IN THE NATIONAL COMPANY LAW TRIBUNAL

ALLAHABAD BENCH, PRAYAGRAJ

CA No.22 of 2020 IN CP(IB) No.351/ALD/2018

(Application filed under Section 60(5)(c) of the Insolvency and Bankruptcy Code, 2016).

<u>IN THE MATTER OF:</u>

Kashi Viswanathan Sivaraman

AAA Insolvency Professionals LLP

E-10A, Kailash Colony, New Delhi 110048

……Applicant

<u>AND IN THE MATTER OF:</u>

M/s Faster Hydraulics Pvt. Ltd.

…… Operational Creditors

Versus

KHN Industrial Equipments India Pvt. Ltd.

…… Corporate Debtor

Order Pronounced on: 30.07.2026

Coram:

Mr. Praveen Gupta	:	Member (Judicial)
Mr. Ashish Verma	:	Member (Technical)

Appearances:

Ms. Aishwarya Prasad with Sh. Niraj Chamyal, & Sh. Anirudh Singh, Advs.	:	*For the RP*

<u>ORDER</u>

1. The present application was filed on 26.12.2019 under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "the

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Code") read with Rule 11 of the National Company Law Tribunal Rules, 2016, (hereinafter referred to as "NCLT Rules") by Mr. Kashi Viswanathan Sivaraman, the Interim Resolution Professional (hereinafter referred to as the "Applicant/IRP") of KHN Industrial Equipments India Private Limited (hereinafter referred to as the "Corporate Debtor"), inter alia, seeking the following reliefs:

"

a. *Allow the present Application;*

b. *Order requiring KHN Industrial Equipments India Private Limited having CIN: U29255UP2014PTC062233, to be dissolved in the manner as laid down in the Insolvency & Bankruptcy Code, 2016;*

c. *Direction that the Interim Resolution Professional be paid an amount of Rs. 7,72,292/- along with further expenses incurred as a result of the ongoing litigation;*

d. *Any other order or directions as the Hon'ble National Company Law Tribunal may deem fit."*

2. As per the submissions of the Applicant, the brief facts leading to the filing of the present Application are as follows:

a. This Tribunal, vide order dated 21.05.2019, admitted an application filed by Faster Hydraulics Private Limited ("Operational Creditor"/ "Petitioner") under Section 9 of the Code and initiated the Corporate Insolvency Resolution Process ("CIRP") against the

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Corporate Debtor and appointed Mr. Kashi Viswanathan Sivaraman as the Interim Resolution Professional ("IRP") of the Corporate Debtor.

b. Pursuant to his appointment, the IRP made public announcement on 28.05.2019 inviting claims from all creditors and other stakeholders in accordance with Section 15 of the Code. The last date stipulated for submission of claims in the said public announcement was 10.06.2019.

c. On the last date for submission for claims, the IRP received only one claim from IDBI Bank, in its capacity as a Financial Creditor, for an amount of ₹2,04,881/-. Since no other claims were received from any stakeholder, including the Petitioner who had initiated the Section 9 petition, the IRP constituted the Committee of Creditors ("CoC") comprising IDBI Bank as its sole member and filed the report of constitution of the CoC before this Tribunal on 20.06.2019.

d. Thereafter, the IRP convened the 1st CoC meeting on 01.07.2019, wherein various resolutions, including confirmation of the IRP as the Resolution Professional ("RP") as well as approval of his remuneration as IRP and RP, ratification of delegation of the authority of IRP to any person, approval of the professional fees payable between IRP and the appointed IPE, publication of Form G along with the approval of eligibility criteria of the Prospective Resolution Applicants and approval of the Request for Resolution Plan and Bid Evaluation Matrix, necessary for the effective conduct of the CIRP were placed before the sole member of the CoC.

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However, it is averred that the sole member of the CoC rejected all the proposed resolutions.

e. Aggrieved by the conduct of the sole CoC member, the Applicant filed an application having IA No. 221 of 2019 seeking reliefs pertaining to the expenses incurred by him during the process and fixation of his fee in capacity of IRP as well as RP or to suggest another Insolvency Professional to be appointed as RP. Meanwhile the Suspended management of the Corporate was failing to extend any co-operation despite the continuous efforts of the Applicant.

f. Further, the Applicant decided to convene the 2nd CoC meeting on 13.11.2019. However, his attempt also proved futile, as the sole member of the CoC neither attended the meeting nor responded to the communications addressed by the IRP seeking the reasons for its non-attendance.

