

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

ITEM No.42

IA/176(AHM)2021 in CP(IB) 357 of 2018

**Proceedings under Section 30(6) r.w 31 IBC,2016**

**IN THE MATTER OF:**

Ashok Kumar Golechha RP For Dhanurdhar Processors Pvt .....**Applicant**  
Ltd  
V/s .....**Respondent**  
Committee of Creditors & Ors

**Order delivered on ..24/08/2022**

**Coram:**

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 the order. The order is pronounced in open Court vide separate sheet.

-SD-

**KAUSHALENDRA KUMAR SINGH**  
**MEMBER (TECHNICAL)**

-SD-

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

**BEFORE THE ADJUDICATING AUTHORITY  
NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
COURT-1**

**IA/176 (AHM)/2021  
IN  
CP (IB) 357(AHM)/2018**

**IA/176 (AHM)/2021**

[An application under Section 30(6) of the Insolvency and Bankruptcy Code, 2016]

**Mr. Ashok Kumar Golechha,**

Resolution Professional of  
Dhanurdhar Processors Private Limited  
Having office at:  
D- 511, 5<sup>th</sup> Floor , Kanakia Zillion,  
Junction of LSB Road & CST Road,  
BKC Annexe, Kurla (WEST)  
Mumbai, 400070

**..... Applicant**

**Versus**

**1. Committee of Creditors and others**

(a) The Cosmos Co- operative Bank Limited  
Meridian Tower, Udhna Darwaja,  
Near Rajkumar Theater, Surat – 395002

**(b) ICICI Bank Limited**

2<sup>nd</sup> Floor, Heritage Chamber  
Azad Society Road, Nehrunagar,  
Ahmedabad – 380015

**.....Respondent No. 1**

**2. Mr. Virendra Agarwal, Suspended Management of**

Dhanurdhar Processors Private Limited,  
4D Priyadarshani, Appt. Near Regent Mall,  
Ghod Dod Road, Surat, Gujarat – 395007

**.....Respondent No. 2**

**In the matter of:**

**CP (IB) No. 357 of 2018**

[An application under section 9 of the Insolvency and Bankruptcy Code, 2016]

**Taranjot Resources Private Limited**

Having registered office at:  
806, SNS Arista, Plot No. 94/2,  
T.P. Scheme No.29, Rindh,  
Surat, Gujarat – 395003

**...Applicant / Operational Creditor**

**Versus**

**Dhanurdhar Processors Private Limited**

Having registered office at:  
Survey No. 146/3,  
Block No. 165, Plot No. 165/1  
Jolva, Taluka – Palsana, Jolva  
Gujarat – 39430

**... Respondent/Corporate Debtor**

**Order pronounced on 24.08.2022**

**Coram: MADAN B. GOSAVI, MEMBER (J)  
KAUSHALENDRA KUMAR SINGH, MEMBER (T)**

**Appearance:**

Learned Counsel Ms. Natasha Dhruman Shah for the Resolution Professional

Learned Counsel Mr. Vishal Dave along with learned Counsel Ms. Pragati Tiwari for the Resolution Applicant

Learned Counsel Ms. Amrita Patel for Respondent No. 1

Learned Counsel Ms. Disha Raman on behalf of learned Counsel Mr. Anal Shah for Respondent No. 2

**ORDER**

1. This application under section 30(6) of the Insolvency and Bankruptcy Code, 2016 (**IBC, 2016**) is filed by Mr. Ashok Kumar Golechha (**RP**) of the Corporate Debtor – Dhanurdhar Processors Private Limited for approval of the Resolution Plan submitted by Mr. Virendra Agarwal and others.
2. On 05.06.2020, the Corporate Debtor was admitted in the Corporate Insolvency Resolution Process (**CIRP**). Mr. Rajeev Saxena was appointed as the Interim Resolution Professional (**IRP**). On 19.06.2020, the IRP made a public announcement of the CIRP of the Corporate Debtor and called upon its creditors to submit claims. He collated the claims. On 02.07.2020 the IRP constituted the Committee of Creditors (**CoC**) consisting of Cosmos Co-op Bank Ltd. having 100% voting rights.
3. In the second CoC meeting held on 04.08.2020, the resolution to appoint Mr. Ashok Kumar Golechha as the RP and replace IRP was approved by CoC.
4. In the third CoC meeting held on 29.08.2020, the CoC resolved to publish invitation for Expression of Interest (**EoI**) in Form G. On 31.08.2020, the erstwhile IRP published Form G in “Sushila Times” English edition and “Janadesh” Gujarati edition.

