



**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**AHMEDABAD**  
**DIVISION BENCH**  
**COURT - 1**

ITEM No.144

IA/859(AHM)2021 in CP(IB) 197 of 2020

**Orders under Section 30(6) r.w 31 IBC,2016**

**IN THE MATTER OF:**

Pinakin Shah RP of Mangalya Soft-Tech Ltd

.....Applicant

**Order delivered on 27/09/2022**

**Coram:**

Dr. Madan B. Gosavi, Hon'ble Member(J)  
Kaushalendra Kumar Singh, Hon'ble Member(T)

**PRESENT:**

For the Applicant :  
For the Respondent :

**ORDER**

The case is fixed for the pronouncement of the order. The order is pronounced in the open court, vide separate sheet.

-SD-

**KAUSHALENDRA KUMAR SINGH**  
**MEMBER (TECHNICAL)**

-SD-

**DR. MADAN B. GOSAVI**  
**MEMBER (JUDICIAL)**



**BEFORE THE ADJUDICATING AUTHORITY  
NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
AHMEDABAD  
COURT-1**

**IA No. 859 of 2021**

**in**

**CP (IB) No. 197 of 2020**

**IA No. 859 of 2021**

[An application under section 30(6) of the Insolvency and Bankruptcy Code, 2016]

**Pinakin Shah**

Resolution Professional of  
Mangalya Soft-Tech Limited

Having his address at:

302 Samruddhi, opposite Gujarat High Court,  
Income Tax Circle, Ashram road,  
Ahmedabad, Gujarat

**...Applicant/Resolution Professional**

**In the matter of:**

**CP (IB) No. 197 of 2020**

[An application under section 9 of the Insolvency and Bankruptcy Code, 2016]

**Harshadbhai Govindbhai Vankar**

Having office at;

G/17, Shakti Karupa Society,

I.O.C Road, Chandkheda,

Ahmedabad – 382424

**...Applicant / Operational Creditor**

**Versus**



**M/s. Mangalya Soft-tech Limited**

(CIN: L32100GJ1992PLC017564)

Having registered office at:

302, Samrudhi, opposite Old Gujarat High Court,

Income Tax Circle, Ashram Road,

Ahmedabad - 380014

**... Respondent/Corporate Debtor**

**Order reserved on 29.08.2022**

**Order pronounced on 27.09.2022**

**Coram: DR. MADAN B. GOSAVI, MEMBER (J)**

**KAUSHALENDRA KUMAR SINGH, MEMBER (T)**

**Appearance:**

Learned Counsel Mr. Pavan S. Godiawala along with Learned Counsel Mr. Naishal Mody and Learned Counsel Ms. Anushree Soni appeared for the Resolution Professional

Learned Counsel Mr. Ishan Shah appeared for the Resolution Applicant

Learnded Counsel Ms. Shivangi Vyas appeared on behalf of Learned Counsel Ms. Maithili Mehta for the Income Tax Authority

**ORDER**

1. This application (**IA 859 of 2021**) is filed under Section 30(6) of Insolvency & Bankruptcy Code, 2016 (**IBC, 2016**) by Mr. Pinakin Shah (**RP**) of the Corporate Debtor-M/s Mangalya Soft-Tech Limited for approval of the Resolution Plan submitted by M/s. Ratnakar Securities Private Limited.
2. The following are the submissions made by the Applicant/Resolution Professional in the present application IA 859 of 2021:



(i) The Corporate Debtor was admitted in Corporate Insolvency Resolution Process (**CIRP**) on 15.03.2021. Mr. Pinakin Shah was appointed as IRP. On 20.03.2021 the IRP made public announcement of CIRP of the Corporate Debtor in Business Standard, English newspaper and Ahmedabad Express, Gujarati Newspaper thereby calling upon its creditors to submit their claim with requisite proof. In the 1<sup>st</sup> meeting of Committee of Creditors (**CoC**) held on 17.04.2021, the Interim Resolution Profession (**IRP**) was appointed as the Resolution Profession (**RP**) of the Corporate Debtor. On 29.06.2021 the RP re-constituted the CoC of the following financial creditors allotting them voting percentage based on their debt value. It is as follows:

