

S.No.1

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1
VC AND PHYSICAL (HYBRID) MODE
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
12-01-2024 AT 10:30 AM**

IA (IBC) 47/2024 & IA (IBC) 1110/2023 in Company Petition IB/74/2021
u/s. 7 of IBC, 2016

IN THE MATTER OF:

Stressed Assets Stabilisation Fund

...Financial Creditor

VS

Terrygold (India) Ltd

...Corporate Debtor

C O R A M:-

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

O R D E R

IA (IBC) 1110/2023

Orders Pronounced. In the result, **this application is dismissed. No costs.**

IA (IBC) 47/2024

Order pronounced. In the result, the resolution plan is approved, subject to the terms mentioned therein. Accordingly, **this application is allowed.**

Sd/-

MEMBER (T)

Sd/-

MEMBER (J)

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

**I.A No. 47 OF 2023
IN
CP (IB) No. 74/HDB/2021**

*APPLICATION U/S 30(6) OF IBC, 2016 READ WITH REGULATION
39(4) OF THE IBBI (INSOLVENCY RESOLUTION FOR CORPORATE
PERSONS) REGULATIONS, 2016 AND RULE 11 OF NCLT RULES*

IN THE MATTER OF

STRESSED ASSETS STABILISATION FUND,

VERSUS

M/S. TERRYGOLD (INDIA) LTD

Between:

Ramakrishnan Sadasivan
Resolution Professional,
Terrygold (India) Limited
IP Regd. No. IBBI/IPA-001/IP-P00108/2017-18/10215
Address: Old no. 22, New no. 28, Menod Street,
Purasawalkam, Chennai - 600 007

**.....Applicant/
Resolution Professional**

Date of order: 12.01.2024

Coram

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

Appearance

For Applicant: Shri Y. Suryanarayana, Advocate

PER: BENCH

ORDER

1. The present Application is filed by Shri Ramakrishnan Sadasivan (“**Resolution Professional**” / “**Applicant**”), the Resolution Professional of **M/s Terrygold (India) 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 the approval of the resolution plan of **M/s CVK Technologies Pvt. Ltd.** (“**Successful Resolution Applicant**”).
- 2.1 To put precisely, this Tribunal admitted the Company Petition filed by Stressed Assets Stabilization Fund, Mumbai under Section 7 of IBC and ordered commencement of CIRP against the Corporate Debtor on 31.03.2023 and appointed the Applicant herein as Interim Resolution Professional.
- 2.2 The Interim Resolution Professional in compliance with Regulation 6 made Public Announcement in Form A in Financial Express (All India edition) and Mana Telangana (Telangana edition) on 08.04.2023 inviting claims from

creditors of the Corporate Debtor indicating the last date for submission of claims by the creditors as 20.04.2023.

- 2.3 The Applicant after collating the claims received from the creditors of the Corporate Debtor constituted the Committee of Creditors with the following members:

Sr. No.	Name of the Financial Creditor	Percentage of vote
	Stressed Assets Stabilisation Fund	76.66%
	Asrec (India)	23.34%

- 2.4 The list of claims received and admitted by the applicant are as follows:-

S.No	Name of the Creditor	Claim submitted (in Rs.)	Claim admitted (in Rs.)
A	Secured Financial Creditors		
	Stressed Assets Stabilisation Fund	1364,36,87,517.70	1364,36,87,517.70
	Asrec India Limited	415,30,73,234.46	415,30,73,234.46
B	Unsecured Financial Creditors		
	Mr. Kishen Subhan Singh Rajaputra (Suspended Director of the Corporate Debtor)	1,92,80,689.00	1,66,48,784.00
C	Operational Creditors – Employees/Workmen		
	Mr. Jagan Mohan Rao	65,12,532.00	Claim rejected. He has filed an application before Hon'ble NCLT.
D	Operational Creditors – Other than employees/workmen		
	Telangana State Southern Power Distribution Company Ltd	88,19,334.00	88,19,334.00

S.No	Name of the Creditor	Claim submitted (in Rs.)	Claim admitted (in Rs.)
	Income Tax Officer, Ward 2(1), Hyderabad	1,46,860.00	1,46,860.00
	Total	17,83,15,20,167.16	17,82,23,75,730.16

