

**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
NEW DELHI BENCH  
BENCH III**

I.A. No. 3383/2021 filed in IB-2602(ND)/2019 under Section 30(6), of the Insolvency and Bankruptcy Code, 2016 read with Regulation 39(4) of IBBI (CIRP) Regulations

In the matter of **INDIA STUFFYARN LIMITED (CD)**

**Mr. Mohd Nazim Khan,**  
Resolution Professional  
India Stuff yarn Limited

*... Applicant*

Order delivered on: 04.01.2022

CORAM:

**SHRI BACHU VENKAT BALARAM DAS**  
**MEMBER (JUDICIAL)**

**SHRI NARENDER KUMAR BHOLA**  
**MEMBER (TECHNICAL)**

For Resolution Professional: Mohd Nazim Khan

**ORDER**

**Per-Shri Bachu Venkat Balaram Das, Member (J)**

1. The Resolution Professional has filed the instant application under section 30(6) of Insolvency and Bankruptcy Code, 2016 (hereinafter referred as "IBC") r/w Regulation 39 (4) of the Insolvency and Bankruptcy board of India (Insolvency Resolution Process for Corporate Persons) Regulations (hereinafter referred as "IBBI (CIRP) Regulations, 2016), in IA No. 3383/2021

*I.A. No. 3383/2021*



- for seeking approval of Resolution Plan under section 31(1) of IBC in the matter of India Stuff yarn Limited (hereinafter referred as “Corporate Debtor”)
2. Mr. Mohd Nazim Khan (‘Applicant’) is the Resolution Professional for India Stuff yarn Limited, who has submitted the Resolution Plan duly approved by the Committee of Creditors (hereinafter referred as “CoC”) which is accompanied by the compliance certificate in the prescribed Form H.
  3. It is submitted that Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor was admitted by this authority vide its order dated 11.03.2021 pursuant to the application filed by Operational creditor and Applicant was appointed as the Interim Resolution Professional (IRP) vide same order. It is stated that public announcement in compliance with section 13, 15 and other applicable sections of IB code read with regulation 6 of IBBI (CIRP) Regulations, 2016 was made by the Applicant in Financial Express, English edition and Jansatta, Hindi edition on 14.03.2021 for intimating the commencement of CIRP against CD and calling for claims. Registered valuers and forensic/transaction auditor were appointed on 25.03.2021. After constitution of CoC on 02.04.2021, first CoC meeting was held on 09.04.2021 and the applicant was appointed as RP in terms of section 22(2) of IB Code, 2016.
  4. It is further submitted that the applicant convened the second CoC meeting on 26.04.2021, wherein the discussion regarding the eligibility pursuant to section 25(2) of IBC, 2016 along with the request for resolution plan (RFRP) and evaluation matrix and resolution with respect to these items were unanimously approved with 100% voting rights and proposed Form-G “invitation for

*I.A. No. 3383/2021*



expression of interest” and the publication in Newspaper thereof was also passed in the second CoC meeting unanimously. It is stated that Form-G was published in Pioneer (Delhi Edition) (Both English and Hindi) on 27.04.2021. Pursuant to that several Expression of interest were received by RP. In Compliance of Regulation 36A (10) of IBBI (CIRP), 2016, the applicant issued the provisional list of prospective applicants on 22.05.2021.

5. It is averred that in accordance with the request for Resolution Plan, the Applicant received three resolution plans under regulation 36B(1) of IBBI (CIRP) Regulations, 2016. The Applicant placed all the Resolution Plans before the CoC in third CoC meeting dated 24.07.2021, the CoC considered all the resolution plans, conducted the financial due diligence and checked the viability of all the resolution plans and thereafter, approved the resolution plan of Solomon Holdings Private Limited (Resolution Applicant) unanimously with 100% voting Rights.
6. The summary of the Resolution plan submitted by the Resolution Applicant is as follows:

#	Particulars	Proposed Settlement (in INR)
1.	CIRP Costs	INR 6 Lakh or actual amount, whichever is higher
2.	Assenting Financial Creditors and Dissenting Financial Creditors	Nil
3.	Operational Creditors	INR 7,37,500
4.	Employees and Workmen dues	Nil
5.	Government dues (NSDL, CDSL, Stock Exchange, RTA, Income Tax Dept., etc.)*	INR 5 lakh or actual amount, whichever is higher, proportionately
6.	Others	Nil
	<b>Total</b>	<b>INR 18,37,500</b>

I.A. No. 3383/2021

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\*As per the list of creditors provided by the RP, no claim has been submitted under this category and however, the same has been considered.

