

**NATIONAL COMPANY LAW TRIBUNAL**  
**NEW DELHI BENCH**

**CA-679/ND/2019**

**In the matter of**

**1. Mehta Tubes Limited**

**.....Operational Creditor**

**V/s**

**2. NSP Hospitech India Private Limited.**

**Through Resolution Professional**

**And**

**In the Matter of**

**Sanjay Kumar Juneja – Resolution Application**

**Through**

**Mr. Mukesh Kumar Gupta, Resolution Professional**

**.....Corporate Debtor**

**SECTION: 9 of IBC, 2016**

**Order delivered on: 06.06.2019**

**Coram:**

**SMT. INA MALHOTRA, HON'BLE MEMBER (J)**

**SH. V.K. SUBBURAJ, HON'BLE MEMBER (T)**

**Present:**

**Mr. P. Bhattacharya, Advocate**

**Mr. Mukesh Grover, RP**

**Mr. Yashraj Singh, Advocate for the RP**

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**ORDER**

**PER SMT. INA MALHOTRA, MEMBER (J)**

1. Application CA 679/2019 has been filed by the Resolution Professional for approval for the Resolution Plan as considered and accepted by the COC in its meeting dated 21.02.2019.
  
2. The Corporate Insolvency Resolution Process had been initiated at the instance of the petitioner Mehta Tubes Limited against the Corporate Debtor on grounds of non-payment of its outstanding dues. The CIR process was admitted vide our order dated 4<sup>th</sup> December, 2018. Due procedure was adopted by the Interim Resolution Professional, Mr. Mukesh Kumar Grover, appointed by this Bench who issued public notices and collated the claims received. Mr. Mukesh Kumar Grover was later confirmed as the Resolution Professional on the recommendation of the COC. All steps as required in the Resolution Process have been taken. Status reports were filed from time to time and finally a resolution plan which has been approved by the COC has been submitted for the final consideration of this Bench.
  
3. The relevant facts in a nutshell are that there are three principal financial claimants whose total admitted claims amount to Rs. 4,48,54,748/-. Claims of the employees have been quantified at Rs.

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54,45,880/- . The statutory dues are Rs. 28,79,754/- besides other dues towards Operational Creditors. The Resolution Professional has taken steps for conducting the valuation in terms of the Regulations, and Fair and Liquidation Values of the assets of the Corporate Debtor have been assessed as Rs. 3,87,59,363/- and Rs. 1,08,89,055/- respectively.

4. The Corporate Debtor had business in a very niche area of installing, testing and commission of medical gas pipelines for surgical use to be installed in operation theatres of hospitals in West Bengal.

5. Upon receipts of the Resolution applications, the COC has scrutinized and approved a resolution plan submitted by one of the Operational Creditors, viz. Mr. Sanjay Kumar Juneja, Proprietor of Aktiv Engineers. The plan, which has been approved by 100% of the COC, provides for certain inputs for settling the claims of dissenting financial and Operational Creditors. Other creditors have agreed not to press their claims for a period of 18-24 month in a bid to grant a fresh leash of life to the Corporate Debtor and help it revive itself. This has been made possible as the Government of West Bengal has agreed for commissioning the process of the project awarded to Larsen and Tubro and has reduced the warranty period from 3 years to 1 year. In view of the same, the Corporate

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Debtor hopes to receive its outstanding dues of Rs. 2.73 crores from Larsen & Tubro.

6. The Financial Creditor, Canara Bank has agreed to convert the outstanding liability from a cash credit limit to a working capital term loan for period of five years in terms of the Resolution Plan. Other than two Operational Creditors, all including the Mehta Tubes who had filed the petition for initiating the CIR process of the Corporate Debtor, have agreed to defer their claims by 18-24 months. Similarly all employees, barring 2, have given an undertaking by way of an affidavit that they will not claim any amount from the Corporate Debtor for the next two years. Amongst the dissenting financial creditors are Larsen & Tubro Finance Ltd and Capital Float who have agreed to accept 42.32% of their claims being the liquidation value. While most of the employees are agreeable not to press their claim for the next two years, the 2 dissenting employees shall settle their claims at 42.32%, being the liquidation value.

7. This application is annexed with Form H and the affidavit of RP confirming that all steps in accordance with Rules and Regulations have been adhered to. It is submitted that the Resolution Plan adheres to the requirements of Section 30(2) of IBC, 2016. The Resolution Plan was unanimously approved by the COC.

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8. The Resolution Plan has been submitted by the applicant Mr. Sanjay Kumar Juneja, who has confirmed that he is not disqualified in terms of Section 29A of the Code. He has agreed to make certain financial inputs to help the Corporate Debtor tide over this rough period and help the company revive its financial health. Due diligence of the Resolution Applicant has been carried out by the Resolution Professional and the COC is satisfied about the financial capacity of the applicant. The Resolution Applicant shall finance the turnaround of the Corporate Debtor by making an initial upfront input of Rs. 25 lakhs. Broad features of the Resolution Plan are as under: -

1. The admitted claim of Canara Bank is Rs. 91,38,978/-. Consent has been given by them to convert this amount into a Term Loan to be recovered in due course.
2. L & T Finance Company, a dissenting financial creditor, has agreed to take 42.32% of the Claim amount of Rs. 19,54,568/- as liquidation value.
3. Cap Float Financial Services has agreed to take 42.32% of their claim amount of Rs. 3,42,454/- as liquidation value.
4. There are two dissenting Operational Creditor viz. Bengal Enterprises and Global Legend Travels whose liability shall be

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discharged at 42.32% of their claims as the liquidation value. Other Operational Creditors have agreed not to press their claims for the next 18-24 months.

