

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT - 2

ITEM No.304

IA/1248(AHM)2023 in CP(IB)/216(AHM)2022

Order under Section 30(6) & 31 IBC r.w Reg. 39(4) of IBBI Regulations, 2016

IN THE MATTER OF:

Jigar Bhatt RP Of Tribesmen Graphics Private
Limited

.....Applicant

Order delivered on: 22/03/2024

Coram:

Mrs. Chitra Hankare, Hon'ble Member(J)

Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)

ORDER

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

Sd/-

DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

Sd/-

CHITRA HANKARE
MEMBER (JUDICIAL)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
AT AHMEDABAD BENCH (COURT- II)**

IA No./1248 / AHM / 2023

**IN
CP (IB) No./216 / AHM / 2022**

[Application for Approval of Resolution Plan under Section 30(6) r.w. Section 31 of the Insolvency & Bankruptcy Code, 2016 r.w. Regulation 39(4) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016]

IN THE MATTER OF:

Mr. Jigar Bhatt
Resolution Professional of
M/s.Tribesmen Graphics Private Ltd.
Office at: 1012, Shilp - Zaveri,
Shyamal Cross Road, Satellite, Ahmedabad-380015

...Applicant

MEMO OF PARTIES

IN THE MATTER OF:

Mr. Jigar Bhatt
Resolution Professional of
M/s.Tribesmen Graphics Private Ltd.
Office at: 1012, Shilp - Zaveri,
Shyamal Cross Road, Satellite, Ahmedabad-380015

....Applicant

IN THE MATTER OF:

M/s. Meera Garments
Having an office at:

2/22C, Selvalakshmi Nagar,
Chettipalayam P.O. Angeripalayam Road,
Tirupur - 641603, TamilNadu

...Operational Creditor

Versus

Tribesmen Graphics Private Limited
B- 602, 6th Floor, ATMA House,
Opp. Old RBI, Ashram Road,
Ahmedabad-380009, Gujarat

...Corporate Debtor

Order Pronounced on: 22/03/2024

Coram:

Mrs. Chitra Hankare, Hon'ble Member (J)

Dr. Velamur G. Venkata Chalapathy, Hon'ble Member (T)

Appearance:

**For the Applicant: Mr. Arjun Seth, Adv. a.w. Mr. Rajiv
Chawla, Adv.**

For the Respondent: None Present

JUDGMENT

1. This application has been filed by Mr. Jigar Bhatt, Resolution Professional of M/s. Tribesmen Graphics Private Limited under section 30(6) read with Section 31 of Insolvency & Bankruptcy Code, 2016 (hereinafter referred to as **IBC, 2016**) read with Regulation 39(4) of the Insolvency and

Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (hereinafter referred to as “**CIRP Regulations**”) for approval of the Resolution Plan along with the Scheme of Merger submitted by the Jagdushah International Private Limited/Successful Resolution Applicant(hereinafter referred to as “**SRA**”).

2. The facts, in brief, are that vide order dated 23.01.2023 the Corporate Debtor was admitted into CIRP, in an application filed by the Operational Creditor, namely, M/s Meera Garments. u/s 9 of the IB Code, triggering moratorium under section 14 of the IB Code and Mr. Darshan Bharatbhai Patel was appointed as Interim Resolution Professional (hereinafter referred to as “IRP”), who made a public announcement in Form-A on 28.01.2023.
3. After collating the claims received from the creditors of the Corporate Debtor, the IRP formed the CoC comprised of two Financial Creditors, viz. Zed Chem Pvt. Ltd. with 99.80 % voting share and Shriram Finance Ltd. with 0.20% voting share.
4. The 1st CoC meeting was held on 21.02.2023, wherein the members of COC had resolved to replace the IRP with

Resolution Professional - Mr. Jigar Tarunkumar Bhatt (hereinafter referred to as RP) and the same was appointed by this Authority on 14.03.2023.

