

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 2

ITEM No162

IA/309(AHM)2021 in CP(IB) 350 of 2019

Order under Section 7 IBC

IN THE MATTER OF:

Abhishek Nagori RP of
Raj Rayon Industries Ltd.
V/s

.....Applicant

SVG Fashions Pvt. Ltd. & Ors.

.....Respondent

Order delivered on ..05/10/2021

Coram:

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

PRESENTS:


For the Applicant :
For the Respondent :

ORDER

The matter is listed today for pronouncement of order.

The order is pronounced in the open court vide separate sheet.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

Mansi J.

**IN THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT-2**

**IA 309(AHM) 2021
In
CP (IB)/350(AHM) 2019**

IA 309(AHM) 2021

[An application under Section 30(6) of the Insolvency and Bankruptcy Code, 2016 for approval of resolution plan]

In the matter of:

Mr. Abhishek Nagori
Resolution Professional of
Raj Rayon Industries Limited
office at: 330/348, Third Floor Tower A,
Atlantis K-10, Opp. Vadodara Central,
Sarabhai Main Road, Vadodara,
Gujarat, 390023

...Applicant

Versus

1. M/s SVG Fashions Private Limited

Resolution Applicant
Registered Office at: 719, Somnath Road,
Nani Daman, Daman- 396210

Corporate Office at: Agarwal Golden Chamber,
2nd & 3rd Floor, off Fun Republic Road,
A-13, Veera Desai Industrial Estate,
Andheri(W) Mumbai-400053, Maharashtra

2. State Bank of India

(Member of Committee of Creditors)
Address at: Stressed Asset Management Branch-I
The Arcade, 2nd Floor, World Trade Center,
Cuffe Parade, Mumbai- 400005

3. Phoenix ARC Private Limited

(Member of Committee of Creditors)

Address at: Trustee of Phoenix Trust FY 17-8,
5th Floor, Dani Corporate Park, 158,
CST Road, Kalina, Santacruz,
Mumbai- 400098, India

4. Rajkumari Sushil Kumar Kanodia

(Member of Suspended Board of Director)

Address at: 4th Floor, Sonbar 13,
Ashok Nagar, CHS 10th Road, JVPD,
Opp. Pushpa Narsee Park, Juhu,
Vile Parle, Mumbai 400049,
Maharashtra, India

5. Sushilkumar Radheshyam Kanodia

(CEO and CFO)

Address at: 4th Floor, Sonbar 13,
Ashok Nagar, CHS 10th Road, JVPD,
Opp. Pushpa Narsee Park, Juhu,
Vile Parle, Mumbai 400049,
Maharashtra, India

6. Banti Parasar

(Member of the Suspended Board of Directors)

Address at: B-42, Building No. 6,
Gokul, Sector 7, Mittal Garden,
Naigaon East, Palghar 401207,
Maharashtra, India

7. Rajendra Prasad Rampratap Sharma

(Member of the Suspended Board of Directors)

Address at: Murlidhar Bhadupota Marg,
Ward No. 10, Dundlod, Jhunjhunun - 333702,
Rajasthan, India

8. Mayadhar Ravindear Mahakud

(Member of the Suspended Board of Directors)

Address at: Room No. 03, Sunil Kisan Nagar,
Datta Chawl, Tulinj Road, Nallasopara East,
Vasai, Thane 401209, Maharashtra, India

9. Income Tax Department

Through Commissioner/ Principal Commissioner
Address at: Commercial Complex Building,
Near Vaisali Char Rasta, NH-8 GIDC,
Vapi- 396191, Gijarat India

...Respondents

Order reserved on: 27.09.2021
Order pronounced On: 05.10.2021

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

Appearance:

For the Applicant: Mr. Nipun Singhvi, Advocate
Resolution Professional: Mr. Abhishek Nagori

ORDER

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

1. This Application is filed by Mr. Abhishek Nagori, Resolution Professional of Raj Rayon Industries Limited under Section 30(6) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "**IBC, 2016**") for approval of Resolution Plan of the Raj Rayon Industries Limited (hereinafter referred to as "Corporate Debtor").
2. The facts, in brief, are that the CD had been admitted into Corporate Insolvency Resolution Process (in short "**CIRP**") by this Adjudicating Authority vide dated 23.01.2020. Mr.