<b>Sr.</b>	<b>Financial Creditor</b>	<b>Voting percentage</b>
1	Harshadbhai Govindbhai Vankar	21.16%
2	Cameo Corporate Services Limited	8.73%
3	Bombay Stock Exchange (BSE) Limited	70.11%

The RP also prepared Information Memorandum of assets and liabilities of the Corporate Debtor.

(ii) The RP carried valuation of the assets of the Corporate Debtor on the basis of Information Memorandum and calculated fair value as well as liquidation value of the assets of the corporate debtor. The CoC instructed the RP to publish Form-G calling upon the prospective Resolution Applicants to submit the EoI/Resolution Plans for the Corporate Debtor.

(iii) On 24.04.2021 the RP published Form-G in widely circulated English as well as local language newspapers. In response thereto, he received 10 Expression of Interest (**EoI**).



Out of 10 EoI, only 3 Resolution Plans were received from GSEC Limited, Yashvi Construction and Ratnakar Securities Private Limited.

(iv) In 8<sup>th</sup> CoC meeting held on 20.10.2021, Resolution Plan of M/s. Ratnakar Securities Private Limited was discussed and approved by the CoC by 100% votes.

(v) The Resolution Applicant M/s. Ratnakar Securities Private Limited has proposed to pay a sum of Rs. 86,59,167/- against the total admitted claim. The details are as follows:

Sr.No.	Category of Stakeholder	Amount provided under the Plan
1	CIRP	15,00,000/-
2	Operational Creditor	3,53,197/-
3	Operational Creditor BSE	8,28,360/-
4	BSE Contingent Liability	2,50,000/-
5	Re-instate fees	5,00,000/- or actual (at the time of revocation or suspension)
6	Revocation application fees	25, 000/- (at the time of revocation application)
	<b>Total Up Front Payment</b>	<b>34,56,557/-</b>
	<b>Non-Financial Cost value in form of equity</b>	52,02,610/- (5,20,261 equity shares of Rs. 10/- each)
	<b>Cost of Resolution Plan</b>	<b>86,59,167/-</b>



3. Since, the CoC approved the Resolution Plan by requisite voting percentage, it is not necessary for us to go into details of commercial aspect of the plan. We proceed to examine the plan in view of section 30(2) and 31 of the IBC, 2016 r.w. Regulation 38 of the IBBI (CIRP of the Corporate Debtor Regulation, 2016). The RP has produced on record the compliance certificate in Form-H. It shows that fair value of the assets of the Corporate Debtor is Rs 15,000/- whereas, the liquidation value is Rs 15,000/-. The successful Resolution Applicant stated total cost of Resolution Plan is 86,59,167/-.

4. The Resolution Plan should adhere to the following requirements as per Section 30(2) of the IBC, 2016:

(i) It should provide for the payment of insolvency resolution process costs in priority to the repayment of other debts of the Corporate Debtor.

[Section 30(2)(a)]

(ii) The repayment of the debts of Operational Creditors and dissenting Financial Creditors should not be less than the amount to be paid to such respective creditors in the event of liquidation of the Corporate Debtor under section 53 of the IBC, 2016. Moreover, the payment to the Operational Creditor is to be made in priority over the Financial Creditor; and the payment to dissenting Financial Creditor is to be made in priority to the consenting Financial Creditors.

[Section 30(2)(b) read with CIRP Regulation 38(1)(a) & 38(1)(b)];

(iii) Provides for the management of the affairs of the Corporate Debtor after approval of the Resolution Plan.

[Section 30(2)(c) read with CIRP Regulation 38(2)(b)];



(iv) The implementation and supervision of the Resolution Plan.

