



**IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOCHI BENCH  
KOCHI**

**IA(IBC)/293/KOB/2022**

**IN**

**IA(IBC)/18/KOB/2022**

**IN**

**TIBA/14/KOB/2019**

*(Under section 54 of IBC, 2016 and regulation 45(3)(b) of IBBI (Liquidation Process)  
Regulations, 2016)*

**In the matter of:**

Capedge Consulting Private Limited v/s India Techs Limited;

**MEMO OF PARTIES:**

SASITHARAN RAMASWAMY, Liquidator of India Techs Limited, TC 55/33, Sarayu, Chirakkara Temple Road, Kaimanam, Pappanamcode PO, Thiruvananthapuram 695018.

**...Applicant**

***Coram:***

Shri P. Mohan Raj : Member (Judicial)  
Shri Satya Ranjan Prasad : Member (Technical)

***Appearances (through video conferencing)***

For Applicant : Mr. Sasitharan Ramaswamy,  
(Liquidator in person)  
For Suspended Board : Sharad Kodianthara, Advocate

**Order reserved on: 07.12.2022  
Order pronounced on: 08.02.2023**



**ORDER**

1. This IA has been filed by the Liquidator of India Techs Limited, the Corporate Debtor (CD) seeking following reliefs: -

- i. Pass an order under Section 54 of IBC 2016, read with Regulation 45 of IBBI (Liquidation Process) Regulations, 2016 for dissolution of the Corporate Debtor, India Techs Limited;*
- ii. Pass an order authorising Central Bank of India and IndusInd Bank Limited to pursue the proceedings in respect of preferential, undervalued, or fraudulent transactions decreed by this Hon'ble Tribunal in MA/203/KOB/2021 and MA/204/KOB/2021 and also before the Appellate Tribunal and Courts and to distribute the proceeds, if any, realized from said transactions to the Secured Creditors in proportion to the remaining balance of their admitted claims.*

**The brief facts of the case are: -**

2. The Corporate Debtor was admitted to Corporate Insolvency Resolution Process *vide* order dated 25.10.2019 in Section 9 application by operational creditor, M/s. Capedge Consulting Private Limited and the applicant was then appointed as the RP by the COC. Subsequently, as no resolution plan was received, the CD was admitted to Liquidation *vide* order dated 05.03.2021. The erstwhile RP was then appointed as the liquidator who carried out public announcement on 16.03.2021 for claims. Accordingly, following claims were received: -



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Sl.No	Name of Creditor	Category	Amount Claimed (Rs)	Amount Admitted (Rs)
1	Central Bank of India	Financial /Secured	54,77,98,463.44	54,77,98,463.44
2	Indus Ind Bank Ltd	Financial /Secured	2,34,24,485.00	2,34,24,485.00
3	HDFC Bank Ltd	Financial / Un Secured	5,24,12,432.75	5,24,12,432.75
4	Standard Chartered Bank Ltd	Financial / Un Secured	15,17,74,975.00	15,17,74,975.00
5	Magma Fincorp Ltd (Now) Poonawalla Fincorp Ltd	Financial / Un Secured	4,43,71,044.00	4,43,71,044.00
6	Sundaram Finance Ltd	Financial / Un Secured	1,62,62,086.61	1,62,62,086.61
	Total Financial Creditor (A)		<b>83,60,43,486.80</b>	<b>83,60,43,486.80</b>
7	Telsa Marketing Pvt. Ltd (Related Party)	Financial /Unsecured	14,16,04,585.00	7,14,70,045.00

8	Telsa Realities Pvt Ltd (Related Party)	Financial /Unsecured	4,41,66,190.00	3,02,94,000.00
	Total Financial Creditor Related Party (B)		<b>18,57,70,775.00</b>	<b>10,17,64,045.00</b>
	TOTAL A+B		<b>102,18,14,261.80</b>	<b>93,78,07,531.80</b>
9	Castrol India Limited	Operational/u nsecured	2,43,27,388.09	2,43,27,388.09
10	Capedge Consulting Pvt Ltd	Operational/u nsecured	2,20,37,881.00	1,90,24,718.00
11	ESIC (Statutory Dues)	Operational/u nsecured	48,56,901.00	48,56,901.00
	Total Operational Creditors (C)		<b>5,12,22,170.09</b>	<b>4,82,09,007.09</b>
	<b>TOTAL CLAIM A+B+C</b>		<b>107,30,36,341.09</b>	<b>98,60,16,538.89</b>



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To summarise a total of 11 claims were received including 2 from related parties and no claim from statutory authorities.

