



**NATIONAL COMPANY LAW TRIBUNAL**  
**INDORE BENCH**  
**COURT NO. 1**

ITEM No.1  
IA(Plan)/2(MP)2024  
in  
CP(IB)/41(MP)2022

**Proceedings under Section 7 IBC**

**IN THE MATTER OF:**

Meekstar Bizgoal Consultancy Pvt Ltd  
V/s  
Madhu Aluminium Pvt Ltd

.....Applicant

.....Respondent

**Order delivered on 11/09/2024**

**Coram:**

Chitra Ram Hankare, Hon'ble Member(J)  
Kaushalendra Kumar Singh, Hon'ble Member(T)

**PRESENT:**

For the Applicant :  
For the Respondent :

**ORDER**

**IA(Plan)/2(MP)2024**

This case is fixed for pronouncement of the order.

The order is pronounced in open Court *vide* separate sheet.

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**KAUSHALENDRA KUMAR SINGH  
MEMBER (TECHNICAL)**

A. Bhadauria

-sd-

**CHITRA RAM HANKARE  
MEMBER (JUDICIAL)**



**THE ADJUDICATING AUTHORITY**  
**NATIONAL COMPANY LAW TRIBUNAL**  
**INDORE BENCH**

**IA(Plan)/02/MP/2024**  
**In**  
**CP(IB)/41/MP/2022**

**IA(Plan)/02/MP/2024**

*(An application under section 30(6) of the Insolvency & Bankruptcy Code, 2016 for approval of Resolution Plan)*

**Through:**

**Chirag Rajendrakumar Shah,**  
**Resolution Professional of**  
**M/s Madhu Aluminium Private Limited**  
Address: 208, Ratnaraj Spring,  
Opp. HDFC Bank House,  
Beside Navnirman Co-op Bank,  
Navrangpura, Ahmedabad,  
Gujarat- 380009

**.....Applicant**

**In the matter of CP(IB)/41/MP/2022**

*(An application under section 7 of the Insolvency & Bankruptcy Code)*

**Meekstar Bizgol Consultancy Private Limited**

**.....Petitioner/Financial Creditor**

**Versus**

**Madhu Aluminium Private Limited**

**.....Respondent/Corporate Debtor**

**Order pronounced on: 11.09.2024**

**Coram: Chitra Ram Hankare, Member (J)**

**Kaushalendra Kumar Singh, Member (T)**

**Appearance:**

For Applicant: Ld. Adv. Mr. Pratik Thakkar



## **JUDGMENT**

1. This application is filed on 09.04.2024, under section 30(6) of Insolvency and Bankruptcy Code, 2016 (the Code) by Mr. Chirag Rajendrakumar Shah, Resolution Professional (RP) of the corporate debtor i.e. M/s Madhu Aluminium Private Limited for approval of the resolution plan submitted by M/s Impact Multitrade LLP.

2. The averments made by the applicant/resolution professional in the present application and as argued by the learned counsel are summarized as under:

(i) The corporate debtor was admitted in Corporate Insolvency Resolution Process (CIRP) on 02.11.2023, applicant herein was appointed as Interim Resolution Professional (IRP). On 05.11.2023 the IRP made a public announcement of the CIRP of the corporate debtor thereby calling upon its creditors to submit their claims with requisite proof. The Committee of Creditors (CoC) was constituted with sole financial creditor i.e. Meekstar Bizgol Consultancy Private Limited having 100% of voting share. The CoC resolved to appoint the IRP as the RP.

(ii) In the second CoC meeting dated 12.12.2023, it was resolved to publish Form-G calling upon the prospective resolution applicants to submit the EoI/Resolution Plans for the corporate debtor.

(iii) The RP published the Form-G on 15.12.2023 in widely circulated English as well as local language newspapers and the last date to submit the EoI was 16.01.2024. In response thereto, he received three EoI from M/s Gurudeo Exports Corporation Private Limited, Impact Multitrade LLP, and Adi Impex Infra Services.