5. The 2nd CoC meeting was held on 22.03.2023 and after detailed deliberation and considering the nature of the business and assets of the Corporate Debtor, the resolution was passed by the CoC for issuance of EoI in Form - G and the same was published on 24.03.2023.
6. The 3rd CoC meeting was held on 13.05.2023, wherein the RP informed that 14 EoIs was received in response to the publication of Form -G and applicant received documents from two Prospective Resolution Applicants (PRA's) with earnest money deposits and undertakings. In the same meeting, the Information Memorandum, terms of the Request for Resolution Plan and Evaluation Matrix were approved by the CoC and also accorded their consent to the RP for re - issuance of EOI in Form - G and the same was published on 16.05.2023.
7. The 4th CoC meeting was held on 12.07.2023 wherein the RP informed that there are three Prospective Resolution Applicants who are in the process of submitting the

resolution plan and one of the Prospective Resolution Applicant (PRA) has requested for extension of timeline for the submission of Resolution Plan and the same was approved by the CoC giving additional time of two weeks for the submission of Resolution Plan for all PRAs.

8. The CIRP period was extended for a further 90 days by this Authority vide order dated 09.08 2023 with effect from 22.07.2023.
9. The 5th CoC meeting was held on 26.07.2023 wherein the RP informed that he had received two Resolution Plans from Mr. Sunil Kumar Kabra of Novatis Finovative Limited and Jagdushah International Private Limited.
10. The 6th CoC meeting was held on 18.08.2023 wherein RP informed the CoC members that he had vetted both the Resolution Plans and presented the summary of commercials and regulatory compliances before the CoC. The Applicant further informed members that queries and clarifications required in the plan will be put up to PRAS for consideration. The RP submitted that after the discussion, the CoC had requested to the PRA's to submit the revised offer with in the given timelines.

11. The 7th CoC meeting was held on 12.10.2023 wherein the RP informed the CoC that Revised Resolution Plans are submitted by both the PRA's i.e. Mr. Sunil Kumar Kabra and Jagdushah International Private Limited. The RP in the same CoC meeting presented the highlights of the commercials of both the Revised Resolution Plan and submitted all resolution plans as per the provisions of sub-regulation (2) of Regulation 39 of the IBBI (Insolvency Resolution for Corporate Persons) Regulations, 2016. The RP in the said CoC meeting informed members that one of the PRA i.e. Jagdushah International Private Limited has not improved the plan amount and has submitted the same commercial offer in the revised Resolution Plan, however, all the queries pertaining to the Resolution Plan are addressed. The Applicant then presented the revised Resolution Plan received from PRA i.e. Mr. Sunil Kumar Kabra and stated that Mr. Sunil Kumar Kabra has modified the Resolution Plan with an improved commercial offer along with a revised Resolution Plan and resolved the queries which were raised by the RP after vetting of such plan. In the same meeting, a comparative analysis of both the Resolution Plans along with

scoring parameters as per approved Evaluation Matrix with compliances as per the requirement of the Code for both the Resolution Plans were also presented by the RP.

12. The CoC members examined both the Resolution Plans to exercise commercial wisdom. After a detailed discussion on the plans, members deliberated upon the feasibility and viability of each of the plans and the capability of Resolution Applicants to revive the Corporate Debtor and stated that PRA Mr. Sunil Kumar Kabra is not having similar industry background coupled with amount offered under the plan is also on a very lower side in commercial terms in comparison to the Resolution Plan submitted by Jagdushah International Private Limited which is also having experience of similar industry as of Corporate Debtor. The CoC expressed their views that Resolution Plan submitted by Jagdushah International Private Limited is viable prospect of going ahead and likely to be implemented smoothly considering the evaluation matrix score and other parameters of feasibility and viability of the plan as per the provisions of sub-regulation (3) of Regulation 39 of the IBBI (Insolvency Resolution for Corporate Persons) Regulations, 2016.

