

**NATIONAL COMPANY LAW TRIBUNAL  
AMARAVATI BENCH  
(Video Conference)**

**PRESENT: JUSTICE TELAPROLU RAJANI – MEMBER JUDICIAL  
ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 14.09.2022 AT 10.30 AM**

TC/CP. Nos.	CA/IA No.	Section/ Rule	Name of Parties
CP(IB)No.69/7/AMR/2021	IA(IBC)/114/2022	Sec. 30(6) and 31(1) of IBC	Maligi Madhusudhana Reddy (RP) of Sai Balaji Sponge Iron Private Limited

**Counsel for Petitioner(s):**

Ries

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

**Counsel for Respondent(s):**

Ries

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

**ORDER**

IA(IBC)/114/2022 is allowed, vide separate orders.

SD/-  
**JUSTICE TELAPROLU RAJANI  
MEMBER JUDICIAL**

*NCLT Amaravati Bench  
I.A(IBC) No. 114/2022  
IN  
CP (IB) No. 69/7/AMR/2021*

**NATIONAL COMPANY LAW TRIBUNAL  
AMARAVATI BENCH AT MANGALAGIRI**

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**I.A (IBC) No. 114/2022  
IN  
CP (IB) No. 69/7/AMR/2021**

**Under Section 30(6) and 31(1) of Insolvency and Bankruptcy Act,  
2016 Read with Regulation 39 of Insolvency and Bankruptcy  
Board of India (Insolvency Resolution for Corporate Persons)  
Regulations, 2016.**

**In the matter of  
M/s. SAI BALAJI SPONGE IRON INDIA PRIVATE LIMITED**

**Between:**

Mr.Maligi Madhusudhana Reddy,  
Resolution Professional of  
M/s. Sai Balaji Sponge Iron India Private Limited,  
MMR Lion Corp, 4<sup>th</sup> Floor,  
HSR Eden, Road No.2, Banjara Hills,  
Hyderabad - 500034

**... Applicant/Resolution Professional**

**Date of pronouncement of Order: 14.09.2022**

**CORAM:**

**Justice Telaprolu Rajani, Member Judicial**

**Appearance:**

For Applicant/RP: Mr. Madhusudhana Reddy Maligi, RP

**Per:**

**Justice Telaprolu Rajani, Member Judicial**

**ORDER**

1. The Resolution Professional (in short the RP) in respect of M/s.Sai Balaji Sponge Iron India Private Limited (the Corporate Debtor) seeks approval of the Resolution Plan (in short the Plan) in this Application under Section 30(6) and 31 (1) of Insolvency and Bankruptcy Act, 2016 Read with Regulation 39 of Insolvency and Bankruptcy Board of India (Insolvency Resolution for Corporate Persons) Regulations, 2016.
2. The brief facts leading to the Application are as under.
  - i) This Bench, vide its order dated 05.01.2022 directed initiation of Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor and Mr.Madhusudhana Reddy Maligi, Applicant herein was appointed as Interim Resolution Professional (IRP).
  - ii) The IRP made a public announcement in newspapers, inviting claims from different creditors/stakeholders of the Corporate Debtor on 07.01.2022. Received the claims from different creditors/stakeholders amounting to Rs.192,13,89,941/- and after verification of claims an amount of Rs.172,60,50,181/- has been admitted. The Applicant constituted CoC on 31.01.2022.

- iii) The 1<sup>st</sup> Committee of Creditors (CoC) meeting held on 08.02.2022, decided to appoint Mr.Madhusudhana Reddy Maligi (IRP) as Resolution Professional (RP) with 100% voting.
- iv) The Applicant has received additional claims from the Creditors. The total claims received are for Rs.192,98,36,460/- and after verification of claims an amount of Rs.173,44,96,700/- has been admitted.
- v) The Applicant submits that the IRP executed certain duties of the Resolution Professional and got valued the assets of the Corporate Debtor through registered valuers. The details of fair value and liquidation value of the Corporate Debtor are hereunder:

