

S.No.1

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH – 1  
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON  
21-03-2023 AT 10:30 AM**

**IA (IBC) 1393/2022 in CP (IB) No. 333/9/HDB/2021**  
u/s. 9 of IBC, 2016

**IN THE MATTER OF:**

M/s. Changzhou Fly Import and  
Export Trading Co.

**...Operational Creditor**

**VS**

M/s. Avathera Pharma 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 1393/2022**

Orders pronounced. Recorded vide separate sheets. In the result, this application is allowed. The Corporate Debtor is dissolved as per the terms mentioned in the order.

**SD/-**

**MEMBER (T)**

**SD/-**

**MEMBER (J)**

**IN THE NATIONAL COMPANY LAW TRIBUNAL**

**HYDERABAD BENCH – 1**

**IA (IBC) 1393/2022 in CP (IB) No. 333/9/HDB/2021**

*Under Section 33(2) & Section 54(1) of the Insolvency and  
Bankruptcy Code, 2016 read with Regulation 45 of IBBI,  
Regulations, 2016.*

**In the matter of Avathera Pharma Private Limited**

**Between**

**Ramanjaneyulu Gandluri,**

Resolution Professional of Avathera Pharma Private Limited

...Applicant/Resolution Professional

**In the matter of**

**M/s.Changzhou Fly Import and Export Trading Co.Ltd,**

... Petitioner/Operational Creditor

**M/s. Avathera Pharma Private Limited**

...Respondent/Corporate debtor

**Date of order: 21.03.2023**

**CORAM:-**

DR. VENKATA RAMAKRISHNA BADARINATH NANDULA,

HON'BLE MEMBER (JUDICIAL)

SH. CHARAN SINGH, HON'BLE MEMBER (TECHNICAL)

**Parties/ Counsels present:**

For the Applicant : Smt. M. Vazra Laxmi, Counsel for the  
Applicant/Resolution Professional and Shri. Ramanjaneyulu, Resolution  
Professional

**PER: BENCH**

1. The Resolution Professional (hereinafter referred as “RP”) filed this application under Section 33(2) & 54(1) of the Insolvency & Bankruptcy Code, 2016 Regulation 45 of the IBBI (Liquidation Process) Regulations, 2016 to liquidate and dissolve the Corporate debtor i.e Avathera Pharma Private Limited by this Adjudicating Authority.
  
2. The gist of Application in brief are:-
  - i. The Operational Creditor had filed an application under Section 9 of the Code bearing Company Petition IB/333/2021 for initiation of Corporate Insolvency Resolution process against the Corporate Debtor. The said Petition was admitted by this Adjudicating Authority vide order dated 21.07.2022 and appointed Shri. Ramanjaneyulu Gandluri, the applicant herein as Interim Resolution Professional (IRP), who is continuing as Resolution Professional.
  - ii. pursuant to publication of notice inviting claims from the creditors of the Corporate Debtor, the IRP after collating and verifying claims, constituted Committee of Creditors (COC) with sole member (operational creditor) and IRP conducted the first COC meeting and second COC meeting and COC unanimously in the second COC meeting confirmed the IRP as the RP of the Corporate Debtor.

- iii. It is averred that in the 2<sup>nd</sup> COC meeting the sole member of COC opined that there are no assets held in the name of the corporate debtor and there is no possibility of resolving the insolvency of corporate debtor and further directed the RP to explore possibilities of dissolving the corporate debtor as the liquidation costs will be burden to operational creditor.
- iv. The applicant filed an application under Section 19 (2) of the Code bearing IA (IBC)/1258/2022 seeking necessary orders by this Adjudicating Authority for non- co-operation of the ex-management of Corporate Debtor.
- v. It is averred that in the absence of any information as to the availability of assets and non-receipt of any responses from the members of suspended Board, no valuations could be undertaken and there is no possibility of reviving the corporate debtor as a going concern.
- vi. Thus COC is of the opinion that as there are no assets to liquidate and distribute to the stakeholders, and to avoid liquidation costs, resolved to dissolve the corporate debtor vide its 4<sup>th</sup> COC meeting dated 14.11.2022. Thus the present application is filed to seek order for liquidation and dissolution of the corporate debtor.

3. We heard the Applicant and perused the application filed by the Applicant. This IA is filed under Regulation 45 of Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016 praying the Adjudicating Authority to order dissolution of the Corporate Debtor Company.

The said provision 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).]***

54 (1) of I&B Code further states that

***“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”.***

8. There were no assets to be disposed of and as such the operation of the Corporate Debtor has been completely wound up.
9. On-going through the facts aforementioned and the material placed along with the Application, by seeing the preliminary reports, it is

evident that there are no other assets for disposal by the RP and as such it is a fit case for passing dissolution order in respect of the Corporate Debtor.

### **ORDER**

10. As a sequel to the above, we hereby order dissolution of the Corporate Debtor viz. **M/s.Avathera Pharma Private Limited** from the date of this Order, in terms of Section 54(1) of IBC, 2016, and the Corporate Applicant stands dissolved. Consequently, the Resolution Professional stands relieved.
11. The Resolution Professional is directed to send the copy of this Order within 7 days from the date of pronouncement to the Registrar of Companies, Hyderabad along with all the books and files of the Corporate Debtor **M/s.Avathera Pharma Private Limited** which are in possession of the Resolution Professional.
12. The Registry is directed to communicate this order to the Registrar of Companies, Hyderabad for updating the master data.
13. A copy of this order be also forwarded to the Insolvency & Bankruptcy Board of India, New Delhi.
14. In terms of the above, 1393/2022 filed by the Resolution professional for dissolution of the Company under Section 54 (1) of IBC, 2016 stands disposed of accordingly. IA'S if any also stands closed/disposed of.

15. Since the Debtor Company stood Dissolved vide this order and no proceedings are now pending, therefore the Registry is directed that the case file be consigned to records.

**SD**

Charan Singh

Member Technical

**SD**

Dr. Venkata Ramakrishna Badarinath Nandula

Member Judicial

Pavani