5. Thereafter, IA 442 of 2020 was filed to replace the IRP Mr. Rajeev Saxena with RP Mr. Ashok Kumar Golechha. The application was allowed by this Adjudicating Authority vide order dated 09.09.2020.
6. In the fourth CoC meeting held on 22.09.2020, the CoC resolved to extend the timeline of EoI. Thereafter, the revised invitation of EoI were issued in “Business Standards” English edition and “Gujarat Samachar” Gujarati edition.
7. In the fifth CoC meeting held on 22.10.2020 in which the CoC received six EoIs from prospective resolution applicants and one from Virendra Agarwal filed under section 240A of the Code read with section 29A of the Code.
8. In the seventh CoC meeting held on 27.11.2020, the CoC approved the extension of 15 days for submission of Resolution Plan at the request of Resolution Applicants. Thereafter, the last date for submission of the Resolution Plan was extended upto 14.11.2020.
9. It was brought to the notice of this Adjudicating Authority that IA was filed for the extension of CIRP period as 180 days were expiring on 02.12.2020. The Adjudicating Authority allowed extension by 90 days vide order dated 02.12.2020.
10. In the eighth CoC meeting held on 16.12.2020, CoC discussed upon the Resolution Plan submitted by three Resolution Applicants namely 1). Virendra Agarwal & others, 2). Mr. Vikash Mittal and Mr. Vikas Saharia 3). Siddhivinayak Filaments Pvt. Ltd. The Resolution Applicants were also directed to submit a revised Resolution Plan on or before 21.12.2020.

11. In the ninth CoC meeting held on 23.12.2020, the CoC discussed the revised resolution plan submitted by Resolution Applicants.
12. In the tenth CoC meeting held on 15.02.2021, the CoC discussed the revised plan submitted by Resolution Applicant, Mr. Virendra Agarwal and others since he had only improvised the plan. Thereafter, Mr. Virendra Agarwal and others was requested to make necessary changes and submit the revised plan by 19.02.2021.
13. The CoC was reconstituted on 18.02.2021, wherein the Cosmo Co-op Bank Ltd. had 99.37% voting rights and ICICI Bank had 0.63% voting rights.
14. In the eleventh CoC meeting held on 23.02.2021, the CoC approved the Resolution plan submitted by Resolution Applicant, Mr. Virendra Agarwal and others with 100% voting. Accordingly, the RP had filed an application, bearing no. IA No. 176 of 2021 for approval of that Resolution Plan.
15. The Resolution Applicant- Mr. Virendra Agarwal and others has proposed to pay a sum of Rs. 50,43,00,000/- against the total admitted claim of Rs. 79,08,09,394/-. The total haircut under the proposed plan is 63.77%. The details are as follows:

<b>Sr. No.</b>	<b>Category of Shareholder*</b>	<b>Sub-Category of Stakeholder</b>	<b>Amount Claimed</b>	<b>Amount Admitted</b>	<b>Amount provided under the Plan#</b>	<b>Amount provided to the Amount Claimed (%)</b>
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	Secured Financial Creditors	(a) Creditors not having a right to vote under subsection (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	0  49,22,93,659	0  49,22,93,659	0  48,25,00,000	  98.01%
		<b>Total [(a)+(b)]</b>	<b>49,22,93,659</b>	<b>49,22,93,659</b>	<b>48,25,00,000</b>	
2	Unsecured Financial Creditors	(a) Creditors not having a right to vote under subsection (2) of section 21	13,18,33,455	12,30,31,005	0*	0%
		(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	31,22,035	31,22,035	3,00,000	9.61%
		<b>Total[(a)+(b)]</b>	<b>13,49,55,490</b>	<b>12,61,53,040</b>	<b>3,00,000</b>	
3	Operational Creditors	(a) Related party of the Corporate Debtor				
		(b) Other than (a) above: (i) Government (ii) Workmen (iii) Employees (iv) Others Operational Creditors	76,51,815 2,85,439 16,34,86,834	76,51,815 2,85,439 16,13,52,803	0 50,00,000 1,62,00,000	0% 1751.69% 10.03%
		<b>Total[(a)+(b)]</b>	<b>17,16,36,725</b>	<b>16,95,02,694</b>	<b>2,12,00,000</b>	