Abhishek Nagori who was appointed as Interim Resolution Professional (in short "**IRP**") had collated the claims and constituted the Committee of Creditors (in short "**CoC**") comprising of State Bank of India and Phoenix ARC Private Limited, having voting share of 94.72% and 5.28% respectively. CoC in its 1st meeting held on 15.02.2020 resolved to confirm the IRP Mr. Abhishek Nagori as Resolution Professional. CoC in its 2nd meeting held on 17.03.2020 resolved to appoint valuers for valuation of the Corporate Debtor. In the 3rd CoC meeting held on 06.05.2020, on being informed by RP that due to lockdown it is most likely that the interested investors will not be able to make site visit and submit Expression of Interest ('EOI'), CoC agreed with RP to publish EOI in Form-G once lockdown period ends. Thus after 4th CoC meeting held on 29.06.2020, the RP made publication for the invitation for EOI in Form-G on 06.07.2020. CoC in 5th meeting held on 20.07.2020 agreed to extend the time to submit EOI by 15 days. Pursuant to which revised invitation for EOI was published on 21.07.2020. Thereafter, extension of 90 days beyond 180 days for completion of CIRP was granted by this



Adjudicating Authority on 23.07.2020. In the 6th CoC meeting held on 13.08.2020 RP informed the CoC that two EOIs have been received from Sanathan Textiles Private Limited and SVG Fashions Private Limited respectively. On request of M/s Sanathan Textiles Pvt. Ltd., CoC in the 7th CoC meeting held on 01.10.2020 the resolution plan of SVG Fashions Pvt. Ltd was opened before the CoC. RP informed the CoC in the 8th meeting held on 12.10.2020 that Resolution Plan received from SVG Fashion Private Limited is in compliance with the provisions of IBC, 2016 and relevant rules and regulations thereof. This Adjudicating Authority vide order dated 05.11.2020 excluded period of lockdown of 162 days from the CIRP period. CoC in its 9th meeting held on 09.11.2020 asked the Resolution Applicant SVG Fashions Pvt. Ltd. to revise the Resolution Plan. Thereafter, CoC in its 10th meeting held on 22.01.2021 unanimously (by 100% votes) resolved to approve the revised Resolution Plan submitted by SVG Fashions Private Limited. Applicant convened 11th CoC meeting on 24.03.2021 and informed CoC that several parties have shown interest in the Corporate Debtor and requesting to

submit EOI and Resolution Plan. CoC were of the view that since the last date for submission of EOI was 05.08.2020 and Resolution Plan had already been approved, EOI cannot be accepted.

3. The Applicant has received valuation reports from the registered valuers wherein the average Fair Value and Liquidation Value are Rs. 10,346.85 Lakhs and Rs. 6,855.63 Lakhs respectively.
4. The Respondent No. 4 & 5, the suspended board of directors of the Corporate Debtor had initially raised an objection through a reply, however later by filing purshish, Respondent No. 4 & 5 requested this Adjudicating Authority to adjudicate the approval of Resolution Plan without any objection to be raised and recorded by them.
5. An affidavit dated 25.09.2020 from one Mr. Sandip Agarwal authorized representative of the Successful Resolution Applicant, clarifying the eligibility of the Resolution Applicant to submit a Resolution Plan under Section 29A of IBC, 2016 is filed with the instant Application.
6. The Resolution Applicant has given the performance security under sub-regulation (4A) of Regulation 36B of the

Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Debtor) Regulations, 2016 (in short "**CIRP Regulations, 2016**") amounting to Rs. 10 crores. 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 relevant regulations made thereunder.

7. Learned counsel drew our attention to the relief and concession claimed in the Resolution Plan. However, the Bench in respect of such relief and concession made it clear that only such relief would be granted which this Adjudicating Authority is empowered to in view of the decision of the Hon'ble Supreme Court in the case of M/s Embassy Property Developments Pvt. Ltd. and Gujarat UrjaVikas Nigam Limited.

8. The amount provided for various stakeholders under the Resolution Plan is reproduced hereunder:

(Amount in Rs. Lakh)						
Sr. N	Category of	Sub-Category of	Amount Claimed	Amount Admitted	Amount provide	Amount

(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	Secured Financial Creditors	(a) Creditors not having a right to vote under subsection (2) of Section 21	NIL	NIL	NIL	NIL
		(b) Other than (a) above:				
		(i) who did not vote in favour of the resolution Plan	NIL	NIL	NIL	NIL
		(ii) who voted in favour of the resolution plan	1,61,945.69	1,61,945.69	7,849.00	4.85%
		Total [(a)+(b)]	1,61,945.69	1,61,945.69	7,849.00	4.85%
2	Unsecured Financial Creditors	(a) Creditors not having a right to vote under subsection (2) of section 21	NIL	NIL	NIL	NIL
		(b) Other than (a) above:				
		(i) who did not vote in favour of the resolution plan	NIL	NIL	NIL	NIL
		(ii) who voted in favour of the resolution plan	NIL	NIL	NIL	NIL
		Total[(a)+(b)]	NIL	NIL	NIL	NIL
3	Operational Creditors	(a) Related party of the Corporate Debtor	NIL	NIL	NIL	NIL
		(b) Other than (a) above:				
		(i) Government	8454.33	8450.80	NIL	NIL
		(ii) Workmen	NIL	NIL	NIL	NIL
		(iii) Employees	NIL	NIL	NIL	NIL
		(iv) Others	26.56	22.41	11.00	49.09%

