

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

IA 390 of 2019 in C.P. (I.B) No.115/NCLT/AHM/2017

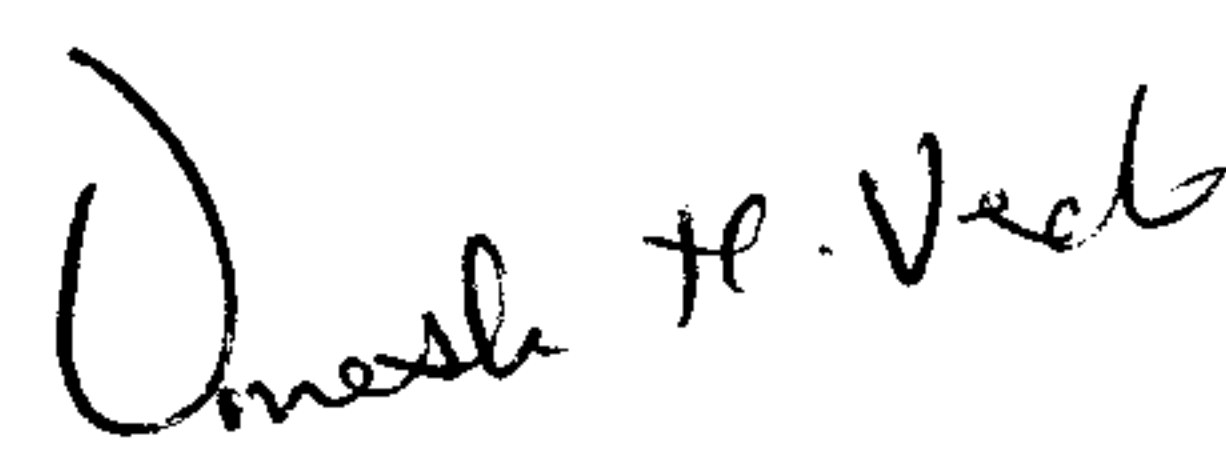
Coram: Hon'ble Mr. HARIHAR PRAKASH CHATURVEDI, MEMBER (JUDICIAL)  
Hon'ble Mr. PRASANTA KUMAR MOHANTY, MEMBER (TECHNICAL)

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF THE NATIONAL COMPANY LAW TRIBUNAL ,  
AHMEDABAD BENCH ON 24.02.2020**

Name of the Company: Umesh Harjivandas Ved  
V/s  
Sadbhav Enterprises pvt Ltd

Section: Section 30<sup>(b)</sup> of the Insolvency and Bankruptcy Code

| S.NO. | NAME (CAPITAL LETTERS) | DESIGNATION | REPRESENTATION | SIGNATURE |
|-------|------------------------|-------------|----------------|-----------|
|-------|------------------------|-------------|----------------|-----------|

|    |           |     |           |   |
|----|-----------|-----|-----------|---|
| 1. | UMESH VED | PCS | Applicant |  |
| 2. |           | RP  |           |   |

**ORDER**

The Applicant RP present in person.

The case is fixed for pronouncement of order.

The Order is pronounced in the open court, vide separate sheet.

  
(PRASANTA KUMAR MOHANTY)  
MEMBER (TECHNICAL)

  
(HARIHAR PRAKASH CHATURVEDI)  
MEMBER (JUDICIAL)

Dated this the 24th day of February, 2020.

**BEFORE THE ADJUDICATING AUTHORITY  
(NATIONAL COMPANY LAW TRIBUNAL)  
INDORE BENCH  
AHMEDABAD**

I.A. No. 390/NCLT/AHM/2019  
In  
C.P. (I.B.) No.115/7/NCLT/AHM/2017  
Under Section 30(6) of the IBC, 2016  
(approval of resolution plan)

In the matter of:

UMESH HARJIVANDAS VED  
Resolution Professional for  
Sadbhav Enterprises Pvt. Ltd.,  
Raipur, Ahmedabad.

.... Applicant

V.R.POLYFAB PRIVATE LIMITED  
Pirana, Piplej, Ahmedabad.

..... Operational Creditor

Versus

SADBHAV ENTERPRISES PRIVATE  
LIMITED  
Raipur, Ahmedabad

..... Corporate Debtor

**Order delivered on 24<sup>th</sup> February, 2020**

**Coram: Hon'ble Mr. Harihar Prakash Chaturvedi, Member (J)  
And  
Hon'ble Mr. Prasanta Kumar Mohanty, Member (T)**

Appearance:

Mr.Arun Sheth, Advocate & Solicitor, Ms.Vidhi Thakkar,  
Advocate and Mr.Umesh Ved, Resolution Professional for the  
Applicant



**[Per: Mr. Prasanta Kumar Mohanty, Member(T)]**

1. This I.A. No. 390 of 2019 has been filed under Section 30(6) of the Insolvency and Bankruptcy Code, 2016 by the Resolution Professional, Mr. Umesh Harjivandas Ved before this Tribunal, seeking approval of Resolution Plan, which has been duly approved by 74.85% voting of CoC, from this Adjudicating Authority under section 31(1) of the Insolvency and Bankruptcy Code, 2016.
  
