

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  
07-12-2023 AT 10.30 AM**

**IA (IBC) 1589/2023 in CP (IB) No. 363/10/HDB/2022**  
u/s. 10 of IBC, 2016

**IN THE MATTER OF:**

M/s. Indus Business Systems limited

...Petitioner

**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) 1589/2023**

Learned Counsel Mr. Srikanth G for Resolution Professional and Learned Counsel Mr. Ravi Kumar, for Respondent No. 1 o 3 present through Video Conference.

At this stage this Tribunal sought a clarification before pronouncement of the order. The Resolution Professional is directed to clarify total number of operational creditors and the members participated in the voting. Passed over for response.

Matter called again, Resolution Professional e-filed a memo. In the result this application is allowed and the Resolution Plan is approved. **Accordingly, this IA is allowed. No costs.**

**Sd/-**

**MEMBER (T)**

**Sd/-**

**MEMBER (J)**

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

**IA(IBC) NO.1589/2023**

**IN**

**CP (IB) NO. 363/10/HDB/2022**

*(U/S. Section 30(6) of Insolvency & Bankruptcy Code, 2016 r/w. Regulation 39(4) of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016)*

**IN THE MATTER OF:**

Mr. Naidi Jaipal Reddy,

Registration Number: IBBI/IPA-002/IP-N 01167/ 2021-2022/13905

Resolution Professional of

**INDUS BUSINESS SYSTEMS LIMITED**

Having its registered office at:

Plot No.520, Road No.27,

Jubilee Hills, Hyderabad TG 500033

...Applicant /  
Resolution Professional

**Date of order: 07.12.2023**

**Coram:**

Dr. N. Venkata Ramakrishna Badarinath, Hon'ble Member Judicial

Shri Charan Singh, Hon'ble Member Technical

**Appearance:**

For Applicant: Shri G. Srikanth, Advocate

**PER: BENCH  
ORDER**

1. The present Application is filed by Shri Naidi Jaipal Reddy (“**Resolution Professional**” / “**Applicant**”), the Resolution Professional of **M/s Indus Business Systems Limited** (“**Corporate Applicant**”), 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 **Mr. Samala Raja Shekar** (“**Successful Resolution Applicant**”).
- 2.1 To put precisely, this Tribunal on 23.03.2023 admitted the Petition vide its orders dated 23/03/2023 in CP(IB)/363/10/HDB/2022 and CIRP commenced by appointing Mr. Naidi Jaipal Reddy, Registration Number: IBBI/IPA-002/IP-N 01167/ 2021-2022/13905, as Interim Resolution Professional (herein after referred to as “IRP”). The IRP had issued the “Public Announcement” in **Financial Express** in **All India Editions** and “**Mana Telangana**” in **All Telangana Editions** on **30/03/2023** in terms of the Regulation 6(1) of CIRP Regulations inviting claims from the Creditors. Pursuant thereto, the Interim Resolution Professional (IRP) had received two claims from Operational Creditors as under and no claim were received from any Financial Creditors.

Sl. No	Name of Creditor	Financial / Operational Creditor	Nature of Debt	Amount Outstanding (Rs)
1.	SRIUS Business Solutions Private Limited	Operational Creditor	Trade Advance Refund	1,83,04,000/-
2.	M. Sudhee Ranjan	Operational Creditor	Contract Payment due	19,80,000/-
TOTAL				2,02,84,000/-

The IRP had however rejected the following claims as they were filed beyond the due date specified in the public notice.

Name & Nature of Creditor	Date of Receipt of claim / mode of receipt	Amount of claim Submitted	Amount of claim admitted	Remarks
EPFO (PROVIDENT FUND)	Physical 20/04/2023	78,053/-	NIL	Claim was filed after due date.
GST	E-Mail 12/05/2023	Service Tax - Rs.17,85,913/- Interest -Rs.33,31,194/- Penalty -Rs.17,85,913/- Late Fee - Rs.40,000/- Total - Rs.69,43,020/-	NIL	Claim was filed after due date.
TOTAL		70,21,073/-	NIL	

2.2 The IRP had then constituted the Committee of Creditor (“COC”) with the sole operational creditor, Dr. M. Sudhee Ranjan on 17/04/2023 and had conducted the 1<sup>st</sup> CoC meeting on 21/04/2023 and the CoC resolved for continuation of Mr. Naidi Jaipal Reddy as Resolution Professional vide this Tribunal order in IA No. 820/2023 dated 25-05-2023.