7. It is submitted that the Resolution Applicant will arrange the funds from its internal accruals and its own resources/reserves from its Directors/shareholders and their relatives.
8. It is submitted that as per the terms of the request for resolution plan ("RFRP") the successful Resolution Applicant was to submit security for an amount of Rs. 5,00,000/- and same was submitted by the Successful Resolution Applicant as Performance Bank Guarantee amounting as required by regulation 36B (4A) of IBBI (CIRP) Regulations, 2016 as evidence from the receipt annexed as Annexure-8.
9. It is further averred that in terms of provisions of regulation 39(4) of IBBI (CIRP) Regulation, the RP is required to submit the Resolution plan approved by the CoC along with a compliance certificate in form H of the schedule and the evidence of receipt of performance security required under sub-regulation (4A) of regulation 36B. The same is complied with.

**10. Appointment of monitoring agency--Approval**

A committee consisting of a 1 representative of the CoC (Operational Creditor) and 1 representative of the Resolution Applicant and the Resolution Professional shall manage the Corporate Debtor during the period between the plan approval date and the final payment.

Number of Members	Comprising of
1	Representative of CoC
1	Representative of Resolution

I.A. No. 3383/2021



	Applicant
1	Resolution Professional

11. The parameters for approval of resolution plan are set out in section 30 and 31 of the IBC, 2016 and IBBI (CIRP) Regulations, 2016. The Resolution Plan seems to have complied with such mandatory compliance, which are briefly set forth herein below:

Section/Regulation	Compliance made
Section 30(1) of the IBC, 2016	Resolution Applicant in clause 7.7 of the Resolution Plan submitted that it is eligible to submit a resolution plan. Separate Affidavit Annexed as Annexure-7 with Resolution Plan is also attached.
Section 30(2)(a) of the IBC, 2016  And  Regulation 38(1A) of IBBI (Insolvency Process for Corporate Persons) Regulations, 2016	As per clause 6.2.1 of the Resolution Plan, payment of CIRP costs shall be in priority to the payment of other debts of the Corporate Debtor.  Clause 6.1 of the Resolution Plan provides that the Resolution Plan has dealt with the interest of all stakeholders.
Section 30(2)(b) of the IBC, 2016  And  Regulation 38(2)(c) of IBBI (Insolvency Process for Corporate Persons) Regulations, 2016	The Resolution plan provides an amount of Rs.7,37,500/- as payment to operational creditors.  Clause 4.5.2 of the Resolution Plan provides for management and control of the business of Corporate and control debtor
Section 30(2)(c) and Section 30(2)(d) of the IBC, 2016  And	Chapter 5 and clause 4.5 of the Resolution Plan provides management of the affairs of the Corporate Debtor and implementation of the plan until the final payment.

I.A. No. 3383/2021



Regulation 38(2) of IBBI (Insolvency Process for Corporate Persons) Regulations, 2016	The implementation of plan as stated by the Resolution Applicant in the Resolution Plan is one year from the date of receipt of certified true copy of order for approval of Resolution Plan by Adjudicating Authority.
Section 30(2)(e) of the IBC, 2016	The Resolution Plan does not contravene any of the provisions of law for the time being in force.
Section 30(4) of the IBC, 2016	The Committee of Creditors, after considering the feasibility and viability of the Resolution Plan have approved the same by 100% voting share.

