

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1
VC AND PHYSICAL (HYBRID) MODE
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
30-04-2024 AT 10:30 AM**

Company Petition IB/229/2021

AND

**IA (IBC) 670/2024 in IA (IBC) 588/2024, IA (IBC) 672/2024 in IA (IBC) 588/2024, IA
(IBC) 1168/2022, IA(IBC) 161, 588 & 590/2024, IA (IBC) 671/2024 in IA (IBC) 588, 768
& 858/2024 in Company Petition IB/229/2021**

u/s. 9 of IBC, 2016

IN THE MATTER OF:

Sunland Alloys

...Operational Creditor

AND

Castall Technologies Pvt Ltd

...Corporate Debtor

C O R A M :-

**DR. VENKATA RAMAKRISHNA BADARINATH NANDULA, HON'BLE MEMBER (JUDICIAL)
SH. CHARAN SINGH, HON'BLE MEMBER (TECHNICAL)**

O R D E R

IA (IBC) 670/2024 in IA (IBC) 588/2024

Orders pronounced. In the result, **this application is allowed. No costs.**

For compliance of the order in IA No 670/2024, call on 31.05.2024

IA (IBC) 672/2024 in IA (IBC) 588/2024

Orders pronounced. **This application is dismissed as infructuous. No costs.**

IA (IBC) 1168/2022

Call on 31.05.2024

IA(IBC) 161/2024

Learned Counsel for the applicant present through Video Conference and stated that she has been instructed by the client to withdraw this application as the payment sought for in this application has been received. The same is recorded.

Accordingly, **this application is disposed of as infructuous.**

IA(IBC) 588 /2024

As orders passed in IA No 670/2024 this **application is dismissed. No costs.**

IA(IBC) 590/2024

Learned Counsel Mr Maharshi Viswaraj, for applicant present through Video Conference.

Counter filed. Call on 31.05.2024

IA (IBC) 671/2024 in IA (IBC) 588/2024

For hearing/orders, Call on 31.05.2024.

IA (IBC) 768 /2024

This is an application to take on record the final report filed by the liquidator. Report taken on record. Accordingly, **this application is allowed and disposed of.**

IA (IBC) 858/2024

For hearing, matter adjourned to 31.05.2024.

Sd/-

MEMBER (T)

Sd/-

MEMBER (J)

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
HYDERABAD BENCH-I**

**IA No. 670 of 2024 in IA No.588/2024 in
CP(IB)229/9/HDB/2021**

Under rule 11 and Rule 155 of the NCLT Rules, 2016.

In the matter of

M/s.Pride Pack Pvt Ltd

Plot No.22, Co-operative Industrial Estate,

Gandhi Nagar, Balanagar, Hyderabad, Telangana- 500 037.

.... Applicant

Versus

1. Mr.Madhu Venkateswar Narne and others
Successful bidder, R/O. P.402, Rainbow Rock Garden,
Cybercity, Green Hills Road, Kukatpally,
Hyderabad, Telangana-500 018.
2. Mr. Madasa Kumar, Liquidator
Castall Technologies Pvt Ltd., IDA, Kukatpally,
Gandhi Nagar, Hyderabad- 500 037.

... Respondents

DATE OF ORDER: 30.04.2024

CORAM:

Dr. VenkataRamakrishna Badrinath Nandula, Hon'ble Member (Judicial)

Shri Charan Singh, Hon'ble Member (Technical)

Parties/Counsels present:

For the Petitioner : Shri C.Sunil Kumar Reddy, Counsel.

P E R : B E N C H

1. This is an application filed by the Applicant to direct 1st Respondent to clear all the machinery that is lying in the applicant premises with immediate effect by appropriating the loss suffered by the Applicant.

Brief facts of the case:

2. This Tribunal has admitted the Company Petition 229/9/2021 on 19.04.2022 and appointed IRP/RP. Since there were no resolution plans received, COC in its 14th the CoC meeting passed resolution to file an application under Section 33(2) of the Code. Subsequently, this Tribunal on 10.02.2023 passed liquidation order and appointed Respondent No.1 as liquidator.
3. During the process Applicant was finalized as successful bidder of land and buildings of M/s.Castall Technologies Private Limited. The Applicant as per the terms and conditions of the bids and the Letter of Intent dated 22.11.2023. In terms of the LOI, Applicant paid Rs.12,61,00,000/-. Thereafter, a Sale Certificate was issued by the 2nd Respondent on 16.01.2024, wherein it was not mentioned that the machinery is still lying in the premises.
4. Applicant averred that he had made complete payment and even paid interest @12% for crossing 30 days' time mentioned in

the LOI . It is averred that Applicant was not aware of the machinery lying in the premises and though Applicant was insisting to clear it 1st and 2nd Respondent remained silent.