2.5 It is further stated that PF Department had vide mail dated 18.05.2023 (after 28 days from the last date for submission of claims) submitted a demand (not in claim Form) for Rs. 10,06,219/- payable by the Corporate Debtor, for which the RP had sought for certain details in support of their demand. Since there was no response to the reminder mail dated 30.06.2023 their claim was rejected on 18th July, 2023. Subsequently, the PF Department had on 18th August, 2023, submitted a revised demand for Rs. 21,16,039/- as against the earlier demand of Rs. 10,06,219/-. The RP had rejected the demand on the grounds of non-submission of claim form with unstable revision in figures, which has been communicated to the EPFO vide letter dated 25.08.2023. Subsequent to the rejection of PF Claim, a Show Cause Notice has been issued by the PF Department and the hearings are ongoing. As such it is stated that the demand outstanding is yet to be finalized as on the date of filing this application.

- 2.6 In response to publication of Form-G inviting Expression of Interest on 20.05.2023, the Applicant received interest from 06 Prospective Resolution Applicants, out of which 05 Prospective Resolution Applicants were included in the Final List of the Prospective Resolution Applicants (PRAs) and out of the 05 PRAs, 03 PRAs have submitted their Resolution Plans. 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, all the 3 Resolution Plans were put for E-Voting by the CoC Members. However, none of the 3 Resolution Plans secured the requisite majority of 66% of the Voting share of the CoC Members and thus all the 3 Resolution Plans were rejected by the CoC Members.
- 2.7 It is stated that, CoC Members in the 15th COC Meeting held on 16.09.2023, resolved to re-run the CIR Process by re-issuing the Form G inviting prospective Resolution Applicants in order to explore the possibility of receiving resolution plans for revival of the CD. Accordingly, Form G was reissued on 25.09.2023 indicating the last date for submission of the Expression of Interest as 10.10.2023. In response to the 2nd EOI, the Applicant received interest from the following 9 Prospective Resolution Applicants. One of the EOI Participants namely M/s. Anand Shree Steels Pvt Ltd

had already participated in the Resolution Plan process based on the issuance of 1st EOI. However their Plan was not considered by the CoC Members, as such it participated again in the 2nd round of reissued Form G.

- i. CVK Technologies Pvt Ltd
- ii. Mr. Nandanampati Venkaiah Babu
- iii. Anand Shree Steels Pvt Ltd
- iv. Mahalakshmi Profiles Pvt Ltd
- v. Kamini Metalliks Pvt Ltd
- vi. RKG Fund 1
- vii. Mr. Lanki Reddy Subba Reddy
- viii. Mr. Sivachaitanya Saikkam
- ix. Siddhivinayak Steel

2.8 It is stated that the Final List of Resolution Applicants was prepared by the RP on 23.10.2023 comprising the names of the 8 EOI Participants (i.e., 5 EOI Participants who had appeared in the Provisional list of PRAs and the reconsidered 3 EOI Participants). Out of the 8 PRAs, 5 of the following PRAs namely 1. CVK Technologies Pvt Ltd, 2. Mr. Nandanampati Venkaiah Babu, 3. Anand Shree Steels Private Limited, 4. Mahalakshmi Profiles Pvt Ltd and 5. Kamini Metalliks Pvt Ltd had submitted their Resolution Plans.

- 2.9 The RP after having satisfied himself that all the 5 Resolution plans, submitted by 1. CVK Technologies Pvt Ltd, 2. Mr. Nandanampati Venkaiah Babu, 3. Anand Shree Steels Private Limited, 4. Mahalakshmi Profiles Pvt Ltd and 5. Kamini Metalliks Pvt Ltd were prima facie in compliance with the provisions of the Code as well as the Regulations, had placed it before the CoC.
- 2.10 In pursuance to the inter-se challenge mechanism, all the 5 Resolution Applicants i.e. 1. CVK Technologies Pvt Ltd, 2. Mr. Nandanampati Venkaiah Babu, 3. Anand Shree Steels Private Limited, 4. Mahalakshmi Profiles Pvt Ltd and 5. Kamini Metalliks Pvt Ltd who had improved their Resolution Plan values in account of the inter se challenge mechanism had submitted their modified Resolution Plans after revising the Resolution plan values and after incorporating the requisite technical modifications.
- 2.11 The CoC Members, in the 23rd CoC Meeting held on 15.12.2023 deliberated on the feasibility and viability of the 5 Resolution Plans and came to a conclusion that all the 5 Resolution Plans were viable and feasible.
- 2.12 It is further stated that one of the COC members i.e SASF (having a CoC voting share of 76.66%) wanted the distribution of resolution amount amongst SFCs to be in proportion to the value of security interest held by each

