



IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH, C-IV

IA No. 3724 of 2022  
IN  
CP No. (IB) 1459/ (MB)/ C-IV/ 2020

In the matter of Application under section 30(6)  
for approval of Resolution Plan under section  
31(1) of the Insolvency and Bankruptcy Code,  
2016.

**In the matter of :**

Mr. Navin Khandelwal

... Resolution Professional  
of the Corporate Debtor

In the matter of :

National Steel And Agro Industries Limited

...Financial Creditor

Versus

Rite Bite Private Limited

...Corporate Debtor

**Order delivered on:30/03/2023**

***Coram:***

Shri Prabhat Kumar  
Hon'ble Member (Technical)

Shri Kishore Vemulapalli  
Hon'ble Member (Judicial)

***Appearances (via videoconferencing):***

For the Applicant

: Mr. Rohit Dubey for the Resolution  
Professional/ Applicant.



**ORDER**

***Per: Prabhat Kumar, Member(Technical)***

1. The Bench is convened by videoconference today.
2. This Application under Section 30(6), 31 and 60(5) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the Code) seeks the approval of the Resolution Plan submitted by the Successful Resolution Applicant.
  - 2.1 The Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor was initiated by this Bench by an order dated 02.06.2022 under section 7 of the Insolvency and Bankruptcy Code 2016 (hereinafter referred to as 'the Code') (Admission Order) and Mr. Navin Khandelwal, was appointed as Interim Resolution Professional, who was appointed as Resolution Professional (RP) of the Corporate Debtor vide resolution passed by CoC its 1<sup>st</sup> meeting held on 01.07.2022.
  - 2.2 The IRP published a public announcement as per Section 13 & 15 of the Code, inviting claims from the creditors of the Corporate Debtor. The RP issued Form-A under Regulation 6 dated 04.06.2022 and made Public Announcement calling the creditors to submit their claims. The last date for submission of proof of claim was 16.06.2022.
  - 2.3 Subsequently, the CoC approved the eligibility criteria for the prospective Resolution Applicants in the third Meeting of CoC held on 08.08.2022 and in this regard, an invitation for expression of interest was published in Form G on 13.08.2022 in one English namely "Free Press



Journal” and one regional language newspaper namely “Navshakti” wherein the last date for submission of Expression of Interest (“EOI”) was 28.08.2022 and last date for submission of Resolution Plan was 12.10.2022, which was extended by 7 days i.e. 19.10.2022 after due approval from CoC.

2.4 It is submitted by the Applicant that pursuant to the Publication of invitation for expression interest in Form G dated 13.08.2022, the Applicant received EOI from 3 Prospective Resolution Applicants (“PRA”). The said PRAs were featured in the Provisional List of PRA as well as Final List of PRA issued by the Applicant on 07.09.2022 and 12.09.2022 respectively.

2.5 The applicant further states that, two PRA had submitted their Resolution Plan on 19.10.2022 which was placed before the CoC for their consideration in the fifth CoC Meeting held on 20.10.2022.

2.6 Accordingly, in the 7<sup>th</sup> CoC meeting held on 22.11.2022, the Plans submitted by the prospective Resolution Applicants put forth for voting. The Applicant sought vote of the CoC members by electronic voting system which was conducted from 23.11.2022 to 24.11.2022.

2.7 Accordingly, the Resolution Plan submitted by Anjali Entrepreneurs Private Limited was approved by the CoC with 100% votes in its favour and the Prospective Resolution Applicant was declared as Successful Resolution Applicant (“SRA”).

2.8 It is submitted by the Applicant that the SRA has successfully furnished the Performance Security of Rs. 10,00,000 in the Bank Account of the



Corporate Debtor on 24.11.2022 and also have accepted the Letter of Intent issued by the Applicant on 24.11.2022

2.9 The salient features of the approved Resolution Plan of Successful Resolution Applicant are as follows:

*Term of Resolution Plan shall be 3 months from the date of approval of the Resolution Plan by the adjudicating Authority. The Resolution Plqn shall be implemented in the following manner:*

*(a) Infusion by the Resolution Applicant of Insolvency Process Cos on actual basis within 30 days of the approval of the Resolution Plan by the Adjudicating Authority*

