

IN THE NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH, HYDERABAD

IA No.87/2020, IA No.154/2020 &  
IA No.106/2021  
In CP (IB) No.08/9/HDB/2019

In the matter of  
M/s. Techtran Polylenses Limited  
(CIN: L26109AP1987PLC007306)

Between:

IA No.87/2020.

Mr. Nethi Mallikarjuna Setty,  
Resolution Professional of  
M/s. Techtran Polylenses Limited  
O/o. Flat No.101, Laurel Residency,  
Manikonda, Hyderabad – 500 089.

...Applicant/  
Resolution Professional

IA No.154/2020 & 106/2021

Mr. G.Suresh  
Authorised person of the 150 workmen of  
The M/s. Techtran Polylenses Limited.

...Applicant

Vs

M/s. Techtran Polylenses Limited  
Regd. Office at Sy. No.545,  
Bonthapally Village, Jinnaram Mandal, Medak District,  
Represented by the Resolution Professional,  
Mr. Nethi Mallikarjuna Setty.

...Respondent

Date of Order: 26.03.2021

Coram: Shri. Madan B. Gosavi, Member Judicial.  
Shri. Dr. Binod Kumar Sinha, Member Technical.

Parties/Counsel Present:

For the Applicant in IA No.87/2020:  
Mr. Nethi Mallikarjuna Setty, RP.

For the Applicant in IA No.154/2020 & IA No.106/2021:  
Mr. Abid Hussain, Counsel.

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**Per: Bench**

**ORDER**

**IA No.87/2020, IA No. 154/2020 & IA No. 106/2021:-**

1. The Application bearing IA No.87/2020 is filed u/s. 31 of the IBC, 2016 by the Resolution Professional for approval of the Resolution Plan of M/s.Kamini Mettaliks Pvt. Ltd for the Corporate Debtor i.e., M/s. Techtran Polyenses Private Ltd. which was admitted for CIRP by this Adjudicating Authority vide order dated 20.04.2019.
2. The Applicant was appointed as IRP. IRP then made public announcement of admission of Corporate Debtor to CIRP. He called upon creditors to submit claim with the proof. Upon receipt of the claims, he formed the COC, which consists of one member as follows:

Name of the Financial Creditor	Amount Claimed	Voting Percentage
Export-Import Bank of India	2,29,27,347.00/-	100%

3. The appointment of Applicant as RP was confirmed in the 1<sup>st</sup> CoC meeting by 100% votes.
4. RP appointed valuers and got valuer's report regarding value of assets of the Corporate Debtor. He prepared Information Memorandum (IM) of assets and liabilities of the Corporate Debtor which was placed before 2<sup>nd</sup> CoC and information was ratified on the basis of IM. The Applicant published notice in newspapers (English as well as in vernacular) dated 06.08.2019 calling upon the Prospective Resolution Applicants to submit Expression of Interest (EoI) of resolution plans for the Corporate Debtor. In response thereto, he received plans from three (3) Applicants i.e., Kamini Mettaliks Pvt Ltd, Channel Health Infratech Pvt Ltd and Motilal Baheti. He put all three plans for consideration of COC and COC in its 10<sup>th</sup> meeting held on 02.01.2020 approved the resolution plan of M/s. Kamini Mettaliks Pvt Ltd by 100% votes. Since, COC approved the resolution plan by 100% votes, we being Adjudicating Authority cannot

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go into the commercial viability of the resolution plan and we have to consider the plan in view of the provisions of section 30(2) of IBC, 2016.