[Section 30(2)(d) read with CIRP Regulation 38(2)(c)];

(v) It does not contravene any of the provisions of the law for the time being in force.

[Section 30(2)(e)];

(vi) It conforms to such other requirements as may be specified by the Board.

[Section 30(2)(f)]

Such other requirements of the Resolution Plan as detailed in IBBI (Resolution Process for Corporate Persons) Regulations, 2016 which are not covered above, are as under:

(a) The Resolution Plan should include statement as to how it has dealt with the interests of all stakeholders including Financial Creditors and Operational Creditors of the Corporate Debtor.

[CIRP Regulation 38 (1A)]

(b) The Resolution Plan should include a statement giving details as to whether the Resolution Applicant or any of its related parties has at any time failed to implement or caused to the failure of implementation of any other Resolution Plan which was approved by the Adjudicating Authority.

[CIRP Regulation 38 (1B)]

(c) The Resolution Plan should contain the term of the plan and its implementation schedule.

[CIRP Regulation 38(2)(a)]



(d) The Resolution Plan should also demonstrate that it addresses the cause of default; is feasible and viable; has provisions for its effective implementation; has provisions for approvals required and timeline for the same. Further that the Resolution Applicant has the capability to implement the Resolution Plan.

[CIRP Regulation 38(3)]

In view of the above provisions of the IBC, 2016, the Resolution Plan submitted before us has been examined as follows:

(i) In the Plan, the provision towards CIRP costs is made for Rs. 15,00,000/- in priority to the repayment of other debts of the Corporate Debtor. Thereby, section 30(2)(a) has been complied with.

(ii) The Operational Creditor will get an amount of Rs. 3,53,197/- The Operational Creditor BSE will get an amount of Rs. 8,28,360/-. The Secured Financial Creditors and Unsecured Financial Creditors have claimed NIL amount in the Resolution Plan. We hold that provisions of section 30(2)(b) read with CIRP Regulation 38(1)(a) & 38(1)(b) have been complied with.

(iii) The mechanism for management and control of the affairs of the Corporate Debtor after approval of the Resolution Plan has been provided in the Resolution Plan itself whereby Mr. Jayantilal Shah, Director of Ratnakar Securities Private Limited will act as CEO for the control and management of the Corporate Debtor. The same person will supervise the implementation of the Resolution Plan. We hold that thereby provisions of Section 30(2)(c) read with CIRP Regulation 38(2)(b).

(iv) The Resolution Plan contains a provision wherein, the implementation of the said plan will be supervised by Mr.



Jayantilal Shah, Director of Ratnakar Securities Private Limited. Thereby, Section 30(2)(d) read with CIRP Regulation 38(2)(c) has been complied with.

(v) The RP has submitted that the Plan does not contravene any provisions of law. We also noted that the plan does not contravene any provisions of the law for the time being in force. Thereby, Section 30(2)(e) has been complied with.

(vi) The Resolution Plan also conforms to other IBBI Regulations as given hereunder:

- a) The Resolution Plan adequately deals with the interests of all stakeholders, including Financial Creditors and Operational Creditors of the Corporate Debtor. Thereby, the Plan is in compliance with CIRP Regulation 38 (1A).
- b) It is submitted that neither the Resolution Applicant nor any of its related parties has at any time failed to implement or contributed to the failure of implementation of any other resolution plan which was approved by the Adjudicating Authority. Thereby, the Plan is in compliance with CIRP Regulation 38 (1B).
- c) The term of the Plan is 30 days maximum. It provides for the implementation schedule as under:

