

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
COURT HALL NO: II**

SPECIAL BENCH (Video Conference)

**CORAM: HON'BLE MADAN BHALCHANDRA GOSAVI – MEMBER JUDICIAL
HON'BLE DR.BINOD KUMAR SINHA-MEMBER TECHNICAL**

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
HYDERABAD BENCH, HELD ON 14.10.2021 AT 11:15 AM THROUGH VIDEO CONFERENCE

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA (IBC)/499/2021 & in CP (IB) No.346/7/HDB/2018
NAME OF THE COMPANY	Metkore Alloys & industries Ltd
NAME OF THE PETITIONER(S)	Hero Wiretex Ltd
NAME OF THE RESPONDENT(S)	Metkore Alloys & industries Ltd
UNDER SECTION	7 of IBC

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

ORDER

The IA is disposed of vide separate order.

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MEMBER (TECHNICAL)

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MEMBER (JUDICIAL)

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**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

IA No.499 of 2021
In CP (IB) No.346/07/HDB/2018

In the matter of
M/s. METKORE ALLOYS & INDUSTRIES LIMITED

Between:-

1. Mr. Bodugu Sudhakar,
9/1, Nellipatla Road,
Rathnanilayam, Kolamasanapalli,
Palamneru, Chittoor - 517432.

...Applicant No.1

2. M/s Reveka Commosales Pvt. Ltd.
18/1, Maharishi Devendra Road,
7th Floor, RoomNo.112,
Kolkata, West Bengal - 700 007.

...Applicant No.2

AND

Mr. Sisir Kumar Appikatla (Liquidator)
M/s Metkore Alloys & Industries Ltd.
106, First Floor, Bharat Towers,
5th Lane, Dwaraka Nagar,
Visakhapatnam- 530 016, Andhra Pradesh.

...Respondent

Date of Order: 14.10.2021

**Coram: Shri Madan B. Gosavi, Member Judicial.
Dr. Binod Kumar Sinha, Member Technical**

Parties/Counsel(s) Presents:

For the Applicants : Mr. P. Mohit Reddy, Advocate.

For the Respondent : Mr. K.V. Ramanaiah, Liquidator.

[Per Bench]

ORDER

1. Under consideration is an Application filed by Mr. Bodugu Sudhakar, auction purchaser, who has purchased the Corporate Debtor in Liquidation as a going concern. This IA is seeking following reliefs:

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- i. Permit the Applicant No.2 – Reveka Commosales Pvt. Ltd to acquire the Corporate Debtor i.e., Metkore Alloys & Industries Limited as a going concern in its name and complete the remaining formalities (in lieu of the Applicant No.1) in respect of the sale of Corporate Debtor on *as is where is* basis in furtherance of the Letter of Intent dated 21.04.2021.
- ii. Declare immediately that all the rights, title and interest in the whole and every part of the Corporate Debtor, including but not limited to contracts shall be transferred free from security interest, encumbrance, claim, counter claim or any demur.
- iii. Declare that on and from the payment of the Sale Consideration i.e., 19.07.2021 and consequent sale of the Corporate Debtor as a going concern, all the claims or demands made by, or liabilities or obligations owned or payable to any actual or potential creditors of the Corporate Debtor including the Government Dues (including but not limited to liabilities, interest and penalties, duties, etc. on account of income-tax, tax deduction at source, tax collection at source, G.S.T, C.G.S.T, custom duty, value added tax, service tax, wealth-tax, cess, DGFT dues, Power dues, Pollution control Board, Inspector factories, Mines license fee etc.) whether direct or indirect, whether admitted or not, due or contingent, asserted or unasserted, crystallized or uncrystallized, known or unknown, secured or unsecured, disputed or undisputed in relation to any period prior to payment of the Sale Consideration and consequent sale of the Corporate Debtor shall stand permanently extinguished.
- iv. Pass direction(s) permitting the Corporate Debtor to carry forward its accumulated losses and set off the losses incurred in any year prior to conclusion of liquidation proceedings against the income of

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the Corporate Debtor in terms of Section 79(2)(c) of the Income Tax Act, 1961.