2. As observed this application has been filed by the Resolution Professional under Section 30(6) enclosing -
  - a) Copy of Information Memorandum of the Corporate Debtor
  - b) Copy of order dated 10.04.2018 passed by this Adjudicating Authority in IA 109 of 2018.
  - c) Copy of the invitation for expression of interest vide publication dtd 24.11.2018.
  - d) Evaluation matrix prepared by the Applicant.
  - e) Copy of letter dtd 12.12.2018 issued by the RA along with declaration and undertaking dated 12.12.2018.
  - f) Copy of the confidentiality and non-circumvention agreement dtd 22.12.2018 executed between the RA and the Applicant.
  - g) Copy of the Resolution Plan submitted by the RA along with various supporting documents including the affidavit of the RA u/s 29A of the IB Code.

- h) Copy of the letter dated 05.02.2019 issued by the RA providing of the Directors of the RA and the declaration under Regulation 38(3) and 39 of the Regulations.
- i) Copy of the undertaking for compliance of regulation 38(3) of the Regulations vide letter dtd 25.04.2019 issued by the RA to the Applicant.
- j) Copy of the undertaking dtd 27.05.2019 issued by the RA undertakes to make contingent provision to the tune of INR 4,66,74,065/- qua the claim of Siddhant Fashion Pvt. Ltd., (unsecured financial creditor of the CD)
- k) Copy of the certificate dated 10.08.2018 issued by SV Pujara & Co., Chartered Accountants with regard to regulation 39(2) of the Regulations.
- l) Copy of all the minutes of 1<sup>st</sup> to 15<sup>th</sup> meetings of the CoC.
- m) Copy of the minutes of the 16<sup>th</sup> meeting of the CoC dated 30.05.2019 and voting report dtd 31.05.2019.

3. It is stated that the Applicant, Mr.Umesh Harjivandas Ved, Resolution Professional (hereinafter referred as RP) was appointed as Interim Resolution Professional vide order of this Bench in CP(IB) 115/7/NCLT/AHM/2017 dated 19.09.2017.

4. It is stated that the application is within the jurisdiction of the bench.

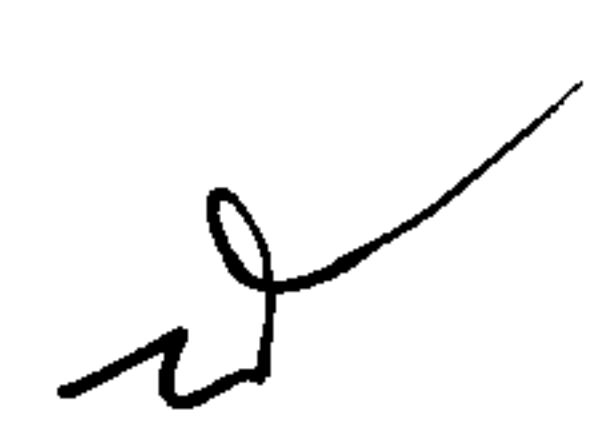


5. It is further stated that the Application is within time as provided under **Section 12** of the Insolvency and Bankruptcy Code, 2016, as the **last date of** completion of the Corporate Insolvency Resolution Process is 180 days from 19.09.2017 as mentioned in Order no.CP(IB) No.115/7/NCLT/AHM/2017 dated 19.09.2017 and hence, 18.03.2018 was the last date. Thereafter, this Adjudicating Authority, vide orders dtd 10.04.2018 passed in I.A. No. 109 of 2018, extended the CIRP period of the Corporate Debtor by a further 90 days, with effect from 18.03.2018. The last date for the completion of the CIRP of the Corporate Debtor was 16.06.2018.
6. Further, the Applicant filed an I.A. No. 219 of 2018 in CP(IB) No. 115/7/NCLT/AHM/2017 under Section 12 and 60(5) of the Insolvency and Bankruptcy Code, 2016, seeking exclusion of standstill period from 13.12.2017 to 12.06.2018 – totalling 182 days from the CIRP period of 270 days. The said IA 219 of 2018 is dealt with along with the main IA 390 in 2019 in accordance with law.
7. It is stated that the Corporate Debtor was incorporated on 06.09.2006 under the Companies Act, 1956 with the Registrar of Companies, Gujarat as a Private Limited Company and is engaged into carry on trading business as merchants, traders, commission, agents, buying agents, selling agents, brokers, adatias, buyers, sellers, imports, exports, dealers, in collectors of and to import, export, buy, sell, barter, exchange or otherwise trading and dealing in commodities such as maize, milo, wheat,



