

SL. No.2

**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 16.08.2023, At 02:30 PM**

<b>TRANSFER PETITION NO.</b>	
<b>COMPANY PETITION/APPLICATION NO.</b>	<b>IA (IBC)/1196/2023 in CP (IB) No.346/7/HDB/2018</b>
<b>NAME OF THE COMPANY</b>	<b>Metkore Alloys And Industries Ltd</b>
<b>NAME OF THE PETITIONER(S)</b>	<b>Hero Wiretex Ltd</b>
<b>NAME OF THE RESPONDENT(S)</b>	<b>Metkore Alloys And Industries Ltd</b>
<b>UNDER SECTION</b>	<b>7 of IBC</b>

**ORDER**

**IA (IBC)/1196/2023**

This application is allowed, vide separate orders.

**Sd/-  
MEMBER (T)**

**Sd/-  
MEMBER (J)**

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

**IA No. 1196/2023**  
**in**  
**CP(IB) No. 346/7/HDB/2018**  
**(u/s. 60(5) of IB Code, 2016 r/w Regulation 45(3)(A)**  
**of IBBI (Liquidation process) Regulations 2016 &**  
**Rule 11 of the NCLT Rules, 2016)**

**In the matter of M/s Metkore Alloys & Industries Ltd.**

Sisir Kumar Appikatla  
IBBI/IPA-001/IP-P00751/2017-2018/11283  
106, First Floor, Bharat Towers, 5<sup>th</sup> Lane,  
Dwarakanagar, Visakhapatnam,  
Andhra Pradesh – 530 016

**...Applicant/Liquidator**

**Date of Order:16.08.2023**

**Hon'ble Justice Telaprolu Rajani, Member (Judicial)**

**Shri Charan Singh, Hon'ble Member (Technical).**

**Counsel present:**

**For the Applicant** : MS Mano Ranjani & M Rama Rao, Advocates

**[PER: BENCH]**

**ORDER**

1. The present application is filed by the Applicant Mr. Sisir Kumar Appikatla, Liquidator of M/s Metkore Alloys & Industries Ltd., Corporate Debtor under Section 60 (5) of the Insolvency and Bankruptcy Code, 2016 read with Regulation 45(3)(a) of IBBI (Liquidation Process) Regulations 2016 & Rule 11 of the NCLT Rules, 2016 seeking the Adjudicating Authority as under:

- a. To pass an order approving the closure of liquidation process as per Regulation 45(3)(a) of the IBBI (Liquidation Process) Regulations 2016 or any other provisions of the Insolvency and Bankruptcy Code, 2016 and release Sisir Kumar Appikatla, Applicant herein from the duties of the Liquidator under provisions of the Code.
- b. To accord permission for reconstitution of the Board of Corporate Debtor by the Successful Bidder of the Corporate Debtor and direct the ROC (Telangana) to do all such acts deeds and things that are necessary to appoint the individuals recommended by the Successful Bidder.
- c. To direct the ROC (Telangana) to change the status of the Corporate Debtor in the ROC records as "active" from the status of "liquidation".
- d. To pass an order that all the existing shares of the Corporate Debtor shall be extinguished without any consideration and the rights and liabilities arising out of the same shall also be extinguished as regard to infusion of funds,
- e. To pass an order directing that all past liabilities and consequential actions of the Corporate Debtor which are in relation to any period prior to the date of acquisition will be written off in full and shall stand permanently extinguished.
- f. To pass an order directing that the successful bidder of the Corporate Debtor shall have all the immunity with regard to past actions of the Corporate Debtor and that he gets all the rights, title and interest in whole and every part of the Corporate Debtor with all the assets of the Corporate Debtor.
- g. To pass an order directing that the Successful Bidder of the Corporate Debtor shall approach the respective authorities for continuation/renewals

etc. as per the laid down rules and regulations governing such sanctions/ approvals, as regards to the subsisting consents, licenses, approvals, rights entitlements, benefits and privileges.

h. To pass an order that the Corporate Debtor shall have right to review and terminate any contract that was entered into prior to the Liquidation Order.

i. To pass an order that the Corporate Debtor is entitled to bring forward losses, if any, subject to the permission of the appropriate authority under the provisions of the Income Tax Act, 1961

j. To pass such order (3) as may be deemed fit by this Tribunal and proper in the interest of the justice.

