

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV**

IA No. 604/2021

Under Section 33(1) of Insolvency & Bankruptcy
Code, 2016

Mr. Pranav Damania,

Resolution Professional/
...Applicant

In the matter of

CP (IB) No.1800/MB/C-IV/2019

Indian Steel Corporation Limited

...Operational Creditor

Vs.

Windcastle Exports Private Limited

...Corporate Debtor

Order Pronounced on: 17.11.2022

Coram:

Mr. Manoj Kumar Dubey
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Applicant/RP : Mr. Rohan Agrawal, Advocate;
Mr. Pranav Damania, Resolution
Professional.

Per: Kishore Vemulapalli, Member (Judicial)

1. The application is filed by Mr. Pranav Damania, Applicant/ Resolution Professional, seeking liquidation of Windcastle Exports Private Limited, (hereinafter referred as Corporate Debtor) under Section 33(1) (a) and 34(1) of Insolvency and Bankruptcy Code, 2016 (hereinafter called as “the Code”).

The brief facts of the Application are as follows:

- A. That this Tribunal vide an order dated 08.11.2019 in C.P.(IB)1800(MB)/2019 admitted the Petition under section 9 of the Code, filed by Indian Steel Corporation Limited (hereinafter referred to as the “Operational Creditor”) and Corporate Insolvency Resolution Process (CIRP) was initiated against Windcastle Exports Private Limited, (hereinafter called as the “Corporate Debtor”). The Applicant herein was appointed as the Interim Resolution Professional (IRP) of the Corporate Debtor by this Tribunal vide this Order.
- B. The Applicant Submits that, the IRP had made Public announcements on 14.11.2019 in two daily leading newspapers i.e. one in “*English*” and one in “*Marathi*” for inviting the claims from the Creditors of the Corporate Debtor as per the Regulation 6(3) of the Insolvency and Bankruptcy Board of India (Insolvency Regulation Process for Corporate Persons) Regulations, 2016.
- C. The applicant submits that in response to the Publications, he received several claims of the Corporate Debtor from time to time, the same

claims were admitted by this Tribunal. On the basis of the claims received, the COC consisting of 7 Operational Creditors was formed as there were no claims received from any Financial Creditor and the report certifying the same was filed.

- D. In compliance to the provision of Section 22(2) of the Code, the COC appointed/confirmed the Applicant as Resolution Professional (RP) in its 1st CoC meeting held on 12.12.2019. The resolution was unanimously passed in 1st CoC meeting.
- E. In compliance of Regulation 36A of IBBI Corporate Insolvency Resolution Process Regulations, 2016, the Applicant subsequently published Form-G (Expression of Interest) on 01.02.2020 in two daily leading newspapers *viz* “Free Press Journal” (English Newspaper) and “Navshakti” (Marathi) having circulation at Mumbai, to get prospective Resolution Applicants.
- F. However, no prospective Resolution Applicants have submitted their Expression of Interest to the Applicant/RP before the last date of submission which was on 16.02.2020. No EoI was received after publication of Form-G.
- G. The Applicant submits that from 25th March 2020 due to the spread of COVID-19 pandemic, the Central Government announced a nationwide lockdown. On 29.03.2020, the IBBI amended the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 inserted a new Regulation 40 C under the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations,

2016 to exclude the COVID-19 lockdown period from the computation of the time line for any task that could not be completed in relation to Corporate Insolvency Resolution Process. Therefore, the period from March 25, 2020 to November 01, 2020 has been excluded from the computation of the timelines for completion of Corporate Insolvency Resolution Process (i.e. 180 days from the CIRP commencement date which in the present case was November 13, 2020).

- H. The 3rd CoC meeting was held on 06.11.2020 a resolution for appointment of Transaction Auditor M/s. Atul Singh and Associates, Chartered Accountants was ratified by the Members of CoC.
- I. The Applicant herein appointed two Registered Valuers namely i.e. Mr. Bhavesh Mansukhbhai Rathod and Mr. Rakesh Kumar Tulasyan (Valuers) to determine fair value and liquidation value of the assets of the Corporate Debtor. The valuation of the assets of the Corporate Debtor received from the said Valuers is as under:-

| Sr. No. | Valuer's Name | Valuation (Rs.) |
|----------------|--------------------------------|------------------------|
| 1 | Mr. Bhavesh Mansukhbhai Rathod | 2,27,44,183/- |
| 2 | Mr. Rakesh Kumar Tulasyan | 2,00,72,461/- |

- J. In the 4th COC meeting held on 23.11.2020, the Committee of Creditors (CoC) with 86.77% voting resolved for liquidation of the Corporate Debtor as a non-going concern and also resolved to appoint the Applicant as Liquidator to complete the liquidation process.

“RESOLVED THAT pursuant to the provisions of section 34(1) of the Insolvency and Bankruptcy Code, 2016 read with the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and other applicable provisions, the Resolution Professional has offered his proposal to act as liquidator and placed his consent. The Committee of Creditors has hereby accepted his consent and approved the appointment of Mr. Pranav Damania as Liquidator of the Corporate Debtor at the fix fee of Rs.3,50,000 + applicable taxes and out of pocket expenses. The Committee decided not to fix the fee of Liquidator as per Regulation 4 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

RESOLVED FURTHER THAT the Committee hereby agrees to the reimburse the said amount by debiting the Bank Accounts maintained by the Corporate Debtor and authorise Mr. Pranav Damania, Resolution Professional to do all Acts, deeds and matters as may be necessary to give effect to this resolution”.

The said resolution was passed with 86.77% majority of the COC Members which is annexed to the Application.

Additional Affidavit filed by the Applicant

- K. The Applicant submits that, as on Insolvency commencement date, monies to the tune of Rs.20,71,20,967/- were receivable by the Corporate Debtor from various entities towards trade receivables and loans and advances. However, the RP was able to recover to total amount of Rs.9,28,200/- only from Ruchi Corporation Private Limited and Shivtarana Trading Co. Private Limited. The details of steps taken by the RP to recover the amount have been annexed to the Additional Affidavit.

ORDER

- a. IA No. 604/2021 filed by the Applicant for the Liquidation of 'Windcastle Exports Private Limited' is allowed.
- b. Mr. Pranav Damania, Resolution Professional having Registration No. IBBI/IPA-001/IP-P00079/2017-18/10164 as Liquidator to conduct liquidation process of Windcastle Exports Private Limited is hereby appointed as the Liquidator in the matter as provided under Section 34(1) of the Code.
- c. That the Liquidator would be entitled for the fees to conduct the Liquidation Proceedings as decided in Fourth COC meeting.
- d. 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.
- e. The Liquidator appointed under section 34(1) of the Code, will have 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.
- f. 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.

- g. 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.
 - h. 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.
 - i. This liquidation order u/s 33(7) 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.
2. With the above directions, the IA No. 604/2021 filed u/s 33(1) by the applicant is hereby **Allowed and Disposed of**.
 3. Record be consigned to record room.

Sd/-
MANOJ KUMAR DUBEY
Member (Technical)
17.11.2022

Sd/-
KISHORE VEMULAPALLI
Member (Judicial)