

**IN THE NATIONAL COMPANY LAW TRIBUNAL
PRINCIPAL BENCH AT NEW DELHI**

C.A. No. 1246/2019 In (IB)- 46 (PB)/2018

Under Section: of IBC.

In the matter of:

M/s. ORIENTAL BANK OF COMMERCE Applicant

Vs.

M/s. ALLIED STRIPS LTD. & ORS. Respondent

In the matter of:

MR. SANDEEP MAHAJAN ... Applicant
**MONITORING PROFESSIONAL
(RESOLUTION PROFESSIONAL AS
APPOINTED FOR ALLIED STRIPS LTD.)**

Vs.

G.P. GLOBAL ENERGY PVT. LTD. ... Respondent

Order Pronounced on: 01.11.2021

CORAM

SH. BHASKARA PANTULA MOHAN

HON'BLE ACTG. PRESIDENT

SH. HEMANT KUMAR SARANGI

HON'BLE MEMBER (TECHNICAL)

PRESENT

For the Applicant : Mr. Dinkar Singh, Advocate for CoC

For the SRA : Mr. Virender Ganda, Sr. Advocate with Mr. Raghav Kakkar,

Mr. Ayandeb, Mr. Ajay Kurichh, Mr. Ritesh Tiwari, Advocate

For the Monitoring Professional: Mr. Ramji Srinivasan, Sr. Advocate with

Mr. Abhishek Anand, Mr. Mohak Sharma, Advocates

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ORDER

PER- SH. BHASKARA PANTULA MOHAN, ACTG. PRESIDENT

1. The present application is being filed by Mr. Anil Kohli (hereinafter referred to as "the Applicant/ Liquidator"), under Section 60(5) of the I & B Code, 2016 for seeking direction/ order, praying for the following reliefs:
- a. *Allow the present application; and*
 - b. *Issue appropriate directions against the Respondent M/s. G.P. Global Energy Pvt. Ltd. for knowingly and wilfully contravening the terms of the resolution plan for the Corporate Debtor as approved by this Hon'ble Adjudicating Authority vide order dated 30.05.2019 and appropriate order be passed under Section 74(3) read with Section 235A of the Code against the Respondent; and*
 - c. *Issue appropriate direction for forfeiture of the amount of Rs. 10.55 crores submitted by the Respondent being a consequence for contravening the terms of the approved resolution plan; and*
 - d. *exclude the period from the date of submission of resolution plan by the Respondent i.e., 19.10.2018 till the order of approval of resolution plan of the Respondent passed by this Hon'ble Adjudicating Authority i.e. 30.05.2019 (224 days) for the purposes of calculation of 270 days of CIRP period of the Corporate Debtor and*

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Committee of Creditors be reinstated to make another attempt for a fresh process for resolution plan for the Corporate Debtor;

e. Pass such other or further order/ order(s) as may be deemed fit and proper in the facts and circumstances of the instant case.

2. The Applicant states that this Hon'ble Adjudicating Authority vide its order dated 16.03.2018, was pleased to admit the captioned petition i.e., Company Petition No. (IB) 46(PB)/ 2018 filed on behalf of the Financial Creditor i.e., Oriental Bank of Commerce against the Corporate Debtor i.e., M/s. Allied Strips Limited, i.e., Corporate Debtor, under Section 7 of I & B Code, 2016.
3. The Applicants states that in the sixth meeting of the CoC convened on 05.09.2018, the CoC decided to put the resolution for e-voting and by a majority of 98.74% decided to replace the Resolution Professional by another Resolution Professional namely, Mr. Sandeep Mahajan, (Reg. No. IBBI/IPA-001/IP-P00991/2017-18/11631). That accordingly, vide order dated 28.09.2018, this Hon'ble Adjudicating Authority appointed the Applicant as the Resolution Professional.
4. The Applicant states that the twelfth meeting of the CoC was convened on 28.12.2018, wherein the Applicant put up the Resolution Plan submitted by M/s. G.P. Global Energy Pvt. Ltd.



for approval before the CoC. After deliberations and discussions, CoC requested the Resolution Professional to put up the matter for e-voting. That pursuant to the e-voting, the Resolution Plan submitted by M/s. G.P. Global Energy Pvt. Ltd., was approved by members of the CoC by a voting share of 99.83%.

5. That pursuant to approval of the Resolution Plan by the CoC the Applicant issued a letter of Intent dated 03.01.2019, to the Resolution Applicant inter-alia, informing the resolution applicant that the revised resolution plan as submitted before the CoC was approved and accordingly. The revised Resolution Plan submitted by the Respondent, as approved by the CoC itself provided that the Resolution Applicant will furnish a bank guarantee or fixed deposit or credit in designated escrow account equivalent to 25% of the total financial plan, as reduced by the amount of Bank Guarantee of Rs. 2 crores already submitted with the resolution plan within on week of approval of resolution plan by CoC, the Applicant accordingly requested the Respondent vide letter of Intent to deposit the same.
6. It is further stated that in the meantime, the Respondent being Resolution Applicant filed C.A. No. 114(PB) of 2019, praying to forgo/ dispense with the condition of the submission of Bank Guarantee till the adjudication of plan by this Hon'ble Adjudicating Authority. The said application came up for



consideration before this Hon'ble Adjudicating Authority dismissed the said application with cost of Rs. 50,000/-. Pursuant to this the Respondent once again filed C.A. 206(PB)/2019 before this Hon'ble Adjudicating Authority seeking inter-alia relief i.e., *"permit the Applicant to furnish bank guarantees/ demand drafts in terms of the proposal outlined in paragraph 7 of the instant application in replacement of the requirement to furnish upfront a bank guarantee for 25% of the financial bid submitted by the Applicant"*. That vide order dated 11.02.2019 this Hon'ble Adjudicating Authority directed that the prayer made by the Applicant be placed before the CoC.

7. Accordingly, a meeting of CoC was convened on 11.02.2019, wherein the CoC after due consideration of the request of the Respondent was of the view that the said condition being accepted by the Respondent at the time of negotiation and same being forming part of the resolution plan cannot be relaxed on the request of the Respondent merely on the apprehension that the approval of resolution plan will take considerable time on assumption of some legal proceedings and the said condition being forming part of the resolution plan is required to be adhered by the Respondent. Accordingly, the CoC unanimously declined to accept the request of SRA for amendments of timelines in the payment of 25% of the financial plan payable in 7 days of approval by CoC. In the meantime, the Hon'ble Adjudicating Authority vide order dated 30.05.2019 whilst



allowing the application being C.A. No. 62 (PB) of 2019 approved the Resolution Plan of the Respondent M/s. G.P. Global Energy Pvt. Ltd.

