



**NATIONAL COMPANY LAW TRIBUNAL**  
**COURT ROOM NO. 1,**  
**MUMBAI BENCH**

**Item No. 5**

**IA(IBC)(LIQ.)/ 74/2024 (NEW IA) in C.P. (IB)/1280(MB)2021**

CORAM:

**SH. PRABHAT KUMAR      JUSTICE VIRENDRASINGH BISHT (Retd.)**  
**HON'BLE MEMBER (TECHNICAL)    HON'BLE MEMBER (JUDICIAL)**

**ORDER SHEET OF THE HEARING ON 02.09.2024**

**NAME OF THE PARTIES:    SUPERWAYS   ENTERPRISES   PRIVATE**  
**LIMITED   VS   PN   STEEL   TRADERS**  
**PRIVATE LIMITED**

Section 33(1) (b) (i) to (iii) r/w Sec 33(3) & 9 of the Insolvency and  
Bankruptcy Code, 2016

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**ORDER**

**IA(IBC)(LIQ.)/ 74/2024 (NEW IA) in C.P. (IB)/1280(MB)2021**

- 1) Mr. Yahya Batatawala, Ld. Counsel for the Applicant/Resolution Professional is present.
- 1) This is an Interlocutory Application filed by the Resolution Professional **Rakesh Chaturvedi** under Section 33 of the Insolvency and Bankruptcy Code, 2016 (the Code) for initiating Liquidation Process against **P N Steel Traders Private Limited** (Corporate Debtor).



2) The facts leading to the case in hand are as follows:

- a. Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor was initiated by this Tribunal vide order dated **11.01.2024**, upon admission of a Company Petition under Section 9 of the Insolvency and Bankruptcy Code, 2016 (the Code) and the Applicant herein was appointed as the Interim Resolution Professional (IRP) of the Corporate Debtor to carry out the Function as mentioned under Insolvency and Bankruptcy Code, 2016.
- b. The Applicant made Public Announcement on 04.02.2024, in Two Newspapers i.e. Financial Express (English) Mumbai Edition and Navakaal (Marathi) Mumbai Edition and on website of Insolvency and Bankruptcy Board of India.
- c. The Applicant states that he did not receive any claim in response to the public announcement during the notice period. After persistent follow-up with the creditors, the claims were received in April, 2024 which were examined in accordance with the process prescribed. The said submissions are noted.
- d. It is submitted that the Interim Resolution Professional had received claim from one (I) Financial Creditor who was a related party and from one (I) Operational Creditor. Accordingly, in compliance with Regulation 13(2)(d) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations



2016, a list of creditors along with amount claimed, claims admitted, security interest in respect of claims was compiled on 02.05.2024. The list of creditors was updated subsequently on 10.05.2024.

- e. The Applicant formed CoC consisting of following one (1) Operational Creditor (as the Financial Creditor was a Related Party). In Compliance with Regulation 16(1) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations 2016 and a report Certifying the constitution of CoC dated 02.05.2024, was compiled and filed with the Adjudicating Authority. **The Claims admitted subsequent to formation of CoC were verified and list of creditors was updated and a committee of creditors were reconstituted on 10.05.2024.**
- f. The Applicant appointed two (2) Independent Registered Valuers on 22.05.2024, for valuation of Financial Assets owned by the Corporate Debtor after approval of expenses by the Committee of Creditors. Subsequently, a third valuer was appointed in accordance with Regulation 35(1)(b) as the difference between the two (2) valuation reports was higher than the prescribed limits. It is submitted that since there is no resolution plan, the liquidation value may assist the CoC to estimate the outcome of the liquidation process. The liquidation value was determined to be Rs.50.39 Lakhs.



g. The 3rd Meeting of Committee of Creditors was convened on 16/07/2024, wherein the Members analyzed valuation reports, budget for remaining period of Corporate Insolvency Resolution Process and for Liquidation Period, Assessments and decided to proceed for Liquidation of the Corporate Debtor. It is also submitted that the Committee of Creditors approved the Resolution to take the Corporate Debtor into Liquidation by 100% majority and passed a resolution authorizing the Applicant to apply for order to initiate Liquidation of the Corporate Debtor. It is further submitted that the Applicant/Insolvency Professional has expressed his unwillingness to continue as Liquidator for the liquidation process of the Corporate Debtor, thus, the Committee of Creditors decided to propose appointment of another Insolvency Professional as a Liquidator. The Committee of Creditors *vide* its email dated 30.07.2024, proposed the name of **Mr. S Gopalakrishnan** an Insolvency Professional as Liquidator of the Corporate Debtor for the purpose of Liquidation. Mr. S. Gopalakrishnan has also given his written consent in Form AA, to act as the Liquidator of the Corporate Debtor, **P N Steels Traders Private Limited, having address Office No. 6, 3<sup>rd</sup> Floor, Shahviri Building 37/41. R.S. Sapre Marg, Kalbadevi, Mumbai – 400 002.**

3) The Applicant submits that the 180 days prescribed period for completion of CIRP was completed on 09.07.2024 and the Committee of Creditors were



unable to pass Resolution for liquidation within the prescribed time limit due to delay in the process due to various factors such as – **(i) Delay in communication of appointment of IRP; (ii) Delay in receiving acceptable claims and resultant formation of CoC; (iii) Remittance of deposit for CIRP expenses.** The submissions of the Counsel for the Applicant are noted.

