

**NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH
(Virtual Hearing)**

**PRESENT: SHRI RAJEEV BHARDWAJ – MEMBER (JUDICIAL)
: SHRI SANJAY PURI – MEMBER (TECHNICAL)**

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 19.02.2024 AT 2.45 P.M.

TC/CP. Nos.	CA/IA No.	Section / Rule	Name of Parties
	Main Case	9 Of IBC	Ingram Micro India Pvt Ltd Vs Kolla Innovatives Info tech Pvt Ltd
CP(IB)/216/9/AMR/2019	IA(IBC)/333/2023	U/s 54(1) of IBC, 2016 r/w Reg. 45(3) of IBBI (Liquidation Process) Reg's, 2016	Satyanarayana Veera Venkata Chebrola, Liquidator of Kolla Innovative Info tech Private Limited

ORDER

IA (IBC)/333/2023:

Ms. Aishwarya, Proxy counsel for the Liquidator present. Orders pronounced. IA(IBC)/333/2023 is allowed and disposed of and recorded vide separate sheets.

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**SANJAY PURI
MEMBER (TECHNICAL)**

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**RAJEEV BHARDWAJ
MEMBER (JUDICIAL)**

**NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI SPECIAL BENCH**

IA(IBC)/333/2023
IN
CP (IB) /216/9/AMR/2019

**Under Section 54 (1) of Insolvency and Bankruptcy Code, 2016 read
with Regulation 14, 45 (3) of the Insolvency and Bankruptcy Board
of India (Liquidation Process) Regulations, 2016**

In the matter of
M/s. **KOLLA INNOVATIVES INFOTECH PRIVATE LIMITED**
(CIN: U74200AP2005PTC045815)

BETWEEN:

Mr.Satyanarayana Veera Venkata Chebrolu
(IBBI/IPA-003/IPA-ICAI-N00224/2019-2020/12677)
Liquidator of Kolla Innovative Infotech Private Limited
Flat No.201, Chandana Residency
MIG 512 and 513 Near Temple Bus Stop, KPHB Colony
Kukatpally, Hyderabad – 500 072

..... Applicant/Liquidator

Date of pronouncement of Orders: 19.02.2024

Coram:

**SHRI RAJEEV BHARDWAJ, HON'BLE MEMBER (JUDICIAL)
SHRI SANJAY PURI, HON'BLE MEMBER (TECHNICAL)**

Parties/Counsels present:

For the Applicant : Ms.Mummaneni Vazra Laxmi, Advocate

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ORDER
(Per: Bench)

1. This is an Application filed by the Applicant/Liquidator under Section 54 (1) of the Insolvency and Bankruptcy Code, 2016 read with Regulations 14, 45 (3) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 seeking for dissolution of the Corporate Debtor i.e., M/s. Kolla Innovatives Infotech Private Limited.
2. The facts of the case, briefly, are as follows:
 - i. Company Petition CP(IB)/216/9/AMR/2019 is filed by M/s. Ingram Micro India Private Limited (OC) against M/s. Kolla Innovative Infotech Private Limited (CD) under Section 9 of IBC, 2016. The Adjudicating Authority admitted this matter vide order dated 15.03.2021 and appointed Mr. Sai Ramesh Kanuparthi, as the Interim Resolution Professional (IRP) and further he appointed as RP by the Committee of Creditors (CoC) comprising of sole Financial Creditor in its first CoC meeting held on 25.08.2021.
 - ii. In the 2nd CoC meeting held on 08.09.2021, the CoC informed the RP to proceed for early liquidation of the CD and approved the resolution made by the RP for liquidation of the CD with 100% voting and resolved to appoint Mr. Satyanarayana Veera Venkata Chebrolu, as Liquidator. Hence, the RP has filed an IA(IBC)/112/2021 for liquidation of the CD and appointment of the Liquidator. Vide order dated 26.11.2021, this Bench

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allowed the same and appointed Mr. Satyanarayana Veera Venkata Chebrolu, as Liquidator of the CD.