8. Accordingly, vide email dated 30.05.2019 the Applicant informed the Respondent to deposit the resolution plan amount in terms of the resolution plan submitted. The first meeting of the Monitoring Committee was convened on 06.06.2019, wherein the Monitoring Committee raised concern and queried from the Respondent that when the 25% of the resolution plan consideration will be paid by the Respondent.
9. The Applicant vide email dated 11.06.2019 acknowledged receipt of payment of Rs. 3.55 crores and in total an amount of Rs. 10.55 crores towards the approved Resolution Plan out of total 235.86 crores. The Applicant further requested the Respondent to pay 25% of the Resolution Plan amount i.e. 58.97 crores which was to be deposited within a period of one week. The Respondent vide email dated 11.06.2019 stated that in so far as 25% of the money is concerned the order of Hon'ble NCLAT provides that no such money can be said to be payable before the period of 30 days.
10. The Applicant further states that however, even after lapse of 30 days from the date of the approval of the resolution plan the Respondent M/s. G.P. Global Energy Pvt. Ltd. has failed to adhere to the terms of the Resolution Pla as approved by this Hon'ble Adjudicating Authority and thereby have defaulted in



making payment as per the resolution plan i.e. 25% of the Resolution Plan amount within 7 days of approval of the resolution plan and further even has failed to make the entire payment as required under the resolution plan as approved by this Hon'ble Adjudicating Authority within a period of 30 days from the approval of resolution plan which expired on 30.06.2019.

11. The Applicant states that although in the event where a resolution plan approved by the Adjudicating Authority is contravened by the concerned CD i.e. Resolution Applicant then an application may be made to the Adjudicating Authority for liquidation order in terms of Section 33(3) of the Code and on receipt of an application under Section 33(3), the Adjudicating Authority has contravened the provisions of the resolution plan, it shall pass liquidation order. However, it is submitted that the liquidation has to be restored to as the last resort when there is no other option left. The objective of the Code is to revive the companies in distress by exploring all possible avenues and not to rush into liquidation.

12. The Hon'ble Supreme Court in the case of **Swiss Ribbons Pvt. Ltd. & Anr. v. Union of India & Ors. W.P. (c) No. 99 of 2018** interpreted the provisions of the Code and has held as under-

11. As is discernible, the Preamble gives an insight into what is sought to be achieved by the Code. The Code is



first and foremost, a Code for reorganization and insolvency resolution of corporate debtors. Unless such reorganization is effected in a time-bound manner, the value of the assets of such persons will deplete. Therefore, 38 maximization of value of the assets of such persons so that they are efficiently run as going concerns is another very important objective of the Code. This, in turn, will promote entrepreneurship as the persons in management of the corporate debtor are removed and replaced by entrepreneurs. When, therefore, a resolution plan takes off and the corporate debtor is brought back into the economic mainstream, it is able to repay its debts, which, in turn, enhances the viability of credit in the hands of banks and financial institutions. Above all, ultimately, the interests of all stakeholders are looked after as the corporate debtor itself becomes a beneficiary of the resolution scheme - workers are paid, the creditors in the long run will be repaid in full, and shareholders/ investors are able to maximize their investment. Timely resolution of a corporate debtor who is in the red, by effective legal framework, would go a long way to support the development of credit markets. Since more investment can be made with funds that have come back into economy, business then eases up, which leads, overall, to higher economic growth and development of the Indian economy, What is interesting to



note is that the Preamble does not, in any manner, refer to liquidation, which is only availed of as a last resort if there is either no resolution plan or the resolution plan submitted are not upto the mark. Even in liquidation, the liquidator can sell the business of the corporate debtor as a going concern.

12. It can thus be seen that the primary focus of the legislation is to ensure revival and continuation of the corporate debtor by protecting the corporate debtor from its own management and from a corporate death by liquidation. The code is thus a beneficial legislation which puts the corporate debtor back on its feet, not being a mere recovery legislation for creditors. The interests of the corporate debtor have, therefore, been bifurcated and separated from that of its promoters/ those who are in management. Thus, the resolution process is not adversarial to the corporate debtor but, in fact, protective of its interests. The moratorium imposed by Section 14 is in the interest of the corporate debtor itself, thereby preserving the assets of the corporate debtor during the resolution process. The timelines within which the resolution process is to take place again protects the corporate debtor's assets from further dilution, and also protects all its creditors and workers by seeing that the



resolution process goes through as fast as possible so that another management can, thorough its entrepreneurial skills, resuscitate the corporate debtor to achieve all these ends.

In view of the aforesaid, the Applicant is praying that due to the contravention of payment as per the approved resolution plan by the Respondent, the Corporate Debtor cannot be put to liquidation which has been held to be a corporate death by the Hon'ble Supreme Court. That this Hon'ble Adjudicating Authority has the jurisdiction and power to exclude certain period for the purpose of calculation of 270 days i.e. the time which has been lost in litigation before the Hon'ble Adjudicating Authority and the circumstances which can justify exclusion. The said issue of exclusion of 'certain period' came up for consideration before the Hon'ble NCLAT in **Quinn Logistics India Pvt. Ltd. v. Mack Soft Tech Pvt. Ltd., Comp App. (AT) (INS) No. 185 of 2018 dated 08.05.2018**, held as under-

"9. From the decisions aforesaid, it is clear that if an application is filed by the 'Resolution Professional' or the 'Committee of Creditors' or ; any aggrieved person' for justified reasons, it is always open to the Adjudicating Authority/ Appellate Tribunal to 'exclude certain period' for the purpose of counting the total period of 270 days, if the facts and circumstances justify exclusion, in unforeseen circumstances."