rice, potato, onion, tapioca or any other agricultural produce or food grain product, including the downstream product and all allied product of starches, dextrans and industrial adhesives, of flours, starches and other product for edible purpose, and flour merchants, dealers of cattle foods, feeding and fettering preparation of every description, dealers and/or extractors of oils and/or other products from any oil and in rearing of cattle and to produce and deal in all product and goods related with the above commodities producer, in India or and to undertake, promote and sponsor or assist any activity for the promotion and development of cultivation of maize, milo or other agricultural or food grain products, to conduct and facilitate the research work for cultivation, storage, distribution, improvement in quality of these product and to grow cultivate, purchase, repurchase, resell, imports, export or otherwise dealer in maize, milo and other agriculture or food grains.

8. It is stated that the Applicant issued a public announcement on 22.09.2017 in daily newspaper, website and invited claims from the creditors of the Corporate Debtor. Accordingly, on receiving claims, the COC was constituted on 10.10.2017, which was subsequently revised on 13.10.2017 & 22.11.2017 and first meeting was called on 17.10.2017 and the Applicant was confirmed as the Resolution Professional of the Corporate Debtor on the 5<sup>th</sup> CoC meeting held on 11.06.2018.



9. It is further stated that the Applicant has ensured statutory compliance of all the provisions of the Code and the Rules and Regulations made thereunder. Subsequent to collation of claims, the Applicant filed list of Creditors, which is as follows –
- i. Kataria Energy Solutions Pvt. Ltd.,
  - ii. Roto Flex Textiles (I) Ltd.,
  - iii. Red Carpet Fashions (I) Ltd.,
  - iv. Shreyam Textiles Pvt. Ltd.,
  - v. Viva Style and Fashios (I) Ltd.,
  - vi. Suburban Cooling Towers Pvt. Ltd.,
  - vii. NK Industries Ltd.,
  - viii. State Bank of India,
  - ix. VR Polyfab Pvt. Ltd.,
  - x. Gallops Infrastructure Ltd., and
  - xi. Indiabulls Housing Finance Ltd.,
10. It is further stated that as per the requirements of Section 25(2)(h) of the Code, the Applicant initiated the process of inviting prospective Resolution Applicants for submission of Resolution Plan(s) based on Information Memorandum prepared under Section 29 of the Code for the resolution of the Corporate Debtor, which was also published in daily newspaper dated 06.11.2018, which was revised subsequently on 23.12.2018. Subsequently, M/s.Kataria Automobiles Pvt. Ltd., Resolution Applicant submitted its Resolution Plan confirming its eligibility under Section 29A of the Code. Further, the Resolution Applicant in the 16<sup>th</sup> meeting held by the CoC on 30.05.2019, submitted **Resolution Plan before the CoC** and thereafter, voting was taken by ballot of the Members of the

Committee of Creditors present during the said meeting on the approval of the said Resolution Plan and by e-voting of one member being NK Industries Ltd., which was not present in the said meeting. Thereafter, consolidated e-voting and ballot report dtd 31.05.2019 came to be issued by the Applicant wherein, 74.8526% Members of the Committee of Creditors voted in favour of the approval of the said Resolution Plan.

11. It is submitted that the Resolution Plan for approval is deemed to have been passed within the CIRP 270 days period, hence IA 219 of 2018 was filed seeking exclusion of the duration of the IA 405/2017 & IA 408/2017. Accordingly, this Adjudicating Authority vide orders dtd 20.06.2018 in IA 219 of 2018 has passed order stating that the RP and CoC are at liberty to proceed with the CIRP process during the pendency of IA 219 of 2018 and that the formal order for exclusion/exemption of such period will be considered and passed at the time of disposal of the IA 219/2018. Hence, in the event, the Adjudicating Authority excludes the duration of the pendency of IA 405/2017 and IA 408/2017, where notice came to be issued in IA 405/2017 for the first time on 13.12.2017, then only a period of 85 days would have been utilized qua the CIRP period since the date of admission of the insolvency order is 19.09.2017.
12. The Resolution Professional has also submitted COMPLAINT CERTIFICATE in form 'H' attached before the Adjudicating Authority on 05.02.2020.

