
(2021) 09 NCLT CK 0022

In the National Company Law Tribunal

Case No : IA No. 1595 of 2020 in TCP No.558/IBC/NCLT/MB/MAH/2017

BMM Ispat Limited

APPELLANT

Vs

Ramdas Ispat & Metals Private Limited

RESPONDENT

Date of Decision : 07-09-2021

Acts Referred:

Insolvency and Bankruptcy Code, 2016 — Section 9, 33(2), 33(1), 33(1)(b)(iii), 54(1)
Insolvency and Bankruptcy Board of India(Liquidation Process) Regulations, 2016 —
Regulation 45(3)

Citation : (2021) 09 NCLT CK 0022

Hon'ble Judges : Ashok Kumar Borah, Member (J);Shyam Babu Gautam,
Member (J)

Bench : Division Bench

Advocate : Raina Birla

Final Decision : Allowed

Judgement

Shyam Babu Gautam, Member (Technical)

1. This is an Application by Mr. Laxman Digambar Pawar, Liquidator of Ramdas Ispat & Metals Private Limited (hereinafter referred to as the Applicant) Under Section 54(1) of IBC, 2016 & under Regulation 45(3) of IBBI Liquidation Process) Regulations, 2016, seeking dissolution of the Corporate Debtor.

2. The Company Petition overnumbered under Section 9 of the Code seeking Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor was admitted by this Tribunal by order dated 06.04.2018, wherein Mr. Laxman Digambar Pawar (Registration No. IBBI/IPA-003/IP-N00015/2017-18/10104) was appointed as the Interim Resolution Professional (IRP).

3. That the said IRP was appointed as RP by the Committee of Creditors. The Committee of Creditors directed the Resolution Professional to file an Application and seek the further direction and order under section 33(2) and 34(1) of the Code from the NCLT, Mumbai by passing the resolution with voting share of

100% physical present. Thereafter, the NCLT, Mumbai vide order dated 22.10.2018, appointed Applicant herein as the Liquidator. The liquidation process commenced on and from the said date.

4. That the said Liquidator, inter alia, carried out the following duties during his tenure:

a. Published the public announcement of Liquidation Process in Form B dated 26.10.2018 in two newspapers under Regulation 12 of the Insolvency and Bankruptcy (Liquidation Process), Regulations, 2016;

b. Form INC-28 is filed with the Ministry of Corporate Affairs for change of status as "Under Liquidation" as per section 33(1)(b)(iii);

c. Asset Memorandum was being prepared; Auction notices were published for sale of Land & Building etc; liquidator has submitted the progress reports to the Hon'ble NCLT, Mumbai Bench at the end of every quarter during which he acted as Liquidator;

d. Liquidator has appointed Two Registered Valuer Mr. Atul Shukla, Reg. No. IBBI/RV/01/2019/10688 and Mr. Mukund P. Bondre, Reg. No. IBBI/RV/02/2018/10377 for valuation of Land & Building.

e. Liquidator has conducted E-Auction for sale of the assets of the Corporate Debtor.

5. The total amount realized from E-Auction is as follows: -

Asset

Liquidation

E-Auction

Liquidator's

Amount

value (Rs.

Realised

costs

disbursed

In Lakhs).

value (Rs.

In Lakhs).

Land

&

184

182.16

10.61

171.54

Building

Land

&

300

297

8.66

288.34

Building

(Industrial

Plot)

Total

484

479.16

19.27

459.88

6. The Liquidator has disbursed the amount realized from the sale of assets to the secured financial creditors i.e. Bank of Baroda. Details of receipt and Payment account from 01.03.2020 to 02.09.2020 is as follows: -

RECEIPT

AMT. RS.

PAYMENTS

AMT. RS.

To

Opening

5000/-

By Transfer to

1,71,54,471/-

Balance Paid by
Bank of Baroda
Liquidator

A/C of Ramdas
Ispat & Metals
Pvt. Ltd.

To Receipt from

1,82,16,000/-

By Transfer to

2,88,333,705/-

Realization of
Bank of Baroda
Assets

(Land

A/C of Ramdas
45/2B, 55/2B)

Ispat & Metals
Pvt. Ltd.

To EMD (Mrs.

75,00,000/-

By

Liquidators

18,13,223/-

PritiSantosh

Cost

Baldota)

To Receipt from

2,22,00,000/-

By Advocate fees

20,000/-

Realization of

Asset

By TDS paid

69,601/-

By Bank Charges

980/-

By

RoC

5,000/-

Expenses

By IA Filing fees

20,000/-

By

Balance

4,020/-

amount

payable

to

Liquidator

which

were

incurred

for

opening

of

account

By

Closing

Nil

Balance

TOTAL

4,79,21,000/-

TOTAL

4,79,21,000/-

7. The Applicant prepared and submitted the Assets Memorandum and Preliminary Report on 11.04.2019 and 08.01.2019 respectively as per Regulation 34 of the IBBI (Liquidation Process) Regulations, 2016.

8. The Applicant has opened the liquidation account in Andhra Bank, Pimpri bearing account no. 111711100004836 in the name of 'Ramdas Ispat and Metals Private Limited in Liquidation' on 22.01.2019.

9. After the distribution made by the Applicant, he had made an application to Andhra Bank, Pimpri Branch for closure of the Liquidation Bank account on 18.09.2020, after which the Liquidation bank account held with Andhra Bank, Pimpri Branch has been closed.

10. That the Applicant prepared the compliance certificate under Regulation 45(3) of the Regulations in form Form-H. Therefore, Applicant submits that the Applicant has fulfilled all her duties as per the Code and has done all the compliances as per the time-line provided under the Regulations. Hence this Application.

11. On examining the submissions made by the Counsel appearing for the Applicant and the documents annexed to the Application, it appears that the affairs of the Corporate Debtor have been wound up and its assets have been completely liquidated. We are satisfied from the documents on record that the liquidation is not with intent to defraud any person. The bank account for the purpose of liquidation has been closed. The above facts and circumstances indicate that due process of liquidation, as per extant provisions and in the manner indicated in the Code and Regulations, have been followed by the Liquidator to liquidate the assets of Company and the realized amounts have also been distributed among the respective claimants. The liquidation process has been duly completed as per the provisions of the Code. Thus, it would be just and equitable for this Authority to dissolve the Corporate Debtor. No party is going to be adversely affected thereby. In view of the above the Corporate Debtor deserves to be dissolved. Hence ordered.

ORDER

The Application be and the same is allowed, as follows.

i. Ramdas Ispat & Metals Private Limited, the Corporate Debtor, is hereby dissolved with immediate effect;

- ii. The Registry is directed to forward a certified copy of this order to the Registrar of Companies, Pune within a period of seven days;
- iii. The Liquidator is discharged.
- iv. TCP No. 558/IBC/NCLT/MB/MAH/2017 also stands closed.