member to their outstanding debt which amounts to 85.23% to SASF and 14.77% to Asrec (India) Ltd, whereas the other CoC Member i.e.Asrec (India) Ltd (having a CoC voting share of 23.34%) wanted the distribution amongst SFCs to take place in the CoC Voting ratio. i.e., 76.66% to SASF and 23.34% to Asrec (India) Ltd. Since both the CoC Members were firm in their respective stand, an amicable solution as regards to deciding the distribution ratio amongst the SFCs failed. Hence, a resolution with respect to the distribution ratio was proposed and the same was put to vote along with the Resolutions for approval of Resolution plans. The Resolution was unanimously approved by 100% voting share of CoC members. Based on the results of the E-Voting it was approved that the Resolution Plan value allocated to Secured Financial Creditors shall be shared in the ratio of 85.23% to SASF and 14.77% to Asrec (India) Ltd (i.e., distribution on the basis of value of security interest).

- 2.13 The Final Resolution Plans submitted by 1. CVK Technologies Pvt Ltd, 2. Mr. Nandanampati Venkaiah Babu, 3. Anand Shree Steels Private Limited, 4. Mahalakshmi Profiles Pvt Ltd and 5. Kamini Metalliks Pvt Ltd were put up for voting before the CoC Members in the 23rd CoC Meeting held through video conferencing on 15.12.2023 and the Resolution Plan submitted by M/s. CVK Technologies Pvt Ltd

was approved by 100% of the voting share of the CoC. Consequently, the Letter of Intent was issued to the Successful Resolution Applicant (hereinafter referred to SRA) – M/s. CVK Technologies Pvt Ltd on 19.12.2023.

2.14 The Successful Resolution Applicant had deposited Rs.1,50,00,000/- to the bank account of the Corporate Debtor in lieu of Performance Bank Guarantee and as per the terms of the LOI. The Bank statement evidencing the same is annexed as Annexure-3 to the Memo dated 03.01.2024.

2.15 It is stated that from the date of commencement of CIRP till the date filing the instant application, a total of 23 COC Meetings were convened.

3. Salient Features of the Resolution Plan submitted by M/s. CVK Technologies Pvt Ltd 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”), M/s. CVK Technologies Pvt Ltd is incorporated in the year 2007 and promoted by Mr. K.C. Venkateswarlu with a team of Technocrats. The Company has a vast experience in the fields of Infrastructure Facilities Management, IT&ITES Infrastructure Development, Setting of Electronic Manufacturing Zones and Warehousing Zones. CVK has specialty Teams in Finance Management, Skill

Development, Resolution Teams, Legal Management, Providing Operational Management for Sick Companies.

- (B) The CoC comprised of the following creditors and the distribution of voting share among them is as under:-

Sr. No.	Name of the Financial Creditor	Percentage of vote
	Stressed Assets Stabilisation Fund	76.66%
	Asrec (India)	23.34%

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

Amount 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	NA	NA	NA	NA
		(b) Other than (a) above:				
		(i) who did not vote in favour of the resolution Plan	NA	NA	NA	NA
		(ii) who voted in favour of the resolution plan	177967.61	177967.61	1,010	0.568%
		Total[(a) + (b)]	NA	NA	NA	NA

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2	Unsecured Financial Creditors	(a) Creditors not having a right to vote under subsection (2) of section 21	192.81	166.49	---	---
		(b) Other than (a) above:				
		(i) who did not vote in favour of the resolution Plan	NA	NA	NA	NA
		(ii) who voted in favour of the resolution plan	NA	NA	NA	NA
		Total[(a) + (b)]				
3	Operational Creditors	(a) Related Party of Corporate Debtor	NA	NA	NA	NA
		(b) Other than (a) above:				
		(i) Government (PF)				
		(ii) Government (Other than PF)	21.16	---	25*	100%
		(iii) Workmen	89.66	89.66	1	1.115%
(iv) Employees	---	---	---	---		
		65.12	---	---	---	
		Total[(a) + (b)]				
4	Other debts and dues		NA	NA	NA	NA
Grand Total			1,78,336.35	1,78,223.76	1,036.00	0.581%

