S.No.1

IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1
VC AND PHYSICAL (HYBRID) MODE
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
02-09-2026 After Court-II

IA (IBC) 2281/2024 in
CP (IB) 745/7/HDB/2019
u/s. 7 of IBC

IN THE MATTER OF:

Punjab National Bank **…Petitioner/s**

Vs

Ind Barath Thermal Power Ltd **…Respondent/s**

C O R A M:-
SHRI. RAJEEV BHARDWAJ, HON'BLE MEMBER (JUDICIAL)
SHRI. SANJAY PURI, HON'BLE MEMBER (TECHNICAL)

O R D E R

IA (IBC) 2281/2024

Orders pronounced, recorded vide separate sheets.

In the result, this **IA (IBC) 2281/2024 is partly allowed.**

Sd/- **Sd/-**
MEMBER (T) **MEMBER (J)**

Apoorva

IN THE NATIONAL COMPANY LAW TRIBUNAL

HYDERABAD BENCH, COURT-I

I.A No. 2281 of 2024

IN

C.P (IB) No.745/7/HDB/2019

[Under Section 60(5) of Insolvency and Bankruptcy Code, 2016 and Rule 11 of the National Company Law Tribunal Rules, 2016]

IN THE MATTER OF IND-BARATH THERMAL POWER LIMITED

Between:

Orissa Alloy Steel Private Limited,
CIN: U27320WB2019PTC234383,
having its registered office at Room No 3B, Garstin Place,
Kolkata 700001, West Bengal, India.

...Applicant

AND

Deepak Maini,
Liquidator of Ind-Barath Thermal Power Limited,
Having his office at: C-100, Sector 2,
Noida, Uttar Pradesh - 201301, India.

....Respondent

Date of Order: 02.09.2026

Coram:

Hon'ble Shri Rajeev Bhardwaj, Member (Judicial)

Hon'ble Shri Sanjay Puri, Member (Technical)

Counsels Present

For Applicant: Mr. Y. Suryanarayana, along with Mr. Abhishek Dash and Mr. Rajashree Banarjee, Ld. Counsels

For Respondent: Mr. Aadil Khan, Ld. Counsel

1. The present Application has been filed by the Successful Bidder, Orissa Alloy Steel Private Limited (Applicant), under Section 60(5)(c) of the Insolvency and Bankruptcy Code, 2016 (IBC/Code), read with Rule 11 of the National Company Law Tribunal Rules, 2016, seeking grant of reliefs and concessions, as prayed for in the Application, and approval of the Scheme of Amalgamation of Ind-Barath Thermal Power Limited with Orissa Alloy Steel Private Limited.

2. **Application**

i) The Corporate Debtor, Ind-Barath Thermal Power Limited, is a thermal power producer having its generating plant situated at Swaminattam Village, Thoothukudi, Tamil Nadu, which has remained non-operational since the year 2019. The Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor commenced pursuant to the order dated 30.12.2021[1] passed by this Adjudicating Authority. Subsequently, by order dated 31.03.2023[2], the Corporate Debtor was ordered to be liquidated. While passing the liquidation order, this Adjudicating Authority directed that the Corporate Debtor be sold as a going concern in the interest of value maximization.

ii) Pursuant thereto, the Liquidator issued a public announcement commencing the liquidation process and thereafter issued an auction notice dated 11.05.2024[3] putting the Corporate Debtor for sale as a going concern. The Applicant participated in the auction conducted on 14.06.2024 and emerged as the Successful Bidder by offering a bid amount of ₹180,98,50,842/-, being the reserve price for the auction.