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13. It further states that recently the said issue also came before the Hon'ble Supreme Court in the case of **Arcellor Mittal India Pvt. Ltd. v. Satish Kumar Gupta**, wherein the Hon'ble Supreme Court held in para 83 that *"Given the fact that both the NCLT and NCLAT are to decide matters arising under the code as soon as possible, we cannot shut our eyes to the fact that a large volume of litigation has now to be handled by both the aforesaid Tribunals. What happens in a case where the NCLT or the NCLAT decide a matter arising out of Section 31 of the Code beyond the time limit of 180 days or the extended time limit of 270 days? Actus curiae gravabit- the act of the court shall harm no man- is a maxim firmly rooted in our jurisprudence (see Jang Singh v Bijlal & Ors. [1964] 2 S.C.R at page 149, and A.S. Antulay v R.S. Nayak & Ors. [1988] Supp. 1 S.C.R. 1 at page 71). It is also true that the time taken by a Tribunal should set at naught the time limits within which the corporate insolvency resolution process must take place. However we cannot forget that the consequence of the chopper falling is corporate death. The only reasonable construction of the code is the balance to be maintained between timely completion of the corporate insolvency resolution process and the corporate debtor otherwise being put into liquidation. We must not forget that the corporate debtor consists of several employees and the workmen whose daily bread is dependent on the outcome of the corporate insolvency resolution process. If there is a resolution applicant who can continue to run the*



corporate debtor as a going concern, every effort must be made to try and see that this is made possible. A reasonable and balanced construction of this statute would therefore lead to the result that, where a resolution plan is upheld by the Appellate Authority, either by way of allowing or dismissing an appeal before it, the period of time taken in litigation ought to be excluded.”

14. The Respondent has filed its reply in the present matter, in its reply the Respondent states that;

- a. the contents of the Application are wrong, the Applicant as well as CoC without taking into consideration Request for Resolution Plan dated 07.07.2018 (“RFRP”), forced the Answering Respondent to include, furnishing of Bank Guarantee of 25% of Resolution money within seven days of its approval by the CoC. It needs to be highlighted here that, the sub-clause (b) of Clause 9 of RFRP deals with Bank Guarantee which is to be furnished by the Resolution Applicant. That, the amount required to be furnished as Bank Guarantee as per RFRP dated 07.07.2018 was only Rs.2,00,00,000/- (Rupees Two Crores only) (“Original condition of Bank Guarantee”). It is further submitted that the sub-clause (c) of Clause 9 of RFRP, which deals with regard to “*Invocation/Forfeiture of Earnest Money Deposit (EMD) from the Resolution Applicant*” which states that Bank Guarantee is liable to



be invoked and forfeited in the event the 'Successful Resolution Applicant' withdraws out of the Resolution Process or doesn't comply with the resolution plan after it is approved by CoC and the Ld. Adjudicating Authority. Furthermore, a perusal of the agenda circulated through notice dated 17.11.2018 for ninth CoC meeting, nowhere mentions the insertion of a new clause of 25% of the additional security of the Resolution Amount to be furnished within 7 days.

- b. Therefore, the amendment of the RFRP was ultra vires to the scheme of the Code, Insolvency Resolution Regulations, 2016 and the RFRP. That, in any case, such a condition was contrary to the Regulation 7 and no condition harsher and much more stringent than permissible under the Regulations can be imposed upon a Resolution Applicant in midstream of consideration/ approval of a Resolution Plan at the hands of CoC. For this reason, the Applicant himself had conceded about the illegality of such a condition. It is further submitted that the Applicant is misreading and mis interpreting the Resolution Plan to read that 25% amount is payable within seven days. A reading of sub-clause 'f' under Serial No. '2' of the Resolution Plan dated 27.12.2018, with the heading '*Sources of Fund under Resolution Plan*' wherein, in bullet Point No. 6 whereby, it has been



mentioned that the Resolution Applicant furnish Bank Guarantee equivalent to 25% of total amount of the Resolution Plan dated 27.12.2018 within one week of the approval of the Resolution Plan by the CoC.

- c. It is further submitted that this bullet point No. 6 is to be read in conjunction with bullet point No. 7 that the cheque of Rs. 85 crores which was lying along with the Bank Guarantee of Rs. 2 crore, which is as per the RFRP dated 07.07.2018 (“Original condition of Bank Guarantee”). A complete reading of the tabulation at Serial No. 2 under the heading ‘Specify procedure for payment of dues towards resolution process costs/ financial creditors/ operational creditors/ government dues etc. (how much funds will be raised and source)’ will reveal that bullet points are ancillary to the material issue and was only mentioned to specify the sources of funds under the Resolution Plan dated 27.12.2018. Otherwise, the said bullet point will run contrary to what has been stated in previous clauses from sub clause (a) to sub clause (e), which categorically provides that upfront payment would be paid within Thirty days of the cut-off date.
- d. The misreading by the Respondent/ the Resolution Professional will lead to changing sub-clause (a) to sub-clause (e) providing for payment of 25% payment in



advance rather than within thirty days from the cut off date. A harmonious construction of total clause contained at Serial No. 2 is that the Applicant/ the Resolution Professional has liberty to retain cheques of Rs. 85 crores alongwith Rs. 2 crores submitted as Bank Guarantee by the Appellant/ The Resolution Applicant in the event of the ancillary bullet point No. 6 is not adhered to. Thus, Bullet Point No. 6 and 7 are in the alternative. This plea was also accepted by the Hon'ble NCLAT. Despite all this, the Applicant is time and again insisting upon the stuck down clause without following the duties conferred upon him.

- e. That on 20.06.2019 the Applicant shared the minutes of meeting dated 17.06.2019 of the second meeting of the Monitoring Committee, a copy of which is attached in the Application at page No. 169 to 176, marked as 'Annexure A-16'. The Minutes of meeting were drawn without noticing various objections and requirements of Successful Resolution Applicant. The Applicant completely, erred in saying dues of Operational Creditors will be disbursed only after all the monies under Resolution Plan are deposited by the SRA. It is a categorical assertion of the SRA that the Resolution Plan expressly envisages payments to operational creditors both statutory as well as general prior to that of Financial



Creditors. The object and purpose of such clause, is quite obvious as without clearances from statutory authorities, the unit cannot be effectively taken over by the SRA. Even otherwise, if more amounts than what has been specified/ earmarked in the Resolution Plan for the Operational Creditor becomes payable, then the same amount has to be deducted correspondingly from the amounts payable to Financial Creditors. In other words, until and unless the statutory dues/ Operational Creditors does not give no due certificate or green signal for the unit to be run, the exact amount payable to Financial Creditors cannot be specified.

15. Even in the case of "*Bank of India Vs. Tirupati Infra Projects Pvt. Ltd.*" bearing number IB-104(PB)/2017 the very same Resolution Applicant is the Successful Resolution Applicant. The Ld. Counsel who appeared for this Company is the same person in that matter also and had raised one plea or the other to evade the payment of the monies.

16. As it can be understood from the conduct of the Company i.e., the Successful Resolution Applicant in both the cases, the only conclusion that can be deduced is that the party is not interested in implementing the Resolution Plan nor it is capable of implementing the Resolution Plan for the reason that the Company has poor financial condition. The contentions with regard to the portion of



land being occupied by some third party etc., are only aimed at gaining time. It is not worthy of being considered favourably.