4	Other debts and dues		34,86,988	34,86,988	3,00,000	10.48%
<b>Grand Total</b>			<b>80,23,72,862</b>	<b>79,08,09,394</b>	<b>50,43,00,000</b>	

16. The liquidation value and the fair value of the Corporate Debtor are reported at Rs. 59,28,00,000/- and Rs. 84,42,00,000/- respectively. The Plan value is Rs. 50,43,00,000/- which is less than the liquidation value of the Corporate Debtor. We noted the fact. The Hon'ble Supreme Court in the case of **Maharashtra Seamless Limited vs. Padmanabhan Venkatesh & Ors. Civil Appeal No. 4242 of 2019** held that no provision in the Code or Regulations was brought to their notice under which the bid of any Resolution Applicant should match liquidation value. The object behind prescribing such valuation process is to assist the CoC to take decision on a Resolution Plan properly. Once, a Resolution Plan is approved by the CoC, the statutory mandate on the Adjudicating Authority under section 31(1) of the Code is to ascertain that a resolution plan meets the requirement of sub-sections (2) and (4) of section 30 thereof. The relevant paragraphs of the said judgment are reproduced below:

“26. No provision in the Code or Regulations has been brought to our notice under which the bid of any Resolution Applicant has to match liquidation value arrived at in the manner provided in Clause 35 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.”

“27. It appears to us that the object behind prescribing such valuation process is to assist the

CoC to take decision on a resolution plan properly. Once, a resolution plan is approved by the CoC, the statutory mandate on the Adjudicating Authority under Section 31(1) of the Code is to ascertain that a resolution plan meets the requirement of sub-sections (2) and (4) of Section 30 thereof. We, per se, do not find any breach of the said provisions in the order of the Adjudicating Authority in approving the resolution plan.”

“28. The Appellate Authority has, in our opinion, proceeded on equitable perception rather than commercial wisdom. On the face of it, release of assets at a value 20% below its liquidation value arrived at by the valuers seems inequitable. Here, we feel the Court ought to cede ground to the commercial wisdom of the creditors rather than assess the resolution plan on the basis of quantitative analysis. Such is the scheme of the Code. Section 31(1) of the Code lays down in clear terms that for final approval of a resolution plan, the Adjudicating Authority has to be satisfied that the requirement of sub-section (2) of Section 30 of the Code has been complied with. The proviso to Section 31(1) of the Code stipulates the other point on which an Adjudicating Authority has to be satisfied. That factor is that the resolution plan has provisions for its implementation.”

17. The Resolution Applicant Mr. Virendra Agarwal and others has proposed to pay a sum of Rs. 50,43,00,000/- within 10 years

from the effective date against full and final payment for all the liabilities of a Corporate Debtor.

18. We now take up the Resolution Plan of Mr. Virendra Agarwal and others for examining the same in view of provisions of section 30(2) of the IBC, 2016.
19. Section 30(2)(a) requires that the Resolution Plan shall provide for the payment of the CIRP costs in priority to the payment of other debts of the Corporate Debtor. Upon going through the plan, we noted that a sum of Rs.50,00,000/- is provided to meet out the expenses towards the CIRP costs. We hold that provisions of section 30(2)(a) are complied with.
20. The perusal of the Resolution Plan shows that the Secured Financial Creditors will get a sum of Rs. 48,25,00,000/- against their total claimed amount of Rs. 49,22,93,659/- The Unsecured Financial Creditors who did not vote in favour of the Resolution Plan will get a sum of Rs. 3,00,000/- against their total claimed amount of Rs. 31,22,035/-. The Employees will get a sum of Rs. 50,00,000/- against their total claimed amount of Rs. 2,85,439/-. The Operational Creditors will get a sum of Rs. 1,62,00,000/- against their total claimed amount of Rs. 16,34,86,834/-. Other debts and dues are allotted a sum of Rs. 3,00,000/- against total claimed amount of Rs. 34,86,988/-. The CIRP cost has been kept by the Resolution Applicant of Rs. 50,00,000/-. The amount of CIRP cost will be paid within 60 days from the receipt of the order. The payment of dues of employees and workmen will be paid within 60 days from the receipt of the order. The payment to Operational Creditors including other Creditors will be paid within 60 days from the receipt of the order. The settlement of claims of Creditors will be done within 10 years from the receipt of the order. In view