13. In the same meeting, the Revised Resolution Plan submitted by Jagdushah International Private Limited was approved by the CoC with a 99.80% voting share. The following are the salient features of the Revised Resolution Plan submitted by Jagdushah International Private Limited/SRA and approved by the CoC of the Corporate Debtor:

- i. The proposed resolution plan amount is Rs. 72 Lakhs and the Resolution Plan amount will be paid within 90 days of the effective date; As per the Resolution Plan offered value of Rs 72 lakhs is more than the Fair value is Rs. 4,73,940/- (stated in Form -H) and Liquidation value is Rs. 4,73,940/- of the corporate debtor.
- ii. The amount of Rs. 72 Lakhs would be utilized to pay i) Insolvency Resolution Process Cost in the manner mentioned in Clause 5.3 of the Revised Resolution Plan, ii) Dues of the unsecured financial creditors in the manner mentioned in Clause 5.4 of the Revised Resolution Plan and iii) Dues of Operational Creditor mentioned in Clause 5.5 of the Revised Resolution Plan.
- iii. The SRA also propose to implement the scheme of merger as a part of the Resolution Plan. The SRA propose to

merge the Corporate Debtor into SRA as per the provisions of section 230-232 of the Companies Act, 2013 and seeks prayer from this Authority for approving the merger of the Corporate Debtor with the SRA along with the approval of Resolution Plan.

- iv. The Resolution Applicant proposes to raise funds from its own sources as well as by getting a loan from its Director more particularly mentioned in Clause 6.5 of the Revised Resolution Plan.
 - v. The Resolution Applicant has sought relief from this Authority as set out in Clause 15 of the Revised Resolution Plan.
14. The Revised Resolution Plan and an affidavit under section 29A of the Code submitted by SRA are attached with the application. The Compliance Certificate in Form – H along with the proof of performance security in the form of a Fixed Deposit of Rs. 25 lakhs is also attached to the application.
 15. It is submitted by the RP that the approved Resolution Plan is compliant with the requirements of section 30(2) of the Code read with Regulation 38 of the CIRP Regulations, 2016 and the SRA is eligible to submit Resolution Plan.

16. We have heard learned counsel for the applicant and perused the material available on record. It is noted that Form- H has been filed by Resolution Professional giving details of compliances as required under provisions of Sections 30 r.w. 31 of the Code. The SRA has proposed to pay the Unsecured Financial Creditors Rs.50 lakhs (8.11%) against its total admitted claim of Rs.616.57 lakhs. The amount of Rs. 5 lakhs has been proposed in the Resolution Plan to pay to the Operational Creditor against the total admitted claim of Rs.581.68 lakhs. It is also noted that as per clause 3.3 of the Resolution Plan regarding the liability of workers and employees of the Corporate Debtor is Nil as of the CIRP commencement date and further noted that as per clause 3.4 of the Resolution Plan regarding dues of the Central and State government, no claims received till date. It is also mentioned in the compliance certificate in Form-H filed by the RP that no PUFEE applications are filed and we also noted that there are no other IAs pending in this matter, as recorded in the daily order dated 09.01.2024. The net worth of the Resolution Applicant is assessed as per the certificate of CA as on 31st March, 2022 at Rs. 2.13 crores.

17. It is further noted that an affidavit as regards the eligibility of the resolution applicant under Section 29A along with the undertaking of the SRA to this effect has been filed. We have also perused the contents of the resolution plan, we are of the view that Regulations 36 to 39 of CIRP Regulations, 2016 have been complied with. We further noted that the Resolution Plan complies with all requirements under Section 30(2)(b) of IBC, 2016. We also find that the Resolution Plan also contains measures to run the Corporate Debtor in future and that the Resolution Plan is both feasible and viable as held by CoC and it also contains provisions for its effective implementation.

Hence, we pass the following order:

ORDER

- I. Application is allowed.
- II. The approved 'Resolution Plan' shall become effective from the date of passing of this order.
- III. The order of moratorium dated 23.01.2023 passed by this Adjudicating Authority under Section 14 of IBC, 2016 shall cease to have effect from the date of this order.