<b>Sl.no.</b>	<b>Asset class</b>	<b>Fair market value (Rs.)</b>	<b>Liquidation value (Rs.)</b>
1	Land & Building	417,00,000	330,80,000
2	Plant & Machinery	950,00,000	665,50,000
3	Securities or Financial Assets	1078,43,370	321,56,462
<b>Total</b>		<b>2445,43,370</b>	<b>1317,86,462</b>

Subsequently, invitation of Expression of Interest (EoI) in Form-G under Regulation 36A(1) of the Regulations was

invited by the Applicant. In response to invitation for EoI in Form-G, the RP received EoI from 06 (Six) Resolution Applicants viz 1. KDA Ispat Private Limited, 2. MS Agarwal Foundries Pvt Ltd., 3, Rayalaseema Steel Re-Rolling Mills Pvt Ltd., 4. T.Shakuntala Devi, 5. S.L.V.Consortium & 6. K.Ramesh Raju. Further, the Resolution Professional submitted Information Memorandum, request for Resolution Plan and Evaluation Matrix to all the Resolution Applicants, for submission of Resolution Plans on 25.04.2022.

- vi) In 4<sup>th</sup> CoC meeting held on 14.06.2022, the Resolution Plans received from the Resolution Applicants were opened. After verification of all the Resolution Plans, the Applicant submitted a detailed report to the CoC for consideration of the Resolution Plans submitted by the Resolution Applicants.
- vii) In 5<sup>th</sup> CoC meeting, the Resolution Professional received a claim of Rs.32.94 Lakhs from the Operational Creditor, after submission of IM, RFRP & EM to the Resolution Applicants and informed the same to the CoC and Resolution Applicants for consideration. In the same CoC meeting, the Resolution Plan submitted by Mr.K.Ramesh

Raju, Successful Resolution Applicant was approved with 98.36% voting.

viii) The Applicant/RP submitted the Compliance Certificate in Form-H under Regulation 39(4) of the Regulations showing the compliances of the Plan with mandatory requirements under the Code and Regulations and the Plan had been approved by the CoC. The Resolution Applicant has submitted unconditional undertaking on the acceptance of the conditions of the RFRP and also to accept any terms and conditions as pronounced by this Tribunal on approval of Resolution Plan. The Successful Resolution Applicant has submitted 10% of Bid amount as the Performance Guarantee by way of Demand Draft vide No.020099, dated 20.06.2022 drawn on HDFC Bank, for Rs.3.60 Crores.

ix) The following is the summary of the Plan/Restructuring Proposal:

a) The Plan offers an amount of Rs.36.00 Crores as detailed below:

S. No.	Category of Claimants	Amount admitted (Rs.)	Amount proposed to be paid under the Plan (Rs.)
1	CIRP costs	-	45,00,000
2	Secured Financial Creditors	20,21,00,000	5,67,00,000
3	Unsecured Financial Creditors – Related	18,43,00,000	1,00,00,000
4	Unsecured Financial Creditors – Others	28,62,00,000	28,62,00,000
5	Operational Creditors (Including Statutory Authorities)	105,86,00,000	26,00,000
	<b>Total</b>	<b>173,12,00,000</b>	<b>36,00,00,000</b>

The timelines for the payment of the above mentioned debts of the Corporate Debtor are as follows:

S. No.	Particulars	Terms and amount
1	Upfront Cash Recovery (Upfront payment to CIRP Cost and Creditors)	Upfront payment of Rs.3.40 Crores within 30 days of from the date of the order of the Adjudicating Authority. 10% performance guarantee amount of Rs.3.60 Crores will be paid within 7 days from the date of the order of the Adjudicating Authority.
2	Repayment of Balance amount to Creditors	Rs.29 Crores (including security deposit of Rs.10 Lakhs paid at the time of EoI) will be paid in 2 equal monthly instalments. Rs.14.50 Crores within 60 days from the date of the order of the Adjudicating Authority.

b) The RA is proposing to constitute Monitoring Committee consisting of Three (3) members for implementation of the Resolution Plan, as given below:-

- i. Mr.Madhusudhana Reddy Maligi, Resolution Professional, shall be the Chairman of the Monitoring Committee.
- ii. Mr.P.Sudheer Kumar, Authorised Representative appointed by CoC.
- iii. K.Rajeswara Raju, Authorised Representative appointed by Resolution Applicant

x) Hence this Application.

