

S.No.1

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
07-07-2023 AT 10:30 AM**

IA(IBC) 578/2023 in CP(IB) No.323/7/HDB/2020
u/s. 7 of IBC, 2016

IN THE MATTER OF:

Aryan Structural Solutions Pvt Ltd

...Financial Creditor

VS

Kyati Metals & Trading 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) 578/2023

Learned Counsel for the Resolution Professional not present. Orders pronounced. Recorded vide separate sheets. In the result, The Corporate Debtor/M/s Kyati Metals and Trading Private Limited, hereby stands dissolved from the date of this Order, in terms of Section 54(1) of IBC, 2016, and the Liquidator stands relieved.

Sd/-

MEMBER (T)

Sd-

MEMBER (J)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1**

**IA (IBC) 578/2023 in
CP (IB) No. 323/7/HDB/2020**

*Under Section 54(1) of the Insolvency and Bankruptcy Code, 2016 read with Rule
11 of National Company Law Tribunal Rules, 2016.*

In the matter of M/s. Kyati Metals and Trading Private Limited

Filed by:

CA S Prabhu
Liquidator
Kyati Metals and Trading Private Limited
M/s. SPP& Co, Chartered Accountants,
No. 27/9, Nivedh Vikas, Pankaja Mill Road,
Puliyakulam, Coimbatore,
641 045.

... Applicant/Liquidator

Date of Order: 07.07.2023

CORAM:-

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

Appearance:-

For the Applicant: - Shri Mayur Mundra, Counsel

PER: BENCH

1. This is an application filed by the Liquidator (hereinafter referred to as "Applicant") under Section 54(1) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "the Code") praying this Adjudicating Authority for dissolution of M/s. Kyati

Metals and Trading Private Limited (hereinafter referred to as “Corporate Debtor”).

2. The gist of the Application in brief:

- a. It is averred that the Corporate Insolvency Resolution Process was initiated with respect to the Corporate Debtor namely M/s. Kyati Metals and Trading Private Limited vide order No. CP (IB) No. 323/7/HDB/2020 dated 18.01.2021 and in the order Hon’ble NCLT declared moratorium and appointed CA S Prabhu as the Interim Resolution Professional.
- b. It is averred that 3rd CoC meeting was held on 26.08.2021 in which the CoC had resolved to be liquidated by the Committee of Creditors as the Corporate Debtor had no active interest in the market and no scope of business revival and CoC decided to appoint the IRP as the Liquidator to manage the Liquidation process subject to approval of Hon’ble NCLT.
- c. It is averred that an application filed seeking this Tribunal to liquidate the Corporate Debtor and pleased to allow the application and ordered liquidation vide order no. IA(IBC)/513/2021 filed in CP (IB) No. 323/7/HDB/2020 dated 22.11.2021 of the Corporate Debtor and appointed applicant as the Liquidator.
- d. It is averred that the applicant has discharged the duties as contemplated under the IBC 2016. The Liquidator had issued a public announcement on 04.12.2021 as per Form-B- Schedule 2 attached to the IBBI (Liquidator Process Regulations 2016). The applicant had received claims from various stakeholders. The liquidator verified and admitted the claims and the list of stake

holders was filed before this Tribunal on 08.01.2022 within the 45 day period stipulated under Regulation 31(2).

- e. It is averred that the applicant had prepared a preliminary report inter alia containing the estate of the assets and liabilities and filed the same before this Tribunal on 20.01.2022 within 75 days period stipulated under Regulation 13 and filed Progress Report.
- f. It is averred that the applicant had also completed the auditing of books of accounts for the entire period of liquidation and also maintained the registers as per Regulation 6 and on completion of the aforementioned process the Applicant had collated the following list of asset which were to be liquidated as per the IBC.
 - i. **Details of assets:** The Company doesn't have any immovable/movable assets (excluding some receivables), as they were sold before the commencement of CIRP Process.
- g. It is averred that the assets were determined after the formation of the Liquidation Estate and formed the basis for the preparation of the Asset Memorandum which came to be filed along with the preliminary report before this Tribunal and those assets (only Financial Assets) were valued in accordance with Regulation 35 by registered valuers. Thereafter the applicant took steps for recovery of the receivables (Financial Assets) from various sundry debtors including the related parties of the corporate debtor.
- h. It is further averred that the realization proceeds were only sufficient for payment of the CIRP and Liquidation costs of Rs. 4,16,958. The financial assets identified as Not Readily Realisable Asset (NRRA) under Regulation 37A of IBBI

(Liquidation) Regulations were decided to be assigned to buyers with the consent of the Stake Holder's consultation committee. The Liquidator issued a public notice for assignment off NRRA on 06.04.2022 and there are no interested buyers for purchasing the NRRA of the Corporate Debtor.

The following is the manner of distributing the proceeds to the stake holders.

MANNER OF DISTRIBUTION

S.No	Section	Particulars	Amount
1	36(4)(a)(iii)	Priority payment	-
2	53(a)	CIRP and Liquidation costs	6,59,526
3	53(b)	Secured Financial Creditor	Nil
4		Wages and Unpaid Dues to Workmen	Nil
5	53(c)	Wages and Unpaid Dues to Employees (other than workmen)	Nil
6	53(d)	Unsecured Financial Creditors	Nil
7	53(e)	Government Dues	Nil
8		Dues to Secured Financial Creditor (to the extent unpaid after enforcement of security interest)	Nil
9	53(f)	Remaining Dues(Operational Creditors)	Nil
10	53(g)	Preference Share Holders	Nil
11	53(h)	Equity Share Holders	Nil

- i. It is averred that applicant has prepared the final report continuing details of the liquidation of the assets and the distribution of the proceeds. There are no fixed assets left with the corporate debtor and

the liquidator is constrained to file this application under section 54 to dissolve the Corporate Debtor.

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. Liquidator Shri CA S Prabhu 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 Kyati Metals and Trading Private Limited stands dissolved from the date of this Order, in terms of Section 54(1) 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) 578 of 2023 filed by the Liquidator appointed for M/s Kyati Metals and Trading Private Limited (Corporate Debtor) for dissolution of the Company under Section 54 (1) 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

Swapna