3. In in view the expiry of the statutory 180-day period for completion of the CIRP on 17.11.2019 and the failure of the sole member of the CoC to pass any resolution necessary for conducting the CIRP, the Applicant submits that the conduct of the sole CoC member evidences its lack of interest in the resolution of the Corporate Debtor. It is further submitted that the Corporate Debtor does not have any realizable assets. The Applicant has also prayed for payment of CIRP costs amounting to Rs. 7,72,292/-, along with further costs incurred in the ongoing litigations, to be borne by the CoC or, in the alternative, by the Operational Creditor. In view of the

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aforesaid facts and circumstances, the Applicant has filed the present Application seeking appropriate reliefs from this Tribunal.

SUPPLEMENTARY AFFIDAVIT FILED BY THE IRP

4. In compliance with the order dated 16.09.2025, the Applicant has filed supplementary affidavit on 24.09.2025 and placed on record the last available balance sheet of the Corporate Debtor for the financial year ending on 31.03.2016 to substantiate that the Corporate Debtor has no significant asset.

5. The Applicant has further placed his reliance on the judgement of Hon'ble NCLAT in *Janak Jagjivan Shah Vs Committee of Creditors Rainbow Infrabuild Private Limited [Company Appeal (AT) (Insolvency) No. 1406 of 2024*] and further orders passed by Co-ordinate Bench NCLT, Bengaluru in *Mr. Mandar Wagh [I.A. No. 435/2020 in CP (IB) No. 96/BB/2020]*, Co-ordinate Bench NCLT, New Delhi in *M/s GMM Barter Pvt. Ltd. versus M/s Value Solar Energy Pvt. [I.A. No. 4855/2023 in CP (IB) No. 280(ND)/2022]* and Co-ordinate Bench NCLT, Kolkata in Bihar E-Governance Services & Technologies Limited *[I.A. (IB) (Liq) No. 32/KB/2024 in CP (IB) No. 236/KB/2023]* to further support his submissions that, in the facts and circumstances of the present case, an order for early dissolution of the Corporate Debtor would be just and in the interest of justice.

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FINDINGS AND ORDER

6. We have perused the record and heard the learned counsel representing the parties.

7. The present application primarily seeks early dissolution of the Corporate Debtor and reimbursement of CIRP expenses incurred by the Applicant in discharge of duties under the Code.

8. It is observed that during the CIR Process, only one claim was received from IDBI Bank, in its capacity as a Financial Creditor, for an amount of Rs. 2,04,881/-. No claim was received from any other creditor of the Corporate Debtor, including the Operational Creditor, who had initiated the CIRP by filing an application under Section 9 of the Code. Consequently, the CoC was constituted with IDBI Bank as its sole member, holding 100% of the voting share.

9. It is further noted that the Applicant has sought early dissolution of the Corporate Debtor on the following grounds:

a. The Corporate Debtor has no tangible or intangible assets which can be realized for payment of dues of the sole CoC member;

b. Person from the ex-Management of the Corporate Debtor have not come forward since the CIRP has been initiated to assist in locating the assets of the Corporate Debtor; and

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c. The sole CoC member, i.e., the IDBI Bank, through its conduct, does not seem interested in carrying on the CIR process and, despite attending the first CoC meeting, did not cast its vote on the agendas.

10. Upon perusal of the submissions and the material available on record, it is evident that although the sole member of the CoC participated in the first meeting of the CoC, it rejected all the agenda items placed for its consideration. The resolutions rejected by the sole CoC member were not confined to the confirmation of the IRP as the RP and fixation of his remuneration, but also included crucial matters necessary for carrying forward the CIRP, such as the publication of Form G and approval of the eligibility criteria for prospective Resolution Applicants. Such conduct effectively stalled the resolution process at its very inception.