5. It is averred that after several reminders, 2nd respondent on 18.03.2024, approached and prepared panchanama of handing over the premises as an eye wash and with clandestine view for which the Applicant objections. The act of 2nd respondent is nothing but abusing process of law, by colluding with 1st Respondent.
6. It is averred that 1st Respondent has also filed IA no.588/2024 making 2nd respondent as respondent and had not made applicant as party inspite of the knowledge that Applicant had purchased the property.
7. It is averred that this Tribunal has passed Status Quo and posted the matter to 19.04.2024, due to which the Applicant is put to irreparable loss and injury. Though this Tribunal directed the 1st Respondent to implead the Applicant as party to IA No.588/2024 till date no step with regarding to that has been taken. Due to maintenance of status quo there is immense loss and damage, if this Tribunal has not vacated the status quo order, the Applicant will put heavy loss.

8. It is averred that Applicant is paying interest to the banks and borrowers and the machinery he has air lifted is being placed in different place and paying storage charges. Thus, applicant claims to meet all the losses suffered by him by paying 12% interest on the amount addressed in the LOI as claimed by the 2nd Respondent.
9. This Application was listed for the first time on 04.04.2024. Tribunal heard counsels from both sides and after hearing Learned Counsels , following order was passed:-

“Heard learned Sr.Counsel Mr.C.Sunil Reddy for Applicant present physically. For orders on 19.04.2024. Meanwhile, written submissions shall be filed within 10 days. However, the acquirer shall make every endeavor to remove the machinery what have and the order of status-quo will not come in the way of removal of machinery.”
10. But no written submissions have been filed by any of the parties, which was to be filed within 10 days as per the order of this Tribunal dated 04.04.2024. Thereafter the Application was called for orders on 19.04.2024, but orders could not be pronounced on that date and the application was posted for orders on 30.04.2024.
11. On perusal of the facts of the case, it is found that this Application has been filed by successful bidder of land and building against the successful bidder of plant and machinery of the corporate debtor. Learned counsel for the applicant

submits that though he has paid full cost and even sale certificate has been issued in his favour by the liquidator on 16.01.2024, but still, he could not get possession of the property. It is a fact that the first respondent who has bought the plant and machinery has not removed the plant and machinery.

12. The Applicant has contended that he has ordered machinery from overseas and he is not able to start his project as he could not get vacant possession of the property, at the time of issuance of sale certificate. Though the clause is imbibed in the sale certificate that the possession of the property is delivered to the Applicant but 1st respondent is still continuing his project and business operations from the property bought by the applicant in E-auction. In these circumstances, the Applicant is put to irreparable loss and is not able to install his machinery and renovate the building.

13. Learned Counsel for the first respondent submitted that respondent needs some time to remove the machinery from the site and he has filed an application i.e. IA no.588/2024 for the said relief.

14. As per law, since sale certificate is already issued, the assets under sale certificate has to be delivered to the highest bidder in the manner specified in the terms of the sale.

Schedule (1) (mode of sale) (13) under Regulation 33 clearly provides that assets shall be delivered immediately after the execution of the sale certificate which has not been done in this case. The said regulation for clarity is reproduced as under:

(13) On payment of the full amount, the sale shall stand completed, the liquidator shall execute certificate of sale or sale deed to transfer such assets and the assets shall be delivered to him in the manner specified in the terms of sale.

15. Therefore, as per law the liquidator should have executed the sale deed by giving clean and vacant possession of the land and building to the bidder which has not happened in the case on hand.

16. In the above backdrop, we direct as under:

(1) The 1st respondent shall remove the machinery and other items sold to him by the liquidator, under the subject auction within one week from today, from the premises i.e Castall Technologies Pvt Ltd., (Plot No.A-55, IDA, Kukatpally, Gandhinagar, Hyderabad-37).

(2) The Liquidator/2nd Respondent shall render necessary aid to the Applicant in obtaining vacant physical possession of the subject property.

(3) We make it clear that if the liquidator fails in ensuring that the subject machinery is removed by the 1st Respondent

as per order or in delivering the same to the Applicant, within one week from the date of this order, the inaction will be reported to IBBI for initiating necessary action.

(3) If the liquidator faces any obstruction from the 1st respondent, his men or agents at the time of removing/delivering the subject machinery, the liquidator is at liberty to approach SHO Jeedimetla, P.S for necessary police aid by showing this order, as we hereby direct SHO(Jeedimetla), P.S to provide necessary police aid to the liquidator Mr.Madasa Kumar, at the time of carrying out our orders as indicated in this order.

(4) We further order that the concerned SHO(Jeedimetla) P.S shall act upon a copy of this order, if the same is attested by the liquidator, without insisting for the certified copy.

17. With these directions, Application is allowed and disposed of.

SD

Charan Singh
Member (Technical)

SD

Dr. Venkata Ramakrishna Badarinath Nandula
Member (Judicial)

Pavani