

IN THE NATIONAL COMPANY LAW TRIBUNAL
JAIPUR BENCH

Coram: SHRI DEEP CHANDRA JOSHI,
HON'BLE JUDICIAL MEMBER

SHRI ATUL CHATURVEDI,
HON'BLE TECHNICAL MEMBER

IA No. 451/JPR/2023
In CP No. (IBPP)- 01/54C/JPR/2022

IN THE MATTER OF:

SHREE RAJASTHAN SYNTEX LIMITED

..... APPLICANT/ CORPORATE DEBTOR

VERSUS

STATE BANK OF INDIA & ORS.

.....RESPONDENT/ FINANCIAL CREDITOR

MEMO OF PARTIES

IA No. 451/JPR/2023:

Dr. Lekhraj Bajaj, RP
In PPIRP on Shree Rajasthan Syntex Ltd.
107, Agarwal Prestige Mall, Adjoining to
M2K Pitampura, Delhi- 110034

.....Applicant

For the RP	:	Nitesh Shrivastava, Adv. Lekh Raj Bajaj
For the CD	:	Prakul Khurana, Adv. Ankit Sareen, Adv. Yash Tandon, Adv. Gourav Asati, Adv.
For the SBI	:	Suruchi Kasliwal, Adv.

Order Pronouncement On: 22.08.2023

ORDER

Per: Shri Deep Chandra Joshi, Judicial Member

1. This application has been filed by *Dr. Lekhraj Bajaj* ('Applicant'), RP of the Corporate Debtor under Section 54K (15) of the Insolvency and Bankruptcy Code, 2016 ('Code') r/w Regulation 49 of the IBBI (Pre- Packaged Insolvency Resolution Process) Regulations, 2021 for seeking approval of the Base Resolution Plan of the Corporate Debtor namely *M/s Shree Rajasthan Syntex Limited*.
2. The Applicant has submitted that-
 - 2.1. The Corporate Debtor is a public listed company registered under the Companies Act, 2013 holding CIN L24302RJ1979PLC001948 having its registered office in the State of Rajasthan engaged in the business of manufacturing synthetic spun yarns, cotton yarns and polypropylene yarns. It is a registered MSME having Udyam Registration Certificate No. UDYAM-RJ-33-0000458 dated 21.07.2020.
 - 2.2. It has been submitted that the petition under Section 54C was filed by *M/s Shree Rajasthan Syntex Limited* for initiating Pre-packaged Insolvency Resolution Process ('PPIRP') and the same was admitted by this Adjudicating Authority vide order dated 19.04.2023. Vide order dated 19.04.2023, this Adjudicating Authority appointed the Applicant i.e., *Dr. Lekh Raj Bajaj* as the Resolution Professional for the PPIRP of the Corporate Debtor and thus directed the Applicant to take necessary

actions in accordance with the relevant provisions of the Code. The order was received by the Resolution Applicant on 25.04.2023.

2.3. The Applicant in compliance of Section 54F of the Code performed his duties as provided under the Code for successful resolution of the Corporate Debtor. The Applicant under Section 54F of the Code read with Regulation 19 of the PPIRP Regulations, 2021 issued a public announcement in Form P9, of the commencement of PPIRP of the Corporate Debtor *inter alia* for the attention of the Creditors of the Corporate Debtor. The Form P9 was published on 26.04.2023 in two newspapers i.e. *Financial Express* in the English Language and in *Rasthtadut, Udaipur* in Hindi Language.

2.4. It is further submitted that with the help and co-operation of all the stakeholders and the management of the Corporate Debtor, the Applicant was able to collate and verify the claims filed by different stakeholders in the PPIRP of the Corporate Debtor and based on the list of claims, Committee of Creditors (CoC) was constituted within 7 days. The appointment of registered valuers as per Regulation 38 was also done without any delay. In compliance of Regulation 18 of the PPIRP Regulations, 2021, the Applicant with the support of officials of the Corporate Debtor, prepared provisional financials of the Corporate Debtor till the date of commencement of PPIRP which were also made

part of the information memorandum (IM) and the IM was submitted to the CoC members within the prescribed period i.e., 14 days.

