

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**AHMEDABAD**  
**DIVISION BENCH**  
**COURT – 1**

ITEM No.302- IA(Plan)/2(AHM)2024  
ITEM No.303-IA/254(AHM)2024  
ITEM No.304 -IA/1429(AHM)2023  
ITEM No.305-IA/1463(AHM)2023 in  
CP(IB) 249 of 2020

**Order Under 30(6) r.w 31 IBC r.w Reg. 39(4) of IBBI (CIRP) Regulations, 2016**  
**In the matter of : IA(Plan)/2(AHM)2024**

Bhavi Shreyans shah RP of Balaji Fiber Reinforce Private Limited ....Applicant

**Order Under 60(5) IBC r/w Rule 11 of NCLT Rules, 2016**  
**In the matter of : IA/254(AHM)2024**

Mantena Infracol Private Limited

.....Applicant

V/s

Bhavi Shreyans Shah RP of Balaji Fiber Reinforce Pvt Ltd

...Respondent

**Order Under 12 IBC r.w Reg. 40 of IBBI (CIRP) Regulations, 2016**

**In the matter of : IA/1429(AHM)2023**

Bhavi Shreyans Shah RP of Balaji Fiber Reinforce Private Limited

....Applicant

**Order Under 60(5) IBC r/w Rule 11 of NCLT Rules, 2016**  
**In the matter of: IA/1463(AHM)2023**

Small Industries Development Bank of India (SIDBI)

....Applicant

V/S

CA Bhavi Shreyans Shah RP of Balaji  
Fiber Reinforce Private Limited) & Anr

....Respondents

**Order delivered on: 16/02/2024**

**Coram:**

Mr. Shammi Khan, Hon'ble Member(J)

Mr. Sameer Kakar, 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.

-SD-

**SAMEER KAKAR**  
**MEMBER (TECHNICAL)**

-SD-

**SHAMMI KHAN**  
**MEMBER (JUDICIAL)**

**BEFORE THE ADJUDICATING AUTHORITY  
NATIONAL COMPANY LAW TRIBUNAL,  
DIVISION BENCH - I, AHMEDABAD**

**IA (Plan)/2(AHM)2024  
IA/1429(AHM)2023  
IA/1463(AHM)2023  
IA/254(AHM)2024  
in  
CP(IB)/249(AHM)/2020**

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

*[An application filed under Sections 30(6) and 31 of the Insolvency and Bankruptcy Code, 2016 r.w. Regulation 39(4) IBBI Regulations, 2016]*

**Mrs. BHAVI SHREYANSH SHAH**

(Resolution Professional of  
Balaji Fiber Reinforce Private Limited)

Having its office at:

C 201, Embassy Appt.,  
Nr. Ketav Petrol-Pump,  
Dr. V S Road, Ahmedabad,  
Gujarat-380015.

**....Applicant**

**IA/1429(AHM)2023**

*[An application U/s 12 of the IBC, 2016 r.w. Regulation 40 of the IBBI (CIRP) Regulations, 2016]*

**Mrs. BHAVI SHREYANSH SHAH**

(Resolution Professional of  
Balaji Fiber Reinforce Private Limited)

Having its office at:

C 201, Embassy Appt.,

Nr. Ketav Petrol-Pump,  
Dr. V S Road, Ahmedabad,  
Gujarat-380015.

....Applicant

**IA/1463(AHM2023)**

*[An application U/s 60(5)(C) of the IBC, 2016 r.w. Rule 11 of the NCLT Rules, 2016]*

**M/S. SMALL INDUSTRIES DEVELOPMENT BANK OF INDIA  
(SIDBI)**

Having its office at:  
SIDBI Tower, 15, Ashok Marg,  
Lucknow-226001.

Branch office at:  
Through its Authorized Representative  
Mr. Praveen Mithal  
Small Industries Development Bank of India  
Navjivan Amrit Jayanti Bhavan,  
1<sup>st</sup> Floor, P.B. No.10, Navjivan P.O.  
Ahmedabad-380015.

