

IN THE NATIONAL COMPANY LAW TRIBUNAL
JAIPUR BENCH

**CORAM: SHRI DEEP CHANDRA JOSHI,
HON'BLE JUDICIAL MEMBER**

**SHRI RAJEEV MEHROTRA,
HON'BLE TECHNICAL MEMBER**

IA(IBC) No. 246/JPR/2022
& IA (IBC) No. 58/JPR/2018
In CP No. (IB)- 571(ND)/2017
TA No. 37/2018

IN THE MATTER OF:

SUSHANT ANEJA & ANR.

...Financial Creditor/Applicant

Versus

J.D. ANEJA EDIBLES PVT. LTD.

...Corporate Debtor/Respondent

IA (IBC) No. 246/JPR/2022:

MEMO OF PARTIES

RAHUL ANEJA AND RUCHIKA ANEJA

Resolution Applicants

R/o, 2-C-4, Sukhadia Nagar, Sriganganagar

...Applicant/Resolution Applicants

VERSUS

PUNJAB NATIONAL BANK

(Erstwhile Oriental Bank of Commerce)

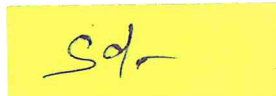
Through Its Chief Engineer,

Member of Monitoring Agency & Sole

Financial Creditor Cricle Sastra Centre, Circle

Office, Sri Ganganagar, Rajasthan.

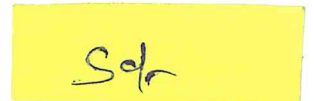
...Non-Applicant



**IA (IBC) No. 246/JPR/2022
& IA (IBC) No. 58/JPR/2018**

In

**CP No. (IB)- 571 (ND)/2017
TA No. 37/2018**



AND IN THE MATTER OF:
IA NO. 58/JPR/2018

MEMO OF PARTIES

MADHUSUDAN SHARMA

(Resolution Professional of M/s J D Aneja Edibles Pvt. Ltd.
 IBBI/IPA-003/IP-N00046/2017-18/10395
 688, Western Wing, Tis Hazari Courts, Delhi 110054
 Email: madhusudan.ip@outlook.com

...Applicant

VERSUS

1. RAHUL ANEJA

Member Suspended Board of Director of CD
 2-C-4, Sukhdia Nagar, Sriganganagar-335001
rahul.aneja@yahoo.com

...Respondent No. 1

2. RUCHIKA ANEJA

Member Suspended Board of Director of CD
 2-C-4, Sukhdia Nagar, Sriganganagar-335001
ruchikafdt@gmail.com

...Respondent No. 2

3. PAWAN KUMAR ANEJA HUF

Manager of CD
 2-C-4, Sukhdia Nagar, Sriganganagar-335001
pawan.aneja@yahoo.com

...Respondent No. 3

4. PROMILA ANEJA

2-C-4, Sukhdia Nagar, Sriganganagar-335001
promilaaneja@yahoo.com

...Respondent No. 4

5. PRIME MULTI TRADE COMPANY

270, New Dhan Mandi,
 Sriganganagar-335001
pawan.aneja@yahoo.com

...Respondent No. 5

6. PRIME TIME LINK

270, New Dhan Mandi,
 Sriganganagar-335001
promilaaneja@yahoo.com

Sd/-

Sd/-

...Respondent No. 6

7. SHREE BHAGWAN AGRO FLOOR MILLS

44, Model Town,
Sriganganagar-335001

...Respondent No. 7

For the SRAs : Susshil Daga, Adv.
Akshita Koolwal, Adv.

For the Bank : Vikas Jain, Adv.

