



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

ITEM No.205

IA/682(AHM)2022 in CP(IB) 177 of 2020

**Orders under Section Rule 11 of NCLT Rule r.w sec 60(5)(C ) & 5(24)(h) & (m) and 65 IBC, 2016**

**IN THE MATTER OF:**

Raj Radhe Finance Ltd.

.....Applicant

V/s

Dilipkumar Natvarlal Jagad IRP For Superdrawn Wire  
Industries Pvt. Ltd. & Ors

.....Respondent

**Order delivered on: 06/03/2023**

**Coram:**

Dr. Madan B. Gosavi, Hon'ble Member(J)

Mr.Kaushalendra Kumar Singh, Hon'ble Member(T)

**PRESENT:**

For the Applicant :

For the Respondent :

**ORDER**

The case is fixed for pronouncement of order. The order is pronounced in the open court, vide separate sheet.

-SD-

**KAUSHALENDRA KUMAR SINGH  
MEMBER (TECHNICAL)**

-SD-

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



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

**IA NO. 682 of 2022 in  
CP (IB) NO. 177/NCLT/AHM/2020**

**IA NO. 682 of 2022**

[An application under Section 60(5), 5(24)(h) & (m) and 65 of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of National Company Law Tribunal Rules, 2016]

**Raj Radhe Finance Limited  
Financial Creditor of  
Superdrawn Wire Industries Pvt. Ltd.**

Having office at:  
47, Shyamal Row House 3/B, Near Shyamal Cross Roads  
Ahmedabad-380015

**....Applicant**

**Versus**

- 1. Dinesh Kumar Mundada  
RP of Superdrawn Wire Industries Pvt. Ltd.**  
Having address at:  
403, Fortune House, Baner Prashan Link Road  
Pune-411045
- 2. Teco Industries**  
Having address at:  
1st Floor, 101, Joshi Chamber, Ahmedabad Streer,  
Carnac Bunder, Masjid Bunder E,  
Mumbai Suburban,  
Maharashtra 400009
- 3. ALS South West**  
Having address at:  
Office No.1 Gajanan Krupa,  
Chandvarkar Exnt Road Vazira Naka,  
Bhd Baloon Factory, Borivali West  
Mumbai – 400092



**4. Shah Steel Impex Pvt. Ltd.**

Having address at:  
101, Joshi Chamber,  
Ahmedabad Street,  
Carnac Bunder, Masjid (East),  
Mumbai — 400 009

**....Respondents**

**In the matter of:**

**CP (IB) 177 of 2020**

[An application under section 7 of Insolvency and Bankruptcy Code, 2016]

**Teco Industries**

**....Financial Creditor**

**Versus**

**Superdrawn Wire Industries Pvt. Ltd.**

**....Corporate Debtor**

**Order pronounced on 06.03.2023**

**Coram: DR. MADAN B. GOSAVI, MEMBER (J)  
KAUSHALENDRA KUMAR SINGH, MEMBER (T)**

**Appearance:**

Mr. Nipun Singhvi, Adv, along with Ms. Pragati Tiwari, Adv. for the Applicant

Mr. Vinay Bairagra, Adv. on behalf of Mr. Yash Jariwala, Adv, for  
Respondent No.1

Mr. Kezer Kharawala, Adv. for Respondents 2 to 4

**ORDER**

1. This application is filed by the Applicant under section 60(5), read with section 5(24)(h) and (m) and further read with section 65 of the Insolvency and Bankruptcy Code, 2016 (**IBC, 2016**) seeking directions from the Adjudicating Authority to re-constitute Committee of Creditors (**CoC**) and to replace the Resolution Professional (**RP**).

2. It is submitted by the Applicant that the Corporate Debtor was admitted into Corporate Insolvency Resolution Process (**CIRP**) vide order dated 16.03.2022 in CP(IB) No. 177 of 2020 filed by Teco Industries under section 7 of IBC, 2016. Thereafter, Mr. Dilipkumar Natverlal Jagad was appointed as Interim Resolution Professional (**IRP**). The appointed IRP i.e. Mr. Dilipkumar Natverlal Jagad issued a public announcement on 19.03.2022 in Form A for inviting the claims of the Creditors.

