

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-III**

**I. A. No. 607 of 2021
In
C.P. No. 1222/IB/2019**

In the matter of an Application under Section 30(6) and Section 31 of the Insolvency and Bankruptcy Code, 2016 read with Rule 39 of Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons Regulations, 2016.

In the matter of
Bank of Maharashtra
.... Financial Creditor
v/s.
Fabtech Projects and Engineers Ltd.
.... Corporate Debtor

I.A. No. 607/2021

Mr. Vijay Pitamber Lulla
... Applicant/
Resolution Professional

Order delivered on 16.11.2021

Coram:

Hon'ble Shri H. V. Subba Rao, Member (Judicial)
Hon'ble Shri Chandra Bhan Singh, Member (Technical)

Appearance (through video conferencing):

For the Applicant

: Mr. Gaurav Joshi a/w. Chaitanay
Nikte, Advocates
Mr. Vijay Lulla, RP-in-person

For the Resolution Applicant

: Mr. Shyam Kapadia a/w. Mr. Vinod
Kothari, Ms. Suyesha Kararia i/b.
Apex Law Partners

Per Shri Chandra Bhan Singh, Member (Technical)



ORDER

1. This is an Application under Section 30(6) of the Insolvency and Bankruptcy Code, 2016 (the Code) filed by the Resolution Professional seeking approval of the Resolution Plan submitted by the Resolution Applicants Manjeet Cotton Pvt. Ltd. and Parason Machinery (India) Pvt. Ltd.
2. The facts leading to the Application are as under:
 - i. Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor was initiated by this Bench by an order dated 24.09.2019 (Admission Order) and Mr. Vijay Pitamber Lulla, was appointed as Interim Resolution Professional. Thereafter, Interim Resolution Professional upon verification of the same, constituted the CoC.
 - ii. The CoC in its 1st meeting held on 01.11.2019 appointed (the present Applicant) as the Resolution Professional (RP). The Resolution Professional issued public announcement in "Form A" on 03.01.2019 for inviting claims from the creditors against the Corporate Debtor.
 - iii. Pursuant to the public announcement Resolution Professional received five (05) Expression of Interests from the Prospective Resolution Applicants (PRA's).
 - iv. The Applicant in compliance of the provisions of the Code and Rules framed there under conducted the CIRP of the Corporate Debtor.
3. During the period of CIRP the Resolution Professional issued various Form-G particularly on 16.01.2020, revised Form G issued on 04.03.2020 and on 27.08.2020 inviting expressions of interest (EOI) in "Business Standard, All Edition" in English and "Loksatta" (Maharashtra edition) in Marathi from prospective resolution



applicants (PRAs). The last date for receiving the expression of interest was particularly 25.01.2020, 16.03.2020 and 04.09.2020 and last date for submission of Resolution Plan was 02.03.2020, 07.04.2020 and 15.10.2020. The Applicant received five EOI from Prospective Resolution Applicants (PRA's) following is the list of Prospective Resolution Applicant:

- i. Manjeet Cotton Pvt. Ltd.
 - ii. Consortium G.B. Mane Deshmukh & L B Kunjit
 - iii. Mr. Jagdish Nade on behalf of Shri. S. M. Autade Pvt. Ltd.
 - iv. Sanjay Tate Deshmukh
 - v. Odyssey Global Pvt. Ltd.
4. The CoC decided to appoint a Valuer. The Resolution Professional accordingly appointed registered valuers to determine the fair value and liquidation value of the Corporate Debtor, as required under Regulation 27 of the IBBI (IRP for Corporate Persons) Regulations, 2016. These valuers had submitted their reports. The Liquidation and fair value of the Corporate Debtor is as follows:

Particular	Liquidation Value (Amount in Rupees)	Fair Value (Amount in Rupees)
1. Land and building Plant & Machinery	93.63 Crs	141.00 Crs
2. Financial Assets	61.16 Crs	78.43 Crs
Average of 1 & 2	154.79 Crs	219.44 Crs

5. The Applicant/ RP negotiated with the Resolution Applicant to make the Resolution plans more robust and to improve the same and submit the revised Resolution plan. The Applicant submits that the Applicant received final and revised Resolution plan dated 27.02.2021 from Manjeet Cotton Private Limited in consortium with Parason (India) Private Limited ("MCPL") (Successful Resolution Applicant).