The highlights of the Resolution Plan, attached at Annexure -H at page no.154 of the paper book as under:

**“2. The details of the CIRP are as under:**

| Sl. No. | Particulars   | Description  |
|---------|---|--|
| 1       | Name of the CD  | Sadbhav Enterprises Pvt. Ltd.,                             |
|         | Date of Initiation of CIRP  | 19.09.2017   |
|         | Date of Appointment of IRP  | 19.09.2017   |
|         | Date of Publication of Public announcement                        | 22.09.2017   |
|         | Date of Constitution of CoC                                       | 10.10.2017<br>13.10.2017 (Revised)<br>22.11.2017 (Revised) |
|         | Date of Constitution of CoC                                       | 17.10.2017   |
|         | Date of Appointment of RP   | 11.06.2018 (5 <sup>th</sup> CoC meeting)                   |
|         | Date of Appointment of Registered Valuers                         | 03.10.2017   |
|         | Date of Issue of Invitation for EOI                               | 08.10.2018 (Original)<br>24.11.2018 (Revised)              |
|         | Date of Final list of eligible prospective resolution applicants. | 15.11.2018 (Original)<br>02.01.2019 (Revised)              |
|         | Date of invitation of Resolution Plan                             | 06.11.2018 (Original)<br>23.12.2018 (Revised)              |
|         | Late date of submission of Resolution Plan                        | 06.12.2018 (Original)<br>21.01.2019 (Revised)              |
|         | Date of approval of Resolution Plan by CoC                        | 31.05.2019 (Pt. 22 in Application)                         |
|         | Date of filing of Resolution Plan with Adjudicating Authority     | 07.06.2019   |
|         | Date of Expiry of 180 days of CIRP                                | 18.03.2018   |
|         | Date of order extending the period of CIRP                        | 10.04.2018   |
|         | Date of Expiry of extended period of CIRP                         | 16.06.2018   |
|         | Fair value  | Rs. 18,12,15,195.00  |
|         | Liquidation Value   | Rs. 18,12,15,195.00  |
|         | Number of meetings of CoC held                                    | 18   |

It is certified that –

- i. The said Resolution Plan complies with all the provisions of the Insolvency and Bankruptcy Code 2016 (Code), the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP Regulations) and does not contravene any of the provisions of the law for the time being in force.
- ii. The Resolution Applicant (Kataria Automobiles Pvt. Ltd.) has submitted an affidavit pursuant to Section 30(1) of the Code confirming its eligibility under Section 29A of the Code to submit Resolution Plan. The contents of the said affidavit are in order.
- iii. The said Resolution Plan has been approved by the CoC in accordance with the provisions of the Code and the CIRP Regulations made thereunder. The Resolution Plan has been approved **by 74.8526% of voting share of financial creditors** after considering its feasibility and viability and other requirements specified by the CIRP Regulations.

✓



iv. The voting was held in the meeting of the CoC on 30.05.2019 where present members of the CoC voted.

The list of the Financial Creditors of the CD Sadbhav Enterprises Pvt. Ltd., being members of the CoC and distribution of voting share amount them is as under:

| Sr. No. | Name of Creditor                     | Voting Share | Voting for Resolution Plan (Voted for /Dissented/Abstained) |
|---------|--------------------------------------|--------------|---|
| 1       | Kataria Enery Solutions Pvt. Ltd.,   | 1.3470%      | Voted for.  |
| 2       | Roto Flex Textiles (India) Ltd.,     | 1.7413%      | Voted for.  |
| 3       | Red Carpet Fashions (India) Ltd.,    | 0.4019%      | Voted for.  |
| 4       | Shreyam Textiles Pvt. Ltd.           | 1.2055%      | Voted for.  |
| 5       | Viva Style and Fashions (India) Ltd. | 1.1385%      | Voted for.  |
| 6       | Suburban Cooling Towers Pvt. Ltd.,   | 1.3396%      | Voted for.  |
| 7       | N.K. Industries Ltd.,                | 19.8348%     | Voted for.  |
| 8       | State Bank of India                  | 20.4924%     | Voted for.  |
| 9       | V.R.Polyfab Pvt. Ltd.,               | 25.1474%     | Dissented   |
| 10      | Gallops Infrastructure Ltd.,         | 5.3879%      | Voted for.  |
| 11      | Indiabulls Housing Finance Ltd.,     | 21.9639%     | Voted for.  |

6. The Resolution Plan includes a statement under regulations 38(1A) of the CIRP Regulations as to how it has dealt with the interests of all stakeholders in compliance with the Code and regulations made thereunder.

7. The amounts provided for the stakeholders under the Resolution Plan is as under:

| Sr. No. | Category of Stakeholders      | 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       | Secured Financial Creditors   | (a)Creditors not having a right to vote under sub-section (2) of section 21   | N.A.                        | N.A.                        | N.A.                            | N.A.                                      |
|         |                               | (b)Other than (a) above :<br>(i)who did not vote in favour of the Resolution Plan<br>(ii)who voted in favour of the Resolution Plan | (i)N.A.<br>(ii) 8,89,23,428 | (i)N.A.<br>(ii) 8,89,23,428 | (i)N.A.<br>(ii) 8,89,23,428     | (i)N.A.<br>(ii)100%                       |
|         |                               | Total[(a)+(b)]  | 8,89,23,428                 | 8,89,23,428                 | 8,89,23,428                     | 100%                                      |
| 2       | Unsecured Financial Creditors | (a)Creditors not having a right to vote under sub-section (2) of section 21   | N.A.                        | N.A.                        | N.A.                            | N.A.                                      |
|         |                               | (b)Other than (a) above :   | (i)61,53,998<br>(ii)        | (i)61,53,998<br>(ii)        | (i)61,53,998<br>(ii)            | (i) 100%<br>(ii) 100%                     |

