

IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH

CA No. 398/2019

IN

CP.NO(IB) 390/ALD/2018,

(under Section 30 (6) of Insolvency and
Bankruptcy Code, 2016) (r/w Regulation
39(4) of Insolvency and Bankruptcy Board
of India (Insolvency Resolution Process for
Corporate Persons) Regulation, 2016)

IN THE MATTER OF:

Punjab National Bank

.....Financial Creditor

v/s

Sitarganj Fibres Ltd.

.....Corporate Debtor

IN THE MATTER OF:

Mr. Sumit Sukhla
(Resolution Professional)

.....Applicant

ORDER RESERVED ON :03.01.2020
ORDER DELIVERED ON : 07.02.2020

CORAM:

Hon'ble Mr. Justice (Retd.) Rajesh Dayal Khare, Member, Judicial

For the Resolution Professional: Mr. Sumit Shukla

Per se: Mr. Justice (Retd.) Rajesh Dayal Khare, Member (Judicial)

ORDER

1. The instant application is filed under Section 30 (6) & 31(1) of the Insolvency and Bankruptcy Code, 2016 (IBC) read with Regulation 39 (4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process of Corporate Persons) Regulations, 2016 (CIRP Regulations) for seeking approval of Adjudicating Authority, under Section 31 of the IBC, of the resolution plan submitted by the successful resolution applicant i.e "**Babu Lal Patwari**".

2. The Corporate Insolvency Resolution Process ("CIR Process") of the corporate debtor was initiated vide order of this tribunal dated 09.04.2019 upon admission of an application filed by the Corporate Debtor under

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Section 7 of the Code and Mr. Sumit Shukla was appointed as the IRP who was later confirm as RP during 1st COC meeting.

3. It is further stated that on the approval of COC Members during 4th COC meeting dated 4/9/2019, an application was filed by RP for the extension of CIR process by 90 days which was approved by this Hon'ble Tribunal 17/9/2019. Further RP has conducted 5th COC meeting and the minutes of previous meetings has been filed before this Hon'ble Tribunal along with the Progress Reports and further, on 24/6/2019, the RP published the Form G in Hindustan Times (English) and Hindustan (Hindi) for Udham Singh Nagar location and in Business Standard (Hindi and English) for Delhi/NCR locations.
4. In response to Form G the RP received emails from 3 persons seeking expression of interest to which RP has provided the document to the aforesaid persons.
5. Further, on 23/8/2019 the RP received only one Resolution Plan form the Resolution Applicant Sh. Babu Lal Patwari (**RA**) and RP further put that Resolution Plan before the COC members during 4th COC meeting on 4/9/2019. The RA was also invited to discuss on the Resolution Plan which was submitted by him at the Zonal office Meerut of the Sole COC member i.e. Punjab National Bank. Based upon the meeting/discussion was RA was asked to review the Plan submitted by him and submit a revised Plan which is feasible and viable.
6. Further, the RA submitted the Revised Resolution Plan on 13/9/2019 which was submitted by the RP to the COC members by email on 14/9/2019, RP submitted the clarifications as sought by the COC from time to time and on 7/11/2019, RP requested the COC member by email to call for the 5th COC meeting to decide on the Resolution Plan which was held on 19.11.2019 at its HO at Delhi.
7. On 28/11/2019, RP sent the Notice/Agenda to the COC member and suspended directors of the Corporate Debtor, by way of email, proposing to schedule the 5th COC meeting on 4/12/2019.

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8. Further, on 4/12/2019, RP and COC member had another meeting (through its representatives Sh. Sumit Patwari and Sh. Dhruv Munjal) with the RA to discuss regarding the Resolution Plan. During the meeting, RA agreed to revise its proposal and submit an addendum to the RP. Thereafter, the RP and COC during the 5th COC meeting held on 4/12/2019 reviewed the Resolution Plan and subsequently the COC member approved the same with 100 % vote subject to submission of addendum to the Revised Resolution Plan as agreed by the RA before the COC meeting.
9. On 6/12/2019, as per the directions of the COC during the 4th COC meeting, RP issued the LOI to the successful RA intimating the decision of the COC member and on 7/12/2019, RA submitted by email, the copy of the Addendum to the Revised Resolution Plan, confirmation on the LOI and the copy of the PG (in the form of Bank Draft for a sum of Rs.13,20,00,000 (Rupees One Crore Thirty Two Lakh) which is 10% of the Proposed Resolution Cost which was duly receipted by the Punjab National Bank where the corporate debtor has its bank account .



That on 6/12/2019, RP had sent the Minutes of meeting by way of email of the 5th COC meeting to the COC members and suspended directors of the Corporate Debtor along with the copy of the Revised Resolution Plan dated 13/9/2019. The said emails has not bounced back neither any comments has been received from anyone whom the Minutes of meeting was sent.

11. Accordingly, the Resolution Professional has filed the present application seeking approval of the Resolution Plan in terms of Section 31(1) of the Code.
12. Heard the Ld. Counsel for the Applicant and perused the record available.

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13. The Resolution Professional has examined the Resolution Plan and has found it to be in compliance with Section 30 (2) of the IBC read with Regulation 38 of the CIRP Regulations. In accordance with Regulation 39 (4) of the CIRP Regulations, the RP vide his Affidavit certified that:

- a) The contents of the Resolution Plan submitted by “ **Babu Lal Patwari**”.meet all the requirements of the IBC and the Regulations thereunder; and
- b) The Resolution Plan submitted by “ **Babu Lal Patwari**” has been approved by the Committee of Creditors by 100% voting share under Section 30 (4) of the IBC in its meeting.
- c) Further, Resolution Professional has submitted compliance certificate in Form-H as required under Regulation 39(4) of the CIRP regulations, *interalia*, certifying eligibility of Resolution Applicant under Section 29 A of the Code and feasibility & viability of the Resolution resolution.