2.5. The voting share of the CoC members is as follows:

<i>Sr. No.</i>	<i>Financial Creditor</i>	<i>Voting Share (%)</i>
1.	State Bank of India	47.21
2.	IDBI Bank	26.70
3.	Bank of Baroda	26.09

2.6. In the 2nd CoC meeting held on 25.05.2023, Resolution Professional placed the Base Resolution Plan under Section 54K of the Code received from the Corporate Debtor before the CoC Members for their consideration and approval in terms of the Code. In the said meeting, the CoC members directed the Corporate Debtor to submit clarifications on the Base Resolution Plan.

2.7. The 3rd Meeting of CoC was conducted by the Resolution Professional on 16.06.2023 for submitting the final Base Resolution Plan before the members of CoC under Agenda Item No. 4 wherein deliberations were made between the Corporate Debtor and the CoC members pursuant to which the window for E-voting regarding approval of Resolution Plan was opened by the Resolution Professional.

2.8. On the date of expiry of window for E-voting, State Bank of India (SBI) having majority voting percentage of 47.21% vide email dated 30.06.2023 requested the Applicant to extend time period till 15.07.2023 and accordingly the time period for voting was extended

till 10.07.2023. After that, the SBI again requested the Applicant to extend the time period for voting till 15.07.2023 on the ground that the Resolution Plan was pending consideration with higher authorities.

2.9. On 15.07.2023, the Applicant received an email from SBI, stating that proposal for voting on the agenda items were under consideration with the competent authority and requested for extension of voting time for a period of 45 days to enable the Bank to vote upon such agenda items and the Resolution Plan after obtaining necessary approvals from their competent authority. The Bank also directed the Applicant to file an application before this Adjudicating Authority for seeking extension of PPIRP period.

2.10. In terms of Section 54D of the Code, the PPIRP was to be completed within a period of 120 days from the commencement of PPIRP and the Applicant was obligated to submit the approved resolution plan before this Adjudicating Authority for its approval within a period of 90 days from the commencement of PPIRP. Accordingly, the Applicant preferred an application bearing *IA No. 395/JPR/2023* before this Adjudicating Authority for seeking extension in PPIRP period. The Application was allowed vide order dated 18.07.2023 and PPIRP period was extended for a period of 3 weeks beyond the period of 90 days as provided under Section 54D of IBC, 2016 along with exclusion of 6 days. Therefore, the PPIRP period expires on 13.08.2023.

2.11. It is further submitted that out of 3 Financial Creditors, SBI with 47.21% voting shares, IDBI Bank with 26.70% voting shares thereby constituting 73.91% of the total voting shares of CoC casted their votes on the Base Resolution Plan submitted by the Corporate Debtor and approved the plan with vote of more than 66% as provided under Section 54K (13) of the IBC, 2016. The Base Resolution Plan of the Corporate Debtor has been approved by vote of 73.91% and therefore, the said plan has been approved as per the provisions of the code.

2.12. The Applicant has duly evaluated the compliance of the provisions of the Code and stated that the Resolution Plan is in conformity with the provisions of Section 29A, 30(2), 31, 54K(4) of the Code, Regulation 45 of the PPIRP Regulations and such other provision. The Applicant has duly prepared compliance certificate in Form P12 as mandated under Regulation 49(1) of the IBBI (Pre-packaged Insolvency Resolution Process) Regulations, 2021.

