

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH

CA 62/C-II/ND/2018
(IB)-~~434~~(ND)/2017

In the matter of

Asis Plywood Limited

.....Corporate Debtor

AND

SAMRAT LAMINATES PVT. LTD.
182/11, Industrial Area, Phase - I,
Chandigarh
CIN - 420212CH2002PTC025251
(Through Mr. Devendra Padamchand Jain,
Resolution Professional)

.....Resolution Applicant

SECTION: 9 of IBC, 2016

Order delivered on: 01.07.2019

Coram:

SMT. INA MALHOTRA, HON'BLE MEMBER (J)
SH. V.K. SUBBURAJ, HON'BLE MEMBER (T)

Present: **Mr. Devendra Padamchand Jain, Resolution Professional**

ORDER

PER SMT. INA MALHOTRA, MEMBER (J)

1. The Corporate Debtor, Asis Plywood Limited, had filed a petition under Section 10 of the IBC, 2016, praying for initiating its Resolution Process as it was unable to meet its debts. The said process has now culminated in an

application u/s 31 of the IBC, putting forth a Resolution Plan as approved by its COC.

2. The brief background is that the Corporate Debtor, M/s. Asis Plywood Ltd. was engaged in the manufacture of plywood with its manufacturing unit at Roorkee. It acquired the business of Metro Doors Pvt. Ltd. and the Asis Group holds 100% equity. The Corporate Debtor was engaged in the manufacture of doors made of various material including wood, metal and plastic. Due to various reasons the installed capacity of the Plant of Corporate Debtor could not be utilized at its optimum level, resulting into financial hardship and closure of the Unit in February, 2013. The Corporate Debtor was thereafter registered as a Sick Unit by the Board for Industrial and Financial Reconstruction (BIFR) under Ref. No. 87/2013. The reference of BIFR was abated due to initiation of proceedings under SARFAESI Act by order dated 4th November, 2016.

3. In view of this background the petitioner had filed the present petition before this Bench under Section 10 of the Insolvency & Bankruptcy Code, 2016. The said petition was annexed with documents as mandated under the Act, including the name and consent of the proposed IRP whose certificate of registration was also on record. Upon the petition being considered by this Bench, it was admitted vide our order dated 21.11.2017. The proposed name of Mr. Devendra Padamchand Jain, who was confirmed by this Bench, was

also later confirmed as the RP in this case. He has taken all steps as are required under the Code, including getting the valuation conducted and inviting the expression of interest. Public notice was effected in the Hindi and English editions of "The Business Standard" and "The Hawk" on 24.11.2017, pursuant to which the claims were received. Separate intimation was also sent to all the secured and unsecured financial creditors calling upon them to file their claims. The claims received and collated claims are as follows: -

Name of financial creditor	Claim amount - Rs. Lakhs
State Bank of India (Referred to as SBI)	5904.5
JM Financial Asset Reconstruction Company Limited (Referred to as JMFARC)	421.2
Edelweiss Asset Reconstruction Company Limited (Referred to as EARC)	89.3
JanakalyanSahakari Bank Ltd. (Referred to as JKSBL)	1722.1
Total	8137.1

4. The Corporate Debtor had availed credit facility from State Bank of India, Janakalyan Sahakari Bank Ltd. Apart from the land, the entire plant and machinery was hypothecated to State Bank of India and JKSBL, both

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having pari pasu charges on the receivable inventories of the Corporate Debtor. Substantial part of the Corporate Debtor's assets in the form of land and building at Raipur Industrial Estate, Bhagwanpur, Roorkee was offered as a corporate guarantee for the loan availed by its group company M/s. Shirdi Industries. The charge over the land and building secured the credit limits availed by M/s. Shirdi Industries Limited and are proposed to be disposed off under its resolution plan approved by the COC in their meeting. The said Resolution Plan pertaining to M/s. Shirdi Industries has been duly accepted by the Mumbai Bench of the NCLT. The secured financial creditor, of the Corporate Debtor viz. SBI has collateral security in the form of land at Gummidipoondi near Chennai, in Tamil Nadu. An OTS was agreed upon between the Corporate Debtor and SBI that entire claim would be liquidated for Rs. 6.27 crores. Out of the aforesaid amount, Rs. 2.18 crores was paid and the balance due of Rs. 4.09 crores is payable. This was proposed to be arranged through the sale of the asset under charge of the SBI. Since the sale of the assets of the Corporate Debtor are now under a resolution process, the balance payment to SBI under the OTS could not be raised and paid to them, due to which SBI initially sought to resile from its OTS and claimed the entire amount.

