

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 145
IA 936 of 2020 in CP(IB) 195 of 2018

Order under Section 30(6) & 31 IBC

IN THE MATTER OF:

Umesh Ved RP of Shriram Cement Ltd
V/s

.....Applicant

Committee of Creditor of Shriram Cement Ltd & Ors

.....Respondent

Order delivered on ..20/09/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant :
For the IRP/RP :
For the Respondent :

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open court vide separate sheet.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT-1**

**IA 936/NCLT/AHM/2020
In
CP (IB) 195/NCLT/AHM/2018**

[An application under Section 30(6) & 31 of IBC, 2016 for approval of resolution plan]

Umesh Ved

Resolution Professional of Shriram Cement Limited

Having office at:

304, Shoppers Plaza-5, Government Servants
Cooperative Housing Society,
Opp. Municipal Market, C.G. Road,
Navrangpura, Ahmedabad

.....Applicant

Versus

**1. Committee of Creditors of
Shriram Cement Limited**

Through its Lead Bank State Bank of India

Having address at:

Stressed Assets Management Branch
"Red Cross Building", No. 32,
Montieth Road, Egmore,
Chennai-600009

2. Vijay Kumar Bajaj

Having address at:

A-4b, Anugraha Apartments,
41, Nagambakkam High Road,
Chennai-600034

3. High Performance Products Industries Private Limited

A company registered under Companies Act, 1956

Having its office at:

Flat No. 103, 1st Floor, Glen Eagle Gulmohar Road,
Opp. Juhu Galli, JVPD Scheme,

Vile Parle (West) Mumbai City,
Maharashtra- 400049

4. Suspended Management of Shriram Cement Limited

1) Mr. Ajay Kumar Bishnoi
Flat No. 5, Door No. 48,
New No. 58, Third Main Road,
Kasturibha Nagar, Chennai-600020

2) Mr. Alampallam Vedam Ramalingam
Flat E, Anandam Apartments 39, 1st Street,
Kamaraj Nagar, Adyar Chennai-600020

3) Mr. Perintalmanna Venkatrama Krishnakumar
4th Main Road Gandhi Nagar
Adyar S. O. Chennai-600020

4) Mr. Arjunkumar Ganesah
4/1123, 2nd Street Indhira Nagar,
Vennampatti Road, Dharmapuri-636701

....**Opponents**

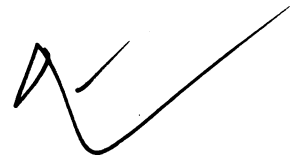
Order reserved on : 13.09.2021
Order pronounced On: 20.09.2021

Coram: MADAN B. GOSAVI, MEMBER (J)
VIRENDRA KUMAR GUPTA, MEMBER (T)

Appearance:

For the Applicant: Learned Senior Counsel Mr. Navin Pahwa a.w.
Learned Counsel Mr. Ravi Pahwa and Learned
Counsel Mr. Alay Shah.

Resolution Professional : Mr. Umesh Ved



ORDER**[PER: VIRENDRA KUMAR GUPTA, MEMBER (T)]**

1. This application is filed by Resolution Professional under Section 30(6) r.w. Section 31 of Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "**IBC, 2016**") for approval of Resolution Plan of the Corporate Debtor.
2. The facts, in brief, are that the Corporate Debtor was admitted into Corporate Insolvency Resolution Process (in short "**CIRP**") by order of this Adjudicating Authority dated 20.09.2019. Mr. Umesh Harjivandas Ved was appointed as Interim Resolution Professional (in short "**IRP**") who collated the claims and constituted the Committee of Creditors (in short "**COC**") comprising of State Bank of India and Vijay Kumar Bajaj, having voting share of 98.60% and 1.40% respectively. COC in its 2nd meeting held on 08.11.2019 resolved to confirm the IRP as Resolution Professional. EOI was published on 31.01.2020. The 4th COC meeting was held on 17.02.2020 wherein RP informed the COC that various EOIs have been received. An auditor was also appointed. Thereafter, extension of 90 days beyond

180 days was granted by this Adjudicating Authority on 17.03.2020. Exclusion of 90 days was also sought by Applicant from this Adjudicating Authority on 29.06.2020. The 7th meeting of COC was held on 01.07.2020 wherein COC resolved to issue fresh EOIs and modify the eligibility criteria to submit resolution plan. In the 8th meeting of COC held on 29.08.2020, RP informed the COC that four resolution plans were received from prospective resolution applicants and out of them, ultimately, resolution plan of M/s. High Performance Products Industries Private Limited (in short "**HPPIPL**") was deemed to be in compliance with IBC, 2016. In the meantime, negotiations were taken place between RP/COC and representatives of HPPIPL. Extension for a further period of 90 days i.e., from 19.09.2020 to 14.12.2020 was also sought from this Adjudicating Authority. COC in its 10th meeting held on 09.12.2020 unanimously (by 100% votes) resolved to approve the resolution plan submitted by HPPIPL.

