

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

IA 617 of 2019 in CP(IB) 189 of 2018

Coram: Hon'ble Mr. MADAN BHALCHANDRA GOSAVI, MEMBER (JUDICIAL)  
Hon'ble Mr. VIRENDRA KUMAR GUPTA, MEMBER (TECHNICAL)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING THROUGH VIDEO CONFERENCING BEFORE THE  
AHMEDABAD BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 04.09.2020

Name of the Company:

Vijay P Lulla RP For Technovaa Plastic  
Industries Pvt Ltd  
V/s  
Technovaa Plastic Industries Pvt Ltd & Ors

Section:

30(6) IBC, 2016

**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)

Dated this the 4th day of September, 2020.

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

**IA 617 of 2019 in CP (IB) 189 of 2018  
With IA 88 of 2020, IA 89 of 2020,  
IA 61 of 2020, IA 344 of 2020**

**IA 617 of 2019 in CP (IB) 189 of 2018**

Mr. Vijay P. Lulla  
(RP of Technovaa Plastic Industries Pvt. Ltd.)  
Having registered office at:  
201, Satchitanand Bldg.,  
2<sup>nd</sup> Floor, 12<sup>th</sup> Road, Khar,  
Mumbai, Maharashtra-400052

.....Applicant

Versus

1. Suspended Board of Directors of  
Technovaa Plastic Industries Pvt. Ltd.  
Having its address at:  
51/1, Promenade Road, Frazer Town,  
Opp. Santoshi Hospital,  
Bangalore, Karnataka-560005. ....Respondent No. 1
2. Members of Committee of Creditors  
Bank of Baroda  
Having Zonal office at:  
Baroda Towers, 6<sup>th</sup>  
Zonal Office, Near Law Garden  
Ellisbridge, Ahmedabad-380006 .....Respondent No. 2
3. Kankriya Enterprises Pvt. Ltd.  
34/1, Chinnaya Street Sarangpani Nagar  
Main Road, Madhavaram, Chennai  
Tamil Nadu, 600060 IN .....Respondent No. 3
4. Commissioner of Income Tax  
CIT 11 (3) (1), Mumbai  
Aaykar Bhawan, Curchgate,  
Mumbai, 20 .....Respondent No. 4

**IA 88 of 2020**

Uma Converter Limited  
Registered office at:  
Block No. 868, Nr. CNG Petrol Pump,  
Santej Road, Santej, Kalol  
Gandhinagar-380060

.....Applicant

Versus

1. Interim Resolution Professional of  
Technovaa Plastic Industries Pvt Ltd.  
Narayan Gajanan Vidvans  
Having Office at:  
604-B, Shivkartik Enclave,  
Oppo Shrunagar Residency,  
VIP Road, VESU, Surat-395007
2. Resolution Professional of  
Technovaa Plastic Industries Pvt Ltd.  
Shri Vijay P Lulla  
201, Satchitanand Building, 12<sup>th</sup> Road,  
Khar (W), Mumbai
3. Department of Goods & Service Tax  
Joint Commissioner of GST,  
Ghatak 33, Kadi 1<sup>st</sup> Floor, Bhoomi Complex,  
Near Bus Stand, Kadi-382715
4. Suspended Management of  
Technovaa Plastic Industries Pvt. Ltd.  
(Served though Advocate)

.....Respondents


**IA 89 of 2020**

Phonex Flexibiles Private Ltd.  
Plot No. 375, Road No. 08,  
GIDC Kathawada, Odhav,  
Ahmedabad-382430

.....Applicant

Versus

1. Interim Resolution Professional of  
Technovaa Plastic Industries



Narayan Gajanan Vidvans.

2. Resolution Professional of  
Technovaa Plastic Industries Pvt Ltd.  
Shri Vijay P Lulla.
3. Department of Goods & Service Tax  
Joint Commissioner of GST,  
Ghatak 33, Kadi, 1<sup>st</sup> Floor Bhoomi Complex,  
Near Bus Stand Kadi, 382715

.....Respondents

**IA 61 of 2020**

Haridarshan Incorporation  
B-503, Atma House, 5<sup>th</sup> Floor,  
Opp. Old RBI, Near times of India,  
Ashram Road, Ahmedabad-390009