....Applicant

**Versus**

**1. CA BHAVI SHREYANS SHAH**

(RP of Balaji Fiber Reinforce Private Limited)

Having address at:  
C-201, Embassy Apartment,  
Near Katav Petrol Pump,  
Dr. V S Road, Ahmedabad-380015

....(Resolution Professional/Respondent No.1)

**2. UNION BANK OF INDIA**

Having address at:  
Stressed Asset Management Branch,  
Ahmedabad, First Floor,  
Rangoli Complex, Opposite V.S. Hospital

Ellisbridge, Ashram Road,  
Ahmedabad-380006.

....(**Secured Financial Creditor/Respondent No.2**)

**AND**

**IA/254(AHM)2024**

*[An application under Section 60(5)(C) of IBC, 2016 r.w. Rule 11  
of the NCLT Rules, 2016]*

**MANTENA INFRASOL PRIVATE LIMITED**

Through its Authorized Representative  
Mr. GV Narasimharao, GM-Finance  
Having office at:  
D.No.2-56/33/12A,  
Mantena House,  
Opp. MVV Courtyard, Khanamet,  
Madhapur, Hyderabad,  
Telangana-500081.

....**Applicant**

**Versus**

**BHAVI SHREYANSH SHAH**

(Resolution Professional of  
Balaji Fiber Reinforce Private Limited)  
Having its office at:  
C 201, Embassy Appt.,  
Nr. Ketav Petrol-Pump,  
Dr. V S Road, Ahmedabad,  
Gujarat-380015.

....**Respondent**

In the matter of

CP (IB) No. 249 of 2020

WESTIN RESINS & POLYMERS PVT. LTD.

....Operational Creditor

Versus

BALAJI FIBER REINFORCE PVT. LTD.

....Corporate Debtor

**Order Pronounced On: 16.02.2024**

**CORAM:**

**SHAMMI KHAN, MEMBER (JUDICIAL)**

**SAMEER KAKAR, MEMBER (TECHNICAL)**

**Appearance:**

For the Applicant : Mr. Atul Sharma, Ld. Adv. (for RP)  
: Mr. Huzaifa Salim, Ld. Adv. (in IA  
254/2024)  
For the RP : Mrs. Bhavi Shreyansh Shah present  
in person.  
For the SIDBI : Mr. Nipun Singhvi, Ld. Adv. a.w. Ms.  
Pragati Tiwari, Ld. Adv.

**O R D E R**

**[Per: Bench]**

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

1. This is an IA filed by the Resolution Professional (“**RP**”) of Balaji Fiber Reinforce Pvt. Ltd., under Sections 30(6) and 31 of the Insolvency and Bankruptcy Code, 2016 (“**IBC, 2016**”) read with Regulation 39(4) of IBBI (CIRP) Regulations, 2016 seeking the following prayers:-

*a) Your lordship may be pleased to allow the present application;*

- b) *Your lordship may be pleased to approve Revised Resolution Plan dated 09.11.2023 along with addendum dated 04.12.2023 and clarification email dated 13.12.2023 submitted by Swami Vivekanand Sarasvati;*
- c) *Your lordship may be pleased to approve the Resolution Plan as approved by the Committee of Creditor in compliance with Section 30(6) and 31(1) of the Code read with Regulation 39 of the IBBI (Insolvency Resolution Process for Corporate Person) Regulation, 2016;*
- d) *Your Lordship may be pleased to grant any other relief or relief as may deem fit in the interest of justice;*

2. It is stated that this Tribunal vide its order dated 11.05.2022 passed in CP(IB) No. 249 of 2020 initiated the Corporate Insolvency Resolution Process (“**CIRP**”) against the Corporate Debtor- Balaji Fiber Reinforce Private Limited and appointed Mr. Jignesh Ajit Gantara as the Interim Resolution Professional (“**IRP**”).

3. It is stated that the IRP published Form-A (Public Announcement) in two newspapers, namely, financial Express in English and Financial Express in Gujarati on 14.05.2022 thereby inviting claims from the creditors of the Corporate Debtor.

