



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

ITEM No.301  
IA/235(MP)2022

in  
TP 128 of 2019 [CP(IB) 220 of 2019]

**Proceedings under Section 30 IBC r.w. Reg. 39 & Rule 11**

**IN THE MATTER OF:**

Mangesh Vitthal Kekre, RP of M/s Krishna Oils & Proteins Pvt Ltd .....Applicant

V/s .....Respondents

M/s Krishna Oils & Proteins Pvt Ltd & Ors

**Order delivered on 20/01/2023**

**Coram:**

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

**PRESENT:**

For the Applicant :

For the Respondent :

**ORDER**

The case is fixed for pronouncement of order.

The order is pronounced in open Court vide separate sheet.

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**KAUSHALENDRA KUMAR SINGH  
MEMBER (TECHNICAL)**

Braj Mohan

-sd-

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



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

**IA/235(MP)2022**  
**In**  
**TP/128(MP)2019**  
**CP(IB)/220(AHM)2019**

**IA/235(MP)2022**

*(An application under section 30 of the Insolvency & Bankruptcy Code, 2016 for approval of resolution plan)*

**Through:**

**Mangesh Vitthal Kekre**  
**Resolution Professional of:**  
**M/s Krishna Oils & Proteins Private Limited**

Address:

607, Chetak Centre, RNT Marg,  
Indore.  
Madhya Pradesh- 452001

**.....Applicant/Resolution Professional**

**Versus**

**M/s Krishna Oils & Proteins Private Limited**

Address:

Survey No. 331,332,  
Village Jawasia Kumhar,  
P.O. Undasa, Near Nagziri,  
Ujjain,  
Madhya Pradesh- 456010

**.....Corporate Debtor/Respondent No. 1**

**Committee of Creditors**  
**Represented by Bank of India**

Being the sole member,

Address:

Saket Nagar Branch, 402, Saket,  
Indore,  
Madhya Pradesh- 452001



**.....Committee of Creditors/Respondent No. 2**

**Mrs. Lavina Devi Mansukhani**

Proprietor of M/s Snehil Overseas

Address:

Anwar Ahmed Marg, Jaora District,  
Ratlam,  
Madhya Pradesh

**.....Resolution Applicant/Respondent No. 3**

**Mr. Abhimanyu Agrawal**

**Suspended Director of Corporate Debtor**

Address:

Gulmohar Main,  
Indore,  
Madhya Pradesh- 452018

**.....Suspended Director/Respondent No. 4**

**Mr. Shaitan Singh Dodiya**

**Suspended Director of Corporate Debtor**

Address:

332, Village Jawasia Kumhar,  
Near Nagziri,  
Ujjain,  
Madhya Pradesh- 456010

**..... Suspended Director/Respondent No. 5**

**In the matter of TP/128(MP)2019, CP(IB)/220(AHM)2019**

*(An application filed under section 7 of the Insolvency and Bankruptcy Code, 2016)*

**Bank of India**

**.....Financial Creditor**

**Versus**

**M/s Krishna Oils & Proteins Private Limited**

**.....Corporate Debtor**

**Order Reserved On: 06.01.2023  
Order Pronounced On: 20.01.2023**



**Coram: Dr. Madan B. Gosavi, Member (J)**  
**Kaushalendra Kumar Singh, Member (T)**

**Appearance:**

For the applicant: Ld. PCA Ms. Ayushi Patidar

For the Respondents: Ld. Adv. Mr. Akshat Agrawal a.w. Ld. Adv. Ms. Charulata Bhargava

**ORDER**

1. This application is filed under section 30 of the Insolvency and Bankruptcy Code, 2016 (the Code) read with Regulation 39 of the IBBI Regulations, 2016 and Rule 11 of NCLT Rules, 2016 by Mr. Mangesh Vitthal Kekre, resolution professional of the corporate debtor i.e. M/s Krishna Oils & Proteins Private Limited, for approval of the resolution plan submitted by Mrs. Lavina Devi Mansukhani, Proprietor of M/s Snehil Overseas.