- iii. The Applicant issued paper publication in Form-B on 27.11.2021 in two daily newspapers i.e. Business Standard (English Daily) and Mana Telangana (Telugu Daily) inviting claims from the stakeholders of the CD and also the same was uploaded on the IBBI Website. As per Section 178 of the Income Tax Act and Section 88 of the CGST Act, vide letter dated 07.12.2021 & 24.12.2021, the CD informed the IT Department with regard to the commencement of Liquidation process. But there is no response from the IT Department.
- iv. In response to the publication, the Applicant has received two claims, one from M/s. Ingram Micro India Pvt Ltd (OC) and another from Axis Bank Limited (FC). During the CIRP, the IT Department submitted a claim for Rs.2,61,157/- on 07.09.2021, which was also admitted by the Liquidator and the same was informed to the IT department. The Applicant prepared the list of stakeholders consisting of 3 stakeholders claimed together for Rs.5,01,49,468/- and the same was filed before this Bench.
- v. The applicant has opened a new bank account in the name of the CD i.e., Kolla Innovatives Infotech Private Limited (Under Liquidation), Account No. 4046825603 with Kotak Bank Limited, KPHB Branch, Hyderabad. But there are no transactions have taken place due to Axis Bank has not relinquished the security interest in respect of CD's property

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and hence, no sale is effected by the Liquidator to route the amount for distribution.

- vi. In the Stakeholders Consultation Committee (SCC) meeting held on 02.06.2022, discussed about the liquidation status and the issue of Axis Bank not relinquishing the security interest and appointment of professionals. On 09.02.2022, the Liquidator, prepared and submitted Preliminary Report, Asset Memorandum before this Tribunal.
- vii. The Axis Bank, Secured Creditor is having charge on entire current assets and unencumbered fixed assets of the CD, while submitting the claim not relinquished the security interest. Vide letter dated 08.06.2022, the Applicant, immediately after receipt of the financials of the CD upto the liquidation date, requested the Axis Bank Limited to take possession of securities and pay the estimated liquidation cost after realization.
- viii. On 06.10.2022, Axis Bank has taken possession of inventory and other movable fixed assets from the liquidator and issued a letter dated 06.10.2022 acknowledging the same. But the Axis Bank has not realised the securities immediately after taking possession. Therefore, the liquidator could not complete the liquidation process within one year and hence the Liquidator filed IAs for extension of liquidation period from time to time and the same were allowed by this Tribunal.

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- ix. The Liquidator received copies of the public auction notice dated 19.06.2023 in Praja Shakti (Telugu) and Business Standard (English) from the Axis Bank with regard to the Bank has initiated steps to realise the securities charged to them, got the properties valued by its own valuers and the auction was initially conducted on 28.06.2023. Further mail dated 30.06.2023 stating that the Axis Bank has conducted online auction through "C1 India Pvt Ltd." and received bids for movables an amount of Rs.1,75,910/- and for vehicle Rs.4,68,000/- but the bidder has not paid the bid amount in respect of vehicle. On 20.07.2023, the Axis Bank auctioned once again and realised an amount of Rs.3,91,500/-.
- x. The Axis Bank realized value in so far is Rs.5,67,410/- and unrealized value of the remaining assets estimated is Rs.19,87,880/- thus total being Rs.25,55,290/-, which is less than the admitted claim amount of Rs.3,39,78,611/-. Hence there is no surplus.
- xi. As per liquidation Regulation 21A(2) where a secured creditor proceeds to realize its security interest, it shall pay – (a) as much towards the amount payable under Clause (a) i.e. the cost of CIRP and liquidation and sub-clause (i) of Clause (b) of Sub-section (1) of Section 53 i.e. workmen dues for the period of twenty four months preceding the liquidation commencement date, as it would have shared in case it had relinquished the security interest. There are no workmen dues outstanding for twenty four months preceding the liquidation

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commencement date. At the request of Axis Bank, the liquidator has raised an invoice for the liquidation cost payable and permitted to appropriate the amount realized so far towards their dues vide mail dated 06.07.2023.

