

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**NEW DELHI**  
**BENCH-VI**

**I.A. No. 2402/(ND)/2021**  
**Connected with IB-2013/(ND)/2019**

Application under section 30(6) of the Insolvency and Bankruptcy Code, 2016 read with Regulation 39(4) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations 2016.

**In the matter of:**

**YOGESH GOPALAKRISHNA NAYAK**

*versus*

**SOLO METALS PVT. LTD.**

***...Operational Creditor***

***...Corporate Debtor***

**In the matter of:**

**ASHOK KUMAR DEWAN**

(Resolution Professional for 'Solo Metals Pvt. Ltd.')

***...Applicant***

And

**DAMANI ENTERPRISES**

(Resolution Applicant)

***...Resolution Applicant***

**Coram:**

**SH. P.S.N. PRASAD, Hon'ble Member (Judicial)**

**SH. HEMANT KUMAR SARANGI, Hon'ble Member (Technical)**

for Resolution Professional: Mr. Abhishek Anand and Mr. Kunal Godhwani, Advocates

I.A. No. 2402 of 2021  
Connected with IB no. 2013/(ND)/2019  
Yogesh Gopalakrishna v. Solo Metals Pvt. Ltd.



**ORDER**

**Per P.S.N. PRASAD, MEMBER (JUDICIAL)**

**Date: 24.12.2021**

1. This is an application filed by the Resolution Professional of 'M/s Solo Metals Private Limited' (Corporate Debtor) for approval of Resolution Plan under section 31 of the IBC, 2016.
2. This Adjudicating Authority vide its order dated 17.12.2019 admitted the application filed under section 9 of IBC, 2016, declared the moratorium and appointed Mr. Tarun Jaggi as the Interim Resolution Professional.
3. That, the then IRP, Mr. Tarun Kumar Jaggi made a Public Announcement in Form-A dated 25.12.2019 and invited claims from the creditors of the Corporate Debtor and after due verification of claims received, the IRP constituted a Committee of Creditors ('COC') of Corporate Debtor.
4. On the 1<sup>st</sup> meeting of COC held on 15.01.2020, it was decided that the IRP, Mr. Tarun Kumar Jaggi, to be replaced by another Resolution Professional, Mr. Navjit Singh and this Adjudicating



Authority vide its order dated 16.03.2020 appointed Mr. Navjit Singh as the Resolution Professional of the Corporate Debtor.

5. That the 2<sup>nd</sup> COC meeting was convened on 18.04.2020, wherein the RP, in terms of Regulation 27 of the CIRP Regulations, appointed Registered valuers to determine the fair and Liquidation value in accordance with Regulation 35 of the CIRP Regulations 2016. That on this very meeting the COC decided to replace the RP with another Resolution Professional, Mr. Ashok Kumar Dewan. This Adjudicating Authority vide its order dated 20.05.2020 allowed the application for Replacement of RP Mr. Navjit Singh with Mr. Ashok Kumar Dewan.
6. The RP, after the approval of COC, published an invitation for Expression of Interest (EOI) in Form-G on 28.05.2020 in 'Financial Express' (English) and 'Jansatta' (Hindi) in Delhi/ NCR edition and in 'Free Press journal' (English) and 'Navshakti' (Hindi) in Maharashtra covering Mumbai. The last date for submission of EOI was 12.06.2020 and last date stipulated for submission of Resolution Plan was 22.07.2020.



7. That the 4<sup>th</sup> COC meeting was convened on 28.07.2020 wherein, the RP submitted that 7 EOI's were received, out of which 6 formed part of the provisional List of eligible Prospective Resolution Applicant ('PRA'). Further, it was submitted by the RP that no Resolution Plan was received from the said PRA's, therefore the COC with 100% voting share approved for publishing fresh invitation of EOI in Form- G.
8. Pursuant to the 4<sup>th</sup> COC meeting, the RP published an invitation for Expression of Interest (EOI) in Form-G on 30.07.2020, in 'Financial Express' (English) and 'Jansatta' (Hindi) in Delhi/ NCR edition and in 'Free Press journal' (English) and 'Navshakti' (Hindi) in Maharashtra covering Mumbai. The last date for submission of EOI was 14.08.2020 and last date stipulated for submission of Resolution Plan was 03.10.2020.
9. That the 5<sup>th</sup> COC meeting was convened on 05.10.2020 wherein, the COC, with 94.58% voting share, decided to issue fresh publication of EOI in Form- G. Subsequently, RP published an invitation for Expression of Interest (EOI) in Form-G on 09.10.2020 in 'Financial Express' (English) and 'Jansatta' (Hindi)



in Delhi/ NCR edition and in 'Free Press journal' (English) and 'Navshakti' (Hindi) in Maharashtra covering Mumbai. The last date for submission of EOI was 26.10.2020 and last date stipulated for submission of Resolution Plan was 02.12.2020.

