



IA (Plan) 17 of 2024  
IN  
CP(IB) No. 334 of 2022

**IN THE NATIONAL COMPANY LAW TRIBUNAL**

**AHMEDABAD (COURT - II)**

**IA (Plan) 17 of 2024**

**IN**

**CP(IB) No. 334 of 2022**

(Application on behalf of the Resolution Professional under Section 30(6), Section 31 r.w. Section 60(5) of the IBC, 2016 r.w Regulation 39(4) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016)

**IN THE MATTER OF:**

Rekha Pankaj Maheshwari Prop.

Of Shree Laxmira Alloys

....Operational Creditor

Versus

Dharma Extrusions Pvt. Ltd.

...Corporate Debtor

**Order pronounced on 27.03.2025**

**Coram:**

**MRS. CHITRA HANKARE  
HON'BLE MEMBER (JUDICIAL)**

**MR. VELAMUR G VENKATA CHALAPATHY  
HON'BLE MEMBER (TECHNICAL)**

**MEMO OF PARTIES**

Dharma Extrusions Pvt. Ltd.  
Through its Resolution Professional  
Mr. Rishabh Chand Lodha  
Having registered address with IBBI at  
E-5, Basant Vihar Bhilwara-311001, Rj.


....Applicant

**Present:**

For the RP : Mr. Harshil Patel, Adv.  
Resolution Professional : Mr. Rishabh Chand Lodha

**JUDGEMENT**

1. The present application has been filed under Section 30(6) of the Insolvency & Bankruptcy Code, 2016 (“IBC, 2016/the Code”) by the Resolution Professional of the corporate debtor seeking approval of the Resolution Plan submitted by the Successful Resolution Applicant, i.e., Mr. Amit Singh, which has been approved with 98.96% vote casted in favour by the Committee of Creditors.
2. The Operational Creditor had filed an insolvency application under Section 9 of the Code for initiation of Corporate Insolvency Resolution Process (“CIRP”) against the Corporate Debtor which was admitted vide Order dated 06.06.2023 and whereby Mr. Hitesh Narayanbhai Agarwal was appointed as IRP. The public announcement inviting the claims from creditors of the Corporate Debtor was made in Form-A on



09.06.2023 wherein the last date for submission of claims was 20.06.2023.

3. It is stated that after receiving the claims, the IRP collated the claims and constituted the Committee of Creditors (“CoC”) on 04.07.2023 comprising of four financial creditors.
4. The 1<sup>st</sup> CoC meeting was held on 10.07.2023, wherein it was unanimously resolved to replace IRP Mr. Hitesh Narayanbhai Agarwal with that of the Applicant herein Rishabh Chand Lodha. Subsequently this Tribunal vide order dated 27.07.2023 in IA 790 of 2023, confirmed the appointment of the applicant as the RP.
5. The 2<sup>nd</sup> CoC meeting was held on 31.07.2023 wherein the members of CoC inter alia resolved to initiate the process of inviting Expression of Interest (“EoI”) by publishing Form-G; further the CoC also approved minimum eligibility criteria for Prospective Resolution Applicants (“PRAs”). Accordingly, the Resolution Professional had published Invitation for Expression of Interest in Form-G on 05.08.2023 and the last date for receipt of Expression of Interest was stipulated as 25.08.2023. Moreover, the CoC also approved the resolution qua appointment of registered valuers.




6. In the 3<sup>rd</sup> CoC meeting held on 16.08.2023, the COC unanimously approved the resolution qua issuance of Request for Resolution Plan (“RFRP”) and fixed an amount of Rs. 5 lacs as Earnest Money Deposit (“EMD”) to be deposited during the submission of resolution plan and the successful Resolution Applicant to provide a performance security of Rs. 50 lakhs or 10% of the resolution amount, whichever is higher in favour of the Corporate Debtor.
7. During the 4<sup>th</sup> CoC meeting dated 07.10.2023, the RP apprised the members of CoC that he has received twelve (12) EoI from the PRAs. During the 5<sup>th</sup> CoC meeting dated 02.11.2023, the RP apprised the members of CoC that out of 12 PRAs in the Final list, only 3 Resolution Plans were received. Thereafter the 6<sup>th</sup> CoC meeting was convened on 14.11.2023, wherein members resolved to extend the period of CIRP by further 90 days which was allowed by this Tribunal vide order dated 01.12.2023 in IA 1357 of 2023.
8. During the 8<sup>th</sup> CoC meeting dated 09.01.2024, resolution plans submitted by prospective resolution applicants were discussed. However, the CoC observed that resolution plan value offered by all the PRAs was very low compared to the



