IA-63/2024 in CP(IB)-153(MB)/2022

Under Section 33(1) of IBC, 2016.

Ramchandra Dallaram Choudhary

...Resolution Professional/ Applicant

In the matter of

Yatin Steels India Private Limited [CIN: U27100MH2004PTC145365]

.....Corporate Debtor

Order pronounced on: 09.12.2024

Coram:

Ms. Anu Jagmohan Singh Mr. Kishore Vemulapalli Hon'ble Member (Technical) Hon'ble Member (Judicial)

Appearance:

For the Applicant: : Mr. Shyam Kapadia a/w Mr. Gaurav

Jalendra and Mr. Anand Bhome, Advocates.

<u>ORDER</u>

1. This is an Interlocutory Application filed on 09.04.2024 by Mr. Ramchandra Dallaram Choudhary, Resolution Professional of the Corporate Debtor under Section 33(2) of Insolvency and Bankruptcy Code, 2016, seeking liquidation of **Yatin Steels India Private Limited**.

2. **Brief facts of the Case:**

- A. This Tribunal vide an order dated 28.04.2023 in Company Petition (IB)-153(MB)/2022, filed under Section 9 of the IBC, 2016 by Maruti Strips and Ferro Alloys Private Limited (hereinafter referred to as the "Operational Creditor") admitted the Petition and Corporate Insolvency Resolution Process (CIRP) was commenced against the Corporate Debtor. The applicant herein was appointed as Interim Resolution Professional by this Tribunal vide the admission order dated 28.04.2023. He was later appointed as Resolution Professional (RP) of the Corporate Debtor by the CoC in its Second meeting held on 16.06.2023.
 - The Applicant submits that upon receiving the intimation, the Applicant made public announcement in Form A on 30.04.2023 in two local newspapers viz. 'Financial Express' (English) and 'Pratahkal' (Marathi) inviting claims from all the Creditors of the Corporate Debtor. After receiving the claim, he constituted CoC on 23.05.2023 with four members viz. Union Bank of India, Punjab National Bank, Canara Bank and Indian Overseas Bank. Thereafter, the First meeting of the CoC was held on 30.05.2023 and the Second meeting was held on 16.06.2023. In the Second CoC meeting, it was decided to initiate inviting Expression of Interest (EoI) and accordingly the Applicant published Form G in two local newspapers viz. 'Financial Express' (English) and 'Pratahkal' (Marathi) on 28.06.2023. The Third CoC meeting was convened on 20.07.2023 wherein the RP apprised CoC members about receipt of four EoI from Prospective Resolution Applicants (PRAs). After evaluation,

all the EoI were found meeting the minimum eligibility criteria. CoC approved the draft Request for Resolution Plan in the third meeting. In the Fourth CoC meeting held on 31.08.2023, the RP apprised the members of CoC about receipt of three Resolution Plans i.e. from (i) Kalinga Metalics Ltd., (ii) ETCO Telecom Pvt. Ltd. & (iii) Salawat Real Estate a/w Mr. Kanhaiya Salawat. All the Plans were tabled and discussed in the meeting and it was decided to negotiate with the Applicants. Accordingly, the Fifth CoC meeting was convened on 22.09.2023 wherein the CoC members negotiated with the PRAs and requested them to enhance their offer and submit revised Resolution In the Sixth CoC meeting held on 04.10.2023, the revised Resolution Plans of the three PRAs were evaluated and again discussed with the PRAs and requested for further enhancement. In the Seventh CoC meeting held on 18.10.2023, the RP apprised the Final Resolution Plans received from the PRAs and the members discussed the feasibility and viability of the Plans. Thereafter, all the three Plans were put for evoting a/w options for Liquidation. The end-date of E-Voting was 24.10.2023. Further, in the Seventh meeting, the CoC resolved to seek extension of the CIRP period by 90 days as the 180 days are about to expire on 25.10.2023.

C. The Applicant sought 90 days extension of CIRP through IA-5180/2023 and this Tribunal extended the CIRP period by 90 days w.e.f. 25.10.2023 vide order dated 20.11.2023.