10. That in the 7<sup>th</sup> COC meeting convened on 18.12.2020 a resolution was passed for fresh publication of fresh expression of interest in Form-G. Subsequently, RP published an invitation for Expression of Interest (EOI) in Form-G on 26.12.2020 in 'Financial Express' (English) and 'Jansatta' (Hindi) in Delhi/ NCR edition and in 'Free Press journal' (English) and 'Navshakti' (Hindi) in Maharashtra covering Mumbai. The last date for submission of EOI was 11.01.2021 and last date stipulated for submission of Resolution Plan was 19.02.2021.

11. It was submitted that, before the last date of submission of Resolution Plan i.e., 19.02.2021, Resolution Plans were received from 4 PRA's. On the 8<sup>th</sup> COC meeting the Resolution Plan, submitted by the 4 Resolution Applicants, were opened one by one and the representative of Resolution Applicants were invited individually.



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12. That thereafter, in the 11<sup>th</sup> COC meeting, convened on 19.03.2021, the members of COC were apprised that the Resolution Applicants were informed of the shortcomings during the course of 19<sup>th</sup> COC meeting. The last date for submission of modified Resolution Plan was on 09.03.2021 and both the Resolution Applicants have submitted their respective Resolution Plans. Further, it was submitted that the COC assigned 18.01 score to Resolution Plan submitted by 'M/s Damani Enterprises' and score of 17.29 to the Resolution Plan of 'M/s Regency Ispat Private Limited'. The scoring /evaluation was done based on the Evaluation Matrix approved by the COC and circulated to all the PRA's along with the RFRP and Information Memorandum.

13. That the 12<sup>th</sup> meeting of COC was convened on 22.04.2021 and in terms of the amendment in Regulation 39(3) of the CIRP Regulations, 2016, both the Resolution Plans, submitted by the prospective resolution applicants, were placed before the COC members for approval i.e., Resolution plan of 'M/s Damani Enterprises' and 'M/s Regency Ispat Private Limited'. The



following resolutions were placed for voting before the members of  
COC:

*To consider and approve Resolution Plan of M/s Damani Enterprises.*

*"RESOLVED THAT in accordance with sections 30(4) and 30(6) of the Code read with regulations made thereunder, the approval of the members of the CoC be and is hereby accorded to the Resolution Plan submitted by M/s Damani Enterprises (RA) and for filing of the approved resolution plan with the Hon'ble Adjudicating Authority i.e., NCLT by Resolution Professional and RP is authorised to issue LOI as per the terms of approved RFRP."*

*To consider and approve Resolution Plan of M/s Regency Ispat Private Limited. "RESOLVED THAT in accordance with sections 30(4) and 30(6) of the Code read with regulations made thereunder, the approval of the members of the CoC be and is hereby accorded to the Resolution Plan submitted by M/s Regency Ispat Private Limited (RA) and for filing of the approved resolution plan with the Hon'ble Adjudicating Authority i.e. NCLT by Resolution Professional and RP is authorised to issue LOI as per the terms of approved RFRP."*

14. The representative of State Bank of India in the meeting having voting share of 71.13%, approved the Resolution Plan of M/s Damani Enterprises and disapproved the Resolution Plan of M/s Regency Ispat Pvt. Ltd. and accordingly the e-voting platform for Authorized Representative to vote on the Resolution Plans was opened from 5:30 PM on 25.04.2021 to 8:30 PM on 26.04.2021.



The CoC in exercise of its commercial wisdom having voting share of 71.13%, approved the Resolution Plan of M/s Damani Enterprises.

15. That the Resolution Professional filed Form-H and it is evident that the fair value is Rs. 7.15 crore and the Liquidation value is Rs. 5.04 crore. It is also observed that the admitted claim value against the debtor is more than the Liquidation value of the Corporate Debtor.

