

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**AHMEDABAD**  
**DIVISION BENCH**  
**COURT-1**

ITEM NO. 202  
IA No.118 of 2023  
In  
C.P.(IB) No. 209 of 2021

**Order under section 30(6) of IBC,2016**

**IN THE MATTER OF :**

Ravindra Kumar Goyal  
RP of Yashasvi Yarns Ltd.

....Applicant

Order delivered on: 17/07/2023

**Coram:**

Mr. Shammi Khan, Hon'ble Member (J)  
Mr. Kaushalendra Kumar Singh, Hon'ble Member (T)

**PRESENT:**

For the Applicant :  
For the Respondent :

**ORDER**

The case is fixed for pronouncement of order. The order is pronounced in the open court, vide separate sheet.

-Sd-

**KAUSHALENDRA KUMAR SINGH  
MEMBER (TECHNICAL)**

-Sd-

**SHAMMI KHAN  
MEMBER (JUDICIAL)**

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
DIVISION BENCH  
COURT-I**

**IA No.118 of 2023  
In  
CP(IB) 209 of 2021**

**IA No.118 of 2023**

[An application under Section 30(6) of the Insolvency & Bankruptcy Code, 2016 for approval of resolution plan]

**Through:**

**Ravindra Kumar Goyal  
Resolution Professional of  
Yashasvi Yarns Limited  
Eden I-807, Godrej Garden City  
Jagat Pura, SG Highway, Ahmedabad  
Gujarat-382470**

**Applicant**

**In the matter of CP(IB) 209 of 2021:**

[An application under Section 7 of the Insolvency & Bankruptcy Code, 2016]

**State Bank of India**

Having Registered Office at:  
Corporate Centre: State Bank Bhawan  
Madame Cama Road, Nariman Point  
Mumbai-400021  
Acting through its Branch office at:  
Stressed Assets Management Branch-I  
The Arcade, 2<sup>nd</sup> Floor, World Trade Centre  
Cuffe Parde, Colaba, Mumbai-400005

**Applicant**

**VERSUS**

**Yashasvi Yarns Limited**

Having Registered Office at:  
Survey No. 185/1/1, Plot No. 18  
Dokmardi, Village Amli, Silvasa  
Union Territory of Dadra & Nagar Haveli-396230

**Respondent**

**Order Reserved on: 20.06.2023  
Order Pronounced on: 17.07.2023**

**Coram: Shammi Khan, Member (Judicial)**  
**Kaushlendra Kumar Singh, Member (Technical)**

**Appearance:**

For the Applicant : Mr. Arjun Sheth, Adv & Solicitor  
a.w. Mr. Rajiv Chawla, Adv.

**ORDER**

1. This application is filed on 10.01.2023 under Section 30(6) of Insolvency & Bankruptcy Code, 2016 by Mr. Ravindra Kumar Goyal Resolution Professional (RP) of the corporate debtor-Yashasvi Yarns Limited for approval of the Resolution Plan submitted by Amit Jain & Gyanesh Kanodia.
2. The averments made by the applicant/ resolution professional in the present application and as argued by the learned counsel are summarized as under:-
  - (i) The corporate debtor was admitted in Corporate Insolvency Resolution Process (CIRP) on 26.04.2022. Mr.Ravindra Kumar Goyal was appointed as Insolvency Resolution Professional (IRP). On 30.04.2022 the IRP made a public announcement of the CIRP of the corporate debtor thereby calling upon its creditors to submit their claim with requisite proof. The Committee of Creditors (CoC) was constituted with the following financial creditors having voting percentages based on their debt value as follows:-

Sr.	Name of Creditor	Voting (%)
1.	State Bank of India	63.73%
2.	Pegasus Assets Reconstruction Private Ltd	19.94 %
3.	Phoenix ARC Private Ltd	7.88 %
4.	Canara Bank	8.45%
<b>Total</b>		<b>100%</b>

The CoC resolved to appoint the IRP as the RP and the same was approved by this Adjudicating Authority.

