

**IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD**  
**COURT - 1**

ITEM No 149

IA/259(AHM)2021 in CP(IB) 497 of 2018

**Order under Section 30(6) IBC,2016**

**IN THE MATTER OF:**

Bhupendra Singh Rajput RP of Alps Pharmaceuticals Pvt Ltd .....Applicant

V/s

Jayesh Kanaiyalal Shukla & Ors

.....Respondent

**Order delivered on ..06/07/2021**

**Coram:**

Madan B. Gosavi, Hon'ble Member(J)

Virendra Kumar Gupta, Hon'ble,Member(T)

**PRESENTS:**

For the Applicant :

For the IRP/RP :

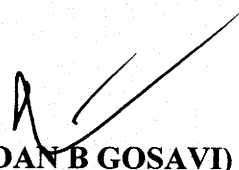
For the Respondent :

**ORDER**

The case is fixed for pronouncement of order.

The order is pronounced in open court vide separate sheet.

  
(VIRENDRA KUMAR GUPTA)  
MEMBER (TECHNICAL)

  
(MADAN B GOSAVI)  
MEMBER (JUDICIAL)

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**BEFORE THE ADJUDICATING AUTHORITY  
NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
COURT-1**

**IA 259 of 2021 in  
CP (IB) 497 of 2018**

**In the matter of:**

Shri Bhupendra Singh Narayan Singh Rajput  
RP of Alps Pharmaceuticals Pvt. Ltd.

.... Applicant

**Versus**

Jayesh Kanaiyalal Shukla & Ors

.... Respondent

**Order Reserved on 28.06.2021**

**Order pronounced on 06.07.2021**

**Coram: Madan B. Gosavi, Member (J)**

**Virendra Kumar Gupta, Member (T)**

**Appearance:**

For Applicant: Learned Counsels Mr. Vishal Dave along with Mr. Nipun Singhvi and Learned Counsel Mr. Sandeep Singhi

**ORDER**

**[Per: Bench]**

1. The instant application is filed by the Applicant, the Resolution Professional of Alps Pharmaceuticals Pvt. Ltd. (hereinafter referred to as "Corporate Debtor") under Section 30(6) of the Insolvency

and Bankruptcy Code, 2016 (hereinafter referred to as "IB Code") with a prayer for approval of Resolution Plan.

2. The facts of the case are that CP(IB) No. 497 of 2018 was filed by Financial Creditor under section 7 of the IB Code, seeking initiation of Corporate Insolvency Resolution Process (hereinafter referred as "CIRP") against the Corporate Debtor which was admitted on 06.11.2019 by this Adjudicating Authority and Shri Bhupendra Singh Narayan Singh Rajput was appointed as Interim Resolution Professional (hereinafter referred as "IRP").
3. That the Committee of Creditors (hereinafter referred as "CoC") was formed and in its 1<sup>st</sup> Meeting held on 13.12.2019, CoC decided for continuation of IRP as RP (Resolution Professional). Pursuant to the resolution passed in the 4<sup>th</sup> CoC meeting held on 21.08.2020, Applicant published Form G in four newspapers and also uploaded the same on IBBI website.
4. That in the 5<sup>th</sup> CoC meeting held on 15.09.2020, CoC resolved to revise Form G and the same was published in four newspapers on 16.09.2020 and also uploaded on the website of IBBI. That in response of Form-G published on 28.08.2020 and 16.09.2020, Applicant received two Expression of Interest (hereinafter referred

as "EoI") without refundable deposit, with a request to waive off the condition of refundable deposit considering the current scenario. After discussion CoC resolved that the pre condition of refundable deposit of Rs. 10,00,000/- (Rupees Ten Lakhs Only) at the time of EoI is waived off at this stage. In the meanwhile, the application filed for exclusion of 97 days of lockdown due to Covid came to be allowed by this Adjudicating Authority.

5. That in the 7<sup>th</sup> CoC meeting held on 05.11.2020, CoC resolved for extension for further 90 days beyond 180 days and the same was allowed by this Adjudicating Authority vide its order dated 07.12.2020. Thereafter, revised Form G was published in two newspapers on 16.12.2020 and was also uploaded on the website of IBBI.