*(b) After meeting out with the Insolvency Process Cost, remaining amount will be contributed by the resolution applicant in accordance with the below mentioned table. This amount shall be used for making payment to all the creditors and to other stakeholders in full and final settlement of their dues within 3 months of the approval of the resolution plan by the adjudicating authority. Resolution applicant can invest directly in the Corporate Debtor by way of equity or debt or the combination of both*

*Term and Implementation Schedule of Rs. 110 Lakhs*

<i>Sr. no.</i>	<i>Installment Amount</i>	<i>Payment Term</i>	<i>Payment shall be made to</i>
<i>1.</i>	<i>5,00,000</i>	<i>Within 1 month from the date order from AA</i>	<i>CIRP Expense (Any shortage in this will be adjusted with amount payable to financial creditor</i>



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2.	-	<i>Within 3 months from the date of order from AA</i>	<i>Employees or workman's due</i>
3.	52,53,333	<i>Upfront payment within 3 months from the date of order of AA</i>	<i>Secured Financial Creditor</i>
4.	52,46,667	<i>Within 3 months from the date of order of AA</i>	<i>Operational Creditor</i>
5.	-	<i>Within 3 months from the date of order of AA</i>	<i>Statutory Dues (Govt.)</i>

**Cost of Resolution Plan and Distribution**

*The details of Creditor's claims admitted by the Resolution Professional claims and the amount provided against such claims in the plan are as follows:*

<b>S. No.</b>	<b>Particulars</b>	<b>Amount admitted as per IM</b>	<b>Percentage paid</b>	<b>Amount to be paid</b>
1.	<i>Settlement of Insolvency Resolution Cost (Estimated Upto NCLT approval date)</i>	5,00,000	100%	5,00,000
2.	<i>Settlement of dues of Secured Financial Creditors</i>	-	-	-
3.	<i>Settlement of dues of Financial Creditors</i>	52,53,333	100%	52,53,333



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	<i>(Unrelated party)</i>			
4.	<i>Settlement of dues of Financial Creditors (related party)</i>	-	-	-
5.	<i>Settlement of dues of Employees, Workers for claims submitted</i>	-	-	-
6.	<i>Settlement of dues of Operational Creditors</i>	78,61,05,760	0.67%	52,46,667
7.	<i>Settlement of dues of Govt. dues</i>	-	-	-
8.	<i>Settlement of all other Current Liabilities (as per provisional financial statement as at 02.06.2022)</i>	-	-	-
9.	<i>Settlement of dues of Related Persons</i>	-	-	-
10.	<i>Settlement of Equity Share Holders</i>	-	-	-



Implementation Supervision and Monitoring of the Resolution Plan

<b>Implementation of Resolution Plan</b>	<b>Proposed Timeline</b>
Payment of Insolvency Resolution Cost	Within 30 days from NCLT approval of Resolution Plan
Appointment of 2 Directors in the Board of Company	Within 60 days from NCLT approval of Resolution Plan
Supervisory/Monitoring Committee	To be constituted within 30 days from NCLT approval of Resolution Plan
Subscription of Share of the corporate Debtor to the new Shareholders	Within 60 days from NCLT approval of Resolution Plan
Appointment of suitable management professionals to run the operations of Corporate Debtor, if required	Within 60 days from NCLT approval of Resolution Plan

Proposed Monitoring Committee

- Two Member from Financial Creditor
- Resolution Professional
- Two Member from proposed Board of Director
- Fees proposed for the Resolution Professional during Monitoring Committee period shall be equivalent to the fees of Resolution Professional during the CIRP period including any ancillary expenses.

3. The applicant, in response to query raised by this bench vide order dated 07.02.2022, was directed to file complete financial statements of the Corporate Debtor as on date of CIRP by way of additional Affidavit. In pursuance to the direction of this Bench, the Applicant has filed its



Additional Affidavit dated 11.03.2023 placing on record the financial statements for the period 01.04.2021 to 31.03.2022 and 01.04.2022 to 02.06.2022 (i.e. until the Insolvency commencement date)