16. Total Resolution Amount is Rs. 5,25,00,000 plus actual CIRP Costs. Proposal for payment under the plan is as follows:

<b>Particular</b>	<b>Total (Rs)</b>	<b>Upfront on approval by NCLT (60 Days)</b>	<b>Within 90 days of approval by NCLT)</b>
Secured Financial Creditors	5,10,00,000	2,50,00,000	2,60,00,000
Operational Creditors (Includes	10,00,000	10,00,000	-

Statutory Dues)			
Workmen & Employees	-	-	-
Unsecured Financial Creditors	5,00,000	5,00,000	-
Total (Rs)	5,25,00,000	2,65,00,000	2,60,00,000

17. The Summary of payments to be made by the successful Resolution Applicant is as under:

<b>Particular</b>	<b>Amount claim in Lakhs</b>	<b>Claim Admitted in Lakhs</b>
Financial Creditor	4511.34	3766.89
Operational Creditors	2673.99	2174.59
Workmen & Employees	-	-
Other Creditors	-	-

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<b>Total</b>	<b>7185.33</b>	<b>5941.33</b>
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18. In so far as the payments to be made to the Financial Creditors is concerned, it is seen that the State Bank of India is the Sole Secured Financial Creditor of the Corporate Debtor and the total claim amount of the State Bank of India is for a sum of Rs. 24,92,06,867 /- which was admitted by the Resolution Professional and shall be settled in full by payment of Rs. 5,10,00,000/- by Resolution Applicant. In so far as the payment to the Unsecured Financial Creditors is considered it is to be paid as hereinunder:

<b>Stakeholder</b>	<b>Amount claimed</b>	<b>Amount admitted</b>	<b>Amount provided under plan</b>
Solo Steel Company Pvt.	10,66,67,503	4,35,79,744	2,15,434
Regency Ispat Pvt. Ltd.	1,50,00,000	1,50,00,000	74,152
Delhi Sanskar Bharti Shiksha Samiti	1,06,97,951	93,25,000	46,098
Anand Sagar	79,57,422	70,50,000	34,851
Kulvender Singh	62,18,767	55,00,000	27,189




Sunita	43,33,370	40,00,000	19,774
AM Infosol	40,01,417	35,48,000	17,539
Vikram Sachdeva	33,86,137	30,00,000	14,830
Jaibir	25,39,603	22,50,000	11,123
Naveen Kumar	16,93,068	15,00,000	7,415
Naveen Gupta	15,80,197	14,00,000	6,921
HR Builders	11,28,712	10,00,000	6,921
Jagriti Swimming academy	11,27,923	10,00,000	4,943
Rajesh Kumar	10,27,128	9,10,000	4,499
Seema Devi	5,64,356	5,00,000	2,472
Pramod Malik	4,51,485	4,00,000	1,977
Poonam Beniwal	4,51,485	4,00,000	1,977
Ajay Kumar	3,38,613	3,00,000	1,483
Rattan Sagar	2,76,535	2,45,000	1,211
Preeti Rathi	2,10,505	1,86,500	922
Preeti Rana	56,436	50,000	247

In so far as the unsecured Financial Creditors are concerned, who are all related parties of the Corporate Debtor, as against their total verified claims the Resolution Applicant has proposed Nil amount.




19. In so far as payments to the Operational Creditor is concerned, it is seen that the Resolution Professional has admitted the claims of the Operational Creditor to the extent of Rs 2174.59 Lakhs and the Resolution Applicant has proposed to settle in full by payment of an amount equivalent to Rs. 10,00,000 to be paid upfront on approval Of Resolution plan by NCLT.
20. As per the provision of the Code, this Tribunal is duty bound to examine the Resolution Plan as to whether it satisfies the conditions, as laid down in Section 30(2) of the Code. A comparison of the mandatory compliance under the Code *vis-à-vis* the same made under the Resolution Plan is tabulated hereunder;

MANDATORY COMPLIANCE UNDER IBC CODE AND REGULATIONS	COMPLIANCE UNDER RESOLUTION PLAN
<u>S. 30(1)</u> - Resolution Applicant to submit an affidavit stating that he is eligible under Sec.29A of the Code, 2016	The Resolution Professional in Form-H has certified that the Resolution Applicant has submitted an affidavit.
<u>S. 30(2)(a)</u> -Payment of Insolvency and Resolution cost in the manner specified by the Board	Clause (vii) To be confirmed & certified by RP as on NCLT approval date.
<u>S. 30(2)(b)</u> - Payment of debts of Operational Creditors in such manner as may be specified by the	Clause 2 (i) (Table) of the Resolution Plan states that the Operational Creditors settle in full by payment of an amount of Rs.




