

①

**NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH**

PRESENT: HON'BLE SHRI BHASKARA PANTULA MOHAN – MEMBER JUDICIAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 15.03.2021 AT 10.30 AM

TRANSFER PETITION NO.	IA NO. 180/2020 IN TCP(IB) NO. 43/9/AMR/2019
COMPANY PETITION/APPLICATION NO.	CP(IB) NO. 546/9/HDB/2018
NAME OF THE COMPANY	Kusalava Batteries Pvt Ltd
NAME OF THE PETITIONER(S)	Cyber Auto Parts
NAME OF THE RESPONDENT(S)	Kusalava Batteries Pvt Ltd
UNDER SECTION	9 OF IBC

Counsel for Petitioner(s):

<small>Ries</small>				
Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature	
G. Suma for T. Sujan	Adv.	9160001435		
Kumar Reddy				

Counsel for Respondent(s):

<small>Ries</small>				
Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature	

ORDER

IA No.180/2020 is allowed.

MEMBER JUDICIAL

**NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH**

IA No.180 of 2020in
TCP (IB) No.43/9/HDB/2019in
CP (IB) No.546/9/HDB/2018

**Under section 53(1)(H) of IBC Code, 2016, Read with Regulation 20 of the
Insolvency and Bankruptcy (Liquidation Process) Regulations 2016.**

In the matter of :-

M/s. KUSALAVA BATTERIES PRIVATE LIMITD.

Between:

Sri Vijay Kumar Gunda,
Liquidator,
#2-1-392/1/6, 3rd Floor, Opp: Fever Hospital,
Nallakunta, Hyderabad – 500 044.

... Applicant/Liquidator

and

M/s. Cyber Auto Parts,
(Registered Partnership Firm),
J-Gardens, No.132, GNT Road,
Ponnaiammanmedu,
Chennai – 600 010, Tamilnadu.

... Respondent R-1/Operational Creditor

Date of order: 15.03.2021

Coram: Bhaskara Pantula Mohan, Member Judicial.

Parties/Counsels present:

For the Applicant:

T. Sujan Kumar Reddy
Ms. G. Sumathi, Advocates

ORDER

1. This is an Application filed under section 53 of the Insolvency and Bankruptcy Code, 2016 r/w Regulation 38 of IBBI (liquidation process) Regulations 2016 seeking orders from this Hon'ble National Company Law Tribunal for distribution of unsold Assets among the stakeholders.

2. The brief facts of the Application are as follows.

- i. It is submitted that the operational creditor i.e. Respondent herein has filed Company Petition under section 9 of the IBC Code, 2016 r/w Rule 6 of Insolvency and Bankruptcy (Application to adjudicating authority) Rules, 2016 and the Company Petition numbered as CP (IB) No.546/9/HDB/2018 against M/s Kusalava Batteries Private Limited for an claim amount Rs.1,47,209/-.
- ii. It is further submitted that this Adjudicating Authority had heard the matter and admitted the company petition on 16.11.2018 and appointed the applicant as IRP and the IRP i.e, applicant herein has made public announcement and same was published in Business Standard (English daily newspaper) and in Andhra Prabha (Telugu) Vijayawada edition on 17.11.2018 and subsequently 1st Committee of Creditors meeting was held on 13.12.2018.
- iii. It is also submitted that the Resolution Professional has convened 2nd COC Meeting on 12.01.2019 for considering the invitation for EOI as such 14.01.2019 paper advertisement was made in Business Standard Vijayawada and Andhra Prabha Telugu in Vijayawada Edition, however, the Resolution Professional has not received any Expression of Interest on or before 03.02.2019 as such the COC held on 11.02.2019 has considered the option of extension of time for inviting expression of interest and further decide a liquidator and subsequently as there was no EOI received by Resolution Professional the COC has unanimously recommended the applicant name as Liquidator.
- iv. It is submitted that subsequently the applicant has filed IA No.238 of 2019 in the above said company petition under section 33 for Order of liquidation of the Corporate Debtor as such this Hon'ble Tribunal has passed order vide order dated 29.04.2019 for liquidation of the Corporate Debtor Company and even appointed the applicant as Liquidator.
- v. It is also submitted that the applicant herein has made public announcement by carrying out paper publication business standard in

English on 10.05.2019 and Andhra Prabha in Telugu on 10.05.2019 for submitting claims by stakeholders on are before 06.06.2019 i.e, within 30 days from the date of placing of order by this Tribunal available in the Hon'ble NCLT Website (www.nclt.gov.in) on 08.05.2019.

- vi. It is further submitted that the applicant herein has received claims from the unsecured creditors, employees and other existing stakeholders, it is further submitted that after receiving the claims the applicant herein has settled the claims of operational creditors and claims of the employees.
- vii. It is submitted that the applicant herein also received claims from the stake holders (equity shareholders) and also they have filed claim Under Form-G as per Regulation 20 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation 2016, to settle their claims after settling all the claims submitted by the all other parties and further requested to distribute the unsold assets in the proportion to their equity share holding.
- viii. It is also submitted that the applicant has settle all the claims as per the Act & Regulations as the claim received from the Equity shareholders as they are unsold assets the applicant herein before this Hon'ble Tribunal seeking permission to distribute the unsold assets, the applicant herein with submitting as per regulation 38(2) the value of the assets, the identify the assts.
- ix. It is submitted that as the applicant herein has received claims from stakeholders to distribute the assets among the equity shareholders after settlement of all other claims as requested by the stakeholder to distribute unsold assets.
- x. The Applicant/Liquidator has annexed the following copies along with this Application;
 - a. Copy of details of Assets along with Pattadar Pass Books and 1-B Form, and Aadangal Pahanies.
 - b. Copy of Form-G from the shareholders along with request letter.
 - c. Copy of clients settled (Operational Creditors and Employees)

d. Copy of other Stakeholders List.

In view of the foregoing, it is most respectfully prayed that this Hon'ble National Company Law Tribunal to allow the present Application.

Heard, Counsel for the Applicant. After considering the facts and circumstances of the case the following order is passed.

ORDER

I therefore permit the Liquidator to distribute the unsold assets to all the stakeholders (i.e., Equity Shareholders) in proportion to their claim. Hence this orders. Accordingly, IA No.180/2020 in TCP (IB) No.43/9/AMR/2019 is disposed of.


**BHASKARA PANTULA MOHAN,
MEMBER JUDICIAL**

Nitesh