4. The Applicant states and submits that
  - i. the Resolution Plan is in due compliance with the requirements of Section 30(2) of the Code read with Regulation 38 of the CIRP Regulations and the Resolution Applicant is eligible to submit resolution plan and it does not fall under any of the category as mentioned in Section 29A of the Code;
  - ii. the Resolution Plan has been approved by the CoC by majority in their commercial wisdom as they have found the plan to be viable and feasible;
  - iii. no transaction(s) were found falling under the provisions of section 43, 45, 50 & 66 of the Code, hence no application(s) was filed before Adjudicating Authority; and
  - iv. The Resolution Plan is not subject to any contingency and is filed 3 days before the expiry of the period of CIRP provided in section 12 of the Code
5. The Applicant has filed application along with Form 'H' prescribed under Regulation 39(4) of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and has appended a tabular summary of Applicant's determination of compliance of the Resolution Plan with various provisions and regulations under the Code and CIRP Regulations and has declared that-



- a. The Resolution Applicant meets the criteria approved by the CoC having regard to the complexity and scale of Operations;
- b. The Resolution Applicant is eligible to submit resolution plan as per the final list of Resolution Professional;
- c. The Resolution Applicant has submitted an Affidavit stating that it is eligible;
- d. The Resolution Plan-
  - i. provides for the payment of insolvency resolution process costs;
  - ii. provides for the payment to the operational creditors;
  - iii. provides for the payment to the financial creditors who did not vote in favour of the resolution plan.
  - iv. provides for the management of the affairs of the Corporate Debtor.
  - v. provides for the implementation and supervision of the resolution plan.
  - vi. Contravenes any of the provisions of the law for the time being in force.
- e. The Resolution Plan-
  - i. is feasible and viable according to the CoC, and
  - ii. has been approved by the CoC with 66% voting share;
- f. The Resolution plan has provisions for its effective implementation plan, according to the CoC;
- g. The amount due to the operational creditors under the resolution plan has been given priority over financial creditors;
- h. The Resolution Plan includes a statement as to how it has dealt with the interests of all stakeholders;
- i. The Resolution Applicant or any of its related parties have not failed to implement or contributed to the failure of implementation of any resolution plan approved under the Code;



- j. The Resolution Applicant has submitted the statement giving details of such non-implementation;
  - k. The Resolution Plan provides-
    - i. the term of the plan and its implementation schedule;
    - ii. the management and control of the business of the Corporate Debtor during its term;
    - iii. Adequate means for supervising its implementation.
  - l. The Resolution Plan demonstrates that-
    - i. it addresses the cause of default;
    - ii. it is feasible and viable;
    - iii. it has provisions for its effective implementation;
    - iv. it has provisions for approvals required and the timeline for the same;
    - v. the resolution applicant has the capability to implement the resolution plan.
  - m. The RP has not filed applications in respect of transactions observed, found or determined by him;
  - n. The RP has provided details of performance security received as referred to in sub-regulation (4A) of regulation 36B.
6. We have heard the counsel(s) and perused the material on record.
- a. We note that no application has been filed by any person opposing the plan and no application relating to avoidance transactions is pending before us. We have perused the financial statements of the Corporate Debtor and find that no statutory dues are pending against the corporate debtor and no claim has been received from any workmen or employees relating to Provident Fund, ESI or Gratuity.



- b. We find that the secured Creditors are being paid in full. The Corporate Debtor has receivables amounting to 51.83 Cr. and the proceeds of realisation therefrom has not been clearly dealt with in the Plan. In its absence, we infer that the same shall go to the Resolution Applicant indirectly, whereas the Operational Creditors are paid only 0.5% of total claim. Accordingly, we feel that an opportunity be granted to the CoC as well as Resolution Applicant to consider how the realisation from the receivables shall be dealt with in the interest creditors in view of fact that Financial Creditors, having been proposed full payment, may not have any interest in the realisation of sundry debtors for the benefit of Operational Creditors. Accordingly, we are remitting back this Plan and directing the Resolution Professional to hold a meeting of CoC and Successful Resolution Applicant to give clarity of treatment of such proceeds of debtors.

**ORDER**

The Interlocutory Application No. **3724 of 2022 in CP(IB) 1459 of MB/2020** is **disposed of with the direction contained in para 6(b)**. The Resolution Professional shall be at liberty to file fresh Application within 20 days from the communication of this order for passing final orders.

Sd/-  
**PRABHAT KUMAR**  
**MEMBER (TECHNICAL)**  
**30.03.2023**

Sd/-  
**KISHORE VEMULAPALLI**  
**MEMBER (JUDICIAL)**