Board, which shall not be less than the amount to be paid to the Operational Creditors in the event of a liquidation of the Corporate Debtor under Sec. 53	10,00,000/- to the Operational Creditors within 60 days from the NCLT Approval Date.												
<b>Reg. 38(1A)</b> - Resolution Plan shall include a statement as to how it has dealt with the interest of all the stakeholders, including financial creditors and operational creditors of the Corporate Debtor.	Clause 2 (i) of the Resolution Plan dealt with the interests of all stakeholders, including the financial creditors (both secured and unsecured) and Operational Creditors of the Corporate Debtor in the manner deemed most viable by the Resolution Applicant, in the best interests of the Corporate Debtor.												
<b>S. 30(2)(d)</b> -Management of the affairs of the Corporate Debtor after approval of the Resolution Plan	Clause (x) of the Resolution Plan deals with the Management and Control of the Corporate Debtor after the approval of the Resolution Plan.												
<b>S. 30(2)(e)</b> -Implementation and Supervision of the Resolution Plan	Clause (x) of the Resolution Plan deals with the Implementation of the Resolution Plan in a time bound manner.												
<b>S. 30(2)(f)</b> -Does not contravene any of the provisions of the law for the time being in force	Clause (x) of the Resolution plan is an Undertaking by the Resolution Applicant wherein it has been stated that the Resolution Plan is not in contravention with the provisions of any Applicable Laws.												
<b>S. 30(4)</b> - Committee of Creditors approve the Resolution Plan by not less than 66% of voting share of Financial Creditors, after considering its feasibility, viability and such other requirement as specified by the Board	The CoC, in its 12 <sup>th</sup> meeting has approved the Resolution Plan in the following voting pattern; <table border="1" data-bbox="837 1550 1316 1845"> <thead> <tr> <th>S. No</th> <th>Name of Creditor</th> <th>Voting share %</th> <th>Dissent (%)</th> </tr> </thead> <tbody> <tr> <td>1.</td> <td>State Bank of India</td> <td>71.13</td> <td>-</td> </tr> <tr> <td></td> <td><b>TOTAL</b></td> <td><b>100</b></td> <td><b>-</b></td> </tr> </tbody> </table>	S. No	Name of Creditor	Voting share %	Dissent (%)	1.	State Bank of India	71.13	-		<b>TOTAL</b>	<b>100</b>	<b>-</b>
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1.	State Bank of India	71.13	-										
	<b>TOTAL</b>	<b>100</b>	<b>-</b>										




21. A perusal of Form-H, as filed by the Resolution Professional, also posits the fact that the Resolution Plan is in compliance with the mandatory compliances, as stipulated under Section 30(2) of the Code and also the Resolution Applicant has filed an Affidavit to the effect that he is eligible to submit the Resolution Plan, taking into consideration Section 29A of the Code.
22. The Monitoring Agency shall supervise the implementation of the Resolution Plan and shall be in control of the management and affairs of the Corporate Debtor from the NCLT Approval Date, until the Effective Date.
23. Accordingly, we hereby **approve** the Resolution Plan, which was earlier approved by the CoC by the majority vote of 71.13%.
24. It is clarified that Section 30 (2) (f) of the Code mandates that the Resolution Plan should not be against any provisions of the existing law. The Resolution applicant therefore, shall adhere to all the applicable laws, for the time being in force, under the proposed Resolution Plan, whether or not specifically provided therein.



25. It is declared that the moratorium order passed by this Bench, under Section 14 of the Code shall cease to have effect from the date of this order.

26. The Resolution Professional shall forward all records relating to the CIR Process and the Resolution Plan to IBBI to be recorded at its database in terms of Section 31(3)(b) of the Code.

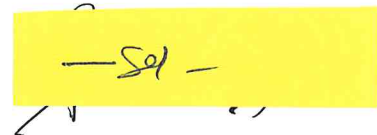
27. The approved 'Resolution Plan' shall become effective from the date of passing of this order. The Approved Resolution Plan shall be part of this order.

28. Accordingly, we hereby Dispose of the present application IA/2402/2021.

Let the copy of the order be served to the parties.



**(SH. HEMANT KUMAR SARANGI)  
MEMBER (TECHNICAL)**



**(SH. P.S.N. PRASAD)  
MEMBER (JUDICIAL)**

RDS

*Pronounced today under Rule 151 of NCLT Rules, 2016 as Hon'ble Member  
(Technical) Sh. Hemant Kumar Sarangi, is not holding the Court today.*

  
**COURT OFFICER**  
**24.12.2021**