

IN THE NATIONAL COMPANY LAW TRIBUNAL
JAIPUR BENCH

CORAM: SHRI DEEP CHANDRA JOSHI,
HON'BLE JUDICIAL MEMBER

SHRI RAJEEV MEHROTRA,
HON'BLE TECHNICAL MEMBER

IA No. 222/JPR/2021
In CP No. (IB)- 266/10/JPR/2019

IN THE MATTER OF:

CHIRAAYUSH STOCK CONSULTANTS PVT. LTD.

...Corporate Debtor

MEMO OF PARTIES

IA No. 222/JPR/2021:

MR. SANJAY BADRILAL PUNGLIA

*Resolution Professional of Chiraayush
 Stock Consultants Pvt. Ltd.*

501, Aalin Complex, Nr. Rambha
 Complex, Opp. Gujarat Vidhyapith,
 Ashram Road, Ahmedabad- 380014
 (Gujarat)

...Applicant

FOR THE APPLICANT: Amol Vyas, Adv.

Order Pronounced On: 22.02.2024

ORDER

Per: Shri Rajeev Mehrotra, Technical Member

1. This Application bearing *IA No. 222/JPR/2021* has been filed by *Mr. Sanjay Badrilal Punglia*, Resolution Professional ('RP'/'Applicant') of *M/s Chiraayush Stock Consultants Pvt. Ltd.* ('Corporate Debtor') seeking approval of Resolution Plan under Section 31 of the Insolvency and

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Bankruptcy Code, 2016 ('IBC' / 'Code') read with Regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 ('CIRP Regulations').

2. The main application numbered as *CP No. (IB)- 266/10/JPR/2019* was filed by the Corporate Debtor itself under Section 10 of the Code for initiation of Corporate Insolvency Resolution Process ('CIRP'). This Adjudicating Authority admitted the Application *vide* Order dated 25.11.2020 wherein the *Mr. Sanjay Badrilal Punglia* was appointed as the Interim Resolution Professional ('IRP'). The IRP caused public announcement in two newspapers i.e., *Rashtradoot Kota* (Hindi) & *Indian Express* (English) in the prescribed Form A dated 28.11.2020 for inviting claims from the creditors of the Corporate Debtor in accordance with Regulation 6 of the CIRP Regulations.
3. Subsequent to the said public announcement, the Applicant has received claims from four Financial Creditors and one Operational Creditor, the list of which as mentioned in the Report dated 18.12.2020 is reiterated below:

<i>S. No.</i>	<i>Name of Creditor</i>	<i>Type of Creditor</i>	<i>Principal Value of Claim (INR Lakhs) (A)</i>	<i>Interest value for the purpose of Voting Share Calculation (INR in Lakhs) (B)</i>	<i>Total Value of Claim (INR in Lakhs) (A)+(B)=(C)</i>
1.	<i>Findeal Investments Private Limited</i>	Financial	757.50	NIL	757.50

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2.	<i>Wonder Dream Developers Pvt. Ltd. (Earlier known as Excel Money Management Services Pvt. Ltd.)</i>	Financial	201.00	NIL	201.00
3.	<i>Trinity Investments Pvt. Ltd.</i>	Financial	20.00	NIL	20.00
4.	<i>Satyamitra Stock Consultants Pvt. Ltd.</i>	Financial	98.10	NIL	98.10
5.	<i>Chandanbala Jain & Associates</i>	Operational	0.36	NIL	0.36
	TOTAL		1076.96	NIL	1076.96

4. It was mentioned that Financial Creditors of Sr. No. 1 to 3 being related parties, did not have any right of representation, participation or voting in a meeting of Committee of Creditors. Therefore, the CoC only constituted of one Financial Creditor namely, *M/s Satyamitra Stock Consultants Pvt. Ltd.* having 100% voting rights. The claims were duly collated and verified by the Applicant and a Committee of the Creditors ('CoC') was duly constituted in terms of the Regulation 16 of the CIRP Regulation on 18.12.2020. The Report dated 18.12.2020 filed under Regulation 17(1) of the CIRP Regulation was taken on record *vide* Order dated 21.01.2021.
5. Accordingly, the 1st CoC meeting was held on 22.12.2020 wherein the CoC confirmed the appointment of IRP as RP and ratified and approved the expenses towards Professional Fees of IRP. In the 2nd CoC meeting convened on 16.01.2021, the Committee gave its consent for publishing

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Form- G inviting the Expression of Interest ('EOI') and appointment of registered valuers. As per Regulation 27 of the CIRP Regulations, 2016 Two (2) Registered Valuers were appointed for valuation of securities and financial assets of the Corporate Debtor. Also, the RP set a minimum criteria for Prospective Resolution Applicant ('PRA') to submit their Resolution Plans with the Applicant in terms of Section 25(2)(h) of the Code which was approved by the CoC.