ORDER

1. This bench after taking into consideration the submissions made by the parties has observed that, pursuant to the approval of the Resolution Plan by the CoC the Answering Respondent issued a letter of intent dated 03.01.2019 to the SRA, the revised Resolution Plan as submitted had been approved by the CoC. Since after the approval of the Resolution Plan, the SRA has been continuously engaging the CoC in one litigation or other, thereby wasting the precious time of Insolvency resolution. It has been noted that, even during the pendency of C.A. No. 62 (PB) of 2019, for seeking approval of the Resolution Plan of the SRA, before this Adjudicating Authority the Applicant being the SRA filed C.A. No. 114 (PB) of 2019 praying to forgo/ dispense with the condition of the submission of Bank Guarantee till the adjudication of plan by this Adjudicating Authority. The said application came up for consideration before this Adjudicating Authority on 23.01.2019, which was dismissed with cost of Rs. 50,000 by this Adjudicating Authority. Further, the SRA again filed C.A. No. 206 (PB)/ 2019, before this Adjudicating Authority seeking inter-alia relief i.e., *“permit the Applicant to furnish bank guarantees/ demand drafts in terms of the proposal outlined in paragraph 7 of the instant application in replacement of the requirement to furnish upfront a bank guarantee for 25% of the financial bid submitted by the*

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Applicant". That vide order dated 11.02.2019 this Adjudicating Authority directed that prayer made by the Applicant be placed before the CoC. Accordingly, meeting of the CoC was convened on 11.02.2019, wherein the CoC after due consideration of the request of the Applicant was of the view that the said condition being accepted by the Applicant at the time of negotiation and same being forming part of the resolution plan cannot be relaxed on the request of the Applicant merely on the apprehension that the approval of resolution plan will take considerable time on assumption of some legal proceedings and the said condition being forming part of the resolution plan is required to be adhered by the Applicant. Accordingly, the CoC unanimously declined to accept the request of SRA for amendments of timelines in the payment of 25% of the financial plan payable in 7 days of approval by CoC.

2. It is to be noted that vide order dated 30.05.2019 whilst allowing the application being C.A. No. 62 (PB) of 2019 approved the Resolution Plan of the Applicant i.e. M/s. G.P. Global Energy Pvt. Ltd, the first meeting of the Monitoring Committee was convened on 06.06.2019, wherein the Monitoring Committee raised concern and queried from the Applicant that when the 25% of the resolution plan consideration will be paid by the Applicant. The Answering Respondent vide email dated 11.06.2019 acknowledged receipt of payment of Rs. 3.55 crores and in total an amount of Rs. 10.55 crores towards the approved Resolution Plan amount out of total Rs. 235.86 crores. The answering respondent further

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requested the Applicant to pay 25% of the Resolution Plan amount i.e. Rs.58.97 crores which was to be deposited within a period of one week. The meeting of the Monitoring Committee was convened on 17.06.2019, wherein the committee raised concerns that as per the terms of the approved resolution plan the Applicant was required to deposit 25% of the Resolution Plan consideration within 7 days of the approval but till date the same has not been paid. Pursuant to the above, the answering respondent vide email dated 20.06.2019 once again requested the Applicant to pay the balance amount i.e. 25% of the resolution plan consideration i.e. Rs. 48.42 crores (Rs. 58.97 crores less Rs. 10.55 crores already paid). However, even after the lapse of 30 days of the approval of the resolution plan, the SRA has failed to adhere to the terms of the Resolution Plan.

3. It has been observed the SRA has failed to even deposit the bank guarantee with the CoC and is engaged in litigation, in spite of undertaking the same under the Resolution Plan, prepared and submitted by itself, with its own free will. The conduct of the SRA has been wavering with regards to the payments/ terms undertaken by it under its Resolution Plan.

4. During the course of Oral Arguments the Ld. counsel for the Monitoring Professional, submitted that the parent company of the SRA which was registered in UAE has been declared Bankrupt.

5. Further, during the course of arguments the Ld. counsel appearing for the Respondent had categorically stated that he has



enough time and resources to get the land which is purported to be in litigation and take possession of the same. First of all, there is no problem with regard to land, the RP has taken all measures to protect the land, if at all the respondent makes full payment, the issue can be sorted out in just a day. If at all the intention of SRA is really to proceed with payments and implement the resolution plan, instead of wasting the valuable time of the Tribunal, he could have really made the payment and proceeded with the Plan. The Monitoring Committee has made all the efforts to see that the SRA is not put to any difficulty of whatsoever nature with regards to the land.

6. Further, as per the scheme of I & B Code and already decided case law it is a crystalised position that post the approval of the Resolution Plan by the CoC and the same being granted approval by this Tribunal. It is beyond the powers of this Tribunal to make amendments to the approved resolution plan. The behaviour as demonstrated by the SRA so far has been that of Non-seriousness towards the laws and has defaulted on its obligations. Hence, the prayers (c) and (d) as reproduced below, stand allowed.

“(c) Issue appropriate direction for forfeiture of the amount of Rs. 10.55 crores submitted by the Respondent being a consequence for contravening the terms of the approved resolution plan; and

(d) exclude the period from the date of submission of resolution plan by the Respondent i.e., 19.10.2018 till the



order of approval of resolution plan of the Respondent passed by this Hon'ble Adjudicating Authority i.e. 30.05.2019 (224 days) for the purposes of calculation of 270 days of CIRP period of the Corporate Debtor and Committee of Creditors be reinstated to make another attempt for a fresh process for resolution plan for the Corporate Debtor;"

7. This matter is hereby referred to the Insolvency and Bankruptcy Board of India for taking appropriate action in accordance with Section 74 (3) of IBC.

8. Accordingly, C.A. 1246/2021 stands disposed of in terms of the above order.

Let a copy of order be served to parties.



(BHASKARA PANTULA MOHAN)
ACTG. PRESIDENT



(HEMANT KUMAR SARANGI)
MEMBER (Technical)

01.11.2021

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**IN THE NATIONAL COMPANY LAW TRIBUNAL
PRINCIPAL BENCH AT NEW DELHI**

C.A. No. 2357/2019 In (IB)- 46 (PB)/2018

Under Section: of IBC.

In the matter of:

M/s. ORIENTAL BANK OF COMMERCE

.... **Applicant**

Vs.

M/s. ALLIED STRIPS LTD. & ORS.

.... **Respondent**

In the matter of:

G.P. GLOBAL ENERGY PVT. LTD.