3. The salient features of the Approved Resolution Plan are as follows:

A. Payment of Resolution Plan proceeds (in crores):

<i>Sr. No.</i>	<i>Name of Bank</i>	<i>Principal O/s Amount</i>	<i>% of total Exposure</i>	<i>Payment proposed under plan</i>	<i>%Payment of Outstanding</i>
1.	State Bank of India	43.33	43.30	13.00	30.02
2.	IDBI Bank	33.03	33.00	10.00	30.07
3.	Bank of Baroda	13.62	13.61	4.09	30.02

4.	Bank of Baroda Exclusive Loan	10.10	10.09	3.03	30
	Total	100.08	100.00	30.12	

B. Proposed payment terms under Resolution Plan (In Crores):

Sr. No.	Repayment Schedule	Instalment (%)	SBI	IDBI Bank	BoB
1.	Within 30 days of approval of the Resolution Plan by Hon'ble NCLT	15%	1.95	1.50	1.07
2.	Within 60 days of approval of the Resolution Plan by Hon'ble NCLT	20%	2.60	2.00	1.42
3.	Within 120 days of approval of the Resolution Plan by Hon'ble NCLT	30%	3.90	3.00	2.14
4.	Within 180 days of approval of the Resolution Plan by Hon'ble NCLT	35%	4.55	3.50	2.49
	Total	100%	13.00	10.00	7.12

Note: Interest of 120 days from 19.04.2023 to 16.08.2023 towards the period prior to NCLT approving the Plan under PPIRP shall be computed and paid to Financial Creditors @ 1 year MCLR of IDBI Bank applicable on the date of the approval of the BRP by NCLT in addition to the amount proposed to be paid to Financial Creditors.

C. Timelines presumed for the approval and implementation of Resolution Plan are as under:

Admission of Application	19.04.2023
Approval of Resolution Plan by NCLT	16.08.2023
Completion of Repayment to Banks	16.02.2024

D. Sources of Funds under Resolution Plan (In crore):

Funds infusion by Investors/ Promoter/ Sale of Other Assets	15.00
Sale of obsolete plant and machinery	15.62
Future Cash Accruals	11.32
Total	41.94

E. The amount payable to Creditors (In Crore):

Types of Creditors	Outstanding Exposure (Principal Amount)	Settlement Amount
Financial Creditors	100.08	30.12
Running Operational Creditors (Category 1)	8.96	8.96
Running Operational Creditors (Category 2)	1.00	1.00
Workmen/ Employees	1.63	1.63
Contingencies	Nil	0.23
Total	111.67	41.94

F. Payment to Operational Creditors:

It is a hard fact that working capital is non-negotiable/ essential requirement for the company to remain 'ongoing'/ operational and no provision has been made in the base resolution pan for additional funding from secured creditors/ lenders to the company. At the same time in the present status of the company no other lender is willing to fund the company towards the working capital requirement. Since the current secured creditors of the company are going to get the allocated amount and exit as part of settlement as envisaged and agreed in the

Base Resolution Plan, it is essential that the working capital requirement is met by keeping the ongoing operational creditors in confidence with righteous intentions to pay their full dues.

The Suppliers/ Trade Creditors:

Category 1- The creditors aggregating to Rs. 8.96 cr. which are ongoing or revolving, still supplying or willing to continue to supply the material to the company.

In the PPIRP process, company has secured their interest and their creditors are willing to continue to support the process/ company operation by virtue of continuous supply of goods/ services to the company. The company shall make their due payments in parts over a time period of 3-5 years while making prompt payments towards the fresh supplies/ services provided. This will reduce the quantum of amount dues of such creditors in gradual manner and at the same time will ease out the burden at both the parties, keeping the cash flow situation maintained and no impairment to the creditors. A comfort letter to support from these creditors has been obtained by the company.

Category 2- The creditors aggregating to Rs. 1.0 cr which were one time/ specific material suppliers and are overdue payments.

These creditors can be paid upfront within 30 days once the plan is approved by NCLT since these amounts are not revolving by nature of transactions.

The secured creditors of the company can be paid as per the plan. Hence the plan provides repayment of 100% of operational overdue debts before payment to Financial Creditors and there is no impairment to Operational Creditors involved.

G. Payment to Workmen/ Employees Dues:

The workmen dues related to the salaries and wages are being paid timely. There are no dues as on date and there is no pressing liability related to workmen. It is stated that dues of Rs. 1.63 crores, an amount of Rs. 0.61 crore is towards Statutory dues related to gratuity benefits of workmen who would be willing to rejoin the company and take their gratuity dues in the next 2-3 years. The balance amount of Rs. 1.02 crore is related to other employees which will also be paid in next 3-6 years. These payments would be met from the future cash flows of the company.

