



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

I.A. No. 59 of 2024

IN

C.P. (IB) No. 1130/MB/2020

(Filed u/s. 33(1) of the Insolvency and Bankruptcy Code, 2016)

Mr. Manoj Kumar Mishra

Resolution Professional of *Ambey Vaishno Steels Private Limited*

... Applicant

IN THE MATTER OF

C.P. (IB) No. 1130/MB/2020

Ambey Vaishno Steels Private Limited

...Corporate Debtor

Order Pronounced on: 05.09.2024

Coram:

Ms. Anu Jagmohan Singh
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances:

I.A. No. 59 of 2024

For the Applicant RP

:

Mr. Ravindra Pardeshi, Ld. Counsel
for the Applicant RP.

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ORDER

1. The instant application has been filed by Mr. Manoj Kumar Mishra, Resolution Professional of the Corporate Applicant in the captioned petition *viz.* **Ambey Vaishno Steels Private Limited** (“Corporate Debtor”/ “Corporate Applicant”) on 18.06.2024, seeking liquidation of the said Corporate Applicant under Section **33(1)** of Insolvency and Bankruptcy Code, 2016 (hereinafter “IBC, 2016”).

Background of Liquidation

2. The Corporate Applicant herein, *via* the captioned company petition, filed for Corporate Insolvency Resolution Process (“CIRP”) *u/s.* 10 of IBC, 2016. This Tribunal was pleased to admit the same *vide* its Order *dated* 17.05.2023, and the Applicant in the instant application was appointed as the Insolvency Resolution Professional (“IRP”) in consonance with the tenets of the Code. The said IRP was later confirmed as the Resolution Professional (“RP”) by the Committee of Creditors of the Corporate Applicant (*consisting of State Bank of India as its sole member*), and the same was duly taken on record by this Tribunal *vide* its Order *dated* 14.07.2023.
3. Pursuant to the same, the Applicant RP caused three publications of FORM-G on 18.07.2023, 17.08.2023 and 11.09.2023, thereby inviting Expression of Interest(s) at the behest of CoC in the matter of the Corporate Applicant herein. In response to the same, one Prospective Resolution Applicant (“PRA”) evinced its interest and submitted its EoD on 10.10.2023 consequent to the same.
4. The Applicant RP contends that despite successive deliberations which ensued thereafter in furtherance of the Resolution Plan submitted by the said PRA, the

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH - IV

I.A. No. 59 of 2024
IN
C.P. (IB) No. 1133/MB/2023



CoC sought to reject the same in its 14th Meeting dated 14.06.2024 “..in view of the same being on the lower side”, and thereafter accorded its express approval with 100% voting share, to the Liquidation of the Corporate Applicant/ Debtor within the contours of Section 33(1) of the IBC, 2016. For benevolent reference, the relevant agenda apropos the same, is extracted hereunder:

VOTING ITEM NO. 2

“RESOLVED THAT in view of the disapproval of the Resolution Plan of Mr. Uttam Vishwasrao Patil, the Corporate Debtor be and is hereby liquidated in terms of Section 33(1) of the Insolvency and Bankruptcy Code, 2016.

“RESOLVED THAT the Resolution Professional be and is hereby authorized to apply for the liquidation of the Corporate Debtor of the Company with the Hon'ble NCLT, Mumbai.

“RESOLVED FURTHER THAT the Resolution Professional be and is hereby authorized to appoint Mr. Sanjay Dubey, advocate to make an application before Hon'ble NCLT for the purpose of Liquidation of the Corporate Debtor.”

Hence, the instant application.

5. The Applicant RP, *via* Prayer clause (B) in the captioned application, has further proposed (at the behest of CoC) to appoint Mr. Harish Kant Kaushik, an Insolvency Professional, IBBI Registration Number : IBBI/IPA-001/IP-P-01469/2018-2019/12340 [Address: *Flat No. 1904, Sapphire, Regency Towers, Kavesar, Ghodbundar Rd, Thane (W), Thane, Maharashtra ,400615* | E-Mail: harishkant2007@gmail.com] to act as the Liquidator of the Corporate Applicant herein. The proposed Liquidator has duly given his Letter of Consent to act as the Liquidator of the Corporate Applicant herein, as mandated under law.
6. Upon considering the facts and circumstances, as submitted and pleaded by the Applicant RP in the captioned application, this Bench is of the considered view that the Corporate Applicant be Liquidated. This Bench thereby orders the following:



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- a. The Corporate Debtor *viz.* **Ambey Vaishno Steels Private Limited** is 'under liquidation' *w.e.f.* the Date of this Order.
 - b. This Bench directs that Mr. Harish Kant Kaushik, an Insolvency Professional, IBBI Registration Number: *IBBI/IPA-001/IP-P-01469/2018-2019/12340*, be hereby appointed as the 'Liquidator' to conduct Liquidation process of Ambey Vaishno Steels Private Limited as provided under Section 34(1) of IBC, 2016.
 - c. The Liquidator would be entitled to the fees as mutually agreed between the Liquidator and the CoC or as provided in Regulation 4(2)(b) of the *IBBI (Liquidation Process Regulations), 2016* to conduct the Liquidation proceedings.
 - 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. The Liquidator is directed to send this order to the RoC under which this Company has been registered.
 - 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. 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. 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.

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH - IV

I.A. No. 59 of 2024
IN
C.P. (IB) No. 1133/MB/2023



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- h. 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 proceedings on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority.
- i. The Liquidator shall take necessary legal action to recover the Trade Receivables and other Credits such as Loans and Advances from the parties which are reflected in the latest Balance Sheet of the Corporate Debtor, if any. This direction is hereby given in concurrence of the jurisdiction prescribed *u/s.* 33(5) of the Code.
- j. 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.
- k. The Moratorium declared *vide* Order *dated* 17.05.2023 in the captioned company petition bearing C.P. (IB) No. 1133/MB/2023, henceforth ceases to exist.
- l. The Liquidator shall submit the Progress Report of Liquidation periodically.
4. With the afore-stated directions, the instant application bearing I.A. No. 59 of 2024 in C.P. (IB) No. 1133/MB/2023 filed *u/s.* 33(1) by the Applicant RP is hereby **Allowed** and **Disposed-Of**.

Sd/-

ANU JAGMOHAN SINGH
MEMBER (TECHNICAL)
05.09.2024

Sd/-

KISHORE VEMULAPALLI
MEMBER (JUDICIAL)