

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
DIVISION BENCH
COURT - 1

ITEM No.125

IA/518(AHM)2021 in CP(IB) 307 of 2020

Order under Section 30(6) r.w. 31 IBC, 2016

IN THE MATTER OF:

Ramchandra Dalaram Choudhary RP of Real Strips Ltd
V/s
COC of Real Strips Ltd

.....Applicant

.....Respondent

Order delivered on ..04/01/2022

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Ajai Das Mehrotra, Hon'ble Member(T)

PRESENT:

For the Applicant :
For the Respondent :

ORDER

Due to electricity failure, the parties could not appear online. However, the ~~matter~~^{order} is pronounced in open Court and disposed of because the pronouncement of order cannot be postponed.



**AJAI DAS MEHROTRA
MEMBER (TECHNICAL)**



**MADAN B GOSAVI
MEMBER (JUDICIAL)**

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

**IA 518(AHM)2021
In
CP (IB) 307 of 2020**

[Application for submission of Resolution Plan alongwith Scheme of Amalgamation under Section 30(6) r.w. Section 31 of the Insolvency & Bankruptcy Code, 2016 read with Regulation 39(4) of IBBI (Insolvency Resolution Process for Corporate Persons) for approval of resolution plan]

Through:

**Shri Ramchandra Dallaram
Choudhary
Resolution Professional of
M/s Real Strips Limited**
Office at: 9B, Vardan Tower
Lakhudi Circle, Naranpura
Ahmedabad-380014

Applicant

IN THE MATTER OF:

**Shri Ramchandra Dallaram Choudhary
Resolution Professional of
M/s Real Strips Limited**

Applicant

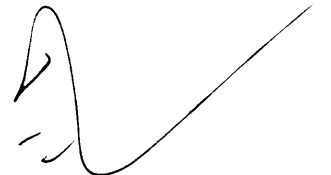
Versus

**Committee of Creditors of M/s Real
Strips Limited**

Respondent

Memo of Parties

**Shri Ramchandra Dallaram Choudhary
Resolution Professional of
M/s Real Strips Limited**



Office at: 9B, Vardan Tower
Lakhudi Circle, Naranpura
Ahmedabad-380014

Applicant

Versus

**Committee of Creditors of
M/s Real Strips Limited**

Office at: Survey No.245-246
Village Sari, Ahmedabad-Bavla Highway
Taluka Sanand-Ahmedabad

Respondent

Order Reserved on: 15/12/2021

Order Pronounced on: 04/01/2022

**Coram: M.B. Gosavi, Member (J)
Ajai Das Mehrotra, Member (T)**

Appearance:

For the Applicant: Ld. Adv Mr. Atul Sharma

For the RP: Mr.Ramchandra Dallaram Choudhary a.w. CA
Jigar Shah

For the Suspended Management: Ld. Adv Mr.Harmish Shah

ORDER

[Per Bench]

1. This application has been filed by Shri Ramchandra Dallaram Choudhary, Resolution Professional of M/s Real Strips Limited under Section 30(6) read with Section 31 of Insolvency & Bankruptcy Code, 2016 (hereinafter referred to as **IBC, 2016**) read with Regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (hereinafter referred to as "**CIRP Regulations**") for approval

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of the Resolution Plan along with the Scheme of Amalgamation.

2. The facts, in brief, are that the Corporate Debtor was admitted into CIRP by this Adjudicating Authority vide order dated 09.03.2021, in an application filed by the Financial Creditor u/s 7 of the IB Code, wherein the moratorium was declared and the Corporate Insolvency Resolution Process (hereinafter referred to as "**CIRP**") was initiated. Shri Ramchandra Dallaram Choudhary was appointed as Interim Resolution Professional (hereinafter referred to as "**IRP**"), who made public announcement in Form-A on 11.03.2021 and collated claims and constituted Committee of Creditors (hereinafter referred to as "**CoC**") comprising of 1 financial creditors, viz. Raajratna Metal Industries Limited, which was reconstituted on 21.04.2021, comprising of two financial creditors, viz. Raajratna Metal Industries Limited and Bavesh Tarachand Mahetaliya.
3. It is submitted by the applicant that the CoC in its 1st Meeting dated 08.04.2021 resolved to appoint IRP as RP (hereinafter referred to as "**RP**"). The RP, as resolved by the CoC made the public announcement in prescribed Form-G



