

S.No.3

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH – 1  
VC AND PHYSICAL (HYBRID) MODE  
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON  
13-02-2024 AT 10:30 AM**

**IA (IBC)(Plan) 3/2024 in CP (IB) No.59/7/HDB/2022**  
u/s. 7 of IBC, 2016

**IN THE MATTER OF:**

SMT. Pushpa Soni

...Financial Creditor

**VS**

Jairam Foundry Pvt Ltd

...Corporate Debtor

**C O R A M:-**

**DR. VENKATA RAMAKRISHNA BADARINATH NANDULA, HON'BLE MEMBER (JUDICIAL)  
SH. CHARAN SINGH, HON'BLE MEMBER (TECHNICAL)**

**ORDER**

**IA (IBC)(Plan) 3/2024**

Learned Counsel Mr. Srikanth Rathi, for Resolution Professional and Mr. Malireddy Ramana Reddy, Resolution Professional present through Video Conference. Orders pronounced. In the result, **this application is allowed. Resolution plan approved**, as per the terms mentioned in the order.

**Sd/-**

**MEMBER (T)**

**Sd/-**

**MEMBER (J)**

**NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH- 1**

**I.A (plan). No.03 OF 2024  
in  
CP (IB) No. 59/7/HDB/2022**

**IN THE MATTER OF M/s. JAIRAM FOUNDRY PRIVATE LIMITED**

**Filed:**

**Mr. Malireddy Ramana Reddy**

Resolution Professional

For Jairam Foundry Private Limited

Flat 403, Nirmal Towers, Dwarakapuri Colony,  
Punjagutta, Near Sai Baba Temple,  
Hyderabad- 500082, Telangana.

*...Applicant*

**IN THE MATTER OF:**

1. Smt. Pushpa Soni  
R/o. 2-4-540, Road No.2, New Nagole, Kothapet,  
Hyderabad, Rangareddi, Telangana- 500035.  
AND
2. Smt. Sujatha Bung  
R/o. H.No. 6-3-596/63/8/2, Venkataramana Colony,  
Near Bhagat Singh Colony, Khairatabad,  
Hyderabad, Telangana, 500004  
AND
3. Sri Mahesh Kumar Lahoti  
R/o. 19-1-888/1/49 to 51, Devi Bagh, Hussainialam,  
Bahadurpura, Hyderabad, Telangana- 500064  
AND
4. Sri Mahesh Kumar Lahoti  
R/o. 19-1-888/1/49 to 51, Devi Bagh, Hussainialam,  
Bahadurpura, Hyderabad, Telangana- 500064

*...financial creditors*

*Versus*

M/s. Jairam Foundry Private Limited  
SY No. 21, Mahadevpur Village,  
Nemuragomula Gram Panchayat, Bibi Nagar Mandal,  
Nalgonda, Telangana

...Corporate debtor

**Date of order: 13.02.2024**

**Coram**

Dr. N. Venkata Ramakrishna Badarinath, Hon'ble Member Judicial  
Shri Charan Singh, Hon'ble Member Technical

**Appearance:**

For Applicant: Shri .V.V.S.N. Raju, Advocate

**PER: BENCH**  
**ORDER**

1. The present Application is filed by **Mr. Malireddy Ramana Reddy** ("Resolution Professional" / "Applicant"), the Resolution Professional of M/s Jairam Foundry Private Limited ("Corporate Debtor"), under Sections 30(6) and 31(1) of the Insolvency and Bankruptcy Code, 2016 ("Code") read with Regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 ("CIRP Regulations"), seeking approval of the resolution plan submitted by **Mr. Sudhir Kumar** ("Successful Resolution Applicant").
2. To put precisely, this Tribunal admitted the petition filed by Financial Creditors on 28.04.2023 and ordered commencement of CIRP against the Corporate Debtor by appointing the Applicant herein as Interim

Resolution Professional who was later confirmed as Resolution Professional.

