

IN THE NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH

MA No. 395/2018 in CP No. 1088/2017

Section 31 of the Insolvency and Bankruptcy Code, 2016 and Section 9 of Insolvency and Bankruptcy Code, 2016.

In the matter of

Mr. Mangesh Kekre

Resolution Professional

..... Applicant

And in the matter of

M/s Power House

Reg. Office at 18, Jai Ganesh
Varadhaste Opposite Kamgaar Bhavan
Near Dr. Ambedkar Statute Pimpri
Chowk, Pune, Maharashtra- 411 018

.....Corporate Debtor

Order delivered on: 08/06/2018

Coram:-

Hon'ble Shri B. S. V. Prakash Kumar, Member (Judicial)
Hon'ble Shri Ravikumar Duraisamy, Member (Technical)

For the Petitioner: Mr. Mangesh Kekre- Practicing Chartered Accountant.

Per: Ravikumar Duraisamy, Member (Technical)



ORDER

1. This is an Application filed by the Resolution Professional under Section 31 of the Insolvency and Bankruptcy Code, 2016, seeking approval of the Resolution Plan, submitted by the Resolution Applicant, as unanimously approved by the Committee of Creditors in its meeting held on 28/03/2018.
2. The Corporate Debtor, Nutri First Agro International Pvt. Ltd., was put under Corporate Insolvency Resolution Process (CIRP) by an order of this Adjudicating Authority dated 31/07/2017 and Mr. Arun Rajabhau Joshi was appointed as Interim Resolution Professional (IRP). The said IRP issued Public Announcement inviting the Creditors to submit the proof of their claim on 07/10/2017 in English Newspaper, Pune edition of Business Standard and on 08/10/2017 in Marathi Newspaper, Dainik Punyanagari. The IRP submitted the list of creditors as on 18/10/2017 and constituted the Committee of Creditors consisting of only one Financial Creditor namely, Janata Sahakari Bank Ltd, Pune. The IRP conducted the first meeting of Committee of Creditors on 02/11/2017 wherein the Financial Creditor decided to appoint Mr. Mangesh Kekre, Chartered Accountant, as Resolution Professional, further, the suspended directors and shareholders have agreed to infuse additional funds of ₹11,00,00,000/- for settlement of their dues and initially they agreed to deposit ₹11,00,000/- in the current account of the company as a token of their intention to settle the dispute and such sum shall be utilized towards IRP and Resolution process cost.
3. As proposed by the Committee of Creditors, this Hon'ble Tribunal allowed the appointment of Mr. Mangesh Kekre, Chartered Accountant, as the Resolution Professional (RP) on 21/12/2017. The said RP convened second meeting of Committee of Creditors on 29/12/2017 wherein it was decided to publish an Expression of Interest for Strategic Investors as the promoters have not submitted any Resolution Plan and to appoint Mayank Jain & Co., Chartered Accountants, Valuation of assets. Further, it was also decided in the same meeting to seek extension of Insolvency Resolution period.
4. The Applicant RP submits that Bhairavnath Agro Process Ltd. has submitted a formal application expressing its interest as a strategic investor in

the third meeting of Committee of Creditors held on 26/02/2018 wherein it has agreed to deposit in the CIRP account of the company an amount equivalent to the dues.

5. With regard to the Resolution Applicant, Bahiravnath Agro Process Limited was incorporated in the year 2011 with specific objective to venture into Agro Processing activity of sugar processing. It is now diversifying into the activity of processing of vegetable Oil Fatty Acid. For the same, they were in advance stage of discussion with land owners for acquisition of land to set up a unit near Pune. In the meantime, the management decided to bid for the Expression of Interest published by the Interim Resolution Professional. The Net Worth of Resolution Applicant as on 31/03/2017 was ₹1,01,29,25,000/- and that of three of its major individual Promoters namely, Mr. Tanaji Sawant, Mr. Shivaji Sawant and Mr. Anil Sawant, collectively, is approximately ₹193 crore.

6. The Applicant RP submits that the resolution plan was discussed and unanimously approved by the Committee of Creditors in the fourth meeting held on 28/03/2018 and the same was submitted to the Tribunal for its approval.

7. The bench has noticed that there is only one financial creditor namely Janata Sahakari Bank Ltd, Pune with total outstanding dues of ₹13.83 Crore and three Operational Creditors viz. M/s Power house, M/s Kastech Instrumentation and Spectron Engineering Pvt Ltd. The Resolution Applicant is desirous of running the business as a going concern and the critical suppliers have agreed to continue their services, if paid as per the agreed Resolution Plan. Further, according to the Resolution Plan, the estimated CIRP cost amounts to ₹16,30,000/-.