|             |                       |  |              |              |              |      |
|-------------|-----------------------|--|--------------|--------------|--------------|------|
|             |                       | (i)who did not vote in favour of the Resolution Plan<br>(ii)who voted in favour of the Resolution Plan | 6,01,27,710  | 6,01,27,710  | 6,01,27,710  |      |
|             |                       | Total[(a)+(b)]   | 6,62,81,708  | 6,62,81,708  | 6,62,81,708  | 100% |
| 3           | Operational Creditors | (a)Related Party of Corporate Debtor   | N.A.         | N.A.         | N.A.         | N.A. |
|             |                       | (b)Other than (a) above<br>(i)Suppliers  | 4,55,70,530  | 4,55,70,530  | 4,55,70,530  | 100% |
|             |                       | Total[(a)+(b)]   | 4,55,70,530  | 4,55,70,530  | 4,55,70,530  | 100% |
| 4           | Other debts and dues  |  | N.A.         | N.A.         | N.A.         | N.A. |
| Grand Total |                       | [1+2+3+4]  | 20,07,75,666 | 20,07,75,666 | 20,07,75,666 | 100% |

8. The interests of existing shareholders have been altered by the Resolution Plan as under:

| Sr. No. | Category of Share Holder | No. of shares held before CIRP | No. of shares held after the CIRP | Voting share (%) held before CIRP | Voting Share (%) held after CIRP |
|---------|--------------------------|--------------------------------|-----------------------------------|-----------------------------------|----------------------------------|
| 1.      | Equity                   | 126720                         | 126720                            | 100%                              | 100%                             |
| 2.      | Preference               | N.A.                           | N.A.                              | N.A.                              | N.A.                             |

10. The CIRP has been conducted as per the timeline indicated as under:

| Section of the Code/<br>Regulation No. | Description of Activity  | Actual Date                                 |
|--|--|---|
| Section 16(1)                          | Commencement of CIRP and Appointment of IRP  | 19.09.2017                                  |
| Regulation 6(1)                        | Publication of Public announcement   | 22.09.2017                                  |
| Section 15(1)(c)<br>/Regulation 12(1)  | Submission of Claims   | 03.10.2017<br>15.11.2017                    |
| Regulation 13(1)                       | Verification of Claims   | 10.10.2017<br>22.11.2017                    |
| Section 26(6A)/<br>/Regulation 15A     | Application for appointment of authorised representative, if necessary   | 10.10.2017                                  |
| Regulation 17(1)                       | Filing of report certifying constitution of CoC  | 10.10.2017<br>13.10.2017<br>22.11.2017      |
| Section 22(1) and<br>Regulation 17(2)  | First meeting of the CoC   | 17.10.2017                                  |
| Regulation 35A                         | Determination of fraudulent and other transactions   | 10.08.2018                                  |
| Regulation 27                          | Appointment of two Registered Valuers  | 03.10.2017                                  |
| Regulation 36(1)                       | Submission of Information Memorandum of CoC  | 17.10.2017                                  |
| Regulation 36A                         | Invitation of EOI  | 08.10.2018(Original)<br>24.11.2018(Revised) |
|  | Publication of Form G  | 08.10.2018(Original)<br>24.11.2018(Revised) |
|  | Provisional List of Resolution Applicants  | 02.11.2018(Original)<br>18.12.2018(Revised) |
|  | Final List of Resolution Applicants  | 15.11.2018(Original)<br>02.01.2019(Revised) |
| Regulation 36B                         | Issue of request for Resolution Plan, which includes Evaluation Matrix and Information Memorandum to Resolution Applicants | 06.11.2018(Original)<br>23.12.2018(Revised) |
| Section 30(6)/<br>Regulation 39(4)     | Submission of CoC approved Resolution Plan   | 07.06.2019                                  |
| Section 31(1)                          | Approval of Resolution Plan  | Order reserved on<br>27.09.2019             |

11. The time frame proposed for obtaining relevant approvals is as under :

N.A.