[1] Page 31 of the Application (Annexure-A3)
[2] Page 50 of the Application (Annexure-A4)
[3] Page 58 of the Application (Annexure-A5)

iii) Upon payment of the entire sale consideration, the Liquidator, vide letter dated 20.07.2024[4], acknowledged receipt of the full consideration amount and handed over the custody and control of the business of the Corporate Debtor together with physical possession of certain assets, while stating that custody and control of the remaining assets would be given in due course. The Liquidator thereafter issued a Sale Certificate dated 20.07.2024[5] certifying the Applicant as the successful auction purchaser of the Corporate Debtor as a going concern and acknowledging receipt of the entire sale consideration. The Sale Certificate provides that the sale consideration received by the Liquidator shall be distributed in accordance with Section 53 of the IBC towards full and final discharge and extinguishment of all past claims and liabilities of the stakeholders of the Corporate Debtor, thereby enabling acquisition of the Corporate Debtor on a clean slate basis.

iv) The Applicant submits that although the Corporate Debtor has been purchased as a going concern, certain additional reliefs, concessions, relaxations and permissions are necessary to facilitate implementation of the auction sale and enable the Corporate Debtor to continue its operations as a going concern. The Applicant has accordingly sought various reliefs and concessions as set out in Annexure-A9 to the Application.

v) The Applicant has also sought approval of a Scheme of Amalgamation proposing amalgamation of Ind-Barath Thermal Power Limited with Orissa Alloy Steel Private Limited, with effect from 20.07.2024, being the date of issuance of the Sale Certificate. It is the case of the Applicant that the proposed amalgamation would facilitate the revival and maximization of the business and operations of the Corporate Debtor.

[4] Page 79 of the Application (Annexure-A7)
[5] Page 103 of the Application (Annexure-A8)

3. This Authority vide order dated 25.04.2025 directed the Applicant to issue notice to the respondent, wherein on the next date of hearing i.e., on 03.06.2025, the learned counsel for the Liquidator/respondent had submitted that he has no objections to the reliefs and concessions sought for by the Applicant and the same was taken on record.

4. We have heard the counsels for both the parties and perused entire records.

5. Under Section 60(5)(c) of the Code, the Adjudicating Authority has the jurisdiction to entertain and dispose of any question of law or fact arising out of or in relation to the insolvency resolution or liquidation proceedings of the Corporate Debtor, including the authority to grant necessary reliefs, immunities, or protections from past liabilities to ensure that the Successful Bidder can commence business on a clean slate. The Hon'ble NCLAT, Delhi in ***RMY Industries LLP vs. Apple Industries Pvt. Ltd., (Company Appeal (AT) (Insolvency) No. 1114 of 2022)*** affirmed the Adjudicating Authority's power to consider applications from the Liquidator or Successful Bidder regarding the terms of an auction sale, particularly when sold as a going concern, to address any arising issues.

6. In the present case, the Applicant has sought various reliefs and concessions in Annexure-A9[6] of the Application, most of which are general and non-specific, aimed at addressing potential issues or challenges that may arise in the future. Furthermore, the Applicant has not identified any specific or concrete challenges that would justify the need for the reliefs and concessions sought presently. Upon careful consideration, we are of the view that several of the reliefs requested by the Applicant are hypothetical and largely anticipatory in nature. Moreover, the Adjudicating Authority can only grant reliefs in accordance with the provisions of the Insolvency and Bankruptcy Code,

[6] Page 111-162 of the Application

2016. Nevertheless, recognizing the critical importance of ensuring the continued and effective operation of the Corporate Debtor as a going concern, this Authority deems it necessary to grant certain reliefs and concessions that are essential for the successful administration of the Corporate Debtor.

