

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT - 2

ITEM No.304

IA/221(AHM)2022 in CP(IB) 349 of 2018

Order under Section 30(6) r.w 31 IBC

IN THE MATTER OF:

Bhavi Shreyans Shah RP of Multi Arc Coating Straps Ltd

.....Applicant

.....Respondent

Order delivered on: 25/04/2024

Coram:

Mrs. Chitra Hankare, Hon'ble Member(J)

Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open Court vide separate sheet.

Sd/-

DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

Sd/-

CHITRA HANKARE
MEMBER (JUDICIAL)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
AT AHMEDABAD BENCH
(COURT NO.II)**

IA 221 OF 2022

IN

CP(IB) No. 349 / NCLT / AHM / 2018

[Application under Section 30(6) r.w Section 31 of the IB Code, 2016 & r.w Regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Process of Corporate Person) Regulations 2016]

IN THE MATTER BETWEEN

Mrs. Bhavi Shreyansh Shah
RP of Multi Arc Coating Straps Ltd. ... Applicant /RP

MEMO OF PARTIES

Mrs. Bhavi Shreyansh Shah
RP of Multi Arc Coating Straps Ltd.
Having registered office at
C-201, Embassy Apartment,
Nr. Ketav Petrol Pump,
Dr. V.S. Road, Ahmedabad-380015 ...Applicant/ RP

Order pronounced on: 25.04.2024

Coram:

**MRS. CHITRA HANKARE,
HON'BLE MEMBER (JUDICIAL)
DR. VELAMUR G. VENKATA CHALAPATHY,
HON'BLE MEMBER (TECHNICAL)**

Appearance:

For the Applicant/RP : Mr. Atul Sharma, Adv.
RP in Person : Ms. Bhavi Shreyansh Shah

JUDGEMENT

1. The present application is filed by Mrs. Bhavi Shreyansh Shah, RP of Multi Arc Coating and Straps Ltd. Under Section 30(6) r.w. Section 31 of Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as IBC,2016) read with Regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Process of Corporate Person) Regulations 2016 (hereinafter referred to as "CIRP Regulations") for approval of the revised Resolution Plan dated 13.01.2022 submitted by M/s. Nijinoy Trading Private Limited/Successful Resolution Applicant (hereinafter referred to as "SRA").
2. The facts, in brief, are that the Bank of India/Financial Creditor filed an application under section 7 of the Code for initiation of Corporate Insolvency Resolution Process against Multi Arc Coating and Straps Limited (hereinafter referred to as 'Corporate Debtor') and this Tribunal was admitted the

Corporate Debtor into CIRP on 13.09.2021 and appointed applicant as Interim Resolution Professional who made a public announcement in Form- A on 18.09.2021.

3. After collating the claims from the creditors of the Corporate Debtor, the IRP formed the Committee of Creditors ("CoC") comprised of two Financial Creditors namely Bank of India with 91.97 % voting share and Punjab National Bank with 8.03 % voting share.
4. The 1st CoC Meeting was held on 12.10.2021 wherein the CoC resolved to appoint the Interim Resolution Professional as the Resolution Professional and in the same meeting the member of CoC resolved to initiate the EOI process & publish Form-G and also to fix the criteria under section 25 (2) (h) of the IBC, 2016. Further, the members of CoC also resolved to approve the evaluation matrix and Draft Request for Resolution Plan.
5. It is further submitted that, pursuant to the resolution passed in the 1st CoC meeting, the Applicant published EOI dated 18.10.2021 in the prescribed "Form-G" in the newspapers. Pursuant to the publication of EOI, the

applicant had received an Expression of Interest ("EOI") from the two Prospective Resolution Applicants i.e. M/s. Khandwala Finstock Private Limited and M/s. Nijinoy Trading Private Limited.