3. I have heard the Applicant and perused the Resolution Plan and related documents submitted along with Application. IA(IBC) No.126 & 119 of 2022 which were filed by the Unsuccessful Resolution Applicants (URA) were withdrawn. Hence, there is no one opposing the approval of the Resolution Plan as sought for in this application. The Resolution Plan submitted by the Resolution Applicant is found to be meeting all the requirements of the IBC, 2016 and more importantly Section 30 (2) of the IBC Code and Regulation 38 (1A) and applicable CIRP Regulations. It does not contravene any of the provisions of law. It caters to the interest of all the Stakeholders.

4. Section 30 (2) of the Code as amended up to date enjoins upon the Resolution Professional to examine each Resolution Plan received by him to confirm that such plan –
- a) provides for the payment of insolvency resolution process costs in the manner specified by the Board in priority to the payment of other debts of the corporate debtor;
  - b) provides for the payment of debts of the operational creditors in such manner as may be specified by the Board, which shall not be less than-
    - i. the amount to be paid to such creditors, in the event of liquidation of the corporate debtor under section 53; or
    - ii. the amount that would have been paid to such creditors, if the amount to be distributed under the resolution plan had been distributed in accordance with the order of priority in sub-section (1) of section 53, whichever is higher, and provides for the payment of debts of financial creditors, who do not vote in favour of the resolution plan, in such manner as may be specified by the Board, which shall not be less than the amount to be paid to such creditors in accordance with sub-section (1) of section 53 in the event of a liquidation of the corporate debtor.

Explanation - For the purpose of the above provision is as under:

- (i) it is hereby clarified that at each stage of the distribution of proceeds in respect of a class of recipients that rank equally, each of the debts will either be paid in full, or will be paid in equal proportion within the same class of recipients if the proceeds are insufficient to meet the debts in full; and
  - (ii) the term “workmen’s dues” shall have the same meaning as assigned to it in section 326 of the Companies Act, 2013 (18 of 2013).
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- c) Provides for the management of the affairs of the Corporate debtor after approval of the resolution plan;
  - d) The implementation and supervision of the resolution plan;
  - e) Does not contravene any of the provisions of the law for the time being in force;
  - f) Confirms to such other requirements as may be specified by the Board.

5. Section 30(4) of the Code reads as follows:

*“(4) The committee of creditors may approve a resolution plan by a vote of not less than sixty-six percent. of voting share of the financial creditors, after considering its feasibility and viability, the manner of distribution proposed, which may take into account the order of priority amongst creditors as laid down in sub-section (1) of section 53, including the priority and value of the security interest of a secured creditor and such other requirements as may be specified by the Board.”*

6. Section 30(6) of the Code enjoins the Resolution Professional to submit the Resolution Plan as approved by the CoC to the Adjudicating Authority. Section 31 of the Code deals with the approval of the Resolution Plan by the Authority, if it is satisfied that the Resolution Plan as approved by the CoC under section 30(4) meets the requirements provided under section 30(2) of the Code. Thus, it is the duty of the Adjudicating Authority to satisfy itself that the Resolution Plan, as approved by the CoC, meets the above requirements.

7. On perusal of the Resolution Plan, it is observed that the Resolution Plan provides for the following:

- a) Payment of CIRP Cost as specified u/s 30(2)(a) of the Code.
  - b) Repayment of Debts of Operational Creditors as specified u/s 30(2)(b) of the Code.
  - c) For management of the affairs of the Corporate Debtor, after the approval of Resolution Plan, as specified U/s 30(2)(c) of the Code.
  - d) The implementation and supervision of Resolution Plan by the RP and the CoC as specified u/s 30(2)(d) of the Code.
  - e) The RP has certified through affidavit that the Resolution Plan is not in contravention to any of the provisions of law, for the time being in force, as specified u/s 30(2)(e) of the Code.
8. In terms of Regulation 27 of the Regulations, Liquidation value was ascertained through registered valuers and the Liquidation value is Rs.13,17,86,462/-and the Resolution Plan offers Rs.36.00 Crores.
9. The RP has complied with the requirement of the Code in terms of Section 30(2)(a) to 30(2)(f) and Regulations 38(1), 38(1-A), 38 (1-B) 38(2) & 38(3) of the Regulations. The Plan also provides for keeping the Company as a going concern and to operate in its normal course of business upon implementation of

Resolution Plan. No objection has been filed by anyone in this regard.