(iv) In the fifth CoC meeting dated 04.03.2024, the RP conveyed that M/s Impact Multitrade LLP had submitted the resolution plan, while Adi Impex Infra Services withdrew their interest and requested a refund of Earnest Money Deposit (EMD). Further, it was apprised to the CoC that Gurudeo Exports Corporation Private Limited failed to



submit resolution plan by the deadline of 28.02.2024 and had requested for time in submission of resolution plan. CoC told RP to wait for submission of the resolution plan.

(v) In the sixth CoC meeting dated 27.03.2024, the RP informed CoC that Gurudeo Exports Corporation Private Limited has requested for the refund of EMD. Further, revised resolution plan submitted by M/s Impact Multitrade LLP was discussed and the same was approved by the CoC with 100% of voting share.

(vi) The successful resolution applicant- M/s Impact Multitrade LLP has proposed to infuse a sum of Rs 5,00,00,000/- as plan amount and the same will be arranged as under:

(a) The said amount will be financed partly to the extent of Rs 1,40,00,000/- out of repayment of loan given by the LLP to M/s Elite Infrastrucutre.

(b) The balance amount of Rs 3,60,00,000/- shall be financed by the family and friends of the partners of the LLP.

(vii) The details of the proposed payment in the resolution plan by the resolution applicant are as follows:

<b>S. No.</b>	<b>Category of Stakeholder</b>	<b>Amount Claimed</b>	<b>Amount Admitted</b>	<b>Amount Provided under the Plan</b>
1.	CIRP Cost	-	-	15,00,000 (estimated)
2.	Secured Financial Creditor	Nil	Nil	Nil
3.	Unsecured Financial Creditor- Including Related party Financial Creditors	4,77,92,368	4,77,92,368	4,00,00,000
4.	Operational Creditor	Nil	Nil	5,00,000



				(Reserved)
5.	Workmen and Employees	Nil	Nil	Nil
6.	Statutory Dues	Nil	Nil	10,00,000 (Reserved)
7.	Working Capital	-	-	40,00,000
8.	Capital Expenditure	-	-	30,00,000
	<b>Total</b>			<b>5,00,00,000</b>

(viii) There are some operational creditors as per the last financial statement of the corporate debtor, however, no claim is received by the RP till date. The resolution applicant has proposed to reserve Rs 5 Lakhs to settle the claims that may be received at a later date.

(ix) The resolution plan also includes a clause for Governmental liabilities, statutory authority dues, tax dues etc. where it is mentioned that the information memorandum provided by the RP to the resolution applicant states that there are ongoing litigation cases related to statutory dues. However, no claims are received from them till date. Resolution applicant proposes to settle the claims that may be received at a later date and reserve a sum of Rs 10 Lakhs for this purpose.

(x) The RP has examined the resolution plan and the compliance. For ready reference, the compliances examined by the RP are reproduced hereunder:

Section of the Code/Regulation No.	Requirement with respect to the Resolution Plan	Clause of the Resolution Plan	Compliance (Yes/No)
Section 25(2)(h)	Whether the Resolution Applicant meets the criteria approved by the CoC having regard to the complexity and scale of operations of business of the CD?	Resolution Applicant meets the eligibility criteria as approved by the CoC and Resolution Applicant demonstrated in the Resolution Plan its capabilities having regard to the complexities and scale of business of CD since they are in the industry.	Yes



