

**IN THE NATIONAL COMPANY LAW TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

**IA No.1599 (PB)/2023
IN
CP (IBPP) No.03(PB)/2022**

In the matter of

Amrit India Limited

.....Corporate Debtor

In the matter of

Mukesh Kumar Jain, Resolution Professional of
Amrit India Limited.

...Applicant

Order pronounced on: 03.05.2023

Coram:

Chief Justice (Retd.) Ramalingam Sudhakar : Hon'ble President

Shri Avinash K. Srivastava : Hon'ble Member (Technical)

Appearances :

For the Applicant/RP

: Ms. Anuska Sarker, Adv

ORDER

Per: Avinash Kumar Srivastava, Member (Technical)

1. Preliminary

1.1. The present interlocutory application bearing IA No.1599 (PB) 2023 was moved on behalf of Mr. Mukesh Kumar Jain, Resolution Professional ("**RP**") of Amrit India Limited (CIN: L15549DL1981PLC012918), under the provisions of Sections 54 K of the Insolvency & Bankruptcy Code,2016 [hereinafter referred to as "**the Code**" or "**IBC**"] read with Regulation 44 and 45 of the IBBI (Pre Packed Insolvency Resolution

Process) Regulations, 2021 (“**PPIRP Regulations**”) for approval of the Resolution Plan submitted by Aquarius Fincap And Credits Private Limited in respect of Amrit India Limited (“**Corporate Debtor**”).

- 1.2. It is stated that the corporate debtor is engaged in the trading and consultancy business. However, the company is not doing any business since last 2- 3 years.
- 1.3. The underlying Company Petition CP (IBPP) No.03(PB)2022 filed by Amrit India Limited under Section 54C of the Code for initiation of Pre Packed Insolvency Resolution Process (“**PPIRP**”) of the Corporate Debtor was admitted by this Adjudicating Authority *vide* its order dated 28.11.2022. and Mr. Mukesh Kumar Jain (IBBI Reg No. IBBI/IPA-001/IP-P00084/2017-18/10180) was appointed as RP.

2. Collation of claims by RP

- 2.1. The Applicant submits that the public announcement was made on 03.12.2022 in Form P9 for inviting claims from the creditors/ stakeholders and the applicant also sent an email to every creditor to intimate about the initiation of PPIRP process.
- 2.2. The RP submits that the COC was constituted on 10.12.2022 consisting of sole Financial Creditor i.e Mr. Awadh Saran Singh and a total of five CoC meetings have been held during PPIRP period as follows:

Particulars	Date of CoC Meeting
1 st CoCMeeting	12.12.2022
2 nd CoC Meeting	14.12.2022
3 rd CoC Meeting	16.12.2022
4 th CoC Meeting	09.02.2023
5 th CoC Meeting	21.02.2023

3. Evaluation and voting

- 3.1 The Applicant submits that in the first COC meeting on 12.12.2022, the COC deliberated upon the Base Resolution Plan submitted by the Corporate debtor and since there was 90% haircut to the debt owed to the financial creditor along with 100% impairment to the contingent creditors, therefore, COC requested the corporate debtor to improve the Base Resolution Plan and also directed the applicant to invite Resolution plan from the public, as per Section 54K read with Regulation 42 to 47 of PPIRP Regulations, 2021.
- 3.2 It is further submitted that in the 2nd COC meeting dated 14.12.2022, the COC rejected the Base Resolution Plan as the corporate debtor was unable to improve the base Resolution Plan and thereafter passed the resolution to invite the Resolution plan from prospective Resolution applicant. In the 3rd COC meeting on 16.12.2022, the COC approved the contents of invitation to prospective Resolution Applicant and of the evaluation matrix and the last date of submission of Resolution plan was 31.12.2022.
- 3.3. Before the last date of submission of Resolution plan , the applicant

received only one Resolution plan i.e. from Aquarius Fincap and Credits Private limited which was examined by RP and certain modifications were sought from the prospective resolution applicant. Thereafter, the modified Resolution plan was submitted by the resolution applicant on 20.02.2023 and the same was placed before the COC.

