

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

MA 691/2018 & MA 995/2018 in
C.P. NO.264/I&BP/NCLT/MAH/2018

Under Regulation 27 and 36 of IBBI
Regulations, 2016 & Section 33 of
Insolvency & Bankruptcy Code,
2016 & under

In the matter of

Nandkishore Steel Industries Private
Limited

... Corporate Debtor

M.A. No. 691/2018

and

M.A. No 995/2018

CA Amit Chandrashekhar Poddar
Resolution Professional

... Applicant in both the Applications

Order delivered on 26.09.2018

Coram: Hon'ble Bhaskara Pantula Mohan, Member (J)
Hon'ble V. Nallasenapathy, Member (T)

For the Applicant: Mr. Amit C. Poddar, Chartered Accountant, Insolvency
Resolution Professional.

Per: V. Nallasenapathy, Member (Technical)

ORDER

1. Misc. Application No. 691/2018 is filed by the Resolution Professional for condoning the delay in appointment of Registered valuers and submission of Information Memorandum. The applicant submitted that due to change of Resolution Professional there was some delay in handing over the charge by the erstwhile Interim Resolution Professional to the applicant. Due to this the valuers could not be appointed within 7 days of appointment of the applicant as Resolution Professional and consequently there was a delay in preparation of Information Memorandum also. This Bench being satisfied with the explanation condones the delay in appointing the valuers and the consequential delay in the submission of Information Memorandum.

2. Misc. application No. 995/2018 is filed by the Resolution professional seeking liquidation of the Corporate Debtor on the ground that no resolution plan has been received by him, hence this application under Section 33 (2) of the Insolvency and Bankruptcy Code, 2016.

3. The Corporate Debtor filed a petition for initiation of Corporate Insolvency Resolution process under Section 10 of the Code and an admission order was passed by this Adjudicating Authority on 03.04.2018 wherein moratorium was declared under Section 14 of the Code appointing Mr. Charudutt Marathe as an Interim Resolution Professional. The Committee of Creditors in its meeting held on 01.05.2018 voted for replacement of Insolvency Resolution Professional Mr. Charudutt Marathe with one Mr. Amit Chandrashekar Poddar, as Resolution Professional, the applicant herein and the same was approved by this Bench by an order dated 17.05.2018. The Insolvency Resolution Professional issued public announcement on 08.04.2018 in Form – A under Regulation 6 of the IBBI (Insolvency Resolution Process for Corporate persons) Regulations 2016, inviting claims from creditors.

4. Two registered Valuers were appointed by the applicant to prepare the Valuation Report and the average liquidation value was arrived at Rs. 3,95,08,000/-. The applicant submits that he has prepared the Information Memorandum which was submitted to the committee of creditors on 18.07.2018 on which the applicant invited Expression of Interest (EOI) by an advertisement dated 16.08.2018. It is submitted that no Expression of Interest was received from any resolution applicant.

5. The last date for completion of CIRP was 21.08.2018. However, since no Expression of Interest for resolution plan had been received in the above matter, the Committee of Creditors in their third meeting held on 23.08.2018 resolved by a vote of 100% voting to get an order of liquidation passed in this matter and appoint the applicant as a Liquidator. In view of the above, this Bench intends to liquidate the company and accordingly liquidation is ordered.

6. Consequently, the Applicant Resolution Professional is appointed as the Liquidator as provided under section 34(1) of the Code. 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 in the liquidator;

7. This Bench hereby directs the personnel of the corporate debtor to extend all assistance and co-operation to the liquidator as may be required by him in managing the affairs of the corporate debtor.

8. Since Liquidation order has been passed no suit or other legal proceedings shall be instituted by or against the Corporate Debtor, save and except as mentioned in section 52 of the Code, as to institution of legal proceedings by the Liquidator, he is at liberty to initiate suit or legal proceedings with prior approval of this Adjudicating Authority, but this direction shall 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.

9. This order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor except to the extent of business the Corporate Debtor is carrying.

10. We hereby direct that the fee shall be paid to the Liquidator as envisaged under Regulation 4 of IBBI (Liquidation Process) Regulations, which forms part of the liquidation cost.

11. The Liquidator appointed herein is directed to issue public announcement stating that the Corporate Debtor is in liquidation and is also required to send the copy of this Order to the concerned Registrar of Companies as required under section 33(1) of the Code.

12. Accordingly, this Application is hereby allowed directing the Liquidator appointed in this case to initiate liquidation process as envisaged under Chapter-III of Insolvency and Bankruptcy Code 2016 by following the liquidation process given in IBBI (Liquidation Process) Regulations, 2016.

SD/-

V. Nallasenapathy
Member(Technical)

SD/-

Bhaskara Pantula Mohan
Member (Judicial)