IN THE NATIONAL COMPANY LAW TRIBUNAL, DIVISION BENCH, DELHI
BENCH III

I.A. No. 2216/2020 in IB- 812(ND)/2018 filed under Section 30(6) of IBC, 2016 read with Regulation 39(4) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

In the matter of **M/s. Rayan Laboratories Pvt. Ltd. (CD)**

Mr. Susheel Kumar Gupta.

.... Resolution Professional

Order delivered on 19th October, 2020

CORAM:

CH. MOHD SHARIEF TARIQ, HON'BLE MEMBER (JUDICIAL)

SHRI. NARENDER KUMAR BHOLA, HON'BLE MEMBER (TECHNICAL)

For Resolution Professional: P. Bhattacharya

ORDER

PER: NARENDER KUMAR BHOLA, MEMBER (TECHNICAL)

1. The Resolution Professional has filed the instant application under 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 (ICRP) Regulation, 2016), in IA No.2216/2020 for seeking approval of Resolution Plan under section 31(1) of IBC in the matter of Rayan Laboratories Pvt. Ltd. (hereinafter referred as “Corporate Debtor”)

2. Mr. Susheel Kumar Gupta is the Resolution Professional for Ryan Laboratories Private 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 03.10.2018 pursuant to the application filed by Operational Creditor under Section 9 of IBC and Mr. Susheel Kumar Gupta was appointed as the Interim Resolution Professional (IRP) vide same order.

4. It is further submitted that the first meeting of CoC held on 08.11.2018 and IRP was confirmed as Resolution Professional.

5. It is submitted that during the CIRP process the resolution applicant had moved an application being no: CA NO: 884/C-III/ND/2019 under section 60(5) read with sections 12(3), 30(4) of the IBC, 2016 for seeking extension of time for filing of detailed resolution plan before the COC and the same was allowed by this authority vide its order dated 28.11.2019 and directed the counsel for the Resolution Applicant to consult the COC.

6. It is averred that the resolution applicant placed the said application before the CoC on 05.12.2019 as per the above directions and CoC allowed further time of 15 days to the resolution applicant i.e. on or before 20.12.2019 for filing a detailed resolution plan to revive the ailing Corporate Debtor.

7. It is further submitted that resolution professional had received the detailed resolution plan on 18.12.2019 for an amount of Rs. 380 Lacs and the same was placed before the CoC in 12th CoC meeting held on 23.12.2019 for discussion and appraisal. Moreover, the Resolution Applicant has reviewed its resolution plan and enhanced the same on various dates as follows:

   (i) 17.12.2019....... Rs.380.00 Lacs

(ii) 30.12.2019....... Rs.400.00 Lacs

(iii) 11.03.2020....... Rs.425.00 Lacs

(iv) 17.03.2020....... Rs.435.00 Lacs

(v) 20.03.2020....... Rs.437.50 Lacs

8. It is further averred that the resolution professional filed compliance report in Form H as specified. The 14th CoC meeting was convened on 23.03.2020 by the resolution professional for approval/rejection of resolution plan and the CoC has approved the resolution plan with 100% voting share.

9. **The summary proposal of the resolution applicant submitted in the application is as follows:**

Sl. No.	Parameters	Amounts Payable (INR)	Sources of Funds
1	Upfront cash payment to all stakeholders within T+75 Days	252.50 Lacs	Infusion by **Badrivas Biotech Pvt.**
2	Infusion as working capital requirement of corporate debtor	100 Lacs	
3	Infusion for capital expenditure requirement of corporate debtor	60 Lacs	
4	Compliance with environmental norms	10 Lacs	

5	Payment to state electricity board	3.50 Lacs	**Ltd.**
6	Contingency Fund	11.50 Lacs	
Total		**437.50 Lacs**	

Treatment of all stakeholders out of the above upfront cash payment of Rs.252.50 Lakh

(Amount in Rs.Lakh)

Sl. No.	Category of Stakeholder	Sub-Category of Stakeholder	Amount Claimed	Amount Admitted	Amount Provided under the plan	Amount Provided to the Amount Claimed (%)
1	Secured Financial Creditors	a).Creditors not having a right to vote under sub-section (2) of section 21	-	-	-	-
		b).Other than (a) above: i. who did not vote in favour of the resolution plan	-	-	-	-
		ii. Who voted in favour of				

		the Resolution Plan **Total (a+b)**	349.15 **349.15**	349.15 **349.15**	240.00 **240.00**	68.74% **68.74%**
2	Unsecured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21 (b) Other than (a) above: i. who did not vote in favour of the resolution plan ii. Who voted in favour of the Resolution Plan **Total (a+b)**	- - **-**	- - **-**	- - **-**	- - **-**
3	Operational Creditors	a) Related Party of Corporate Debtor b) Other than (a) above: i) Government ii) Workman iii) Employees iv) Suppliers **Total (a+b)**	- 721.88 - - 32.03 **753.91**	- 721.88 - - 15.08 **736.96**	- 12.24 - - 0.26 **12.50**	- 1.70% - - 1.70% **1.70%**
4	Other					

