IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT - 2

ITEM No.301

IA/1436(AHM)2023
in
CP(IB)/236(AHM)2021

Order under Section 33 r.w 34(1) IBC

IN THE MATTER OF:

Udayraj Patwardhan **.....Applicant**
RP of Nami Steel Private Limited

Order delivered on: 23/04/2024

Coram:

Mrs. Chitra Hankare, Hon'ble Member(J)
Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open Court vide separate sheet.

Sd/-

DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

Sd/-

CHITRA HANKARE
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
DIVISION BENCH
COURT-II

IA 1436/NCLT/AHM/2023
in
CP(IB) 236/NCLT/AHM/2021

[Application under Section 33 and Section 34(1) of the Insolvency and Bankruptcy Code]

In the matter of**:**
Udayraj Patwardhan
RP of Nami Steel Private Limited .... Applicant

In the matter of
Saraswat Cooperative Bank Limited .... Applicant/
Financial Creditor

Versus

Nami Steel Private Limited .... Respondent

MEMO OF PARTIES

Udayraj Patwardhan
RP of Nami Steel Private Limited
Reg.No.IBBI/IPA-001/IP-P00024/2016-2017/10057
Authorization for assignment No.AA1/10057/02/
020124/105347
(valid till January 02,2024)
Having office at:
Naman Midtown, B Wing
1106, 11th Floor, Behind Kamgar Kala Kendra
Senapati Bapat Marg, Elphinstone West
Mumbai City, Maharashtra-400 013
E-mail:ca.udayraj@viajure.in
cirpnamistell@gmail.com .... Applicant

Order Pronounced on 23.04.2024

Coram:
Mrs.Chitra Hankare, Member (Judicial)
Dr.Velamur G Venkata Chalapathy, Member (Technical)

For the Applicant/RP	:	Mr. Nipun Singhvi, Advocate a.w Mr. Vishal Dave, & Mr. Mayur Jugtawat, Advocates
Resolution Professional	:	Mr. Udayraj Patwardhan
For Committee of Creditors	:	Ms. Natasha Shah, Advocate
For Suspended Management	:	Mr. Jaimin Dave, Advocate a.w Ms. Hirva Dave, Advocate

JUDGMENT

1. This application is filed under Section 33 and Section 34(1) of the Insolvency and Bankruptcy Code, 2016 for liquidation of corporate debtor-Nami Steel Private Limited.

2. In view of application filed by Saraswat Cooperative Bank Limited-the Financial Creditor, Nami Steel Private Limited-Corporate Debtor admitted into Corporate Insolvency Resolution Process (CIRP) on 16.08.2022. The applicant was appointed as Interim Resolution Professional (IRP) and subsequently he was appointed as the Resolution Professional (RP). The IRP issued public announcement in Form-A in various newspapers intimating commencement of CIRP in respect of corporate debtor inviting claims from creditors. After receiving claims, Committee of Creditors (CoC) was constituted. The CoC consists of Saraswat Cooperative Bank Limited having 100% voting share. The applicant also intimated various Government Authorities such as Income Tax

Department, GST Department, etc. Various CoC meetings were conducted. The time for CIRP was also extended. The application for avoidance transaction was also filed. Till last date i.e. 09.09.2023, out of 15 (fifteen) Resolution Applicants, 5 (five) Resolution Plan has been received.

3. Valuation reports from registered valuers shows significantly different value in the assets of the corporate debtor. Therefore, 3rd valuer was appointed and received report. Clarification on the discrepancies was sought from respective resolution applicants. Modified plans of resolution applicants were received.

4. In 10th CoC meeting, i.e. on 08.11.2023, all 4 (four) resolution applicants were invited and they briefed modified resolution plans. During 12th CoC meeting, i.e. on 02.12.2023, the CoC voted against all Resolution Plans and resolved to liquidate the corporate debtor. No Resolution Plan has been approved by the CoC-Saraswat Cooperative Bank Limited, sole member of CoC. As per the provisions of Section 33(2) and Section 34 of IBC and Regulation 40D of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and other provisions, the CoC resolved that the corporate debtor undergoing CIRP be liquidated.

