

IN THE NATIONAL COMPANY LAW TRIBUNAL
JAIPUR BENCH

**CORAM: SHRI DEEP CHANDRA JOSHI,
HON'BLE JUDICIAL MEMBER**

**SHRI RAJEEV MEHROTRA,
HON'BLE TECHNICAL MEMBER**

IA(IBC) No. 530/JPR/2023
In CP No. (IB)- 32/94(1)/JPR/2022

(Under Section 94 of the Insolvency and Bankruptcy Code, 2016 Read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019)

IN THE MATTER OF:

MR. AMAR BALDVA

...Applicant/Debtor

MEMO OF PARTIES

IA(IBC) No. 530/JPR/2023

MR. AMAR BALDVA

S/o Anil Baldva,
R/o. H. No. 4, Kashipuri,
Bhilwara - 311001

...Applicant

AND

PUNJAB NATIONAL BANK And Other Creditors
Circle office, Udaipur (Rajasthan)

AND

MR. VISHNU UPADHYAY
DW A/G-104, Dwarka Apartment,
Mansarovar, Jaipur-302020

..... Resolution Professional

IA(IBC) No. 530/JPR/2023
In CP No. (IB)- 32/94(1)/JPR/2022

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For the Applicant : Anubha Singh, Adv.
Vishnu Upadhyay, RP

Order Pronounced On: -30.11.2023

ORDER

Per: Deep Chandra Joshi, Judicial Member

1. The Applicant, namely *Mr. Vishnu Upadhyay* ('Resolution Professional'), has filed the present Application under Section 112 of the Insolvency and Bankruptcy Code, 2016 ('Code'/ 'IBC') annexing the Report of the meeting of Creditors on the Repayment Plan for the Insolvency Resolution Process of the Personal Guarantor/Debtor namely, *Mr. Amar Baldva* to the Corporate Debtor *M/s Baldva Textiles Private Limited*.
2. It is seen that the Personal Guarantor/Debtor had filed an application bearing *CP No. (IB)-32/94/JPR/2022*, under section 94(1) of the Code r/w Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtor) Rules, 2019 ('Rules'), seeking initiation of Insolvency Resolution Process ('IRP') against the Applicant/ Debtor who is the Personal Guarantor of the Corporate Debtor, namely *M/s Baldva Textiles Private Limited* for an amount of Rs.16,73,10,124/- (Rupees Sixteen Crores Seventy-Three Lakhs Ten Thousand One Hundred and Twenty-

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Four Only) in relation to the credit facility extended by the Punjab National Bank ('Bank').

3. Thereafter, *vide* Order dated 30.05.2022 this Adjudicating Authority had appointed *Mr. Vishnu Upadhyay*, bearing Registration No. IBBI/IPA-003/IP-N000153/2018-19/11843 as the Resolution Professional under Section 97 of the Code. Later, *vide* order dated 11.01.2023, this Adjudicating Authority admitted the Application under Section 100 of IBC, 2016 and the Individual Insolvency Resolution Process was admitted against the Personal Guarantor *Mr. Amar Baldva*.
4. In the view of order dated 11.01.2023, the Resolution Professional was directed to publish a public notice within seven days and invite the claims from all the creditors within 21 days of such issuance in the newspaper. The Resolution Professional was also directed to prepare a list of creditors in accordance with the provisions of the Section 104 of IBC, 2016 within 30 days from the date of the notice. Further it was directed that the Debtor shall prepare a Repayment Plan in consultation with the Resolution Professional as provided under Section 105.
5. In compliance of the order dated 11.01.2023, the Resolution Professional issued the public notice on 22.01.2023 in "*Financial Express*" (English) and "*Mahanagar Times*" (Hindi). The copy of public announcement is annexed as Annexure-B. A list of creditors was also prepared and the final

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list of Creditors based on claims submitted by the Creditors is annexed as Annexure-C.