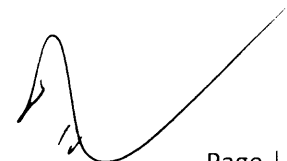
on 12.04.2021 for submission of EOI on or before 27.04.2021. Pursuant to publication of Form-G, one EOI was received from prospective resolution applicant who is also a Financial Creditor, viz. Raajratna Metal Industries Limited.

4. It is submitted by the applicant that after receiving all the required information from the suspended management, the RP prepared the Information Memorandum as per Section 29 of the IB Code and shared with the members of CoC & with the resolution applicant. The applicant further submits that the RP received the Resolution Plan along with the Scheme of Amalgamation on 02.06.2021.
5. It is submitted by the applicant that the CoC in its 2nd meeting held on 05.06.2021, discussed the feasibility, viability and compliance of the Resolution Plan alongwith the Scheme of Amalgamation. The CoC requested the resolution applicant to modify and re-submit the plan, since the resolution plan did not have provision for the payment to the operational creditors other than statutory dues. Thereafter, the resolution applicant re-submitted the



modified resolution plan along with the scheme of amalgamation and the Compliance Report on 23.06.2021.

6. It is submitted by the applicant that the CoC in its 3rd meeting held on 25.06.2021, discussed the modified resolution plan, however, RP further directed the resolution applicant to amend the resolution plan in compliance with the provisions of the IB Code and to submit the revised resolution plan within 24 hours. The resolution applicant submitted the revised and final resolution plan along with the scheme of amalgamation on 26.06.2021. The resolution applicant also circulated the revised Compliance Report to the members of CoC through email.
7. It is submitted by the applicant that the resolution plan along with the scheme of amalgamation submitted by M/s Raajratna Metal Industries Limited, was approved by CoC through e-voting with 100% votes on 30.06.2021. It is further submitted by the RP that the resolution plan complies with provisions of Section 30(2) of IBC, 2016 and Regulation 38 (3A) of the CIRP Regulations.
8. The amount provided for the stakeholders under the Resolution Plan are as under:



IA 518(AHM)2021 In CP (IB) 307 of 2020

Sr. No	Particulars of Claim	Type of Claim	Admitted Amount (INR)/ Amount as on balance sheet dated 09-03-2021	Settlement Amount (INR)	Term of Payment (In months)
1.	CIRP Costs	-	NIL	NIL	NA
2.	Financial Creditors	Unsecured	95,03,71,082	77,10,00,000	Cash Payment and/or Adjustment of Principal Outstanding Loan within 30 days of the effective date
3.	Statutory Dues	Unsecured	70,02,813	70,02,813	The said amount would be paid in the normal course of business. Statutory Dues outstanding as on effective date shall be paid by the Resolution Applicant As and when Due
4.	Employees/ Workmen	Unsecured	64,04,794	64,04,794	As and when Due
5.	Other Operational Creditors	Unsecured	10,98,36,741	10,98,36,741	Upfront. They shall be given priority in payment over financial creditor in compliance with Regulation 38(1) of the CIRP Regulation.
6.	Share Holders	Unsecured	5,97,50,000	Issue 1 equity share of Resolution Applicant against 1,66,620 equity shares of Corporate	On approval of scheme of amalgamation

				Debtor and issue 1 redeemable preference share having coupon rate of 0.01% of face value of Re.1 each which shall be redeemed between six to twelve months from the effective date.	
7.	Contingency	Unsecured	NA	5,00,000	As and when arise
	Total		1,13,33,65,430	89,47,44,348 plus equity shares or preference shares as above	

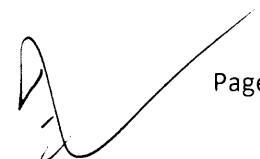
9. It is submitted by the resolution applicant that, an exemption shall be granted to the amalgamated entity from the levy of stamp duty on the value of assets transferred on account of amalgamation of the corporate debtor into the resolution applicant. It is further submitted by the resolution applicant that 100% exemption shall be granted on stamp duty, taxes, and any other levy on the transactions undertaken pursuant to the approval of the

resolution plan along with the scheme of amalgamation by this Adjudicating Authority.

