

**NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH
(Video Conference)**

PRESENT: JUSTICE TELAPROLU RAJANI – MEMBER JUDICIAL

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 10.11.2021 AT 10.30
AM**

TRANSFER PETITION NO.	IA(IBC) 16/2021 in TCP(IB) NO. 40/7/AMR/2019
COMPANY PETITION/APPLICATION NO.	CP(IB) NO. 325/7/HDB/2018
NAME OF THE COMPANY	Sri Vasavi Industries Ltd
NAME OF THE PETITIONER(S)	Stressed Assets Stabilization Fund
NAME OF THE RESPONDENT(S)	Sri Vasavi Industries Ltd
UNDER SECTION	7 OF IBC

Counsel for Petitioner(s):

<small>Ries</small>			
Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

Counsel for Respondent(s):

<small>Ries</small>			
Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

ORDER

IA(IBC) 16/2021 is allowed. Vide Separate Orders.

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**JUSTICE TELAPROLUY RAJANI
MEMBER JUDICIAL**

NCLT Amaravati Bench
IA No. 16 of /2021
IN
TCP (IB) No. 40/7/AMR/2019
IN
[CP (IB)No.325/7/HDB/2018]

**NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH**

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IA No. 16/2021
IN
TCP (IB) No. 40/7/AMR/2019
IN
[CP (IB)No.325/7/HDB/2018]

**Under Section 30 (6) and 31 of the IBC, 2016 read with Regulation
39 (4) of the IBBI (Insolvency Resolution Process for Corporate
Persons) Regulations, 2016**

**In the matter of
M/s SRI VASAVI INDUSTRIES LIMITED**

Between:

Mr. Girish Siriram Juneja,
Resolution Professional
For M/s. Sri Vasavi Industries Limited,
V.R.Agraharam Village,
Rajam Mandal, Srikakulam District,
Andhra Pradesh - 532127.

... Applicant

Date of pronouncement of Order: 10.11.2021

CORAM:

Justice Telaprolu Rajani, Member Judicial

Appearance:

For Applicant/RP : Mr. Girish Siriram Juneja, RP &
Mr.Santosh Yadhav, Advocate

Per:

Justice Telaprolu Rajani, Member Judicial

ORDER

1. The Resolution Professional (in short the RP) was appointed by the Tribunal by virtue of the Order dated 28.10.2019. He filed

1/Nov

this application, seeking for approval of the Resolution Plan (in short Plan), under Section 30(6) and Section 31 of the Insolvency and Bankruptcy Code, 2016 (the Code in short) read with Regulation 39 (4) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (the Regulations in short).

2. After his appointment the RP has visited Bishnupur (West Bengal), manufacturing plant and the office of the Corporate Debtor, located at Jodhpur extension area Kolkata, on 5th and 6th November, 2019 to take charge of the entire management and control of the Corporate Debtor. On 25.11.2019, he was appointed as Resolution Professional in the first meeting of the Committee of Creditors (in short CoC) and publication in Form-G, inviting Expression of Interest (EoI) from Prospective Resolution Applicants (in short PRA) was made in 3 newspapers with last date to receive the EoI as 23.01.2020. But no EoI was received by that date.
3. An email was sent to the CoC members on 29.01.2020 for approval of the extension of last date for submission of the Expression of Interest. But there was no response from the CoC members. Thereafter, the RP received an email from an interested party Mr.Sudhakar Bodugu on 07.02.2020 seeking for extension of timeline by 7 to 10 days. An email dated 11.02.2020 was sent by the RP to the CoC members informing about the same, but to no response from the CoC members. The RP held the 3rd CoC meeting on 28.02.2020 in which the CoC members agreed to publish the revised Form G on 02.03.2020 in 4 newspapers.

4. Thereafter, Mr.Sudhakar Bodugu expressed interest in submitting a Resolution Plan. The last date to submit the Resolution Plan was fixed as 02.03.2020, but on 06.04.2020 the Resolution Applicant sent a mail seeking for extension of 30 days due to the lockdown imposed in the whole country. In the 5th CoC meeting held on 13.04.2020, the CoC members approved the extension of the last day of submission of Plan by 15 days.
5. The Resolution Applicant submitted the Plan dated 15.06.2020 on 15.07.2020 along with the Earnest Money Deposit (EMD). Thereafter, the plan was revised many times on the recommendations of the CoC. In the 14th CoC meeting, it was decided to modify the terms of performance security on the request for the Resolution Plan and was approved by 99.81% of the voting share. The Resolution Applicant thereafter submitted a Resolution Plan dated 25.12.2020 on 28.12.2020 based on the modified RFRP.
6. The 15th CoC meeting was convened to consider and evaluate the Resolution Plan submitted by the Resolution Applicant, which was held on 31.12.2020. One of the CoC member's suggested to have an independent person as part of the Monitoring Committee in place of the RP which was accepted by the CoC. The Resoluiton Plan was approved in the 15th CoC meeting by majority of 74.47 % of the voting share of the Financial Creditors and in accordance with Section 30 (4) of the IBC Code.
7. The RP apprised the CoC members about the requirements of Regulation 39B and 39C of CIRP Regulations, regarding meeting the Liquidation in the event of Liquidation Order and assessment

of sale as a going concern. After discussions, separate Resolutions was passed in the CoC meeting.