2. The following are the submissions made by the applicant/resolution professional in the present application:

(i) The corporate debtor was admitted in the Corporate Insolvency Resolution Process (CIRP) by the Adjudicating Authority vide order dated 13.03.2020. Mr. Nimit Kalsi was appointed as Interim Resolution Professional (IRP). On 25.06.2020 the IRP made a public announcement of CIRP of the corporate debtor and called upon its creditors to submit claims with requisite proof. The IRP formed the COC on 10.07.2020 consisting Bank of India as a sole COC member having 100% voting rights. In the 1<sup>st</sup> COC meeting held on 21.07.2020, it was resolved to appoint the applicant herein as resolution professional by replacing the IRP. This Adjudicating Authority vide order dated



03.09.2020 appointed the applicant as resolution professional of the corporate debtor.

(ii) The resolution professional published Form-G on 25.09.2020 in widely circulated English as well as local language newspapers. In response thereto, the resolution professional received expression of interest from three prospective resolution applicants (PRAs) and out of which only two of them namely (i) Ms. Lavina Mansukhani, proprietor of M/s Snehil Overseas and (ii) Mr. Rahul Sundrani, were found eligible to submit resolution plans for the corporate debtor.

(iii) The resolution plans were discussed in several meetings and thereafter, the COC in its 10<sup>th</sup> meeting dated 20.04.2021 approved the resolution plan submitted by respondent no. 3 (Ms. Lavina Mansukhani, proprietor of M/s Snehil Overseas) by 100% voting share after considering its feasibility and viability and better resolution amount offered than the other PRA. The same plan has been submitted before this Adjudicating Authority for approval under section 30 of the Code. The liquidation value and fair value of the corporate debtor is reported at Rs 6,00,74,884/- and Rs 7,46,13,356/- respectively.

(iv) The resolution applicant (respondent no. 3) has proposed to pay a sum of Rs 9,44,00,000/-. The details are as follows:

<b>S. NO.</b>	<b>Description</b>	<b>Admitted Claim</b>	<b>Amount Proposed</b>
1	CIRP Cost (At Actuals)	Nil	25,00,000/-
2	Operational Creditor	Nil	Nil



3	Statutory Dues	Nil	Nil
4	Workmen (No claim received)	Nil	Nil
5	Employee	Nil	Nil
6	Secured Financial Creditor	22,24,00,000/-	7,19,00,000/-
7	Unsecured Financial Creditor	Nil	Nil
	<b>Total-A (Incl. all the liabilities mentioned in the resolution plan and contingent liabilities)</b>		<b>7,44,00,000/-</b>
8	Fixed Expenses	-	1,00,00,000/-
9	Working Capital Fund	-	1,00,00,000/-
	<b>Total-B</b>	-	<b>2,00,00,000/-</b>
	<b>Total outlay under the resolution plan (A+B)</b>		<b>9,44,00,000/-</b>

3. Learned Counsel for the suspended management submitted that the second appeal is filed before the Hon'ble Supreme Court against the



order of admission of the corporate debtor in CIRP. However, this Adjudicating Authority has not received any order of stay till this date.

4. We examine the resolution plan of the successful resolution applicant (respondent no. 3) which was approved by COC. The resolution professional has produced on record the compliance certificate in Form-H. It shows that the fair value of the asset of the corporate debtor is Rs 7,46,13,356/- whereas, the liquidation value is Rs 6,00,74,884/-. The plan value as proposed by the successful resolution applicant is Rs 9,44,00,000/- and as such it is more in comparison to the fair value of the assets of the corporate debtor.

5. 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 insolvency resolution process cost in priority to the repayment of other debts of the corporate debtor.

[Section 30(2)(a)]

(ii) The repayment of the debts of operational creditors and dissenting financial creditors should not be less than the amount to be paid to such respective creditors in the event of liquidation of the corporate debtor under section 53 of the Code. Moreover, the payment of the operational creditor is to be made in priority over the financial creditor; and the payment to dissenting financial creditor is to be made in priority to the consenting financial creditors.