5. Upon inviting the expression of interests, only one resolution plan was received i.e. by Samrat Laminates Pvt. Ltd. Due diligence was conducted into

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the financial status of the resolution applicant who is engaged in the manufacture of decorative laminates and has its manufacturing units at Dera Bassi in Punjab and Nalagad in Himachal Pradesh. It has a strong work force of more than 2000 people and a wide marketing network. Their financial background has been duly assessed. As per their statement, they are amongst the top 5 plywood brands in India. They submit that they have technological prowess and expertise in terms of global standards. The resolution plan, as proposed by them after revision has unanimously been approved by the COC.

6. Broad features of the Resolution Plan are that the Resolution applicant shall infuse a sum of Rs. 10.25 crores, of which a sum of Rs. 1.025 crores has been paid upfront and kept in an escrow account to be disbursed on acceptance of this plan. There are other Financial Creditors whose claims have been quantified at Rs. 706.35 Lakhs. The Resolution Plan has provided for liquidating these dues at 10% i.e. at Rs. 70.63 Lakhs.

7. The resolution plan upon revision and approval of 100% of its Financial Creditors forming the COC has been put forth for consideration of this Adjudicating Authority. The total CIR costs is stated to be Rs. 20 lakhs and shall be paid within 15 days of approval. The entire equity shall be transferred at a share price of 0.1 to the resolution applicant or its nominees by the erstwhile shareholder. This amount shall be paid to the existing shareholders.

8. A supervisory body has been constituted to ensure that there is no default. Consequence of the default would be that either the entire amount received from resolution applicant be forfeited, or in the alternative shall be recovered from the Resolution Applicant with interest @ 12% on a reducing balance. The supervisory body shall consist of the financial creditors represented by the Resolution Professional as their authorized person of the COC. All charges on the assets of the Corporate Debtor and the guarantees which are charged against the credit of the Corporate Debtor shall be released upon payment as afore-stated and assets shall be deemed to be free from all sort of claim and encumbrances etc. The entire claim payable to the Financial Creditors, as on the cut of date, shall be written off after due adjustment of the amount offered under the Resolution Plan.

9. The Resolution Plan was unanimously approved by the COC.

10. Though no claims has been received from any Operational Creditor, based on the outstanding liability reflected in the Books of Accounts/Financial Statements of the Corporate Debtor, the Resolution Applicant has made a provision of liquidating these dues @ 20% of the claims. A provision has been made against claims of Rs. 86.85 lakhs of the Operational Creditors to be liquidated at 20% i.e. for Rs. 17.37 lakhs. There are other Government dues towards payment of Income tax. Their claim of Rs. 5.41 lakhs shall be liquidated at 20% i.e. for Rs. 1.08 Lakhs. Initially the



Resolution Applicant had prayed for waiver of MAT. They have now undertaken to be bound by the provisions of the Income Tax Act as applicable to a Resolution Process specifically provided for u/s 115JB of the I.T. Act. The Resolution Applicant shall make the payment of Rs. 20 Lakhs towards the entire CIR cost. The payments to be made in a nutshell are: -

Rupees in Lakhs

Sl. No.	Category of Stakeholder*	Amount Claimed	Amount Admitted	Amount Provided under the Plan#	Amount Provided to the Amount Claimed (%)
1	Dissenting Secured Financial Creditors	NIL	NIL	NIL	NIL
2	Secured Financial Creditors	8137.1	8137.1	1025 Lakhs	12.6%
3	Dissenting Unsecured Financial Creditors	NIL	NIL	NIL	NIL
4	Unsecured Financial Creditors	706.35	706.35	70.63	10%
5	Operational Creditors	86.85	86.85	17.37	20%
	Government (Income Tax) Other Govt. Authority	5.41	5.41	1.08	20%
	Workmen	NIL	NIL	NIL	NIL
	Employees	NIL	NIL	NIL	NIL
CIR Cost		20.14	20.14	20.14	100%