- (ii) The CoC instructed the RP to publish Form G calling upon the prospective resolution applicants to submit the EoI/Resolution Plans for the corporate debtor.
- (iii) The RP published Form-G on 01.07.2022 in widely circulated English as well as local language newspapers. In response thereto, he received 6 resolution plans from the following:-

<b>Sr.</b>	<b>Prospective Resolution Applicants</b>
1.	Radhekrishna Corporation, Silvasa;
2.	Laxmi Technical Textiles Private Limited, Mumbai;
3.	Aalidhra Texpro Engineers Private Limited, Surat;
4.	Consortium of Alliance Superfine Industries Limited, Mumbai along with- Udaaran Properties and Trading Private Limited, Obron Industrial Finance Limited, Suvino Exports Private Limited and Mr. Robin Agarwal;
5.	Amit Jain & Gyanesh Kanodia (Suspended Management), Mumbai;
6.	Siddhivinayak Filaments Private Limited, Mumbai;

- (iv) Meantime, CIRP period of 180 days were about to get over on 30.10.2021, the RP, with the approval from the CoC requested this Adjudicating Authority to extend CIRP period by 90 days and accordingly, CIRP period was extended by this Adjudicating Authority vide its order dated 21.11.2022.
- (v) The CoC discussed the proposal, which was received in the form of Resolution Plans, in various meetings of the CoC. In the 8<sup>th</sup> CoC meeting held on 18.11.2022, the resolution plans were discussed and put to vote. The resolution plan from Amit Jain & Gyanesh Kanodia was approved by the CoC with 100% votes.

(vi) The said resolution plan approved by the CoC is of the suspended management. Since the corporate debtor is MSME the provisions of section 29A do not apply to the resolution applicant in accordance with section 240A of the Code.

(vii) The resolution applicant- Amit Jain & Gyanesh Kanodia has proposed to infuse a sum of **Rs.2844 lacs**. The details of the proposed payment to the stakeholders are as follows:

(Rs. in lakhs)						
Sr.	Category of Stakeholder	Sub-Category of Stakeholder	Amount claimed	Amount Admitted	Amount Provided under the Plan	Amount Provided to the Amount Claimed %
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	CIRP Cost				60	
2.	Secured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	Nil	NA	NA	NA
		(b) Other than (a) above:				
		(i) who did not vote in favour of the resolution plan	Nil	NA	NA	NA
		(ii) who voted in favour of the resolution plan	24677.71	24677.72	2779.20	11.26%
		Total [(a)+(b)]	24677.71	24677.72	2779.20	11.26%
3.	Unsecured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	Nil	Nil	Nil	Nil
		(b) Other than (a) above:				
		(i) who did not				

		vote in favour of the resolution plan	Nil	Nil	Nil	Nil
		(ii) who voted in favour of the resolution plan	Nil	NA	NA	NA
		Total [(a)+(b)]	Nil	Nil	Nil	Nil
4.	Operational Creditors	(a) Related Party of Corporate Debtor	Nil	NA	NA	NA
		(b) Other than (a) above:				
		(i) Government	Nil	Nil	Nil	Nil
		(ii) Workmen	Nil	Nil	Nil	Nil
		(iii) Employees	Nil	Nil	Nil	Nil
		(iv) Other debts and dues	4.80	4.80	4.80	100%
		Total [(a)+(b)]	4.80	4.80	4.80	100%
Grand Total			24682.51	24682.51	2844.00	11.28%

(viii) The RP has examined the resolution plan and the compliances required. For ready reference, the compliances examined by the RP are reproduced hereunder:-

Section of the Code/Regulation No.	Requirement with respect to Resolution Plan	Clause of Resolution Plan	Compliance (Yes/No)
25 (2) (h)	Whether the Resolution Applicant meets the criteria approved by the CoC having regard to the complexity and scale of operations of business of the CD?	Clause 1; Section 240 A of IBC; MSME Registration Available	Yes
Section 29A	Whether the Resolution Applicant is eligible to submit resolution plan as per final list of Resolution Professional or Order, if any, of the Adjudicating Authority?	Resolution Applicants are not ineligible under provisions of Section 29 A of IBC; Verification conducted and Affidavit dated 29.08.2022 also on record	Yes
Section 30 (1)	Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?	Affidavit dated 17.07.2022	Yes
Section 30 (2)	Whether the Resolution Plan-		
	a) provides for the payment of insolvency resolution process costs?	Clause 5.3, Pg.22	Yes
	b) provides for the payment to the operational creditors?	Clause 5.6, Pg. 27	Yes