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

(iii) Provides for the management of the affairs of the corporate debtor after approval of the resolution plan.



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

- (iv) The implementation and supervision of the resolution plan.

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

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

[Section 30(2)(e)]

- (vi) It confirms such other requirements as may be specified by the Board.

[Section 30(2)(f)]

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

- (a) The resolution plan should include statement as to how it has dealt with the interests of all stakeholders including financial creditors and operational creditors of the corporate debtor.

[CIRP Regulation 38(1A)]

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

[CIRP Regulation 38(1B)]

- (c) The resolution plan should contain the term of the plan and its implementation schedule.

[CIRP Regulation 38(2)(a)]



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

[CIRP Regulation 38(3)]

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

(i) In the resolution plan, the provision towards CIRP costs is made for Rs 25,00,000/- in priority to the repayment of other debts of the corporate debtor. Thereby, section 30(2)(a) has been complied with.

(ii) There are no operational creditors or dissenting financial creditors; as such compliance to section 30(2)(b) is not required to be examined.

(iii) The mechanism for management and control of the affairs of the corporate debtor after approval of the resolution plan has been provided in the resolution plan itself whereby the monitoring committee will look after the business of the corporate debtor after approval of the resolution plan and pending its implementation. It consists of resolution professional, one member of the COC, and one nominee of the resolution applicant. The same committee is given the task of implementation of the resolution plan. We hold that thereby provisions of section 30(2)(c) read with CIRP Regulation 38(2)(b) has been complied with.

(iv) The resolution plan contains a provision wherein, the implementation of the said plan will be supervised by the



monitoring committee. Thereby section 30(2)(d) read with CIRP Regulation 38(2)(c) has been complied with.

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

(vi) The resolution plan also conforms to other IBBI Regulations as given hereunder:

(a) The resolution plan adequately deals with the interest of all stakeholders, including financial creditors of the corporate debtor. Thereby, the resolution plan is in compliance with CIRP Regulation 38(1A).

(b) The resolution plan includes a statement saying that neither the resolution applicant nor any of its related parties has at any time failed to implement or contributed to the failure of implementation of any other resolution plan which was approved by the Adjudicating Authority. Thereby, the resolution plan is in compliance with CIRP Regulation 38(1B).

(c) The resolution plan provides for the term of the plan as 90 days maximum. It provides for the implementation schedule as under:

Sr. No.	Activity	Timeline
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1	Effective Date	Date of receipt of the Adjudicating Authority approving this resolution plan
2	Completion Date	Effective Date + 90 Days

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 approvals required and a timeline for the same. Further, the resolution applicant has the capability to implement the resolution plan. Thus, CIRP Regulation 38(3) has been complied with.

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

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

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



*proceedings, has brought out the 2019 amendment so as to cure the said mischief.....”*

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

9. The proviso to section 31 of the Code, 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 Mrs. Lavina Devi Mansukhani, Proprietor of M/s Snehil Overseas for the corporate debtor i.e., M/s Krishna Oils & Proteins Private Limited and in addition to the above directions, proceed to pass the following order:

- (i) Application is allowed.
- (ii) The resolution plan of Mrs. Lavina Devi Mansukhani, Proprietor of M/s Snehil Overseas for corporate debtor i.e., M/s Krishna Oils & Proteins Private Limited stands allowed as per section 30(6) of the Code.
- (iii) The approved resolution plan shall become effective from the date of passing of this order.
- (iv) The order of moratorium dated 13.03.2020 passed by this Adjudicating Authority under section 14 of the Code, 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 CIRP and resolution plan to the Insolvency and Bankruptcy Board of India to be recorded in its database.

(vii) Accordingly, IA/235(MP)2022 in TP/128(MP)2019, CP(IB)/220(AHM)2019 is allowed and stands disposed of in terms of the above directions.

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

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**Kaushalendra Kumar Singh**  
**Member (Technical)**

**Dr. Madan B. Gosavi**  
**Member (Judicial)**

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