

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH, HYDERABAD**

IA No. 981 of 2020  
In CP (IB) No.666/7/HDB/2018  
Under section 30(6) of the IB Code, 2016  
Read with Regulation 39(4) of the IBBI (Insolvency Resolution  
Process for Corporate Persons) Regulations, 2016.

**In the matter of:-**  
**M/s. SPLENDID METAL PRODUCTS LIMITED**

Mr. T. Sathisan  
Resolution Professional of  
Splendid Metal Products Limited

...Applicant/  
Resolution Professional

**Date of Order: 08.04.2021**

Coram: Shri. Madan B. Gosavi, Member Judicial.  
Shri. Veera Brahma Rao Arekapudi, Member Technical

**Parties/Counsel Present:**

**For the Applicant:** Mr. T. Ravichandran, Counsel.

[Per: Bench]

**ORDER**

1. The present Application bearing IA No.981/2020 is filed by the Resolution Professional under section 30(6) of the IB Code, 2016, R/w regulation 39(4) of the IBBI (Insolvency Resolution for Corporate Persons) Regulations, 2016, seeking the following prayers as under:-
  - a) Pass an order approving the resolution plan submitted by the Resolution Applicants in respect of the Corporate Debtor under section 31(1) of the Code and declare that the same be binding on the Corporate Debtor, its employees, members, creditors, guarantors and other stakeholders involved in the resolution plan;

-Sdl-

-Sdl-

- b) Pass an order directing that, pending disposal of the present application by this Tribunal, the Resolution Professional shall continue to conduct his role as Resolution Professional of the Corporate Debtor and during such period shall have all power, duties and protections as available to him as a Resolution Professional under the Code and regulations thereunder;
- c) Pass an order directing the Resolution Applicants to implement the Resolution Plan in the manner set out in the resolution plan;
- d) Pass an order approving the appointment of Monitoring Agent (MA) and Monitoring Committee (MC) from the date of approval of resolution plan by this Hon'ble Tribunal until the date on which the Resolution Applicants acquire control of the Corporate Debtor i.e., closing date under the Resolution plan, and during such period extend protection to the MC (including extension of the protection of the moratorium against any suit, legal proceedings and investigations or have any liability with respect to anything which is done or intended to be done or omitted in good faith and in compliance with the Code, CIRP Regulations or any other applicable law) to enable it to monitor the Corporate Debtor as a going concern.
- e) Pass an appropriate order in relation to the grant of concessions, reliefs and dispensation sought in the resolution plan.
- f) Pass an order directing all stakeholders to cooperate with the Resolution Applicants, Monitoring Agent (MA) and the Monitoring Committee (MC) to keep the Corporate Debtor going concern and to implement the Resolution plan in the manner approved by this Tribunal.

2. Brief facts as stated by the counsel for the Applicant are as follows:-

- a) That CIRP of the Corporate Debtor was initiated by this Adjudicating Authority vide its order dated 04.04.2019 and Mr. T. Sathisan was appointed as the Interim Resolution Professional. Later, he was continued as RP.

-sol-

-sol-

- b) That pursuant to the order, the IRP had issued a public announcement in Form A dated 17.04.2019 in two newspapers and invited claims from the stakeholders which included financial creditors, operational creditor and other creditors as per the provisions of the Code read with Regulations.
- c) That the summary of claims received and updated as on 03.10.2020 by the Applicant is as follows:

Claim Summary			
Sl. No.	Category	Claim submitted (₹)	Claim admitted (₹)
1	Financial Creditors	62,70,63,56,987	36,32,07,56,0605
2	Operational Creditors	27,23,44,858	15,90,45,997
3	Statutory Authorities	4,79,85,49,520	2,76,70,39,084
4	Workmen	38,49,437	38,49,437
5	Employees	3,03,43,644	3,03,43,644
Total		67,81,14,44,446	39,28,10,34,761

- d) That as per Regulation 27 of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the Applicant herein appointed two registered valuers to determine the fair value and liquidation value of the Corporate Debtor in accordance with the Regulation 35 of the Regulations. The valuation summary and reports submitted by the valuers i.e., LSI Engineering & Consultants Ltd and Medha Kulakarni.
- e) That the Applicant herein has so far conducted 24 no. of meetings of the Committee of Creditors (CoC) and the first meeting was conducted on 15.05.2019.
- f) That the Applicant submits that he prepared the information memorandum as contemplated under section 29(1) of the Code and the same was circulated to the CoC upon receipt of confidential undertaking from the CoC members vide email dated 10.06.2019. the Applicant while discharging his functions under the code had prepared the necessary eligibility criteria and the same was