6. Further, the Debtor had submitted its repayment plan on 01.03.2023. The said Repayment Plan was put forth before the Creditors for negotiation. The Debtor had submitted multiple Repayment Plans to the Applicant resulting from the negotiations between the Debtor and the Creditors. The Applicant has received all the repayment plans from the debtor and the same is annexed as Annexure-D. The Report under Section 106 of IBC, 2016 was filed by the Resolution Professional dated 05.03.2023 which was taken on record by this Adjudicating Authority vide order dated 17.03.2023.
7. Thereafter, as per the provisions of Section 107 of IBC, 2016, the Resolution Professional had summoned four (4) meeting of the Creditors on dated 03.05.2023, 10.05.2023, 04.09.2023 and 08.09.2023 in accordance with provisions of Sections 108, 109, 110 and 111. The copies of the notices and Minutes of meetings ('MOM') dated 08.09.2023 is annexed as Annexure-E.
8. It is submitted that as per the provisions of Section 111 of IBC, 2016, the final Repayment Plan dated 04.09.2023 has been approved by the majority of the creditors. The copy of online voting is annexed as Annexure- F.

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9. The Resolution Professional has prepared its Report of the meeting of creditors on repayment plan under Section 112(1) of the IBC, 2016 which is as follows:

- a. The Repayment Plan dated 04.09.2023 was approved in the meeting of creditors dated 08.09.2023 through online voting by 100% voting shares as follows:

Amount (Rupees in Lakhs)

<i>S. No.</i>	<i>Particulars</i>	<i>Dated 04.09.2023 Approved</i>	<i>Dated 28.07.2023</i>	<i>Dated 10.05.2023</i>	<i>Dated 01.03.2023</i>
1	IIRP Cost	2.00	2.00	5.00	3.00
2	Secured Financial Creditors	37.09	34.09	33.00	32.00
3	Unsecured Creditors	1.00	1.00	0.00	0.00
	Total	40.09	37.09	38.00	35.00

In the final repayment plan dated 04.09.2023, which was approved on dated 08.09.2023 meeting through online voting 100% voting share, Rs. 5.09 Lakh increased from the original repayment plan dated 01.03.2023 and IIRP Cost reduced by Rs. 3.00 Lakh without consultation with the Resolution Professional by the Debtor.

- b. The following resolutions were proposed at the meetings and the decision on such resolutions are as follows: -

- i. *To ratify the expenses towards public announcement for initiation of insolvency resolution process (IIRP);*

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- ii. *To consider and ratify expenses incurred by the Resolution Professional;*
- iii. *To take note and approve the fee of the Resolution Professional from the date of appointment till execution of Repayment Plan;*
- iv. *To discuss and approve the repayment plan of the Debtors.*
- c. The meetings of the creditors have dissented to take decision by 100% voting share on the ratification of the expenses incurred towards public announcement stating that since application is filed by the Personal Guarantor so all the expense to be paid by the Personal Guarantor.
- d. Pursuant to the provisions of Regulation 17 of the Insolvency and Bankruptcy Board of India (Insolvency Regulation Process for Personal Guarantors) Regulation 2019, the repayment plan has been placed before the creditor and the same was approved.

10. Online voting responses received from the creditors and the list of the creditors who were present or represented at the meeting and submitted their response on the online window for voting are as follows:

S. No.	Name of Creditor	Voting Share%
1	Punjab National Bank	100%

List of all the Creditors as follows:

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Secured Creditors:

S. No.	Particulars	Amount
1	Punjab National Bank	12,48,75,605.08

Unsecured Creditors:

S. No.	Particulars	Amount
1	Anjana Kogta, Bhilwara	20,00,000.00
2	Hanuman Kumat, Bhilwara	5,00,000.00
3	Kamla Devi Kogta, Bhilwara	17,00,000.00
4	Manju Porwal, Bhilwara	550,000.00
	Total	47,50,000

List of Creditors of Debtor (*Amar Baldva PG to Baldva Textiles Pvt. Ltd.*)

S. No.	Name of Creditors	Claim Admitted	Voting Shares %
1	Punjab National Bank (Secured)	12,48,75,605.08	100 %
		12,48,75,605.08	100 %

11. The provisions of Section 114 of IBC, 2016 are as under:

“114. Order of Adjudicating Authority on repayment plan.