6. Pursuant to the above, the Applicant, in terms of the Regulation 36A(1) of the CIRP Regulation, published Form G in *Indian Express* (English Newspaper) and *Rashtriya Sahara* (Hindi Newspaper) on 19.01.2021 inviting the PRAs to submit Expression of Interest ('EOI'). Subsequently, the 3rd meeting of CoC was held on 09.02.2021 wherein the CoC gave its consent for extension of EOI and re-issuance of Form-G. Thus, the revised Form-G was published in *Indian Express* (English Newspaper) and *Rashtrdoot* (Hindi Newspaper) on 11.02.2021.
7. Thereafter, in the 4th CoC meeting dated 05.03.2021, the RP received the confirmation on behalf of the CoC for the draft request of Resolution Plan and Evaluation Matrix. Subsequently, in the 5th meeting of CoC dated 11.05.2021, the Resolution Plan submitted by *Mrs. Tejashree Kunal Nagrani*, Resolution Applicant was placed before the CoC. After considering the feasibility and viability of the Resolution Plan submitted by

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the Resolution Applicant, the CoC approved the Resolution Plan with 100% voting share.

8. We have carefully considered the submissions of the Learned Counsel for the Resolution Professional and perused the Application along with the documents available on record.
9. It is observed that the Corporate Debtor was incorporated on 09.02.2007 having CIN U67120RJ2007PTC023817. On an Application moved under Section 10 of the Code, this Adjudicating Authority had initiated CIRP of the Corporate Debtor vide order dated 25.11.2020. The present Application is filed for approval of the Resolution Plan submitted by *Mrs. Tejashree Kunal Nagrani* being the Successful Resolution Applicant under Section 31 of the Code.
10. After receipt, verification and collation of claims as discussed above, the CoC was constituted in accordance with provision Section 21 of the Code; the details of the Financial Creditor and the position of voting for the Resolution Plan as mentioned in Para 5 of Form H is as under:

<i>Sl. No.</i>	<i>Name of Creditor</i>	<i>Voting Share (%)</i>	<i>Voting for Resolution Plan (Voted for / Dissented / Abstained)</i>
1.	Satyamitra Stock Consultants Pvt. Ltd.	100%	Voted For

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11. The amounts provided for the Stakeholders under the Resolution Plan are given in Para 7 of Form H, the same is reiterated below for reference:

<i>Sl. No</i>	<i>Category of Stake holder*</i>	<i>Sub-Category of Stakeholder</i>	<i>Amount Claimed</i>	<i>Amount Admitted</i>	<i>Amount Provided under the Plan#</i>	<i>Amount provided to the Amount Claimed (%)</i>
(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	NA	NA	NA	NA
		(b) Other than (a) above: (i) who did not vote in favour of the resolution Plan (ii) who voted in favour of the resolution plan	NA	NA	NA	NA
		Total [(a) + (b)]	NA	NA	NA	NA
2.	Unsecured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	978.5	978.5	13.91	1.42
		(b) Other than (a) above: (i) who did not vote in favour of the resolution Plan (ii) who voted in favour of the resolution plan	98.1	98.1	1.39	1.42
		Total [(a) + (b)]	1076.6	1076.6	15.3	1.42
3.	Operational Creditors (Internal Pg. no. 12-13 of the Resolution Plan and page no. 25-27 of the Resolution Application)	(a) Related Party of Corporate Debtor				
		(b) Other than (a) above:				
		(i) Government				
		(ii) Workmen				
		(iii) Employees				
		(iv) Other	0.36	0.36	0.01	2.78

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<i>Sl. No</i>	<i>Category of Stake holder*</i>	<i>Sub-Category of Stakeholder</i>	<i>Amount Claimed</i>	<i>Amount Admitted</i>	<i>Amount Provided under the Plan#</i>	<i>Amount provided to the Amount Claimed (%)</i>
		Total [(a) + (b)]	0.36	0.36	0.01	2.78
4.	Other debts and dues		0	0	0	0
Grand Total			1076.96	1076.96	15.31	1.42

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

Amount provided overtime under the Resolution Plan and includes an estimated value of non-cash components. It is not NPV.]