4. It is stated that against the order of this Tribunal dated 11.05.2022, the Suspended Board of the Corporate Debtor had preferred an appeal bearing Company Appeal (AT) (Ins) No. 627 of 2022 before the Hon'ble Appellate Tribunal. The Hon'ble Appellate Tribunal vide order dated 02.06.2022 pleased to direct the interim stay on the constituency of the Committee of Creditors ("**CoC**") and thereafter the Hon'ble Appellate Tribunal vide its order dated 31.01.2023 dismissed the said appeal.
  
5. It is stated that in accordance with Section 21 of IBC, 2016, the IRP constituted the CoC on 20.02.2023 and consequently filed the report certifying the constitution of the CoC before this Tribunal.
  
6. It is stated that the 6<sup>th</sup> meeting of the CoC was held on 05.07.2023 wherein the member of the CoC, inter alia, resolved to replace the IRP and further appoint Mrs.

Bhavi Shreyansh Shah as RP. Accordingly, this Tribunal vide its order dated 31.07.2023 passed in IA No. 798 of 2023 replaced the IRP and appointed Mrs. Shreyansh Shah as RP.

7. It is stated that the 9<sup>th</sup> CoC meeting was held on 10.08.2023 wherein the CoC resolved to initiate the Expression of Interest (“**EoI**”) and further approved the evaluation matrix and RFRP.
8. It is stated that the 10<sup>th</sup> meeting of the CoC was held on 03.10.2023 wherein the RP apprised the CoC that on the last date of submission of Resolution Plan i.e., 30.09.2023, two Resolution Plans came to be received by him from the Prospective Resolution Applicants (“**PRAs**”), namely, Mr. Swami Vivekanand Saraswati and M/s. Vega Power Private Limited.
9. The 11<sup>th</sup> CoC meeting was held on 09.10.2023 wherein the CoC negotiated on the Resolution Plan. In the said

meeting the RP informed the CoC that 270 days of CIRP period is expiring on 13.10.2023. Therefore, the CoC resolved to file an application seeking extension of 90 days. However, this Adjudicating Authority vide its order dated 20.10.2023 passed in IA No.1179 of 2023 allowed the extension of 60 days from 14.10.2023.

10. It is stated that the 12<sup>th</sup> CoC meeting was held on 25.10.2023 wherein the CoC sought a revised Resolution Plan from PRAs. Thereafter, the 13<sup>th</sup> CoC meeting was held on 29.11.2023 wherein the RP informed the CoC about the receipt of the Revised Resolution Plan dated 09.11.2023 along with an addendum dated 23.11.2023 from PRA i.e., Mr. Swami Vivekanand Sarasvati.

11. It is stated that in the 14<sup>th</sup> CoC meeting held on 11.12.2023, the CoC discussed their objection on the revised plan and sought clarification from PRA i.e., Mr. Swami Vivekanand Sarasvati. As the CIRP period of 330 days was going to expire on 31.12.2023, the CoC

resolved to seek one last extension of 30 days beyond 330 days.

12. It is stated that in the 15<sup>th</sup> CoC meeting held on 21.12.2023. The members of the CoC after discussion resolved to put the revised plan for e-voting which was kept open from 23.12.2023 to 01.01.2024 wherein the Resolution Plan submitted by Swami Vivekanant Sarasvati came to be approved by the CoC with 89.01% voting share.

13. It is submitted that as per the valuation report, the Fair Value and Liquidation Value of the Corporate Debtor are Rs.2813.50 Lakh and Rs.1965.65 Lakh respectively. The Earnest Money Deposit (“**EMD**”) provided by M/s. Swami Vivekanand Sarasvati was to the tune of Rs.1,14,60,000/-