... **Applicant**

Vs

MR. SANDEEP MAHAJAN
MONITORING PROFESSIONAL
(RESOLUTION PROFESSIONAL AS
APPOINTED FOR ALLIED STRIPS LTD.)

... **Respondent 1**

**COMMITTEE OF THE CREDITORS
OF THE CORPORATE DEBTOR**

... **Respondent 2**

C.A. 2357/2019 & C.A. 1170/ 2019 IN IB- 46 (PB)/ 2018



Under Section: 74(3) r/w 60(5) of IBC.

In the matter of:

M/s. ORIENTAL BANK OF COMMERCE

.... **Applicant**

Vs.

M/s. ALLIED STRIPS LTD. & ORS.

.... **Respondent**

In the matter of:

G.P. GLOBAL ENERGY PVT. LTD.

... **Applicant**

Vs

MR. SANDEEP MAHAJAN
MONITORING PROFESSIONAL
(RESOLUTION PROFESSIONAL AS
APPOINTED FOR ALLIED STRIPS LTD.)

... **Respondent 1**

**COMMITTEE OF THE CREDITORS
OF THE CORPORATE DEBTOR**

... **Respondent 2**

Order Pronounced on: 01.11.2021

CORAM

SH. BHASKARA PANTULA MOHAN
HON'BLE ACTG. PRESIDENT
SH. HEMANT KUMAR SARANGI
HON'BLE MEMBER (TECHNICAL)

PRESENT

For the Applicant : Mr. Dinkar Singh, Advocate for CoC

For the SRA : Mr. Virender Ganda, Sr. Advocate with Mr. Raghav Kakkar,
Mr. Ayandeb, Mr. Ajay Kurichh, Mr. Ritesh Tiwari, Advocate

For the Monitoring Professional: Mr. Ramji Srinivasan, Sr. Advocate with
Mr. Abhishek Anand, Mr. Mohak Sharma, Advocates



ORDER

PER- SH. BHASKARA PANTULA MOHAN, ACTG. PRESIDENT

1. The present application is being filed by the Successful Resolution Applicant ("SRA"), i.e., GP Global Energy Private Limited, under Rule 11 of the NCLT Rules, 2016 and Section 14(2) of the I & B Code, 2016, praying for the following reliefs:
 - a. *To extend the time period for Implementation of the Resolution Plan Thirty days beyond the date when the Respondents are able to satisfy the Lending Bank;*
 - b. *Pass such other order(s) as may be deemed fit and proper by this Hon'ble Tribunal in the facts and circumstances of the instant case.*
2. The Applicant states that the SRA had filed an application bearing No. 1676 (PB) of 2019 before this Hon'ble Tribunal seeking revised modes/manner of the payments as detailed in the Application bearing No. 1676 (PB) of 2019 in peculiar facts and circumstances of the present case (the "Revised Payment Schedule Application"). The said application was allowed by this Hon'ble Tribunal *vide* order dated 03.09.2019. As per the revised schedule, the SRA has made the payments in entirety (Rs. 62 crores), which were to be made by the SRA from its own sources. Thereafter, the remaining amount was to be funded by the Bank of Baroda (the "Lending Bank"), who has principally approved the Sanction of Rs. 173.82 crores in favour of G.P. Global Strips Private Limited, a sister concern of the SRA. The



same fact was also recorded by this Hon'ble Tribunals order dated 08.08.2019.

3. It has further been submitted by the SRA that on the third meeting of the Monitoring Committee held on 07.10.2019, it was further expressly agreed that the Non-Applicant No. 1 may move an application before this Hon'ble Tribunal/ AA for seeking additional time for implementation of the Resolution Plan. In order for sanctioning of the funds, the officials and authorised representatives, including Advocates and Valuers of the Lending Bank was to be shown documents by the Respondents on behalf of the CD. The security documents, which were to be scrutinized by the Lending Bank were to be obtained from the Respondents including the title documents reflecting ownership and possession of the CD in respect of the entire land as well as Plant and Machinery.
4. The Applicant who was following the entire process for advancement of loan from the Lending Bank had deputed his officers for this process. The entire process i.e., inspection of the security documents, revenue records of the immovable assets of the CD has not yet been completed and is taking considerable time because of delayed action and supply of information and documents on the part of the Respondents. Further, the officers of the SRA came to know that there were certain issues with regard to title of some piece of land and possession of another piece of land, however, the Respondents have assured that



these issues have been sorted out. The said issues were neither mentioned in the Information Memorandum ("IM") of the CD nor stated in the Request for Resolution Plan dated 07.07.2018 ("RFRP").

5. The SRA has filed an additional affidavit in the matter, whereby its states that;

- a. Both the Respondents i.e., Monitoring Professional and the CoC of the CD have illegally and without any authority, whatsoever, declined the permission to the representatives of the SRA within six days of the approval of the Resolution Plan i.e. 30.05.2019. The said fact is duly recorded in the minutes of the first meeting of the Monitoring Committee held on 06.06.2019. The relevant extract is reproduced under;

"C Detailed Analysis of Plant by SRA

Representatives of SRA revisited members that they want to undertake detailed analysis and assessment of the plant for 4 days with their technical team. Members of MC decided first they should deposit the substantial amount as required under the Resolution Plan and only then they can do undertake the necessary visits"

- b. Till 06.06.2019 i.e. day of the first Monitoring Committee Meeting, even the Bank Details of the Corporate Debtor were not shared by the Monitoring Professional, even



though, the Successful Resolution Applicant *vide* Email dated 02.06.2019 has categorically requested the Monitoring Professional to provide the details of the Bank account for remittance to the stake holders in terms of the Resolution Plan. The relevant extract of email dated 02.06.2019 is reproduced as under:

"2. ...Please provide us details of designated Bank Account for remittance thereof. After receipt of said money in designated account, you are requested to disburse the payment of persons falling under operational creditors (including statutory dues to government authorities and workmen/ employees of Allied Strips Limited)."

- c. The representatives of the SRA *vide* email dated 07.06.2019, again reminded the Monitoring Professional to share the Bank Details. The Monitoring Professional, thereafter, shared the relevant details of the Bank Account. Subsequently the SRA has made the payments of Rs.1,25,00,000/- (Rupees One Crore Twenty Five Lakhs Only), against the CIRP Cost, Rs. 50,000/- (Rupees Fifty Lakhs only) against Operational Creditors (general) Rs. 50,00,000/- (Rupees Fifty Lakhs only) against Operational Creditors (Statutory), Rs. 1,30,00,000/- (Rupees One Crore Thirty Lakhs Only). The said payments were made by the SRA in the account



of the CD and on 11.06.2019, the Respondent No. 1 acknowledged the receipt of the amount of Rs. 10,55,00,000/- (Rupees Ten Crores Fifty Five Lakhs Only) made by the SRA.