14. Sub-section 2 of Section 30 of the Code reads as under;

“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 repayment of other debts of the Corporate debtor;*
- b) *Provides for the repayment of the debts of operational creditors in such manner as may be specified by the Board which shall not be less than the amount to be paid to the operational creditors in the event of a liquidation of the corporate debtor under section 53;*
- 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 requirement as may be specified by the Board.”*



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Further, Regulation 38 & 39 of CIRP Regulations specify certain mandatory contents of the resolution plan.

15. The resolution plan approved by the Committee of Creditors meets the requirements laid down in various Clauses of Section 29 A and Sec 30 (2) as per the compliance table below:

Section	Requirement	Compliance (yes/no)
Section 29 A	The resolution applicant is eligible to submit resolution plan as per final list of resolution professional or order, if any, of the Adjudicating Authority	Yes
Section 30	(1) The resolution Applicant has submitted an affidavit stating that he is eligible	Yes
	(2) The resolution professional shall examine each resolution plan received by him to confirm that each resolution plan only one resolution plan received in the Insolvency resolution process of the CD)	
a)	Provides for payment of IRP cost in priority to repayment of other debts of CD in the manner specified by the Board.	Yes
b)	Provides for repayment of debts of operational creditors (OCs) in such manner as may be specified by the Board, which shall not be less than the amount payable to them in the event of liquidation u/s 53.	Not Applicable
c)	Provides for management of the affair of the CD after approval of the resolution plan.	Yes
d)	Implementation and Supervision of resolution plan	Yes

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e)	Plan does not contravene any of the provisions of the law for the time being in force.	Not Applicable
f)	Confirms to such other requirements as may be specified by the Board.	Yes

16. The following table shows that the requirements of Regulation 38 & Regulation 39(2) CIRP Regulation are met by the approved plan:

Reference of relevant Regulations	Requirement	Compliance (yes/no)
38(1)	The resolution plan identifies specific sources of funds that will be used to pay the insolvency Resolution process	Yes
38 (1A)	Plan shall include a statement as to how it has dealt with the interests of all stakeholders, including financial creditors and operational creditors, of Corporate Debtor.	Yes
38(2) (a)	Plan shall provide the term of the Plan and its implementation schedule.	Yes
38 (2) (b)	Plan shall provide for the management and control of the business of CD during its term.	Yes
38 (2) (c)	Plan shall provide for adequate means for supervising its implementation.	Yes
38 (3)	A resolution plan shall demonstrate that (a) The term of the plan and its implementation schedule (b) It is feasible and viable (c) It has provisions for its effective implementation	Yes

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	(d) It has provisions for approval required and the timelines for the same (e) The resolution applicant has the capability to implement the resolution plan	
39(2)	The RP has filed applications in respect of transaction observed, found or determined by him	Yes

17. The resolution plan is for the amount of Rs. 13.10 crores, out of which Rs.4.10 crores shall be paid within 30 days of approval of plan by this adjudicating Authority and remaining balance amount of Rs. 9.10 crores to be paid in two installments i.e Rs. 4.55 crores within 2 months and Rs. 4.55 crores within 4 months from the date of approval of Resolution Plan by this Adjudicating Authority and all the funds shall be sourced through own funds/ personal net worth of the Resolution Applicant as well as from the funds of the relatives and friend in form of unsecured loans.

18. The RP as required under regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 certified that the contents of the resolution plan meets with the requirements of the IBC and the regulations thereto and that the resolution plan has been approved by the CoC in the manner prescribed under the IBC.

19. This bench directs the RP to act as the Monitoring Agency and thus appointed RP as "Monitoring Agency" to monitor and supervise the implementation of the Resolution plan and the remuneration of the monitoring agency shall be on Rs. 1,50,000/- plus taxes and out of pocket expenses at actual.

20. The Resolution Applicant is allowed to remove and/or substitute the Monitoring Agency with prior approval of this Adjudicating Authority if

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the Monitoring Agency is unable to satisfactorily perform its responsibilities or breaches terms of its appointment.

21. It is directed that the resolution plan so approved shall be binding on the Corporate Debtor, its employees, members, creditors, guarantors and other stakeholders involved in the resolution plan. With the approval of the resolution plan, the moratorium order passed by this Tribunal under Section 14 of the Code shall cease to have effect. The Resolution Professional is directed to forward all the record relating to the conduct of the corporate insolvency resolution process and the resolution plan to the IBBI to be recorded on its database.
22. The Resolution applicant has to adhere to all the applicable law for the time being in force. The Resolution Applicant can seek clarifications, if any, from this Tribunal.
23. In view of the above discussion, the Resolution Plan submitted by "**Babu Lal Patwari**" is found in conformity of Section 30 (2) of the Code and the same is approved.
24. Accordingly, the resolution plan is hereby **approved** and CA 398/2019 is **disposed of**.



—Sd—

JUSTICE RAJESH DAYAL KHARE
MEMBER (J)

Date: 07.02.2020

Swati Gupta
(LRA)

CERTIFIED TO BE TRUE COPY
OF THE ORIGINAL

7/2/2020

P. P. PANDEY
ASSISTANT REGISTRAR
NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD-U.P.

Compared by Me
Mahesh Sahni
7/02/2020

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