.....Applicant

Versus

1. Interim Resolution Professional of  
Technovaa Plastic Industries Ltd  
Narayan Gajanan Vidvans
2. Resolution Professional of  
Technovaa Plastic Industries Pvt. Ltd.  
Shri Vijay P Lulla
3. Department of Goods & Service Tax  
Joint Commissioner of GST,  
Ghatak 33, Kadi,  
1<sup>st</sup> Floor, Bhoomi Complex,  
Near Bus Stand, Kadi-382715

.....Respondents

**IA 344 of 2020**

State Tax Officer (2)  
Unit-33, Office of the Assistant Commissioner,  
1<sup>st</sup> Floor, Bhoomi Complex,  
Nr. Police Station, Kadi Mahesana

.....Applicant

Versus

1. Mr. Vijay. P. Lulla-

Resoluiton Professional for  
Technovaa Plastic Industries Limited.  
501, Arcadia Building, 5thh Floor,  
NCPA Marg, Nariman Point,  
Mumbai-400021

2. Technovaa Plastic Industries Pvt. Ltd.  
Survey No. 1256 & 1261, Rajpur Zulasan Road,  
Kadi, mahesana, Gujarat-382715 .....Respondents.

**Order delivered on 4<sup>th</sup> September, 2020.**

**Coram: Madan B. Gosavi, Member (J)**  
**Virendra Kumar Gupta, Member (T)**

**Appearance:**

Learned Counsel Mr. Vishal Dave a.w. Learned Counsel Mr. Nipun Singhvi, for the Applicant in IA 617 of 2019.

Learned Counsel Mr. Sudhir Mehta, for the Applicant in IA 88 of 2020 and IA 89 of 2020.

Learned Counsel Mr. Soaham Joshi for State Tax Officer in IA 344 of 2020.

RP. Mr. Vijay P Lulla also appeared.

**[Per: Bench]**

1. IA 617 of 2019 has been filed in CP No. 189 of 2018 u/s. 30(6) of Insolvency and Bankruptcy Code, 2016 (in short "IBC, 2016") for approval of Resolution Plan by this Authority u/s 31 of IBC, 2016. Another IA 398 of 2020 was filed by the Successful Resolution Applicant for granting extension of time for implementation of plan which was granted by Committee of Creditors (in short "CcC") for 180 days. This extension has been accepted by the Resolution Applicant. IA No. 398 of 2020 filed by Resolution Applicant in this regard was

disposed of by this Authority vide its order dated 06.08.2020 by directing the Successful Resolution Applicant to submit amended Resolution Plan within two days from the date of our order. Such amended Resolution Plan has been submitted.

2. The facts, in brief, are that the Corporate Debtor was admitted in CIRP by allowing the application filed by the Operational Creditor u/s 9 of IBC, 2016. Order of admission was passed by this Authority on 12.11.2018 under which moratorium was declared. Corporate Insolvency Resolution Process was initiated and Mr. Narayan Gajanan Vidvans was appointed as Interim Resolution Professional ( "IRP" in shot). IRP published public announcement, collated claims received from the creditors and constituted CoC. The CoC was constituted on 07.12.2018 which comprised of only one Financial Creditor, namely, Bank of Baroda having 100% voting. The CoC replaced IRP and appointed new Resolution Professional ("RP" in short) which was confirmed by this Authority vide its order dated 19.06.2019. The CoC in its meeting held on 07.05.2019 approved the proposal for exclusion/extension of CIRP period by 90 days which was granted by this Authority vide its order dated 06.06.2019. The evaluation matrix was finalised by the RP and same was circulated to CoC. The tangible net worth criteria was fixed at Rs. 15 Crores as on 31.03.2018 for non institutional investors. For institutional investors it was fixed at Rs. 50 Crores. Further, exclusion of 160 days was sought. The valuers were also appointed.