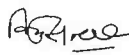
- v. Declare that the all inquiries, investigations, assessments, notices, causes of action, suits, claims, disputes, litigations, arbitration, or other judicial, regulatory or administrative proceedings against, or in relation to, or in connection with the Corporate Debtor or the affairs of the Corporate Debtor (other than against the Erstwhile Promoters or former members of the management of the Corporate Debtor), pending or threatened, present or future, in relation to any period prior to payment of the Sale Consideration shall not be continued;
- vi. Declare all financial and pecuniary liabilities of the Corporate Debtor, including without limitation, any penalty, whether contingent, assessed, known or unknown, interest, fines or fees and any other liabilities and/or obligations which may have a financial impact) in relation to any period prior to payment of the Sale Consideration and consequent sale of the Corporate Debtor shall be deemed to be extinguished.
- vii. Declare that any non-compliance of any provisions of any laws, rules, regulations, directions, circulars, notifications, guidelines, policies, licenses, approvals, consents or permissions in relation to any period prior to payment of the Sale Consideration and consequent sale of the Corporate Debtor and all consequences thereof shall be deemed to be extinguished.
- viii. Issue necessary directions to the Respondent (i) that all the existing shares of the Corporate Debtor shall be extinguished without any consideration, and rights and liabilities arising out of the same shall also be extinguished and (ii) fresh equity shares to the Applicant(s) of such value and such quantum as submitted by the Applicant(s)

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within a span of 6 months from the date of issuance of sale certificate;

- ix. Issue necessary directions for removal of Attachments/ prohibited property on the Lands of corporate debtor situated at Ravivalasa Village, Talagam and Tekkali from the Registrar of stamps and necessary directions to be issued to i) Additional Director General of police, CB, CID Department, Mangalagiri, Andhra Pradesh, ii) Director general of Stamps & Registrars, and Principal Secretary Revenue Govt. of Andhra Pradesh Amaravati, Andhra Pradesh, iii) District Registrar, Srikakulam, Andhra Pradesh and iv) Sub – registrar Tekkali, Andhra Pradesh.
- x. Issue necessary directions to direct SEBI, B.S.E., and N.S.E., to waive all penalties, fines, and prosecutions under the various provisions of SEBI, SAST, Insider Trading Regulations, FUTP, SEBI (Listing Obligations and Disclosure) Regulations, 2015 (“SEBI LODR”) and other applicable provisions of SEBI Act, 1992, till the date of commencement of Trading of the Corporate Debtor through the Applicants.
- xi. Declare that the shares of the Corporate Debtor issued shall be listed appropriately and be exempt from the operation of SEBI ICDR Regulations, 2009, Takeover Regulations, 2011 as well Companies Act, 2013.
- xii. Grant a period of 2 years to the Corporate Debtor to meet the minimum public shareholding criteria of 25% as prescribed under the Securities Contract Regulation Act, 1956.
- xiii. Issue necessary directions to NSDL and CSDL to provide all information, DEMAT statements and other member’s information of the Corporate Director to comply the applicable provisions of Companies Act, 2013 or SEBI (LODR) 2015 and waive all fees, fine



& penalties till date of commencement of trading of the Corporate Debtor.

