencing):***

***For the Applicant***

1. Mr. Rahul Parasrampuria, Pr. C.S.
2. Mr. Rohit Keshri, Pr. C.S.

Order reserved on: 18.11.2021  
Order pronounced on: 21.12.2021

**ORDER**

***Per Balraj Joshi, Member (Technical)***

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.*, **Sri Bir Ispat Private Limited** [CIN:

U27106JH1996PTC007423], on the ground that the Corporate Debtor was not a going concern.

3. This Adjudicating Authority *vide* its order dated 06.01.2020 on a Petition filed by the State Bank of India (*financial creditor*) under section 7 of the Insolvency and Bankruptcy Code, 2016 (*the Code*) directed initiation of the Corporate Insolvency Resolution Process (*CIRP*) against the Corporate Debtor and appointed Mr. Sanjay Kumar Agarwal as the Interim Resolution Professional (*IRP*). The IRP was replaced by Mr. Daulat Ram Jain having Reg. No. IBBI/IPA-001/IP-P00945/2017-2018/11565, by an order of this Adjudicating Authority on 07.04.2021. Mr. Daulat Ram Jain was appointed as the Resolution Professional (*RP*).
4. The Applicant submits that in terms of section 15 of the Code, public announcement was made on 11.01.2021, in *Times of India* (English) *Prabhat Khabar* (Hindi) (Dhanbad Edition) and *Financial Express* (English) (Kolkata Edition), fixing 20.01.2020 as the last date for submitting the claim. The public announcement was uploaded on the website of IBBI.
5. The Committee of Creditors was duly constituted on 30.01.2020, with one financial creditor i.e. State Bank of India and the Report certifying the constitution of the CoC was filed with the Adjudicating Authority on 31.01.2020.
6. The first meeting of the CoC was held on 05.02.2020. The third CoC meeting was held on 24.08.2021 wherein the Resolution Professional apprised the CoC that other than some land parcels, the Corporate Debtor had no other ascertainable assets as per the verification conducted by the Resolution Professional.
7. It is further submitted that the Resolution Professional was not able to take physical possession of the land parcels due to lack of demarcation.

8. The Resolution Professional informed the CoC in its third CoC meeting dated 24.08.2021, that the Corporate Debtor is not a going concern. It is further submitted that the CoC was not willing to infuse any funds to regularise the work of the Corporate Debtor.
9. That the CoC in its third CoC meeting, passed a resolution by 100% voting shares that the Corporate Debtor be liquidated under the provisions of section 33(2) of the Code.
10. Hence, the RP has filed an application under section 33 of the Code, before the Adjudicating Authority for liquidation of the Corporate Debtor as no EOI had been received by the Resolution Professional.
11. The Applicant/Resolution Professional, Mr. Daulat Ram Jain [Reg. No. IBBI/IPA-001/IP-P00945/2017-2018/11565], has agreed to act as liquidator to carry on the process of liquidation and given his consent to act as Liquidator, in terms of section 34(1) of the Code and has also filed a valid Authorisation for Assignment (AFA) issued by the Insolvency Professional Agency (IPA) of which he is a professional member, which is valid till 12.05.2022.
12. We have considered the submission made by the learned Counsel on behalf of the Applicant/RP and perused the record.
13. Section 33(2) of the Code enjoins the Adjudicating Authority to pass an order for liquidation of the Corporate Debtor where the resolution professional, at any time during the CIRP but before confirmation of the resolution plan, intimates the Adjudicating Authority of the decision of the CoC approved by not less than sixty-six percent of the voting share, to liquidate the Corporate Debtor. In the present case, the CoC has resolved by 100% voting share to liquidate the Corporate Debtor.
14. This Bench, therefore, hereby orders as follows: -

- a. Prayers as sought for in I.A. (IB) No. 877/KB/2021 filed by Mr. Daulat Ram Jain, RP of **Sri Bir Ispat 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. Daulat Ram Jain** [Reg. No. IBBI/IPA-001/IP-P00945/2017-2018/11565], is hereby appointed as Liquidator as provided under section 34(1) of the Code.
- c. The Liquidator shall initiate liquidation process as envisaged under Chapter-III of the Code and the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- d. Public Notice shall be issued in the same newspapers in which advertisements were issued earlier, *i.e.*, ***Times of India*** (English) ***Prabhat Khabar*** (Hindi) (Dhanbad Edition) and ***Financial Express*** (English) (Kolkata Edition), stating that the Corporate Debtor is in liquidation.
- e. All the powers of the Board of Directors, and of key managerial persons, shall cease to exist in accordance with section 34(2) of the Code. All these powers shall henceforth vest in the Liquidator.
- f. The personnel of the Corporate Debtor are directed to extend all assistance and 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 and 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.

- h. 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.
- i. In terms of section 33(1)(b)(iii), the Liquidator shall file a copy of this Order with the Registrar of Companies, West Bengal, Kolkata, within whose jurisdiction the Corporate Debtor is registered. Additionally, the Registry shall also forward a copy of this Order to the Registrar of Companies, West Bengal, Kolkata.
15. The application bearing **IA (IB) No. 877/KB/2021** shall stand disposed of in accordance with the above directions.
16. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Authorised Representative for information and for taking necessary steps.
17. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.
18. List the main **CP (IB) No. 1281/KB/2019** for reporting progress on **16.02.2022**.

**[Balraj Joshi]**  
**Member [Technical]**

**[Rajasekhar V.K.]**  
**Member [Judicial]**

21.12.2021.

GGRB[LRA]