- 3.4. After due discussions and deliberations in the 5th COC meeting dated 21.02.2023, the Resolution Plan submitted by the Successful Resolution Applicant i.e Aquarius Fincap and Credits Private Limited was approved by COC with 100% voting share and the application for approval of the resolution plan by this Adjudicating Authority was filed by the RP on 22.03.2023.

4. Cause of default and provision to meet the cause of default

4.1. It is stated in the resolution Plan that on the basis of information provided to Resolution Applicant, the major cause of default was the trust deficit between the Corporate Debtor and the Financial Creditor which kept increasing with the passage of time due to the non-repayment of its dues. The non-payment to the Financial Creditor resulted in the Corporate Debtor going into Pre-packaged Insolvency Proceedings under the IBC, 2016 and all this resulted in mismatch of Cash Flow and subsequently default in bank accounts.

4.3. It is further stated that the Resolution Applicant understands the importance of Cash Flow in the business and has a policy to leverage the business duly supported by adequate Cash Flow and by creating

reasonable buffer to meet any eventuality in business cycle. Further, commercial control is an equally important factor in growth and success of the business. Therefore, RA will appoint experienced professionals in this field to ensure successful implementation of the resolution plan.

5. **Details of Resolution Plan/Payment Schedule**

5.1. The amount claimed and the amount proposed in the Resolution Plan are tabulated below:

Sl. No.	Types of debts	Amount Claimed	Amount Proposed
1.	PPIRP Cost	Nil	PPIRP cost or actual amount whichever is higher.
2.	Payment to Secured Financial Creditors	12,70,000/-	5,00,000/-
3.	Other Creditors, if any (other than financial creditors and operational creditors(Contingent Claims)	25,62,772/-	2,20,000/-
	Total		7,20,000/-

6. Compliance of the successful Resolution Plan with various provisions:

6.1. The Applicant has submitted the details of various compliances as envisaged by the Code and the PPIRP Regulations which a Resolution Plan is required to adhere to, as follows:

Section/ Regulation	Requirement	How dealt with in the Plan
Sec 30(1)		
(a)	Provides for the payment of Insolvency Resolution Process Cost.	Clause 7.1 of the Resolution Plan provides for the Insolvency Resolution Process Cost. Clause 7.1 provides that as the resolution Process cost is estimated to be NIL, actual shall be paid in priority to the payment of other debts of the corporate debtor.
(b)	Plan must provide for payment to the Operational Creditors;	Clause 7.3 of the plan states that no amount is due to the Operational Creditors as per the Information Memorandum.
(c)	Management of the affairs of the Corporate Debtor after approval of the Resolution Plan.	Clause 9.4.2 provides for management of the corporate debtor by the resolution applicant. It is stated that during the term of implementation of the

Section/ Regulation	Requirement	How dealt with in the Plan
		Resolution Plan, the management and control of the Corporate debtor shall be vested in the hands of the monitoring agency.
(d)	Implementation and Supervision of Resolution Plan.	Clause 9.4.3 provides for Implementation and Supervision of Resolution Plan. It is stated that post approval of Resolution Plan by this Adjudicating Authority, the monitoring Agency as constituted under this Plan shall supervise the implementation of the Resolution Plan.
(e)	Plan does not contravene any of the provisions of the law for the time being in force.	Clause 9.4.10 states that in terms of Section 54K(3) read with Section 30(2) (e) of the Code, the Resolution Applicant declares confirming that this Resolution Plan is not in contravention to any of the provisions of the law for the time being in force.
Section 54K (4) or(12)	Whether the resolution plan –	In the Clause 9.4.5 the Resolution Applicant