3. The stakeholder's committee was formed in manner below, was taken into record of this Tribunal on 21.06.2021:

Class of Stakeholders	Representative
Secured Financial Creditors	1. Central Bank of India 2. Indus Ind Bank Ltd
Unsecured Financial creditors	1. Standard Chartered Bank Ltd 2. HDFC Bank Ltd
Workmen/Employees	NIL. No Claim Received
Statutory Authorities	ESI Corporation
Operational creditors	1. Castrol India Limited 2. Capedge Consulting Private Ltd
Shareholders Representative	Mrs. Elizabeth Thomas

4. Liquidator has held 8 SCC meetings, the minutes of which has been filed with this Tribunal. The liquidator formed the liquidation estate and has filed 7 quarterly reports and his final report dated 07.10.2022.
5. It is further submitted that due to an impediment of attachment in an OA proceeding by DRT on assets of CD, and the lockdown imposed due to covid lockdown, the liquidation period was extended along with exclusions till 09.10.2022.



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6. The Liquidator states that the CD has 3 block of realisable asset which is as under

<u>BLOCK I</u>	Commercial Land facing NH 66 near Kumbalam Toll Plaza having an extent of 56.413 Cents (22.83 Ares) along with Building, Factory Shed etc. in Re.Sy.No.263/2 Block.No.15, Kumbalam Village, Kanayannur Taluk, Maradu SRO in Ernakulam District
<u>BLOCK II</u>	Land & Building having an extent of 182.385 Cents (73.81 Ares) in Re.sy.No.329/1,2 in Block 25 of Edakkattuvayal village.Kanayannur Taluk Ernakulam District .a located at Varanginchodu – Valinmelukavu Road
<u>BLOCK III</u>	Used Office Furniture, Computers & Accessories etc. and one old Two wheeler, in the Registered office

These assets were valued by IBBI registered valuers and the details as per asset memorandum is as below:

Sl.No.	BLOCK	FAIR VALUE	LIQUIDATION VALUE
1	I	Rs.4,65,06,500.00	Rs.3,60,92,375.00
2	II	Rs.1,55,78,000.00	Rs.1,17,59,600.00
3	III	Rs.39,650.00	Rs.29,770.00

7. Liquidator in consultation with SCC fixed reserve prices accordingly and 3 e-auctions were made and the asset sale report has been filed with the Tribunal. The amounts realised were:



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Block 1	Rs. 466 Lakh
Block 2	Rs. 131 Lakh
Block 3	Rs. 0.41 Lakh
Total	Rs. 597.41 Lakh

8. Out of above, an amount of Rs. 541.98 Lakh was distributed as follows:

c. Central Bank of India (Secured financial Creditor)	Rs.5,40,11,214,30
d. Indus Ind Bank Limited	Rs. 1685.00
e. EPF dues	Rs. 1,85,448.00
Total	Rs.5,41,98,347.30.

Further, the entire CIRP Cost amounting to Rs.24,52,578.98 was reimbursed to operational creditor, financial creditor and RP on 24.04.2022. Further, as there were no liquid assets of CD to meet the expenses, the liquidation cost was reimbursed with interest @ 4.25% under the provision of IBC as follows:

i) Central Bank of India	: Rs. 5,56,920.00
ii) Indus Ind Bank Ltd	: Rs. 23,800.00
iii) HDFC Bank Ltd	: Rs. 53,295.00
Total	: Rs. 6,34,015.00

The entire fees of the liquidator as fixed by COC in its 10<sup>th</sup> meeting and as per schedule of fees under IBBI liquidation regulations amounting to Rs.23,06,640/- and GST was also paid.

9. It is further stated that as on date of CIRP, the accounts were only available up to 31.03.2015 and the applicant had engaged Chartered Accountant to complete the financials up to 31.03.2020 and conduct audit. The audited financials were filed with the ROC as per IBBI guidelines. It is stated that following assets appeared in latest balance sheet which have been found non



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realisable and contingent and disputed as on date of this application by the liquidator and the COC.

S No	Details of Assets	Realizable value	Remarks
1.	Investment in NSC Rs.35000.00	NIL	No records available regarding NSC
2	Advance to Staff Rs.95,146.00	NIL	No records available and all staff left in 2014
3	Advance to Mahindra Holidays Rs.1,48,154.00	NIL	No Value since further instalments defaulted
4	Earnest Money Deposit – Rs.20,68,871.00	NIL	Details not available prospects of recovery remote
5	Advance to La Phoneix & Realtors Rs.3280000.00	NIL	Already covered under Transaction audit report & Hon'ble NCLT Kochi Bench ordered CD to claw back.
6	Rent Deposit Rs. 2,30,762.00	NIL	Prospects for recovery remote as rent arrears more than deposit
7	Invent ARC Limited Rs. 1000000.00	NIL	Amount paid as advance for onetime settlement & Resolution. Recovery remote.
8	Loans and advances to related parties Rs.60320283.00	NIL	Already covered under Transaction audit report & Hon'ble NCLT Kochi Bench ordered CD to claw back.
9	Advance Income Tax Rs. 3430714.00	NIL	Furnished below *.