10. The RP has filed Compliance Certificate in Form-H along with the Plan. On perusal, the same is found to be in order. The Resolution Plan includes a statement under regulation 38(1A) of the Regulations as to how it has dealt with the interest of the stakeholders in compliance with the Code and the Regulations.
  
11. In *K Sashidhar v. Indian Overseas Bank & Others* (in Civil Appeal No.10673/2018 decided on 05.02.2019) the Hon'ble Apex Court held that if the CoC had approved the Resolution Plan by requisite percent of voting share, then as per section 30(6) of the Code, it is imperative for the Resolution Professional to submit the same to the Adjudicating Authority (NCLT). On receipt of such a proposal, the Adjudicating Authority is required to satisfy itself that the Resolution Plan, as approved by CoC, meets the requirements specified in Section 30(2). The Hon'ble Court observed that the role of the NCLT is 'no more and no less'. The Hon'ble Court further held that the discretion of the Adjudicating Authority is circumscribed by Section 31 and is limited to scrutiny of the Resolution Plan "as approved" by the requisite percent of voting share of financial creditors. Even in that enquiry, the grounds on which the Adjudicating Authority can reject the Resolution Plan is in reference to matters specified in

Section 30(2) when the Resolution Plan does not conform to the stated requirements.

12. **In CoC of Essar Steel** (Civil Appeal No.8766-67 of 2019 decided on 15.11.2019) the Hon'ble Apex Court clearly laid down that the Adjudicating Authority would not have power to modify the Resolution Plan which the CoC in their commercial wisdom have approved. In para 42 Hon'ble Court observed as under:

*“Thus, it is clear that the limited judicial review available, which can in no circumstance trespass upon a business decision of the majority of the Committee of Creditors, has to be within the four corners of section 30(2) of the Code, insofar as the Adjudicating Authority is concerned, and section 32 read with section 61(3) of the Code, insofar as the Appellate Tribunal is concerned, the parameters of such review having been clearly laid down in K. Sashidhar (supra).”*

13. In view of the discussions and the law thus settled, the instant Resolution Plan is found to be meeting the requirements of Section 30(2) of the Code and Regulations 37, 38, 38(1A) and 39 (4) of the Regulations. The Resolution Plan is not in contravention of any of the provisions of Section 29A of the Code and is in accordance with law. The same needs to be approved. Hence ordered.

**ORDER**

- i. The Resolution Plan annexed to the Application is hereby approved. It shall become effective from this date and shall form part of this order. It shall be binding on the Corporate Debtor, its employees, members, creditors, including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force is due, guarantors and other stakeholders involved in the Resolution Plan.
- ii. The Memorandum of Association (MoA) and Articles of Association (AoA) shall accordingly be amended and filed with the Registrar of Companies (RoC), Andhra Pradesh for information and record. The Resolution Applicant, for effective implementation of the Plan, shall obtain all necessary approvals, under any law for the time being in force, within such period as may be prescribed.
- iii. The moratorium under Section 14 of the Code shall cease to have effect from this date.
- iv. The Applicant shall supervise the implementation of the Resolution Plan and file status of its implementation before this Authority from time to time, preferably every quarter.

- v. The Applicant shall forward all records relating to the conduct of the CIRP and the Resolution Plan to the IBBI along with copy of this Order for information.
- vi. The Applicant shall forthwith send a copy of this Order to the CoC and the Resolution Applicant.

Accordingly, I.A.No.114/2022 in CP (IB) No.69/7/AMR/2021 is disposed of.

**SD/-  
JUSTICE TELAPROLU RAJANI  
MEMBER JUDICIAL**

*Swamy Naidu*