10. It is submitted by the resolution applicant that upon approval of the Resolution Plan by the Adjudicating Authority, the resolution applicant shall not be liable for any liabilities which are neither appearing in the provisional balance sheet nor mentioned in the claim statement in response to the public notice under the IBC, except those which are admitted in the resolution plan.
11. It is submitted by the resolution applicant that upon approval of the Resolution Plan by the Adjudicating Authority, all licenses & consents to operate shall be available within 30 days of the completion date.
12. It is submitted by the resolution applicant that upon approval of the Resolution Plan by the Adjudicating Authority, all environmental business permits as required by the corporate debtor be granted by the Ministry of Environment, Central Pollution Control Board, and Pollution Control Board of Gujarat, and all other concerned Government Authorities.

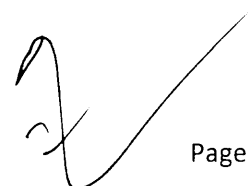


13. It is submitted by the resolution applicant that upon approval of the Resolution Plan by the Adjudicating Authority, full waiver of other contingent dues/ charges/ interest/ penalties and unconfirmed dues be granted.
14. It is submitted by the resolution applicant that upon approval of the Resolution Plan by the Adjudicating Authority, no claims other than the claims mentioned in the resolution plan shall be allowed and/or paid towards any statutory dues and to waive interest, penalty if any (whether provided or not provided in the books of corporate debtor).
15. It is submitted by the resolution applicant that upon approval of the Resolution Plan by the Adjudicating Authority, the dues of Workmen and Employees, labours, labour contractors, retainers, trainees or any other contractual employees or workmen including any dues towards Provident Fund (Contribution of Employees / Company), Gratuity, Employees State Insurance Scheme, Professional Tax or any other taxes in nature of employment, and all rights and entitlements of present or past, direct or indirect, permanent or temporary, employees and/or workmen of the Company, whether admitted or not,




due or contingent, asserted or rejected, crystalized or not crystalized, known or unknown, secured or unsecured, disputed or undisputed, in relation to any prior period to the insolvency commencement date or arising on account of acquisition of control by the Resolution Applicant over the Company pursuant to the Resolution Plan, shall be written off in full and shall be deemed to be permanently extinguished and waive off except those which are admitted in the resolution plan and the Company or the Resolution Applicant shall at no point of time be held responsible or liable in relation thereto.

16. It is submitted by the resolution applicant that upon approval of the Resolution Plan by the Adjudicating Authority, the resolution applicant shall be entitled to carry forward and set off the accumulated losses and unabsorbed depreciation as per provisions of section 72A of the Income Tax Act, 1961 and exemption be granted from other sections of the Income Tax Act, 1961. The resolution applicant shall be allowed to claim and utilize any MAT, VAT/GST credit if any available to the corporate debtor.



17. It is submitted by the Resolution Applicant that upon approval of the Resolution Plan, business permits and / or licenses and / or approvals required by the Corporate Debtor to conduct its business and which have not been granted / cancelled / terminated / revoked suspended or not renewed may please be directed to be granted / restored / renewed / reinstated as the case may be (by the concerned competent authority of State/Central Government/any other competent authority) at no additional cost to the Resolution Applicant.
18. It is submitted by the resolution applicant that upon approval of the Resolution Plan (including Scheme of Amalgamation) by the Adjudicating Authority, no further proceedings and/or formalities shall be required to be undertaken under the Companies Act and/or SEBI Regulations and the respective authority shall take cognizance of it on receipt of the copy of Order of Adjudicating Authority.
19. It is submitted by the resolution applicant that upon approval of the Resolution Plan (including Scheme of Amalgamation) by the Adjudicating Authority, no other