12. During the hearing of the present application, this adjudicating authority vide order dated 07.09.2021 sought certain clarifications which are as follows:

*"Heard the submissions made by the Resolution Professional. The Resolution Professional is directed to clarify the legality and the rationality of the following statements made in the Resolution Plan :*

- i) Upon the approval of the Resolution Plan, the Corporate Debtor will merge with the Resolution Applicant ;*
- ii) Upon the approval of the Resolution Plan by the NCLT, the Corporate Debtor shall stand dissolved without being wound up."*

13. In compliance of order dated 07.09.2021, the applicant has filed supplementary affidavit, the relevant extracts of the said affidavit is as follows:

*"4. That Regulation 37(ba) of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 has been inserted vide notification no. IBBI/2018-19/GN/REG052 dated 27th November, 2019 (w.e.f. 28.11.2019).*

I.A. No. 3383/2021



*5. That in view of the above amendment, it can be concluded that a Resolution Plan to maximise the value of the assets of the Corporate Debtor can allow the restructuring of the Corporate Debtor, by way of merger, amalgamation and demerger and the substantial acquisition of shares of the Corporate Debtor, or the merger or consolidation of the Corporate Debtor with one or more persons.”*

It is worthwhile to mention that this Adjudicating Authority after going through the said affidavit vide order dated 25.11.2021, it was taken on record.

14. Thus, the resolution plan filed with the Application meets the requirements of section 30 and 31 of IBC, 2016 and Regulation 37, 38, 38(1A) and 39(4) of the IBBI(CIRP) Regulations, 2016. The provisions of Section 29A of IBC are not attracted. The RP has also verified that the “Resolution Plan” approved by the CoC does not contravene any of the provisions of the law for the time being in force. The RP has filed compliance certificate in Form H as required under regulation 39(4) of the IBBI (CIRP) Regulations, 2016.
15. The Resolution Applicant has prayed for the reliefs as enumerated under the Resolution Plan approved by the CoC. From the plan approval date, all inquiries, investigation and proceedings, whether civil or criminal, suits, claims, disputes, interests and damages in connection with the Corporate Debtor or the affairs of the Corporate Debtor, pending or threatened, present or future in relation to any period prior to the plan approval date, or arising on account of implementation of this resolution plan shall stand withdrawn, satisfied and discharged. From the date of approval of the ‘Resolution Plan’, the Resolution Applicant shall be legally authorised to seek appropriate



orders from respective authorities/courts/tribunals for renewal of licences/withdrawal/dismissal or abatement of the proceeding as the case may be.

16. The Corporate Debtor shall be entitled to carry forward all accumulated business losses and unabsorbed depreciation, if any, from the date of approval of the Resolution Plan, except as provided in the Resolution Plan, all the pending statutory dues including taxes/cess/interest/penalty and other liabilities due to the operational creditors shall stand satisfied/waived off. The reason for these waivers and abatement is that the Operational Creditors would not get more than that as provided in the Resolution Plan, in the event of liquidation of the Corporate Debtor, as per the waterfall mechanism provided under Section 53 of the I&B Code, 2016. Moreover, this is with a view to implement the Resolution Plan successfully as approved by the CoC. It is also made clear any relief/concession prayed by the applicant, which is beyond the jurisdiction of this adjudicating authority shall be construed as rejected.
17. In view of the above, the "Resolution Plan" annexed with I.A. No. 3383/2021 filed in IB-2602(ND)/2019 is hereby **approved**, shall be binding on the corporate debtor and its employees, members, creditors, guarantors, other stakeholders including statutory authorities and the Resolution Applicant.
18. The Resolution Applicant or Monitoring Agency as the case may be is at liberty to approach this authority for seeking appropriate directions for effective implementation of the Resolution Plan.

*I.A. No. 3383/2021*




19. The order of moratorium date 11.03.2021 passed by this adjudicating authority under section 14 of IBC shall cease to have effect from the date of this order.
20. The RP shall forward all records relating to the conduct of the CIRP and the Resolution Plan to the IBBI, so that the Board may record the same on its data base.
21. The approved resolution plan shall become effective from the date of passing of this order.
22. The Resolution Professional shall forthwith send a copy of this order to the participants and the Resolution Applicant.
23. The Registry is directed to communicate this order to the Registrar of Companies concerned with which the Corporate Debtor is registered for updating the master data.
24. Accordingly, I.A. No. 3383/2021 filed in IB-2602(ND)/2019 stands **allowed.**
25. The order is pronounced.



**(BACHU VENKAT BALARAM DAS)**

**MEMBER (Judicial)**



**(NARENDER KUMAR BHOLA)**

**MEMBER (Technical)**