



NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH COURT III

Item No.116

I.A 5438/2024

I.A. 1886/2023

IA(I.B.C)/5632(MB)/2025

In

C.P.(IB)-1745(MB)/2017

CORAM: MS. LAKSHMI GURUNG, MEMBER (J)
SH. HARIHARAN NEELAKANTA IYER, MEMBER (T)

ORDER SHEET OF THE HEARING ON **06.04.2026**

(HEARING THROUGH: HYBRID MODE)

NAME OF THE PARTIES : Gajanan Paper Mills Pvt Ltd

Appearance

For Applicant: Adv. Pulkit Sharma a/w Rohan Vasa, Naman Jain
& Adv. Mahendra Prasad Jindal in IA 5438/2024 (PH)
Adv. Ryan Dsouza i/b Harmish Shah in
IA 5632/2025 (PH)

For CoC: Mr. Mahendra Prasad Jindal (PH)

For Respondent : Adv. Anup Khaitan i/b Dheeraj Patil for SBI (VC)

SECTION 10 OF THE IBC, 2016

ORDER

I.A 5438/2024 [Sec.60(5)]

1. This application has been filed by Chairman of Monitoring Committee & Erstwhile RP of Gajanan Paper Mills Pvt. Ltd. (Corporate Debtor/CD) seeking following prayers:
 - a. *Allow the present Application;*
 - b. *Set aside the Resolution Plan of Respondent No. 1 approved by this Hon'ble Tribunal vide order dated 14.10.2019;*
 - c. *Order the re-instatement of the CIRP and permit the re-issuance of Form-G;*



Unquote

5. It is abundantly clear that SRA has miserably failed to implement the approved resolution plan. Under such circumstances the usual cause would be liquidation of the CD. However, the Suspended Director filed the IA opposing the liquidation and has continued with the management of the CD.
6. Ld. Counsel for the Chairman of the Monitoring Committee submits that a proposal from one of the Operational Creditors of the CD has been received for revival of CD. The said OC has also filed an I.A 5632/2025 for considering its resolution plan.
7. It is further submitted that the CoC has considered the situation and has deliberated about it in the 6th CoC Meeting held on 14.06.2024. The relevant extract from the Minutes of the meeting are reproduced below:
 7. *The chairman informed that the SRA has stopped the manufacturing operations in the plant of the CD and did not pay the electricity dues for the month of February and March, 2024 therefore the power supply has been disconnected by the electricity company since 1st week of April, 2024. The chairman asked representative of SBI that in these circumstances whether he is agreed that the possession be taken by monitoring committee. The representative of SBI denied for the same and informed that let the proceedings before the NCLT should be completed and then and step will be taken in this regard if needed.*
 8. xxx
 9. *The Chairman invited the members to discuss about the letter of third-party creditor Mr. Swatantra Kumar Jolly dated 04-06-2024 wherein he mentioned his credential, experience and resourcefulness to show his competency to give resolution plan to revive and resolve the CD as a going concern. He submitted the balance sheets and profit and loss account of his business concern 'or the year 2023-24 and stated that he is in same line of business of paper manufacturing/ trading of various types*



of paper and related products since last 30 years. The said third party creditor also submitted a cheque of Rs. 25 lacs drawn on HDFC bank in the name of Kamdhenu Trading Company a/c State bank of India (physical cheque not received yet by the chairman or SBI) meant to keep deposited in the said account with SBI for the purpose of adjustment towards payment to be proposed in the resolution plan. The said third part creditor/ proposer also shown his intention/readiness to propose better resolution plan and propose to implement the resolution plan within 3 months from the date of approval of NCLT.

The representative of the SBI Mr. Rajendra Dahat asked whether the same is permissible under the facts and circumstance when a resolution plan has already approved but failed to be implemented and an application for liquidation of the CD is pending before the Hon'ble NCLT.