	Debts and dues		-	-	-	-
Grand Total			**1103.06**	**1086.11**	**252.50**	**23.25%**

10. It is submitted that as per the terms of the request for resolution plan ("RFRP") the successful Resolution Applicant was to submit an amount equivalent to 5% of the Resolution Plan amount as Performance Bank Guarantee upon declaration as successful applicant by the CoC, and the same was deposited by the Resolution applicant as evident from Form H annexed with the application under consideration.

11. 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 as evident from the Annexure.

12. Appointment of monitoring agency/ Approval.

It is submitted by the Resolution Professional through supplementary affidavit that the CoC has formed the following monitoring committee for smooth execution of the Resolution Plan.

The Monitoring agency shall comprise of 3 members:

i) Sh. Susheel Kumar Gupta, Resolution Professional

ii) Chief Manager, Canara Bank, Sole Financial Creditor represented through Sh. Bedabyas Pradhan and

iii) Ms. Drishika Singh, Additional Director of Resolution Applicant

13. The parameters for approval of resolution plan are set out in section 30 (2) of the IBC, 2016 and CIRP Regulations. 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 has submitted an affidavit that he is not disqualified under the provisions of section 29A.
Section 30(2)(a) of the IBC, 2016 And Regulation 38(1A) of IBBI (Insolvency Process for Corporate Persons) Regulations, 2016	The Resolution Plan provides for payment of the CIRP cost in priority to the payment of other debts of the Corporate Debtor. The Resolution Plan provides it has dealt with the interest of all stakeholders, including financial creditors and operational creditors, of the Corporate Debtor.
Section 30(2)(b) of the	The Resolution plan provides

IBC, 2016 And Regulation 38(2)(c) of IBBI (Insolvency Process for Corporate Persons) Regulations, 2016	for the payment of Rs.12.50 Lakh of the operational Creditors, including statutory dues but excluding employees and workman dues. Adequate liquidity is declared as per net-worth certificate.
Section 30(2)(c) and Section 30(2)(d) of the IBC, 2016 And Regulation 38(2) of IBBI (Insolvency Process for Corporate Persons) Regulations, 2016	A supplementary affidavit is filed by the Resolution Professional stating that there will be monitoring agency as appointed by this authority which will look after the affairs and business of the Corporate Debtor. The implementation of plan as stated by the Resolution Applicant in the Resolution Plan is 75 days from the approval date.
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. ***Except*** *Regulation 38(1) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulation, 2016*

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.

14. Thus, the resolution plan filed with the Application meets the requirements of section 30(2) of IBC, 2016 and Regulation 37, 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 **except the Regulation 38 (1)** of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulation, 2016, 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. All the concessions and waivers prayed for by the Resolution Applicant under Para 11 of the Resolution Plan approved by the CoC fall within the parameters of I&B Code, 2016, and other applicable laws. Therefore, 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. The Corporate Debtor shall be entitled to carry forward all accumulated business losses and unabsorbed depreciation, if any. Further, from the plan approval date, except as provided in the Resolution Plan, all the pending statutory dues including taxes/cess/interest/ penalty and other liabilities shall stand satisfied/ waived off.

16. In view of the above, the "Resolution Plan" annexed with I.A. No. 2216/2020 in IB- 812(ND)/2018 is hereby **approved** (including the monitoring committee as proposed) subject to

the condition that the amount due to the operational creditors under resolution plan shall be paid in priority over financial creditors as required under Regulation 38(1) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The Resolution Plan approved shall be binding on the corporate debtor and its employees, members, creditors, guarantors, other stakeholders including statutory authorities and the Resolution Applicant.

17. 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.

18. The order of moratorium date 03.10.2018 passed by this adjudicating authority under section 14 of IBC shall cease to have effect from the date of this order.

19. 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.

20. The approved resolution plan shall become effective from the date of passing of this order.

21. The Resolution Professional shall forthwith send a copy of this order to the participants and the Resolution Applicant.

22. Accordingly, I.A. No. 2216/2020 in IB- 812(ND)/2018 stands **allowed.**

23. The order is pronounced.

-Sd- -Sd-

(NARENDER KUMAR BHOLA) MEMBER (TECHNICAL)

(CH.MOHD SHARIEF TARIQ) MEMBER (JUDICIAL)