11. It is further observed that the persistent non-cooperation of the erstwhile management of the Corporate Debtor in assisting the Applicant in identifying and locating the assets of the Corporate Debtor, coupled with the non-availability of any realizable assets of the Corporate Debtor, has rendered the continuation of the CIRP futile, as no realization can be made even towards the dues of the sole member of the CoC, let alone achieving the objective of resolution of the Corporate Debtor.

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12. We also take note of the decision passed by Hon'ble NCLAT, Chennai Bench in the matter *Shyson Thomas v. Madhugiri Venkatarayappa Sudharshan [(2023) ibclaw.in 366 NCLAT*] wherein it was held that, in appropriate cases, a Corporate Debtor may be dissolved without undergoing the process of liquidation. The relevant extracts of the said judgment are reproduced below:

> *"45. At this juncture, this `Tribunal', pertinently points out that there is no fetter that the `Corporate Debtor', cannot be `Dissolved', without undergoing the `Process of Liquidation'.*
>
> *48. One cannot remain oblivious of the candid fact that the I & B Code, 2016, does not envisage that the `Adjudicating Authority' / `Tribunal', ought to provide a `Hearing' to the `Promoter' / `Corporate Debtor' of the Company, at the time of passing of an `Order' for `Liquidation'.*
>
> *53. Suffice it for this `Tribunal', to make a pertinent mention that in the absence of any `Asset(s)' / the `Resolution Plan(s)', the Resolution Professional, had no other go, but to pray for an `Order of Dissolution', to be passed by the `Adjudicating Authority'. After all, the end of `Liquidation', requires complete `Dissolution' of an `Entity'. "*

13. In view of the foregoing facts, circumstances and judicial precedents, it is a well-settled position of law that the primary objective of the Code is to ensure time-bound resolution of insolvency or, where such resolution is not possible, to facilitate expeditious dissolution of the Corporate Debtor in

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order to maximise the value of its assets and balance the interests of all stakeholders. In the present case, it is evident that there exists no possibility of resolution, as the sole CoC member, through its conduct, has no willingness to cooperate with the IRP and to proceed further with the CIRP. Moreover, the Corporate Debtor has neither tangible nor intangible assets, and continuation of the CIRP would serve no meaningful purpose.

14. Considering the factual matrix of the case, we are of the view that it is a fit matter for permitting early dissolution of the Corporate Debtor, as continuation of the CIRP or initiation of liquidation proceedings would yield no result in the absence of any assets. Continuance of any further process will also result in incurring avoidable CIRP/liquidation expenses. The inevitable outcome in such circumstances would only be dissolution. Accordingly, to bring finality to the process and avoid unnecessary procedural delay, we deem it appropriate to allow early dissolution of the Corporate Debtor in the peculiar facts and circumstances of the present case.

15. As far as the prayer (c) is concerned, we have noted that in the present application the Applicant seeks an amount of Rs. 7.72 Lakhs towards the CIRP Costs pending to be paid. However, the Applicant has filed a Supplementary Affidavit dated 11.10.2024 wherein the CIRP costs as

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incurred up to 03.10.2024, now amounts to a total of Rs. 13,33,597/-. On examination of the tabulated chart of the said CIRP costs incurred upto 03.10.2024, we find that the following expenses have been sought for payment:

Sl. No.	Description of Expenditure	Name of Party	Total
Expenses Incurred by IRP			
1.	Support Services to IRP	AAA Insolvency Professionals LLP	Rs. 1,12,887/-
		Kashi Vishwanathan Sivaraman	Rs. 48,380/-
2.	Public Announcement by IRP	Delhi Advertising Agency	Rs. 10,080/-
Expenses Incurred by RP			
1.	Support Services to RP	AAA Insolvency Professionals LLP	Rs. 3,82,714/-
		Kashi Vishwanathan Sivaraman	Rs. 1,64,020/-
2.	COC Meeting Expenses	Linkstar Infosys Private Limited	Rs. 5,900/-
		AAA Insolvency Professionals LLP	Rs. 6,874/-
3.	Advocate Fee by RP	India Juris	Rs. 5,64,790/-
		Shubham Agarwal	Rs. 26,727/-