14. In view of the above, the Applicant seeks approval of the Resolution Plan.

15. We have heard the counsel for the Applicant and have gone through the records. The Corporate Debtor was admitted to CIRP vide order of this Tribunal dated 11.05.2022 passed in CP(IB) 249 of 2020 wherein Mr. Jignesh Ajit Gantara was appointed as IRP. Upon an application i.e., IA 798 of 2023, this Tribunal vide its order dated 31.07.2023 replaced the IRP and appointed Mrs. Bhavi Shreyans Shah as RP. It is noted that this Tribunal vide its order dated 16.08.2023 passed in IA No. 853 of 2023 allowed the application seeking extension of the CIRP period by 90 days from 14.07.2023 to 13.10.2023 and, thereafter, vide its order dated 20.10.2023 passed in IA 1179 of 2023 extended the CIRP period by further period of 60 days from 14.10.2023. Accordingly, the CIRP period of 330 days has already expired.
16. It is noted that this Adjudicating Authority vide its order dated 16.01.2024 had given the following directions to the Applicant/RP:-

- “1. *Learned Counsel for the applicant / RP is directed to file a claim form pertaining to CST and VAT of 1.10 crores.*
2. *Learned Counsel applicant is also directed to provide the details of Performa Security by way of an additional affidavit as well as proof of fund of successful resolution applicant.*
3. *Learned Counsel is directed to clarify the position regarding continues of avoidance application post approval of the resolution plan and comments of CoC on the same.”*

17. During the hearing on 29.01.2024, this Tribunal noted as under:-

*“However, today, a purshish has been filed on behalf of the applicant / RP stated therein that the certain subsequent developments have taken place after the filing of this application for approval of the Resolution Plan, vis-à-vis the **Successful Resolution Applicant has failed to provide Performance Security toward its revised Resolution Plan dated 09.11.2023.** Hence, the present applicant/Resolution Professional had convened the 16<sup>th</sup> CoC meeting on 23.01.2024, whereby the members of the CoC discussed and deliberated upon the failure on the part of the Successful Resolution Applicant to furnish the performance security within the prescribed time. The same is taken on record..”*

18. Again during the hearing on 06.02.2024, the RP has made the submission that **there is no request from the SRA seeking extension of time limit for deposit Performance Security.** However, this Tribunal gave three days' time to RP to file the additional affidavit.
19. The Applicant has filed a purshish under Inward Diary No. D717 dated 29.01.2024 2024 placing on record the subsequent developments and additional affidavit under Inward Diary No. D1145 dated 09.02 in compliance of the order dated 06.02.2024.
20. During the final hearing, the learned counsel for the RP Mr. Atul Sharma submitted that **till the date of this hearing, the Successful Resolution Applicant has not deposited the Performance Security.** He further stated that post filing of the present application, 16<sup>th</sup> CoC meeting was held on 23.01.2024. In that meeting, the position of the SRA qua non-deposit of performance security was deliberated. In the said meeting no decision

was taken by the CoC for liquidation of the Corporate Debtor or otherwise.

21. In this regard, it is relevant to reproduce Regulations 36(B)(4A) and 39(4) of the IBBI(CIRP) Regulations, 2016 and Section 33(1) of IBC, 2016 as under:-

**“36(B)(4A).** *The request for resolution plans shall require the resolution applicant, in case its resolution plan is approved under sub-section (4) of section 30, to provide a performance security within the time specified therein and such performance security shall stand forfeited if the resolution applicant of such plan, after its approval by the Adjudicating Authority, fails to implement or contributes to the failure of implementation of that plan in accordance with the terms of the plan and its implementation schedule.*

*Explanation I.— For the purposes of this sub-regulation, “performance security” shall mean security of such nature, value, duration and source, as may be specified in the request for resolution plans with the approval of the committee, having regard to the nature of resolution plan and business of the corporate debtor.*

*Explanation II. – A performance security may be specified in absolute terms such as guarantee from a bank for Rs. X for Y years or in relation to one or more variables such as the term of the resolution plan, amount payable to creditors under the resolution plan, etc.]”.*

**39. [(4) The resolution professional shall endeavour to submit the resolution plan approved by the committee to the Adjudicating Authority at least fifteen days before the maximum period for completion of corporate insolvency resolution process under section 12, along with a compliance certificate in 121[Form H of the 122[Schedule-I] and the evidence of receipt of performance security required under sub-regulation (4A) of regulation 36B.]]**