thereof we hold that this complies with provisions of section 30(2)(b) of the IBC, 2016.

21. In the Resolution Plan (at page – 46) the supervision and implementation of the Resolution Plan is given. It is proposed in the Resolution Plan that on and from the date of approval from NCLT and until the effective date, the Corporate Debtor will be managed and controlled by an Interim Monitoring Committee, comprising of 2 Independent member to be appointed mutually by secured Financial Creditors and the Resolution Applicant. During the standstill period, the Interim Monitoring Committee shall be responsible for the implementation in the Resolution Plan. The Interim Monitoring Committee shall provide such information on the implementation of the Resolution Plan as may be reasonably requested by the Resolution Applicant from time to time. With effect from the approval date and until the effective date, the management of affairs of Corporate Debtor and all matters connected with and necessary for the implementation of the Resolution Plan shall vest with the Interim Monitoring Committee.
22. The RP has certified that the Resolution Plan does not contravene any provisions of law for the time being in force. On examination of the Resolution Plan, we also find that the Resolution Plan does not contravene any provisions of law. We also hold that the Resolution Plan is in compliance with the provisions stated in Regulations 38 and 39 of the IBBI (CIRP of the Corporate Person) Regulations, 2016, and the interests of all stakeholders are taken care of. The term of the plan is also stated. Hence, we see no reason to reject this Resolution Plan on any grounds.

23. The Company will increase its authorised capital by 3,14,0000 shares which will be issued to Special Purpose Vehicle (**SPV**) against the upfront capital infusion for the payment of Financials and Operational Creditor. The issuance of new equity shares shall be at face value and without premium to the Resolution Applicant respectively in physical/dematerialised form as desired by the Resolution Applicant.
24. The Resolution Applicant shall bring amount for upfront payment to Financial and Operational Creditors (including that payable to workmen, employees and other creditors), working capital and capex infusion by way of issue of 1,77,61,600 fresh debentures bearing interest rate of 8% by the Corporate Debtor to the Resolution Applicant. The issuance of debentures shall be at face value and without premium to the Resolution Applicant respectively in physical/dematerialised form as desired by the Resolution Applicant.
25. The Resolution Applicant will take control of the Corporate Debtor within 10 days from approval of this Adjudicating Authority. The Corporate Debtor shall issue and allot 21,68,400 fresh equity shares at Rs. 10 per share within 60 days from approval of this Adjudicating Authority to the Resolution Applicant against upfront capital infusion.
26. As far as reliefs and concessions claimed by the resolution applicant, the law has been well 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:

- I. “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.
- II. 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 IB Code and continuing with the proceedings, has brought out the 2019 amendment so as to cure the said mischief...”
27. In view of the above, we hold that the Resolution Applicant cannot be saddled with any previous claim against the Corporate Debtor prior to initiation of its CIRP. For the permits, licenses, leases, or any other statutory right vested in the Corporate Debtor shall remain with the Corporate Debtor and for the continuation of such statutory rights, the Resolution Applicant has to approach the concerned statutory authorities under relevant laws.
28. With these directions, we approve the Resolution Plan submitted by Mr. Virendra Agarwal and others and proceed to pass the following orders:

### **ORDER**

- I. Application is allowed.
- II. The Resolution Plan of Mr. Virendra Agarwal and others for Corporate Debtor i.e. Dhanurdhar Processors Private

Limited, stands allowed as per section 30(6) of the IBC, 2016.

