

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1
VC AND PHYSICAL (HYBRID) MODE
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
26-06-2024 AT 10:30 AM**

CP(IB) No.81/9/HDB/2021

AND

IA (IBC) (Dissolution) 05/2024 in CP(IB) No.81/9/HDB/2021

u/s. 9 of IBC, 2016

IN THE MATTER OF:

Tata Hitachi Construction Machinery
Company Pvt Ltd

...Operational Creditor

AND

CL Engineering Equipment (India) 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)**

ORDER

IA (IBC) (Dissolution) 05/2024

Orders pronounced. In the result, **the Company i.e. M/s CL Engineering Equipment (India) Private Limited is hereby dissolved** subject to the terms mentioned in the order.

Sd/-

MEMBER (T)

Sd/-

MEMBER (J)

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

**IA (IBC) 05/2024 in
C.P. (IB) No. 81/9/HDB/2021
Under Section 60(5) and Section 54 of the IB Code, 2016**

**In the matter of
M/S CL ENGINEERING EQUIPMENT (INDIA) PVT LTD**

**MR. KAMAL PRAKASH SINGH
Liquidator of Cl Engineering
Equipment (India) Pvt Ltd
Having his office at Suite 1B, 1st
Floor, 22/28A, Manoharpukur Road,
Deshopriya Park, Kolkata-700029.**

Liquidator/Applicant

IN THE MATTER OF:

Tata Hitachi Construction Machinery Company Pvt Ltd

...Operational Creditor

AND

CL ENGINEERING EQUIPMENT (INDIA) PVT LTD

...Corporate Debtor

Date of Order: 26.06.2024

Coram:

**Dr. Venkata Ramakrishna Badarinath Nandula, Hon'ble Member (Judicial)
Shri Charan Singh, Hon'ble Member (Technical)**

Counsel present:

For Applicant : Mr. V.V.S.N Raju, Ld Counsel assisted by
Mr.Srikanth Rathi, Ld Counsel.
Liquidator : Mr.Kamal Prakash Singh.

Per : Bench
ORDER

1. This application is filed, seeking for dissolution of the Corporate Debtor under Section 54 or any other provisions of the I&B Code, 2016.
2. The facts of the case briefly are as follows:
 - (i) The Corporate Insolvency Resolution Process was initiated by virtue of the Order dated 03.11.2021 under section 9 of the I&B Code, 2016 by M/s Tata Hitachi Construction Machinery Company Pvt Ltd. It is averred that due to inoperative state of affairs of the corporate debtor CIRP could not made, and the COC in its 4th COC meeting decided to liquidate the Company and thus filed an Application before this Adjudicating Authority. Thus, this Tribunal ordered liquidation of the corporate debtor vide order dated 10.02.2023 and appointed the Applicant Mr.Kamal Prakash Singh as the liquidator.

- (ii) Thereafter, Applicant informed the Suspended Board of Directors of the Corporate Debtor and Financial Creditors about the commencement of liquidator proceedings vide emails and intimation letters.
- (iii) The Applicant/Liquidator had conducted Stakeholders consultation Committee on 24.02.2023 and 02.11.2023 and had placed the details of total liquidation cost before the Stakeholders Consultation Committee. Further it is noted that from the valuation reports that the realizable value of the assets of the corporate debtor is **NIL**, which is evident that the realizable value of the asset of the corporate debtor is insufficient to cover the cost of the liquidation proceedings of the corporate debtor. Accordingly, the members of the Consultation decided to file a dissolution Application as further investigation would increase the cost burden without having realizable value as the entire cost was required to be met by the Secured Financial Creditor. A Copy of the minutes of the meeting is annexed as **Letter-G**.

(iv) It is averred that on 05.03.2024, Stake holders Consultation Committee resolved to file dissolution application since continuation of the Liquidation process would not serve any purpose and would only lead to incurring of further expenses. The Applicant submits that the total CIRP cost incurred was approximately Rs. 7,81,308.80/- whereas the total liquidation cost incurred till date amounts to Rs. 490,540/-. Therefore, the total outlay towards the pending CIRP cost & Liquidation cost amounts to Rs. 12,71,848.80/- which was met by the only secured financial creditor, i.e M/s. Srei Equipment Finance Limited. The said resolution was approved by the members of the SCC with 70.46% voting share. The copy of the minutes of the third meeting is attached to the Application as **Letter-H**.