6. The Resolution Professional submits that the Resolution Applicant, MCPL is eligible under Section 29A of the Code to submit a Resolution Plan for the Corporate Debtor. In view thereof, RP has issued a Letter of Intent (“LOI”) dated 19-02-2021 and has called for performance guarantee from the successful Resolution Applicant. MCPL has also given the Performance Guarantee as required of Rs. 19,82, 80,000/- (Rupees Nineteen Crores Eighty-Two Lakhs and Eighty Thousand Only) by way of Bank Guarantee issued by HDFC Bank on 22-02-2021.
7. The Resolution Professional states that the CoC in its meeting held on 30.01.2021 decided to keep the Resolution plan for inter se bidding. The inter se bidding started from 02.02.2021 to 18.02.2021. The conclusion of e-voting in favour of the Resolution Plan submitted by Manjeet Cotton Private Limited in consortium with Parason (India) Private Limited (“MCPL”). The Resolution Plan approved with the majority voting share of 85.18% of the members of the Committee of creditors has been examined and the said Resolution Plan consist of following:
- Provides for payment of Insolvency Resolution Process Costs in a manner specified by the board in priority to the payment of other debts of Corporate Debtor.
 - Provides for payment of the debts of the Operational Creditors in such manner as specified by Regulation 38(1) of the IBBI (Insolvency Resolution Process for Corporate Persons Regulations) 2016.
 - Provides for management of the affairs of the Corporate Debtor after the approval of the Resolution plan.
 - Does not contravene any of the provisions of the law for the time being in force.



Accordingly, compliance certificate was in Form "H" was issued by the Resolution Professional.

8. **The salient features of the Resolution Plan are as under:**

- A. The Resolution Applicant Manjeet Cotton Private Ltd., has steadily grown to become the largest ginner of raw cotton in India, with 1250 DBRs (Double Roller Gin machines) and their operations spread across all the 8 cotton growing states in the country. With over 3 decades of presence in Cotton Processing & Trading Business, 'Manjeet Group' is the largest operating player in private sector in the Cotton Trade holding dominant share in domestic and export business.
- B. Parason Group is one of the largest manufacturer & Supplier of pulp and paper machinery. Renowned scientist & metallurgist Dr. Desarda is Founder & Chairman of the Company. Parason started its first research unit for pulp and paper machinery in the Year 1977.
- C. The Corporate Debtor has 2 divisions namely, Textile Division and EPC Division. For revival of operation of the Corporate Debtor, one of the Resolution Applicants namely, Manjeet Cotton Private Ltd has vast experience of textile industry and another Resolution Applicant namely Parason Group has vast experience of EPC industry.

9. **Mandatory Contents of the Resolution Plan**

In accordance with Section 30(2) of the Code and the Regulations, the Resolution Applicants hereby state as follows:



- a. The payment towards the Corporate Insolvency Resolution Process cost will be made in priority to any other debts of the Corporate Debtor.
- b. The Resolution Applicants or any of its related parties have neither failed to implement nor contributed to the failure of implementation of any other resolution plan approved by the adjudicating authority at any time in the past.
- c. The amount payable under the Resolution Plan -
 - to the Operational Creditors shall be paid in priority over Financial Creditors; and
 - to the Financial Creditors, who have a right to vote under sub-section (2) of section 21 of the Code and did not vote in favour of the Resolution Plan, shall be paid in priority over Financial Creditors who voted in favour of the Resolution Plan.
- d. The Resolution Plan deals with the interests of all stakeholders, including Financial Creditors and Operational Creditors of the Corporate Debtor as mentioned in the Resolution Plan;
- e. The Resolution Applicants confirms that the Resolution Applicants and their connected persons are not disqualified from submitting a resolution plan under Section 29A and other provisions of the Code as well as any other Applicable Law;
- f. The Resolution Plan provides for the term of the Resolution Plan and its implementation schedule, the management and control of the business of the Corporate Debtor during its term; and adequate means for supervising its implementation;
- g. The Resolution Plan addresses the cause of default. It contains provision for its effective implementation and for



approvals required herein and the timelines for the same and the Resolution Applicants has the capability to implement the Resolution Plan.