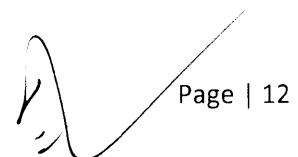


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payments or settlements (of any kind) shall be made to any other person in respect of claims filed under the CIRP (including, for the avoidance of doubt, any unverified portion of their claims) and all claims against the Corporate Debtor along with any related legal proceedings, including criminal proceedings and other penal proceedings, shall stand irrevocably and unconditionally abated, settled and extinguished with effect from the Appointed Date.

20. It is submitted by the resolution applicant that upon approval of the Resolution Plan (including Scheme of Amalgamation) by the Adjudicating Authority, the Resolution Applicant shall be liable only to all encumbrances, security interest, liens, and/or attachments (including pursuant to applicable law) created or which exists over the assets of the Corporate Debtor (charged or not charged with the lenders) and not on any other assets of the erstwhile promoters, directors, officers or associate (charges with the lenders).

21. It is submitted by the resolution applicant that upon approval of the Resolution Plan (including Scheme of Amalgamation) by the Adjudicating Authority, all the



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outstanding negotiable instruments issued by Director/promoter or Corporate Debtor or by any person on behalf of the Corporate Debtor for any dues of Corporate Debtor including demand promissory notes, post-dated cheques and letters of credit, shall stand terminated and the Corporate Debtor's liability under such instruments shall stand extinguished.

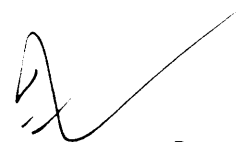
22. It is submitted by the resolution applicant that upon approval of the Resolution Plan (including Scheme of Amalgamation) by the Adjudicating Authority, All dues under the provisions of Income Tax Act, 1961 including taxes, duty, penalties, interest, fines, cess, unpaid TDS/TCS, whether admitted or not, due or contingent, whether part of the above claim of the Income tax authorities or not whether part of tax due diligence finding or not asserted or unasserted crystallized or not crystallized, known or unknown, secured or unsecured disputed or undisputed, present or future, in relation to any period prior to the Effective Date pursuant to this Resolution Plan, shall stand extinguished by virtue of the order of the Adjudicating Authority approving this Resolution Plan and the Corporate



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Debtor and Resolution Applicant shall not be liable to pay any amount against such demand. All assessments/appellate or other proceedings pending in case of the Corporate Debtor, on the date of the order of Adjudicating Authority relating to the period prior to that date, shall stand terminated, and all consequential liabilities, if any, shall be deleted and be considered to be not payable by the Corporate Debtor.

23. It is further submitted by the resolution applicant that upon approval of the Resolution Plan (including Scheme of Amalgamation) by the Adjudicating Authority, all pending proceedings of income tax department including but not limited to issue of notices or subsequent notices of assessment, re-assessment etc under Section, 143, 147, 148, 263 or any other provisions of Income Tax Act, 1961 for the period prior to the effective date shall stand extinguished on approval of the resolution plan by the Adjudicating Authority. No demand shall be raised against the Corporate Debtor for any period prior to the effective date of the resolution plan.



24. It is further submitted by the resolution applicant that upon approval of the Scheme of Amalgamation by the Adjudicating Authority, the Resolution Applicant be permitted to carry out necessary write off of assets, creation of additional liability or expenses, or write back of liability or provision (as the case may be) in the books of accounts of the Corporate Debtor or in the books of the Resolution Applicant as per the applicable provisions under the Companies Act, 2013
25. It is further submitted by the resolution applicant that permission be granted to the applicant for drawing up the financial statements of the company for the period ending on the effective date in compliance with the applicable accounting standards such that it truly reflects the fair value of the assets as may be determined by the board of directors of the Resolution Applicant.
26. It is further submitted by the applicant that the resolution applicant has deposited the Performance Bank Guarantee of Rs.6,94,74,435/- (Rs.3,94,74,435/- of Bank of Baroda and Rs.3,00,00,000/- of Standard Chartered Bank) on 13.07.2021.