3. The Interim Resolution Professional in compliance with Regulation 6 made Public Announcement in Form-A in Financial Express (All India edition) and Nava Telangana on 03.05.2023 inviting claims from creditors of the Corporate Debtor.
4. The Applicant after collating the claims received from the creditors of the Corporate Debtor constituted the Committee of Creditors on 19.05.2023 with the following members:

S.no	Name of the Financial Creditor	Voting share
1.	Late Sampath Lahoti represented by Mahesh Lahoti	4.86%
2.	Mahesh Lahoti	8.65%
3.	Pushpa Soni	9.53%
4.	Yes Bank	76.97%
5.	Sujata Bung	N/A(related party)

**The Applicant states that as on the date of filing this Application, all other creditors withdrew their claims and Yes Bank stands a sole COC member with 100% voting rights.**

5. In response to publication of Form-G inviting Expression of Interest on 03.08.2023, the Applicant received interest from 03 Prospective Resolution Applicants, i.e. Mr. Sudhir kumar, Mrs. Sujata Bung and Mr. Naveen Kumar Agarwal, who were included in the Final List of the Prospective Resolution Applicants (PRAs).

6. In the 8<sup>th</sup> COC Meeting, the resolution plans submitted by two PRAs i.e. Mrs. Sujata Bung and Mr. Sudhir Kumar were placed before the COC. In the 9<sup>th</sup> and 10<sup>th</sup> COC meetings, the resolution plans submitted by the above two PRAs were deliberated and after several rounds of negotiations, the Modified Resolution Plans were submitted by the Resolution Applicants and after considering the Feasibility and viability of the Resolution Plans, the resolution plans were put for E-Voting by the CoC Members. The COC in its 11<sup>th</sup> meeting held on 20.11.2023, approved the resolution plan submitted by Mr. Sudhir Kumar, suspended Director of Jairam Foundry Private Limited, with 100% voting.
7. The SRA has deposited Rs. 10,00,000/- in lieu of Performance Bank Guarantee, which was later converted into fixed deposit.
8. **Salient Features of the Resolution Plan submitted by Mr. Sudhir Kumar which was approved by 100% voting share of the CoC Members is as follows:**
  - (A) **Background of the Resolution Applicant:**

The Successful Resolution Applicant (hereinafter referred to as the “SRA”), Mr. Sudhir Kumar is a resident of Hyderabad. He is a businessman having 5 years’ experience in manufacturing/trading in Foundry and allied products in cast iron industry. He is the ex-Director of Jairam Foundry Private Limited, which is an MSME and he is eligible to submit the resolution plan as per Section 29A and Section 250A of IBC.
  - (B) The CoC comprised of the following creditors and the distribution of voting share among them is as under:-

Sl. No.	Name of Creditor	Voting Share (%)	Voting for Resolution Plan (Voted for / Dissented / Abstained)
1.	Yes Bank	100	100

(C) **FINANCIAL PROPOSALS:** The amount provided to the stakeholders of the Corporate Debtor is tabulated below: -

(Rupees: in lakhs)

Sl. No.	Category of Stakeholder*	Sub-Category of Stakeholder	Amount Claimed	Amount Admitted	Amount Provided under the Plan#	Amount Provided to the Amount Claimed (%)
(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	0	0	0	0
		(b) Other than (a) above:  (i) who did not vote in favour of the resolution Plan	0	0	0	0
		(ii) who voted in favour of the resolution plan	4,36,44,511	4,36,44,511	3,62,00,000	82.94%
		Total[(a) + (b)]	4,36,44,511	4,36,44,511	3,62,00,000	82.94%
2	Unsecured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	6,21,26,173	75,07,408	60,00,000	9.66%
		(b) Other than (a) above:  (i) who did not vote in favour of the resolution Plan	0	0	0	0

		(ii) who voted in favour of the resolution plan	0	0	0	0
		Total[(a) + (b)]	6,21,26,173	75,07,408	60,00,000	9.66%
3	Operational Creditors	(a) Related Party of Corporate Debtor	0	0	0	0
		(b) Other than (a) above:				
		(i)Government				
		(ii)Workmen	14,84,632	11,21,997	2,00,000	13.47%
		(iii)Employees	0	0	0	0
		(iv) .....	0	0	0	0
			2,85,40,866	2,81,43,531	1,50,000	0.52%
		Total[(a) + (b)]	3,00,25,498	2,92,65,528	3,50,000	1.16%
4	Other debts and dues		0	0	0	0
Grand Total			13,57,96,182	8,04,17,447	4,25,50,000	31.33%