	c) provides for the payment to the financial creditors who did not vote in favour of the resolution plan?	Clause 5.5.6, Page 26	Yes
	d) provides for the management of the affairs of the corporate debtor?	Clause 7, Pg.33	Yes
	e) provides for the implementation and supervision of the resolution plan?	Clause 8 Pg. 36	Yes
	f) contravenes any of the provisions of the law for the time being in force?	Clause 10.2, Pg. 37-38	Yes
Section 30(4)	Whether the Resolution Plan (a) is feasible and viable, according to the CoC?  (b) has been approved by the CoC with 66% voting share?	Clause-4, Clause-5 and Clause-8  Minutes of 8 <sup>th</sup> CoC Meeting	Yes  Yes
Section 31(1)	Whether the Resolution Plan has provisions for its effective implementation plan, according to the CoC?	Minutes of 8 <sup>th</sup> COC Meeting	Yes
Regulation 38(1)	Whether the amount due to the operational creditors under the resolution plan has been given priority in payment over financial creditors?	Clause 5.6, Pg.27	Yes
Regulation 38(1A)	Whether the resolution plan includes a statement as to how it has dealt with the interests of all stakeholders?	Clause 9, Pg.36	Yes
Regulation 38(1B)	(i)Whether the Resolution Applicant or any of its related parties has failed to implement or contributed to the failure of implementation of any resolution plan approved under the Code.  (ii)If so, whether the Resolution Applicant has submitted the statement giving details of such non-implementation	Clause 10.1 Pg.37  NA	Yes  NA
Regulation 38(2)	Whether the Resolution Plan provides: (a)the term of the plan and its implementation schedule? (b)for the management and control of the business of the corporate debtor during its term? (c)adequate means for supervising its implementation?	Clause 5, Pg 22  Clause7 Pg 33  Clause 8 Pg 36	Yes  Yes  Yes
38(3)	Whether the resolution plan demonstrates that-  (a) it addresses the cause of default?  (b) it is feasible and viable?  (c) it has provisions for its effective implementation?  (d) it has provisions for approvals required and the timeline for the same?  (e) the resolution applicant has the capability to implement the resolution plan?	Clause 4 Pg 16  Clause 4 Pg 16, Clause 5, Pg 22 and Clause 8, Pg 36  Clause7 Pg 33 and Clause 8 Pg 36  Clause 13, Pg 43  Clause 1 Pg 11 and Clause6.4 Pg 32	Yes  Yes  Yes  Yes  Yes

39(2)	Whether the RP has filed applications in respect of transactions observed, found or determined by him?	No such transactions determined	NA
Regulation39(4)	Provide details of performance security received, as referred to in sub-regulation (4A) of regulation 36B.]	Performance Security of Rs 5.00 Crore Provided	Yes

3. We heard the learned counsel for the RP and on perusal of records it is noted that the CoC approved the resolution plan of Amit Jain & Gyanesh Kanodia by 100% voting and it is not necessary for us to go into details of the commercial aspect of the plan. We proceed to examine the plan in view of sections 30(2) and 31 of the IBC r.w. Regulation 38 of the IBBI (CIRP of the Corporate Debtor Regulation, 2016). The RP has produced on record the compliance certificate in Form-H. It shows that the **fair value** of the assets of the corporate debtor is **Rs.25,25,34,609/-** whereas, the **liquidation value** is **Rs.16,79,74,425/-**. The successful resolution applicant has proposed a payment of Rs.2844 lacs in the resolution plan.
4. In order to obtain the approval of the Adjudicating Authority the resolution plan should adhere to the following requirements as per **Section 30(2) of the Code r.w. CIRP Regulation 38:**
- (i) It should provide for the payment of insolvency resolution process costs in priority to the repayment of other debts of the corporate debtor.
- [Section 30(2)(a)]
- (ii) The repayment of the debts of operational creditors should not be less than the amount to be paid to such creditors in the event of liquidation of the corporate debtor under section 53 of the Code, or the amount that would have been paid to the said creditors if the amount to be distributed under the resolution plan had been distributed in accordance of section 53(1) of the Code.

Moreover, the payment to the operational creditor is to be made in priority over the financial creditor;

Further the repayment of the debts of dissenting financial creditors should not be less than the amount that would have been paid to such creditors in the event of liquidation of the corporate debtor under section 53 of the Code and the payment to the said dissenting financial creditor is to be made in priority to the consenting financial creditors.