The Chairman informed that normally in such circumstances the CD may be sold as a going concern in liquidation if the facts & circumstances permit but in one or two similar cases the NCLT permitted the reinstatement/reboot of CIRP and allow CIRP by publication of form G and invite expression of interest and resolution plan and appointed the chairman as the resolution professional. The Hon'ble NCLT has inherent power & jurisdiction under section 60(5) of IBC,2016 and rule 11 of NCLT rules to decide and dispose of any application in the interest of justice and maximisation the value of CD. It is the monitoring committee (Erstwhile CoC) to take a call in such circumstances whether to file application for seeking permission to re-initiate CIRP by publishing fresh Form-G or to continue with the liquidation. In case CIRP is to be revived, a suitable IA is required to be filed before the NCLT to decide appropriately if the monitoring committee is determined in this regard.

The representative of SBI Mr Rajendra Dahat expressed that if an experienced and resourceful person is ready to submit a suitable/better resolution plan with lesser implementation period than the presently - failed though approved resolution plan, then SBI is agreed to permit the said person to submit the resolution plan.



8. After detailed deliberation the CoC passed following resolution with 100% voting:

“RESOLVED that a suitable IA be filed before the Hon’ble NCLT to pray for the reinstatement/reboot the CIRP from the date of publication of form G for invitation of resolution plan and a period of 120 days be granted to complete the process and file a fresh Interlocutory Application along with the approved resolution plan, if any, before the NCLT to approve the new resolution plan.

RESOLVED Further that Mr. Mahendra Prasad Jindal being the erstwhile resolution professional be appointed as resolution professional to complete the CIRP as per the provisions of IBC, 2016 at a remuneration as per the applicable provisions of CIRP regulation 34B”

9. It is also submitted that SBI was the sole secured financial creditor and has recovered its entire admitted debt from one of the personal guarantors of the CD and the CD is now a debt free company with all its assets being unencumbered. At this stage Adv. Anup Khaitan appears on behalf of SBI and submits that entire dues have been paid by the guarantors.
10. Ld. Counsel for the applicant has further stated that this Tribunal in IA 1956/2024 in CP 1765/2018 vide order dated 06.09.2024 in the matter of *Lavasa Corporation Limited*, after considering the various judgments of Hon’ble NCLAT and Hon’ble Supreme Court has permitted revival of the resolution process.
11. In the present case also, based on the averments in the affidavit dated 04.07.2025, it is amply clear that the SRA has miserably failed to implement the resolution plan. Further, it is in the realm of commercial wisdom of CoC to decide next course of action in the facts and circumstances of the present case and to decide to go for liquidation or to reboot the CIRP process especially in view that there are no Secured Financial Creditors in the CD and the CD has MIDC leasehold land on



which plant and machinery are installed which has high potential to operationalize the CD for manufacture of paper.

12. By now, it is a well-established principle as held in ***Swiss Ribbons (P) Ltd Vs Union of India (2019) 4 SCC 17*** that IBC is first and foremost a Code for insolvency resolution of a stressed Corporate Debtor and liquidation should be the last resort. Considering the observations by the Hon'ble Supreme Court in a catena of cases including ***Swiss Ribbons (supra)*** that under IBC, all efforts must be made to revive the CD and liquidation should be the last resort, we agree with the submission of the applicant and CoC that another opportunity may be given to the CD for revival of its insolvency resolution process as the CD has unencumbered assets with high potential for operationalization which will be in the interest of value maximisation of the CD.
13. Accordingly, we allow the present application and permit the re-issuance of Form-G. The applicant is re-instated as Resolution Professional of the CD and shall publish Form-G in **Economic Times** in English and **Loksatta** in Marathi, both having wide circulation. The applicant shall endeavour to complete the entire process within 90 days from today.
14. The RP is directed to take the control and custody of the assets of the Corporate Debtor from the erstwhile SRA forthwith and shall be responsible for management of the CD from today.
15. Accordingly, I.A 5438/2024 is allowed and stands **disposed of**.

I.A. 1886/2023 [Sec.33(3)] & IA(I.B.C)/5632(MB)/2025 [Sec.60(5)]

In view of the order passed in I.A 5438/2024 the captioned IAs have become infructuous. Therefore, both the captioned I.A.s are **disposed of** having rendered **infructuous**.



C.P.(IB)-1745(MB)/2017

List the CP as and when a new IA is filed.

Sd/-
HARIHARAN NEELAKANTA IYER
Member (Technical)
--Shripad--

Sd/-
LAKSHMI GURUNG
Member (Judicial)