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

<i>Sl. No.</i>	<i>Category of Share Holder</i>	<i>No. of shares held before CIRP</i>	<i>No. of shares held after the CIRP</i>	<i>Voting share (%) held before CIRP</i>	<i>Voting share (%) held after CIRP</i>
1.	Equity	14000	0	100	0
2.	Preference	0	0	0	0

13. The compliance aspect of the Resolution Plan has been given in Para No. 9 of Form H is as follows:

Section of the Code/Reg. No.	Requirement with respect to Resolution Plan	Clause of Resolution Plan	Compliance (Yes/No)
25(2)(h)	Whether the Resolution Applicant meets the criteria approved by the CoC having regard to the complexity and scale of operations of business of the CD?	Not mentioned	Yes
Section 29A	Whether the Resolution Applicant is eligible to submit resolution plan as per final list of Resolution Professional or Order, if any, of the Adjudicating Authority?	Not mentioned	Yes

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Section 30(1)	Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?	Not mentioned	Yes
Section 30(2)	Whether the Resolution Plan- (a) Provides for the payment of insolvency resolution process costs? (b) provides for the payment to the operational creditors? (c) provides for the payment to the financial creditors who did not vote in favour of the resolution plan? (d) provides for the management of the affairs of the corporate debtor? (e) provides for the implementation and supervision of the resolution plan? (f) contravenes any of the provisions of the law for the time being in force?	Para 10	Yes Yes Yes Yes Yes
Section 30(4)	Whether the Resolution Plan (a) is feasible and viable, according to the CoC? (b) has been approved by the CoC with 66% voting share?	Not mentioned	Yes
Section 31(1)	Whether the Resolution Plan has provisions for its effective implementation plan, according to the CoC	Para 8	Yes
Regulation 35A	Where the resolution professional made a determination if the corporate debtor has been subjected to any transaction of the nature covered under Sections 43, 45, 50 or 66 before the one hundred and fifteenth day of the insolvency commencement date, under intimation to the Board?	Not mentioned	NA
Regulation 38 (1)	Whether the amount due to the operational creditor under the Resolution Plan has been given priority in payment over financial creditors?	Para 10	Yes
Regulation 38(1A)	Whether the resolution plan includes a statement as to how it has dealt with the interests of all stakeholders?	Para 10	Yes

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Regulation 38(1B)	<p>i. Whether the Resolution Applicant or any of its related parties has failed to implement or contributed to the failure of implementation of any resolution plan approved under the Code.</p> <p>ii. If so, whether the Resolution Applicant has submitted the statement giving details of such non-implementation?</p>	Para 10	Yes
Regulation 38(2)	<p>Whether the Resolution Plan provides:</p> <p>(a) the term of the plan and its implementation schedule?</p> <p>(b) for the management and control of the business of the corporate debtor during its term?</p> <p>(c) adequate means for supervising its implementation?</p>	Para 10	Yes
Regulation 38(3)	<p>Whether the resolution plan demonstrates that–</p> <p>(a) it addresses the cause of default?</p> <p>(b) it is feasible and viable?</p> <p>(c) it has provisions for its effective implementation?</p> <p>(d) it has provisions for approvals required and the timeline for the same?</p> <p>(e) the resolution applicant has the capability to implement the resolution plan?</p>	Para 10	Yes
Regulation 39(2)	Whether the RP has filed applications in respect of transactions observed, found or determined by him?	Not mentioned	NA
Regulation 39(4)	Provide details of performance security received, as referred to in sub-regulation (4A) of regulation 36B.	Not mentioned	The Earnest Money Deposit of Rs. 5 lacs received at the time of submission of EOI and minimum Outright payment of Rs. 1.8 lacs received at the time of submission of resolution plan was considered as performance security.