Apart from the above amount, the RA proposes to infuse an additional amount of Rs. 95,00,000 (Rupees Ninety Five Lakhs Only) on need only basis which are as follows:

- (i) An estimated amount of Rs. 90,00,000/- (Rupees Ninety Lakhs only) is proposed towards the working capital requirements of the Corporate Debtor on a need-only basis.
- (ii) An estimated amount of Rs. 5,00,000/- (Rupees Five Lakhs only) is proposed towards the Revival, Repairs and Maintenance of old Plant and Machinery, Installation, Reconnection of Electricity, Renewal/ obtaining of various Licenses requirements of the Corporate Debtor on a need-only basis.
- (iii) The distribution of the resolution plan amount of Rs. 5,39,00,000.00 is as under:-
  - (a) Amount to be distributed to the stakeholders: Rs. 4,25,50,000.00
  - (b) Amount infused for working capital & Revival

Repairs and maintenance of plant etc. costs : Rs. 95,00,000.00  
 (c) Amount towards CIRP costs : Rs. 18,50,000.00

**(D) TERM OF IMPLEMENTATION OF THE RESOLUTION PLAN**

S. No.	Outstanding dues in order of priority as per section 53 of IBC 2016	Amount of Claim admitted by RP	Total Amount offered	Timeline
1	Insolvency resolution process cost CIRP Costs	-----	Estimated CIRP cost of Rs.18.50 lakh or actuals will be borne by R.A. Any Excess or shortfall shall be set off against the amount payable to the Secure Financial Creditors	Within 45 days from the NCLT approval date.
2	Debts due to secured financial creditors (Yes Bank)	Rs. 4.36 Crores	Rs.3.62 crore as full and final settlement.	Upfront amount of Rs. 2.42 Crores within 45 days from NCLT approval date and balance Rs.1.20 Crores in six equated monthly instalments after the payment of upfront amount.
	Debts due to unsecured financial creditors	Rs. 9.21 Crores	Rs.60 Lakhs as full and final settlement.	Within 45 days from the NCLT approval date.
3	Debts due to Operational creditors other than employees and workmen	Rs. 2.85 Crores	Rs.1.50 Lakhs as full and final settlement.	Within 45 days from the NCLT approval date.



4	Debts due to Operational creditors employees and workmen	Nil	N/A	N/A
5	Debts due to Operational Creditors Government dues	Rs.14.84 Lakhs	Rs.2 Lakhs as full and final settlement.	Within 45 days from the NCLT approval date.
6	Debts to other Creditors	Nil	N/A	N/A
	Total	Rs. 16.58 Crores	Rs.4.255 Crores	

(E) **MONITORING AND SUPERVISION:**

The Monitoring Committee comprising of two representatives of the Resolution Applicant, one representative of the Financial Creditors and the Resolution Professional as the Chairman, shall monitor the implementation of the plan and shall cease to exist on the date of the final payment to the Financial Creditors by the SRA.

(F) **COMPLIANCE OF MANDATORY CONTENTS OF RESOLUTION PLAN UNDER THE CODE AND REGULATIONS.**

The Applicant has conducted a thorough compliance check of the Resolution Plan in terms of the Code as well as Regulations 38 & 39 of the Insolvency and Bankruptcy Board of India (Corporate Insolvency Resolution Process) Regulations, 2016 along with Form 'H' prescribed under Regulation 39(4) of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The fair value and Liquidation value as submitted in Form-H is Rs.67.10 lakhs and Rs.60.39 lakhs respectively.

