

**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
ALLAHABAD BENCH,  
ALLAHABAD**

**CA No. 07/2018**  
(UNDER SECTION 33  
OF  
THE INSOLVENCY &  
BANKRUPTCY CODE, 2016)  
IN  
**CP NO.23/ALD/2017**

**IN THE MATTER OF**

**RAMAN ISPAT PVT. LIMITED,  
7<sup>th</sup> Km Stone Meerut Road Muzaffarnagar,  
Uttar Pradesh - 251 003**

**THROUGH ITS RESOLUTION PROFESSIONAL**

.....CORPORATE APPLICANT

**CORAM : SH. HARIHAR PRAKASH CHATURVEDI, MEMBER (J)**

**FOR THE CORPORATE APPLICANT: SHRI ANIL KUMAR, PCS**

**PER : SH. HARIHAR PRAKASH CHATURVEDI, MEMBER (J)**

**JUDGMENT/ORDER DELIVERED ON 31.01.2018**

1. The present Application is filed by the Resolution Professional of **RAMAN ISPAT PVT. LIMITED**, (“the Corporate Debtor”) under Section 33(1) (a) of the Insolvency and Bankruptcy Code, 2016 (“Code”) seeking for order of liquidation of the Corporate Debtor Company. It is submitted that the Committee of Creditors has approved for the same within 270 days as prescribed for a Corporate Insolvency Resolution Process because the resolution plan for the Corporate Debtor Company could not be materialized.
2. As per record of this Tribunal’s order dated 11.04.2017, the present Petition has been admitted under Section 10 of the Insolvency and Bankruptcy Code and appointed Mr. Parveen Bansal as an Interim Resolution Professional in respect of the Corporate Debtor/Corporate Applicant Company, later on he was also confirmed as the Resolution Professional for the Corporate Debtor company by the Committee of Creditors.
3. The facts, which are necessary for the disposal of the present application may be stated as under:

- a. That the Interim Resolution Professional caused a public announcement to this effect on 16.04.2017 in the Times of India, Upcountry Edition and Amar Ujala, Muzaffarnagar Edition where the office of the Corporate Debtor is situated by giving intimation for commencement of Corporate Insolvency resolution process in respect of Corporate Debtor the Raman Ispat Pvt. Ltd. and for calling the creditors to submit their claims alongwith the necessary proof in the prescribed format.
- b. As the last date for the submission of such claims was 25.04.2017. The Interim Resolution Professional received only one claim from the financial creditor namely the **Union Bank of India** and the same was collated that apart the IRP neither has received any claims from operational creditors nor from any workmen or employee.
- c. That the sole member of the Committee of Creditors in its very first meetings dated 16.05.2017, confirmed the appointment of Mr. Praveen Bansal (Interim Resolution Professional) to the Resolution Professional.
- d. That in the second meeting of committee of creditors dated 11.07.2017, it requested to Mr. Ram Pal Singh, the Managing Director of the Company to submit a resolution plan by next meeting.
- e. In response thereof, Mr. Ram Pal Singh, the Managing Director of the Company submitted a resolution plan to the Resolution Professional. The same was presented before the (third) meeting of the Committee of Creditors dated 18.09.2017, wherein the sole member of Committee of Creditor informed that he would seek necessary approval from his higher authorities or to suggest some modifications/improvements in the proposed resolution plan. The Corporate Applicant has enclosed a copy of the minutes of the third meeting of the COC with the present petition. It is further submitted that the Union Bank of India has rejected the resolution plan vide its letter dated 22.09.2017. A copy of such letter has also been enclosed with the present petition for perusal.
- f. It is further submitted that in the fourth meeting of Committee of Creditors held on 04.10.2017, Resolution Applicant revised its offer. The sole member the COC agreed to consider the revised resolution plan. As the period of





Corporate Insolvency Resolution was going to over on 08.10.2017. hence, the sole member COC passed a resolution for seeking extension of corporate Insolvency Resolution period. (a copy of the minutes of such meeting is enclosed with the present petition) on such application before this Tribunal has passed an order granting extension of the period of Corporate Insolvency Resolution for another 90 days after 180 days.

**g.** In its fifth meeting dated 13.11.2017 the committee of creditors modified the resolution as presented by Resolution Professional and passed a resolution stating that such resolution plan is accepted subject to written confirmation from Union Bank of India. A Copy of such Resolution and minutes of fifth meeting of committee of creditors is enclosed with the present petition.

**h.** Thereafter the Central Government notified Insolvency and Bankruptcy Code (Amendment) Ordinance, 2017 on 23.11.2017 imposing certain restrictions to invite resolution applicants. Hence, Mr. Ram Pal Singh become ineligible to be Resolution Applicant. Thereafter, Resolution Professional invited another resolution of Mr. Harender Singh on similar terms and conditions. His resolution plan was also forwarded to the Union Bank of India on 12.12.2017 for consideration.