2.3 The Resolution Professional Published “Form G” under regulation 36A, Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 as instructed by the COC, in Financial Express and Mana Telangana News Papers on 19/05/2023 and invited the “Expression of Interest” by fixing the last date for Receipt of the EOI as 05/07/2023.

2.4 The valuation report submitted by the valuers appointed for Securities or Financial Assets are as below:

Name of the Valuer	Fair Market Value (in. Rs)	Liquidation Value (In. Rs)
Theegala Venkateswar Rao	6,20,226	6,20,226
CA Rajesh Jasti	6,20,226	6,20,226

2.5. In response to the “Expression of Interest”, one Resolution Plan is received as follows:

Name of the Applicant	Total Resolution Plan Amount (in Rs.)	Funds for Outsiders Debts and CIRP Costs (in Rs.)	Funds for Working Capital & CAPEX (In Rs.)
Samala Raja Shekar	12,00,000/-	10,00,000/-	2,00,000/-

2.6 It is submitted that after re-negotiations and alterations, the COC passed the following resolution approving the final resolution plan submitted by the Resolution Applicant viz. Samala Raja Shekar in the 7<sup>th</sup> meeting held on 18/09/2023 with 100% voting in favour of the Resolution Plan.

*“RESOLVED THAT the consent of the Committee of Creditors be and is hereby accorded to the duly executed final Resolution Plan of the Resolution Applicant ie., Mr. Samala Raja Shekar along with the compliance certificate duly certified by the Resolution Professional”*

*“RESOLVED FURTHER THAT the Resolution Professional be and is hereby authorized to take all necessary steps like filing the Interlocutory Application before the Adjudicating Authority for the approval of Resolution Plan and also to appoint necessary legal counsels to prepare the Interlocutory Application and appear before the Adjudicating Authority”*

2.7 Pursuant thereto, the RP issued Letter of Intent on 18/09/2023 in favour of the Resolution Applicant. Consequently, the Resolution Applicant deposited a sum of Rs. 4,00,000/- vide Demand Draft in favour of the Company in lieu of Performance Bank Guarantee. Thus submitting, the Applicant prayed for approving the resolution plan submitted by Mr. Samala Raja Shekar.

3. **CONTOUR OF THE RESOLUTION PLAN APPROVED BY THE COC:**

- (a) The Resolution Applicant viz. Samala Rajasekhar is an entrepreneur who is into the business of acquisition of sick units/ companies through NCLT/ DRT/Courts and successfully revived those units for the last 8 years by way of individual capacity and consortium the Net worth of the Resolution applicant, as per his declaration, is Rs. 14,33,82,900/- (Rupees Fourteen Crores Thirty-Three Lacs Eighty-Two Thousand Nine Hundred only).
- (b) The CoC comprised of the following Operational creditor 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	Mr. Sudheer Rajan	100%	Voted for
	Total	100%	

Since there are two Operational Creditors as per the Application, this Tribunal sought a clarification on how the resolution plan was approved only by one of the Operational Creditors i.e. Mr. Sudheer Ranjan. Pursuant thereto, the Resolution Professional filed a memo dated 07.12.2023 stating that though there are two Operational Creditors but one Operational Creditor i.e. Srius Business Solutions Private Limited, is a Holding Company of the Corporate Applicant. It being a related party to the Corporate Debtor, abstained from voting though it was present in the COC meeting and the sole COC member Mr. Sudheer Rajan approved the Resolution Plan with 100% voting.