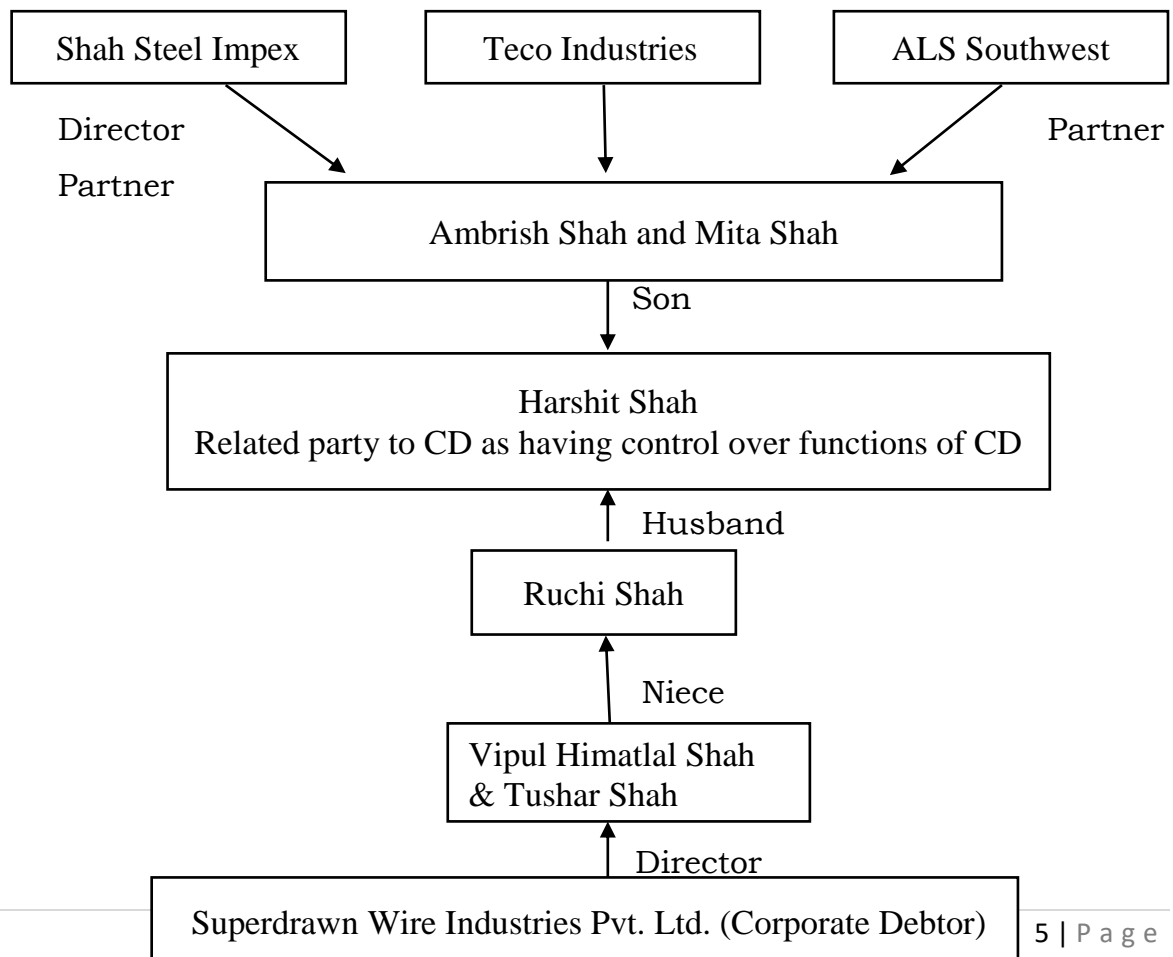
3. It is submitted by the Applicant that the IRP conducted 1<sup>st</sup> CoC meeting dated 18.04.2022 and informed CoC members about the claims. The claim of Applicant i.e. Raj Radhe Finance Ltd. was provisionally admitted upto Rs. 3,24,55,091/-. The IRP verified the claims and formed CoC of four Financial Creditors having voting rights as under:

Sr. No.	Name of Financial Creditor	Amount admitted provisionally (Rs.)	% of voting share
1.	Teco Industries	36,38,81,480/-	87.53%
2.	ALS South West	43,08,014/-	1.04%
3.	Shah Steel Impex Pvt. Ltd.	1,50,93,177/-	3.63%
4.	Raj Radhe Finance Ltd.	3,24,55,091/-	7.81%
	Total	41,57,37,762/-	100%



4. It is also submitted by the Applicant that in 1<sup>st</sup> CoC meeting dated 18.04.2022, Teco Industries proposed to change the IRP. Further, the name of Mr. Dinesh Gopal Mundada was suggested by Teco Industries in the said CoC meeting. CoC members with 92.20% voting rights resolved to replace IRP and appointed Mr. Dinesh Gopal Mundada as RP of the Corporate Debtor. Thereafter, IA 488 of 2022 was filed by Teco Industries for replacement of IRP and the said application was allowed vide order dated 13.06.2022 and Mr. Dinesh Gopal Mundada was appointed as RP.

5. It is also submitted by the Applicant that 3 Financial Creditors namely Teco industries, ALS South West and Shah Steel Impex Pvt. Ltd. are related to the Corporate Debtor and possess 92.20% of voting rights in CoC. Further, it submitted that as per section 5(24)(h) of IBC, 2016, Teco Industries, ALS South West and Shah Steel Impex Pvt. Ltd. are related party to the Corporate Debtor in the following way:





6. It is submitted by the Applicant that Mr. Harshit Shah is a related party to the Corporate Debtor as he is associated with the Corporate Debtor on provision of providing essential technical information to or from the Corporate Debtor. Further, on advice of Mr. Harshit Shah, directors of the Corporate Debtor were accustomed to act. The copy of mails showing the control of Mr. Harshit Shah over the functions of the Corporate Debtor is annexed with the application.

7. It is also submitted by the Applicant that RP i.e. Mr. Dinesh Gopal Mundada conducted 2<sup>nd</sup> CoC meeting on 01.07.2022 and informed CoC members about the mail dated 02.06.2022 forwarded by the Applicant to erstwhile IRP mentioning about Teco industries, ALS South West and Shah Steel Impex Pvt. Ltd. being the related parties to the Corporate Debtor. The Applicant again sent a mail dated 03.07.2022 and raised serious grievance regarding the same issue of related party before the RP. The RP replied on 05.07.2022 that a confirmation was provided by erstwhile IRP that Teco industries, ALS South West and Shah Steel Impex Pvt. Ltd. do not fall under the definition of 'related party'. Further, the RP also added that he did not have any reasons to believe that such parties fall under the definition of 'related party'.

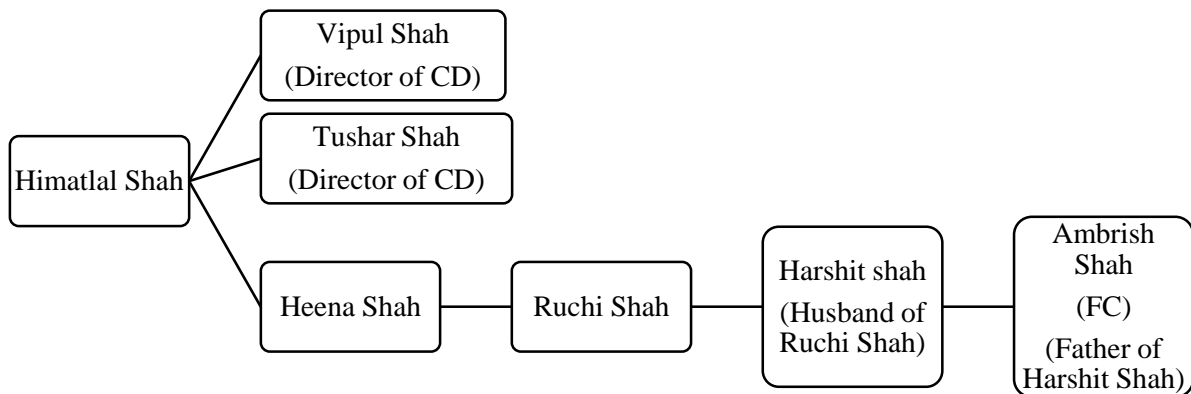
8. It is further submitted by the Applicant that its claim is of Rs. 9,95,58,833.22/- as on the insolvency commencement date which was duly assigned by the State Bank of India by way of an Assignment Agreement dated 28.01.2022 to the Applicant. However, the erstwhile IRP arbitrarily rejected a substantial amount of claim and provisionally admitted an amount of Rs. 3,24,55,019/-.