Order Pronounced On:- 30.04.2024**ORDER****Per: Shri Deep Chandra Joshi, Judicial Member**

1. The Adjudicating Authority *vide* Order dated 04.06.2018 commenced the CIRP of *M/s J.D. Aneja Edibles Private Limited* ('Corporate Debtor') under Section 7 of the Insolvency and Bankruptcy Code, 2016 ('Code'/ 'IBC'). In terms of Section 25(2)(h) of the Code, Applications were invited from the Prospective Resolution Applicants ('PRAs') for Expression of Interest ('EOI') to submit Resolution Plans for the Corporate Debtor. Thereafter, the Resolution Plan submitted by *M/s Rahul and Ruchika Consortium* was approved by this Adjudicating Authority under Section 31(1) of the IBC, 2016 *vide* its order dated 07.06.2019.
2. In the meantime, two Interlocutory Applications bearing I.A. No. 58/JPR/2018 and 246/JPR/2022 were filed. The I.A. No. 246/JPR/2022 was filed by *Mr. Rahul Aneja and Mrs. Ruchika Aneja* ('SRAs') against *Punjab National Bank* seeking a revised transaction report from the monitoring

IA (IBC) No. 246/JPR/2022
& IA (IBC) No. 58/JPR/2018

Sd/-

CP No. (IB)- 571 (ND)/2017
TA No. 37/2018

Sd/-

agency. The I.A. bearing no. 58/JPR/2018 is an avoidance Application filed by the Erstwhile Resolution Professional under Section 25(2)(i) read with Sections 43, 45, 50 & 66 against some of the members of the suspended board of the Corporate Debtor. Since the Resolution Plan filed by *M/s Rahul and Ruchika Consortium* has already been approved, for the sake of convenience both the aforementioned applications are decided together in the instant order.

I.A. No. 246/JPR/2022

3. The Application bearing no. 246/JPR/2022 is filed under Rule 11 of National Company Law Tribunal Rules, 2016 ('NCLT Rules') by *Mr. Rahul Aneja and Mrs. Ruchika Aneja* seeking the following reliefs against *Punjab National Bank* (Erstwhile Oriental Bank of Commerce) ('Bank'):

- 3.1 "to allow the present application;
 3.2 to direct the monitoring agency to file a revised report in strict compliance the order dated 07.06.2019 passed by this Hon'ble Tribunal;
 3.3 to direct the bank to file the decision of GM Committee, Head Office;
 3.4 to pass any order in the favour of the Non-Applicant as the Hon'ble Tribunals deem fit;"

4. The SRAs have filed the I.A. vide Diary No. 1276/2022 dated 28.04.2022 and made the following submissions: -

- 4.1 The Resolution Plan submitted by the SRAs was approved by this Adjudicating Authority vide its order dated 07.06.2019 wherein the

Sd/-

Sd/-

Bank was directed to conduct a detailed transaction-wise investigation.

The relevant extracts of the order are reproduced hereunder:

“31 Be That as it may, taking into consideration the overall interest of the stakeholders of the Corporate Debtor, we approve the resolution plan however subject to the following direction:

- (i) That the dissenting FC even though a related party shall be paid the principal amount due and as agreed before this Tribunal by the Resolution applicant before payment is made to the equity shareholders as contemplated under the resolution plan.*
- (ii) Further is relation to transactions as brought to the notice of this Tribunal by Ld. RP in CA No. 58 of 2018 cannot be easily brushed aside and if true cannot be also condoned and hence OBC being the sole financial creditor is the CoC and being part of the Monitoring Agency shall cause a detailed investigation to be made, transaction wise of the Corporate Debtor and bring to the notice of this Tribunal factoring the reply of the Corporate Debtor and all the respondents of any acts of the nature of transactions brought forth by the RP in the above-said application. In the circumstances, the decision in CA No. 58 of 2018 in kept in abeyance and to await the report of the monitoring agency which shall be filed within a period of three months from the date of this order.*
- (iii) The implementing and supervision authority shall have also the authority to bring to the notice of this Tribunal any deviation from the resolution plan including in relation to the losses, which may have occasioned due to the conduct of the promoters of the Corporate Debtor prior to the initiation of the CIRP as against it.”*

4.2 In pursuance of the order, the Bank appointed *M/s Gupta Nanda & Co.* to carry out a detailed investigation. Thereafter, the auditor submitted its report dated 17.09.2019 and found irregularities in the transactions as per Sections 43,45,49,50 and 66 of the Code.