5. The RP proposed himself for appointing as a liquidator unless Adjudicating Authority appoints another liquidator.

6. The CoC in consultation with RP in accordance with Regulation 39B of the CIRP Regulations has made the best

estimate of an amount that may be required to meet the liquidation costs. The CoC resolved to contribute for said costs in proportionate ratio. The estimated costs will be Rs.1,62,43,636.06. It is further stated that no proposal for compromise or arrangement has been received by lenders, members of CoC or by RP.

7. It is further stated that CoC resolved that after liquidation order, the liquidator may first explore sale of the corporate debtor as a going concern or sale of business of corporate debtor as a going concern. Hence, prayed for liquidation of corporate debtor and to appoint the proposed liquidator.

8. Heard Ld. Counsel for the applicant also gone through the records.

9. The sole member of CoC-Saraswat Cooperative Bank Limited in its 12th meeting resolved to liquidate the corporate debtor as the CoC did not receive any viable proposal for revival of the Corporate Debtor. The CoC has also resolved/proposed to appoint Orion Resolution and Turnaround Private Limited, an Insolvency Professional Entity (IPE) with Dr. Hiten Parikh to act as Liquidator of the Corporate Debtor. However, the IBBI vide its Circular No.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, had recommended that an IP other than the RP/IRP may be appointed as liquidator in all the cases where liquidator (read liquidation) order is passed henceforth.

10. Taking into consideration the facts, circumstances and averments made in the application, we are of the considered opinion that this is application can be allowed. Hence, we pass the following order:

ORDER

i) Application is allowed.

ii) We hereby order for liquidation of Corporate Debtor-M/s. Nami Steel Private Limited in terms of the provisions of Section 33(2) of the Code r.w. Regulations made thereunder which shall be effective from the date of this order.

iii) The Moratorium declared under Section 14 of the Code shall cease to have effect from the date of the order of liquidation.

iv) As per Section 34(4)(b) of the Code, we hereby appoint Mr. Bhavik Haribhai Rupapara, having Registration No. IBBI/IPA-001/IP-P-02741/2022-2023/14196, Email: cabhavikr3@gmail.com is hereby appointed as a Liquidator of the Corporate Debtor i.e. M/s. Nami Steel Private Limited. The Liquidator so appointed shall complete the liquidation process as per the provisions of the Code r.w. the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

iv) The liquidator to issue a public announcement stating that the corporate debtor is in liquidation in terms of Regulation 12 of the Insolvency and Bankruptcy Board of India

(Liquidation Process) Regulations, 2016.

v) The liquidator is to proceed with the process of liquidation in a manner laid down in Chapter III of Part II of the Insolvency and Bankruptcy Code, 2016 and in accordance with the relevant rules and regulations.

vi) The liquidator to follow up and continue to investigate the financial affairs of the corporate debtor to determine any undervalued and preferential transactions, etc. in terms of the provisions of Section 35(1) of IBC, 2016 read with relevant rules and regulations and also file its response for disposal of any pending Company Applications during the process of liquidation.

vii) This order is deemed to be a notice of discharge to the officers, employees and workmen of the corporate debtor as per Section 33(7) of the Insolvency and Bankruptcy Code, 2016.

viii) The Liquidator is to submit a 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.

ix) Once the liquidation process is initiated, subject to Section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor. The Liquidator has the liberty to institute a suit and other legal proceedings on behalf of the Corporate Debtor with the prior approval of this Adjudicating Authority, as provided in Sub-section (5) of Section 33 of the Code.

x) It is further directed that the Personnel of the Corporate Debtor extend all assistance and cooperation to the Liquidator as may be required in liquidating the affairs of the Company in discharging his function as specified under Section 35 of Insolvency & Bankruptcy Code, 2016.

xi) 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 IBBI and the same shall be paid to the Liquidator from the proceed of the liquidation estate under Section 53 of the Code.

xii) The Resolution Professional is directed to hand over the relevant documents and control of the Corporate Debtor to the newly appointed liquidator forthwith.

xiii) The Registry is directed to communicate this order to the concerned Registrar of the Companies, the registered office of the Corporate Debtor, IBBI, the Resolution Professional, and the Liquidator by Speed Post as well as E-mail within one week from the date of this order, after completion of all the formalities.

11. In terms of the above, IA No. 1436 of 2023 in CP(IB) No.236 of 2021 is disposed of.

Sd/- Sd/-

DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

CHITRA HANKARE
MEMBER (JUDICIAL)

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