6. It is submitted that in the 2nd meeting of CoC was held on 11.01.2022 wherein the members after detailed discussions on the Resolutions Plans submitted by both the Resolution Applicants, the RP/Applicant requested the Resolution Applicants to reduce the time period for implementation of the resolution plan and further also directed to submit the Revised Resolution Plan(s) with better financial terms.
7. It is also submitted that M/s.Nijinoy Trading Private Limited submitted the Revised Resolution Plan on 13.01.2022 and M/s. Khandwala Finstock Private Limited submitted their Revised Resolution Plan on 17.01.2022.
8. The 3rd CoC meeting was held on 24.01.2022 wherein the members of CoC discussed the feasibility and viability of the resolution plan. After the 3rd CoC meeting on request of the members of the CoC, E-voting pertaining to the approval/rejection of the resolution Plan submitted by both

the resolution applicants along with the other agenda was extended till 17.02.2022. It is further submitted that E-voting start from 27.01.2022 and concluded on 17.02.2022.

9. Thereafter, the Revised Resolution Plan dated 13.01.2022 submitted by Nijinoy Trading Private Limited/SRA was approved by the CoC with a 100% voting share .
10. Meanwhile, this Tribunal vide order dated 26.04.2023 passed an order in the present application remitting the resolution plan back to the CoC of the Corporate Debtor to make the resolution plan in compliance to the decisions of the Hon'ble Supreme Court in the case of State Tax Officer vs. Rainbow Papers Limited. In compliance of the said order, the RP conducted 4th CoC meeting on 05.06.2023 wherein the CoC passed the revised amount after consideration of Rainbow Paper Judgement and filed the compliance affidavit dated 15.06.2023 before this Tribunal.
11. The RP filed an affidavit dated 06.02.2024 in compliance with the order dated 23.01.2024 passed by this Tribunal, in compliance with that order, the RP conducted 7th CoC meeting on 05.02.2024 wherein the authorized

Representative of Bank of India informed the RP that they have received approval from their higher authority and they are accepting the revised Distribution of Resolution Plan amount in compliance with the Supreme Court Judgement of Rainbow Papers Limited. Therefore, in the same meeting, the CoC member approved the revised distribution of Resolution Plan amount in compliance with Supreme Court Judgement in Rainbow Paper Limited with a 100% voting share. The following are the salient features of the Revised Resolution Plan submitted by SRA and approved by the CoC of the Corporate Debtor:

- i. The proposed resolution plan amount is Rs. 6,33,00,000/- and the Resolution Plan amount will be paid within 90 days from the date of order of this Tribunal for approval of Resolution Plan; As per the Revised Resolution Plan offered value of Rs 6,33,00,000/- is more than the Liquidation value is Rs. 614.33 Lakhs of the Corporate Debtor and the Fair value of the Corporate Debtor is Rs. 849.22 Lakhs (stated in Revised Form –H).

- ii. As per statement showing at Part-J in clause 4 of the Revised Resolution Plan, the Plan amount of Rs. 6,33,00,000/- would be utilized to pay i) CIRP Cost ii) Dues of the secured financial creditors iii) Dues of Operational Creditor including Statuoru Dues and Workmen/Employees iv) Contingent Liabilities.
 - iii. The SRA proposes to raise funds from its own sources as well as by their family members more particularly mentioned in Clause 3 and 4 in Part - J of the Revised Resolution Plan.
 - iv. The SRA has sought relief from this Authority as set out in Part – H in Clause 1 and 2 of the Revised Resolution Plan.
12. The Revised Compliance Certificate in Form – H along with the proof of performance security of Rs 31,65,000 /- deposited in the bank account is also attached with the application.
13. It is submitted by the RP that the approved Resolution Plan is compliant with the requirements of section 30(2) of the

Code read with Regulation 38 of the CIRP Regulations, 2016 and the SRA is eligible to submit Resolution Plan.

14. We have heard learned counsel for the applicant and perused the material available on record. It is noted that Revised Form- H has been filed by Resolution Professional giving details of compliances as required under provisions of Sections 30 r.w. 31 of the Code. The SRA has proposed to pay the Secured Financial Creditors Rs.4,71,50,882/- against its total admitted claim of Rs.41,77,90,909/-. The amount of Rs. 1,31,49,118 /- has been proposed in the Resolution Plan to pay to the Operational Creditor (including Workmen & Employees, Government and others) against the total admitted claim of Rs.20,80,97,311/- which is in compliance with 30(2) of IBC 2016. It is also mentioned in the revised compliance certificate in Form-H filed by the RP that no PUFEE applications are pending in this matter.
15. It is further noted that an affidavit as regards the eligibility of the resolution applicant under Section 29A along with the undertaking of the SRA to this effect has been filed. We have also perused the contents of the resolution plan, we are of

the view that Regulations 36 to 39 of CIRP Regulations, 2016 have been complied with. We further noted that the Resolution Plan complies with all requirements under Section 30(2)(b) of IBC, 2016. We also find that the Resolution Plan also contains measures to run the Corporate Debtor in future and that the Resolution Plan is both feasible and viable as held by CoC and it also contains provisions for its effective implementation.