5. The employees, barring 2, have consented not to press their claims for the next 18-24 months. The two dissenting employees have agreed to accept 42.32% as their claims of the liquidation value.

6. Provision has been made for liquidating the Statutory dues.

9. The tabulated claims and due disbursements are as under: -

Stake holders	Name of the Party	Amount involved	Resolution provided	Outcome of the resolution
<b>Financial Creditors</b>	1. Canara Bank	91,38,978.59	Taken consent for deferment of their due by converting the amount in term loan in due course.	Converted OD/CC loan into Term loan in due course
	2. L & T Finance Limited	19,54,568.00	They have taken 42.32% of their claim amount as liquidation	Full and Final Payment @ 42.32% Agreed by Financial



			valuation as on date	Creditor vide email dated
	3. CapFloat Financial Services Limited	3,42,454.00	They have taken 42.32% of their claim amount as liquidation valuation as on date	Full and Final Payment @ 42.32% Agreed by Financial Creditor through e-voting
<b>Operational Creditors</b>	Mehta Tubes Limited.	84,97,871.00	OC has converted there dues in unsecured loans, and deferred their recovery till 31.03.2021	Deferred till 31.03.2021.
	SJK Medical India Pvt. Ltd.	32,55,589.00	Taken consent for deferment of their dues.	Deferred till 31.03.2021.
	Aktiv Technologies	32,33,427.91	Taken consent for deferment of their dues.	Deferred till 31.03.2021.
	Alcon Meditech India Private Limited	20,18,589.00	Taken consent for deferment of their dues.	Deferred till 31.03.2021.

	Garima Meditech (HUF)	18,10,269.89	Taken consent for deferment of their dues.	Deferred till 31.03.2021.
	Shri Krishna Medical Industries	16,29,923.00	Taken consent for deferment of their dues.	Deferred till 31.03.2021.
	Hydro Pneumatics & Spares	14,81,994.00	Taken consent for deferment of their dues.	Deferred till 31.03.2021.
	J.K. Engineering Works	7,47,402.00	Taken consent for deferment of their dues.	Deferred till 31.03.2021.
	Air Care Engineers	2,97,297.00	Taken consent for deferment of their dues.	Deferred till 31.03.2021.
	New Global Express	2,23,914.00	Taken consent for deferment of their dues.	Deferred till 31.03.2021.
	Rajesh Nayyar – A.R. of Workmen/Employees	54,45,880.00	Taken consent for deferment of their dues. Except two employees who has taken	Rest of Employees deferred till 31.03.2021.

			42.32% as today's liquidation value of their claim amount of Rs. 2,51,000.00	
	Airtech	36,76,351.00	Taken consent for deferment of their dues.	Deferred till 31.03.2021.
	Airtech Compressor Pvt. Ltd.	14,65,698.00	Taken consent for deferment of their dues.	Deferred till 31.03.2021.
	Airtech Spare House	2,43,349.00	Taken consent for deferment of their dues.	Deferred till 31.03.2021.
	Global Legend Travels Pvt. Ltd.	62,015.00	They have taken 42.32% of their claim amount as liquidation valuation as on date	Full and Final Payment @ 42.32% Agreed by Operational Creditor.
	Bengal Enterprises	24,339.00	They have taken 42.32% of their claim	Full and Final Payment @ 42.32%

			amount as liquidation valuation as on date	Agreed by Operational Creditor.
<b>Other creditors</b>	Statutory Dues	28,79,754.00	Paid 8,79,754/-	Balance 20,00,000/- within Six months
	N.A.			

10. The statutory dues of Rs. 28,79,754/- is reflected in the Financial Statement of the Corporate Debtor. The Resolution applicant undertakes to remit a sum of Rs. 8,79,754/- at this stage and the balance of Rs. 20 Lakhs within the next six months.

11. It is submitted that the Resolution Applicant has already handed over a cheque/NEFT of Rs. 25 Lakhs to the Resolution Professional, who after meeting the CIR costs of Rs. 10.17 Lakhs, shall distribute the liquidation value to the dissenting creditors who have agreed to accept the liquidation value of their claim upon the approval of the Resolution Plan by this Bench. The management and control of the business of the Corporate Debtor shall continue to vest with the existing director. However, decision relating to the finance of the Corporate Debtor shall be taken in consultation of the prospective Resolution Applicant for a period

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of two years till final execution of the payment plan i.e. by 31<sup>st</sup> March, 2021. The supervision and monitoring of the Resolution Plan shall vest in the hand of Resolution Applicant along with the existing Directors of the Company.

12. Further, as per the proposal,

1. There is no change in the shareholding pattern post the Resolution:
2. The Ex-Directors, have undertaken to transfer the property purchased in their personal names from the money taken from the account of the Corporate Debtor. The immovable property shall remain the asset of the Company. All transfer charges shall be borne by the Ex-Directors personally.

13. In view of the above, this Bench does not find any provision contrary to the requirements of sub Section (2) of Section 30 of the Code. We therefore approve of the Resolution Plan as submitted by the RP for our consideration.

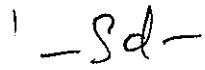
Accordingly, the Moratorium imposed u/s 14 of the Code shall cease to have effect.

14. The Resolution Professional shall forward all records to the CIR process to the IBBI for its Data base.

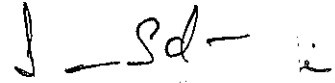
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CA stands disposed off.

Entire file along with CAs be consigned to the Records.



**(V.K. Subburaj)**  
**Member (T)**



**(Ina Malhotra)**  
**Member (J)**