- III. The Resolution Applicant claimed various reliefs and concessions in the Resolution Plan. However, we grant the reliefs in the following manner and to this extent;
- a. After the payment of the dues to the creditors, as per the Resolution Plan, all the liabilities of the said stakeholders prior to CIRP against the Corporate Debtor shall stand permanently extinguished after the approval of the resolution plan. We further hold that other claims including Government/Statutory Authority, whether lodged during CIRP or not, shall also stand extinguished against the Corporate Debtor after the approval of the Resolution Plan. We further hold that contingent/unconfirmed dues shall also stand extinguished;
  - b. On the effective date, all claims, except provided in the Resolution Plan, of the suspended management, erstwhile directors, and erstwhile shareholders shall stand permanently extinguished;
  - c. On the effective date and with effect from the appointed date, all encumbrances on the assets of the Corporate Debtor prior to the plan shall stand permanently extinguished on completion of procedural formalities as provided in Companies Act, 2013; and laws time in force as applicable;
  - d. For reliefs and concessions sought from the Government/Statutory Authorities, we direct the Resolution Applicant to approach the concerned Authorities who shall decide the issues including

waivers/exemption from such stamp duty, taxes and/or other fees or duty.

- e. As regard to relief prayed under various provisions of Income Tax Act, 1961, the Corporate Debtor / Resolution Applicant may approach the Income Tax Authorities who shall take a decision on relief and concessions sought by the Resolution Applicant in accordance with the provisions of Income Tax Act, 1961.
- f. All licenses, permits etc. belonging to the Corporate Debtor whether expired or existing during the process of implementation of the Resolution Plan shall remain vested with the Corporate Debtor and the Corporate Debtor/Resolution Applicant shall approach relevant authorities for obtaining licenses, permits etc. Further, Monitoring Committee and Resolution Professional shall provide necessary support in this regard.
- g. The Resolution Applicant shall be entitled to review, revise or terminate any appointments/agreements entered into by or on behalf of the Corporate Debtor in accordance with the terms and conditions of such agreements/MoUs/contracts;
- h. The RP shall complete the accounting entries to give effect to the Resolution Plan in the books of account as per the applicable accounting standards and provisions of the Companies Act, 2013;
- i. The management of the Corporate Debtor shall be handed over to the Board of Directors as may be nominated by the Resolution Applicant for proper running operations of the business of the Corporate Debtor;

- j. The Board of Directors of the Corporate Debtor shall also be reconstituted and procedural compliances shall be done to give effect to such reconstitution;
  - k. The Resolution Applicant shall, pursuant to the resolution plan approved under section 31(1) of the Code, obtain necessary approvals required under any law for the time being in force within a period of one year from the date of approval of the resolution plan by the Adjudicating Authority under section 31 or within such period as provided for in such law, whichever is later, as the case may be;
  - l. All the approvals of shareholders/members of the Corporate Debtor shall be deemed to have been obtained and the provisions made in the Resolution Plan as regard to the restructuring of capital shall be binding on them. This order shall be treated as evidence of compliances of all formalities as may be required in this regard under the provisions of the Companies Act, 2013.
- IV. The approved 'Resolution Plan' shall become effective from the date of passing of this order.
  - V. The order of moratorium dated 05.06.2020 passed by this Adjudicating Authority under section 14 of IBC, 2016 shall cease to have effect from the date of passing of this order.
  - VI. The RP shall forthwith send a copy of this order to the participants and the Resolution Applicant(s).
  - VII. The RP 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.

- VIII. If the application of section 43 to 51 IBC, 2016 filed by the RP, is pending then we direct the RA to continue with the same on behalf of the creditor of the Corporate Debtor.
- IX. Accordingly, IA 176 of 2021 in CP (IB) 357 of 2018 is allowed and stands disposed of in terms of the above directions.
- X. Urgent certified copy of this order, if applied for, to be issued to all concerned parties upon compliance with all requisite formalities.

**-SD-**  
**KAUSHALENDRA KUMAR SINGH**  
**MEMBER (TECHNICAL)**

**-SD-**  
**MADAN B. GOSAVI**  
**MEMBER (JUDICIAL)**

Shweta Desai – LRA