		Total[(a)+(b)]	8,480.89	8,473.21	11.00	0.13%
4	Other debts and dues		N.A.	N.A.	N.A.	N.A.
	Grand Total	[1+2+3]	1,70,426.58	1,70,418.90	7,860.00	4.61%

9. We have considered the submissions made by learned counsel for the Applicant and perused the material available on record. It is noted that CoC in its 10th meeting held on 22.01.2021 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. There are no preferential undervalue or extortionate transaction. Resolution Applicant has also filed an affidavit dated 25.09.2020 regarding its eligibility to submit a Resolution Plan under Section 29A of IBC, 2016. Resolution Applicant has also provided the performance security amounting to Rs. 10 crores. We have also perused the contents of the Resolution Plan and all documents/compliance certificates as required under Section 30(2) of IBC, 2016 read with 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. 1,70,426.58 Lakhs and Resolution Applicant has

committed for payment to them at Rs. 7,860.00 Lakhs which amounts to 4.61% 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. Accordingly, we approve the Resolution Plan as proposed by Resolution Applicant and approved by CoC and in terms of relief and concessions ordered by this Adjudicating Authority as per clause 5 hereinafter and pass following order:

- 1) The approved 'Resolution Plan' shall become effective from the date of passing of this order.
- 2) The order of moratorium dated 23.01.2020 passed by this Adjudicating Authority under Section 14 of IBC, 2016 shall cease to have effect from the date of passing of this order.

- 3) The Resolution Professional shall forthwith send a copy of this Order to the participants and the Resolution Applicant(s).
- 4) 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.
- 5) As regard to various reliefs and concessions which are being sought, we hereby grant following relief and concessions only as against relief and concessions claimed by Resolution Professional:-

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. 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;
- V. 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;

- VI. 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 of the business operations of the Corporate Debtor;
- VII. The Board of Directors of the Corporate Debtor shall also be reconstituted and procedural compliances shall be done to give effect to such reconstitution;
- VIII. The Resolution Applicant shall, pursuant to the Resolution Plan approved under Section 31(1) of the Code, obtain 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;

- IX. 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 reduction of share capital and issuance of Compulsory Convertible Preference Shares (CCPS) to the Financial Creditor shall be binding on them. This order shall be treated as evidence of compliances of all approvals as may be required in this regard under the provisions of the Companies Act, 2013; however, procedural formalities will be done by Corporate Debtor / Resolution Applicant.
- X. On approval of Resolution Plan, the relevant approvals by the ROC, NCLT, BSE, NSE, SEBI, NSDL, CDSL with respect to the reduction of capital and issuance of fresh capital etc. as may be required to implement the provision of the Resolution Plan will be deemed to have been granted. However, any procedures, if required, would be complied with by the Resolution Applicant. Further the existing shareholders shall

cease to own the shares of the Company immediately on approval of the Resolution Plan. The authorised capital would stay intact. The Company shall simultaneously issue fresh equity to the Resolution Applicant and to the persons, entities of its choice in the manner mentioned in the detailed terms of the Resolution Plan. However, public shareholding shall be maintained at minimum 5 % of the share capital of the Corporate Debtor.

XI. All power of attorney or authorisations executed by the Board of the Corporate Debtor on or prior to effective date shall stand revoked, cancelled and shall be void.

XII. For reliefs and concessions sought in respect to payment of stamp duty, tax and / or other fees or duty to any government authority, we direct the resolution applicant to approach the concerned Authorities who shall decide the issues including waivers / exemption from such stamp duty, taxes and / or other fees or duty.

- XIII. All licenses, permits, leasehold rights, Trademark / copyright etc. belonging to the Corporate Debtor whether expired or expiring during process of implementation of the Resolution Plan shall remain vested with the Corporate Debtor and Corporate Debtor / Resolution Applicant shall approach relevant authorities for obtaining / renewal of such aforesaid rights i.e. licenses, permits, leasehold rights, Trademark / copyright etc. We further hold that monitoring committee and Resolution Professional shall provide necessary support and corporation in this regard.
- XIV. Personal Guarantee shall not stand released or extinguished and the financial creditors shall be at liberty to deal with such personal guarantee as per the applicable laws.
- XV. All other terms and conditions of the Resolution plan which are not specifically denied or modified shall be deemed to have been granted in terms of the Resolution Plan approved by CoC.



10. Accordingly, IA/309(AHM)/2021 in CP (IB) No. 350 of 2019 is allowed and stands disposed of in terms of the above directions.
11. 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)

Mansi J.