

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
COURT HALL NO: II**

PHYSICAL HEARING

**CORAM: JUSTICE TELAPROLU RAJANI – HON'BLE MEMBER (J)
CORAM: SHRI CHARAN SINGH - HON'BLE MEMBER (T)**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
HYDERABAD BENCH, HELD ON 27.06.2023 AT 02:30 PM**

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	Appeal (IBC)/01/2023 in CP (IB) No.128/10/HDB/2017
NAME OF THE COMPANY	State Bank of India
NAME OF THE PETITIONER(S)	Neeta Chemicals India Pvt Ltd
NAME OF THE RESPONDENT(S)	State Bank of India
UNDER SECTION	10 of IBC

ORDER

Appeal (IBC)/01/2023

This application is allowed, vide separate orders.

Sd/-
MEMBER (T)

Sd/-
MEMBER (J)

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD
COURT No.II**

**IA No. 01/HDB/2023
IN
CP (IB) No. 128/10/HDB/2017
[u/s 42 & 60(5) of Insolvency and Bankruptcy Code, 2016
r/w rule 11 of the NCLT Rules, 2016)**

In the matter of M/s Neeta Chemicals (India) Pvt. Ltd.

Between

Asst. Commissioner of State Tax
MUM- VAT-D-204, Nodal 9
B-14, 5th Floor, Old Building, GST Bhavan,
Mazgoan, Mumbai – 400 010.
Represented by Mr. Santposh D Londhe

... **Petitioner**

And

Neeta Chemicals (India) Pvt. Ltd.,
Registered Office at 1-2-234/13/53 to 56
Reliance Residency, Flat No. 106 & 107
Indra Park Road, Domalguda,
Hyderabad – 500 029
Represented by Dr. K.V. Srinivas, Liquidator

... **Respondent**

Date of order : 27/06/2023

Coram:

**Hon'ble Justice Mrs. Telaprolu Rajani, Member (Judicial)
Hon'ble Shri Charan Singh, Member (Technical)**

Parties / counsels present:

For petitioner : Ms. Mano Ranjani, Advocate

For respondent: : Mr. Yasaswi, Advocate

ORDER

1. This Application is filed by the Applicant seeking to set aside the mail dated 25/12/2022 in which the Liquidator expressed his inability to

admit the claim of Rs. 2,18,33,573/- towards State Tax and applicable interest and penalty.

2. The entire facts need not be traversed. It would suffice to say that the claim arose in respect of the State Tax payable by the Corporate Debtor. The Applicant could not make the claim within the prescribed time since it did not know about the admission of the Corporate Debtor (CD) into Corporate Insolvency Resolution Process (CIRP). Immediately after coming to the notice that the CD is going through the process of liquidation, the applicant submitted its claim in Form C as per the provisions of the Code on 17/11/2022, which was rejected by the Liquidator.

3. The Respondent has not filed Counter.

4. Heard both the Counsel and perused the record. The decision would only be a technical one since the counsel for the Liquidator submits that there are absolutely no assets available and even if the claim of the Applicant is admitted, there would not be any benefit that would accrue to the applicant. However, the Applicant insists the admission of the claim on the ground that the publication was not made in the State of Maharashtra wherefrom the claim arises.

5. Regulation 12 of IBBI – Liquidation process guidelines prescribe that the Liquidator shall make public announcement in any other location other than the location of the Registered Office and Principal Office, if any, of the Corporate Debtor if, in the opinion of the Liquidator, the Corporate Debtor conducts material business operations in the said location. The contention that it is only when the Liquidator forms an opinion that the public announcement has to be taken in the areas other than the above mentioned areas does not appeal to us. Since the Liquidator is expected to form opinion based on the material available from records, he cannot say that he did not form an opinion though there is sufficient material to form an opinion. He has to verify the places of the business operations of

the CD to fulfil the condition of Regulation 12 and get the publication effected where the material business operations are carried on by the CD.

6. Both the Id. Counsel relied on two different orders of NCLT, Amaravati Bench and Hyderabad Bench. In I.A. No. 1239 of 2022, this Bench observed that the Liquidator made public announcement in respect of which the applicant therein did not submit the claim. It is not the case in this Application. The NCLT, Amaravati Bench in IA No. 48 of 2023, considering that the publication was not in accordance with the Regulation 12(3) of the IBBI (Liquidation Process) Regulations, 2016, ordered for admission of claim. Hence, we allow this application as prayed for by the Applicant. The applicant is directed to submit its claim before the Liquidator and the Liquidator shall examine the claim of the Applicant in accordance with law by condoning the delay in submission of the claim by the Applicant.

7. Accordingly, the IA No. 01 of 2023 in CP No. 128/10/HDB/2017 is allowed and stands disposed of.

Sd/-
CHARAN SINGH
MEMBER (TECHNICAL)

Sd/-
JUSTICE TELAPROLU RAJANI
MEMBER (JUDICIAL)

kv