Section 29A	Whether the resolution applicant is eligible to submit resolution plan as per final list of RP or Order, if any, of the Adjudicating Authority?	Yes, the Resolution Applicant has given affidavit under Section 29A showing that the resolution applicant is eligible to submit resolution plan  Statement of compliance of section 29A is provided in Point No. 6.43 Page No. 52 of Resolution Plan dated 27.03.2024	Yes
Section 30(1)	Whether the resolution applicant has submitted an affidavit stating that it is eligible?	Yes, Resolution Applicant has submitted an affidavit that it is eligible to submit the Resolution Plan	Yes
Section 30(2)	Whether the resolution plan- (a) Provides for the payment of Insolvency Resolution Process Cost? (b) Provides for the payment to the operational creditors? (c) Provides for the payment to the Financial Creditors who did not vote in favour of the resolution plan? (d) Provides for the management of the affairs of the corporate debtor? (e) Provides for the implementation and supervision of the resolution plan? (f) Contravenes any of the provisions of the law for the time being in force?	Page No. 43, Point No. 6.33 of the Resolution Plan dated 27.03.2024.  Point No. 4.2 on page No. 18 of the Resolution Plan.  N.A. as no Financial Creditors have rejected the Resolution Plan.  Point No. 4.4 on page No. 18 of the Resolution Plan.  Point No. 4.5 on page No. 18 of the Resolution Plan.  The resolution Applicant has prepared Resolution Plan taking into consideration compliance of all applicable laws.	Yes  Yes  NA  Yes  Yes  No
Section (30(4)	Whether the resolution plan (a) is feasible and viable, according to the COC?  (b) has been approved by the COC with 66% voting share?	According to CoC, the Resolution Plan submitted by Resolution Applicant is feasible and based on the said consideration it has approved the Plan.  It is approved by CoC by 100% voting share of the total Financial Creditor and 100% of those voted for the Resolution Plan.	Yes  Yes
Section 31(1)	Whether the resolution plan has provisions for its effective implementation plan, according to the COC?	Point No. 4.14 (c) on page No. 24 of the Resolution Plan.	Yes
Regulation 35A	Where the resolution professional made a determination if the corporate debtor has been subjected to any transaction of the nature covered under sections 43,45,50 or 66, before the one hundred and fifteenth day of the insolvency commencement date, under intimation of the Board?	The Resolution Professional has not observed, found or determined the transactions of the nature covered under sections 43,44,50 or 66 for the term which is two years immediately before the admission date as prescribed in IBC.	No



Regulation 38(1)	Whether the amount due to the operational creditors under the resolution plan has been given priority in payment over financial creditors?	Yes, the amount due to the operational creditors under the resolution plan has been given priority in payment over financial creditors. Please refer page No. 43 point No. 6.34 of the Resolution Plan.	Yes
Regulation 38(1)(a)	Whether the resolution plan includes a statement as to how it has dealt with the interest of all stakeholders?	Yes, the resolution plan includes a statement as to how it has dealt with the interest of all stakeholders.	Yes
Regulation 38(1)(b)	(i) Whether the resolution applicant or any of its related parties has failed to implement or contribute to the failure of implementation of any resolution plan approved under the Code. (ii) If so, whether the resolution applicant has submitted the statement giving details of such non-implementation?	The resolution applicant has confirmed that it by itself nor any of its related parties has failed to implement or contributed to the failure of implementation of any resolution plan approved under the Code.  Since the answer to the above is in negative, this is not applicable.	No
Regulation 38(2)	Whether the resolution plan provides: (a) the term of the plan and its implementation schedule?  (b) for the management and control of the business of the corporate debtor during its term? (c) adequate means for supervising its implementation?	Point No. 4.13(a) on page No. 23 of the Resolution Plan r.w. Point No. 6.29 on page No. 39.  Point No. 4.13(b) on page No. 23 of the Resolution Plan.  Point No. 4.5 on page No. 18 of the Resolution Plan.	Yes  Yes  Yes
Regulation 38(3)	Whether the resolution plan demonstrates that (a) it addresses the cause of default?  (b) it is feasible and viable?  (c) it has provisions for its effective implementation?  (d) it has provisions for approvals required and the timeline of the same?  (e) the resolution applicant has the capability to implement the resolution plan?	(a) the Resolution Plan provides in detail about the cause of default. Point No. 4.14(a) on page No. 23 of the Resolution Plan.  (b) Based on point No. 4.14(b) on page no. 24 of the Resolution Plan, the CoC have found the same to be feasible and viable.  (c) Point No. 4.14(c) on page No. 24 of the Resolution Plan.  (d) Point No. 4.14(d) on page No. 24 of the Resolution Plan.  (e) Point No. 4.14(e) on page No. 24 of the Resolution Plan.	Yes  Yes  Yes  Yes  Yes
Regulation 39(2)	Whether the RP has filed application in respect of transactions observed, found or determined by him?	The Resolution Professional has not observed, found, or determined the transactions of the nature covered under sections 43,45,50 or 66 for the term which is two years immediately before the admission date as prescribed in IBC. Accordingly, no application was filed.	No