3. The 5<sup>th</sup> meeting of CoC was held on 10.07.2019 wherein, in view of the fact that four EOIs had been received and one more EOI was expected, hence, last date for submission of EOI was extended. In the 7<sup>th</sup> meeting of CoC dated 09.08.2019, four prospective Resolution Applicants were identified who submitted the Resolution Plan which were below the liquidation value, hence, CoC decided that plan above the liquidation value was to be submitted. In this meeting, RP informed CoC that there were substantial amount involved in preferential/undervalued transactions for which forensic auditors were appointed. It was also noted that tax liabilities of Excise Department were also pending, hence, goods could not be removed without paying the same. The CoC directed RP to take appropriate action. In 9<sup>th</sup> and final meeting of CoC dated 19.09.2019, two plans submitted by two Resolution Applicants, namely, Pep Cee Pack Industries and Aristo Flexi Pack (Joint Bidders) and Kankriya Enterprises Pvt. Ltd. were considered. However, CoC was not convinced with the Resolution Plan submitted jointly by Pep Cee Pack Industries and Aristo Flexi Pack, hence, the same was rejected. The Plan of Kankriya Enterprises Pvt. Ltd was found to be suitable and implementable, hence, same was approved by CoC.
4. The successful Resolution Applicant agreed for a consideration of Rs. 42.90 Crores to the Creditors of the Corporate Debtor including CIRP costs. Letter of intent was issued.
5. The key features of the Resolution Plan are summarized as under:

5.1 The amount provided for the stakeholders under the Resolution

Plan is as under:

Sr. No.	Category of Stakeholder*	Amount Claimed	Amount Admitted	Amount provided under the Plan #	Amount Provided to the Amount Claimed (%)
1	Dissenting Secured Financial Creditors	0	0	0	0%
2	Other Secured Financial Creditors	65,75,36,785	65,75,36,785	41,59,40,400 0	63.26%
3	Dissenting Unsecured Financial Creditors	0	0	0	NA
4	Other Unsecured Financial Creditors (Related Party & Corporate Guarantor)	43,40,57,430	38,93,93,854	0	NA
5	<b>Operational Creditor</b>	<b>8,74,42,019</b>	<b>3,58,72,086</b>	<b>16,02,791</b>	<b>4.47%</b>
	Government	44,63,16,588.5	39,68,81,723.5	86,27,208	<b>2.17%</b>
	Workmen	7,18,833	4,17,347	4,17,347	100.00%
	Employees	0	0	0	NA
	Other Debts and Dues	0	0	0	NA
	<b>Total</b>	<b>1,62,60,71,728</b>	<b>1,48,01,01,796</b>	<b>42,65,87,347</b>	<b>28.82%</b>

6. Learned Counsel for the successful Resolution Applicant appeared and narrated the basic facts. He drew our attention to the Resolution Plan in detail. Based upon the contents of the Plan, it was submitted that approved Resolution Plan complied with all the requirements of Section 30(2) of IBC, 2016 and r.w. relevant Regulations made thereunder. It was also submitted that Resolution Plan had been filed before the expiry period of CIRP as extended from time to time. He also pointed out that the extended time line of 180 days was also agreeable to the successful Resolution Applicant. Accordingly, he prayed for the approval of the plan.

7. We also noted that three IAs i.e. IA No. 88 of 2020, IA No. 89 of 2020 and IA 61 of 2020 were pending wherein issue of denial of input credit by the GST Department to the Applicant for the reason that Corporate Debtor had not deposited the tax nor it had uploaded the GST returns were also pending. We heard the learned counsel for the Applicant in these IAs. In some cases the claims were made before finalisation/approval of Resolution Plan which remained to be considered. In one case, the claim has been received after the approval of Resolution Plan. It is noted that certain amount has been allocated for Operational Creditors. We, accordingly, direct RP to consider the claims made in these IAs while distributing the amount to Operational Creditors in the same proportion as applicable to the Other Operational Creditors. Accordingly, these IAs are disposed of in terms indicated above. One IA No. 344 of 2020 is regarding the claims of State Tax Officer for consideration of its claim filed belatedly. The same shall be considered separately on 29.09.2020. Registry is directed to list the matter on that date.

8. Now, we consider the facts and submissions made on behalf of the Resolution Applicant. It is noted that the Resolution Plan, submitted for our approval, has been duly approved by the CoC in its meeting dated 19.09.2019 by 100% votes. The Resolution Professional has given requisite certificate that plan complies with all requirements Section 30(2) of IBC, 2016 r.w. relevant CIRP Regulations. The perusal of the Resolution Plan shows that the Financial Creditor will get a sum

of Rs. 41,59,40,000/- against the their total claimed amount of Rs.65,75,36,785/-which works out to 63.26%. Workmen dues have been provided in toto for the claims submitted by such workmen. The Operational Creditors would receive a sum of Rs. 16,02,791/- as against their total claimed of Rs. 8,74,42,091./- provisions for statutory liabilities has been made at Rs. 86,27,208/- .Thus, in sum and substance, the Resolution Plan provides for settlement of claim of various stakeholders. It is also noted that the Resolution Plan provides the background of successful Resolution Applicant and its associates. It also provides the details of financial capabilities of the successful Resolution Applicant. The Resolution Plan also provides implementation schedule as under:

Action	Timeline
Capital Reduction of the existing equity share capital to ZERO	Effective Date
Subscribing to equity shares and optionally convertible debentures to be issued by the Corporate Debtor and Inter-corporate Deposits	Within 60 Days of the approval of by NCLT Order
Payment to Workmen Dues	Within 60 Days of the approval of by NCLT Order
Payment to CIRP Cost	Within 60 days of the approval of by NCLT Order
Payments to Financial Creditors	Within 60 Days of the approval of by NCLT Order
Payment to Statutory Dues and Operational Creditors	Within 60 Days of the approval of by NCLT Order

9. It is provided that existing equity would be written down to zero and Resolution Applicant would infuse funds to the tune of Rs. 17,72,80,000/- by way of Equity and take control of 100% stake in the Corporate Debtor. For this purpose, following steps have been provided.

**1. Capital Reduction**

- 1.1 *Nominal Face value of Equity Share of the Corporate Debtor held by the existing shareholders of the Corporate Debtor to be reduced to ZERO and completely written off without any consideration.*
  - 1.2 *The proposed reduction of equity share capital neither involved diminution of any liability in respect of unpaid share capital nor the payment to any shareholder of any paid-up share capital. Accordingly, there is no outflow of/payout of funds from the Corporate Debtor and hence the interests of creditors are not adversely affected. Further, the reduction of the equity share capital and consolidation thereof would not impact the rights of the creditors in any manner whatsoever.*
  - 1.3 *The requirement of adding "add reduced" in the name of hate Company to be dispensed with under the provisions of the Companies Act, 2013.*
  - 1.4 *The approval of this Resolution Plan by the NCLT shall be deemed to have waived all the procedural requirements in terms of Section 66 of the Companies Act, 2013 and the NCLT (Procedure of Reduction of Share Capital) Rules, 2016.*
  - 1.5 *Accounting Treatment: the amount of reduction in the equity share capital of the Corporate Debtor shall be credited to the capital reserve of the Company.*
10. The Resolution also provides for appointment of RP as the person in-charge to look after the implementation of Resolution Plan. The Resolution Plan has also addressed the issues which resulted into Insolvency of the Corporate Debtor and future business plan so as to such situation does not arise.
11. Thus, the revised 'Resolution Plan' filed with the Application meets the requirements of Section 30(2) of I&B Code, 2016 and Regulations 37, 38, 38(1A) and 39 (4) of IBBI (CIRP) Regulations, 2016. The 'Resolution Plan' is also not in contravention of any of the provisions of Section 29A. The Resolution Professional has also certified that the 'Resolution Plan' approved by the CoC does not contravene any of the provisions of the law for the time being in force. The Compliance Certificate is placed on record. The 'Resolution Plan' has been approved by the CoC with 100% voting share.

12. In view of the above, the revised 'Resolution Plan' annexed with IA 617 of 2019 filed in CP (IB) No. 189 of 2018 is hereby approved, which shall be binding on the Corporate Debtor and its employees, members, creditors, guarantors and other stakeholders involved in the Resolution Plan including Resolution Applicant.
13. The permission for reduction of capital, as approved in the Resolution Plan is also granted. Accordingly, the MoA and AoA shall be amended and filed with the RoC for information and record as prescribed.
14. As regards to the Relief and concessions sought for, by the Resolution Applicant which have been mentioned in Annexure 5 of Resolution Plan, we are of the opinion that 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 abetment 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.
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, Concession, Relief and Dispensation, 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 12.11.2018 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 conform 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 617 of 2019 is allowed with the above said observations and directions and stands disposed of in view of the above order.

18. IA 617 of 2019 a.w. IA 88 of 2020, IA 89 of 2020 and IA 61 of 2020 stand disposed of in terms indicated above.

19. Urgent certified copy of this order, if applied for, to be issued to all concerned parties upon compliance with all requisite formalities.

*Virendra*  
*4/9/2020*

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

*M.B. Gosavi*  
*4/9/2020*

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

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