16. Hence, we pass the following order:

ORDER

- I. Application is allowed.
- II. The approved 'Resolution Plan' shall become effective from the date of passing of this order.
- III. The order of moratorium dated 13.09.2021 passed by this Adjudicating Authority under Section 14 of IBC, 2016 shall cease to have effect from the date of this order.
- IV. The Resolution Plan so approved shall be binding on the Corporate Debtor and its employees, members,

creditors, guarantors and other stakeholders involved in the Resolution Plan.

- V. The monitoring committee as proposed in Part – L of the revised resolution plan shall be constituted for supervising the effective implementation of the Resolution Plan.
- VI. The Resolution Professional, Mrs. Bhavi Shreyans Shah, shall be released from the duties of the Resolution Professional of the Corporate Debtor as per the provisions of the IBC, 2016 and rules/regulations made thereunder from the date of this order.
- VII. The Resolution Professional shall forward all records relating to the conduct of the corporate insolvency resolution process and approved Resolution Plan to the Insolvency and Bankruptcy Board of India (IBBI) to be recorded in its database.
- VIII. As regards various reliefs and concessions which are being sought, we hereby grant the following reliefs and concessions only as against reliefs and concessions claimed by the resolution applicant.

- IX. After the payment of the dues to the creditors, as per the resolution plan, all the liabilities/claims of the said stakeholders shall stand extinguished and other claims including Government/Statutory Authority, whether lodged during CIRP or not, shall stand extinguished after approval of the resolution plan.
- X. From the date of this order, all claims against the Corporate Debtor, except those provided in the plan of the Corporate Debtor stand extinguished.
- XI. From the date of this order, all encumbrances on the assets of the Corporate Debtor before the Resolution Plan shall stand extinguished. No reliefs and concessions are granted to guarantee if any issued by the suspended management in an individual capacity to any of the creditors.
- XII. For reliefs and concessions sought from the Government / Statutory Authorities, we direct the resolution applicant to approach the concerned Authorities. The concerned Authorities are to consider

and decide the matter as per applicable provisions of law for effective implementation of the Resolution Plan.

XIII.As regards reliefs prayed under various provisions of the Income Tax Act, 1961, the Corporate Debtor/ Resolution Applicant may approach the Income Tax Authorities who shall take a decision on relief and concessions sought by the resolution applicant in accordance with the provisions of the Income Tax Act, 1961.

XIV.The Resolution Applicant shall be entitled to review, revise or terminate any appointments / agreements / understanding entered into by or on behalf of the Corporate Debtor in accordance with the terms and conditions of such agreements / MoUs /contracts.

XV.The management of the Corporate Debtor shall be handed over to the Board of Directors as may be nominated by the SRA for the proper running of the operations /business of the Corporate Debtor.

XVI. The Board of Directors of the Corporate Debtor shall also be reconstituted and procedural compliances shall be done to give effect to such reconstitution.

XVII. The SRA shall, pursuant to the Resolution Plan approved under Section 31(1) of the Code, obtain necessary approvals required under any law for the time being in force within a period of one year from the date of approval of the Resolution Plan vide this order or within such period as provided for in such law, as the case may be.

XVIII. With respect to the grant of license/ Government approval, if the license or approval is terminated, suspended or revoked, the resolution applicant may approach the concerned Department/ Authorities for such approval/ renewal and Government Authorities may consider the request of the resolution applicant as per applicable provisions of law for effective implementation of the resolution plan.

XXI. A certified copy of this order be issued to all concerned parties upon compliance of all requisite formalities.

XXII. Accordingly, IA No. 221 of 2022 in CP (IB) No. 349 of 2018 is disposed of.

Sd/-

DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

Sd/-

CHITRA HANKARE
MEMBER (JUDICIAL)

R.S./LRA