**“33. Initiation of liquidation.**

**(1) Where the Adjudicating Authority, —**

*(a) before the expiry of the insolvency resolution process period or the maximum period permitted for completion of the corporate insolvency resolution process under section 12 or the fast track corporate insolvency resolution process under section 56, as the case may be, does not receive a resolution plan under sub-section (6) of section 30; or*

*(b) rejects the resolution plan under section 31 for the non-compliance of the requirements specified therein,*

*it shall—*

*(i) pass an order requiring the corporate debtor to be liquidated in the manner as laid down in this Chapter;*

*(ii) issue a public announcement stating that the corporate debtor is in liquidation; and*

*(iii) require such order to be sent to the authority with which the corporate debtor is registered.*

22. In view of the above discussion, we hold that Regulation 36(B)(4A), 39(4) of the IBBI (CIRP) Regulations, 2016

and Section 33(1) of IBC, 2016 have not been complied with despite various opportunities, hence, the present Resolution Plan fails. Further, the CIRP period of 330 days has already expired, therefore, we are left with no option but to pass an order of liquidation. We hereby order for liquidation of the Corporate Debtor and appoint **Mr. Ashish Anantray Shah, having Registration No. IBBI/IPA-002/IP-N00214/2017-18/10666, email id- [ashish@ravics.com](mailto:ashish@ravics.com)**, as the Liquidator of the Corporate Debtor to carry the liquidation process subject to the following terms of the directions:-

- a) The Corporate Debtor - **Balaji Fiber Reinforce Private Limited** shall be ordered for liquidation in terms of the provisions of section 33(2) of the Code r.w. Regulations made thereunder which shall be effective from the date of this order.
- b) The Moratorium declared under section 14 of the Code shall cease to have effect from the date of the order of liquidation.
- c) As per section 34(4)(b) of the Code, Mr. Ashish Anantray Shah, having Registration No. IBBI/IPA-002/IP-N00214/2017-18/10666, email id- [ashish@ravics.com](mailto:ashish@ravics.com), is hereby appointed as a

Liquidator of the Corporate Debtor i.e., **Balaji Fiber Reinforce Private Limited**. The Liquidator so appointed shall complete the liquidation process as per the provisions of the Code r.w. the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

- d) All the powers of the Board of Directors, key managerial persons, and the partner of the Corporate Debtor, as the case may be, hereafter cease to exist. All these powers henceforth vest with the Liquidator.
- e) The personnel of the Corporate Debtor are directed to extend all cooperation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
- f) The Liquidator will charge fees for the conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified by IBBI and same shall be paid to the Liquidator from the proceed of the liquidation estate under section 53 of the Code.
- g) Once the liquidation process is initiated, subject to section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor. The Liquidator has the liberty to institute a suit and other legal proceedings on

behalf of the Corporate Debtor with the prior approval of this Adjudicating Authority, as provided in sub-section (5) of section 33 of the Code.

- h) This liquidation order shall be deemed to be notice of discharge to the officers, employees, and workmen of the Corporate Debtor except to the extent of the business of the Corporate Debtor continued during the liquidation process by the Liquidator.
- i) The Liquidator shall endeavour to explore the viability of selling the Corporate Debtor as a going concern in term of Regulation 32A of Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016.
- j) This Adjudicating Authority directs the Liquidator to issue a public announcement stating that the Corporate Debtor is in liquidation. The Liquidator will also serve a copy of this order to the various Government Departments such as Income Tax, GST, VAT, etc., who are likely to have any claim upon the Corporate Debtor so that the authorities concerned are informed of the liquidation order timely. The Liquidator will also provide a copy of this order to the trade unions/employee associations of the Corporate Debtor so that the

workman/employees could also be informed of this liquidation order through their association.

- k) The Liquidator is directed to investigate the financial affairs of the Corporate Debtor in terms of the provisions of Section 35(1) of IBC, 2016 read with relevant rules and regulations and also file its response for disposal of any pending Company Applications during the process of liquidation.
- l) The present Resolution Professional is directed to hand over the relevant documents and control of the Corporate Debtor to the newly appointed liquidator forthwith.
- m) The Registry is directed to communicate this order to the concerned Registrar of the Companies, the registered office of the Corporate Debtor, IBBI, the resolution professional, and the Liquidator by speed post as well as e-mail within one week from the date of this order, after completion of all the formalities.