**i.** Notwithstanding the above, the Committee of Creditors further rejected the resolution plan in its sixth meeting dated 01.01.2018, on such ground of non-viability of the business. It was also discussed that since the extended period of Corporate Insolvency Resolution Process was due to be over by 05.01.2018. Hence, no other alternative left but to intimate to Adjudicating Authority to initiate for liquidation process of Corporate Debtor. A copy of the minutes along with attendance register and voting registers of sixth meeting of committee of creditors have been enclosed with the present petition.

**4.** We have heard the submission of RP and of the COC as described in the present petition, we feel that there are sufficient and convincing reasons for initiation of liquidation process under Section 33 of the Insolvency and Bankruptcy Code, 2016.



5. The relevant Provision of Section 33 of the Insolvency Code, 2016 reads as under:

**33. (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).**

(3) Where the resolution plan approved by the Adjudicating Authority is contravened by the concerned corporate debtor, any person other than the corporate debtor, whose interests are prejudicially affected by such contravention, may make an application to the Adjudicating Authority for a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1).

(4) On receipt of an application under sub-section (3), if the Adjudicating Authority determines that the corporate debtor has contravened the provisions of the resolution plan, it shall pass a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1).

(5) Subject to section 52, when a liquidation order has been passed, no suit or other legal proceeding shall be instituted by or against the corporate debtor: Provided that a suit or other legal proceeding may be instituted by the liquidator, on behalf of the corporate debtor, with the prior approval of the Adjudicating Authority. Appeal. Initiation of liquidation.

(6) The provisions of sub-section (5) 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.

(7) The order for liquidation under this section 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.



6. By considering the above stated provision U/s 33(1)(2), the present petition and the reasons mentioned therein its present petition deserve to be allowed, hence it is allowed terms of its prayer clause as stated in Para 6 of the application with the following directions:

- I. That the resolution professional **Mr. Praveen Bansal** appointed for the Corporate Insolvency Resolution Process under Chapter II of the Code shall act as the liquidator for the purposes of liquidation in pursuant to Section 34(1) of the Insolvency and Bankruptcy Code, 2016.
- II. That the Liquidator so appointed be paid fees in accordance with the Regulation 4(3) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation, 2017. The Liquidator shall be entitled to a fee as a percentage of amount realized net of other liquidation cost and shall be paid from the proceeds of the liquidation estate formed under section 36 of Insolvency and Bankruptcy Code, 2016 and to be distributed in accordance with Section 53 of the Code.
- III. All the 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 pursuant to Section 34(2) of the Insolvency and Bankruptcy Code, 2016.
- IV. That the personnel of the corporate debtor shall extend all assistance and cooperation to the liquidator as may be required by him in managing the affairs of the corporate debtor.
- V. Issue a public announcement stating that the Corporate Debtor is in liquidation.
- VI. The Liquidator shall discharge his functions pursuant to the powers and duties under Section 35 and other relevant provisions of the Insolvency and bankruptcy Code, 2016.
- VII. Till the disposal of this application, the moratorium imposed in accordance with Section 14 of the Code to continue.
- VIII. The Moratorium order passed by this bench vide its order dated **11.04.2017 in CP No.23/ALD/2017 in the matter of M/S Raman Ispat Pvt. Ltd.** shall cease to have

effect by the provision of Section 14 (4) of the Insolvency and Bankruptcy Code, 2016 from the date of this order.

**IX.**A fresh Moratorium will start under subsection (5) Section 33 of the I & B code, 2016.

*Section 33(5): Subject to section 52, when a liquidation order has been passed, no suit or other legal proceeding shall be instituted by or against the corporate debtor: Provided that a suit or other legal proceeding may be instituted by the liquidator, on behalf of the corporate debtor, with the prior approval of the Adjudicating Authority.*


**X.**Till the disposal of this application, the Resolution Professional to continue to act as the RP of the Corporate Debtor.

**XI.**The Corporate Debtor, not being a going concern, this Order of Liquidation may, deemed to be intimation to the Officers, employees and workmen of the Corporate Debtor that this order is a notice of discharge.

**XII.**The Corporate Debtor not being a going concern and is not having any cash flow, the committee of creditors to incur all expenditure relating to Liquidation process of the Company as required by the law from time to time and such expenditure shall form part of Liquidation Cost.

**XIII.**A copy of this order to be sent to Registrar of Companies, Kanpur, IBBI Board as well as to Liquidator appointed in the present case.

**Date: 31.01.2018**

  
**H.P. Chaturvedi**  
**(Member Judicial)**

**Typed By:**  
**Md. Zaid**

**(Stenographer)**