6. That in the 9<sup>th</sup> CoC meeting held on 11.01.2021, Applicant informed CoC that four EoIs were received. And thereafter, three Resolution Plans have been received viz:

- i. Chemsynth Labs and their partners Hariom Sharma and others
- ii. Vaishali Pharma Limited through Mr. Atul Vasani
- iii. Vishal Odedra & Liluben Odedra

All the above Resolution Plans were put before the CoC for evaluation and examination and consequently, the prospective Resolution Applicants were asked to improve the Plan amount and submit revised Resolution Plan on or before 22.02.2021 to RP along with 5% refundable Earnest Money Deposit of amount offered in Resolution Plan if not already paid, otherwise their Resolution Plan may not be considered a valid Resolution Plan.

7. That in the 11<sup>th</sup> CoC meeting held on 01.03.2021, Applicant received fourth Resolution Plan from Rajendrakumar Joshi & Civic Services Holding Private Limited. The same was discussed upon by the CoC and was asked to improve the Plan amount and submit revised Resolution Plan on or before 03.03.2021 to RP along with 5% refundable Earnest Money Deposit of amount offered in Resolution Plan if not already paid, otherwise their Resolution Plan may not be considered a valid Resolution Plan. That in the 12<sup>th</sup> CoC meeting held on 04.03.2021, only two revised Resolution Plans were received by the Applicant i.e. from Rajendrakumar Joshi & Civic Services Holding Private Limited and Chemsynth Labs. Both Resolution Plans were put for e-voting and the plan submitted by Rajendrakumar Joshi & Civic Services Holding Private Limited was approved by the CoC with 100% majority voting share.

8. The Applicant filed Compliance Certificate in 'Form H' as reflected at page no. 152-159 of the application (**Annexure-S**). Applicant has also submitted the Liquidation value and fair value from the valuer as reflected from page no. 153 of the application.
9. The Resolution Plan complies with the requirements as envisaged under Regulation 38 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 as well as Section 30 of the Code. On perusal of the records, it is found that the Resolution Applicant has taken account the interest of all stakeholders of the Corporate Debtor to the extent possible, as envisaged in this Resolution Plan for insolvency resolution of the Corporate Debtor.
10. The key features of the Resolution Plan are summarized below:

<b>Resolution Applicant Proposed Amount</b>	<b>Amount (in Rs.)</b>	<b>Timeline</b>	<b>Clause of Resolution Plan</b>
<b>Payment of CIRP Cost</b>	38,00,000/-	Within 30 days of the receipt	Part B of the Resolution

<p>The CIRP Cost is Rs. 38 Lakh. The Resolution Applicant propose to pay a sum of Rs. 38.00 Lakh for payment of CIRP Cost. However, if CIRP cost increase or decrease additional cost shall be adjusted from the payment towards secured Financial Creditors.</p>		<p>certified copy of order by the Hon'ble NCLT approving Resolution Plan.</p>	<p>Plan</p>
<p><b>Payment to the Financial Creditors (excluding the Related Party Creditor)</b></p> <p>The admitted dues</p>	<p>6,18,06,467/-</p>	<p>50% of total; amount of Resolution Plan will be paid within 60 days of the approval of</p>	<p>Part C of the Resolution Plan</p>

<p>of secured financial creditors are Rs. 38,83,95,932/-.</p> <p>Resolution Applicant propose to pay a sum of Rs. 6,18,06,467/-.</p>		<p>Resolution Plan by AA.</p> <p>And balance of 50% will be paid in six equal monthly installments.</p>	
<p><b>Payment towards the Operational Creditors, Other Creditors and related party</b></p> <p>(excluding Employees and workmen)</p> <p>As per the information memorandum, the total dues of Operational Creditors, Other</p>	<p>Nil</p>	<p>_____</p>	<p>Part E of the Resolution Plan</p>

<p>Creditors and related party are Rs. 26,14,91,080/-.</p> <p>Resolution Applicant proposes to pay Rs. Nil</p>			
<p><b>Payment towards Employees and workmen</b></p> <p>As per the Information Memorandum, total dues of workmen/employees are Rs. 1,81,83,151/-.</p> <p>Resolution Applicant proposes to pay Rs. 28,93,533/-</p>	<p>28,93,533/-</p>	<p>Within 30 days of the receipt of certified copy of order by the Hon'ble NCLT approving Resolution Plan (effective date).</p>	<p>Part D of the Resolution Plan</p>
<p>Payment to</p>	<p>Nil</p>	<p>_____</p>	<p>Part F of</p>