Sr.No.	Category of Stakeholder	Amount provided under the Plan	Time of Payment
1	CIRP	15,00,000/- (or actual)	within 30 days from the



			approval of the Resolution Plan.
2	Operational Creditor	3,53,197/-	within 30 days from the approval of the Resolution Plan.
3	Operational Creditor BSE	8,28,360/-	within 30 days from the approval of the Resolution Plan.
4	BSE Contingent Liability	2,50,000/-	within 30 days from the approval of the Resolution Plan.
5	Re-instate fees	5,00,000/- or actual (at the time of revocation or	At the time of revocation of



		suspension)	suspension
6	Revocation application fees	25, 000/- (at the time of revocation or suspension)	At the time of revocation application
	<b>Total Up Front Payment</b>	<b>34,56,557/-</b>	
	<b>Non-Financial Cost value in form of equity</b>	52,02,610/- (5,20,261 equity shares of Rs. 10/- each)	
	<b>Cost of Resolution Plan</b>	<b>86,59,167/-</b>	

Thereby CIRP Regulation 38(2)(a) has been complied with.

d) The Resolution Plan addresses the cause of default; is feasible and viable; has provisions for its effective implementation; contains provisions corporate debtor for approvals required and timeline for the same. Further that the Resolution Applicant has the capability to implement the resolution plan. Thus CIRP Regulation 38(3) has been complied with.

5. As far as reliefs and concessions claimed by the resolution applicant, the law has been well settled by the Hon'ble Supreme Court in the case of **Ghanashyam Mishra and Sons Private Limited Vs. Edelweiss Asset Reconstruction Company Limited and Ors. reported in MANU/SC/0273/2021** in the following words:



86. *“.....The legislative intent behind this is, to freeze all the claims so that the resolution applicant starts on a clean slate and is not flung with any surprise claims. If that is permitted, the very calculations on the basis of which the resolution applicant submits its plans, would go haywire and the plan would be unworkable.*

87. *We have no hesitation to say, that the word "other stakeholders" would squarely cover the Central Government, any State Government or any local authorities. The legislature, noticing that on account of obvious omission, certain tax authorities were not abiding by the mandate of I&B Code and continuing with the proceedings, has brought out the 2019 amendment so as to cure the said mischief.....”*

6. In view of the above, all past claims would stand extinguished. However, as far as various statutory rights vested with the Corporate Debtor in form of various licenses, leases, and other alike matter, we make it clear that the Successful Resolution Applicant has to approach the concerned statutory authority for those concessions and those authorities will consider the same as per their established procedure.

7. The proviso to section 31 of the IBC, 2016, states that before passing any order for approval of the Resolution Plan, the Adjudicating Authority should also satisfy that the Resolution Plan has provisions for its effective implementation. We being satisfied, approve the Resolution Plan submitted by M/s Ratnakar Securities Private Limited and in addition to the above directions, proceed to pass the following order:



- (i) Application is allowed.
- (ii) The Resolution Plan of M/s Ratnakar Securities Private Limited stands allowed as per section 30(6) of the IBC, 2016.
- (iii) The approved 'Resolution Plan' shall become effective from the date of passing of this order.
- (iv) The order of moratorium dated 15.03.2021 passed by this Adjudicating Authority under section 14 of IBC, 2016 shall cease to have effect from the date of passing of this order.
- (v) The Resolution Professional shall forthwith send a copy of this Order to the participants and the Resolution Applicant(s).
- (vi) The Resolution Applicant shall, pursuant to the resolution plan approved under section 31(1) of the IBC, 2016, 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 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;
- (vii) The Resolution Professional shall forward all records relating to the conduct of the CIRP and Resolution Plan to the Insolvency and Bankruptcy Board of India to be recorded in its database.
- (viii) Accordingly, IA 859 of 2021 in CP (IB) 197 of 2020 is allowed and stands disposed of in terms of the above directions.



- (ix) Urgent certified copy of this order, if applied for, to be issued to all concerned parties upon compliance with all requisite formalities.

**-SD-**

**KAUSHALENDRA KUMAR SINGH  
MEMBER (TECHNICAL)**

**-SD-**

**DR. MADAN B. GOSAVI  
MEMBER (JUDICIAL)**

Shweta Desai - LRA