- 4) This Bench is vested with the powers to pass an order of Liquidation of the Corporate Debtor; since, no Resolution Plan could be brought forth and voted for and in the absence of any Resolution Plan on the table, the order of liquidation shall be passed by this Adjudicating Authority under section 33 of the Code, which reads as under:

*“(1) Where the Adjudicating Authority, —*

- (a) before the expiry of the insolvency resolution process period or the maximum period permitted for completion of the corporate insolvency resolution process under section 12 or the fast track corporate insolvency resolution process under section 56, as the case may be, does not receive a resolution plan under sub-section (6) of section 30; or*
- (b) rejects the resolution plan under section 31 for the non-compliance of the requirements specified therein, it shall—*

*(i) pass an order requiring the corporate debtor to be liquidated in the manner as laid down in this Chapter;*

*(ii) issue a public announcement stating that the corporate debtor is in liquidation; and*

*(iii) require such order to be sent to the authority with which the corporate debtor is registered.*

*(2) Where the resolution professional, at any time during the corporate insolvency resolution process but before confirmation of resolution plan,*



*intimates the Adjudicating Authority of the decision of the committee of creditors to liquidate the corporate debtor, the Adjudicating Authority shall pass a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1) ”.*

- 5) It would further appear that the members of Committee of Creditors have resolved not to proceed any further, in these circumstances, in the matter of Corporate Insolvency Resolution Process of **P N Steel Traders Private Limited**.
- 6) In that view of the matter, this Authority has left with no option except to pass an order for Liquidation of the Company in the manner laid down in Chapter III of the Code considering the fact there is no Resolution Plan for consideration and the Committee of Creditors does not foresee any possibility of getting Plans in another round also. Hence ordered.

### **ORDER**

- a) The Interlocutory Application bearing **IA (IBC)(Liq.) 74 of 2024**, is allowed. The Corporate Debtor, **P N Steel Traders Private Limited**, shall be liquidated in the manner as laid down in Chapter-III of the Code.
- b) **Mr. S Gopalakrishnan** having Registration No. **IBBI/IPA-002/IP-N-00151/2017-18/10398** is appointed as Liquidator of **P N Steel Traders Private Limited**.



- c) That the Liquidator for conduct of the Liquidation proceedings would be entitled to the fees as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016.
- d) The Moratorium declared under Section 14 of the IBC 2016 shall cease to operate here from.
- e) Liquidator shall issue public announcement stating that Corporate Debtor is in liquidation.
- f) The Liquidator shall endeavour to sale the Company as a going concern during the liquidation in terms of Regulation 32A of the Liquidation Process Regulations. In case he is not able to do so within a period of 90 days from this date, he shall proceed in accordance with clauses (a) to (d) of Regulation 32 of the Liquidation Process Regulations.
- g) Subject to Section 52 of the Code no suit or other legal proceedings shall be instituted by or against the Corporate Debtor. This shall however not apply to legal proceedings in relation to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- h) All powers of the Board of Directors, Key Managerial Personnel and partners of the Corporate Debtor shall cease to have effect and shall be vested in the Liquidator.



- i) The Liquidator shall exercise the powers and perform duties as envisaged under Sections 35 to 50 and 52 to 54 of the Code read with the Liquidation Process Regulations.
- j) Personnel connected with the Corporate Debtor shall extend all assistance and cooperation to the Liquidator as will be required for managing its affairs.
- k) This Order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor, except when the business of the Corporate Debtor is continued during the liquidation process by the Liquidator.
- l) The Liquidator shall submit progress reports as per Regulation 15 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
- m) The Liquidator is hereby Authorized to represent the Corporate Debtor before the Government Authorities, if need be.
- n) Registry shall furnish a copy of this Order to the **(i) Insolvency and Bankruptcy Board of India, New Delhi; (ii) Regional Director (Western Region), Ministry of Corporate Affairs; (iii) Registrar of Companies (iv) Official Liquidator, Maharashtra; (v) the Registered Office of the Corporate Debtor; and (vi) the Liquidator, Mr. S Gopalakrishnan, having address 203, The Ghatkopar**





**Nilkanth CHS, Jethabhai Lane, Ghatkopar (East), Mumbai – 400  
007.**

- 7) With the aforesaid observations and directions, the Interlocutory Application bearing **IA (IBC)(Liq.) No. 74 of 2024**, stands disposed of as Allowed.
- 8) There will, however, be no order as to costs.
- 9) Ordered Accordingly.

**Sd/-**

**PRABHAT KUMAR  
MEMBER (TECHNICAL)**

**Sd/-**

**JUSTICE VIRENDRASINGH BISHT  
MEMBER (JUDICIAL)**

Vedant Kedare