- d. The Respondents without any authority and arbitrarily refused to disburse the above-mentioned amounts to the various stakeholders of the CD, in accordance with Resolution Plan duly approved by this Hon'ble Tribunal. Thereafter, the SRA requested the Monitoring Professional to utilise the funds for restoration of essential supplies of the plant of the CD, in line of the proposal of erstwhile Resolution Professional proposal but before CoC in second meeting held on 28.05.2018. The relevant portion of the minutes of second meeting is reproduced under:

"To Make Preparation for Restoration of Unit"

Further, in order to prepare the unit to restart its operations, the following expenses are to be incurred:

Description	Amount (in Lakhs)
Preparation for Restoration of Unit	
Electricity Deptt-Security Deposit & Reconnection Charges	150.00
Indian Oil Corporation Ltd.	15.00



for Gas Supply- Security Deposit	
Gas Authority of India Ltd. Carrier of Gas- Security Deposit	15.00
Maintenance & Preparatory Expense	75.00
TOTAL (A)	255.00

e. A perusal of the above table would reveal that for restoration of the CD as going concern, funds of Rs.8 crores were required and at that stage none of the stakeholders including the Financial Creditors were ready to pay Rs.8 crores and the proposal for restoration of the unit was dropped. That, the Applicant had transferred the amount of Rs.10.55 crores within a day after the Bank account details were shared by the Respondent No. 1 taking a practical view for restoration of the unit at the earliest. On 17.06.2019, the second Meeting of the Monitoring Committee was held and the Minutes of the second Meeting of the Monitoring Committee will reveal that the Respondent No. 1 not only continued to show his adamant behaviour and refused to disburse the amounts of the Operational Creditors (both statutory as well as general). The Respondent No. 1 completely, erred in saying dues of Operational Creditors




will be disbursed only after all monies under Resolution Plan are deposited by the SRA.

f. "(a) Possession of the land of Corporate Debtor by third party

On physical inspection of the land of the Corporate Debtor by Successful Resolution Applicant, it also came to the knowledge of the SRA that Land of Khasra No. 407, 387, 404 & 411 situated in village Asauda Todran, Tehsil Bhadurgarh, District Jhajjar, Haryana are not in possession of the Corporate Debtor. Furthermore, in Khewat No. 99, the Corporate Debtor has purchased an area of 11 Bigha 09 Biswa, but 8 Bigha 03 Biswa are in possession of the Corporate Debtor. The remaining land measuring 3 Bigha 06 Biswa are neither in possession of the Corporate Debtor nor TAKSEEM (partition) has been done in revenue records. Moreover, the quarters within the Corporate Debtor plant are occupied by the outsiders, against which Respondents has failed to take action, whatsoever. It is further pertinent to mention that approx. 7.5 Acres out of total acres of 45.56 Acres land is not in possession of the Corporate Debtor. The details are set out as under:

Village	Khewat No.	Khata No.	Khasra No.	Bigha	Biswa
Asayda	108	193	3002/	1	18

Todran			387		
			3003/ 387	1	9
			3006/ 407	1	1
			3007/ 407	0	18
			3008/ 411	1	14
			3009/ 411	1	9
				5	69
				8	9
	99		177/178 /179/18 0	3	6
				11	15
			Total	7.345 Acres	

6. The Applicants states that C.A. 2357/2019 stands disposed of in terms of the above order.

C.A. No. 1170/2019 In (IB)- 46 (PB)/2018

1. The present application is being filed by the Successful Resolution Applicant ("SRA"), i.e., GP Global Energy Private Limited, under Rule 11 of the NCLT Rules, 2016 and Section

14(2) of the I & B Code, 2016 read with Regulation 32 of the Insolvency Resolution Process for Corporate Persons Regulations, 2016 for seeking direction/ order, to Respondent No. 1, praying for the following reliefs:

- a. *To allow the Successful Resolution Applicant to have physical inspection of the plant and machinery of the Corporate Debtor.*
- b. *To supply audited balance sheets and statutory filings of the Corporate Debtor uptill May 30, 2019.*
- c. *To obtain no due certificate from statutory authorities and other operational creditors after distribution of their dues arising/ arisen against the Corporate Debtor uptill May 30, 2019 and to satisfy all such demand notices received by the Respondent No. 1/ the Corporate Debtor.*
- d. *To restore the essential supplies such as electricity/ power to the plant of Corporate Debtor after distributing the dues of Power Utility.*
- e. *Pass such other or further order/ order(s) as may be deemed fit and proper in the facts and circumstances of the instant case.*

2. The Applicant states that the Resolution Plan in this was approved by this Hon'ble Tribunal/ the Adjudicating Authority ("AA"), vide order dated 30.05.2019. The Monitoring Committee of M/s. Allied Strips Limited (the "Corporate Debtor"/ "CD"), held the first meeting on 06.06.2019, which

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was chaired by the Respondent No. 1, the Presiding Officer of the Monitoring Committee and the erstwhile, Resolution Professional ("RP"), of the CD. That on appraisal of the approval of plan by the Presiding Officer, the Successful Resolution Applicant ("SRA"), immediately credited Rs.5,00,00,000/- (Rupees Five Crore only), in the account of the CD with Canara Bank.

3. That the SRA has further made the payment of Rs.1,25,00,000/- (Rupees One Crore Twenty Five Lakhs Only), against CIRP cost, Rs. 50,00,000/- (Rupees Fifty Lakhs only), against Operational Creditors (Statutory), Rs. 1,30,00,000/- (Rupees One Crore Thirty Lakhs only), against workmen dues. The said payments were made by the SRA in the account of the CD, which was duly informed by an email 10.06.2019 to the Respondent No. 1. Thereafter on 11.06.2019, the Respondent No. 1 acknowledged the receipt of the amount of Rs. 10,55,00,000/- (Rupees Ten Crores Fifty Five Lakhs only), made by the SRA.
4. The Applicant further states that since it had deposited in advance all the amounts due to Operational Creditors (including statutory dues), it is expected from Respondent No. 1 to distribute and obtain no due certificate from them. Despite best and prompt efforts on the part of the SRA, the Respondent No. 1 had failed to do the needful and on the other hand Respondent No. 1 is insisting upon making of the



payment of resolution monies, for which time is allowed to the Applicant as per the plan. In the circumstances, SRA is seeking direction from this Hon'ble Court to direct the Respondent No. 1 to actively deal with the above mentioned statutory authorities and release the money on prorata basis from the payments made for Operational Creditors (statutory).