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4.	Other Professional Fee by RP	AVRG And Associates	Rs. 3,540/-
5.	Printing & Stationery Other Than CoC	AAA Insolvency Professionals LLP	Rs. 3,940/-
6.	Postage & Courier Other Than CoC	AAA Insolvency Professionals LLP	Rs. 2,065/-
7.	Publicity Expense for Marketing Activity	AAA Insolvency Professionals LLP	Rs. 1,770/-

16. In light of the expenses so claimed, we are of the view that the factual circumstances in which the CIRP was conducted cannot be overlooked. As already discussed above, it is an undisputed fact that, from the commencement of the CIRP vide order dated 21.05.2019, the process did not involve any substantive resolution activity, as the Corporate Debtor had no identifiable assets, the Suspended Director did not extend any meaningful cooperation in tracing or handing over the assets or records, and the sole member of the Committee of Creditors also did not actively pursue the CIRP. In such circumstances, the expenses reasonably expected to have been incurred would primarily be those towards statutory compliances, including the public announcement, conduct of CoC meetings, and litigation.

17. However, we have noted that, amongst the expenses claimed by the Applicant, certain expenses pertaining to *Support Services to IRP*, *Support*

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Services to RP, *Other Professional Fee by the RP*, *Printing & Stationary other than CoC, Postage & Courier other than CoC and Publicity Expense for Marketing Activity* are claimed to be allegedly incurred for running the CIRP of the Corporate Debtor. Considering the limited scope of activities undertaken during the CIRP, we find no justification for incurring such expenditure. Further except for the tabulated chart, no supporting documentary evidence has been placed on record to establish that such support services or other expenses were actually engaged or rendered. In view of the foregoing, we are of the considered view that the expenses claimed under the aforesaid heads cannot be considered while determining the CIRP costs.

18. Therefore, since the CIRP costs were neither approved nor ratified by the CoC, we, in exercise of the powers conferred under Regulations 33(2) of the IBBI (Corporate Insolvency Resolution Process) Regulations, 2016, find that the amounts claimed under the heads as discussed in para 17 of the present order are not admissible and, accordingly, stand rejected. The remaining CIRP expenses, being those necessarily incurred for carrying out the CIRP, are hereby fixed to a lump sum amount of Rs. 3,00,000/-. Further, as per Regulation 33(3) of the IBBI (Corporate Insolvency Resolution Process) Regulations, 2016, we direct the Operational Creditor, namely Faster Hydraulics Pvt. Ltd., which initiated the CIRP of the

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Corporate Debtor by filing the application under Section 9 of the Code, to pay the said fixed amount towards the necessary CIRP costs and expenses.

19. In view of the foregoing discussions and further in exercise of the powers conferred on this Tribunal under Rule 11 of NCLT Rules, the instant Application bearing C.A. No. 22 of 2020 is hereby disposed of with the following directions:

- **a.** The Corporate Debtor, i.e. KHN Industrial Equipments India Private Limited, is hereby ordered to be dissolved with immediate effect.
- **b.** The Operational Creditor viz. Faster Hydraulics Pvt. Ltd is hereby directed to pay a lump sum of Rs. 3,00,000/- to the Applicant as CIRP Costs.
- **c.** The Registry is directed to forward a copy of this order to the Registrar of Companies, Kanpur, within a period of two weeks from the date of receipt of this order, for further necessary action as prescribed under the Law;
- **d.** The Registry is further directed to send a copy of this order to the Insolvency and Bankruptcy Board of India (IBBI) and the Registrar of Companies, whose jurisdiction the Corporate Debtor is registered with, for maintaining their own record.
- **e.** The Registry is further directed to communicate the order through email forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.

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f. However, at any event, the liability of the corporate or personal guarantors, if any, shall not be absolved by virtue of this order for dissolution of the corporate debtor. Aggrieved party(s) shall be at liberty to continue or take appropriate legal recourse against them before the appropriate forum.

20. With this, the instant **C.A. No. 22 of 2020** is allowed as per the aforesaid terms.

21. Ordered accordingly.

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(Ashish Verma)	**(Praveen Gupta)**
Member (Technical)	**Member (Judicial)**

Date: 30.07.2026