- h. The Resolution Applicants confirms that to the best of the knowledge of the Resolution Applicants, the Resolution Plan is not in contravention of the provisions of Applicable Law and is in compliance with the Code and the Regulations.

10. **Dissenting Financial Creditor :-** In accordance with Section 30(4) of the Code, the dissenting financial creditors have been accorded their liquidation value. The aggregate voting share of dissenting financial creditors is approximately 11.26% and financial creditors who did not vote is approx. 3.57% as set out below:

Amount in crores

S. No.	Name	Amount Claimed	Amount Admitted	Amount as per Plan	Voting Share	Status
1	Allahabad Bank	36.79	36.79	16.03	3.15 %	Secured
2	Bank of India (Fabtech Sugar Limited)	39.42	39.42	1.25	3.37 %	Secured
3	Andhra Bank	29.37	29.37	0.01	2.51 %	Unsecured
4	IDBI Bank	26.23	26.23	0.01	2.24 %	Unsecured

11. **Financial creditor (who did not voted at all) :-**

Amount in crores

S. No.	Name	Amount Claimed	Amount Admitted	Amount as per Plan	Voting Share	Status
1	Saraswat Co-op Bank Limited	14.22	14.22	0.02	1.22 %	Unsecured



2	Bank of India	27.44	27.44	0.01	2.35 %	Unsecured
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12. **Summary of utilisation of funds:-**

Sr. No	Application of Funds	Rs. Crore
1.	Insolvency Resolution Process Costs [#]	0.30
2.	Payment to Secured Financial Creditors ^{**} \$	192.24
3.	Payment to other operational Creditors-IOCL ^{**}	0.01
4.	Payment to Financial Creditors – Fabtech Sugars Limited ^{**}	1.40
5.	Payment to Financial Creditors Fabtech Education Society Limited ^{**}	0.04
6.	Payments to the Workmen ^{**}	0.31
7.	Payment to Operational Creditors ^{**}	0.33
8.	Payment to other Operational Creditors like PF, ESIC ^{**}	3.65
9.	Upfront Equity Infusion for Working Capital and Capital Expenditure ^{**}	56.00
	Total	254.28

[#] In the event the CIRP cost increases beyond Rs. 0.30 crore, the Resolution Applicants shall bring additional funds to pay the excess amount.

^{**} In the manner as provided under this Resolution Plan

^{\$}This amount also includes the amount equivalent to 52.50% of the invoked Bank Guarantees issued by the Secured Financial Creditors pertaining to large projects, to be paid to such respective Secured Financial Creditors whose bank guarantees are invoked. Further this also includes amount equivalent to 100% of the invoked Bank Guarantees issued by the Secured Financial Creditors pertaining to the small projects, to be paid to such respective Secured Financial Creditors whose bank guarantees are invoked.

It may be clarified here that the Performance Bank Guarantee of 10% of the Resolution Plan towards the amount payable to the stakeholders shall be paid by the resolution applicant either by way of a demand draft or in the form of performance bank guarantee in favour of the Corporate Debtor with the RP/CoC having power to enforce the same in case of default by the resolution applicant.as mentioned in the RFRP the said performance bank guarantee shall be adjusted by the Committee of Creditors at the time of the payment of the last instalment by the



Resolution Applicants//Corporate Debtor under this resolution plan including towards bank guarantee.