3. The applicant has received valuation reports of the M/s. Shriram Cement Limited from the registered valuers

wherein the Fair Value and Liquidation Value are Rs. 1,09,220,789/- and Rs. 54,531,350/- respectively.

4. The Successful Resolution Applicant has also filed an affidavit dated 11.07.2020 clarifying his eligibility to submit a resolution plan under Section 29A of IBC, 2016.
5. The Resolution Applicant has also proposed the performance security under sub-regulation (4A) of Regulation 36B of the CIRP Regulations, 2016 amounting to Rs. 30,00,000/- or 5% of the total financial Bid, whichever is higher, in the form of a Bank Guarantee or FD within one month of approval of the Resolution Plan.
6. Learned Senior Counsel for the Applicant appeared and narrated the above facts. He drew our attention to the Resolution Plan in detail. Based upon the contents of the Plan, it was submitted that Resolution Plan approved by COC complies with all the requirements of Section 30(2) of IBC, 2016 and r.w. relevant regulations made there-under.
7. The amount provided for the stakeholders under the Resolution Plan is as under:

Sr. No	Category of Shareholder*	Sub-Category of Stakeholder	Amount Claimed	Amount Admitted	Amount provided under the Plan#	Amount provided to the Amount Claimed (%)

(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	Secured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of Section 21	N.A.	N.A.	N.A.	N.A.
		(b) Other than (a) above: (i) who did not vote in favour of the resolution Plan (ii) who voted in favour of the resolution plan	(i) N.A (ii) 20,75,09,078.98	(i) N.A (ii) 20,75,09,078.98	(i) N.A (ii) 5,50,00,000	(i) N.A (ii) 26.50%
		Total [(a)+(b)]	20,75,09,078.98	20,75,09,078.98	5,50,00,000	26.50%
2	Unsecured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	N.A.	N.A.	N.A.	N.A.
		(b) Other than (a) above: (i) who did not vote in favour of the resolution plan (ii) who voted in favour of the resolution plan	(i) N.A. (ii) 29,53,313	(i) N.A. (ii) 29,53,313	(i) N.A. (ii) 5,00,000	(i) N.A. (ii) 16.93%
		Total[(a)+(b)]	29,53,313	29,53,313	5,00,000	16.93%
3	Operational Creditors	(a) Related party of the Corporate Debtor	N.A.	N.A.	N.A.	N.A.
		(b) Other than (a) above: (i) Suppliers/ Service Providers (ii) Workmen & employees	1,55,01,877 55,12,696	1,54,92,972 55,12,696	7,74,649 5,51,270	5% 10%
		Total[(a)+(b)]	2,10,14,573	2,10,05,668	13,25,919	15%
4	Other debts and dues		N.A.	N.A.	N.A.	N.A.
	Grand Total	[1+2+3]	23,14,76,964.98	23,14,68,059.98	5,68,25,919	58.43%

8. We have considered the submissions made by learned senior counsel for the Resolution Applicant and perused the

material available on record. It is noted that COC in its 10th meeting held on 09.12.2020 with 100% voting right approved the resolution plan submitted by Resolution Applicant. It is also noted that Resolution Applicant is not a related party of the Corporate Debtor. Resolution Applicant has also filed an affidavit dated 11.07.2020 regarding his eligibility to submit a resolution plan under Section 29A of IBC, 2016. Resolution Applicant has also proposed the performance security amounting to Rs. 30,00,000/- or 5% of the total financial Bid, whichever is higher, in the form of a Bank Guarantee or FD within one month of approval of the Resolution Plan. We have also perused the contents of the resolution plan and all documents/compliances certificates as required under Section 30(2) of IBC, 2016 r.w. Regulations 36 to 39 of CIRP Regulations, 2016 which have been placed on record. The Resolution Plan complies with all these provisions. The total outstanding debt claims by all stakeholders stand at Rs. 23,14,76,964.98/- and Resolution Applicant has committed for payment to them at Rs. 5,68,25,919/(excluding contingent liability) which amounts to 58.43% of total outstanding debt. -The

resolution plan also contains provisions for its effective implementation and we as Adjudicating Authority are satisfied that the resolution plan so approved can be successfully implemented. The monitoring committee and supervisory committee as mentioned in the resolution plan shall be formed for effective implementation of the resolution plan.

