

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH**

**COURT – IV**

35

**IA(I.B.C)/545(MB)2024  
IA(I.B.C)/720(MB)2024  
IN C.P. (IB)/631(MB)2021**

CORAM:

MS. ANU J. SINGH  
MEMBER (Technical)

SHRI KISHORE VEMULAPALLI  
MEMBER (Judicial)

ORDER SHEET OF THE HEARING HELD ON **05.04.2024**

NAME OF THE PARTIES:

State Bank of India

VS

Gopinath Dairy Products Pvt Ltd

SECTION: 7 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016

**ORDER**

1. Mr. Shyam Kapadia, Ld. Counsel for the Applicant present. Mr. Chetan Kapadia, Ld. Senior Counsel for the Resolution Professional present.
2. **IA(I.B.C)/545(MB)2024:** This is an application filed by applicant herein is the Suspended Board of Director and Promoter of the Gopinath Dairy Products Private Limited seeking following reliefs:
  - a. This Honble Tribunal be pleased to direct the Respondent No.1 to convene the meeting of the Respondent No.2 and place before the Respondent No.2 the Revised Resolution Plan submitted by the Applicant and that the Respondent No.2 be directed to consider the Revised Resolution Plan of the Applicant;
  - b. This Hon'ble Tribunal be pleased to restrain Respondent No.2, by an order and injunction of this Hon'ble Tribunal, from passing any final decision in relation to the CIRP of the Corporate Debtor without considering the revisited Resolution Plan submitted by the Applicant.

3. The Petitioner and another PRA submitted the plans and their plan applications were opened and considered in 6<sup>th</sup> CoC meeting held on 18.10.2023.
4. In the 6<sup>th</sup> meeting, the CoC requested both the applicants to improve their resolution plans and submit the same on or before 20.11.2023. Thereafter, both the Resolution Applicants submitted their revised Resolution plans on 20.11.2023. Meanwhile, the applicant submitted another fresh resolution plan through mail dated 06.01.2024. The applicant filed IA-545 of 2024 before the Hon'ble NCLT Mumbai bench seeking directions to the Resolution Professional to place the resolution plan received through mail on 06.01.2024 before the CoC for its consideration and voting.
5. The Applicant further submits that the Hon'ble NCLT Mumbai bench passed an order dated 04.03.2024 in IA-545/2024 stating that RP shall obtain legal opinion with reference to order passed by the Hon'ble Bombay High Court and place it before COC.
6. After the said directions, RP received a legal opinion from AKR legal on the eligibility u/s 29A and same was put before the CoC in its 11<sup>th</sup> CoC meeting held on 02.04.2024 and CoC has taken a decision not to consider the fresh resolution plan submitted by the Applicant dated 06.01.2024.
7. Counsel for the RP submits that once the plans are submitted by the Applicant and another PRA and the same is under consideration/approval of the CoC, at that juncture the applicant filed fresh resolution plan without seeking any permission from the Adjudicating Authority or from the CoC. The plans which were received within the stipulated dates are put before the CoC for approval and voting, and at this stage his fresh plan cannot be considered.
8. Heard the both the Counsel.

9. This bench is of the considered view that, at this juncture the fresh plan filed by the Applicant without permission from the Adjudicating Authority or CoC cannot be entertained. The order passed by this Bench on 04.03.2024 directing to the CoC not take any decision on the finalization of the resolution plan is hereby vacated. The CoC is hereby directed to take appropriate decision for approving and voting of the Resolution Plan submitted by both the parties.
10. With the above, directions **IA(I.B.C)/545(MB)2024** is devoid of merits and **dismissed**.
11. **IA(I.B.C)/720(MB)2024**: List this matter for further hearing on **01.05.2024**.

Sd/-  
ANU J. SINGH  
Member (Technical)

Sd/-  
KISHORE VEMULAPALLI  
Member (Judicial)