12. *The Resolution Plan is not subject to any contingency.*

Or

*The Resolution Plan is subject to the following contingencies*

*(i) The RA has provided an undertaking to take into consideration the claim of V.R.Polyfab Pvt. Ltd., as per the decision of the Adjudicating Authority, the amount under contingent provision (Rs.4,66,74,065/-) will replace the amount under existing provision (Rs.61,53,998/-) as mentioned in the application.*

13. *Following are the deviations/non-compliances of the provisions of the Insolvency and Bankruptcy Code, 2016 regulations made or circulars issued thereunder (If an deviation/non-compliances were observed, please state the details and reasons for the same : N.A.*

14. *The Resolution Plan is being filed, before the expiry of the period of CIRP provided in Section 12 of the Code.*

15. *Provide details of Section 66 or avoidance application filed/pending- N.A.*

*No transaction was observed & hence no application made placing reliance on /certificate.”*

The payment of the insolvency resolution process cost, dues of the financial (Secured & Unsecured) & operational creditor (contingent) shall be cost of resolution plan.

C. COST AND MEANS OF RESOLUTION PLAN :  
COST OF RESOLUTION PLAN:

- 1) *Insolvency Resolution Process Cost:*  
*Proposal for payment of the Insolvency Resolution Process Cost in priority to the payment of other debts of the Corporate Debtor and identification of specific sources of funds for payment of the same.*
  - i. *Insolvency Resolution Process Cost:*  
NIL
  - ii. *Identification of specific sources of funds for payment of the same:*  
N.A.
- 2) *Payment of Secured Financial Creditors*
  - i. *Amount:*  
Rs.9,08,25,558/-
  - ii. *Waiver sought:*  
NIL
  - iii. *Details of concessions or reliefs to be sought from Financial Creditor:*  
NIL
  - iv. *Any other terms:*  
NIL
  - v. *Payment schedule of the secured financial creditors:*  
As per their Sanction Letter & calculation shown under Annexure 'B'
  - vi. *Identification of specific sources of funds for payment of the same:*  
Out of the Realisable Trade Receivables and Other Current Assets of the Corporate Debtor and out of the Net Worth of the Resolution Applicant calculation shown under Annexure 'E'.
- 3) *Provisions relating to payment of dues equivalent to the liquidation value of dissenting secured Financial Creditors in priority to consenting Financial Creditors.*
  - i. *Amount*  
Zero. In case of liquidation, Assets Realisable Value would be as under Rs.1,95,83,680/- Trade Receivables – more than 6 months value is Zero & Less than 6 months is Rs.4,31,65,545/- Other current assets – Rs.40,61,580/-
  - ii. *Payment schedule*  
N.A.
  - iii. *Identification of specific sources of*

*funds for payment of the same.*

*N.A.*

- 4) *Proposal for payment of Unsecured Financial Creditors*
- i. *Amount*  
*Rs.6,62,81,708/-*
  - ii. *Waiver sought*  
*NIL*
  - iii. *Details of concessions or reliefs to be sought*  
*To be repaid with 7% p.a. interest payable yearly, i.e. relief of 2% p.a. is sought. 1 year moratorium for all Unsecured Creditors other than VR Polyfab Pvt. Ltd.,*
  - iv. *Any other terms*  
*NIL*
  - v. *Payment schedule*  
*Payable in 7 years in 7 equated instalments to VR Polyfab Pvt. Ltd., and for all other Unsecured Creditors, only interest payable at the end of 1<sup>st</sup> year and subsequently from 2<sup>nd</sup> year onwards payable in 7 years in 7 equated instalments as per calculation shown under Annexure 'C'.*
  - vi. *Identification of specific sources of funds for payment of the same:*  
*Out of the Realisable Trade Receivables and Other Current Assets of the Corporate Debtor and out of the New Worth of the Resolution Applicant calculation shown under Annexure 'E'.*
- 6) *Proposal for payment to Statutory Dues:*
- i. *Amount:*  
*NIL*
  - ii. *Provisions relating to payment of dues equivalent to the liquidation value in priority to consenting Financial Creditors*  
*NIL*
  - iii. *Waiver sought*  
*NIL*
  - iv. *Details of concessions or reliefs to be sought*  
*NIL*
  - v. *Any other terms*  
*NIL*
  - vi. *Payment schedule*



NIL

vii. Identification of specific sources of funds for payment of the same

N.A.

*Means of Resolution Plan*

7) Details of parties that will infuse the capital

i. Mode of infusion:

Non-interest bearing Unsecured Loan/Quasi Equity

ii. Details of the amount of capital infused:

Calculation shown under Annexure 'E'

iii. Time period within which capital will be raised;

Calculation shown under Annexure 'E'

iv. Source of such capital infusion;

Out of the Net Worth of the Resolution Applicant

v. Nature/type of instrument for infusion of contribution into the Corporate Debtor and key terms thereof;

Non-interest bearing Unsecured Loan/Quasi Equity.

vi. Utilization of such capital:

For payment of outstanding dues to Secured Financial Creditors, Unsecured Financial Creditors & Operational Creditors.