2. Brief facts, as mentioned, the application are as under:

i) In the matter of M/s Metkore Alloys & Industries Ltd, Section 7 application CP(IB)NO.346/7/HDB/2018 filed by M/s Hero Wiretex Limited was admitted and an order for Corporate Insolvency Resolution Process ("CIRP") was passed by this Tribunal on 12.12.2018 and the Applicant, Mr. Sisir Kumar Appikatla, was appointed as the Interim Resolution Professional, who subsequently got confirmed as Resolution Professional by the Committee of Creditors("COC"). Since no resolution plan was approved by the COC, an application for liquidation of the CD was filed U/S 33(1)(a) of the I&B Code. The same was admitted by this Tribunal on 24.12.2020, however, the said order was made available to liquidator on 13.01.2021 wherein the Applicant, Mr Sisir Kumar Appikatla, was appointed as the Liquidator.

ii) The liquidator initiated the liquidation process of the Corporate Debtor by making a Public Announcement on 16.01 2021 as per Section 33(1)(a)(ii) of the Code and Regulation 12 of IBBI (Liquidation Process) Regulations, 2016 ("Liquidation Regulations") stating that the Corporate Debtor is going through Liquidation, calling upon the stakeholders to submit their claims as on liquidation commencement date i.e. on 24.12.2021 or to update their claims

submitted during the CIRP as on Liquidation Commencement date in the Newspapers, Business Standard (English) and Andhra Jyothi (Telugu-Vernacular language) in the states of Andhra Pradesh & Telangana with last date for submission of claims as 12.02.2021.

iii) The liquidator immediately informed about the commencement of liquidation to the suspended Board of Directors and employees of the Corporate Debtor, Financial Creditors, Operational Creditors, Government departments, IBBI and also the Registrar of Companies as per Section 33(1)(a)(iii) of the Code. As per Regulation 21A of the Liquidation Regulations, the secured financial creditor, State Bank of India, has relinquished its security interest to Liquidator and therefore it shall form part of the liquidation estate It is submitted that as per the Regulation 35 of the Liquidation Regulations, 2016, the following IBBI registered valuers were appointed by the Liquidator on 19 January 2021 for the purpose of ascertaining value of assets/Business:

S.No.	Assets	Name	Fair Value Rs. In lakhs	Liquidation Value Rs. In lakhs
1	Land & Buildings	Mr. Naga Mallik Macheroutu	17,58,00,000	13,74,50,000
2	Land & Buildings	Mr. Indukuri Venkata Ranga Ravi Varma	18,58,64,000	13,93,98,000
3	Plant & Machinery	Mr. Arvind Srinivasa Puppala	-	91,24,56.00
4	Plant & Machinery	Mr. Rajkumar Sarda	-	95,00,000.00

iv) As per Regulation 2A (2) of the Liquidation Regulations, a designated escrow account has been opened at the Bank of Baroda on 20.01.2021 The details are as follows.

Name	Metkore Alloys & Industries under Liquidation
A/c Number	12700200001103
Bank Name	Bank of Baroda
Branch	ASILMETTA, Visakhapatnam
IFSC Code	BARBOASILME

v) As per Regulation 31A the stakeholders' consultation committee was constituted on 14.03.2021 with the following stakeholders and First meeting of the stakeholders was conducted on 25/03/2021 and since the claims received by the Liquidator could not be verified, the stakeholders committee was constituted on 14/03/2021 due to want of clarifications and/or documentary evidence. After receiving clarifications and documentary evidence, the liquidator verified and admitted some more claims and updated the list of stakeholders as on 16/06/2021 and again as on 19/07/2021.

vi) In furtherance to the Application IA 378/2021 moved by the Liquidator under Regulation 31(3) of it (Liquidation Process) Regulations 2016 seeking approval for modification of the stakeholders list as on 16.06.2021 and 19.07.2021, this Tribunal allowed the application and accordingly a modified list of stakeholders was prepared by the Liquidator, the details of which were tabulated at page 4 of the application.

vii) The Liquidator has submitted the Preliminary Report and the Quarterly Progress Reports to this Tribunal as prescribed under the I&B Code R/W IBBI (Liquidation Process) Regulations 2016.