- xii. As on 26.11.2021, the assets yet to be realized by Axis Bank which are charged to them and on which Axis Bank has not relinquished the security interest as are below:

Sl.No.	Particulars of the Assets	Amount in Rs.
1.	Loans & Advances – Due from HR Enterprises	6,00,000
2.	Sundry Debtors	79,51,532
3.	GST Input tax – GST Department though not submitted any claim earlier vide their notice dated 16.11.2020 demanded tax arrears of Rs.26,76,088/- from CD	33,80,445


The following are the details of sundry debtors to be realized:

S.No.	Name of the Sundry Debtor	Amount in Rs.
1.	Kolla Computers and Gadgets	29,68,577
2.	Sai Chand Enterprises	44,41,509
3.	Technosonics Sampath Enterprises	5,41,446
	Total	79,51,532

- xiii. Out of the above-mentioned Sundry Debtors, one recovery suit of Rs.45,00,000/- filed by the CD against VIVO and Technosonics – Sampath Enterprises is pending for adjudication. Kolla Computers and Gadgets is a proprietary concern, which is debtor of the CD and Mr. Kolla Venkata

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Suresh Kumar, is one of the proprietors. This unit is also not working and amount is not recoverable in ordinary course.

- xiv. The current account of the CD bearing No.369010200018151 with Axis Bank, Dwarakanagar, Visakhapatnam Branch, the balance amount is Rs.43,094/-. Vide email dated 30.06.2023, the Applicant requested the Axis Bank to close the account and transfer the proceeds to the loan account.
- xv. The Transaction Audit Report dated 09.06.2023 issued by M/s. K. Ravi Kumar & Co, Chartered Accountants, stated that with the data made available to them they have not identified any payments as preferential transaction as per Section 43 of IBC, 2016 and they have not identified any transaction in the nature of Undervalued, Extortionate and Fraudulent transactions as per Sections 45, 50 and 66 of IBC, 2016.
- xvi. The Applicant could not distribute among the stakeholders an asset that could not be sold, assigned or transferred due to its peculiar or other special circumstances. However, as Axis Bank Limited not relinquished security interest, the distribution of unsold/unrealized assets does not arise. There are no other assets available with the CD to realize and share the proceeds with other stakeholders.

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xvii. M/s. Ingram Micro India Private Limited, who has initiated CIRP and a claim admitted in respect of them for Rs.1,59,03,700/- has filed a suit against the CD as well as against both the director in their personal capacity to recover their dues.

xviii. The Compliance Certificate in Form H, under Regulation 45 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, has been prepared with all the details of the Liquidation Process.

xix. Since the Corporate Debtor does not have any assets and as there were no realisable assets, in which circumstances, the Liquidator hereby requests this Tribunal to pass an order for early dissolution of Kolla Innovatives Infotech Private Limited (Corporate Debtor). Hence, this Application.

3. Heard the submissions and perused the records. Before considering the merits of the matter, it is necessary to refer to relevant provisions and rules, as available under the Code and Rules which are as under:-

"Section 54 of IBC, 2016: Dissolution of corporate debtor.

54. (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.*

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(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."*

4. The ultimate objective of the Code is either to resolve by way of a Resolution Plan or to liquidate the Corporate Debtor, as expeditiously as possible. The facts and circumstances of the present case justify that no purpose would be served to keep the Corporate Debtor under CIRP/Liquidation Proceedings. The Adjudicating Authority is vested with inherent powers under Rule 11 of NCLT Rules, 2016 conferred under the Act, to pass appropriate order(s) in the interests of speedy justice.
5. In the aforesaid circumstances, we are satisfied that this is a fit case for dissolving the Corporate Debtor without undergoing the liquidation process.

ORDER

6. In view of the facts stated in the Application, this Tribunal allows the Application with the following directions:
- i. The Corporate Debtor, **Kolla Innovatives Infotech Private Limited (CIN: U74200AP2005PTC045815)** is ordered to be dissolved with immediate effect.

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- ii. The Registry is directed to forward a copy of this Order to the Registrar of Companies, Andhra Pradesh.
- iii. The Resolution Professional is also directed to forward copies of this Order to the IBBI, to the Regional Director (South Eastern Region), Ministry of Corporate Affairs; Registrar of Companies & Official Liquidator, Andhra Pradesh.
- iv. Personal liability/Guarantee of any Director/Promoter of the Corporate Debtor, if any, would not absolve them of their liability by virtue of this Order.
- v. Liquidator shall stand discharged from his duties with effect from the date of this Order.

Accordingly, IA (IBC)/333/2023 in CP (IB)/216/9/AMR/2019 is allowed and disposed of.

SANJAY PURI
MEMBER (TECHNICAL)

RAJEEV BHARDWAJ
MEMBER (JUDICIAL)

Swamy Naidu (PS)