H. Mandatory compliances with provisions of IBC, 2016 and PPIRP Regulations:

<i>Relevant Provision</i>	<i>Provisions of Section 30 of the code/ Regulation</i>	<i>Regulation</i>
Sec. 30(2)(a) of the Code	Provides for the payment of insolvency resolution process costs in a manner specified by the Board in priority to the repayment of other	The entire PPIRP cost shall be borne by the Corporate Debtor.

	debts of the Corporate Debtor	
Sec. 30(2)(b) of the Code	<p>i) Provides for the repayment of the debts of operational creditors in such manner as may be specified by the Board which shall not be less than the amount to be paid to the Operational Creditors in the event of a liquidation of the corporate debtor under Section 53.</p> <p>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, And provides for the payment of the debts of financial creditors who do not vote in favour of the Resolution Plan, in such a manner as may be specified by the board, which shall not be less than the amount to be paid to such</p>	<ul style="list-style-type: none"> • The majority of Operational Creditors are related to the day to day raw materials and other supplies like Oil/ Chemicals/ Stores and Spares etc. It is proposed that due to continued business relationship, they shall continue to remain associated with the company. • Thus, the company will be able to renew their old outstanding amounts, through new supplies over the next 3-5 years. • Further, Operational Creditors of Rs. 1.00 crores which are older than 3 years period, shall be repaid in priority without any haircut. <p>Considering that the company has been incurring continuous losses in past years and requires additional funds for reviving its operations, the value of Resolution plan is likely to be substantially lower from the liquidation value. In such scenario, even the assenting financial creditors are likely to get their share below the liquidation value. Hence, under no circumstances any stakeholder/ creditor (including dissenting financial creditor) can</p>

	creditors in accordance with sub section 1 of Section 53 in the event of liquidation of the corporate debtor.	be provided their share of liquidation value. Further, in PPIRP, the spirit of CRAM DOWN (Majority decision binding on minority Creditors in COC) shall prevail, making the approved Resolution Plan binding on all stakeholders Therefore, all the financial creditors (both assenting and dissenting financial creditors) shall be paid their share as per approved Resolution Plan.
Sec. 30(2)(c) of the Code	Provides for the management of the affairs of the corporate debtor after approval of the resolution plan	It is clarified that from the effective date till the implementation of the proposed transaction under the Resolution Plan i.e. payment of the committed amount to the secured, financial creditor, it is envisaged that an effective implementation and monitoring shall be monitored as per point 4.9 of the plan.
Sec. 30(2)(d) of the Code & Regulation 38(2)(c)	Term of the plan, implementation schedule and supervision of the resolution plan.	Entire amount as per Base Resolution Plan is proposed to be paid to Financial Creditors within 180 days from effective date.
Sec. 30(2)(e) of the Code	Does not contravene any of the provisions of the law for the time being in force	Base Resolution Plan has been prepared after taking into consideration and with compliance of all applicable laws and regulations and shall not contravene any of the

		provisions of the law for the time being in force.
Sec. 30(2)(f) of the Code	Plan conforms to such other requirements as may be specified by the board	The Resolution Plan has been prepared taking every aspect into consideration so as to conform with such other requirements as may be specified by Board.

- I. The Corporate Debtor has also sought some relief and concessions stated in detail in para 5.0 of the plan.
4. In accordance with Regulation 49(1) the Resolution Plan has submitted the compliance certificate in Form P12 for approval which is annexed to this application. It is stated that:
- 4.1. The said resolution plan complies with all the provisions of the IBC, 2016, the IBBI (Pre-packaged Insolvency Resolution Process) Resolutions, 2021 and does not contravene any of the provisions of the law for the time being in force.
- 4.2. The Corporate Debtor has submitted 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.
- 4.3. The said resolution plan has been approved by the committee in accordance with the provisions of the Code and the Regulations made thereunder. The resolution plan has been approved by 73.91% of voting share of financial creditors after considering its feasibility and viability and other requirements specified by the PPIRP regulations.