<p>Statutory Dues of CD</p> <p>As per the Information Memorandum, total statutory dues are Rs. 85,22,550/-.</p> <p>Resolution Applicant proposes to pay Rs. Nil/-</p>			<p>the Resolution Plan</p>
<p><b>Payment to Contingent Liabilities of CD</b></p> <p>All the contingent liabilities including any demand from the Income Tax Department subsequently based on assessments,</p>	<p>Nil</p>	<p>_____</p>	<p>Part H of the Resolution Plan</p>

which may or may not have not been confirmed in past, during or before the CIRP or even may be confirmed in the time to come are proposed to be waived off fully immediately upon sanction of Resolution Plan.			
<b>TOTAL BID AMOUNT</b>	<b>6,85,00,000/-</b>	-	-

11. The term plan and its implementation schedule for ayment is as follows:

S. No.	Stakeholders Name	Amount Proposed	Timeline
1	CIRP Cost	38,00,000/-	Within 30 days of adjudicating authority plan

			approval
2	Workmen/ Employee	28,93,533/-	Within 30 days of adjudicating authority plan approval
3	Financial Creditor	6,18,06,467/-	Upto 50% of total amount of Resolution Plan will be paid within 60 days (which includes payment made at the time of submission of Resolution Plan and at the time of letter of intent, CIRP cost and Workman dues) of the approval of Resolution

			Plan by AA and Balance of 50% will be paid in 6 equal monthly installments.
4	Operational Creditor	Nil	
5	Statutory Dues	Nil	

12. On perusal of the record, it is found that the Resolution Applicant has also filed Form H under regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 at page no. 152-159 of the application, which is self explanatory.

13. Looking to the entire facts of the case, it is found that the CoC has approved the plan with 100% voting share in favour of the approval of the plan filed by Rajendrakumar Joshi & Civic Services Holding Private Limited. Moreso, the Resolution Applicant fulfils the mandatory contents of the Resolution Plan as provided under Regulation 38 of Insolvency and Bankruptcy

Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016.

14. As regards to the relief and concessions sought for, by the Resolution Applicant which have been mentioned in Additional Affidavit dated 24.06.2021 as **“Relief and Concessions required to be considered”** (Part I, J & K of the Resolution Plan), we are of the view that such relief and concessions are permissible under IB Code. Accordingly, we grant such relief and concessions. However, as a matter of legal prudence, we further hold that wherever required the Resolution Applicant may approach/have all liberty to approach the concerned statutory/competent authority for any concession, waiver or exemption as per prevailing law(s) of the land. It is needless to mention herein that approval of the Resolution Plan does not mean automatic waiver or abatement of legal proceedings, if any, which are pending by or against the Company/Corporate Debtor as those are the subject matter of the concerned Competent Authorities having their proper/own jurisdiction to pass any appropriate order as the case may be. However, the Relief and Concessions mentioned as **“Relief and Concessions Hon’ble Tribunal may consider”** (Part I & J of the Resolution Plan), part of the Resolution Plan, are not

Personal Bank Guarantee, if any, is being pursued separately as stated by RP.

15. Resolution Plan stands modified to the extent of our direction given in this order and to be read along with such directions. Thus, not allowing of the above Reliefs and Concessions sought for in the Resolution Plan, is not going to make any hindrance for proper implementation of the Resolution Plan as those are the subject matter of jurisdiction of the concerned/appropriate Competent Authorities. The Resolution Applicant(s) has/have liberty to approach Competent Authorities for any concession, relief or dispensation as the case may be as when required for proper and effective implementation of the Plan.

16. Apart from the above observations and directions, it is further directed that:

- i. The approved 'Resolution Plan' shall become effective from the date of passing of this order.
- ii. The order of moratorium dated 06.11.2019 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.

- iii. The Resolution Professional shall forthwith send a copy of this Order to the participants and the Resolution Applicant.
- iv. The Resolution Plan shall be subject to the various existing laws in force and shall also confirm to such other requirements specified by the Board and other Statutory/Competent Authorities, as the case may be.
- v. The Resolution Applicant(s) shall pursuant to the Resolution Plan approved under section 31(1) of the Code, obtain the necessary approvals required under any law for the time being in force within a period of one year from the date of approval of the Resolution Plan by the Adjudicating Authority under section 31(1) or within such period as provided for in such law, whichever is later, as the case may be.
- 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.

17. Accordingly, IA 259 of 2021 is allowed with the above said observations and directions and stands disposed of in view of the above order.



**(VIRENDRA KUMAR GUPTA)  
MEMBER (TECHNICAL)**



**(MADAN B. GOSAVI)  
MEMBER (JUDICIAL)**

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