(D) **Total Financial Outlay as proposed in the Resolution Plan:**

Rs. in Lakhs

Category of Stakeholder	Amount claimed	Amount admitted	Amount provided in Plan	% of Amount provided to amount admitted
CIRP Costs Agreed by RA	---	---	55.00	100%

Category of Stakeholder	Amount claimed	Amount admitted	Amount provided in Plan	% of Amount provided to amount admitted
Secured Financial Creditors	1,77,967.61	1,77,967.61	1,010.00	0.567%
Unsecured Financial Creditor	192.80	166.49	---	---
Operational Creditors – Statutory dues	89.66	89.66	1.00	1.11%
PF Dues	21.16 (Subject to changes)	---	25.00	100%
Contingent claim: Employees and Workmen	65.12	---	---	---
Total	1,78,336.35	1,78,223.76	1,091.00	0.61%

(E) TERM OF IMPLEMENTATION OF THE RESOLUTION PLAN

As per the resolution plan, the entire Resolution Plan value to Stakeholders shall be settled within 30 days from the Effective date (*i.e., the date of approval of the plan by the Adjudicating Authority*).

S. No	Payment to	Total Amt (Rs. In lakhs)
1	CIRP Costs	55.00
2	Secured Financial Creditors	1,010.00
3	Operational Creditors – Government Dues	1.00
4	Contingent payment to EPFO	25.00

(F) MONITORING AND SUPERVISION:

The Monitoring Committee shall comprise of a representative of the Resolution Applicant, one representative of the COC and a qualified Insolvency Resolution Professional (which may or may not be RP) to be appointed by COC in consultation with resolution applicant, which shall monitor the implementation of the plan after the Effective Date and until Transfer Date. All decisions of Monitoring Committee shall be taken by a majority vote (present and voting). The Monitoring Committee shall stand dissolved on the acquisition date.

(G) 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.12,66,53,603/- and Rs.9,71,68,808/- respectively.

(H) **SOURCES OF FINANCING THE RESOLUTION PLAN:**

The Resolution Applicant will infuse from its own funds or through an SPV, the entire Resolution Plan value and to the extent of the Resolution Plan value, the Resolution Applicant shall issue new equity shares of face value of Rs.10 each at par and accordingly the existing share capital shall be extinguished.

4. In the above backdrop we heard Shri Y. Surayanarayana, 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. 55.00 lakhs towards CIRP Costs in priority to the payment of other debts of Corporate Debtor. If the CIRP cost exceeds Rs. 55 Lakhs, the exceeded amount shall be paid by RA and if the actual CIRP cost is lesser than the estimated CIRP costs of Rs. 55 lakhs, the saving of CIRP Cost shall be paid to the secured financial creditors. (Chapter-VI, Clause-VI (1 & 2) page 20 and 24 of the plan).

b. Compliance of Section 30 (2) (b):

PAYMENT TO OPERATIONAL CREDITORS (GOVERNMENT DUES): The total claim submitted by the Operational Creditors (Government dues) is Rs. 89.66 Lakhs

which is admitted in entirety by the Resolution Professional. The amount payable to operational creditors as per Section 30(2)(b) read with section 53 is NIL. However, the Resolution plan proposes to pay an amount of Rs. 1 lakh equivalent to 1.11% of total claims under this category towards the Government dues. This shall be paid on a priority basis within 30 days from the Effective date. The amount shall be distributed amongst the creditors in this class in proportion to their debt.

PAYMENT TO CONTINGENT DUES:

a. Payment to Employee Provident Fund Organisation:

PF Department had submitted an initial demand for Rs. 10,06,219/- payable by the Corporate Debtor, for which the RP had called for certain details in support of their demand. However no response was received from them. and their demand was not considered. Subsequently, a revised demand was submitted by PF Department to the tune of Rs. 21,16,039/-However the demand was not accepted as on the date of filing this application and the hearings are ongoing before the PF Department. The demand is pending. However, in case the PF dues becomes due and payable, the Resolution Applicant has earmarked a settlement amount of Rs. 25 Lakhs.

b. Payment towards the claim submitted by Mr. Jagan Mohan Rao claiming himself as an Employee of the Corporate Debtor:

The RP had rejected the claim of one Mr. Jagan Mohan Rao who had submitted a claim for Rs. 65 lakhs under the category of Workmen/Employees, due to non-submission of adequate proof substantiating his association with the Corporate Debtor as a workmen/employee. Aggrieved by the action of Resolution Professional, he has filed application before this Tribunal and is pending. In the absence of an admitted claim, the Resolution Plan has not allocated any amount to this class. However, the Resolution Plan stated that in case any claim is received and admitted by the resolution professional prior to approval of this plan by CoC or after approval of this plan, and their respective share in liquidation value is more than '0', they will be paid the amount equivalent to their share in the liquidation value of the corporate debtor, amount apportioned towards the infusion towards the capex, working capital and overhaulment, etc., before making any payments to any financial creditor.

5. 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) read with Section 53 of IBC is nil. However, the Resolution Plan proposes to pay an amount of Rs. 1 lakh equivalent to 1.11% of total claims under this category towards the Govt. dues and shall be paid on priority basis within 30 days from the effective date. The Resolution Applicant has earmarked a settlement amount of Rs. 25 lakhs, for payment on receipt of final demand from PF Department.

(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. (Chapter-VI, Clause 4 (page 20) and Chapter-VII (pages 24-31).

(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. (Clause 12 (page 45) of the Resolution Plan).

6. We note that there are certain transactions entered in by the suspended director of the Corporate Debtor falling within nature of Fraudulent Transactions for which an application vide IA (IBC) 1215/2023 u/s. 66 is pending before this Tribunal. However, the Resolution Plan provides that the proceedings in respect of avoidance transactions, if any, shall be pursued after the approval of the resolution plan by the Secured Financial Creditors at their own cost and expenses and the Proceeds therefrom, if any, shall accrue to the benefit of the Secured Financial Creditors. Further we also observe that a decision was taken in the 23rd COC meeting that, post the approval of the Resolution Plan by this Adjudicating Authority, the Secured Financial Creditors shall implead themselves as Applicants in the place of the Resolution Professional and pursue the Section 66 application at their own costs.
7. As per Regulation 39 (4) of Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the Resolution Professional has to submit the resolution plan approved by the COC to the Adjudicating Authority for approval, at least 15 days before the maximum period for completion of CIRP. The 270 days

extended CIRP came to an on 26.12.2023 and the Resolution Professional failed to file the same 15 days prior to expiry of CIRP. However, the same has been filed before the expiry of 270 days from the date of commencement of CIRP i.e. 31.03.2023. Hence there is a delay of 09 days in filing the application and sought to condone the delay. We are satisfied with the reasons stated by the Ld. Counsel. Since the Application is filed before the expiry of 270 days, we are of the opinion that the delay can be condoned.

8. ***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"*.
9. 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.

10. 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"*.
11. 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.....”

12. 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.

13. We therefore, hereby approve the Resolution Plan submitted by **CVK Technologies Pvt Limited** (“Successful Resolution Applicant”) along with annexure, schedules forming part of the Resolution Plan annexed to the Application and order as under:
- (i) Hereby condone the delay of 09 days in filing the instant application.
 - (ii) 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.
 - (iii) 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.
 - (iv) 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.***

- (v) It is hereby ordered that the deposit amount of Rs.1,50,00,000/- made by the Resolution Applicant shall remain as performance Guarantee till the amount proposed to be paid to the creditors under this plan is fully paid off and the plan is fully implemented.
- (vi) The secured Financial Creditors are directed to pursue IA No. 1215/2023 u/s 66 of IBC, 2016 pending before this Tribunal, as per the plan approved by the COC at their own cost and expenses, recovery if any, through this IA, to be shared amongst the Financial Creditors.
- (vii) 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.
- (viii) Henceforth, no creditors of the erstwhile Corporate Debtor can claim anything other than the liabilities referred to supra.

- (ix) The moratorium under Section 14 of the Code shall cease to have effect from this date.
- (x) 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.
- (xi) The Applicant shall forthwith send a copy of this order to the CoC and the Resolution Applicant.
- (xii) The Registry is directed to furnish free copy to the parties as per Rule 50 of the NCLT Rules, 2016.
- (xiii) 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.
- (xiv) Accordingly, IA 47/2023 stands disposed of.

SD/-

(Charan Singh)
MEMBER (TECHNICAL)

SD/-

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

Binnu