

**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
(COURT NO. II)**

**IA/455/2021
IN
CP (IB) 400/NCLT/AHM/2019**

[Application under Section 30, 31 and other applicable provisions of the Insolvency & Bankruptcy Code, 2016 read with Regulation 39 of IBBI (Insolvency Resolution Process for Corporate Persons), 2016]

**In the Matter of
Mataji Dyeing Mills Pvt. Ltd.
(Under CIRP)
Through Resolution Professional
Ms. Neelam Modi**

...Applicant

**In the Matter of
Manoj Kumar & Co.**

...Operational Creditor

Versus

Mataji Dyeing Mills Pvt. Ltd.

...Corporate Debtor

Order Pronounced On: 05/08/2022

**Coram:
DR. DEEPTI MUKESH,
HON'BLE MEMBER (JUDICIAL)
AJAI DAS MEHROTRA,
HON'BLE MEMBER (TECHNICAL)**

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MEMO OF PARTIES

Ms. Neelam Modi
Resolution Professional of
M/s Mataji Dyeing Mills Pvt. Ltd.
R/o Bakhtawar Mal Ji Ka Bagh,
Chopasani Road, Near Jalori Gate,
Jodhpur, Rajasthan-392001.

...Applicant

Appearance:

For the Applicant Anurag Bhatt, Adv.

ORDER

1. This application has been filed by **Ms. Neelam Modi**, Resolution Professional of M/s Mataji Dyeing Mills Pvt. Ltd. under Section 30, 31 and other applicable provisions of the Insolvency & Bankruptcy Code, 2016 (hereinafter referred to as “**Code**”) read with Regulation 39 of IBBI (Insolvency Resolution Process for Corporate Persons), 2016 (hereinafter referred to as “**CIRP Regulations**”) for approval of the Resolution Plan.
2. The facts in brief are that the Corporate Debtor M/s Mataji Dyeing Mills Pvt. Ltd. was admitted into CIRP by this Adjudicating Authority vide order dated 07.10.2020, in an application filed by the operational creditor (Mr. Manoj Kumar Lakhera, Proprietor of M/s. Manojkumar & Company) u/s 9 of the IBC, 2016 wherein the moratorium was declared, under section 14 of the Code. Mr.

Satyendra Prasad Khorania was appointed as Interim Resolution Professional (hereinafter referred to as “**IRP**”), who made a public announcement in Form-A on 10.10.2020 and constituted a Committee of Creditors (hereinafter referred to as CoC) comprising of 2 Financial Creditors namely, Punjab National Bank and Hero Fincorp Ltd.

3. It is submitted by the applicant that the CoC in its 2nd Meeting held on 23.11.2020 resolved to replace the IRP, Mr. Satyendra Prasad Khorania, by the resolution professional (hereinafter referred to as “**RP**”), Ms. Neelam Modi and replacement was confirmed vide order dated 15.01.2021. The registered valuer was appointed as per 3rd CoC meeting held 04.06.2021 and invitation for Expression of Interest (EOI) through Form-G was published on 20.12.2020. The resolution professional received 5 EOIs and only 3 were eligible to submit the resolution plan as per the criteria decided by the CoC in its 4th meeting. The final list of eligible resolution applicants was issued on 29.01.2021 and the last date of submission of the Resolution Plan was fixed on 18.02.2021.
4. In the 6th CoC meeting held on 08.03.2021, Resolution Professional informed to the CoC members about reconstitution of the CoC on 01.02.2021 by the resolution professional after verification of the documents of the claim received from Bajaj Finance Ltd and determined the voting rights as per regulation 17 of the CIRP Regulations comprising of 3 members namely, i. Punjab National Bank; ii. Hero Fincorp Limited and iii. Bajaj Finance Limited. Resolution Professional informed to the CoC that 2 resolution plans were received from

the prospective resolution applicants namely, i. Mr. Achal Chand Balar; ii. Padam Shree Fabric through its Proprietor Mr. Dhanesh Jain.

5. The 7th CoC meeting was held on 18.03.2021, wherein both resolution plans were discussed by the CoC members received from the Prospective Resolution Applicants. Further, the members of the CoC advised to the prospective resolution applicants('PRAs') to submit revised resolution plans. In this meeting CoC passed the resolution for seeking extension of the CIRP period of corporate debtor by further period of 90 days as 180 days expired on 5th April 2021. IA 264 of 2021 was filed for extension of CIRP period, and the same was allowed by the Adjudicating Authority vide order dated 07.04.2021.
6. The applicant submitted that the CoC in its 8th meeting held on 07.04.2021, received revised resolution plan from the Prospective Resolution Applicants which were discussed by the CoC members.
7. The applicant received the valuation reports from the registered valuers wherein the Fair Value and Liquidation Value are ₹7,82,97,563/- and ₹6,12,92,272/-, respectively.
8. It is submitted by the applicant that 9th CoC meeting was held on 12.05.2022, wherein, the resolution professional, placed the resolution plan of Mr. Achal Chand Balar (prospective resolution applicant) before the CoC for the approval. The members of the CoC rejected the resolution plan of Mr. Achal Chand Balar by 100% voting. Thereafter, the resolution professional placed the resolution plan of prospective resolution applicant, i.e., Padam Shree Fabric