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10	Sales Tax Deposit Rs. 3902472.00	NIL	Furnished below **
11	Bank Balances Rs. 189000.00	NIL	Figures based on audited balance sheet 2015 carried forward. No balance could be ascertained for want of account details available.

It is stated that the advance income tax amount and Sales Tax deposit appearing above as asset are disputed by the Income tax department and the sales tax department to which an appeal has been pending before the competent authority and has been stated as a contingent liability.

10. It is therefore stated that all realisable assets have been sold by e-auction and the entire sale proceeds have been distributed according to section 53 of IBC,2016. Copy of Cash flow statement on liquidation along with liquidation bank statement is furnished by the applicant.

11. The learned liquidator further stated that there were misstatements of actual stock balances based on physical verification and a forensic audit was conducted wherein following transactions were revealed: -

a.	Payment to Le Phoenix Traders & Realtors (under.sec.45 undervalued transactions)	Rs. 32.80 Lakhs
b.	Loss of Inventory (under sec.45 Undervalued transactions	Rs.360.76 lakhs

Subsequently, this Tribunal vide order dated 23.04.2021 ordered to claw back preferential and undervalued transactions amounting to Rs. 393.56 lakh and 967.33 lakh amount in fraudulent transaction. This order is under appeal before Honourable NCLAT, Chennai.

12. It is stated that the liquidation period has ended and the stakeholders have resolved in its 8<sup>th</sup> SCC meeting to contest the proceedings before NCLAT



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regarding preferential, undervalued and fraudulent transactions. Thus, in terms of regulation 37A and 31A of the IBBI Liquidation regulation, the liquidator has assigned the not readily realisable assets to the 2 secured creditors. The resolution as passed is produced below:

*“ All the Committee members present in the meeting resolved with 100% voting in favour and resolved that pending Appeal before Hon'ble NCLAT Chennai as Company Appeal No. (At) 329/2021 will be carried forward by the two secured financial creditors Central Bank of India and Indus Ind Bank Ltd based on their share of admitted claims and all beneficiary creditors have to contribute their share towards expenses based on admitted claims. The Proceeds of the realization from the appeals would also be received by the Secured Creditors in proportion to the remaining balance of their admitted claims.*

*Central Bank of India – Voted in favour  
Indus Ind Bank Ltd – voted in favour*

*ESI Corporation – voted in favour*

*Share holder representative – voted in favour*

*Resolution Voted and passed with 100% voting in favour “*

13. Heard submissions and perused documents on record. In light of the facts stated, it is noticed that the Corporate Debtor does not have assets to be liquidated and hence this Application is moved for the Dissolution of the Corporate Debtor. It is also seen that the liquidator has submitted his final report on CD along with the application detailing all the relevant facts. The assignment of the pending proceedings before NCLAT and its outcomes has also been effected by the liquidator through the resolution passed at the 8th SCC meeting. The suspended management was also represented by learned counsel, who stated his no objection to this application.



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14. Now, for the purpose of pronouncement of Dissolution of a Corporate Debtor, Section 54 of The Insolvency and Bankruptcy Code, 2016 reads as under:-

*“54. (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 subsection (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.”*

15. As a consequence, in view of above, it is hereby declared that not only it is just and equitable but because of the fact that no asset is available for the purpose of ‘Liquidation’ as reported by Learned Liquidator, this is a fit case of a Corporate Debtor to be dissolved as prescribed under Section 54 of The Insolvency and Bankruptcy Code, 2016. Ordered accordingly. The Corporate Debtor stands **‘Dissolved’** from the date of this Order.

16. Since, the Debtor Company stands Dissolved *vide* this order, the legal proceedings which are now pending before Hon’ble NCLAT shall be carried out in the manner set forth as per the resolution passed by the SCC at its 8<sup>th</sup> meeting filed with this Tribunal.

17. Copy of this Order shall be forwarded within 7 (seven) days to the concerned authorities and the Registrar of Companies having jurisdiction, for further necessary action as prescribed under Law.

18. Application is, therefore ALLOWED. Accordingly, **TIBA 14/KOB/2019**, is hereby disposed of.



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19. The Registry is hereby directed to send e-mail copies of the order forthwith to all the parties and their counsel for information and for taking necessary steps.
20. Let the certified copy of the order be issued upon compliance with requisite formalities.
21. File be consigned to records.

SATYARANJAN PRASAD Digitally signed by SATYARANJAN PRASAD  
Date: 2023.02.08 15:53:22 +05'30'

**Satya Ranjan Prasad**  
**Member (Technical)**

PANDIAN Digitally signed by PANDIAN  
MOHAN RAJ  
Date: 2023.02.08 14:46:52  
+05'30'

**MOHAN RAJ**  
**P. Mohan Raj**  
**Member (Judicial)**

Signed on this 08<sup>th</sup> day of February, 2023.

Rohit