9. Further, it is submitted by the Applicant that the entire process carried out by Respondent No.1 is void ab initio and illegal as Respondent No. 1 directly proposed CoC members to go for liquidation in 3<sup>rd</sup> CoC meeting dated 16.07.2022 without publishing Form-G for the



Corporate Debtor. The CIRP of the Corporate Debtor was initiated on 16.03.2022. However, the RP did not take over the possession of the immovable property.

10. It is submitted by Respondent No.1 that the Applicant is creating constant hurdles in smooth conduct of the CIRP of the Corporate Debtor. The actions of the Applicant are wholly in disregard of the very IBC, 2016 which stipulates time bound resolution of the Corporate Debtor. The Respondent No. 1 has denied that other members of CoC are related party of the Corporate Debtor. It is stated that the entire case of the Applicant seems to revolve around Mr. Harshit Shah. The relationship between the parties is summarized as under by Respondent No.1:



11. It is submitted by Respondent No.1 that the interconnection between the parties only exist on account of the personal family relation of Mr. Harshit Shah (son of Mr. Ambrish Shah) being spouse of Ms. Ruchi Shah (daughter of Mrs. Heena Shah and niece of Mr. Vipul Himmatlal Shah and Mr. Tushar Shah).

12. It is also submitted by Respondent No.1 that claim of the Applicant was not supported by sufficient documents and information which were repeatedly sought from the Applicant and the Applicant steadfastly refused to provide the same. In addition, the Applicant



entered into illegal transactions to the detriment of all the Creditors of the Corporate Debtor and in violation of moratorium thereby committing offences under section 74 of IBC, 2016. Hence, the same should be subjected to judicial scrutiny.

13. Further, it is submitted by Respondent No.1 that the immovable properties of the Corporate Debtor have been illegally sold by the Applicant in stark violation of moratorium and registration was done during the subsistence of moratorium.

14. It is submitted by Respondent No.1 with reference to the allegations of publication of Form G that the RP was under the process of publication of Form G. But, the Applicant has misled this Adjudicating Authority regarding publication of Form G by the RP.

15. It is submitted by Respondent No.2 to 4 in their joint reply that Mr. Harshit Shah is the son of Mr. Ambrish Shah and Mita Shah who are the partners and directors of Respondent No.2 to 4. However, it is denied that Mr. Harshit Shah is a related party in view of section 5(24)(m)(iv) of IBC, 2016. Further, the Applicant has not disclosed the source from which they obtained the mails on which they have relied upon. Also, none of the answering Respondents are privy to the alleged mails and hence are unable to comment on the veracity of the alleged emails.

16. It is further submitted by Respondents No. 2 to 4 that from the alleged mails, it could be gathered that Mr. Harshit Shah has given some trivial advice to the director of the Corporate Debtor due to his expertise and personal relationship with the directors of the Corporate Debtor. The interconnection between the parties only exists on account of the personal family relation of Mr. Harshit Shah being the spouse of Mrs. Ruchi Shah who is the niece of the directors of the Corporate Debtor.



17. It is lastly submitted by Respondents No.2 to 4 that their claim is modest and their relation to the Corporate Debtor is an explicit inconsistency. Hence, it needs to be corrected and rectified as per the mandates of IBC, 2016.