5. The Applicant states that, *"Income Tax Department has passed three orders against CD during CIRP, which were challenged by RP before Hon'ble NCLT. The Hon'ble NCLT vide order dated 24.05.2019, set aside the Income Tax Orders passed against CD on 30.03.2018."* In light of the order dated 24.05.2019 passed in CA-739 (PB) of 2019 and CA- 742 (PB) of 2019 the SRA has written letter dated 19.06.2019, to the Income Tax Department for settlement of the claim of amount of Rs. 21,30,48,470/-. Accordingly, the Income Tax Department was requested to respond within seven days and issue no due certificate. Till date, the Income Tax Department has neither claimed the amount from the Respondent No. 1 nor responded to the letter of the SRA.
6. The Applicant further states that, it also learnt that the plant of the Corporate Debtor is without power supply. The electricity being essential service needs to be restored before taking over of the plant and machinery by the SRA. Accordingly, a letter dated 19.06.2019 was written to the Uttar Haryana Bijli Vitran Nigam Limited requesting them to receive



their part of dues on prorata basis from the Respondent No. 1. No response has yet been received from the Haryana Power Utility till date.

7. That Applicant states that even as per Section 223 of the Code, the Respondent was bound to maintain the accounts and audit along with other statutory filings/ compliances, till the cut off date, and the same has not been shared by the Respondent with the SRA till date.

8. The Respondent has filed its reply, in its reply the Respondent states as follows:

a. In the twelfth meeting of CoC convened on 28.12.2018, wherein the Resolution Plan submitted by M/s. G.P. Global Energy Pvt. Ltd. was approved by members of CoC by a voting share of 99.83%. Pursuant to the approval of the Resolution Plan the answering Respondent issued a letter of intent dated 03.01.2019 to the Resolution Applicant, that the revised Resolution Plan as submitted was approved. The SRA submitted their unconditional acceptance. The revised Resolution Plan submitted by the Applicant which has been approved by the CoC and this Hon'ble AA, itself provided that the Applicant will furnish a bank guarantee or fixed deposit or credit in designated escrow account equivalent to 25% of the total financial plan, as reduced by the amount of Bank Guarantee of Rs. 2.00 crores already submitted with the resolution



plan within one week of approval of resolution plan by the CoC, the answering Respondent accordingly requested the Applicant vide letter on Intent to deposit the same.

- b. Pursuant to the above, the Answering Respondent filed C.A. No. 62 (PB) of 2019 for seeking approval of the Resolution Plan of the SRA, before this Hon'ble AA. In the meantime, the Applicant being the Resolution Applicant filed C.A. No. 114 (PB) of 2019 praying to forgo/ dispense with the condition of the submission of Bank Guarantee till the adjudication of plan by this Hon'ble AA. The said application came up for consideration before this Hon'ble AA on 23.01.2019, which was dismissed with cost of Rs. 50,000 by this Hon'ble AA.
- c. Pursuant to above, the Applicant once again filed C.A. No. 206 (PB)/ 2019 before this Hon'ble AA seeking inter-alia relief i.e., *permit the Applicant to furnish bank guarantees/ demand drafts in terms of the proposal outlined in paragraph 7 of the instant application in replacement of the requirement to furnish upfront a bank guarantee for 25% of the financial bid submitted by the Applicant.* That vide order dated 11.02.2019 this Hon'ble AA directed that prayer made by the Applicant be placed before the CoC. Accordingly, a meeting of the CoC was convened on 11.02.2019, wherein the CoC after due



consideration of the request of the Applicant was of the view that the said condition being accepted by the Applicant at the time of negotiation and same being forming part of the resolution plan cannot be relaxed on the request of the Applicant merely on the apprehension that the approval of resolution plan will take considerable time on assumption of some legal proceedings and the said condition being forming part of the resolution plan is required to be adhered by the Applicant. Accordingly, the CoC unanimously declined to accept the request of SRA for amendments of timelines in the payment of 25% of the financial plan payable in 7 days of approval by CoC.

- d. Pursuant thereto, this Hon'ble AA vide order dated 30.05.2019 whilst allowing the application being C.A. No. 62 (PB) of 2019 approved the Resolution Plan of the Applicant i.e. M/s. G.P. Global Energy Pvt. Ltd. Accordingly, vide email dated 30.05.2019 the Answering Respondent informed the Applicant that this Hon'ble AA has vide order dated 30.05.2019 approved the resolution plan submitted by the Applicant, vide email dated 30.05.2019, the Answering Respondent requested the Applicant to deposit the resolution plan amount in terms of the resolution plan submitted.
- e. The first meeting of the Monitoring Committee was convened on 06.06.2019, wherein the Monitoring



Committee raised concern and queried from the Applicant that when the 25% of the resolution plan consideration will be paid by the Applicant. The Answering Respondent vide email dated 11.06.2019 acknowledged receipt of payment of Rs. 3.55 crores and in total an amount of Rs. 10.55 crores towards the approved Resolution Plan amount out of total Rs. 235.86 crores. The answering respondent further requested the Applicant to pay 25% of the Resolution Plan amount i.e. Rs.58.97 crores which was to be deposited within a period of one week.

- f. The meeting of the Monitoring Committee was convened on 17.06.2019, wherein the committee raised concerns that as per the terms of the approved resolution plan the Applicant was required to deposit 25% of the Resolution Plan consideration within 7 days of the approval but till date the same has not been paid. Pursuant to the above, the answering respondent vide email dated 20.06.2019 once again requested the Applicant to pay the balance amount i.e. 25% of the resolution plan consideration i.e. Rs. 48.42 crores (Rs. 58.97 crores less Rs. 10.55 crores already paid). However, even after the lapse of 30 days of the approval of the resolution plan, the SRA has failed to adhere to the terms of the Resolution Plan.