9. In the above backdrop we heard Shri V.V.S.N. Raju, Learned Counsel for the Resolution Professional. He submits that the Resolution Plan meets the requirement of Section 30 (2) of the Code, as under: -
- a. **Compliance of Section 30 (2) (a):** The resolution Plan provides for payment of Rs. 18,50,000/- towards CIRP Costs in priority to the payment of other debts of Corporate Debtor. Any excess or shortfall shall be set off against the amount payable to the secured financial creditors. (Section 8 (a) Page 20).
- b. **Compliance of Section 30 (2) (b):** The plan provides for payment to operational creditors on priority over Financial Creditors. Out of Rs. 3,50,000/-, Rs. 2,00,000/- is to be paid towards Government dues and Rs. 1,50,000/- is to be allotted to other operational creditors. (Section 8 (b), page 21)
10. The Resolution Plan is in compliance of Regulation 38 of the Regulations in the following manner:
- (a) **Compliance of Regulation 38(1)(a) of the CIRP Regulations 2016:** The amount payable to operational creditors as per Section 30 (2)(b) shall be paid on priority basis over Financial Creditors.
- (b) **Compliance of Regulation 38 (1A):** Declaration by the Resolution Applicant that the Resolution Plan has considered the interest of all the stakeholders of the Corporate Debtor, keeping in view the objectives of the Code.
- (c) **Compliance of Regulation 38 (1) (B):** Declaration by the Resolution Applicant that neither the Resolution Applicant nor any of its related party has either failed or contributed to the failure of the implementation of any other approved Resolution Plan.

11. In **K. Sashidhar v. Indian Overseas Bank & Others (in Civil Appeal No. 10673/2018)** the Hon'ble Apex Court held that, *"if the CoC had approved the Resolution Plan by requisite percent of voting share, then as per Section 30 (6) of the Code, it is imperative for the Resolution Professional to submit the same to the Adjudicating Authority. On receipt of such proposal, the Adjudicating Authority (NCLT) is required to satisfy itself that the resolution plan as approved by CoC meets the requirements specified in Section 30(2). No more and no less"*.
12. The Hon'ble Supreme Court has further held at para 35 of the above judgement that *the discretion of the adjudicating authority (NCLT) is circumscribed by Section 31 limited to scrutiny of the resolution plan "as approved" by the requisite percent of voting share of financial creditors. Even in that enquiry, the grounds on which the adjudicating authority can reject the resolution plan is in reference to matters specified in Section 30(2), when the resolution plan does not conform to the stated requirements.*
13. The Hon'ble Supreme Court in Committee of Creditors of **Essar Steel India Limited Vs. Satish Kumar Gupta & Ors**, held that *"the limited judicial review available to AA has to be within the four corners of section 30(2) of the Code. Such review can in no circumstance trespass upon a business decision of the majority of the CoC. As such the Adjudicating Authority would not have power to modify the Resolution Plan which the CoC in their commercial wisdom have approved"*.
14. **The Hon'ble Supreme Court of India, in the recent ruling in re Vallal RCK vs M/s Siva Industries and Holdings Limited & Ors, has held as under:-**

21. This Court has consistently held that the commercial wisdom of the CoC has been given paramount status without any judicial intervention for ensuring completion of the stated processes within the timelines prescribed by the IBC. It has been held that there is an intrinsic assumption, that financial creditors are fully informed about the viability of the corporate debtor and feasibility of the proposed resolution plan. They act on the basis of thorough examination of the proposed resolution plan and assessment made by their team of experts. A reference in this respect could be made to the judgments of this Court in the cases of *K. Sashidhar v. Indian Overseas Bank and Others*, *Committee of Creditors of Essar Steel India Limited through Authorised Signatory v. Satish Kumar Gupta and Others*, *Maharashtra Seamless Limited v. Padmanabhan Venkatesh and Others*, *Kalpraj Dharamshi and Another v. Kotak Investment Advisors Limited and Another*, and *Jaypee Kensington Boulevard Apartments Welfare Association and Others v. NBCC (India) Limited and Others*.

27. This Court has, time and again, emphasized the need for minimal judicial interference by the NCLAT and NCLT in the framework of IBC. We may refer to the recent observation of this Court made in the case of *Arun Kumar Jagatramka v. Jindal Steel and Power Limited and Another*:

“95. ....However, we do take this opportunity to offer a note of caution for NCLT and NCLAT, functioning as the adjudicatory authority and appellate authority under the IBC respectively, from judicially interfering in the framework envisaged under the IBC. As we have noted earlier in the judgment, the IBC was introduced in order to overhaul the insolvency and bankruptcy regime in India. As such, it is a carefully considered and well thought out piece of legislation which sought to shed away the practices of the past. The legislature has also been working hard to ensure that the efficacy of this legislation remains robust by constantly amending it based on its experience. Consequently, the need for judicial intervention or innovation from NCLT and NCLAT should be kept at its bare minimum and should not disturb the foundational principles of the IBC.....”