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before the CoC. The members of the CoC discussed on the resolution plan at length and approved the same unanimously with 100% voting. The CoC further resolved and directed to resolution professional to issue letter of intent ('LOI') to the successful Resolution Applicant, viz Padam Shree Fabric and obtain the performance guarantee as per the resolution plan. The LOI has issued by the resolution professional on 13.05.2021 in favor of the successful resolution applicant and the copy of LOI and copy of the 9th CoC meeting are annexed with the present application.

9. It is further submitted by the Applicant RP that the resolution plan is in compliance with provisions of Section 30(2) of IBC, 2016 and Regulation 38 (3A) of the CIRP Regulations.
10. The amount provided for the stakeholders under the Resolution Plan is as under:

(Amount in Rs.)

Sl. No.	Category of Stakeholder*	Amount Claimed	Amount Admitted	Amount Provided under the Plan#	Amount Provided to the Amount Claimed (%)
1	Secured Financial Creditors	9,82,46,479/-	9,54,82,394/-	6,11,08,732/-	64%
2	Unsecured Financial Creditors	25,16,514/-	23,19,726/-	4,63,945/-	20%
3	Operational Creditors- Amount for services/work	94,18,834/-	75,49,882/-	3,77,494/-	5%
	Operational Creditors- Interest & Compensations		-	-	0%

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	Operational Creditors-Related Parties		-	-	-
	Government (Greater Mohali Development Authority)		-	-	-
	Workmen		-	-	-
	employees		-	-	-
		-	-	-
4	Other Debts and Dues		-	-	-
Total		11,01,81,827/-	10,53,52,002/-	6,19,50,171/-	-

*If there are sub-categories in a category, add rows for each sub-category.

#Amount provided over time under the Resolution Plan and includes estimated value of non-cash components. It is not NPV.

11. It is noted that Form-H has been filed by Resolution Professional. The total claim amount admitted by the resolution professional from all stakeholders was Rs. 10,53,52,002/- and resolution applicant has committed for payment to all the stakeholders Rs. 6,19,50,171/-. The resolution plan, without CIRP cost, is higher than the liquidation value. It is stated in the resolution plan that as per the clause 'VI a' of 'page 9' of the resolution plan, resolution applicant shall pay the actual CIRP cost, as ratified by the CoC within 30 business days from the effective date. Resolution plan is annexed as annexure A-13 with the application.
12. The Resolution Applicant furnished the performance guarantee of Rs. 1,23,14,535.00/- as per terms under LOI within 10 days, in accordance with the provisions contained in Regulation 36B(4A) of the CIRP Regulations, 2016.
13. As recorded in the order dated 01.11.2021 that notice has been served by the

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applicant to the Income Tax Department and suspended Management of the corporate debtor, but no objection is received by the applicant.

14. During the hearing, while perusing the resolution plan, various clarifications were sought by the Bench vide order dated 20.04.2022, in respect of funding/financing of the resolution applicant under resolution plan. In response to queries, learned counsel for the applicant filed the affidavit and clarified about the query raised by the Bench in the following manner:

- i. For the purpose of acquiring the corporate debtor, the resolution applicant has been provided with the comfort letter to the tune of Rs. 542.75/- lakhs for grant of term loan issued by the Punjab National Bank dated 13.05.2022.
- ii. Fixed Deposit Receipts already made by the Resolution Applicant for Rs. 246.44/- lakhs as is mentioned in the letter issued by the Punjab National Bank dated 13.05.2022.
- iii. The net worth of the Resolution Applicant proprietary firm and his family is to the tune of Rs. 175/- lakhs as on March 31st, 2020. Copy of the net worth certificate is also annexed.

15. Vide order dated 31.05.2022, the Bench directed to the resolution applicant and resolution professional to file a statements/details describing the raising of the funds for the implementation of the resolution plan. In the compliance of the order, the learned counsel for the applicant filed the affidavit on 17.06.2022 providing the details and sources of the funds, which shall be

used by the resolution applicant to fulfill the commitments under the resolution plan. The details of the infusion of funds are as under:

S.No.	Amount to be infused (INR)	Timeline	Source
1.	1,53,52,861	30 days	Approved Term Loan vide letter dated 08.06.2022 for an amount of Rs. 542.75 Lakhs
2.	2,40,33,344	75 days	Approved Term Loan vide letter dated 08.06.2022 for the amount of Rs. 542.75 Lakhs
3.	2,40,33,344	90 days	Approved Term Loan vide letter dated 08.06.2022 for the amount of Rs. 542.75 Lakhs and FDRs in the name of the resolution applicant for the amount of Rs. 1,73,00,000/-
4.	3,16,00,000	After payment to all the creditors	FDRs in the name of the resolution applicant and approved term loan of Rs. 124 lakhs dated 13.05.2022
5.			FDR for an amount of Rs. 1,28,44,094/- dated 22.11.2021