Regulation 39(4)	Provide details of performance security received as referred to in sub-regulation (4A) of Regulation 36B	Security deposit of an amount of Rs 21.50 Lakh is provided by the Resolution Applicant.	Yes.
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3. We have heard the learned counsel for the RP and on perusal of records it is noted that the CoC approved the resolution plan of M/s Impact Multitrade LLP by 100% votes and it is not necessary for us to go into details of the commercial wisdom of CoC. We proceed to examine the plan in light of provisions contained in sections 30(2) and 31 of the Code r.w. Regulation 38 of the IBBI (CIRP of the Corporate Debtor) Regulations, 2016. The resolution professional has produced on record the compliance certificate in Form-H. It shows that the fair value of the assets of the corporate debtor is Rs 4,98,00,000/- whereas, the liquidation value of the corporate debtor is Rs 3,83,00,000/-. The plan value as proposed by the successful resolution applicant is Rs 5,00,00,000/-.

4. In order to obtain the approval of the Adjudicating Authority, the resolution plan should adhere to the following requirements as per section 30(2) of the Code:

(i) It should provide for the payment of corporate 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 should not be less than the amount to be paid to such creditors in the event of liquidation of the corporate debtor under section 53 of the Code, or the amount that would have been paid to the said creditors if the amount to be distributed under the resolution plan had been distributed in accordance of section 53(1) of the Code.

Moreover, the payment to the operational creditor is to be made in priority over the financial creditor;

Further, the repayment of the debts of dissenting financial creditors should not be less than the amount that would have been paid to





such creditors in the event of liquidation of the corporate debtor under section 53 of the Code and the payment to said 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 Person) Regulations, 2016 which are not covered above, are as under:

(a) The resolution plan should include a statement as to how it has dealt with the interest 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 approval required and timeline for the same. Further, that the resolution applicant has the capability to implement the resolution plan.

[CIRP Regulation 38(3)]

5. In view of the above provisions of the Code, the resolution plan submitted before us has been examined as follows:

(i) The resolution plan provides for the payment of unpaid CIRP cost on priority to the repayment of other debts of the corporate debtor. The resolution plan does disclose that within 90 days post approval of the resolution plan, the RP shall provide a final statement, containing details of the unpaid CIRP costs, as approved by the CoC from time to time, to the resolution applicant, and the CIRP cost will be paid on actual basis. Further, estimated CIRP cost of Rs 15,00,000/- has been mentioned in the resolution plan. In view thereof provisions of section 30(2)(a) is complied with.

(ii) There are no dissenting financial creditors. The resolution plan has been approved by the CoC with 100% voting shares. Further, the resolution plan provides for payment to the operational creditor in priority to the repayment of other debts. According to section 30(2)(b), the operational creditors should not be paid less than the amount payable to such creditors in event of liquidation of the corporate debtor under section 53 of the Code, or the amount that would have been paid to the said creditors if the resolution plan value had been distributed in accordance of section 53(1) of the Code. As stated earlier, the liquidation value is Rs 3,83,00,000/- whereas the total admitted claim of unsecured financial creditors is Rs 4,77,92,368/-.



As such if the said liquidation value was to be considered in the event of liquidation as a total amount to be distributed as per section 53 then the operational creditors would have got nothing. Similarly, we find that the proposed plan value is 5,00,00,000/- in the resolution plan and if that was to be distributed in accordance with section 53 then very less amount would have remained for the operational creditor. However, no claims have been received by the resolution professional, even though the resolution applicant in the plan proposed a reserve amount of Rs 5,00,000/- for the operational creditors. In view thereof, provisions of section 30(2)(b) read with CIRP Regulation 38(1)(a) & 38(1)(b) are complied with.