viii) Four Stakeholders Consultation Committee meetings were conducted wherein the Liquidator updated and discussed with the stakeholders on various activities like modalities of sale of the CD, distribution of liquidation proceeds, legal matters/applications filed during the process of liquidation etc.

ix) The sale of the Corporate Debtor was conducted by the Liquidator as per 32A of the IBBI (Liquidation Process) Regulations 2016 and the details of which are as under:

- a. That the Liquidator after due consultation with the consultative committee, issued Public Announcement in form of Sale Notice in the Newspapers, Social Express (English) and Andhra Prabha (Telugu Vernacular language) in the states of Andhra Pradesh & Telangana

on 28.03.2021, for sale of company as going concern by fixing a reserve price at Rs 20,00,00,000/-.

- b. That two bidders, namely Mr Sudhakar Bodugu and M/s Bommidala Enterprises Private Limited submitted their expression of interest but after due verification and due diligence it was observed that M/s Bommidala Enterprises is ineligible to participate in the auction u/s 29A of 1&B Code.
- c. That, on 12.04.2021 e-auction was carried out wherein Mr Sudhakar Bodugu deposited the requisite EMD amount of Rs.2,00,00,000/- (Rupees Two Crores only and became the successful bidder with a final bid amount of 20,10,00,000 (Rupees Twenty Cores and Ten Lakhs only) EMD was credited on 09.04.2021 by RTGS into account No12700200001103 at BOB, Asilmetta Branch, Visakhapatnam, being maintained by the liquidator.
- d. That, as per e-process document, LOI was sent to Mr Sudhakar Bodugu on 19.04.2021 declaring him as the successful bidder requesting him to pay the balance sale consideration of the bid amount within 30 days or within 90 days provided that any payment after 30 days would attract an interest @Rs. 12% p.a. from the date of issuance of LOI as specified in the Schedule 1 (Mode of Sale) R/W Regulation 33 of the IBBI (Liquidation Process) Regulations, 2016
- e. That, the successful bidder, Mr Sudhakar filed 1A 287/2021 praying for the extension of 90 days" from the date of orders to be passed, to deposit the balance sale consideration and sought exclusion of the lock down period (54 days period) from the 90 days period for paying the balance sale consideration. As directed by this Tribunal on 24.06.2021, Liquidator in the Second SCC meeting held on 28 06.2021 consulted with the Stakeholders, and after due deliberations they concluded that the Stakeholders shall not have any objection to the exclusion of 54 days

from the calculation of 90 days as per SCHEDULE 1 (MODE OF SALE), R/w Regulation 33 of the IBBI (Liquidation Process), Regulations, 2016, if the Tribunal passes such an order. IA 287 was disposed by this Tribunal on 16.09 2021 granting the exemption of 90 days with interest and accordingly the balance bid amount of Rs 18.10 Cr along with interest for the entire delayed period including the 54 days was paid by successful bidder in the form of 2 A/C Payee DDs Vide DD no 534898 for Rs 18.10 Cr dated 19th July, the purchaser of the DD being "Reveka Commoslaes Pvt Ltd and DD No 534897 Dated 19th July 21 for Rs. 35,70,411/- towards interest, the purchaser of the DD being "Reveka Commoslaes Pvt Ltd". The said DDs were deposited into the account maintained by the liquidator and same got credited on 20.07.2021.

- f. That, successively the physical possession of the Corporate Debtor was handed over to the successful bidder and the sale certificate was handed over to the successful bidder.
- x) Following the waterfall mechanism in pursuance to Section 53 of IB Code r/w regulation 42 IBBI (Liquidation Process) Regulations 2016, the Liquidator distributed the proceeds from realization within 90 days from the receipt of the amount from the successful bidder after deducting the CIRP and Liquidation cost. Details distribution of the proceeds annexed herewith and marked as Annexure AA to the application.
- xi) (Bank statement evidencing the receipt of sale consideration and disbursements made to the stakeholders as per waterfall mechanism u/s 53 of the Code is annexed herewith and marked as Annexure C to the application.
- xii) Litigation related to the Corporate Debtor: The following matters are presently pending for adjudication before this Tribunal and NCLAT, Chennai, which would become infructuous:
1. CP(IB)/568/272/2019 @ NCLT, Hyderabad – Company petition filed by SFIO u/s 272 of Companies Act, 2013 for winding up of the Company.