5. Section 30(2) of the IBC mandates that the resolution plan must provide for the following:
- a) The payment of Insolvency resolution process cost to be paid in priority than the other debt of Corporate Debtor.
  - b) It provides amount of payment of debt of Operational Creditor not less than what would be payable in the event of liquidation of Corporate Debtor and as per the water fall mechanism provided under section 53 of IBC.
  - c) It provides mechanism for management of affairs of the Corporate Debtor after approval of resolution plan.
  - d) It provides mechanism for effective implementation of the Resolution plan
  - e) The plan should not contravene any provision of law for time being in force.
  - f) The plan conforms to other requirements as specified by the IBBI.
6. Keeping in our sight, the above mandate of law, we have examined the plan submitted for our approval. We find that the plan has provided a sum of Rs.70 Lakhs towards CIRP cost, amount of Rs.2.29 Crores assigned for admission of debt of Financial Creditor, amount of Rs.1.83 Crores is earmarked for operational debt of Operational Creditor and amount of Rs. 4.78 Crores is provided for payment of dues of workmen and employees.
7. In view of this, we hold that the plan complies with provisions of section 30(2)(a) and (b) of the IB Code, 2016.
8. In para 2 of Part IV of the plan mechanism is provided for monitoring and managing the affairs of the Corporate Debtor.
9. In Part V of the plan, mechanism is provided for management and control of the affairs of the Corporate Debtor, after plan is approved. It is stated that the successful resolution applicant through its Director would be managing affairs of the Corporate Debtor after approval of the Resolution plan.

10. In Part VI, mechanism is also provided in the plan for effective implementation of the plan by appointing monitoring committee consisting of representatives of COC, RP and one independent IRP appointed by RP itself.
11. RP has filed affidavit certifying that the plan does not contravene any provisions of law for time being in force. Even upon our examination of the plan, we also noted that it does not contravene any provisions of law.
12. The terms of the plan state that the initial down payment of Rs.5.05 Crores will be paid within 30 days and CIRP cost within 50 days after its approval by this Adjudicating Authority. Thus the plan conforms to all the conditions laid-down under section 30(2) of IBC, 2016 and also Regulation 39 of IBBI (CIRP) Regulations, 2016.
13. Before approval of this plan, we have to consider the objections raised by employees union. Employees union has filed an application bearing IA No.154/2020 taking an objection against approval of resolution plan on two grounds: (i) That the plan's total value is less than the liquidation value of the Corporate Debtor and (ii) That the employees are not paid their arrears of salaries in entirety.
14. As far as, the objection no. (ii) of the employees is concerned, we noted that in the plan maximum amount is earmarked i.e., Rs.4.78 Crores for payment of dues of the employees for 24 months and it complies with provisions of section 53 of IBC.
15. Since, the plan is approved by the COC in their commercial wisdom, we cannot enter into this aspect any further.
16. As far as the objection that against the average liquidation value of Rs.10.55 Crores, the Resolution plan offers Rs. 9.60 Crores only we have heard learned RP and learned counsel for COC. RP has given plausible explanation for this defect stating that considering the fact that realization of liquidation value will take upon one year to complete this process. Therefore, considering the NPV value discount factor of 10% of resolution plan, the Resolution plan of Kamini Metallik Pvt Ltd was considered and approved by the CoC.

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17. In case of Maharashtra Seamless Ltd Vs Padmanabhan Venkatesh & Ors (Civil Appeal No.4242/2019) Hon'ble Supreme Court considered this aspect and held that the resolution plan cannot be rejected only on the ground that the cost of resolution plan is less than liquidation value of the Corporate Debtor. As far as the case at hand is concerned RP and COC have given plausible explanation for this deficiency which we have accepted.
18. Taking into consideration, the resolution plan as submitted for our approval, we hold that the plan is in conformity with the provision of law and regulations made under IBC. It has been approved by COC by 100% votes. While approving the plan, we take note that Resolution Applicants have claimed certain exemption and concessions from the government authorities and some local bodies. We make it clear that exemption and concessions are subject to the law and rules under which concerned government authorities and local bodies are governed.
19. With this, we approve this resolution plan.
20. Accordingly, the Applications bearing IA No.87/2020, IA No.154/2020 & IA No.106/2021 stand disposed of.

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**DR. BINOD KUMAR SINHA**  
**MEMBER TECHNICAL**

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**MADAN B. GOSAVI**  
**MEMBER JUDICIAL**