



S.No.1

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1
SPECIAL BENCH
VC AND PHYSICAL (HYBRID) MODE
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
05-09-2024 AT**

CP(IB) No. 673/7/HDB/2019

AND

IA (IBC) (Dissolution) 14/2024 in CP(IB) No. 673/7/HDB/2019

u/s. 7 of IBC, 2016

IN THE MATTER OF:

Bank of India

...Financial Creditor

AND

ECI Infra Towers Company Pvt Ltd (Corporate Guarantor of ECI Engineering & Construction Co. Ltd)

...Corporate Debtor

C O R A M:-

SH. RAJEEV BHARADWAJ, HON'BLE MEMBER (JUDICIAL)

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

O R D E R

IA (IBC) (Dissolution) 14/2024

Orders pronounced. **In the result, this company is dissolved.** Since the company is dissolved the files may be consigned to records.

Sd/-

MEMBER (T)

Sd/-

MEMBER (J)



**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH-I**

**IA (diss) No.14/2024
IN
CP (IB) NO.673/7/HDB/2019**

**APPLICATION U/S 54(1) IBC, 2016, R/W REGULATION 45(3) OF IBBI
(LIQUIDATION PROCESS) REGULATIONS. 2016**

**IN THE MATTER OF BANK OF INDIA VERSUS M/S ECI INFRA TOWERS
COMPANY PRIVATE LIMITED
(IN LIQUIDATION)**

Filed by:

**Kalpana G
Liquidator**

M/s ECI Infra Towers Company Private Limited

Reg.No: IBBI/IPA-001/IP-P00756/2017-2018/11288Applicant/Liquidator

Date of order: 05.09.2024

Coram:

Shri Rajeev Bhardwaj, Hon'ble Member (Judicial)

Shri Charan Singh, Hon'ble Member (Technical)

Appearance:

For Applicant: Ms. Mummaneni Vazra Laxmi, Advocate



PER: BENCH

ORDER

1. This Application is filed by the Liquidator of M/s ECI Infra Towers Company Private Limited/Corporate Debtor under Section 54(1) of Insolvency & Bankruptcy Code (IBC) seeking dissolution of the Corporate Debtor.
2. To put concisely, this Tribunal vide its Order in IA (IBC)/197/2022 in CP (IB) No. 673/7/HDB/2019 dated, 28th February, 2023, had ordered liquidation of the Corporate Debtor and appointed Ms. Kalpana G, **(the Applicant herein)** as the Liquidator of the Company to conduct the Liquidation Process.
3. Brief overview of the liquidation process conducted by the Applicant / Liquidator: -
 - The Liquidator on 05.03.2023 issued public announcement in Form-B of Schedule-II of Liquidation Process Regulations, in Financial Express (English) and Mana Telangana (Telugu) inviting claims from the stakeholders as on the liquidation commencement date (Regulation 12),
 - Pursuant to above public announcement, the Liquidator upon receipt of claims, verified the same and the list of stakeholders was filed before this Tribunal on 12.05.2023. (Regulation 31).
 - The Liquidator filed preliminary report on 12.05.2023 as required under Regulation 13.
 - Asset Memorandum filed on 30.03.2024 (Regulation 34).
 - The Liquidator conducted 04 (four) stakeholders' consultation committee meetings.



- The statutory authorities were intimated on 05.03.2024 about the commencement of the liquidation process.
- The Liquidator filed six quarterly progress reports.

Sr No	Progress Report for Quarter ended	Submission date
1	Quarter Report-IV (F/Y-I)	08.04.2023
2	Quarter Report-I (F/Y-II)	10.07.2023
3	Quarter Report-II (F/Y-II)	12.10.2023
4	Quarter Report-III (F/Y-II)	06.01.2024
5	Quarter Report-IV (F/Y-II)	14.04.2024
6	Quarter Report-I (F/Y-III)	11.07.2024

- The Liquidator opened a Bank Account in Bank of India, Large Corporate branch, Hyderabad Account no. 562520110000152 to receive the funds and to make payments. The Liquidator closed the said account after she disbursed the payments received. The email dated 27.08.2024 received from the bank regarding closure of liquidation account is on record.
- Final report as per Regulation 45 is filed on 26.08.2024
- Form-H compliance certificate as per Regulation 45(3) is filed on 22.08.2024.
- Certificate dated 08.08.2024 issued by MGS Reddy & Company, Chartered Accountants certifying receipts and payment during liquidation period is annexed to the IA at pages 277-282.