13. **Manner and priority of distribution under the Resolution plan** :-The manner of distribution of receivables under the Resolution Plan is set out in Form 'H' is briefly described below:-

Amount in crores

S. No.	Creditor type	Admitted (INR)	Payout (INR)
1.	CIRP Costs	-	0.30
2.	Workmen & employees	0.30	0.30
3.	Operational Creditors	37.13	0.20
	Statutory Dues	51.69	0.14
4.	EPF & ESIC dues	4.25	3.64
5.	All assenting secured financial creditors	806.42	176.21
6.	Unsecured financial creditors (assenting)	189.81	0.12
7.	All dissenting secured financial creditors	76.21	17.28
8.	All dissenting Unsecured financial creditors	55.60	0.03
9.	All abstained secured financial	-	-
10.	All abstained Unsecured financial creditors	41.66	0.04

14. **Implementation of the Resolution plan:-**

Sr. No.	Stakeholders	Claims Admitted	Payments as per Resolution Plan	Amount Provided to the Amount Admitted (%)
1	CIRP	-	0.30	



2	Secured Financial Creditor - FPEL CD	843.21	192.24	22.79
3	Unsecured Financial Creditors - Related Party	5.72	-	Nil
4	Unsecured Creditors - FSL including BoI	300.92	1.40	0.46
5	Unsecured Creditors - Fabtech Education Society	25.58	0.04	0.16
6	Operational Creditors - FPEL CD	37.13	0.20	0.54 FORM 'H'
7	Operational Creditors - Stat. Auth.	33.66	0.13	0.39
8	Operational Creditors - PF & ESIC (Claimed)	2.22	2.22	100
9	Operational Creditors - PF & ESIC (Annexure K&L)	20.06	1.43	7.13
8	Workmen Dues	0.31	0.31	100
9	Claim of Indian Oil Corporation Limited	19.26	0.01	0.05
	Total	1288.55	198.28	0.15

15. **Note 1: CIRP Costs: -**

Payment of CIRP cost The Insolvency Resolution Process Costs as per the data made available by the Resolution Professional is Rs. 0.30 crore. However, the final amount to be paid will be based on the actual Insolvency Resolution Process Costs (as defined in the Code) incurred in accordance with the provisions of the Code.

i) Treatment:

The Insolvency Resolution Process Costs will be paid out in priority over payments to any other Creditors within 30 days from the Final Order.

Note 2: Operational Creditors :-

Against these operational debts an aggregate sum of Rs. 0.20



crore is proposed to be paid within 30 days of Final Order, from out of the funds infused by the Resolution Applicants by way of debt or equity in the Corporate Debtor. The distribution of amount, as aforesaid, amongst the above operational creditors will be based on *pro rata* basis. In respect of operational creditors (statutory dues/Authorities) an aggregate sum of Rs. 0.13 Crores is proposed to be paid. The distribution of amount, as aforesaid, amongst the above operational creditors will be based on *pro rata* basis.

Operational Creditors include the Statutory Government dues to PF and ESIC who have filed claims against the Corporate Debtor for some of their dues and raised demand notices for some of their dues as detailed in the table below. In addition, the resolution professional has also received recovery/demand notices from various statutory authorities as summarized in the table below. The treatment of these liabilities shall be as follows:

Sr. No.	Name of Operational Creditor	Claims filed (Rs. in crore)	Treatment
1	EPF & ESIC dues as per claim received	2.22	2.22
2	ESIC & PF dues as per annexure K	2.03	1.42
	Sub Total 1	4.25	3.64
3	Income Tax	2.28	0.01
4	TDS (2016-17)	1.74	
5	TDS (2017-18)	0.57	
6	Sales Tax (as per Annexure K)	9.26	
7	Other taxes (as per Annexure L)	4.18	
	Sub Total 2	18.03	0.01
	Total	22.28	3.65

The total amount of all the above comes to Rs. 22.28 crore. It is proposed to pay the aforesaid operational creditors a sum of to Rs. 3.64 crores against full and final settlement of EPF and ESIC dues and an amount of Rs. 0.01 crores shall be paid



towards the other operational creditors on *pro rata* basis, thereby paying Rs. 3.65 crore in aggregate, in final settlement of their dues within 30 days of the Final Order.

Note 3: Payments to Financial Creditor :-

Secured Financial Creditor: As per the Information Memorandum dated September 22, 2020, admitted claims of SFCs amount to Rs. 843.21 crore. The details of the SFCs are provided hereunder:

Name of SFC	Claim admitted (Rs. Crore)
BOM	486.10
SBI	253.04
Allahabad Bank	36.79
SBI Global Factors	28.37
Vijaya Bank (BoB)	24.68
Solapur Janta Sahkari	13.19
SREI	1.04
Total	843.21

The Resolution Applicants shall make a payment of Rs. 192.24 crore to the Secured Financial Creditors against full and final settlement of Claims of the Secured Financial Creditors.