[Section 30(2)(b) read with CIRP Regulation 38(1)(a) & 38(1)(b)];

- (iii) Provides for the management of the affairs of the corporate debtor after approval of the resolution plan.

[Section 30(2)(c) read with CIRP Regulation 38(2)(b)];

- (iv) The implementation and supervision of the resolution plan.

[Section 30(2)(d) read with CIRP Regulation 38(2)(c)];

- (v) It does not contravene any of the provisions of the law for the time being in force.

[Section 30(2)(e)];

- (vi) It conforms to such other requirements as may be specified by the Board.

[Section 30(2)(f)]

Such other requirements of the resolution plan as detailed in IBBI (Resolution Process for Corporate Persons) Regulations, 2016 which are not covered above, are as under:

- (a) The resolution plan should include statement as to how it has dealt with the interests of all stakeholders including financial creditors and operational creditors of the corporate debtor.

[CIRP Regulation 38 (1A)]

- (b) The resolution plan should include a statement giving details as to whether the resolution applicant or any of its related parties has at any time failed to implement or caused to the failure of implementation of any other resolution plan which was approved by the Adjudicating Authority.

[CIRP Regulation 38 (1B)]

- (c) The resolution plan should contain the term of the plan and its implementation schedule.

[CIRP Regulation 38(2)(a)]

- (d) The resolution plan should also demonstrate that it addresses the cause of default; is feasible and viable; has provisions for its effective implementation; has provisions for approvals required and timeline for the same. Further that the resolution applicant has the capability to implement the resolution plan.

[CIRP Regulation 38(3)]

5. In view of the above provisions of the Code, the resolution plan submitted before us has been examined as follows:

- (i) In the plan, the provision towards CIRP costs is made for Rs.60 lacs to be paid within 45 days from the effective date in priority to the repayment of other debts of the corporate debtor. Thereby, section 30(2)(a) has been complied with. Further, the plan contains a provision that in case the CIRP cost is less than Rs.60 lacs then the difference amount would be paid to the secured creditors in addition to the amount proposed to them.

- (ii) There are no dissenting financial creditors. Further, the plan provides payment to the operational creditors amounting to Rs.4.80 lacs which is 100% of their admitted claim.  
As such the provisions of section 30(2)(b) read with CIRP Regulation 38(1)(a) & 38(1)(b) are complied with.
- (iii) The mechanism for management and control of the affairs of the corporate debtor after approval of the resolution plan has been provided in the resolution plan itself whereby the Monitoring Committee consisting of one person nominated by the resolution applicant; one person nominated by the secured creditor; one independent professional not related to the corporate debtor, resolution applicant and secured creditors, will look after the business of the corporate debtor after approval of the resolution plan and pending its implementation. We hold that thereby provisions of Section 30(2)(c) read with CIRP Regulation 38(2)(b) are complied with.
- (iv) The resolution plan contains a provision wherein, the implementation of the said plan will be supervised by the Monitoring Committee. Thereby, Section 30(2)(d) read with CIRP Regulation 38(2)(c) has been complied with.
- (v) The RP has submitted that the plan does not contravene any provisions of law. We also noted that the plan does not contravene any provisions of the law for the time being in force. Thereby, Section 30(2)(e) has been complied with.
- (vi) The resolution plan also conforms to other IBBI Regulations as given hereunder:
- a) The resolution plan adequately deals with the interests of all stakeholders, including financial creditors and

operational creditors of the corporate debtor. Thereby, the plan is in compliance with CIRP Regulation 38 (1A).

- b) It is submitted that neither the resolution applicant nor any of its related parties have at any time failed to implement or contributed to the failure of implementation of any other resolution plan which was approved by the Adjudicating Authority. Thereby, the plan is in compliance with CIRP Regulation 38 (1B).
- c) The term of the Plan is 45 days and its implementation schedule is as under:-

<b>Sr</b>	<b>Description Event</b>	<b>Amount (in Rs)</b>	<b>Proposed timeline</b>
<b>1</b>	Payment to the secured financial creditors	2779.20 lacs	Within 45 days from the effective date
<b>2.</b>	CIRP Cost	Rs. 60 lakh	Within 45 days of the Effective Date
<b>3.</b>	Constitution of new Board of Directors		Within 30 days of the Effective Date

Thereby CIRP Regulation 38(2)(a) has been complied with.