8. The salient features of the approved Resolution Plan shows that the Resolution Applicant is an industrialist and hails from Chittoor District, AP. He started his business venture M/s.Ratna Packaging India Private Limited at SIDCO Industrial Estate, Hosur, Tamil Nadu and has a turnover of Rs.250 Crore.
9. The Resolution Applicant Financial Officer offered towards settlement of Creditors, Financial and Operational Creditors/other Creditors including workers and CIRP cost is Rs.16.80 Crores. Initially payment of Rs.3.00 Crore was made towards the CIRP cost, Operational/Other Creditors and part payment of Financial Creditors. The balance payment of Rs.13.80 Crore had to be paid in 6 quarterly instalments @ Rs.2.30 Crore per instalment.
10. The overall Financial Proposal of the Resolution Plan is as follows:

S. No	Particulars	Rs. (Crore)
A	CIRP Cost	0.91
B	Financial Creditors	15.54
C	Workmen & Employees	0.01
D	Operational/Other Creditors	0.34
E	Settlements to outside parties (A+B+C+D)	16.80
F	Capex (Repairs/Deposit)	6.00
G	Working Capital Margin	2.50
H	Investment in Company (F+G)	8.50
I	Investment by the Resolution Applicant (E+H)	25.30

11. Term, implementation of the Resolution Plan shall be 18 months from the date of receipt of order from the Tribunal approving the Resolution Plan. The Resolution Plan further contemplates the following terms:
- (a) All the Shares held by the Promoters shall get cancelled or transferred to the Resolution Applicant based on the appropriate value as per the provisions of the IBC norms.
 - (b) The management & control of all assets of the Corporate Debtor including land, building, P&M, etc., will be vested with the new management headed by Mr.Bodugu Sudhakar from the date of making the initial payment.
 - (c) All liabilities/claims arising out of dispute with (i) National Spot Exchange Limited (NSEL); (ii) All or any attachments by the Enforcement Directorate (ED), Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 (MPID) on the assets of the Corporate Debtor shall be deemed to be released and the Resolution Applicant shall not be responsible for any other liabilities /claims other than the offer made in the Resolution Plan.
12. In compliance of Regulation 38(1 A) of the CIRP Regulations, it has been set out in the Resolution Plan, that the Plan operates in best interest of all the stakeholders, as the Financial Creditors are being paid the best optimum value attributed to them and employment opportunities will be generated once the full-fledged operations of the Corporate Debtor starts.

13. All the taxes, liabilities or obligations payable to, claims, assessments, counter claims, etc., shall stand irrevocably waived on the Resolution Plan being approved by the Tribunal. The Resolution Plan submitted by the Resolution Applicant is found to be meeting all the requirements of the IBC, 2016 and more importantly Section 30 (2) of the IBC Code and Regulation 38 (1A) and applicable CIRP Regulations. It does not contravene any of the provisions of law. It caters to the interest of all the Stakeholders.
14. In *K Sashidhar v. Indian Overseas Bank & Others* (in Civil Appeal No.10673/2018 decided on 05.02.2019) the Hon'ble Apex Court held that if the CoC had 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 is required to satisfy itself that the Resolution Plan as approved by CoC meets the requirements specified in Section 30(2). The Hon'ble Court observed that the role of the NCLT is 'no more and no less'. The Hon'ble Court further 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.

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15. **In CoC of Essar Steel** (Civil Appeal No.8766-67 of 2019 decided on 15.11.2019) the Hon'ble Apex Court clearly laid down that the Adjudicating Authority would not have power to modify the Resolution Plan which the CoC in their commercial wisdom have approved. In para 42 Hon'ble Court observed as under:

*“Thus, it is clear that the limited judicial review available, which can in no circumstance trespass upon a business decision of the majority of the Committee of Creditors, has to be within the four corners of section 30(2) of the Code, insofar as the Adjudicating Authority is concerned, and section 32 read with section 61(3) of the Code, insofar as the Appellate Tribunal is concerned, the parameters of such review having been clearly laid down in **K. Sashidhar** (supra).”*

16. In view of the above discussions and the law thus settled, the instant Resolution Plan meets the requirements of Section 30(2) of the Code and Regulations 37, 38, 38(1A) and 39 (4) of the Regulations. The Resolution Plan is not in contravention of any of the provisions of Section 29A of the Code and is in accordance with law. The same needs to be approved. Hence ordered.

ORDER

- i. The Resolution Plan annexed to the Application is hereby approved. It shall become effective from this date and shall form part of this order. It shall be binding on the Corporate Debtor, 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 is due, guarantors and other stakeholders involved in the Resolution Plan.

- ii. The Memorandum of Association (MoA) and Articles of Association (AoA) shall accordingly be amended and filed with the Registrar of Companies (RoC), Andhra Pradesh for information and record. The Resolution Applicant, for effective implementation of the Plan, shall obtain all necessary approvals, under any law for the time being in force, within such period as may be prescribed.
- iii. The moratorium under Section 14 of the Code shall cease to have effect from this date.
- iv. The Applicant shall supervise the implementation of the Resolution Plan and file status of its implementation before this Authority from time to time, preferably every quarter.
- v. The Applicant shall forward all records relating to the conduct of the CIRP and the Resolution Plan to the IBBI along with copy of this Order for information.
- vi. The Applicant shall forthwith send a copy of this Order to the CoC and the Resolution Applicant.

Accordingly, IA No.16/2021 IN TCP (IB) No. 40/7/AMR/2019 is disposed of.

7/10/21
JUSTICE TELAPROLU RAJANI
MEMBER JUDICIAL