- IV. The Resolution Plan so approved shall be binding on the Corporate Debtor and its employees, members, creditors, guarantors and other stakeholders involved in the Resolution Plan.
- V. The monitoring committee as proposed in clause 7.1 of the resolution plan shall be constituted for supervising the effective implementation of the Resolution Plan.
- VI. The Resolution Professional, Mr. Jigar Tarunkumar Bhatt, shall be released from the duties of the Resolution Professional of the Corporate Debtor as per the provisions of the IBC, 2016 and rules/regulations made thereunder from the date of this order.
- VII. The Resolution Professional shall forward all records relating to the conduct of the corporate insolvency resolution process and approved Resolution Plan to the Insolvency and Bankruptcy Board of India to be recorded in its database.
- VIII. As regards various reliefs and concessions which are being sought, we hereby grant the following reliefs and concessions only as against reliefs and concessions claimed by the resolution applicant.

- IX. After the payment of the dues to the creditors, as per the resolution plan, all the liabilities/claims of the said stakeholders shall stand extinguished and other claims including Government/Statutory Authority, whether lodged during CIRP or not, shall stand extinguished after approval of the resolution plan.
- X. From the date of this order, all claims against the Corporate Debtor, except those provided in the plan of the Corporate Debtor stand extinguished.
- XI. From the date of this order, all encumbrances on the assets of the Corporate Debtor before the Resolution Plan shall stand extinguished. No reliefs and concessions are granted to guarantee if any issued by the suspended management in an individual capacity to any of the creditors.
- XII. For reliefs and concessions sought from the Government / Statutory Authorities, we direct the resolution applicant to approach the concerned Authorities. The concerned Authorities are to consider and decide the matter as per applicable provisions of law for effective implementation of the Resolution Plan.

- XIII. As regards reliefs prayed under various provisions of the Income Tax Act, 1961, the Corporate Debtor/ Resolution Applicant may approach the Income Tax Authorities who shall take a decision on relief and concessions sought by the resolution applicant in accordance with the provisions of the Income Tax Act, 1961.
- XIV. The Resolution Applicant shall be entitled to review, revise or terminate any appointments / agreements / understanding entered into by or on behalf of the Corporate Debtor in accordance with the terms and conditions of such agreements / MoUs / contracts.
- XV. The management of the Corporate Debtor shall be handed over to the Board of Directors as may be nominated by the SRA for the proper running of the operations /business of the Corporate Debtor.
- XVI. The Board of Directors of the Corporate Debtor shall also be reconstituted and procedural compliances shall be done to give effect to such reconstitution.
- XVII. The SRA shall, pursuant to the Resolution Plan approved under Section 31(1) of the Code, obtain 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 vide this order or within such period as provided for in such law, as the case may be.

- XVIII. All the approvals of shareholders/members of the Corporate Debtor shall be deemed to have been obtained and the provisions made in the Resolution Plan as regards the restructuring of capital shall be binding on them. The reliefs sought by way of approval of the Resolution Plan along with merger of the Corporate Debtor with the SRA under Section 230-232 of the Companies Act, 2013 will be filed a separate application after obtaining necessary approvals in this Plan.
- XIX. No approval is given at this stage by way of this order regarding to merger of the Corporate Debtor with SRA and filed a separate application with Audited Financial Statements of both Companies may be submitted for the approval.
- XX. With respect to the grant of license/ Government approval, if the license or approval is terminated, suspended or revoked, the resolution applicant may approach the concerned Department/ Authorities for such approval/ renewal and Government Authorities may consider the request of the

resolution applicant as per applicable provisions of law for effective implementation of the resolution plan.

XXI. A certified copy of this order be issued to all concerned parties upon compliance of all requisite formalities.

XXII. Accordingly, IA No. 1248 of 2023 in CP (IB) No. 216 of 2022 is disposed of.

Sd/-

**DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)**

Sd/-

**CHITRA HANKARE
MEMBER (JUDICIAL)**