RP/Liquidator was not made party to this application and has been sold as going concern during liquidation period under the provisions of the I&B Code.

2. Company Appeal (AT)(Insolvency) No. 574 of 2020 @ NCLAT Chennai – National Spot Exchange Ltd. Vs. Sisir Kumar Appikatla, IRP of Metkore Alloys Industries Ltd. & Ors.
3. Company Appeal (AT)(Insolvency) No. 611 of 2020 @ NCLAT, Chennai – Competent Authority & Deputy Collector (NSEL) Vs. Sisir Kumar Appikatla, IRP of Metkore Alloys Industries Ltd. & Ors.

xiii) As per Regulation 15(5) audited accounts of the Liquidator's receipts and payments for the financial years are enclosed along with the progress report for the 4 quarter of the financial years and the audited accounts of the Liquidator's receipts and payments for the period 24 12.2020 to 30 06.2023 is annexed herewith and marked as Annexure AH to the application.

xiv) As per Regulation 45(3), the liquidator filed final report on 22/06/2023 along with affidavit is annexed as Annexure A01 to the application and compliance certificate in Form H is annexed as Annexure A02 to the application.

### **ORDER**

3. Heard and perused the Record.

4. With the above background, Liquidator sold the assets of the Corporate Debtor during Liquidation in the modes stated in Regulation 32 of the IBBI Liquidation Process Regulation 2016 and the Liquidator sold the CD as a going concern in Liquidation.

5. We note from the documents placed on record as well as the arguments advanced, it is observed that the liquidator has distributed the total realized amount of Rs. 20,10,00,000/- to the stakeholders in the order of priority as laid down in section 53 of the IBC, 2016.

6. We have perused the facts pleaded and the reliefs prayed in the petition and in the light of the facts of the case, case laws and circumstances, we are of the view that the following reliefs can be allowed. Accordingly, we pass the following orders:

- (a) Permission is accorded for reconstitution of Board of the Corporate Debtor by the Successful Bidder of the Corporate Debtor as under and we further direct the RoC(Hyderabad) to do all such acts deeds and things that are necessary to appoint the individuals recommended by the Successful Bidder/Purchaser.
- (b) We direct RoC (Hyderabad) to change the status of the CD in the RoC records as 'active' from the status of 'Liquidator'.
- (c) We are of the opinion that the infusion of funds into the company is to be decided by the Company and its shareholders depending on the management and that it is not in our purview.
- (d) We hereby pass an order that all the existing shares of the CD shall be extinguished without any consideration, and the rights and liabilities arising out of the same shall also be extinguished, as regard to infusion of funds.
- (e) We direct that all the past liabilities and consequential actions of CD which are in relation to any period prior to the date of acquisition will be written off in full and shall stand permanently extinguished.
- (f) We direct hereby that the successful bidder/purchaser of the CD shall have all the immunity with regard to past actions of the CD and we also pass an order that the Successful Bidder/Purchaser gets all the rights, title and interest in whole and every part of the CD with all the assets of the CD.
- (g) As regards in subsisting consents, licenses, approvals, rights entitlements, benefits and privileges, the Successful Bidder/Purchaser is directed to approach the respective authorities for continuation/renewals etc. as per the laid down rules and regulations governing such sanctions/approvals.
- (h) We hereby pass an order that the CD shall have a right to review and terminate any contract that was entered into prior to the Liquidation order.
- (i) We pass an order that the CD is entitled to bring forward losses, if any, subject to the permission of the appropriate authority under the provisions of Income-tax Act, 1961.

(j) The Liquidator shall look into the residuary issues, if any, and sort out the same under section 35(1) of the I&B Code, 2016.

(k) This application filed under Regulation 45(3)(a) of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, for closure of the Liquidation Process of the CD is allowed accordingly and the liquidation of the CD i.e. M/s Metkore Alloys & Industries Ltd. Stands closed.

**7. With the above directions, the I.A. No. 1196 of 2023 in C.P. No. 346/7/HDB/2018 stands disposed of.**

Sd/-

**CHARAN SINGH  
MEMBER (TECHNICAL)**

Sd/-

**JUSTICE TELAPROLU RAJANI  
MEMBER (JUDICIAL)**