- d) The resolution plan addresses the cause of default; is feasible and viable; has provisions for its effective implementation; contains provisions for approvals required and the timeline for the same. Further that the resolution applicant has the capability to implement the resolution plan. Thus CIRP Regulation 38(3) has been complied with.
6. The resolution applicant Amit Jain & Gyanesh Kanodia are the founding members of the corporate debtor, which is a registered MSME. Sources of funds is Rs.2844 lakhs by infusion of their own funds in the form of debt and equity by the resolution applicant.
7. It is also noted that the resolution applicant has sought certain reliefs & concessions such as waiver of:-

- i) the guarantee given by the corporate debtor against the lenders who have submitted their claim;
- ii) any debt prior to the approval of the plan which are unknown & unlisted in the Information Memorandum;
- iii) any unknown dues towards any tax, subsidy, interest & penalty from any statutory authorities for the period prior to the initiation of CIRP;
- iv) waiver under Income Tax Act, 1961 & GST Act, 2017;
- v) penalties pertaining to regulatory non-compliances; etc.

Further, the approval of the resolution plan is not conditional to the grant of reliefs & concessions sought by the resolution applicant.

8. As far as reliefs and concessions claimed by the resolution applicant with respect to the unpaid liabilities after approval of the plan and the claims not filed at all with the RP during the CIRP, the law has been well settled by the Hon'ble Supreme Court in the case of ***Ghanashyam Mishra and Sons Private Limited Vs. Edelweiss Asset Reconstruction Company Limited and Ors. reported in MANU/SC/0273/2021*** in the following words:

86. *".....The legislative intent behind this is, to freeze all the claims so that the resolution applicant starts on a clean slate and is not flung with any surprise claims. If that is permitted, the very calculations on the basis of which the resolution applicant submits its plans, would go haywire and the plan would be unworkable.*

87. *We have no hesitation to say, that the word "other stakeholders" would squarely cover the Central Government, any State Government or any local authorities. The legislature, noticing that on account of obvious omission, certain tax authorities were not abiding by the mandate of I&B Code and continuing with the*

*proceedings, has brought out the 2019 amendment so as to cure the said mischief.....”*

9. In view of the above, all unpaid liabilities and claims that are not filed with the RP before the approval of the resolution plan and those which are not included in the said resolution plan would stand extinguished. However, as far as other reliefs and concessions as sought by the resolution applicant, we direct the said successful resolution applicant to approach the concerned statutory authority for those concessions and those authorities will consider the same as per their established procedure.
  
10. The proviso to section 31 of the Code, 2016, states that before passing any order for approval of the resolution plan, the Adjudicating Authority should also satisfy that the resolution plan has provisions for its effective implementation. We being satisfied, approve the resolution plan submitted by Amit Jain & Gyanesh Kanodia for Corporate Debtor i.e., Yashasvi Yarns Limited and in addition to the above directions, proceed to pass the following order:-
  - (i) Application is allowed.
  - (ii) The resolution plan of Amit Jain & Gyanesh Kanodia for Corporate Debtor i.e., Yashasvi Yarns Limited allowed as per Section 30(6) of the IBC, 2016.
  - (iii) The approved 'Resolution Plan' shall become effective from the date of passing of this order.
  - (iv) The order of moratorium dated 26.04.2022 passed by this Adjudicating Authority under Section 14 of I&B Code, 2016 shall cease to have effect from the date of passing of this order.
  - (v) The Resolution Professional shall forthwith send a copy of this Order to the participants and the Resolution Applicant(s).

(vi) The Resolution Professional shall forward all records relating to the conduct of the corporate insolvency resolution process and Resolution Plan to the Insolvency and Bankruptcy Board of India to be recorded in its database.

11. Accordingly, IA 118 of 2023 in CP(IB) 209 of 2021 is allowed and stands disposed of in terms of the above directions.

12. Urgent certified copy of this order, if applied for, to be issued to all concerned parties upon compliance with all requisite formalities.

-Sd-

**Kaushalendra Kumar Singh**  
**Member (Technical)**

Swati Khandelwal

-Sd-

**Shammi Khan**  
**Member (Judicial)**