Fair Value. Therefore, in view to value maximization of the assets of the CD, CoC resolved to re-issue Form G. Accordingly, it was resolved to extend CIRP period by 60 days beyond 270 days which was approved by this Tribunal vide order dated 27.02.2024 in IA 372 of 2024.

9. The RP again published Invitation for Expression of Interest in Form G on 12.01.2024. The last date for submission for EoI was stipulated as 27.01.2024. During the 9<sup>th</sup> CoC meeting dated 15.03.2024, the RP apprised the members of CoC that he has received six (06) EoI from the PRAs. Out of 06 PRAs in the Final list, only 2 Resolution Plans were received from the following resolution applicants:
  - a) M/s SS Technocrats India (Proprietorship), and
  - b) Sonal Yogeshbhai Shah (Individual)
10. A transaction auditor was appointed by the applicant to assist in forming an opinion as to whether any Preferential, Undervalued, Extortionate or Fraudulent transactions have been committed by the CD within the statutory time period. Thereafter the Transaction Auditor, submitted the final transaction audit report dated 23.10.2023, and the applicant thereafter placed the report before the COC members in the




CoC meeting for their consideration. Based on the transaction audit report it was established that Preferential, and Fraudulent transactions were committed by the CD and therefore Interlocutory Application No. 1342 of 2023 under Section 43, & 66 of the IBC, 2016 was filed before this Tribunal on 20.11.2023, which is pending for adjudication.

11. The applicant stated that Six (06) Registered Valuers were appointed by him. Average fair and liquidation value of the Corporate Debtor calculated on the basis of the said valuation reports are as follows:


<b>S.No.</b>	<b>Assets</b>	<b>Average Fair Value</b>	<b>Average Liquidation Value</b>
1.	Building	68,97,000/-	54,68,500/-
2.	Plant & Machinery	1,69,50,000/-	1,17,50,000/-
3.	Securities & Financial Assets	53,19,430/-	2,65,249/-
<b>Total (A)</b>		<b>2,91,66,430/-</b>	<b>1,74,83,749/-</b>

Furthermore, the applicant placed on record of Average fair and liquidation value of the factory Land parcel owned by individual guarantors/mortgagors to sole secured financial creditor i.e., City Union Bank, as the approved resolution plan is inclusive of transfer of factory land parcel in favour of SRA. Details of the valuation of Factory Land are as follows:



S.No.	Assets	Average Fair Value	Average Liquidation Value
1.	Land	1,78,87,000/-	1,24,09,447/-
<b>Total (A)</b>		<b>1,78,87,000/-</b>	<b>1,24,09,447/-</b>
<b>Total (A+B)</b>		<b>4,70,53,430/-</b>	<b>2,98,93,196/-</b>

12. Two resolution applicants have submitted affidavit in compliance of Section 29A. The applicant has examined and confirmed the eligibility of the resolution applicants. The applicant has also scrutinized and vetted the plan in respect of various compliances mentioned in the Code and the CIRP Regulations as well as the RFRP. The undertaking of Resolution Applicant is placed on record along with the report of the applicant regarding compliance check of Section 29A.
13. During the 10<sup>th</sup> CoC meeting dated 26.03.2024, summary and presentation of all the plans were placed before CoC. PRAs requested for 7 days' time for submission of their reply of general observations along with revised Resolution Plan. The adjourned 10<sup>th</sup> CoC meeting was held on 02.04.2024 wherein applicant appraised to the CoC that PRAs had submitted their revised financial bid. Bid of M/s SS Technocrats India (Proprietorship) was for Rs.1 crore and bid of Sonal Yogeshbhai Shah (Individual) was for Rs.4.55 crores, both inclusive of Land owned by guarantor. Accordingly, the CoC advised the RAs to submit their revised Resolution Plan incorporating all the