16. Heard submissions and perused documents placed on record. Based upon the contents of the Plan, it was submitted that Resolution Plan approved by CoC complies with all the requirements of Section 30(2) of IBC, 2016 and relevant regulations made thereunder. In the Resolution Plan with respect to

concessions sought by Resolution Applicant we rely on the judgement of the Hon'ble Supreme Court in the case of ***Ghanashyam Mishra and Sons Private Limited Vs. Edelweiss Asset Reconstruction Company Limited and Ors.*** (Civil Appeal No. 8129 of 2019) dated 13.04.2021 which is reproduced hereinbelow:

“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.....”

17. It is further noted that certificate regarding the eligibility of resolution applicant under Section 29A alongwith undertaking of the Resolution Applicant to this effect has been filed. We have also perused the contents of Resolution Plan, we are of the view that all requirements provided under Section 30(2) of IBC, 2016 and Regulation 36 to 39 of CIRP Regulations, 2016 have been complied with. We also find that the Resolution Plan addresses the key challenges and trends in industries, implementation schedule and monitoring of the resolution plan and also contains measures to run the Corporate Debtor in future. Accordingly, we are satisfied to

approve and allow the application. The Resolution Plan is approved with following order:

- I. The approved 'Resolution Plan' shall become effective from the date of passing of this order.
- II. The order of moratorium dated 07.10.2020 passed by this Adjudicating Authority under Section 14 of IBC, 2016 shall cease to have effect from the date of this order.
- III. 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.
- IV. The monitoring committee as proposed in point IX page 17(page No. 108 of the application) of the resolution plan shall be constituted for supervising the effective implementation of the Resolution Plan.
- V. The Resolution Professional, Ms. Neelam Modi, 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.
- VI. The Resolution Professional shall forthwith send a copy of this Order to the participants and the resolution applicant(s).
- VII. 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.

VIII. As regards to various reliefs and concessions which are being sought, we hereby grant the following reliefs and concessions:

- a) After the payment of the dues to the creditors, as per the resolution plan, all the liabilities of the said stakeholders shall stand extinguished and other claims including Government/Statutory Authority, whether lodged during CIRP or not, shall stand extinguished after the approval of the resolution plan. We further hold that contingent/unconfirmed dues shall also stand extinguished;
- b) From the date of this order, all claims except those provided in the plan of the Corporate Debtor shall stand extinguished.
- c) From the date of this order, all encumbrances on the assets of the Corporate Debtor before the plan shall stand extinguished.
- d) For reliefs and concessions sought from the Government/Statutory Authorities including environmental clearance as well as stamp duty, we direct the resolution applicant to approach the concerned Authorities. The concerned Authorities may decide the matter as per applicable provisions of law for effective implementation of the Resolution Plan.

- e) As regard to 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 Income Tax Act, 1961.
- f) The management of the Corporate Debtor shall be handed over to the Board of Directors as may be nominated by the resolution applicant for proper running and operations of the business of the Corporate Debtor;
- g) The Board of Directors of the Corporate Debtor shall also be reconstituted and procedural compliances shall be done to give effect to such reconstitution;
- h) The resolution applicant 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 by the Adjudicating Authority under Section 31 or within such period as provided for in such law, whichever is later, as the case may be;
- i) 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 regard to the restructuring of capital shall be binding on them. For concession of stamp duty as prayed in the resolution plan, the resolution applicant may approach the concerned Government Authority.

- j) With respect to the grant of license/ Government approval if the license or approval is terminated, suspended and 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.

18. It is noted from records of the matter that application bearing IA 613 of 2021 filed by the resolution professional under Section 43 & 66 read with Section 25(2)(J) and any other applicable provision of the Insolvency and Bankruptcy Code, 2016 for seeking appropriate directions for avoidance of certain transactions entered by the corporate debtor and consequential directions, are pending before this Adjudicating Authority listed on 28.07.2022. If any amount is realized on disposal of the above pending application, the same shall be distributed among the creditors as per provisions of section 53 of the Code.

19. Accordingly, IA 455 of 2021 is allowed in the terms of above directions and stands disposed of.

20. An urgent certified copy of this order, if applied for, is to be issued to all concerned parties upon compliance with all requisite formalities. Resolution professional to forward records to IBBI as per provisions of the section 31(3) of the Code.

-Sd-

**AJAI DAS MEHROTRA
MEMBER (TECHNICAL)**

-Sd-

**DR. DEEPTI MUKESH
MEMBER (JUDICIAL)**

Abhishek Singh

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