7. Accordingly, the following directions are passed:

a) The existing equity shares of the Corporate Debtor, including the equity shares held by the existing shareholders as on the date of the Sale Certificate, shall stand extinguished without any consideration, and any share application money, if any, standing to the credit of the existing shareholders shall also stand extinguished. Consequently, the existing shareholders shall cease to be members of the Corporate Debtor. The necessary consequential entries in the Register of Members and other statutory records of the Corporate Debtor shall be made accordingly.

b) The Corporate Debtor is permitted to issue and allot equity shares, preference shares or other securities/instruments and to treat the sale consideration paid by the Applicant/Successful Auction Purchaser as consideration towards such securities or as debt, as may be determined for giving effect to the acquisition of the Corporate Debtor as a going concern, in accordance with law. The Corporate Debtor shall be entitled to make the consequential alteration in its authorised share capital and the capital clause of its Memorandum of Association as may be necessary.

c) Permission is granted to the Successful Auction Purchaser to reconstitute the Board of Directors of the Corporate Debtor in accordance with law. Consequently, the existing Board of Directors shall cease to hold office.

d) The requirement of obtaining the consent of the erstwhile shareholders of the Corporate Debtor for giving effect to the extinguishment of the existing share capital and the consequential reconstitution of the shareholding shall not arise. The Applicant/Corporate Debtor shall comply with such procedural requirements and filings as may be required under applicable law.

e) The Registrar of Companies (RoC) shall take on record the consequential filings arising from this order, including the changes in the shareholding, capital structure, Board composition and other consequential filings of the Corporate Debtor, in accordance with law. The RoC shall further update the status of the Corporate Debtor from "Under Liquidation" to "Active" in its records.

f) Since the Corporate Debtor has been sold as a going concern in liquidation, the Applicant shall not be saddled with liabilities existing prior to the date of the Certificate of Sale, subject to the terms and conditions of the Certificate of Sale.

g) The assets of the Corporate Debtor shall vest in the Applicant/Successful Auction Purchaser together with all rights, title and interest therein, free from charges, encumbrances and security interests, in accordance with the provisions of the IBC and the terms of the Certificate of Sale. The concerned Financial Creditors and charge holders shall take necessary steps for release/satisfaction of such charges and the RoC shall take on record the consequential filings in accordance with law.

h) The Corporate Debtor shall be entitled to pursue and recover all receivables, claims, refunds and other actionable claims forming part of its assets as on the date of the Certificate of Sale, and any amounts realised therefrom shall accrue to the benefit of the Corporate Debtor.

i) The Applicant shall be entitled to carry on the business of the Corporate Debtor and may continue, review, renegotiate or terminate contracts or arrangements entered into prior to the date of the Certificate of Sale, without assuming any liability or obligation arising thereunder for the period prior to the date of the Certificate of Sale, subject to the terms and conditions of the Certificate of Sale.

j) The Liquidator shall hand over to the Applicant/Successful Auction Purchaser the books of accounts, records, documents, returns, forms, clearances, permissions, approvals and other records of the Corporate Debtor in his possession.

k) The Applicant/Successful Auction Purchaser shall be entitled to carry out such alterations or modifications to the Memorandum of Association and Articles of Association of the Corporate Debtor as may be required for implementation of the sale and in accordance with law. The RoC shall take on record the consequential filings.

l) The sale of the Corporate Debtor as a going concern shall be binding on all stakeholders, including utility service providers, and the concerned utility service providers shall continue to provide the utilities required for carrying on the business of the Corporate Debtor as a going concern, subject to the terms and conditions specified in the Certificate of Sale.

m) All subsisting licences, approvals, consents, permissions, registrations, rights, entitlements, benefits and privileges of the Corporate Debtor as on the date of the Certificate of Sale shall continue to be available to the Corporate Debtor, subject to applicable law and renewal, wherever required, by the concerned authority.

8. With regard to any other reliefs and concessions sought by the Applicant under any other law, which have not been specifically granted herein, the Applicant shall be at liberty to approach the competent authority concerned, which would consider such request under the applicable law keeping in view Section 32A of IBC, 2016.

9. Accordingly, I.A. No. 2281 of 2024 in C.P (IB) No.745/7/HDB/2019 is **partly allowed** in terms of the directions contained herein.

Sd/-

SANJAY PURI
MEMBER (TECHNICAL)

Sd/-

RAJEEV BHARDWAJ
MEMBER (JUDICIAL)