observations discussed in the CoC meeting and amount of revised financial bid, within a period of 2 days. The adjourned 10<sup>th</sup> CoC meeting resumed on 06.04.2024 wherein RP apprised the CoC regarding Evaluation Scores of both the resolution plans.

14. Accordingly, the Resolution Plan was put up for voting whereby the Resolution Plan submitted by the Sonal Yogeshbhai Shah (Individual) came to be approved by the CoC by 98.96% votes in favor.
15. After the approval of the resolution plan by the CoC, letter of intent (“LOI”) dated 11.04.2024 was issued in favour of the SRA Sonal Yogeshbhai Shah (Individual). The resolution applicant has already paid EMD alongwith the EoI. The resolution applicant has further deposited an amount of Rs. 50 Lakh towards Performance Security.
16. The amount provided to the stakeholders under the plan is as under:

<b>Payment to</b>	<b>Admitted claim amt. (In Lakhs)</b>	<b>In %</b>	<b>Crystalized amt. (In Lakhs)</b>
CIRP Cost	N.A.	-	25.00
<b>Secured Financial Creditors (A)</b>			
a) City Union Bank	1446.47	29.66	429.00
<b>Unsecured Financial Creditors (B)</b>			




Who did not vote in favour, i.e., Axis Finance Ltd.	15.37	0.41	0.13
Who voted in favour, i.e., Ashv Finance	14.41	0.83	0.12
<b>TOTAL (A + B)</b>	<b>29.78</b>	<b>0.54</b>	<b>0.25</b>
Government Dues: a) Employee Provident Fund; b) Employee State Insurance Corp;	0.20	100	0.20
Other Operational Creditors	829.07	0.07	0.55
<b>Grand Total</b>	<b>2503.78</b>	<b>16.30</b>	<b>455.00</b>

17. As per clause 4.3 of the Resolution Plan, the monitoring committee shall comprise of three members i.e. (i) Erstwhile Resolution Professional; (ii) Major Financial Creditors nominated by the Bank; (iii) Resolution Applicant or her authorized representative.
18. The applicant stated that the Resolution Plan of Successful Resolution Applicant is in compliance of Section 30(2) of the Code and Regulation 38 (1A) of the CIRP Regulations. The applicant further submitted undertaking qua Section 29A among others. The applicant has also verified the eligibility of the resolution applicant in terms of Section 29A. The applicant has already received EMD along with the EOI. The applicant has further deposited an amount of Rs. 50,00,000/- as DD towards Performance Security to consider his bid after the resolution plan is approved.



19. The Resolution Applicant proposed to fund the plan from raising fresh equity and unsecured loan. The applicant has also made a declaration regarding the feasibility and the viability of the plan. The Resolution Applicant has made a statement in relation to how the Resolution Plan has dealt with interests of all stakeholders, including financial and operational creditors of the Company. Further, the cause of default has also been addressed.
20. The applicant has produced Form H on record. As per the recitals, the fair value (only CD Assets) is Rs. 02.91 crores/- and liquidation value (only CD Assets) is Rs.1.75 crores/-. By and large, after going through the plan it is observed that all the compliances have been made in respect of the same and the approved resolution plan is higher than the Fair value of the assets.
21. In view of above, we observe that the Resolution Plan is in compliance of the provisions and we are satisfied in respect of the same. We find that the Resolution Plan has been approved with 98.96% voting share and is above the mandatory requirements and apparently from documents complies with provisions of IBC 2016. As per the CoC, the




plan meets the requirement of being viable and feasible for the revival of the Corporate Debtor. On perusal of the documents on record, we are also satisfied that the Resolution Plan is in accordance with sections 30 and 31 of the IBC and also complies with regulations 38 and 39 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