The Resolution Applicants/ Corporate Debtor shall make an upfront payment as mentioned in below table within 30 days of Final Order. The source of the said upfront payment is collective networth of Manjeet Cotton Private Ltd and Parason Machinery (India) Pvt Ltd. Further, letter of commitment shall be shared in due course. The distribution of Upfront Payment to the Secured Financial Creditors:

(Rs. crore)

Sr. No.	SFCs	Claims Admitted	Treatment -
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			Upfront Payment
1.	State Bank of India	253.04	14.28
2.	Bank of Maharashtra	486.10	29.91
3.	Vijaya Bank	24.68	0.95
4.	SBI Global Factors	28.37	1.96
3	Allahabad Bank	36.79	0.96
5	Solapur Janta Sahkari Bank	13.19	0.91
6	SREI Equipment	1.04	0.73
	Total	843.21	49.70

Note: It is clarified here that in addition to the above, the cash balance upto Rs. 5 crore available with the Corporate Debtor as on the NCLT approval date, shall be distributed among the lenders/CoC.

- i. The Corporate Debtor shall issue Zero Coupon Secured Non-Convertible Debentures to the Secured Financial Creditors of EPC Division as under:

(Rs. crores)

Sr. No.	SFCs	Claims Admitted	Issuance of NCD within 30 days
1	State Bank of India	253.04	10.05
2	Bank of Maharashtra	486.10	21.04
3	Vijaya Bank	24.68	0.66
4	SBI Global factors	28.37	1.38
5	Allahabad Bank	36.79	0.68
6	Solapur Janta Sahkari Bank	13.19	0.64
7	SREI Equipment	1.04	-
	Total	843.21	34.45

- ii. Treatment under the Resolution Plan for **Secured and Unsecured Financial Creditors** of Fabtech Sugar Limited and Fabtech Education Society ("Other Secured & Unsecured Financial Creditors") (the details whereof is appearing in Annexure-F to the Information Memorandum :-

a. **Claims admitted:**



The admitted claims of the Other Secured and Unsecured Financial Creditors are Rs. 326.50 crores as per the details provided at Annexure-F of the IM circulated on September 22, 2020 and addendum thereto.

- b. **Treatment for the claims received from Other Secured and Unsecured Creditors as on the Insolvency Commencement date as provided below:**

			(Rs. crore)
Sr. No.	Secured/ Unsecured Creditor	Claims Filed	Treatment
Fabtech Sugars Limited (Secured Creditor)			
1	Bank of India (Marwade Branch)	39.40	1.25
	Sub Total 1	39.40	1.25
Fabtech Sugars Limited (Unsecured Creditor)			
1	Canara Bank	49.93	0.04
2	State Bank of India	42.54	0.02
3	IOB	33.37	0.02
4	Vijaya Bank/ BoB	30.88	0.02
5	Andhra Bank	29.37	0.02
6	IDBI Bank	26.23	0.01
7	Bank of India	27.44	0.01
8	Syndicate Bank	21.74	0.01
	Sub Total 2	261.50	0.15
Fabtech Education Society (Unsecured Creditor)			
1	Saraswat Bank	14.22	0.02
2	State Bank of India	11.36	0.02
	Sub Total 3	25.58	0.04
	Total	326.50	1.44

- c. **Unsecured Financial Creditors- Related Parties:-** The admitted claims of Unsecured Financial Creditors- Related Parties are Rs. 5.72 crores.

Note 4: Payments to Workmen – As per the information provided by the Resolution Professional in the IM, the claims admitted from workmen and employees are Rs. 0.31 crores.

Under this Resolution plan, a sum of Rs. 0.31 crore is proposed to be paid within 30 days of Final Order.

Payment to Equity Shareholders :- The outstanding equity share capital as on 31.03.2019 was Rs. 74.94 crore.