-sdl-

-sdl-

circulated with Committee of Creditors (CoC). The CoC in its 3<sup>rd</sup> meeting held on 09.07.2019 approved the proposal of the Applicant herein to seek expressions of interest and the necessary Form G was issued. The same was published by the Applicant on 15.07.2019 and the last date for submission of expression of interest by the Prospective Resolution Applicants (was 30.07.2019).

g) That the Applicant has placed list of PRAs before the CoC in the meeting held on 21.08.2019 and the CoC had approved list of PRAs. The Applicant had received expressions of interest from four entities i.e.:

- i. Vedanta Group (through Electrosteel Steels);
- ii. Triterras Holdings Pte Limited (THPL), Singapore jointly with Invent Assets Securitisation & Reconstruction Pvt Ltd (IARC);
- iii. Prudent ARC Limited and
- iv. Apies Ventures Pte Ltd. ("Apies").

h) That in the 5<sup>th</sup> Meeting held on 09.09.2019, the CoC approved resolution for extending timelines for submission of resolution plan from 13.09.2019 to 30.09.2019 as requested by the PRA's. In the 6<sup>th</sup> meeting held on 05.10.2019, resolution plans received from THPL jointly with IARC (received on 30.09.2019) and Apies (received on 27.09.2019) were opened in front of the CoC and Applicant herein had sought time of two weeks for due diligence of the resolution plans. It was further decided to call next meeting on 23.10.2019 for discussion and presentation of the plans received.

i) That Resolution Applicants viz., THPL jointly with IARC and Apies had presented their Resolution Plans in the 7<sup>th</sup> CoC meeting held on 23.10.2019 and the RP had also presented highlights and comparison of both the plans. Further, the CoC sought revision and improvement in both the plans in respect of financial proposal and

-Sol-

-Sol-

other security related aspects and thereafter authorized the RP to communicate the same to both the RAs for revision in Plans.

- j) That revised bids received from both the RAs i.e., THPL jointly with IARC and Apies were presented before the CoC in its 8<sup>th</sup> meeting held on 19.11.2019. Further, THPL had joined the 8<sup>th</sup> CoC Meeting for discussion of plan whereas Apies had informed the RP about their inability to join the Meeting and had also conveyed that they would not be able to further improve their proposal and in view of the same further negotiations and discussions were held with Resolution Applicant viz., Triterras Holding Pte Limited (now known as Antanium Holdings Pte Limited) jointly with IARC.
- k) That various rounds of negotiations and discussion were held by the CoC with the RA-THPL jointly with IARC for finalization of Resolution Plan which continued till 23<sup>rd</sup> CoC meeting held on 24.09.2020, wherein few more additional points were raised in respect of the Resolution plan and it was finally decided that the RA shall submit its final Resolution plan after taking into consideration suggestions/comments of the CoC. considering the limited time available for completion of CIRP of the Corporate Debtor, it was decided by the CoC in its 23<sup>rd</sup> meeting that there would not be any further negotiations and discussions on the plan and upon receipt of the revised plan, it will be put to vote for approval or rejection of the plan.
- l) That Applicant herein received the Final Resolution plan dated 28.09.2020 from the Resolution Applicant being THPL jointly with IARC after making necessary modifications to the plan on 28.09.2020 through email.
- m) That Applicant after satisfying himself that the resolution plan is in conformity with the provisions of the Code and the Regulations had circulated the same to the CoC members via e-mail on 28.09.2020 along with note of the RP on compliance with the applicable provision of the Code. The final Resolution Plan was

-sdl-

-sdl-

put up for due consideration by CoC at the meeting which was held through video conferencing on 08.10.2020 and the results of the e-voting which was held on 15.10.2020. The said resolution plan was approved by 91.1% of the voting share of CoC. The findings of the CoC on the feasibility and viability of the Resolution plan, along with distribution summary and details of payouts proposed to Financial Creditors and details of CIRP costs incurred till 08.10.2020.