22. Hence, we pass the following order:


**ORDER**

- I. Application is allowed.
- II. The approved 'Resolution Plan' shall become effective from the date of passing of this order.
- III. The order of moratorium passed by this Adjudicating Authority under Section 14 of IBC, 2016 shall cease to have effect from the date of this order.
- IV. The Resolution Plan so approved shall be binding on the Corporate Debtor and its employees, members, creditors, guarantors and other stakeholders involved in the Resolution Plan.
- V. The monitoring committee as proposed in the resolution plan shall be constituted for supervising the effective




implementation of the Resolution Plan and continue till the payment plan is fully realised and is distributed.

- VI. The Resolution Professional, Mr. Rishabh Chand Lodha, shall be released from the duties of the Resolution Professional of the Corporate Debtor as per the provisions of the IBC, 2016 and rules/regulations made thereunder from the date of this order.
- VII. The Resolution Professional shall forward all records relating to the conduct of the corporate insolvency resolution process and approved Resolution Plan to the Insolvency and Bankruptcy Board of India to be recorded in its database.
- VIII. As regards various reliefs and concessions which are being sought, we hereby grant the following reliefs and concessions only as against reliefs and concessions claimed by the resolution applicant.
- IX. After the payment of the dues to the creditors, as per the resolution plan, all the liabilities/claims of the said stakeholders shall stand extinguished and other claims including Government/Statutory Authority, whether



lodged during CIRP or not, shall stand extinguished after approval of the resolution plan.

- X. From the date of this order, all claims against the Corporate Debtor, except those provided in the plan of the Corporate Debtor stand extinguished as sought in the Plan.
- XI. From the date of this order, all encumbrances on the assets of the Corporate Debtor before the Resolution Plan shall stand extinguished. No reliefs and concessions are granted to guarantee, if any, issued by the suspended management in an individual capacity to any of the creditors.
- XII. For reliefs and concessions sought from the Government / Statutory Authorities, we direct the resolution applicant to approach the concerned Authorities. The concerned Authorities are to consider and decide the matter as per applicable provisions of law for effective implementation of the Resolution Plan.
- XIII. As regards reliefs prayed under various provisions of the Income Tax Act, 1961, the Corporate Debtor/ Resolution Applicant may approach the Income Tax Authorities who



shall take a decision on relief and concessions sought by the resolution applicant in accordance with the provisions of the Income Tax Act, 1961.

- XIV. The Resolution Applicant shall be entitled to review, revise or terminate any appointments / agreements / understanding entered into by or on behalf of the Corporate Debtor in accordance with the terms and conditions of such agreements / MoUs / contracts.
- XV. The management of the Corporate Debtor shall be handed over to the Board of Directors as may be nominated by the SRA for the proper running of the operations /business of the Corporate Debtor.
- XVI. The Board of Directors of the Corporate Debtor shall also be reconstituted and procedural compliances shall be done to give effect to such reconstitution.
- XVII. The SRA shall, pursuant to the Resolution Plan approved under Section 31(1) of the Code, obtain 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 vide this order or within such period as provided for in such law, as the case may be.



XVIII. With respect to the grant of license/ Government approval, if the license or approval is terminated, suspended or revoked, the resolution applicant may approach the concerned Department/ Authorities for such approval/ renewal and Government Authorities may consider the request of the resolution applicant as per applicable provisions of law for effective implementation of the resolution plan.

XIX. Secured Financial Creditors will continue to exercise right to recover amount of PUEF Transactions (if any), reported by RP.

XX. A certified copy of this order be issued to all concerned parties upon compliance of all requisite formalities.

XXI. Accordingly, IA (Plan) No./17(AHM)/2024 in CP (IB) No./334(AHM)/2022 is disposed of.

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**-sd-**

**DR. V. G. VENKATA CHALAPATHY  
MEMBER (TECHNICAL)**

**CHITRA HANKARE  
MEMBER (JUDICIAL)**