(v) It is averred that as per Regulation 45(3)(b) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 which is as below:

“The liquidator shall submit an application along with the final report and the compliance certificate in form H to the Adjudicating Authority for the dissolution of the corporate debtor in cases not covered under clause (a), ie., where the Corporate Debtor is not sold as a going concern.”

Thus, in compliance with Regulation 45(3)(b) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, Final Report as well as Form H has filed by the Liquidator, a copy of which is annexed as **Letter-“I”**. It is further stated that the Final Report also contains the quarterly progress report for the quarter ending on 31.03.2024.

- (vi) The Bank statement of the Bank Account of the Corporate Debtor maintained with IDBI Bank with Sarat Bose Road Branch bearing Account No- 1172102000007207 reflecting the payments made to the professionals, advocates, registered valuers, Insolvency Professional Entity after the balance of the account was reduced to 0.00 (zero) is enclosed herewith as **“Letter-J”**.
- (vii) It is averred that there is a delay of sixty-five days in filing of this dissolution application as the member of Stakeholders Consultation Committee (SCC) i.e., M/s Srei Equipment Finance Limited delayed in remittance of the amount towards the pending CIRP Cost and the Liquidation Cost and same was

allowed and delay was condoned by this Tribunal on 29.05.2024.

3. In the light of above facts and circumstances of the case, the only point that emerges for consideration of the Tribunal is

Whether the Corporate Debtor can be dissolved?

4. We have heard the Ld. Counsel Mr.V.V.S.N. Raju, assisted by Ld.Counsel Mr.Srikanth Rathi, for the Liquidator Mr. Kamal Prakash Singh, and also perused the record.

5. At the outset it may be stated that Section 54 of the IBC lays down the criteria for dissolution of the Corporate Debtor.

Section 54, IBC Dissolution of corporate debtor.

(1) Where the assets of the corporate debtor have been completely liquidated, the liquidator shall make an application to the Adjudicating Authority for the dissolution of such corporate debtor.

(2) The Adjudicating Authority shall on application filed by the liquidator under sub-section (1) order that the corporate debtor shall be dissolved from the date of that order and the corporate debtor shall be dissolved accordingly.

(3) A copy of an order under sub-section (2) shall within seven days from the date of such order, be forwarded to the authority with which the corporate debtor is registered.

6. Regulation 45 of Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016 reads as under:-

Regulation 45: Final report prior to dissolution.

(1) When the corporate debtor is liquidated, the liquidator shall make an account of the liquidation, showing how it has been conducted and how the corporate debtor's assets have been liquidated.

(2) If the liquidation cost exceeds the estimated liquidation cost provided in the Preliminary Report, the liquidator shall explain the reasons for the same.

(3) The liquidator shall submit an application along with the final report and the compliance certificate in form H to the Adjudicating Authority for – (a) closure of the liquidation process of the corporate debtor where the corporate debtor is sold as a going concern; or (b) for the dissolution of the corporate debtor, in cases not covered under clause (a).]

7. We are satisfied that the criteria laid down under law has been fully complied with in this case. As such, the Corporate Debtor can be ordered to be dissolved. Hence, we hereby order dissolution of the Corporate Debtor as under:-

- (i) The Corporate Debtor M/s **CL Engineering Equipment(India) Pvt Ltd** stands dissolved from the date of this Order, in terms of Section 54 of IBC, 2016, and the Liquidator stands relieved.

- (ii) The Liquidator is directed to send the copy of this Order within 7 days from the date of pronouncement to the Registrar of Companies, Hyderabad.
- (iii) Upon dissolution of the Corporate Debtor, the records of the Company which are in possession of the Liquidator, be handed over by the Liquidator to the IBBI.
- (iv) The Registry is also directed to communicate this order to the Registrar of Companies, Hyderabad for updating the master data.
- (v) A copy of this order be also forwarded to the Insolvency & Bankruptcy Board of India, New Delhi.
- (vi) In terms of the above, IA (IBC) 05 of 2024 filed by the Liquidator appointed for M/s **CL Engineering Equipment(India) Pvt Ltd** (Corporate Debtor) for dissolution of the Company under Section 54 of IBC, 2016 stands disposed of accordingly. Since the Corporate Debtor stood dissolved vide this order and no proceedings are now pending, therefore, the Registry is directed to consign the file to records.

SD

Charan Singh
Member (Technical)

SD

Dr.Venkata Ramakrishna Badarinath Nandula
Member (Judicial)

Pavani