- xiv. Issue necessary directions to the A.P. Stamps and Registration Dept. to exempt the Applicant(s) from payment of Stamp duty and Registration charges, as the same ought to be done by the Respondent out of the Sale Consideration.
- xv. Issue necessary directions that all substring consents, licenses approvals, entitlements, privileges whether under law, contract, lease or licenses granted in favour of the Corporate Debtor or to which the Corporate Debtor is entitled to shall, notwithstanding any provision to the contrary in their terms and irrespective of the commencement of the insolvency/liquidation proceedings under the Code, in relation to the Corporate Debtor be deemed to continue without disruption, for the benefit of the Corporate Debtor and all additional licenses, registrations and consents required by the Corporate Debtor be made available immediately from the Date of the payment of towards sale consideration i.e., 19.07.2021;
- xvi. Issue necessary directions that the Corporate Debtor shall have a right to review and terminate any contract that was entered into prior to the date of liquidation order.
- xvii. Issue necessary directions to the Respondent that all the compliances for the period up to the Date of Acquisition/Issuance of Sale Certificate including filing of necessary documents and returns with the Registrar of Companies, Income Tax Authorities any other Government Authorities should be completed.
- xviii. Issue necessary directions to remove the suspension of shares listing and trading at BSE and NSE and direction be issued to SEBI and other regulatory authorities BSE, NSE, CDSL and NSDL for

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incorporating changes in the shareholding structure as corporate debtor is listing company and trading was suspended.

- xix. Such other directions or orders that may absolve the Applicant from any of the liabilities or claims arising from transactions of the Corporate Debtor prior to the Date of Acquisition.
 - xx. Issue directions to the EASTERN POWER CORPORATION OF A.P. Ltd., Visakhapatnam, or any other Central, State or Private Power supplier to provide fresh H.T. Connection in the name of the Corporate Debtor and not to insist for the old dues.
 - xxi. Issue directions to Eastern Power Corporation of A.P. Ltd., Visakhapatnam restraining the former from demanding development charges from the Corporate Debtor to renew/revive the electricity connection in the name of the Corporate Debtor which already exists in the former name of the Corporate Debtor.
 - xxii. Issue directions to the following agencies to renew/issue fresh Licenses/Approvals/Permissions without claiming any past dues for smooth starting of the unit. IBM (Indian Bureau of Mines), MDL (Mineral Dealer License), Apostate Pollution Control Board, Dept. of Mines & Minerals. State of Orissa D.G.F.T & Dept. of Labour, Andhra Pradesh in the name of the Corporate Debtor.
 - xxiii. Issue necessary directions to GST, CGST, IT Department, and all other statutory organizations to waive all penalties, fines and prosecutions under the applicable Provisions against the Corporate Debtor.
2. Heard and perused record.
 3. This Application is filed by the successful auction purchaser, who has purchased the corporate Debtor as a going concern under liquidation on "As is Where is" basis.
 4. It is pertinent to note that when any Corporate Debtor, under Liquidation is purchased as a going concern, the auction purchaser, by

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virtue of law, is entitled to certain reliefs as described in following paragraphs.

5. **Past Dues:-** In relation to claims prior to auction purchase, it is the duty of the Liquidator to collate and admit the claims in accordance with law. Thus, any claim arising prior to e-auction is to be dealt with as per the provisions of Section 53 of the Code by the Liquidator and the Applicant/Corporate Debtor shall not be held liable to pay the same.
6. **Statutory dues:-** In relation to the waiver of payment of stamp duty, applicable statutory dues, taxes post purchase of corporate Debtor, it is settled position of law that there shall not be any exemption or waiver, unless provided under the Law and same shall be dealt by competent Authority in accordance with the relevant Law.
7. **Infusion as Equity:-** That upon purchase of Corporate Debtor as a going concern, the Auction purchaser by virtue of law shall be entitled to make allotment of shares and reconstitute board as he desires as per the provisions of the Companies Act, 2013 by following the procedure prescribed thereunder.
8. Apart from above waivers, concessions as supra, this Adjudicating Authority is not entitled to grant any waiver or concession to any of the Auction purchaser, who purchases the Corporate Debtor as a going concern.
9. The auction purchaser may approach the respective authorities, who may consider the requests made by the applicant under the provisions of respective statutory provisions.
10. With the above, this IA stands disposed of.

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DR. BINOD KUMAR SINHA
MEMBER TECHNICAL

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ANILAN B. GOSAVI
MEMBER JUDICIAL