27. We have heard learned counsel for the applicant and perused the material available on record. It is noted that Form H has been filed by Resolution Professional wherein all information/details as regard to conduct of CIRP as well as process adopted for Resolution Plan has been given. The Resolution Applicant has proposed to pay the financial creditor Rs.77,10,00,000/- against its total admitted claim of Rs.95,03,71,082/-. The amount of Rs.12,32,44,348/- has been proposed in the Resolution Plan to pay to the Operational Creditor against the total admitted claim of Rs.12,32,44,348/- including the Statutory Dues and Employees/Workmen which is 100% of the total admitted amount. The Resolution Applicant has proposed to issue 1 equity share of resolution applicant against 1,66,620 equity shares of the corporate debtor and Issue 1 equity share of Resolution Applicant against 1,66,620 equity shares of Corporate Debtor and issue of 1 redeemable preference share having coupon rate of 0.01% of the face value of Re.1 each which shall be redeemed between six to twelve months from the effective date. However in respect to CIRP cost, the resolution applicant has proposed to pay the CIRP cost from



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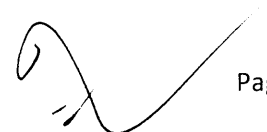
the cash from of the business of the Corporate Debtor, but is is also proposed that in case of short fall of CIRP cost from the operational cash flow, it shall be additionally infused by the Resolution Applicant.

28. It is also noted that the resolution applicant is providing Rs. Rs.89,47,44,348/- plus equity or preference shares under the Resolution Plan against the liquidation value of Rs.8300.75 lakhs.
29. It is further noted that an affidavit as regard to the eligibility of resolution applicant under Section 29A along with an undertaking of the resolution applicant to this effect has been filed. We have also perused the contents of the resolution plan, we are of the view that Regulation 36 to 39 of CIRP Regulations, 2016 has been complied with. We further noted that the resolution plan complies with all requirements under Section 30(2)(b) of IBC, 2016. We also find that the resolution plan addresses the cause for failure and also contains measures to run the Corporate Debtor in future and that the resolution plan is both feasible and viable as held by CoC and it also contains provisions for its



effective implementation. Accordingly, we being satisfied, approve the resolution plan and pass the following order:

- I.** The approved 'Resolution Plan' shall become effective from the date of passing of this order.
- II.** The order of moratorium dated 09.03.2021 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 Part R of the resolution plan shall be constituted for supervising the effective implementation of the Resolution Plan.
- V.** The Resolution Professional, Shri Ramchandra Dallaram Choudhary, 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 regard to various reliefs and concessions which are being sought, we hereby grant the following reliefs and concessions only as against reliefs and concessions claimed by the resolution applicant:

- i.** After the payment of the dues to the creditors, as per the resolution plan, all the liabilities of the said stakeholders shall stand permanently extinguished and that other claim 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;
- ii.** From the date of this order, all claims except provided in the plan of the Corporate Debtor stands extinguished.
- iii.** From the date of this order, all encumbrances on the assets of the Corporate Debtor prior to the plan shall stand permanently extinguished.
- iv.** 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.

- v.** As regard to reliefs prayed under various provisions of 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.
- vi.** The resolution applicant shall be entitled to review, revise or terminate any appointments/agreements entered into by or on behalf of the Corporate Debtor in accordance with the terms and conditions of such agreements/MoUs/contracts;
- vii.** 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 operations of the business of the Corporate Debtor;

- viii.** The Board of Directors of the Corporate Debtor shall also be reconstituted and procedural compliances shall be done to give effect to such reconstitution;
- ix.** 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;
- x.** 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.
- xi.** In respect to the grant of license/ Government approval if 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.

30. Accordingly, IA 518 of 2021 is allowed with the above said observations and directions and stands disposed of.
31. Urgent certified copy of this order, if applied for, to be issued to all concerned parties upon compliance with all requisite formalities.



**AJAI DAS MEHROTRA
MEMBER (TECHNICAL)**



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