- g. The SRA has raised an issue with regard to the plant of the Corporate Debtor being without power supply. It is pertinent to mention here that the SRA carried out due diligence and was shared with the Information Memorandum clearly in '*other information*' at Clause 17 stated that the power supply of the factory was disconnected on 11.01.2018 on account of non-payment of bill, which is prior to the commencement of the CIRP. Further, it was also mentioned that the production activity of the unit is stopped since 05.01.2018, due to no power supply/ electricity since 11.01.2018, was very much in the knowledge of the Applicant who not only was shared with the Information Memorandum but who also had complete access to the Virtual Data Room. Therefore, in the instant case, the electricity supply has been disconnected much prior to the commencement of the CIRP and the said reliance placed by the Applicant on Section 14 is clearly misplaced.
- h. It is denied that Section 223 of the Code mandates the answering respondent to maintain the account and audit till the cut off date, Section 3(1) of the IBC defines *Board*, means the *Insolvency and Bankruptcy Board of India established under sub-section (1) of section 188*. That admittedly, Section 223 pertains to the accounts and audit to be maintained by the Board i.e. the IBBI and not



the Resolution Professional as contended by the Applicant. Thus, the contention of the Applicant is completely misconceived and misplaced.

- i. That in so far as the Statutory Audit of the Corporate Debtor is concerned, the answering respondent has already filed an application against Statutory Auditor of the Corporate Debtor as the Statutory Auditor has resigned and failed to file FORM-ADT-3 as required under Section 140 of the Companies Act, 2013 without which no incoming auditor can audit the accounts of the Corporate Debtor.
- j. It is stated that as per the approved resolution plan the Applicant was required to pay 25% of the total financial plan being Rs. 58.97 crores (25%), within 7 days from the approval of the resolution plan as approved by the CoC, which subsequently, stands amended in terms of the order passed by the Hon'ble NCLAT. The SRA as on date has paid only deposited 4% of the total financial plan, disbursement of amounts stage has till date not arisen. The answering respondent is bound to follow the instructions of the Monitoring Committee and in view of the default of payment of both 25% of the resolution amount and now default of payment of total amount under resolution plan, the Applicant has no right or locus to seek any relief against the Respondent.



9. This bench after taking into consideration the submissions made by the parties has observed that, pursuant to the approval of the Resolution Plan by the CoC the Answering Respondent issued a letter of intent dated 03.01.2019 to the SRA, the revised Resolution Plan as submitted had been approved by the CoC. Since after the approval of the Resolution Plan, the SRA has been continuously engaging the CoC in one litigation or other, thereby wasting the precious time of Insolvency resolution. It has been noted that, even during the pendency of C.A. No. 62 (PB) of 2019, for seeking approval of the Resolution Plan of the SRA, before this Hon'ble AA the Applicant being the SRA filed C.A. No. 114 (PB) of 2019 praying to forgo/ dispense with the condition of the submission of Bank Guarantee till the adjudication of plan by this Hon'ble AA. The said application came up for consideration before this Hon'ble AA on 23.01.2019, which was dismissed with cost of Rs. 50,000 by this AA. Further, the SRA again filed C.A. No. 206 (PB)/ 2019, before this Hon'ble AA seeking inter-alia relief i.e., *"permit the Applicant to furnish bank guarantees/ demand drafts in terms of the proposal outlined in paragraph 7 of the instant application in replacement of the requirement to furnish upfront a bank guarantee for 25% of the financial bid submitted by the Applicant"*. That vide order dated 11.02.2019 this AA directed that prayer made by the Applicant be placed before the CoC.



Accordingly, meeting of the CoC was convened on 11.02.2019, wherein the CoC after due consideration of the request of the Applicant was of the view that the said condition being accepted by the Applicant at the time of negotiation and same being forming part of the resolution plan cannot be relaxed on the request of the Applicant merely on the apprehension that the approval of resolution plan will take considerable time on assumption of some legal proceedings and the said condition being forming part of the resolution plan is required to be adhered by the Applicant. Accordingly, the CoC unanimously declined to accept the request of SRA for amendments of timelines in the payment of 25% of the financial plan payable in 7 days of approval by CoC.

10. It is to be noted that vide order dated 30.05.2019 whilst allowing the application being C.A. No. 62 (PB) of 2019 approved the Resolution Plan of the Applicant i.e. M/s. G.P. Global Energy Pvt. Ltd, the first meeting of the Monitoring Committee was convened on 06.06.2019, wherein the Monitoring Committee raised concern and queried from the Applicant that when the 25% of the resolution plan consideration will be paid by the Applicant. The Answering Respondent vide email dated 11.06.2019 acknowledged receipt of payment of Rs. 3.55 crores and in total an amount of Rs. 10.55 crores towards the approved Resolution Plan amount out of total Rs. 235.86 crores. The answering respondent



further requested the Applicant to pay 25% of the Resolution Plan amount i.e. Rs.58.97 crores which was to be deposited within a period of one week. The meeting of the Monitoring Committee was convened on 17.06.2019, wherein the committee raised concerns that as per the terms of the approved resolution plan the Applicant was required to deposit 25% of the Resolution Plan consideration within 7 days of the approval but till date the same has not been paid. Pursuant to the above, the answering respondent vide email dated 20.06.2019 once again requested the Applicant to pay the balance amount i.e. 25% of the resolution plan consideration i.e. Rs. 48.42 crores (Rs. 58.97 crores less Rs. 10.55 crores already paid). However, even after the lapse of 30 days of the approval of the resolution plan, the SRA has failed to adhere to the terms of the Resolution Plan.


11. It has been observed the SRA has failed to even deposit the bank guarantee with the CoC and is engaged in litigation, in spite of undertaking the same under the Resolution Plan, prepared and submitted by itself, with its own free will. The conduct of the SRA has been wavering with regards to the payments/ terms undertaken by it under its Resolution Plan.
12. During the course of Oral Arguments the Ld. counsel for the Monitoring Professional, submitted that the parent company of the SRA which was registered in UAE has been declared Bankrupt.



13. Further, as per the scheme of I & B Code and already decided case law it is a crystallised position that post the approval of the Resolution Plan by the CoC and the same being granted approval by this Tribunal. It is beyond the powers of this Tribunal to make amendments to the approved resolution plan. The behaviour as demonstrated by the SRA so far has been that of Non-seriousness towards the laws and has defaulted on its obligations. Hence, the Monitoring Committee through the Monitoring Professional is directed to handover the possession as well control back to the CoC of the Corporate Debtor with immediate effect.
14. Accordingly, C.A. 2357/2019 & C.A. 1170/2019 stands disposed of in terms of the above order.

Let a copy of order be served to parties.


(BHASKARA PANTULA MOHAN)
ACTG. PRESIDENT


(HEMANT KUMAR SARANGI)
MEMBER (Technical)

01.11.2021

C.A. 2357/2019 & C.A. 1170/ 2019 IN IB- 46 (PB)/ 2018