8) A statement as to how it has dealt with the interests of all stakeholders, including Financial Creditors and Operational Creditors, of the Corporate Debtor.

| Sr. No. | Class of Creditor                  | Protection     | Remarks  |
|---------|------------------------------------|----------------|--|
| 1.      | Secured Financial Creditors        | 100% Protected | As per terms of their Sanction Letters & Repayment as per Annexure B     |
| 2.      | Unsecured Financial Creditors      | 100% Protected | Reduction in Interest Rate from 9% to 7% & Repayment as per Annexure 'C' |
| 3.      | Operational Creditors              | 100% Protected | Repayment as per Annexure 'D'  |
| 4.      | Statutory Dues                     | 100% Protected | -  |
| 5.      | Unsecured Loans from the Promoters | -              | Not to be repaid during the currency of the Resolution Plan              |

9) Proposal relating to term of the resolution plan along with point-wise timelines for proposed payments and its implementation schedule including:

*[Handwritten mark]*

*[Handwritten signature]*

*Term of Resolution Plan & Timeline of Proposed Payments shown under Annexure 'B', Annexure 'C', Annexure 'D' & Annexure 'E'*

- i. Proposal relating to the management and control of the business of the Corporate Debtor during its term:  
 Mr.Vivek Jain will act as CEO.
  - ii. Proposal relating to adequate means for supervising its implementation:  
 CEO will act under the supervision and control of the Board of Directors of the Resolution applicant.
- 10) Where the Plan provides for acquisition of management control of the company through purchase of shares or issuance of shares or any other medium such that the ownership of the Corporate Debtor moves to the Resolution applicant
- i. Outstanding Debt:  
 Rs.18,45,36,583/- shown under Annexure 'E'
  - ii. All terms and conditions being offered in relation to the outstanding debt including the proposed issuance of/ conversion into financial instruments, whether convertible or non-convertible, including debt, preference shares, debentures, etc.
    - a) Type of Instrument;  
 Debt/Unsecured Debenture
    - b) Amount of the Outstanding Debt to be converted into the relevant instrument;  
 100%
    - c) The substantial acquisition of shares of the Corporate Debtor, or the merger or consolidation of the Corporate Debtor with one or more persons;  
 NIL
    - d) Satisfaction or modification of any security interest;  
 As per terms of sanction
    - e) Curing or waving of any breach of the terms of any debt due from the Corporate Debtor

| Sr. No. | Class of Creditor           | Relief Sought                         |
|---------|-----------------------------|---------------------------------------|
| 1.      | Secured Financial Creditors | NIL                                   |
| 2.      | Unsecured                   | Reduction in Interest Rate from 9% to |

|    |                       |   |
|----|-----------------------|---|
|    | Financial Creditors   | 7% & Repayment Period as per Annexure 'C' |
| 3. | Operational Creditors | Repayment Period as per Annexure 'D'      |

f) Reduction in the amount payable to the creditors:

NIL

g) Extension of a maturity date or a change in interest rate or other terms of a debt due from the Corporate Debtor:

| Sr. No. | Class of Creditor             | Relief Sought   |
|---------|-------------------------------|---|
| 1.      | Secured Financial Creditors   | NIL   |
| 2.      | Unsecured Financial Creditors | Reduction in Interest Rate from 9% to 7% & Repayment Period as per Annexure 'C' |
| 3.      | Operational Creditors         | Repayment Period as per Annexure 'D'  |

h) Amendment of the constitutional documents of the Corporate Debtor

NIL

i) Issuance of securities of the Corporate Debtor, for cash, property, securities, or in exchange for claims or interests or other appropriate purpose;

NIL

j) Change in portfolio of goods and services produced or rendered by the Corporate Debtor.

NIL

k) Change in technology used by the Corporate Debtor

NIL

l) Obtaining necessary approval from the Central and State Governments and other authorities

N.A.

13. **IA 219 of 2018 in CP(IB) 115 of 2017** - The said application is filed under Section 12 & 60(5) of the IBC, 2016 r.w. Rule 11, 15, 51 & 153 of the NCLT Rules and Regulation 40 of the Insolvency and Bankruptcy Board of India of India (Insolvency

Resolution Process for the Corporate Person) Regulations, 2016 and Section 15 of the Limitation Act, 1963 for seeking order for exclusion of standstill period (i.e. from 13.12.2014 to 12.06.2018 totalling 182 days) from the CIRP period of 270 days.

14. Further, the said application also seeks for ratification of the period of tenure of IRP and for the extended period of working the role of IRP be considered as RP in the overall interest of justice till the final outcome of the present application.
15. Further, following reasons have been given by the RP for providing for exclusion of standstill period beyond the 270 days.