23. In view of the above, IA/2(AHM)2024 stands disposed off.

**IA/1429(AHM)2023**

24. This is an IA filed by the RP under Section 12 of the IBC, 2016 r.w. Regulation 40 of the IBBI (CIRP) Regulations, 2016 seeking the following prayers:-

- a. *Your Lordship may be pleased to admit and allow the present application;*
- b. *Your Lordship may be pleased to extend the Corporate Insolvency Resolution Process Period for another 30 days beyond 330 days i.e., from 13.12.2023 till 13.01.2023 in the matter of M/s. Baljai Fiber Reinforce Private Limited;*
- c. *Your Lordship may be pleased to grant any other relief as may deem fit in the lights of the facts and circumstances of the case.*

25. The facts of the IA/1429(AHM)2023 are similar to the facts mentioned in IA/02(AHM)2024. Hence, for the sake of brevity, we are not repeating the same.

26. Since liquidation has been ordered, the prayers have become infructuous. Recording the above, the application i.e., IA/1429(AHM)2023 is disposed off.

**IA/1463(AHM)2023**

27. This application is filed by the Applicant - M/s. Small Industries Development Bank of India (“**SIDBI**”) under Section 60(5)(C) of the IBC, 2016 r.w. Rule 11 of the NCLT Rules, 2016 seeking the following reliefs:

- a) *Your Lordship may be pleased to allow the present application;*
- b) *To declare the Resolution Plan submitted by Mr. Swami Vivekanand Sarasvati illegal in terms of Section 30(2)(e) read with Section 53 of the code.;*
- c) *Direct the Resolution Applicant to revise the resolution plan in accordance with Section 53 by providing payout in terms of pro rata to applicant and respondents as secured financial creditors;*
- d) *Your Lordship may be pleased to direct Resolution Professional to examine eligibility of Resolution applicant Mr. Swami Vivekanand Sarasvati as per requirement of Section 29A of IBC as required under Code by an expert;*
- e) *Your Lordship may be pleased to grant any other relief or reliefs as may be deemed fit in the interest of justice.*

28. We heard the counsels and perused the records. Through this application, the Applicant is seeking direction to declare the Resolution Plan submitted by Mr. Swami Narayan Sarasvati illegal, direction to the RA

to submit the revised plan and further direction to RP to examine the eligibility under Section 29A of the IBC, 2016.

29. Since, the plan submitted by Mr. Swami Narayan Sarasvati has failed for the reasons stated in IA/2(AHM)2024 and the liquidation order is passed, this application has become infructuous.

30. Accordingly, IA/1463(AHM)2023 stands disposed off.

**IA/254(AHM)2024**

31. This application is filed by the Applicant – Mantena Infracol Private Limited under Section 60(5)(C) of the IBC, 2016 r.w. Rule 11 of the NCLT Rules, 2016 seeking the following reliefs:

- a) *Your Lordship may be pleased to allow the present application;*
- b) *To declare the Resolution plan submitted by the Respondent illegal in terms of Section 30(2)(e) read with Section 53 of the Code.*

- c) *Direct the Respondent to ensure that the payout under the Resolution Plan is pro rata to all the members of the CoC.*
- d) *Your Lordship may be pleased to direct the Respondent to examine eligibility of the resolution applicant, Swami V. Sarasvati as per the requirement of Section 29A as required under Code by an expert;*
- e) *Your Lordship may be pleased to grant any other relief or reliefs as may be deemed fit in the interest of justice.*

32. Since, the Resolution Plan submitted by Mr. Swami Narayan Sarasvati has failed for the reasons stated in IA/2(AHM)2024 and the liquidation has been ordered, these prayers have become infructuous.

33. Accordingly, IA/254(AHM)2024 stands disposed off.

34. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

**-SD-**  
**SAMEER KAKAR**  
**MEMBER (TECHNICAL)**

**-SD**  
**SHAMMI KHAN**  
**MEMBER (JUDICIAL)**

Rajeev Kr. Sen/P.S.