Sd/-

Sd/-

- 4.3 The SRAs have requested the Bank to provide the investigation report submitted by *M/s Gupta Nanda & Co.* through E-mail dated 25.09.2019. Thereafter, the counsel for the Bank undertook to file the said report during the course of the hearing, and the same was duly recorded in the Order dated 26.09.2019.
- 4.4 After several requests of the SRAs, the Bank provided the transaction audit report and sought reply from the SRAs on the same. Thereafter, the Bank filed the report before this Adjudicating Authority without considering the Reply submitted by the SRAs. Further, as per the information of the SRAs, the Bank has also prepared a revised report after taking into account the reply submitted by SRAs, and the same has neither been filed before this Adjudicating Authority nor provided to the SRAs. Thus, the Report filed by the Bank is not in compliance with the directions of the Tribunal as the same was prepared without considering the reply of the SRAs.
5. We have heard the learned Counsels for the Parties, perused the contentions raised in the Application and the documents attached therewith.
6. After the approval of the Resolution Plan, this Adjudicating Authority *vide* its Order dated 21.02.2024 directed the SRAs to file a compliance affidavit with regard to the payment made to the Bank as per the terms of the Resolution Plan. In compliance of the aforementioned order, an affidavit has been filed by the SRAs *vide* Dairy No. 820/2024 dated 04.04.2024 stating

that a payment of Rs. 3,98,16,575/- (Rupees Three Crore Ninety-Eight Lakh Sixteen Thousand Five Hundred Seventy-Five Only) inclusive of interest @10.80% due till 31.03.2024 along with Rs. 2,37,545/- (Rupees Two Lakh Thirty-Seven Thousand Five Hundred Forty-Five Only) as legal charges has been made to the Bank. Thus, the SRAs have made a total payment of Rs. 4,00,54,414/- (Rupees Four Crore Fifty-Four Thousand Four Hundred Fourteen Only). Subsequently, the Bank has also given a No Objection Certificate to the SRAs regarding the outstanding dues, thereby, confirming payment of the entire outstanding dues.

7. In the instant I.A., the SRAs are seeking directions against the Bank for filing a revised transaction report. It is pertinent to mention that the Resolution Plan submitted by the SRAs has already been approved and the Bank has also been paid in full. Further, the Resolution Plan also envisages payment in full to Operational Creditors and Un-Secured Financial Creditors.
8. In view of the facts narrated above, we are of the opinion that the relief sought in the instant Application by the SRAs against the Bank does not survive.

Thus, the instant Application bearing I.A. No. 246/JPR/2022 stands disposed off.

Sd/-

Sd/-

I.A. NO. 58/JPR/2018

9. The I.A. bearing no. 58/JPR/2018 is an avoidance Application filed by the Erstwhile Resolution Professional under Section 25(2)(i) read with Sections 43, 45, 50 & 66 against some of the shareholders and directors of the Corporate Debtor.
10. The parties against which this Application is filed are the related parties to the Corporate Debtor. Further, the Successful Resolution Applicants who were directors and shareholders of the Corporate Debtor are also Respondents in the present Application. The instant Application has been filed by the ERP seeking relief against the SRAs inter-alia other parties. It is pertinent to mention that the Resolution Plan submitted by the SRAs has already been approved and the sole Financial Creditor has also been paid in full. Further, the Resolution Plan also envisages payment in full to Operational Creditors and Un-Secured Financial Creditors.
11. It is evident from the facts mentioned above that the SRAs are Respondents in the instant Application, and the Resolution Plan submitted by the SRAs envisages payment in full to all the creditors of the Corporate Debtor and the Financial Creditor has already been paid in full. Since the Resolution Plan is silent about the distribution of proceeds from the avoidance Application, the money received from the avoidance transaction can either be distributed among the Creditors or the Successful Resolution Applicants.
- In the case at hand, there are no creditors of the Corporate Debtor that are

Sdr

Sdr

left unpaid and the SRAs themselves are Respondents in the instant Application.

In view of the foregoing, the instant Application bearing I.A. No. 58/JPR/2018 stands disposed off.



**DEEP CHANDRA JOSHI,
(JUDICIAL MEMBER)**



**RAJEEV MEHROTRA,
(TECHNICAL MEMBER)**