9. The Resolution Applicant claimed various reliefs and concessions in the resolution plan. However, during the course of hearing, Resolution Applicant submitted a revised chart of reliefs and concessions which they are seeking and only reliefs and concessions as contained in this revised chart are being considered. We, however, make it clear that reliefs and concessions, as claimed by the Resolution Applicant, are granted by us in the following manner to this extent only.

- I. After the payment of the dues to the Secured Creditors, Unsecured Creditors, Operational Creditors, as per the resolution plan all the liabilities of the said stakeholders shall stand permanently extinguished after the approval of the resolution plan. We further

hold that other claims including Government/Statutory Authority, whether lodged during CIRP or not, shall stand extinguished after the approval of the resolution plan. We further hold that contingent/unconfirmed dues shall also stand extinguished;

- II. On the effective date, all claims of the suspended management, erstwhile directors, and erstwhile shareholders shall stand permanently extinguished;
- III. On the effective date and with effect from the appointed date, all encumbrances on the assets of the Corporate Debtor prior to the plan shall stand permanently extinguished on completion of procedural formalities as provided in Companies Act, 2013;
- IV. For reliefs and concessions sought from the Government/Statutory Authorities, we direct the Resolution Applicant to approach the concerned Authorities who shall decide the issues including restoration of mining rights under the respective statutes;

- V. We further direct the Uttar Gujarat Vij Company Limited (UGVCL) to restore the power supply of the Corporate Debtor so that the Resolution Applicant can run the Corporate Debtor as a going concern. Resolution Applicant, however, shall be liable to deposit the connection charges and/or security deposit, if it is so required under the law;
- VI. We further hold that the concerned Municipal Corporation/other Statutory Authorities who are responsible to provide water connection to the Corporate Debtor shall do so promptly and in case, water connection is already existing, the water shall be supplied without any interruption to the Corporate Debtor;
- VII. The Resolution Applicant shall be entitled to review, revise or terminate any appointments/agreements entered into by or on behalf of the Corporate Debtor in accordance with the terms and conditions of such agreements/MoUs/contracts;
- VIII. The RP shall complete the accounting entries to give effect to the resolution plan in the Books of Account

as per the applicable Accounting Standards and provisions of the Companies Act, 2013;

- IX. The management of the Corporate Debtor shall be handed over to the Board of Directors as may be nominated by the Resolution Applicant for proper running operations of the business of the Corporate Debtor;
- X. The Board of Directors of the Corporate Debtor shall also be reconstituted and procedural compliances shall be done to give effect to such reconstitution;
- XI. The Resolution Applicant shall, pursuant to the resolution plan approved under Section 31(1) of the Code, obtained the 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 by the Adjudicating Authority under Section 31 or within such period as provided for in such law, whichever is later, as the case may be;
- XII. All the approvals of shareholders/members of the Corporate Debtor shall be deemed to have been obtained and the provisions made in the resolution

plan as regard to the restructuring of capital shall be binding on them. This order shall be treated as evidence of compliances of all formalities as may be required in this regard under the provisions of the Companies Act, 2013;

XIII. On the effective date and with effect from the appointed date, the entire existing share capital of the Corporate Debtor shall stand extinguished without any payment (including any cancelled value of the said equity shares or preference shares) to shareholders of the Corporate Debtor holding such existing share capital. The Resolution Applicant would be entitled to issue new equity share capital in accordance with the provisions of Companies Act, 2013 r.w. rules and regulations made there-under.

10. Apart from the above observations and directions, it is further directed that:

- I. The approved 'Resolution Plan' shall become effective from the date of passing of this order.
- II. The order of moratorium dated 20.09.2019 passed by this Adjudicating Authority under Section 14 of I&B

Code, 2016 shall cease to have effect from the date of passing of this order.


III. The Resolution Professional shall forthwith send a copy of this Order to the participants and the Resolution Applicant(s).

IV. The Resolution Professional shall forward all records relating to the conduct of the corporate insolvency resolution process and Resolution Plan to the Insolvency and Bankruptcy Board of India to be recorded in its database

11. Accordingly, IA 936 of 2020 in CP (IB) No. 195 of 2018 is allowed and stands disposed of in terms of the above directions.

12. Urgent certified copy of this order, if applied for, to be issued to all concerned parties upon compliance with all requisite formalities.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B. GOSAVI)
MEMBER (JUDICIAL)

Dated this the 20th day of September 2021

Rajeev K Sen/Stenographer