18. We have heard the learned counsels for the Applicant and Respondents and perused the material on record. It has been noted that the Corporate Debtor was admitted in CIRP vide order dated 16.03.2022 in CP(IB) No. 177 of 2020 filed by Teco Industries under section 7 of IBC, 2016. Thereafter, Mr. Dilipkumar Natverlal Jagad was appointed as IRP. The IRP verified the claims and formed CoC of four Financial Creditors consisting of Teco Industries having 87.53% voting rights, ALS South West having 1.04% voting rights, Shah Steel Impex Pvt. Ltd. having 7.81% voting rights and Raj Radhe Finance Ltd. having 7.81% voting rights. Thereafter, in the 1<sup>st</sup> CoC meeting dated 18.04.2022, it was resolved to appoint Mr. Dinesh Gopal Mundada as RP. Thereafter, IA 488 of 2022 was filed by Teco Industries for replacement of IRP and the said application was allowed by the Adjudicating Authority vide order dated 13.06.2022 and Mr. Dinesh Gopal Mundada was appointed as RP.

19. It is also noted from the alleged mails that Mr. Harshit Shah has provided essential technical information to the Director of the Corporate Debtor. Therefore as per section 5(24)(m)(iv) of IBC, 2016, Mr. Harshit Shah is a related party to the Corporate Debtor as he is associated with the Corporate Debtor on account of provision of essential technical information to the Corporate Debtor. For benevolent reference, section 5(24)(m)(iv) of IBC, 2016 is reproduced below:

*“5(24)(m) any person who is associated with the corporate debtor on account of —*



*(iv) provision of essential technical information to, or from, the corporate debtor.”*

20. It is further noted that Mr. Ambrish Shah is the Director of Shah Steel Impex, Partner of Teco Industries and Partner of ALS Southwest. Shah Steel Impex, Teco Industries, ALS Southwest are the members of CoC holding 92.19% voting shares. Teco Industries holds 87.53% voting rights, ALS South West holds 1.04% voting rights and Shah Steel Impex Pvt. Ltd. holds 3.63% voting rights. Also, Mr. Harshit Shah who is associated with the Corporate Debtor in providing essential technical information to the Director of the Corporate Debtor is the son of Mr. Ambrish Shah. Further, Mr. Harshit Shah is the husband of Mrs. Ruchi Shah who is the niece of Mr. Vipul Himatlal Shah and Mr. Tushar Himatlal Shah who are the Directors of the Corporate Debtor. Hence as per section 5(24)(h) of IBC, 2016, any person on whose advice, directions or instructions, a director, partner or manager of the Corporate Debtor is accustomed to act falls under the definition of related party. For benevolent reference, section 5(24)(h) of IBC, 2016 is reproduced below:

*“5(24)(h) any person on whose advice, directions or instructions, a director, partner or manager of the corporate debtor is accustomed to act.”*

21. It is further noted that the RP did not inquire on the issue regarding related party even after serious grievance was raised by the Applicant vide mail dated 03.07.2022. Instead of inquiring into the issue of related party, the RP relied upon the confirmation of erstwhile IRP in which it was stated that Respondent No.2 to 4 do not fall under the definition of ‘related party’ under section 5(24) and 5(24A) of IBC, 2016. Hence, we direct to replace the RP and appoint Mr. Manish Santosh Buchasia having registration no. IBBI/IPA-002/IP-N00487/2017-



18/11449 and mail id [manishbuchasiacs@gmail.com](mailto:manishbuchasiacs@gmail.com) as the RP of the Corporate Debtor.

22. We also direct fresh constitution of CoC of the Corporate Debtor in accordance with law. In view thereof, this application stands allowed.

**-SD-**  
**KAUSHALENDRA KUMAR SINGH**  
**MEMBER (TECHNICAL)**

**-SD-**  
**DR. MADAN B. GOSAVI**  
**MEMBER (JUDICIAL)**

Shweta Desai – LRA