

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH - I, CHENNAI**

IA(IBC)/1465/CHE/2023 in CP(IB)/137(CHE)/2021

*(Filed under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 Read with
Rule 11 of NCLT Rules, 2016)*

*In the matter of **Uniply Décor Limited***

Keshav Kanatamneni

S/o. Shri Ramakrishna Kantamneni
Ex – Director of Uniply Décor Limited
R-48, 19, Lakshmi talkies Road,
Shenoy Nagar, Chennai – 600 030

...Applicant

-Versus-

- 1. Santhanam Rajashree**
Resolution Professional of Uniply Décor Limited
Flat No.6, Old No.20,
New No.8, Ramakrishna Street,
T. Nagar, Chennai – 600 017

- 2. Yes Bank Limited**
Yes Bank House,
Off Western Express Highway,
Santacruz (East), Mumbai – 400 055

- 3. West Coast Paper Mill Limited**
Resolution Applicant
PB No.5, Bangur Nagar,
Dandeli – 581 325, Uttara Kannada,
Karnataka

...Respondent

Order Pronounced on 19th February 2024

CORAM:

SANJIV JAIN, MEMBER (JUDICIAL)
VENKATATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

For Applicant : *Arun Saxena, Advocate*

For Respondent : *Raj Jhabakh, Advocate*
Ranjana Jain, Advocate

ORDER

(Heard through video conferencing mode)

This is an Application filed by the Applicant under Section 60(5) of the Insolvency and Bankruptcy Act, 2016 (hereinafter the “IBC, 2016”) read with Rule 11 of the National Company Law Tribunal Rules, 2016 (hereinafter the “NCLT Rules”), seeking reliefs as follows;

- (i) Reject the approval of the Resolution Plan dated 29.08.2022 as revised on 22.11.2022.*
- (ii) Direct the RP and the CoC to consider the one time settlement offer of the Applicant.*
- (iii) Pass any such order or further orders as this Hon’ble Court deems fit and proper in the facts and circumstances of the case.*

2. The Corporate Insolvency Resolution Process in relation to the Corporate Debtor was initiated by this Tribunal vide order dated

11.03.2022. The Applicant herein was appointed as the Interim Resolution Professional (IRP).

3. It is stated that the 2nd Respondent is the sole member in the CoC of the Corporate Debtor. The Information Memorandum was approved by the CoC, based on which Form – G was published and Resolution Plans were invited. In pursuance of the same, the 3rd Respondent submitted the Resolution Plan on 29.08.2022 before the RP.

4. It is stated that in the meantime, the ex-management of the Corporate Debtor was in constant talks with the Financial Creditor Bank since 2021 and made offers for One Time Settlement (OTS). It is stated that in furtherance of the first OTS offer approved by the 2nd Respondent Bank, the Corporate Debtor made a payment of Rs.7.80 Crore. The outstanding amount to be paid after the payment of the aforesaid amount was Rs.28.75 Crore. It is stated that owing to the Covid – 19 pandemic, the Corporate Debtor could not make the balance payment on time and the OTS failed.

5. It is stated that on 01.09.2021, after the second wave of COVID-19 pandemic, the Ex- Management of the Corporate Debtor made another

OTS offer, which was rejected by the Financial Creditor. Thereafter, another OTS offer was made to the Financial Creditor on 05.10.2022, wherein the ex-management of the Corporate Debtor had offered to pay a sum of Rs.26.50 Crore towards the balance outstanding amount which was supposed to be paid in 30 days. However the said proposal was also rejected by the 2nd Respondent.

6. It is stated that in the in the interregnum, Resolution Plan of the 3rd Respondent was approved by the CoC and an application was filed by the RP before the Tribunal for approval of the Resolution Plan. It is stated that under the said Resolution plan, approved by the CoC, the 3rd Respondent was to make payments of about Rs.27.00 Crores to the Financial Creditor which was not much higher than the OTS offer of Rs.26.5 Crores made by the ex-management of the Corporate Debtor.

7. It is stated that the Corporate Debtor is a public limited Company listed with BSE whose 61.94% shareholding is with the public and only 38.06% of shares are owned by the promoters of the Corporate Debtor. It is stated that the balance sheet of the Corporate Debtor for the FY 2020-21 shows that the book value of the Non-Current assets of the CD is

Rs.85 Crores and the value of Current assets is Rs.11 crores as on 31.03.2021 making the total valuation of Assets of the CD to be Rs.96 Crores. In addition to the book value of assets of the CD, it is stated that the licenses owned by the CD itself carry high value as the government is not issuing any new licenses at present.

8. It is stated that main objective of the Code is to revive the business of the CD so that it may continue to operate, provide its employees with jobs, pay its creditors and provide a return for its stakeholders. It is stated that although the Code provides for a Corporate Insolvency Resolution Process so that the CD can be given another chance to run its business and its resources can be put to use in the best possible way but the said Resolution plan of the RA lacks the intention to do so.

9. Under these circumstances, it is stated that the said Resolution Plan should not be allowed to be implemented and the CoC be directed to consider the OTS dated 05.10.2022 of the ex-management of the CD wherein the Applicant is ready to improve its offer.

10. The Respondents have filed counter. At this stage, before venturing into the reply of the Respondents, it is noted that the Resolution Plan of the 3rd Respondent was approved by the CoC on 04.12.2022. The RP has filed the application seeking approval of Resolution Plan before this Tribunal on 05.12.2022. The present Application has been filed by the Applicant before this Tribunal on 26.07.2023. When the matter was taken up for hearing on 18.08.2023, there was no representation on behalf of the Applicant and hence this Application was dismissed for non – prosecution. Thereafter the Applicant on 31.08.2023 filed IA(IBC)/1681(CHE)/2023 before this Tribunal to recall the order dated 18.08.2023. In the meantime, the Resolution Plan application filed by the RP was approved by this Tribunal vide order dated 20.09.2023.

11. Subsequent thereto, the order dated 18.08.2023 was recalled by this Tribunal and the present Application was listed for hearing on 22.01.2024.

12. The timelines for the payment scheduled under the Resolution Plan was 30 days from the date of approving the Plan by this Tribunal.

The Resolution Plan was approved on 20.09.2023 and as per the report of the 1st Respondent the entire Resolution Plan has been implemented by the 3rd Respondent and hence nothing remains for adjudication in the present Application.

13. Also it is noted that this Tribunal cannot direct a stakeholder to consider the OTS proposal of a suspended Director or Ex-promoter of the Corporate Debtor, as it would amount to interfering with the commercial wisdom of the CoC.

14. Hence, for the reasons aforesaid, the Application stands **dismissed**. No costs.

-Sd-

VENKATARAMAN SUBRAMANIAM
MEMBER (TECHNICAL)

-Sd-

SANJIV JAIN
MEMBER (JUDICIAL)

Raymond