Section/ Regulation	Requirement	How dealt with in the Plan
and Regulation 45	(a) Is feasible and viable , according to the committee; (b) Has been approved by the committee with 66% voting share	categorically state that due care has been taken to ensure feasibility and viability of the Resolution Plan. In 5 th COC meeting, the resolution plan is approved with 100% voting share.
Regulation 44	Transfer of all or part of the assets of the corporate debtor	Clause 9.4.12 of the plan states that the resolution applicant do not propose to transfer any of the assets of the corporate debtor to any other person.
Regulation 45 (1)	(i) Whether the Resolution Applicant or any of its related parties has failed to implement or contributed to the failure of implementation of any resolution plan approved under the Code. (ii) If so, whether the Resolution Applicant has submitted the statement giving	In 9.2 of the Resolution plan, the resolution Applicant declares that neither the Resolution Applicant nor any of its related parties have failed to implement or contributed to the failure of implementation of any resolution plan approved by the Adjudicating Authority at any time in past. Not applicable

Section/ Regulation	Requirement	How dealt with in the Plan
	details of such non implementation.	
Regulation 45(2)	<p>Whether the Resolution Plan provides for-</p> <p>a) The term of the plan and its implementation;</p> <p>b) The management and control of the business of the Corporate debtor during its term</p> <p>c) Adequate means for supervising its implementation.</p>	<p>Clause 9.4.1 of the Resolution Plan</p> <p>Clause 9.4.2 of the Resolution Plan</p> <p>Clause 9.4.3 of the Resolution Plan</p>
Regulation 45(3)	<p>Whether the Resolution plan demonstrates that-</p> <p>(a) It addresses the cause for default;</p> <p>(b) It is feasible and viable;</p> <p>(c) It has provisions</p>	<p>Clause 9.4.4 of the Resolution Plan</p> <p>Clause 9.4.5 of the Resolution Plan</p>

Section/ Regulation	Requirement	How dealt with in the Plan
	<p>for its effective implementation</p> <p>(d) It has provisions for approvals required and the timeline for the same;</p> <p>(e) The resolution applicant has the capability to implement the resolution plan</p>	<p>Clause 8 of the Resolution Plan</p> <p>Clause 9.4.6 of the Resolution Plan</p> <p>Clause 9.4.7 of the Resolution Plan</p>
Regulation 45(4)	Whether the resolution plan includes a statement as to how it has dealt with the interests of all stakeholders.	Clause 9.4. of the Resolution Plan
Regulation 45(5)	Whether the amount due to the Operational creditors under the Resolution Plan has been given priority in payment over financial creditors	NA

- 6.2. The Applicant submits that the successful resolution applicant has submitted an affidavit in regard to the eligibility under section 29A of the Code, as required under the Code.
- 6.3. The Applicant has filed a Compliance Certificate dated 21.02.2023 in prescribed Form, i.e Form 'P12' in compliance with Regulation 49(1) of the PPIRP Regulations.
- 6.4. It is stated that the amount of Rs. 5,00,000/- will be paid to the financial creditor in the following manner:
- i. 50 % of the consideration shall be paid as and when the plan is approved from the COC members which shall be considered as the performance guarantee;
 - ii. Rest 50% of the consideration will be paid as and when the plan is approved by the Hon'ble NCLT.

7. Sources of funds

It is stated that the Resolution Applicant has net worth of Rs. 544.61 Crores as on 31st March, 2022 as per the documents placed on records, Moreover, the new promoters and its associates will infuse the funds from its internal accruals and its own sources and the financial resources of the Resolution Applicant are more than sufficient to provide funds required for further business.

8. Monitoring Agency:

For the period from effective date till closing date:

The Resolution applicant shall appoint Mukesh Kumar Jain, RP as a

chairman of monitoring agency , 1 representative from COC having rights and Mohd. Nazim Khan will be appointed as a representative on behalf of the Resolution Applicant.

For the period from closing date till implementation of the Resolution Plan:

From the closing date, the monitoring Agency shall be reconstituted consisting of the Resolution Applicant and Md. Nazim Khan, Insolvency Professional as a chairman of the Monitoring Agency.