- 4.4. Applicant sought vote of members of the committee by electronic voting system which was kept open at least for 48 hours.
5. We heard the counsels and perused the material available on record
- 5.1. After going through the same, this Adjudicating Authority finds that the Base Resolution Plan submitted by the Corporate Debtor meets the requirements of Section 30(2) of the Code and has been approved by 73.91% vote and the remaining COC member abstained from the voting on the plan. The plan does not provide any impairment in the claims of Operational Creditor.
- 5.2. The RP has not made any application u/s 54(J)(1), hence, provisions contained in Section 54(L)(4) are not applicable.
- 5.3. The counsel fairly submitted that relief and concessions to the extent permissible under law and in terms of judicial pronouncements may be considered, and in case any of the relief or concession as prayed is not made available to the Corporate Debtor, the same shall not have any bearing on the implementation of the proposals contained in the plan.
- 5.4. In view of the above, this Adjudicating Authority is of the considered view that the Base Resolution Plan, approved by COC u/s 54K(12) of the Code and submitted with the present application, in PPIRP of the Corporate Debtor by the Corporate Debtor deserves to be approved.
6. The Interlocutory Application No. i.e., *IA No. 451/JPR/2023* is allowed and Base Resolution Plan 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.

7. The Memorandum of Association (MoA) and Articles of Association (AoA) shall accordingly be amended and filed with the Registrar of Companies (RoC) if entails any amendment, concerned 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.
8. The moratorium under Section 14 of the Code shall cease to have effect from the date of this order.
9. The Monitoring Committee shall supervise the implementation of the Resolution Plan and the Applicant shall file status of its implementation before this Authority from time to time, preferably every quarter. The following shall be the constitution –

Sr. No.	Member	Designation	Remuneration	Tenure
1.	Resolution Professional	Chairman	10,000/- per month	From the date of approval of

2.	Managing Director	Member	-	Resolution Plan till successful completion of Resolution Plan as certified by the committee.
3.	Representative of SBI Bank (Financial Creditor)	Member	-	

10. The approval of the Base Resolution Plan shall not be construed as waiver of any statutory obligations of the Corporate Debtor and shall be dealt by the appropriate Authorities in accordance with law. Any waiver sought in the Resolution Plan, shall be subject to approval by the Authorities concerned.
11. In terms of the judgement of Hon'ble Supreme Court in the matter of '*Ghanshyam Mishra and Sons Private Limited v. Edelweiss Asset Reconstruction Company Limited*', on the date of approval of the Resolution plan by the Adjudicating Authority, all such claims, which are not a part of resolution plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in, respect to a claim, which is not part of the Resolution Plan. The relevant portion of the judgment is reiterated below:

"95. (i) Once a resolution plan is duly approved by the adjudicating authority under sub-section (1) of Section 31, the claims as provided in the resolution plan shall stand frozen and will be binding on the corporate debtor and its employees, members, creditors, including the Central Government, any State Government or any local authority, guarantors and other

stakeholders. On the date of approval of resolution plan by the Adjudicating Authority, all such claims, which are not part of the resolution plan shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim, which is not part of the resolution plan;

(ii) 2019 Amendment to Section 31 of the I & B Code is clarificatory and declaratory in nature and therefore will be effective from the date on which the Code has come into effect;

(iii) consequently, all the dues including the statutory dues owed to the Central Government, any State Government or any local authority, if not part of the resolution plan, shall stand extinguished and no proceedings in respect of such dues for the period prior to the date on which the adjudicating authority grants its approval under Section 31 could be continued.”

12. In the view of the above judgement the applicant is entitled to waivers/ concessions/ reliefs as expressly provided under the Code and under any other law for the time being in force. In view of the foregoing, this IA stands disposed of accordingly.

-Sd-

**DEEP CHANDRA JOSHI,
JUDICIAL MEMBER**

-Sd-

**ATUL CHATURVEDI,
TECHNICAL MEMBER**