- n) That the Applicant hereby submits the Compliance Certificate in Form - H under Regulation 39(4) containing details of the compliances of the Resolution plan with mandatory requirements under the Code and CIRP regulations.
- o) That the ARC Agreement between THPL and INVENT along with the financial capability undertaking and Business information report of Resolution Applicant.
- p) That the Applicant on 09.11.2020 filed memo stating that the payment of the amounts of the Performance Bank Guarantee (Bank Guarantee No.04621GP200025383 dated 21.10.2020 of Rs.2 Crores) on behalf of the Resolution Applicant(s) in relation to the Resolution Plan of splendid Metal Products Limited.
- q) That the Applicant filed additional affidavit on 03.02.2021 stating that post filing of the Application SASF, the Respondent herein was impleaded pursuant to the orders of this Adjudicating Authority on 04.12.2020. The queries and the concerns expressed by the Respondent was communicated to the Resolution Applicant and the Resolution Applicant vide its letter dated 20.11.2020 had addressed the queries of the Respondent. Developments were placed before the Committee of Creditors (CoC) in the 25<sup>th</sup> meeting dated 01.12.2020. That pursuant to the directions issued by this Adjudicating Authority notices were issued to the jurisdictional Income-Tax Commissioner on 03.11.2020 and 02.01.2021 by way of email and registered post on 01.01.2021.

-sd/-

-sd/-

Thereafter, the Assistant Commissioner of Income-Tax had issued a reply on 01.12.2020 and an email on 05.01.2021.

r) Further, the Applicant herein submitted that the Superintending Engineer, Operation Circle TSSPDCL, Sangareddy vide letter dated 13.11.2020 forwarded the judgment of the Supreme Court regarding electricity dues. The Applicant herein had addressed a letter on 30.11.2020 inter-alia bringing it to the notice of the Superintending Engineer (a) the receipt of the letter (b) the fact that the judgment referred to in the said letter will not be applicable (c) that I had submitted a Resolution Plan before this Adjudicating Authority in the instant Application and (d) requesting the Superintending Engineer to approach this Tribunal for the redressal of grievances, if so advised.

3. Learned counsel for the Respondent/SASF filed his counter on 31.12.2020, inter-alia stating to consider the Respondent herein vote towards the Resolution Plan modified from dissent to assent and approve the Resolution Plan submitted by the RP in the instant Application.

Reiterating the above, the counsel for the Applicant/RP prayed to allow the instant Applicant.

4. Heard learned counsel for the Resolution Professional/Applicant, learned counsel for the Respondent and perused the Resolution Plan and other documents submitted along with Application.

5. Section 30(2) of the Code as amended w.e.f. 06.08.2019 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 a 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 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 a liquidation of the corporate debtor under section 53; or

-Sd/-

-Sd/-

- 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.
  - 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) Conforms to such other requirements as may be specified by the Board.
6. Section 30(4) of the Code as it stands at present after the amendment 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.”*

7. Section 30(6) of the Code enjoins the resolution professional to submit the resolution plan as approved by the committee of creditors to the Adjudicating Authority. Section 31 of the Code deals with the approval of the resolution plan by the Adjudicating Authority, if it is satisfied that the resolution plan as approved by the committee of creditors under section 30(4) meets the requirements as referred to in section 30(2).
8. Thus, before approving the Resolution plan, it is the duty of the Adjudicating Authority that it should satisfy itself that the Resolution

-Sdr-

-Sdr-

plan as approved by the COC meets the requirements as referred to in sub-section (2) of Section 30.

9. On perusal of the Resolution Plan, this Adjudicating Authority has observed that the Resolution plan placed for consideration provides for the following:
  - a) Payment of CIRP Cost as specified U/s 30(2)(a) of IBC, 2016.
  - b) Repayment of Debts of Operational Creditors as specified U/s 30(2)(b) of IBC, 2016.
  - c) Provides for management of the affairs of the Corporate Debtor, after the approval of Resolution Plan, as specified U/s 30(2)(c) of IBC, 2016.
  - d) The implementation and supervision of Resolution Plan shall be done by Insolvency Resolution Professional and by the COC as specified U/s 30(2)(d) of IBC, 2016.
  - e) 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 IBC, 2016.
  - f) The Resolution plan conforms to such other requirements specified by the Board.
10. In terms of Regulation 27 of CIRP Regulations, Liquidation value was ascertained through two registered valuers, and the Resolution Plan offers more than the average liquidation value.
11. The RP has complied with the code in terms of Section 30(2)(a) to 30(2)(f) and Regulations 38(1), 38(1)(a), 38(2)(a), 38(2)(b), 38(2)(c) & 38(3) of CIRP regulations.
12. The identity of the Resolution Applicants have been duly verified by the RP and affidavit as per section 30(1) of the Code has been obtained from the Resolution Applicants stating that it is not ineligible U/s 29A of the IB Code, 2016.
13. The Plan also provides for keeping the Company as a going concern and operate in its normal course of business upon implementation of Resolution Plan. There is no objection filed by any other person in this regard.

