

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

MA No-95/2018 In CP No. 724/2017

SECTION 33 of I & B CODE, 2016

Mr. Anil Goel,.. Resolution Professional

Loha Ispaat Limited ... Applicant

**In the matter of**

Bright Steel Processors ...Operational Creditor

Vs.

Loha Ispaat Limited ...Corporate Debtor

Order delivered on: 26.04.2018

**Coram:** Hon'ble Shri. B.S.V. Prakash Kumar, Member (Judicial)

Hon'ble Shri. Ravikumar Duraisamy, Member (Technical)

*Per: Ravikumar Duraisamy, Member (Technical)*

**ORDER**

Mr. Anil Goel, Resolution Professional (RP) of Loha Ispaat Ltd has submitted the MA praying to pass an order U/s 33 of I & B Code, 2016 for initiation of Liquidation process of Corporate Debtor. RP submitted that totally 6 CoC meetings were conducted by IRP/RP but no feasible Resolution Plan was received/approved by the CoC, therefore RP has no other option but to file the present application for an appropriate order for liquidation of the Corporate Debtor.

**The Facts of the matter are as under:**

1. Resolution Professional stated that application for initiation of Corporate Insolvency Resolution Process (CIRP) of the Corporate

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Debtor was filed by Bright Steel Processors U/s 9 of the Code and the same was admitted by NCLT vide order dated 28/11/2017 and Mr Amit Gupta was appointed as Interim Resolution Professional (IRP). The IRP of Loha Ispaat Ltd. (herein after referred to as the Company) issued a public announcement for calling the creditors to submit Claims along with proof in the prescribed format.

2. In the first meeting of Committee of Creditors (CoC) held on 01/06/2017, the CoC appointed Mr. Anil Goel from AAA Insolvency Professional LLP as Resolution Professional (RP).
3. In the second CoC meeting held on 20/09/2017, the Resolution plan was presented to CoC on behalf of the founder of Corporate Debtor, however the plan was not accepted by the CoC. In the 3<sup>rd</sup> CoC meeting held on 10/10/2017, modified Resolution Plan was presented and it was also decided to invite Expression of Interest (EOI) by publishing advertisement. Accordingly, EOI was published in Economic Times on 13/11/2017. In the same meeting it was also decided by CoC to extend the CIRP period by another 90 days and an application was filed in NCLT and the same was allowed by NCLT by order dated 08/11/2017.
4. In the 4<sup>th</sup> CoC meeting held on 16/11/2017, EOI was received from 2i Capital PCC. The said entity is public company registered in Mauritius and registered with SEBI as a Foreign Venture Capital Investor.
5. That in the fifth meeting of CoC held on 29/11/2017, modified resolution plan was presented by the representative of 2i Capital. Key features of resolution plan were discussed, 2i Capital agreed to invest ₹.115 Crores and offered to convert outstanding amount due to secured financial creditors into Term Loan of ₹.750 Crores. The



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proposal was negotiated by members of committee of creditors and it was decided that ₹.3.50 Crores would be deposited in the Escrow Account to be opened with State Bank of India. The total amount offered to lenders was negotiated at ₹.350 Crores over a period of 5 years. In addition, 26% of equity would be transferred to secured financial creditors. Trade receivables amounting to ₹.830.70 Crores would be assigned to secured financial creditors.

6. That in the sixth meeting of CoC held on 27/12/2017, 2i Capital presented the revised resolution plan. Members of CoC informed that payment of Rs. 16 Crores realizable from the sale of noncore assets pledged to secure financial creditors and not in the name of the corporate debtors will be outside the agreed resolution amount of Rs.350 Crores. Members of CoC requested for submission of TEV study report, forensic auditor report and legal opinion on resolution plan before approval of the resolution plan.
7. The Resolution Professional stated that, while all secured creditors were busy to secure approval from their higher authorities for Resolution Plan, an email was received on 18.01.2018 from 2i Capital PCC for withdrawal of their interest as Resolution Applicant. A copy of email with their interest is enclosed as **Annexure-10**. In the light of aforesaid development, Resolution Professional / applicant has no other option but to file the present application for liquidation of Corporate Debtor U/s 33(1) (a) of I&B code 2016.
8. Since no Resolution Plan in hand, therefore, the Resolution Professional prayed the Adjudicating Authority to admit MA No. 95/2018 for initiation of Liquidation Process.



9. In view of the above facts and circumstances of the case and in the absence of any approved resolution plan by CoC, the Adjudicating Authority admits MA as prayed for and passes the following order.
10. This Bench hereby orders the Corporate Debtor to be liquidated in the manner as laid down in the Chapter by issuing a Public Notice stating that the Corporate Debtor is in liquidation with a direction to the Liquidator to send this order to RoC under which this Company has been registered.
11. As to appointment of Liquidator, the Resolution Professional i.e. the applicant herein is hereby directed to act as a Liquidator for the purpose of liquidation with all powers of the Board of Directors, key managerial persons and the partners of the Corporate Debtor shall cease to have effect and hereby vested in the Liquidator. The personnel of the Corporate Debtor are directed to extend all co-operation to the Liquidator as may be required by him in managing the affairs of the Corporate Debtor. The Insolvency Professional appointed as Liquidator will charge fees for conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified under Regulation 4 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 and the same shall be paid to the Liquidator from the proceeds of the liquidation estate under Section 53 of the Code.
12. Since this liquidation order has been passed, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor without prior approval of this Adjudicating Authority save and except as mentioned in sub-section 6 of Section 33 of the Code.
13. This liquidation order shall be deemed to be notice of discharge to the officers, employees and workmen of the Corporate Debtor except to the extent of the business of the Corporate Debtor is continued during the liquidation process by the Liquidator.



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14. With passing of this order, moratorium imposed vide order dated 28.04.2017 ceased to exist.
15. Accordingly, the MA No.95/2018 is hereby allowed.

Sd/-

**RAVIKUMAR DURAISAMY**  
**MEMBER (TECHNICAL)**

Sd/-

**B.S.V. PRAKASH KUMAR**  
**MEMBER (JUDICIAL)**

Sec (PS)