- The issued, subscribed and paid up share capital of the Corporate Debtor including preference shares if any, shall be cancelled and reduced in its entirety, without requiring any further act, instrument or deed, such that on effecting the said reduction, the entire share capital of the Corporate Debtor held by the shareholder of the Corporate Debtor shall deemed to have been cancelled and immediately on effectiveness of such cancellation and such reduction as above, the issued, subscribed and paid up share capital of the Corporate Debtor shall stand reduced to NIL.

16. The RP has submitted the following chart showing the details of the total claims received and admitted by him. The Resolution plan contemplates the following payments for resolution of the Corporate Debtor as a going concern, which is as follows :-

(Amount in crores)

	Category of Stakeholder *	Sub-Category of Stakeholder	Amount Claimed	Amount Admitted	Amount Provided under the Plan	Amount Provided to the Amount Admitted (%)
	(2)	(3)	(4)	(5)	(6)	(7)
1	Secured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	-	-	-	-
		(b) Other than (a) above:	76.21	76.21	17.28	



		(i) who did not vote in favour of the resolution Plan	806.42	806.42	176.21	21.85%
		(ii) who voted in favour of the resolution plan				
		(iii) Who did not participate in the voting of Resolution Plan				
		Total[(a) + (b)]	882.63	882.63	193.49	21.92%
2	Unsecured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	5.73	5.73	-	-
		(b) Other than (a) above:	-	-	-	-
		(i) who did not vote in favour of the resolution Plan	55.60	55.60	0.03	0.06%
		(ii) who voted in favour of the resolution plan	189.81	189.81	0.12	0.06%
		(iii) Who did not participate in the voting of Resolution Plan	41.66	41.66	0.04	0.09%
		Total[(a) + (b)]	292.81	292.81	0.19	0.06%
3	Operational Creditors	(a) Related Party of Corporate Debtor	-			-
		(b) Other than (a) above:				
		(i) Employees & Workmen	0.36	0.31	0.31	100%
		(ii) EPF & ESIC dues	4.25	4.25	3.64	85.64%
		(iii) Government	62.94	51.69	0.14	0.27%
		(iv) Others	208.18	37.13	0.20	0.53%
		Total[(a) + (b)]	275.74	93.38	4.29	4.59%
4	Other debts and dues		255.17	19.27	0.01	0.05%
	Grand Total		1706.35	1288.09	197.98	15.36%

17. The indicative timeline of events for implementation of Resolution plan from approval date is as follows:-

Sr. No.	Activity	Time Line (days)
PHASE I – Approval process for the Proposed Resolution Plan		
1	Presentation to the CoC	X
2	Approval of Proposed Resolution Plan by the CoC	X+40
3	Application to NCLT	X+40+15
4	Approval by NCLT	E
5	Notice on the Company's Website	E+14
6	Intimation to CoC, IBBI, SEBI, RBI, Tax authorities and various other statutory authorities (as applicable)	
7	Intimation to all Creditors, existing shareholders and other stakeholders of the Company	
PHASE II - SETTLEMENT OF CREDITORS		
8	Payment of CIRP Costs as approved by CoC	E+30
9	Payment to Operational Creditors	E+30
10	Payment to Financial Creditors including issuance of NCD	E+30
PHASE III – IMPLEMENTATION OF PROPOSED RESOLUTION PLAN		
11	Change in Memorandum and Articles of Association and other documentation as required under the proposed plan.	E+90
12	Management of Company <ul style="list-style-type: none"> • Re-constitution of Board of Directors • Setting up of management team and control systems • Completion of Definitive Documents • Identification of contractors and execution of documents 	E+30
13	Restarting the operations of the Corporate Debtor	E+120
14	Improvement in operations	Within 1 to 5 Years

18. **Observations and Findings :-**



i. The Resolution Applicant proposes to appoint suitably qualified and experienced persons, key personnel and other officer for operations of the Corporate Debtor in terms of Section 30(2)(c). The Plan also provides for implementation of provision of the Resolution Plan as stated above as per Section 30(2)(d). The Resolution Applicant has given a declaration that the Resolution Plan does not contravene any provisions of the law for the time being in force. The Resolution Plan is in compliance of the Regulation 38 of the Regulations in terms of Section 30(2)(f) as under:

- a. Payment to Operational Creditor will be made in priority over Financial Creditor (Regulation 38(1)(a)).
- b. Since the Resolution plan has been approved by a requisite voting share of the CoC. This is in compliance of Regulation 38(1)(b) of the Regulations.
- c. Declaration by the Resolution Applicant that the Resolution Plan has considered the interest of all the stakeholders of the Corporate Debtor, keeping in view the objectives of the Code (Regulation 38(1A)).
- d. Declaration by the Resolution Applicant that neither the Resolution Applicant nor any of his related party has either failed or contributed to the failure of the implementation of any other approved Resolution Plan.

ii. The Resolution Plan has been approved in the meeting of the CoC held on 30.1.2021 with e-voting results of the inter se



bidding held between 02.02.2021 to 18.02.2021 with 85.18% votes in accordance with the provisions of the Code.

- iii. The Hon'ble Supreme Court in *Committee of Creditors of Essar Steel India Limited Vs. Satish Kumar Gupta & Ors.*: (2019) SCC Online SC 1478 and in ***K. Sashidhar v. Indian Overseas Bank & Others: 2019 SCC Online SC 257 (2019) 12 SCC 150***, 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 Apex Court observed that the role of the NCLT is 'no more and no less'. The Hon'ble Apex 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 confirm to the stated requirements.

19. In view of the above observations 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 Resolution Plan is feasible and viable. Resolution Applicant agreed to pay the full CIRP costs and also future costs if any as certified by the Resolution Professional and CoC. The Resolution Plan balances the interest of all the stakeholders. Therefore, this Bench in the above background has no option except to approve the present Resolution Plan submitted by the Resolution Applicant. Accordingly this Bench hereby pass the following :-

ORDER

- i. The Resolution Plan submitted by Manjeet Cotton Pvt. Ltd. and Parason Machinery (India) Pvt. Ltd. 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. We shall clarify here that the Resolution Applicant shall take over the corporate debtor with all its assets and liabilities as per terms as approved in the Resolution plan. This Bench cannot allow any general power to Resolution applicant absolving him from the liability of the corporate debtor company, without knowing about the liability against which such exemption is sought. In other words, relief/ exemptions from only existing liabilities which are specifically identified are deemed to have been allowed and approved in the Resolution plan.



- iii. It is seen that the Resolution Plan seeks several dispensations, concessions and waivers. Approval of Resolution Plan does not mean automatic waivers. The Resolution Applicant on approval of the Plan may approach those competent authorities/ courts/ legal forms/ office(s) Government or Semi-Government/State or Central Government for appropriate relief(s) sought in the plan.
- iv. The Resolution applicant shall obtain the necessary approvals required under any law for the time being in force within one year from the date of this order or within such period as provided for in such law, whichever is later.
- v. Given the above observations, we approve the resolution plan with modifications, as mentioned above, which shall be binding on the Corporate Debtor and its employees, members, creditors, guarantors, Resolution Applicant and other stakeholders involved in the resolution plan.
- vi. The Resolution professional shall forward all records relating to the conduct of the corporate insolvency resolution process and the Resolution plan to the IBBI to be recorded on its database. The Resolution Professional is hereby discharged of his duties after handing over the documents to the Resolution Applicant and it taking charge.
- vii. The Memorandum of Association (MoA) and Articles of Association (AoA) shall accordingly be amended and filed with the concerned Registrar of Companies (RoC), 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.

- viii. The moratorium under Section 14 of the Code shall cease to have effect from this date.
- ix. The Applicant and 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.
- x. 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.
- xi. The Applicant shall forthwith send a copy of this Order to the CoC and the Resolution Applicant for necessary compliance.
- xii. The Interlocutory Application No. 607 of 2021 is accordingly allowed and disposed of.

Sd/-

CHANDRA BHAN SINGH
MEMBER (TECHNICAL)

Sd/-

H. V. SUBBA RAO
MEMBER (JUDICIAL)

Certified True Copy
Copy Issued "free of cost"
On 24/11/2021


Deputy Registrar

National Company Law Tribunal Mumbai Bench
Government of India