-Sdl-

-Sdl-

14. Copy of Form-H (Compliance Certificate) filed by the RP along with the Plan has been perused and considered. The RP *inter-alia* has certified as under:
- I. *The said Resolution Plan complies with all the provisions of the Insolvency and Bankruptcy Code (Code), the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP Regulations) and does not contravene any of the provisions of the law for the time being in force.*
  - II. *The Resolution Application has submitted an affidavit pursuant to section 30(1) of the Code confirming its eligibility under section 29A of the Code to submit a resolution plan. The contents of the said affidavit are in order.*
  - III. *The said Resolution Plan has been approved by the CoC in accordance with the provisions of the Code and the CIRP Regulations made thereunder. The Resolution Plan has been approved by 91.18% of voting share of financial creditors after considering its feasibility and viability and other requirements specified by the CIRP Regulations.*
  - IV. *I sought vote of members of the CoC by electronic voting system which was kept open at least for 24 hours as per the regulations 26.*
15. The Resolution Plan includes a statement under regulation 38(1A) of the CIRP Regulations as to how it has dealt with the interest of the stakeholders in compliance with the Code and Regulations thereunder.
16. It is also evident that the Resolution Plan placed before this Adjudicating Authority, was approved by the Committee of Creditors in its 22<sup>nd</sup> meeting dated 10.09.2020 with 83.89% votes cast in favour of Approval of Resolution Plan.
17. In *K Sashidhar Vs. Indian Overseas Bank & Others*, decided on 05.02.2019 in Civil Appeal No.10673/2018 with CA Nos.10719/2018, 10971/ 2018 and SLP(C) No.29181/2018, the Hon'ble Supreme Court, noticing the provisions of section 30(4), held that if the CoC had

— SLL —

— SLL —

- 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 (NCLT) is required to satisfy itself that the resolution plan as approved by CoC meets the requirements specified in Section 30(2). No more and no less.
18. In the said judgment, in para 35, the Hon'ble Supreme Court 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.
  19. In view of the discussions in the foregoing paragraphs, the 'Resolution Plan' filed with the Application meets the requirements of Section 30(2) of the I&B Code, 2016 and Regulations 37, 38, 38(1A) and 39 (4) of IBBI (CIRP) Regulations, 2016. The 'Resolution Plan' is also not in contravention of any of the provisions of Section 29A. Hence, this Adjudicating Authority is satisfied that the Resolution Plan is in accordance with Law. Therefore, the 'Resolution Plan' annexed with Application bearing IA No. 981 of 2020 filed in CP (IB) No.666/7/HDB/2018 is hereby approved, which forms part of this Order and which shall be binding on the corporate debtor and 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, such as authorities to whom statutory dues are owed, guarantors and other stakeholders involved in the resolution plan.
  20. However, the Resolution Plan approved shall not construe any waiver to any statutory obligations/liabilities arising out of the approved Resolution Plan and same shall be dealt in accordance with the appropriate Authorities as per relevant Laws. We are of the considered view that if any waiver is sought in the Resolution Plan, the same shall

-sdl-

-sdl-

be subject to approval by the concerned Authorities. The same view has also been held by Hon'ble Principal Bench, NCLT in the case of *Parveen Bansal Vs. Amit Spinning Industries Ltd.* in CA No.360 (PB) 2018 in CP No (IB) 131 (PB)/ 2017.

21. Accordingly, the MoA and AoA shall be amended and filed with the RoC for information and record as prescribed. While approving the 'Resolution Plan', as mentioned above, it is clarified that the Resolution Applicant shall pursuant to the Resolution Plan approved under Sub-Section (1) of Section 31 of the I&B Code, 2016, obtain all the necessary approvals as may be required under any law for the time being in force within the period as provided for in such law.
22. The approved 'Resolution Plan' shall become effective from the date of passing of this Order.
23. This Adjudicating Authority hereby directs the RP to supervise the implementation of the Resolution plan and file status of implementation of Resolution Plan before this Adjudicating Authority from time to time.
24. The order of moratorium passed by this Adjudicating Authority under Section 14 of the I&B Code, 2016 shall cease to have effect from the date of passing of this Order.
25. The Resolution Professional shall forward all records relating to the conduct of the CIRP and the 'Resolution Plan' to the IBBI along with Copy of this Order, so that the Board may record the same on its data-base.
26. The Resolution Professional shall forthwith send a copy of this Order to the participants and the Resolution Applicant.
27. Accordingly, this Application bearing IA No.981 of 2020 hereby stands disposed of.

-sdl-

**Veera Brahma Rao Arekapudi**  
Member Technical

-sdl-

**Madan B. Gosavi**  
Member Judicial