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14. The payment schedule i.e. Treatment of various Stakeholders as mentioned in the resolution plan is also being reproduced below for better understanding:

Particulars	Claims admitted (In Lacs)	Proposed Payment Amount (In Lacs)	Upfront Payment (In Lacs)	Proposed Payment Structure
CIRP Cost	2.69	2.69	2.69	Upfront
Operational Creditors (Including Employees and Govt. Dues)	0.36	0.01	0.01	Upfront
Financial Creditors	1076.6	15.30	15.30	Upfront
Equity Shareholders	NA	NIL	NIL	As provided in point no. 3(A)(4) of this Resolution Plan
TOTAL	1079.65	18.00	18.00	

15. The approval of the Resolution Plan has been sought under Section 31(1) of the Code, which reads as follows:

“If the Adjudicating Authority is satisfied that the resolution plan as approved by the committee of creditors under sub-section (4) of section 30 meets the requirements as referred to in sub-section (2) of section 30, it shall by order approve the resolution plan which shall be binding on the corporate debtor and its employees, members, creditors, including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force such as authorities to whom statutory dues are owed, guarantors and other stakeholders involved in the resolution plan.

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Provided that the Adjudicating Authority shall, before passing an order for approval of resolution plan under this sub-section, satisfy that the resolution plan has provisions for its effective implementation.”

16. The conditions provided in Section 31(1) of the Code for approval of the Resolution Plan are as follows:

16.1. The Resolution Plan is approved by the CoC under Section 30(4) of the Code;

16.2. The Resolution Plan so approved meets the requirements as referred to in Section 30(2) of the Code;

16.3. The Resolution Plan has provisions for its effective implementation.

17. The satisfaction of the conditions is discussed hereinafter. It is submitted by the RP that the Resolution Plan has been approved by a vote of 100% of the voting share of the Financial Creditor and therefore, the conditions provided for by Section 30(4) of the Code are satisfied.

18. The provisions of Section 30(2) of the Code are as follows:

“30. Submission of Resolution Plan:

(1)

(2) The resolution professional shall examine each resolution plan received by him to confirm that each resolution plan –

(a) provides for the payment of insolvency resolution process costs in a manner specified by the Board in priority to the payment of other debts of the corporate debtor;

(b) provides for the payment of debts of operational creditors in such manner as may be specified by the Board which shall not be less than-

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- (i) *the amount to be paid to such creditors in the event of a liquidation of the corporate debtor under section 53; or*
- (ii) *the amount that would have been paid to such creditors, if the amount to be distributed under the resolution plan had been distributed in accordance with the order of priority in sub-section (1) of section 53,*

whichever is higher, and provides for the payment of debts of financial creditors, who do not vote in favour of the resolution plan, in such manner as may be specified by the Board, which shall not be less than the amount to be paid to such creditors in accordance with sub-section (1) of section 53 in the event of a liquidation of the corporate debtor.

Explanation 1. — For removal of doubts, it is hereby clarified that a distribution in accordance with the provisions of this clause shall be fair and equitable to such creditors.

Explanation 2. — For the purpose of this clause, it is hereby declared that on and from the date of commencement of the Insolvency and Bankruptcy Code (Amendment) Act, 2019, the provisions of this clause shall also apply to the corporate insolvency resolution process of a corporate debtor-

- (i) *where a resolution plan has not been approved or rejected by the Adjudicating Authority;*
 - (ii) *where an appeal has been preferred under section 61 or section 62 or such an appeal is not time barred under any provision of law for the time being in force; or*
 - (iii) *where a legal proceeding has been initiated in any court against the decision of the Adjudicating Authority in respect of a resolution plan;*
- (c) *provides for the management of the affairs of the corporate debtor after approval of the resolution plan;*
 - (d) *The implementation and supervision of the resolution plan;*
 - (e) *does not contravene any of the provisions of the law for the time being in force*
 - (f) *confirms to such other requirements as may be specified by the Board.*

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Explanation: For the purposes of clause (e), if any approval of shareholders is required under the Companies Act, 2013(18 of 2013) or any other law for the time being in force for the implementation of actions under the resolution plan, such approval shall be deemed to have been given and it shall not be a contravention of that Act or law.

(3) ”

19. The compliance of Section 30(2) of the Code is given in Para No. 9 of Form H (*supra*). The same is being examined as under:

18.1. *Section 30(2)(a):* The Resolution Plan (Para 10 of the Resolution Plan) provides for payment of Corporate Insolvency Resolution Process Cost as estimated at Rs. 2.69 Lakhs and also any other costs incurred till the NCLT approval date as may be incurred/ payable on actual basis, pertaining to the resolution process, in manner as specified by Board and in priority to payment of other debts of corporate debtor.