It is submitted that the intent of the Code is to resolve the CD and not liquidation, as the basic purpose is to keep the **CD as a going concern**. It is submitted that substantial time of the CIRP was non-functional and no business was transacted due to conflicting situation. It is submitted that statutory period of 270 days would expire on 16.06.2018 and if standstill time of 182 days is not excluded from the 270 days, then the CD would automatically go into liquidation, where there is chance of the revival, which per-se is not the object of the Code. It is submitted that the provisions of Section 12, 14 and 15 of the Limitation Act, 1963 permits for exclusion of time consumed in legal proceedings before the court of law. Further, the Applicant has also referred to the various views of the coordinate benches of the NCLT in support of his contentions.

Accordingly, the Applicant has sought the following reliefs – “a) To allow the present application; b) To pass an appropriate order under Section 12 read with Section 5 of the Code read with Section 15 of the Limitation Act, 1963 read with Rule 11, 15, 51 & 153 of the NCLT Rules for exclusion of standstill period of 182 days falling between 13.12.2017 to 12.06.2018 should not be counted for any purpose and therefore has to be excluded from total CIRP period of 270 days; c) To note the decision of the CoC taken in the 5<sup>th</sup> meeting of CoC held on 11.06.2018, that IRP will continued as RP; d) To grant any other relief or reliefs as may deem fit in the interest of justice.”

16. On **IA 219 of 2018** in CP 115 of 201 moved by the Resolution Professional seeking exclusion of standstill period of 182 days falling between 13.12.2017 to 12.06.2018 and not be counted for any purpose and to be excluded from total CIRP period of 270 days; **this Bench, looking at the resolution passed by the Committee of Creditors (CoC) in the 4<sup>th</sup> meeting held on 12.05.2018 for such exclusion** of 182 days from total CIRP period of 270 days, on the ground that the entire process could not be proceeded and remained stand still for the intervening period and major decision of inviting Resolution Plan could not be taken and the Applicant herein has acted as IRP for the entire period, hereby provide exclusion of standstill period of 182 days falling between 13.12.2017 to 12.06.2018 as envisaged under sub-section 3 of Section 12 of the Insolvency and Bankruptcy Code. Accordingly, this **IA 219 of 2018 is hereby allowed.**



17. Further, the Resolution Professional prays for the following reliefs:

(1) *Pass appropriate order approving the resolution plan of the Resolution Applicant, Kataria Automobiles Pvt. Ltd. qua Sadbhav Enterprises Pvt. Ltd., (the Corporate Debtor); and Pass any other order(s) that this Hon'ble Adjudicating Authority deems fit.*

**ORDER**


18. Having gone through the documents, papers, materials submitted and on record, this Adjudicating Authority is of the opinion that the Resolution Plan as approved by the Committee of Creditors under Sub-Section (4) of Section 30 of Insolvency and Bankruptcy Code, 2016 meets the requirement as referred in Section 30 of Insolvency and Bankruptcy Code, 2016 Sub Section (1), (2), 2a, 2b, 2c, 2d, 2e, 2f, (3), (4), (5) & (6) and has provisions for its effective implementation.


Hence, this Adjudicating Authority **is hereby approved the Resolution Plan submitted by the Resolution Professional** as approved by the CoC. This Resolution Plan is now **binding on the Corporate Debtor and its employees, members, creditors, guarantors and other stakeholders** involved in the **Resolution Plan from today.**



19. The moratorium order passed by this Adjudicating Authority on 19.09.2017 is **ceased to have effect** from today i.e. 24.02.2020
  
20. The Resolution Professional shall handover the charge of the Corporate Debtor to M/s.Kataria Automobiles Pvt. Ltd., Resolution Applicant of the Corporate Debtor immediately.  
All the records, books of accounts, assets, documents and agreements shall be handover to M/s.Kataria Automobiles Pvt. Ltd., the Resolution Applicant for the Corporate Debtor.
  
21. The Resolution Professional is directed to forward all records relating to the conduct of the Corporate Insolvency Resolution Process and the Resolution Plan to the Insolvency Bankruptcy Board of India for their record/database.
  
22. The Resolution Professional is also directed to file a compliance report of the above directions with this Registry at the earliest and thereafter the Resolution Professional is discharged from this Corporate Insolvency Resolution Process from the date of filing of the compliance report with this Registry.
  
23. The Registry is hereby directed to communicate the authenticate copy of this order to the Resolution Professional, Corporate Debtor, Resolution Applicant, Operational Creditor, IBBI and Registrar of the Company at the earliest through Speed Post/Registered Post.

24. Thus, the present **I.A. No. 390 of 2019 in C.P. (I.B.) No. 115/7/NCLT/AHM/2017** filed under Section 30(6) of the Insolvency and Bankruptcy Code, 2016 for the acceptance of the Resolution Plan **stands disposed of with the above directions and observations.**

  
**(Prasanta Kumar Mohanty),  
Adjudicating Authority  
Member(T)**

  
**(Harihar Prakash Chaturvedi),  
Adjudicating Authority  
Member(J)**

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