(iii) The mechanism for management and control of the affairs of the corporate debtor after approval of the resolution plan till its implementation has been provided in the resolution plan itself whereby the resolution applicant shall subscribe to Equity Share of the corporate debtor such that they will hold 100% of share capital and acquire control of the corporate debtor as a going concern in accordance with applicable laws. Thus, provisions of section 30(2)(c) read with CIRP Regulation 38(2)(b) are complied with.

(iv) The resolution plan contains a provision wherein, the implementation of the said plan will be supervised by the Monitoring committee consisting of one representative of the resolution applicant, one insolvency professional (to be identified by the resolution applicant) and one representative of the financial creditor having highest voting share. Thereby, section 30(2)(d) read with CIRP Regulation 38(2)(c) have 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 confirms to other IBBI Regulations as given hereunder:



(a) The resolution plan adequately deals with the interest 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 have 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 and its implementation schedule is as under:

Sr. No.	Activity	Timeline
1	Approval of the plan by the Adjudicating Authority (Effective Date)	X
2	Appointment of Monitoring Agency	X+7
3	Equity Infusion and capital reduction	X+90
4	Allotment of fresh equity to resolution applicant	X+90
5	Payment of CIRP Cost	X+90
6	Final payment to financial creditors	X+90

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 for approval required and the 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.



6. The resolution applicant is a Limited Liability Partnership Firm established in year 2011. The resolution applicant is engaged in business of trader, distributor, dealer, exporter, importer, etc. For the source of fund, the resolution plan includes the following:

(i) The said amount will be financed partly to the extent of Rs 1,40,00,000/- out of repayment of loan given by the resolution applicant to M/s Elite infrastructure.

(ii) The balance amount of Rs 3,60,00,000/- shall be financed by the family and friends of the partners of the resolution applicant.

7. It is also noted that the resolution applicant has sought certain reliefs, concessions and waiver such as:

(i) All inquiries, investigations and legal proceedings against the corporate debtor, present or future in relation to any period prior to effective date shall stand withdrawn and dismissed.

(ii) All Government Entities to waive all past Non-compliances of the company under applicable laws.

(iii) Immunity to be granted to the corporate debtor and its directors and employees from all proceedings/ prosecution and penalties under all applicable laws for any non-compliance.

(iv) Extinguishment of all liabilities prior to the approval of the resolution plan due to non-compliances under any law.

(v) To exempt the resolution applicant and the corporate debtor from the applicability of and payment of all taxes under the Income Tax Act, 1961, including any liability under the Minimum Alternate Tax.

(vi) Any approval that may be required from Government/semi Government in connection with the implementation of resolution plan.

(vii) Any authority, power of attorney, rights given by the corporate debtor to any person/representative shall become infructuous and void.



Further, during the hearing, the learned counsel for the applicant has submitted that approval of the resolution plan is not conditional to the grant of reliefs & concessions sought by the resolution applicant.

8. As far as reliefs and concessions claimed by the resolution applicant with respect to the unpaid liabilities after approval of the plan, the law has been well settled by the Hon'ble Supreme Court in the case of **Ghanshyam 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....."*

In view of the above, all unpaid liabilities and those which are not included in the said resolution plan would stand extinguished. As regards other reliefs and concessions sought by the resolution applicant, we direct the said successful resolution applicant to approach the concerned statutory authorities for those concessions and those authorities will consider the same as per the provisions of law under the relevant Acts keeping in view the intent and object of the IBC.

9. The proviso to section 31 of the Code, 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 Impact Multitrade LLP for the corporate debtor i.e. M/s Madhu Aluminium Private Limited and proceed to pass the following order:

**ORDER**

- (i) Application is allowed.
- (ii) The resolution plan of M/s Impact Multitrade LLP for the corporate debtor i.e. M/s Madhu Aluminium Private Limited 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 02.11.2023 passed by this Adjudicating Authority under section 14 of the 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 professional shall forward all records relating to the conduct of the Corporate Insolvency Resolution Process and resolution plan to the Insolvency and Bankruptcy Board of India to be recorded in its database.

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

**CHITRA RAM HANKARE**  
**MEMBER (JUDICIAL)**

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