18.2. *Section 30(2)(b):* From the Resolution Plan (Para 10 of the Resolution Plan), the liquidation value is expected to be significantly lower compared to admitted claims of financial creditors alone. In case of liquidation, the entire proceeds would be utilized/ recovered towards dues of financial creditors and no amount would be expected to be paid/ realised by Operational Creditors. However, in spite of the same, Resolution Applicant has estimated as Rs. 0.01 lacs payment to operational creditors.

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- 18.3. *Section 30(2)(c)*: From the Resolution Plan (Para 10 of the Resolution Plan) it is noted that the Resolution Applicant would be having its nominee(s) on the management to manage the Corporate Debtor. Resolution Applicant shall identify and appoint suitable professionals to manage the affairs of the Corporate Debtor on a day-to-day basis.
- 18.4. *Section 30(2)(d)*: In Para 10 of the Resolution Plan, it is stated that Resolution Professional will ensure that the Resolution Plan is implemented and supervised suitably. The implementation schedule has been mentioned in the Resolution Plan at para 8 which is not being reiterated herein. Further it is mentioned that a monitoring committee would be formed to oversee the board within 30 days from the date of approval of the Resolution Plan.
- 18.5. *Section 30(2)(e)*: It has been mentioned in Para 10 of the Resolution Plan that the Resolution Applicant has prepared the Resolution Plan after taking into consideration compliance of all applicable Acts & Laws and regulations and the same does not contravene any of the provisions of the law for the time being in force.
- 18.6. *Section 30(2)(f)*: It has been stated in Para 10 of the Resolution Plan that the same has been prepared after taking every aspect into

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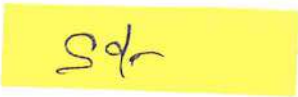
consideration so as to conform to such other requirements as may be specified by Board.

20. The Resolution Professional has also certified that *Mrs. Tejashree Kunal Nagrani*, the Successful Resolution Applicant has submitted an Affidavit pursuant to Section 30(1) of the Code confirming its eligibility under Section 29A of the Code to submit the resolution plan and the contents of the said affidavit are in order. With regard to compliance under Regulation 35A, it is stated that there are no transactions that have been identified in respect of the Corporate Debtor which is required to be avoided under Sections 43, 45, 50 or 66 of the Code.
21. A perusal of Regulation 38 would clearly show that by virtue of the mandatory contents of the Resolution Plan as discussed in the preceding paragraphs in relation to Section 30 and Section 31 of the Code, the requirement of Regulation 38 also stands fulfilled. Thus, the resolution plan fulfils all the requirements of Regulation 38 of the CIRP Regulations.
22. As per the requirement of Regulation 39(4) of the Regulations for performance security, it is stated in Form H that Earnest money deposit of Rs. 5 lacs was received at the time of submission of EOI and minimum outright payment of Rs. 1.8 lacs was received towards submission of resolution plan and considered performance security.
23. The Resolution Plan *inter-alia* entails the following:

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- 23.1. All claims and dues of the shareholders and members of the Corporate Debtor pertaining to the period prior to the approval of the resolution Plan by the CoC shall stand satisfied and extinguished.
- 23.2. The new management shall define organisation structure, policies, procedures, records, and methods of reporting that are necessary to collectively ensure that the financial and non-financial operations of the Corporate Debtor is conducted in an orderly and efficient manner to achieve the Corporate Debtor's objective.
- 23.3. The term of the Plan and its implementation schedule is envisaged to be completed within a period of 90 days.
24. In view of the above discussion, the Resolution Plan submitted by *Mrs. Tejashree Kunal Nagrani* as approved by the CoC under Section 30(4) of the Code is hereby approved. The Resolution Plan so approved shall be binding on the Corporate Debtor and its employees, members, and creditors, including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force such as authorities to whom statutory dues are owed, guarantors and other stakeholders involved in the Resolution Plan.
25. Under the provisions of Section 31(3) of the Code, we also direct as under:
- 25.1. The moratorium order passed by the Adjudicating Authority under Section 14 of the Code on 25.11.2020 shall cease to have effect; and

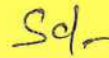


25.2. The RP shall forward all records relating to the conduct of the CIRP and the Resolution Plan to the Board to be recorded on its database.

26. In view of the foregoing, IA No. 222/JPR/2021 is disposed of.



**DEEP CHANDRA JOSHI,
JUDICIAL MEMBER**



**RAJEEV MEHROTRA,
TECHNICAL MEMBER**