

NATIONAL COMPANY LAW TRIBUNAL
COURT ROOM NO. 1,
MUMBAI BENCH

Item No. 28

IA(IBC)(PLAN)/ 56(MB)2025 IA 1044/2025 IA(I.B.C)/1875(MB)2025 in C.P. (IB)/9(MB)2023

CORAM:

SH. PRABHAT KUMAR SH. SUSHIL MAHADEORAO KOCHEY
HON'BLE MEMBER (TECHNICAL) HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF THE HEARING ON 04.08.2025

NAME OF THE PARTIES: PEGASUS ASSETS RECONSTRUCTION
PRIVATE LIMITED V/s VILSONS ROOFING
PRODUCT PRIVATE LIMITED

Section 60(5) & 7 of the Insolvency and Bankruptcy Code, 2016

ORDER

IA (I.B.C)/1875 (MB) 2025 & IA (IBC) (PLAN)/ 56 (MB) 2025 in C.P. (IB) / 9 (MB) 2023

- 1) Mr. Atishay Jain, Ld. Counsel for the Applicant (in IA 1875/2025) & Mr. Rajeev Kumar Panday, Ld. Counsel for the Respondent/Resolution Professional (in IA 1875/2025) and for the Applicant (in IA (IBC) (Plan) 56/2025) are present.
- 2) The present Interlocutory Application has been filed by the Applicant, objecting to the Resolution Plan Application (i.e. IA (IBC) (Plan) 56/2025). Counsel for the Applicant seeks short Passover in the matter contending that the Arguing Counsel is pre-occupied in another matter before another Court.

Respondent/Resolution Professional seeks some time to file and place on record document, by way of an Affidavit, in support of their arguments. Time is allowed. Affidavit be filed and placed on record well before the adjourned date thereby duly serving a copy thereof to the other side well in advance.

3) Stand over to 25.08.2025, for further consideration.

IA 1044/2025 in C.P. (IB) / 9 (MB) 2023

1) Mr. Kunal Chheda, Ld. Counsel for the Applicant, Mr. Rajeev Kumar Panday, Ld. Counsel for the Resolution Professional and Mr. Pulkit Sharma, Ld. Counsel for the Respondent No. 2 are present.

2) The present Interlocutory Application has been filed by the Applicant/Sahyadri Industries Ltd, praying for the following reliefs:

- a. This Hon'ble Tribunal be pleased to permit the Applicant to submit the Resolution Plan and pay the EMD;*
- b. This Hon'ble Tribunal be pleased to direct the CoC to consider the Resolution Plan of Applicant in terms of parameters set for all proposed resolution applicants and in accordance of the code;*
- c. Delay of 203 days in submitting EOI and 150 days in submitting the plan may be condoned.*

3) The Corporate Insolvency Resolution Process against the Corporate Debtor commenced by an Order of this Tribunal dt. 27.10.2023. The Applicant herein is the interested Party in submitting the Resolution Plan for revival of the Corporate Debtor and keeping it as a going concern and an E-mail has been addressed to the Resolution Professional regarding the Expression of Interest.

Respondent No. 1 mentioned that their Application has been forwarded to the Committee of Creditors shall communicate suitably to the Applicant.

- 4) Applicant submits that the Committee of Creditors (CoC) have not approved any plan and no prejudice shall be caused if the Plan is put forward for consideration. In fact, there is potential of maximization of value of the Corporate Debtor and submitting a Plan would be worth a consideration of CoC and shall benefit all the Creditors.
- 5) It has been noticed that the Applicant herein did not participate in the bidding process initiated through the Form 'G', but, evincing interests at the present final stage of the Corporate Insolvency Resolution Process.
- 6) The issue before this Bench is to determine whether the Applicant herein could be allowed to submit a Resolution Plan for value maximization of the Corporate Debtor under the existing provisions of the Code and the Regulations, particularly Regulation 39(1-B) read with Regulation 36-B(7) of IBBI (CIRP) Regulations, 2016.
- 7) At this stage, it is relevant to read Regulation 39 of CIRP Regulations, which is quoted as under, for the convenience:

Regulation 39: Approval of resolution plan.

1(A).

1(B) The committee shall not consider any resolution plan -

a) received after the time as specified by the committee under [regulation 36B](#); or

- b) received from a person who does not appear in the final list of prospective resolution applicants; or
- c) *does not comply with the provisions of sub-section (2) of [section 30](#) and sub-regulation (1).*

8) A bare reading of the above provisions, particularly the one underlined, indicate that the Regulations do not permit the proposals to be entertained which are not there in the final list of the Prospective Resolution Applicants.

9) The submissions of the Applicant herein that by accepting its Resolution Plan, it maximises the value of the assets of the Corporate Debtor and the intent of code is to keep the Corporate Debtor as a going concern and to maximize the amounts for benefit of Creditors, cannot be accepted by giving a go by to the Code and particularly Regulations as this Tribunal is bound by the Code and Regulations.

10) The Hon'ble National Company Law Appellate Tribunal in the case of *Jindal Power Limited...vs...Dhiren Shantilal Shah and Anr.*, Company Appeal (AT) (Insolvency) No. 1166-1167 of 2023, at para 31 held as under:

“31. If unsolicited plans are obtained at any stage it will cause unnecessary avoidable delay in the CIRP process. If resolution plans are allowed to be submitted at any stage, it will make the whole CIRP process unending. To curtail the delay in the CIRP process, it is appropriate to restrain the tendency to consider resolution plans after the time as specified by the CoC and from someone not in the final list of PRAs. This has been the spirit and justification of newly inserted

provisions in the Regulations in 2021 and which has been eloquently described in the Discussion Paper of the IBBI, before changes were brought in and which have also been referred to by SRA viz. SEAPOL”.

- 11) No doubt the whole process prescribed in the Code and supported by Regulations aims at maximization of the value for the Corporate Debtor but it cannot give a go by to the existing specific Regulations as discussed above.
- 12) In that view of the matter, we are of the considered view that the present Interlocutory Application bearing IA No. 1044 of 2025, sans merit, accordingly, the same is disposed of as dismissed.
- 13) There will, however, be no order as to costs. Ordered Accordingly.

Sd/-

**PRABHAT KUMAR
MEMBER (TECHNICAL)**

Sd/-

**SUSHIL MAHADEORAO KOCHEY
MEMBER (JUDICIAL)**

Vedant Kedare
(Stenographer)