- D. The Applicant further stated that during the Eighth CoC meeting held on 02.11.2023, CoC unanimously resolved to initiate EoI process afresh in order to explore possibilities of value maximization. Accordingly, the RP once more published the Form G on 13.11.2023. The RP again received three resolution Plans which were opened in the Ninth CoC meeting held on 10.01.2024. In the said meeting, the CoC members requested the PRAs to improve and submit their revised Plan. On the request of the members, only two PRAs submitted revised resolution plan viz. (i) Kalinga Metalics Ltd. and (ii) ETCO Telecom Pvt. Ltd. Both were kept for E-voting.
- E. In the 11th CoC meeting held on 22.01.2024, the Applicant informed the members that the CIRP period of 270 days will be expiring on 23.01.2024 and further extension is necessary for completing the process of CIRP. The members of CoC unanimously approved to seek for further extension of 30 days i.e. from 23.01.2024 to 22.02.2024. The Applicant sought 30 days extension of CIRP beyond 270 days through IA-853/2024, which is pending for adjudication. In the 13th CoC meeting held on 17.02.2024, the RP again apprised the members that the CIRP period sought for is about to expire on 22.02.2024. The members of CoC again resolved to seek extension of further 30 days beyond 300 days. Accordingly, the RP sought extension of 30 days from 22.02.2024 to 23.03.2024 beyond 300 days through IA-883/2024, which is also pending for adjudication.

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F. The Applicant further submits that in the 14th CoC meeting held on 19.03.2024, he apprised the CoC that none of the Resolution Plans were approved by the members of the CoC in the e-voting process closed on 16.03.2024. Also, no resolution was passed for the liquidation of the Corporate Debtor in the same e-voting. Therefore, in the said meeting, the members resolved to put the mandatory resolutions under the IBBI (Liquidation Process) Regulations, 2016 for e-voting. Accordingly, the e-voting process was commenced on 21.03.2024 and closed on 04.04.2024. In this e-voting, no resolution was passed by the CoC to initiate the Liquidation Process of the Corporate Debtor. Therefore, the CoC convened another meeting on 07.10.2024 and passed a resolution with 100% of CoC voting. The minutes of the meeting is filed by the Applicant vide a separate affidavit on 22.10.2024. The relevant resolution is reproduced below:

"RESOLVED THAT pursuant to applicable provisions of the Insolvency and Bankruptcy Code, 2016 and in accordance with the Rules and Regulations thereunder, the members of the Committee of Creditors hereby approve/ratify as the case may be, the liquidation of the Corporate Debtor and authorise the Resolution Professional to effectuate the Liquidation."

During the CIRP of the Corporate Debtor, the RP convened a total of 17 CoC meetings and twice published Form G.

3. IA-853/2024 & IA-883/2024 are allowed vide separate order dated 29.10.2024, by which, 60 days of CIRP period extended i.e. up to 23.03.2024.

Further, a delay of 18 days in filing the application for liquidation is also condoned vide the same order dated 23.03.2024.

- 4. Considering the facts and circumstances as submitted by the Applicant in the Application and by the Counsel appearing for the Applicant, this Bench is of the considered view that the Corporate Debtor be liquidated. Accordingly, this Bench orders that
 - a. The Corporate Debtor viz. **Yatin Steels India Private Limited** (CIN: U27100MH2004PTC145365) is 'under liquidation' w.e.f. the date of this order.
 - b. Mr. Sanjay Vijay Jeswani, an Insolvency Professional, having IBBI Registration No. IBBI/IPA-001/IP-P02891/2024-2025/14432 email: sanjay@insolvencyservices.in is hereby appointed as the 'Liquidator' to conduct liquidation process of Yatin Steels India Private Limited as provided under Section 34(1) of the Code.
 - 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.

- 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, hereafter cease to have effect and henceforth be vested with the Liquidator.
- f. The personnel of the Corporate Debtor are directed to extend all cooperation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
- g. 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.
- 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

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Debtor except to the extent of the business of the Corporate Debtor continued during the liquidation process by the Liquidator.

- k. Moratorium declared vide Order dated 28.04.2023 in CP(IB)-153(MB)/2022, henceforth ceased to exist.
- 1. The Liquidator shall submit the progress report of liquidation periodically.
- 5. The CoC is directed to clear all dues payable to the Resolution Professional before handing over his charge to the newly appointed Liquidator.
- 6. RP is discharged from his duties as Resolution Professional of the Corporate Debtor.
- 7. With the above directions, the IA-63/2024 in CP(IB)-153(MB)/2022 filed u/s 33 of the IBC, 2016 by the Applicant is hereby **allowed** and disposed of.

Sd/-**Anu Jagmohan Singh Member (Technical)**

Sd/-

Kishore Vemulapalli Member (Judicial)

09.12.2024/pvs