(1) The Adjudicating Authority shall by an order approve or reject the repayment plan on the basis of the report of the meeting of the creditors submitted by the resolution professional under Section 112:

Provided that where a meeting of creditor is not summoned, the Adjudicating Authority shall pass an order on the basis of the report prepared by the resolution professional under Section 106.

(2) The order of the Adjudicating Authority approving the repayment plan may also provide for directions for implementing the repayment plan.

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(3) *Where the Adjudicating Authority is of the opinion that the repayment plan requires modification, it may direct the resolution professional to reconvene a meeting of the creditors for reconsidering the repayment plan."*

12. Section 114(1) of the IBC, 2016 provides that the Adjudicating Authority shall approve or reject the Repayment Plan on the basis of the meeting of the Creditors submitted by the Resolution Professional under Section 112 of the IBC, 2016, r/w Regulation 19 of IBBI (IRP for Personal Guarantors to Corporate Debtors) Regulations, 2019. We have perused the report of the meeting of the Creditors on the Repayment Plan under Section 112 of the IBC, 2016 and the same is taken on record. The resolution passed in the meeting dated 08.09.2023 has also been considered. According to this report and the resolution, the Creditors have approved the Repayment Plan submitted by the Personal Guarantor.

13. The report has been filed by the RP in compliance with Section 112 of the Code. This Adjudicating Authority is passing this order under Section 114 of the Code, hereby, approving the repayment plan on the basis of the report of the meeting of Creditors submitted by the resolution professional. The directions for implementation of the repayment plan are as follows: -

- I. In accordance with Section 115 of the Code, the repayment plan shall take effect as if proposed by the debtor in the meeting and shall be binding on the Creditors mentioned in the repayment plan and the debtor.

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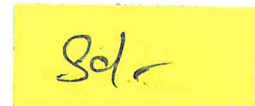
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- II. The resolution professional appointed under Section 97/98 shall supervise the implementation of the repayment plan and is at liberty to move an application before this Adjudicating Authority seeking directions, if any, in relation to any particular matter arising under the repayment plan.
- III. In the present circumstances, as proposed, the Debtor shall disburse total payment of Rs. 37.09 Lakhs, to be arranged by the guarantor by way of FDR & Saving Account balance. The entire payment shall be made within 30 days from the date of this order.
- IV. The term of repayment plan, as proposed, shall be 30 days from the date of this order.
- V. The resolution professional shall within 14 days from the date of completion of the repayment plan, forward to the persons who are bound by the repayment plan under Section 115 the following documents: -
- A. A notice that the repayment plan has been fully implemented.
 - B. A copy of a report summarising all receipts and payments made in pursuance of the repayment plan and extent of the implementation of such plan with the repayment plan approved by the meeting of creditors.
 - C. The Resolution Professional may apply before this Adjudicating Authority to extend the time mentioned above.

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- VI. The Resolution Professional shall file a report before this Adjudicating Authority upon completion of the Repayment Plan specifying the payments made in pursuance of the repayment plan and thereby, seek discharge under Section 119 of the Code.
- VII. If the Repayment Plan is not fully implemented, it shall be deemed to have come to an end prematurely in accordance with Section 118 of the Code and the Resolution Professional shall submit a report under Section 118 of the Code detailing the specifications mentioned therein.
- VIII. The Resolution Professional shall perform its functions and duties in compliance with the code of conduct provided under Section 208 of the Code.
14. Accordingly, the Application filed by the Resolution Professional under Section 112 of the Code numbered as *IA(IBC) No. 530/JPR/2023* is allowed and stands disposed of.



**(DEEP CHANDRA JOSHI,
JUDICIAL MEMBER**



**(RAJEEV MEHROTRA,
TECHNICAL MEMBER**