4. The Liquidator submits that the Corporate Debtor has following assets, which are held as security by the United Bank of India for the loans advanced to the Corporate Debtor, which was subsequently assigned to M/s Omkara Asset Reconstruction Private Limited through Assignment deed and by virtue of the said assignment M/s Omkara Asset Reconstruction Private Limited is one of the Secured Financial creditors of the CD having first charge over the assets of the CD.

a. Plant and Machinery on the lease hold land admeasuring A 11.37 guntas in Sy.No. 332/A, 3/1A, 3/1B, 5 and A 10.27 guntas in Sy.No. 332/A, 333.A,8B, 8A, 7, in total A 22.24 guntas, situated at Kaveli Village, Kohir Mandal, Sangareddy District (erstwhile Medak District), Buildings, Structures there upon and stocks.

5. The Liquidator submitted that the Secured Financial creditor has not relinquished the security interest to the liquidation estate and sold the secured assets through SARFAESI proceedings without following the due process contemplated u/s 52 of IBC, 2016. Aggrieved by the said action of the secured financial creditor, the liquidator filed IA 1753/2023, praying to set aside the sale conducted by the said creditor. This Tribunal on 10.06.2024 vide order passed in IA 1753/2023 directed M/s Omkara Asset Reconstruction Private Limited/Secured Creditor to comply with Regulation 21A(2) and make payment of the insolvency resolution process costs and the liquidation costs in full. Relevant portion of the order is reproduced below:-

“The Hon’ble NCLT, Hyderabad bench has found from the records that sale certificate has already been issued on 25-08-2023 and if we order cancellation of sale and bring back assets to the liquidation estate and then allow disposal of the assets by the liquidator, the whole process will be very complicated and time consuming. In the above backdrop, we are of the view that respondent no



1 i.e. Omkara ARC may be directed to comply with Regulation 21A (2) and make payment of the insolvency resolution process costs and the liquidation costs, so that Regulation 21A (3) is not attracted

Therefore, we direct respondent no 1 to comply with Regulation 21A (2) and make payment of the insolvency resolution process costs and the liquidation costs in full within 15 days from the date of this order. If, respondent no1 does not comply with the above direction, the applicant is at liberty to approach this Tribunal for passing suitable order for revocation of sale. Accordingly, the application is partly allowed and disposed of.

6. Complying the above order of this Tribunal, the secured financial creditor has paid the total CIRP expenses and liquidation expenses to the liquidation account.
7. The Liquidator submitted that the Liquidation period of 1 year as per Liquidation process Regulations completed on 28-02-2024. However, in order to facilitate the Liquidator to complete the pending activities, this Tribunal granted extension of liquidation period as under:-

01.	One month extension from 29.02.2024 to 30.03.2024	Order in IA 529/2024 dated 06.03.2024
02.	90 days extension from 31.03.2024 to 29.06.2024	Order in IA 647/2024 dated 05.04.2024
03.	60 days extension from 30.06.2024 to 29.08.2024	Order in IA 1357/2024 dated 03.07.2024

8. In the light of above facts and circumstances of the case, the only point that emerges for consideration of the Tribunal is

Point:

“Whether the Corporate Debtor can be dissolved?”



9. We heard Ms. Mumanneni Vazra Laxmi, Ld. Counsel for the Liquidator and perused the record.
10. At the outset it may be stated that Section 54 of the IBC lays down the criteria for dissolution of the Corporate Debtor.

54-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.*
11. 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).]*
12. According to the Liquidator, the assets of the Corporate Debtor are secured and the secured financial creditor has not relinquished the security interest to the liquidation estate and sold it through SARFAESI



proceedings. Further as per directions of this Tribunal, the secured financial creditor has cleared the total CIRP and liquidation expenses.

13. It is recorded in the final report of the Liquidator that in case there is any realization from the debtors of the Company and the Statutory Authorities against refunds, the same shall be adjusted towards the claims of the stakeholders in order of priority as laid down in Section 53 of the Code. It is further recorded that promoters/Directors shall be liable for the pending assessments as well as assessments arising subsequent to dissolution of the Company, to the extent they are liable as per provisions of the law.
14. The Liquidator submitted that it was decided in the 1st SCC meeting held on 09.03.2023 to use the same valuation reports available in the CIRP process instead of appointing registered valuers once again in liquidation. As per Form-H, the fair and liquidation values are Rs. 3.57 crores and Rs. 2.67 crores respectively.
15. The Liquidator is of the opinion that when there is nothing left to recover or realize, then it is a futile exercise to continue with the Liquidation Proceedings. Hence prayed this Tribunal to order dissolution of the Corporate Debtor Company.
16. We are satisfied that the criteria laid down under law has been fully complied with. As such, the Corporate Debtor is liable to be dissolved. Hence, we hereby order dissolution of the Corporate Debtor as under: -
 - (i) The Corporate Debtor/**ECI INFRA TOWERS COMPANY 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, will be retained both in physical as well as electronic form as per Regulation 39A of the CIRP Regulations
- (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 (Diss) No. 14 of 2024 filed by the Liquidator appointed for **ECI INFRA TOWERS COMPANY 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/-

(Rajeev Bhardwaj)
MEMBER (JUDICIAL)

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