8. M/s Teena Saraswat & Co. who was appointed to carry out Transaction Audit for finding any Preferential Transactions, has reported that Allotment of 12,15,352 shares at ₹10/- each amounting to ₹1,21,53,520/- to Mr. Vinayak B Harpale and 10,00,000 shares at ₹10/- each amounting to ₹1,00,00,000/- allotted to Mr. Sagar S Pawar is without any supporting evidence of any services against which they are alleged to be allotted and thereby puts both the directors named above in favourable position than other

directors. As prayed for, the said preferential transaction of allotment of shares (PAS dated 26/06/2016) be avoided/ appropriate action be taken.

9. The Resolution Plan states that with regard to the payment of dues to the Financial Creditor, Resolution Applicant agrees to pay the Principal outstanding without any concession and the unapplied interest as may be levied. Further, concession from providing additional collateral security is requested when already Mr. Tanaji Sawant has offered his personal guarantee for the matter. The Resolution Applicant shall repay the Financial Creditor as per the Resolution plan, the proposed scheme of payment is as per the table given below:

S. No.	Particulars	Amount (₹ in Lacs)	Remarks
1.	Total dues claimed in IM on 31/07/2017	1,390.21	
2.	Total o/s Principal amount as on the date of NPA 29/01/2017	1202.76	
3.	Total unapplied interest up to 31/07/2017	148.18	
4.	Total amount proposed to be repaid under the Resolution Plan: • Immediate repayment on approval of Resolution Plan • Conversion of balance amount into Term Loan	 373 1,109.23	
5.	Concession/Waiver sought	Interest during Resolution	As no interest is being paid



	from the Secured Lender	Period	against the sum of ₹373,00,000 deposited in Debit Freeze account of CIRP
	Concession/Waiver sought in New Term Loan	2% interest concession	Old loan was sanctioned at 14% pa ROI, Resolution Applicant seeks concessional ROI @12% pa
6.	Terms of Repayment	84 monthly installments @ 12% ROI	
7.	Sanction of CC	200.00	CC limit un-availed by the Corporate Debtor as no operation started. Once operations start, CC limit will be requested and availed.
8.	Date for first installment		01/07/2018

10. Under the resolution plan, the Resolution Applicant has offered to make the payment to Operational Creditors as per the chart below:

Particulars	Proposed payment (in ₹)
M/s Power House	48,53,000/-

M/s Instrumentation	Kastech	17,53,000/-
Spectron Engineering Pvt Ltd.		53,48,000/-

11. The said resolution plan provides for the sources of funds for the purpose of resolution:

S. No.	Particulars	Amount Estimated (₹ in Lacs)	Remarks
1.	Induction of funds as Equity Share Capital by the Promotor/Resolution Applicant	300.00	
2.	Inter Corporate Deposit from the Related Entity, Phase I	597.10	Resolution Applicant will raise funds from promoters of related entities
3.	Inter Corporate Deposit from the Related Entity, Phase II. For meeting the additional requirement of funds	895.34	Resolution Applicant will raise funds from promoters of related entities
	Total	1492.44	

12. The Resolution Plan further provides that the Resolution Applicant shall propose to buy out the complete equity from the existing promoters at the enterprise valuation of ₹50,00,000/-. The said proposal would be made considering the complete take-over of the company as going concern along with its existing liabilities.

13. The Resolution Applicant shall have its representatives appointed on the board of Corporate Debtor for the purpose of effective and proper implementation of the Resolution Plan. There shall be, as per the proposal in the Resolution Plan, appointment of some Professional/Banker/Firm/External agency, as nominated by the Secured Creditors for monitoring of the successful implementation of the Resolution Plan. Further, the Resolution Applicant has deposited ₹4,93,55,000/- in the Debit Freeze CIRP account and the same shall be utilized in accordance with the Resolution Plan.

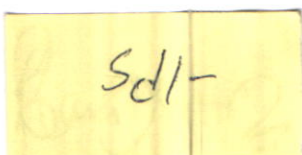
14. With regard to the employee dues, the Resolution plan provides for no concessions and if any claims are filed in future, then the same shall be dealt with as per the Approved resolution plan, however it maybe noted that no such claims have been made by any of the employees.

15. On perusal of the resolution plan, this bench is satisfied as regards the schedule of repayment to the Financial and Operational Creditors, and approves the Resolution Plan as submitted by the Resolution Professional being approved by the Committee of Creditors with 100% voting rights.

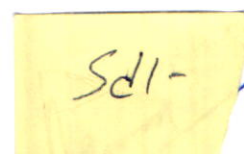
16. Accordingly, this MA No. 395/2018 is hereby allowed by vacating the moratorium already declared at the time of the admission of Company Petition No. 1088/2017.

17. In view of the approval of the Resolution Plan as sought by the Resolution Professional, this Bench hereby discharges the Resolution Professional from the duties of the Insolvency Resolution Professional by submitting all the records maintained by him before the Insolvency and Bankruptcy Board of India as provided under the Insolvency and Bankruptcy Code, 2016 and the corresponding regulations.

Ordered Accordingly,



RAVIKUMAR DURAISAMY
Member (Technical)



B. S.V. PRAKASH KUMAR
Member (Judicial)