12. The details of payments towards each individual claimant proposed in the Resolution Plan is as: -



Sl. No.	Category of Stakeholder*	Amount claimed	Amount Provided under the Approved Plan	Affront payment	Balance payable within 30 days of approval by Authority
1	Secured Financial Creditors				
	State Bank of India	5904.5	437.10	74.38	362.72
	JM Financial Asset Reconstruction Company Limited	421.2	421.17	5.31	415.87
	Edelweiss Asset Reconstruction Company Limited	89.3	89.34	1.13	88.21
	Janakalyan Sahakari Bank Ltd.	1722.1	77.39	21.69	55.70
	Total	8137.1	1025.0	102.51	922.50
2	Unsecured Financial Creditors				
	Sharven Consultancy Pvt. Ltd.	248.0	24.80	0.00	24.80
	Labh Capital Services Pvt. Ltd.	427.0	42.70	0.00	42.70
	Asis Industries Ltd.	31.4	3.14	0.00	3.14
	Total	706.4	70.64	0.00	70.64
3	Operational Creditors (as disclosed in the application for u/s 10 of IBC for admission as no claims had been received from	86.85	17.37	0.00	17.37

	Operational Creditors)				
3	Government (no claims had been received from any Govt. Authority except Income Tax)	NIL 5.41	NIL 1.08	NIL 0	NIL 1.08
	Claim from Income Tax				
	Workmen (no claims had been received from Workman)	NIL	NIL	NIL	NIL
	Employees (no claims had been received from employees)	NIL	NIL	NIL	NIL
	Total	92.06	18.45	NIL	18.45
4	Other Debts and Dues (Insolvency resolution Process Cost)				
	Fees to RP	4.38	4.38	NIL	4.38
	Fees for valuation	9.00	9.00	NIL	9.00
	Advocates	4.81	4.81	NIL	4.81
	Others (Miscellaneous)	1.94	1.94	NIL	1.94
	Total	20.14	20.14	NIL	20.14
	Grand Total	8955.70	1134.23	102.51	1031.73

13. The Resolution Plan is annexed with Form H, accompanied by the affidavit of the RP deposing that the Resolution Plan complies with all requirements and regulations under the Code, more specifically that the



Resolution Applicant is eligible to propose the plan and is not disqualified under Section 29A of the Code. The eligibility as well as the financial background have been duly verified.

14. A perusal of the plan reflects that it provides for payment of the CIR costs and debt to the Operational Creditors. Provisions has been made for management of the affairs of the Corporate Debtor as well as for implementation and supervision of the resolution plan. Further, it is certified that the plan does not contravene any of the provision of law for the time being in force and the plan has been approved unanimously by the COC.

15. It is also submitted that due investigation into the affairs of the Corporate Debtor under Section 43, 45, 50 and 66 of the Code have been made and no adverse findings were recorded. With respect to the time frame to the Secured Financial Creditors shall be made within 30 days of receipt of the certified copy of the approval of this Bench upon which, all contract relating to the credit facility sanctioned by the Secured Financial Creditors shall be deemed to have been released and fully settled upon payment as per the Resolution Plan. No further right shall vest with the secured Financial Creditors thereafter. The secured Financial Creditors shall confirm that all charges over the property shall be released upon payment and the asset charged to them shall be deemed to be free from all kinds of encumbrances. The entire proposal is expected to be completed within 30 days of approval by


this Adjudicating Authority uploading of the order on the website, 100% shares held by the existing shareholders shall be transferred to the Resolution Applicant or its nominees. Satisfaction of the Resolution Professional and the COC has been brought on record. Under such circumstances we find that there is no legal impediment in approving the resolution plan.

16. Accordingly, the plan as proposed by M/s. Samrat Laminates stands approved. The plan shall be binding on the Corporate Debtor, its employees, members, Creditors, guarantors and other stake holders. The moratorium imposed on the assets of the Corporate Debtor stands vacated. On constitution of the new Board, due communication shall be effected in the records of the ROC. The Resolution Professional shall also take steps to forward all records relating to the conduct of the CIR process and the Resolution Plan, documents to IBBI for its record and data base in terms of Section 31(3)(b) of the Code.

Noting further services, file be consigned to the Records.



(V.K. Subburaj)
Member (T)



(Ina Malhotra)
Member (J)