9. Details of Resolution Plan/ Payment Schedule

- 9.1. The Applicant submits the relevant information about the amount claimed, amount admitted, and the amount proposed to be paid by the Successful Resolution Applicant, *i.e.*, Aquarius Fincap & Credits Private Limited, under the said Resolution Plan is tabulated as under:

(Amount)

Sl. No.	Category of Stakeholder	Amount Claimed	Amount Admitted	Amount Provided under the Plan	Amount Provided to the Amount Claimed (%)
1.	Secured Financial Creditors	12,70,000	12,70,000	5,00,000	39.37%
2.	Unsecured Financial Creditor	0	0	0	0
3.	Operational Creditors	0	0	0	0

6.	Other debts & Contingencies	25,62,772	25,62,772	2,20,000	8.58%
TOTAL		38,32,772	38,32,772	7,20,000	18.79%

The total The Resolution plan size is of ₹7,20,000/- (Rupees Seven Lakhs Twenty Thousand only) . The Resolution Plan defines **“Effective Date”** as the date on which the Adjudicating Authority approves the Resolution Plan.

10. Term of the Plan

The term of making payments stipulated under the plan is 7 days from the date of receipt of certified copy of the Order of Adjudicating Authority approving the Resolution plan.

11. Proposal for existing Shareholders:

Equity Shareholders

Pursuant to the implementation of the Resolution plan, shareholders of the corporate debtor in the category of public to the extent of 6,52,220 shares will get shares of the transferee company in the ratio of one share for every 200 shares (200:1) and promoters will not get any consideration in lieu of existing shareholding.

Preference Shareholders

It is further stated that preference shares of the corporate debtor i.e 15,000 shares will be extinguished after approval of the Resolution plan by this Adjudicating Authority.

12. Details on fraudulent and avoidance transaction

- 12.1. It is stated in para 8.8.1 of the Resolution Plan that there is no avoidance transaction pointed out by the Resolution Professional and no proceedings related to avoidance transactions are pending before this Adjudicating Authority.

13. Waivers, Reliefs and Exemptions

From the date of approval of the 'Resolution Plan', the Resolution Applicant shall be legally authorized to seek appropriate orders from respective authorities/courts/tribunals for renewal of licenses/withdrawal/dismissal or abetment of the proceedings as the case may be, as per law.

14. Findings

- 14.1. Subject to the observations made in this Order, the Resolution Plan in question is hereby **approved. The Resolution Plan shall form part of this Order.**
- 14.2. The Resolution Plan is binding on the Corporate Debtor and other stakeholders involved so that revival of the Debtor Company shall come into force with immediate effect.

- 14.3. The Resolution Professional shall submit the records collected during the commencement of the proceedings to the Insolvency & Bankruptcy Board of India for their record.
- 14.4. **IA (IB) No.1599(PB) 2023** and the main Company Petition, *i.e.*, CP (IBPP) No.03(PB)/2022 shall stand ***disposed of*** accordingly.
- 14.5. Liberty is hereby granted for moving appropriate application if required in connection with implementation of this Resolution Plan.
- 14.6. A copy of this Order shall be filed by the Resolution Professional with the Registrar of Companies, NCT of Delhi & Haryana.
- 14.7. The Resolution Professional shall stand discharged from his duties with effect from the date of this Order, save and except those duties that are enjoined upon him for implementation of the approved Resolution Plan.
- 14.8. The Resolution Professional is further directed to hand over all records, premises/ factories/documents available with it to the Resolution Applicant to finalise the further line of action required for starting of the operation. The Resolution Applicant shall have access to all the records and premises through the Resolution Professional to finalise the further course of action required for starting of operations of the Corporate Debtor.
- 14.9. The Registry is directed to send copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking

necessary steps.

14.10. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

14.11. File be consigned to the record.

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**RAMALINGAM SUDHAKAR
PRESIDENT**

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**AVINASH K. SRIVASTAVA
MEMBER (TECHNICAL)**

Order pronounced under Rule 151 of NCLT Rules 2016, by Chief Justice (Retd.) Ramalingam Sudhakar, President on behalf of the Bench comprising of Chief Justice (Retd.) Ramalingam Sudhakar, President and Avinash Kumar Srivastava, Member (Technical).

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**Nirmala Vincent
(Court Officer)**