15. The record reveals that during the course of hearing of this Application, this Tribunal sought the following clarifications and directed the Applicant to file an Affidavit: -
- (a) To provide details of other operational creditors other than Government, Workmen and Employees, whose claims for an amount Rs. 2,81,43,531/- were admitted.

- (b)** An amount of Rs. 10,00,000/- was given by the SRA as performance bank guarantee whereas in the resolution plan amount is Rs.5,39,00,000/- which is less than 10% of the total resolution plan amount.
- 16.** In response to the above clarifications sought, the Resolution Professional filed an Affidavit stating that claim amount of Rs. 2,81,43,531/- was admitted towards the claims submitted by the suppliers of the CD and a report consisting of the break-up of name of suppliers, amount claimed and amount provided under the Resolution Plan has been attached as Annexure-1 to the Affidavit.
- 17.** Therefore, the resolution plan, when tested on the touch stone of the aforesaid facts and the rulings, we are of the view that the instant resolution plan satisfies the requirements of Section 30 (2) of the Code and Regulations 37, 38, 38 (1A) and 39 (4) of the Regulations. We also found that the Resolution Applicant is eligible to submit the Resolution Plan under Section 29A of the Code.
- 18.** We therefore, hereby approve the Resolution Plan submitted by Shri Mr. Sudhir Kumar (“Successful Resolution Applicant”) along with annexure, schedules forming part of the Resolution Plan annexed to the Application and order as under:
- (i)** The Resolution Plan along with annexures and schedules forming part of the plan shall be binding on the Corporate Debtor, 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 is due, guarantors and other stakeholders involved in the Resolution Plan.
- (ii) All crystallized liabilities and unclaimed liabilities of the Corporate Debtor as on the date of this order shall stand extinguished on the approval of this Resolution Plan.
  - (iii) The approval of the Resolution Plan shall not be construed as waiver of any statutory obligations/ liabilities of the Corporate Debtor and shall be dealt with by the appropriate Authorities in accordance with law. Any waiver sought in the Resolution Plan, shall be subject to approval by the Authorities concerned as held by Hon'ble Supreme Court in the matter of *Ghanashyam Mishra And Sons Private Limited Versus Edelweiss Asset Reconstruction Company Limited in CIVIL APPEAL NO.8129 OF 2019 dated 13.04.2021*.
  - (iv) It is hereby ordered that the deposit amount of Rs.10,00,000/- made by the Resolution Applicant shall cover the entire term of the plan and its implementation schedule in terms of Regulation 36B 4(A) of CIRP Regulations.
  - (v) The Memorandum of Association (MoA) and Articles of Association (AoA) shall accordingly be amended and filed with the Registrar of Companies (RoC) Hyderabad for information and record. The Resolution Applicant, for effective implementation of the Plan, shall obtain all necessary approvals, under any law for the time being in force, within such period as may be prescribed.
  - (vi) Henceforth, no creditors of the erstwhile Corporate Debtor can claim anything other than the liabilities referred to supra.

- (vii) The moratorium under Section 14 of the Code shall cease to have effect from this date.
- (viii) The Applicant shall forward all records relating to the conduct of the CIRP and the Resolution Plan to the IBBI along with copy of this order for information.
- (ix) The Applicant shall forthwith send a copy of this order to the CoC and the Resolution Applicant.
- (x) The Registry is directed to furnish free copy to the parties as per Rule 50 of the NCLT Rules, 2016.
- (xi) The Registry is directed to communicate this order to the Registrar of Companies, Hyderabad for updating the master data and also forward a copy to IBBI.
- (xii) Accordingly, IA (plan) 3/2024 stands disposed of.

**SD/-**

**(Charan Singh)**  
**MEMBER (TECHNICAL)**

**SD/-**

**(DR N.V. Ramakrishna Badarinath)**  
**MEMBER (JUDICIAL)**

*Binnu*