- (c) **FINANCIAL PROPOSALS:** The amount provided to the stakeholders of the Corporate Applicant 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	NIL	NIL	NIL	NIL

		(b) Other than (a) above: (i) who did not vote in favour of the resolution Plan (ii) who voted in favour of the resolution plan	NIL  NIL	NIL  NIL	NIL  NIL	NIL  NIL
		Total[(a) + (b)]	NIL	NIL	NIL	NIL
2	Unsecured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	NIL	NIL	NIL	NIL
		(b) Other than (a) above: (i) who did not vote in favour of the resolution Plan (ii) who voted in favour of the resolution plan	NIL  NIL	NIL  NIL	NIL  NIL	NIL  NIL
		Total[(a) + (b)]	NIL	NIL	NIL	NIL
3	Operational Creditors	(a) Related Party of Corporate Applicant	NIL	NIL	NIL	NIL
		(b) Other than (a) above: (i) Government (ii) Workmen (iii) Employees (iv) Other Operational Creditors	NIL NIL NIL 2,03,04,000	NIL NIL NIL 2,02,84,000	NIL NIL NIL 1,45,544	NIL NIL NIL 0.01%
		Total[(a) + (b)]	2,03,04,000	2,02,84,000	1,45,544	0.01%
4	Other debts and dues - CIRP Cost		8,54,456	8,54,456	8,54,456	99.99%
Grand Total			2,11,58,456/-	2,11,38,456/-	10,00,000/-	0.047%



A copy of the resolution plan is annexed and marked as **Annexure – 6**.

- (D) The details of the approved plan and payment schedule submitted by the Successful Resolution Applicant (SRA) and payment to stakeholders are furnished hereunder:

S No	Particulars	Amount (in Rs.)
1	<b>Resolution Plan Amount</b>	12,00,000/-
2	Resolution Plan Period	7 days
3	Payment to Various Stake Holders	
	CIRP Cost	At Actuals (Estimated at 8,54,456/-)
	Operational Creditors	1,45,544/-
	CAPEX/Working Capital	2,00,000/-
4	Mode of Payment	Bank / DD
5	<b>Payment Schedule</b>	
	CIRP Cost	Within 3 days from NCLT Order
	Operational Creditors	Within 3 days from NCLT Order
	CAPEX/Working Capital	Within 7 days from NCLT Order
Proposed Distribution of Resolution Plan amount among various stake Holders		
	Sr M Sudhee Ranjan	Rs. 14,207/-
	Srius Business Solutions Private Ltd	Rs. 1,31,337/-

**(E) Term of Resolution Plan**

This Resolution Plan is valid for a term of 7 days or till all the payments are made to all the stakeholders as per the terms and conditions of the Resolution Plan and the obligations of the Resolution Applicant to implement the Resolution Plan shall become effective only from the Effective Date.

**(F) MONITORING COMMITTEE**

The Monitoring Committee shall comprise of a representative of the Committee of Creditors, a representative of the Resolution Applicant and any independent Insolvency Professional appointed by the Resolution Applicant (IBBI registered Insolvency Professional) to

monitor the implementation of the resolution plan till payment of final instalment as per the resolution plan. The management and control of the affairs of the Company shall vest immediately to the Resolution Applicant from the effective date and all key managerial personnel of the Corporate Applicant would be deemed to have resigned and new Key managerial personnel shall be appointed by the Resolution Applicant. **(Clause 5 of the Resolution Plan).**

**(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 and has appended a tabular summary of Applicant's determination of compliance of the Resolution Plan with various provisions and regulations under the Code and CIRP Regulations. The fair value and Liquidation value as submitted in Form-H is Rs.6,20,226/- and Rs.6,20,226/- respectively.

4. In the above backdrop we heard Shri Srikanth.G, 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. 8,54,456/- towards Insolvency Resolution Process

- Costs in a manner specified by the board in priority to the payment of other debts of Corporate Applicant (clauses 1 & 3 of the Resolution Plan).
- b. Compliance of Section 30 (2) (b): The Resolution Plan provides for payment of Rs. 1,45,544/- towards the debts of the Operational Creditors in such manner as specified by Regulation 38(1) of the IBBI (Insolvency Resolution Process for Corporate Persons Regulations) 2016. (Clauses 2 & 3 under financial proposal)
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 Plan provides for payment to Operational Creditors to be paid in priority to other creditors and the CIRP Cost will be paid from the upfront Payment of Rs.1,45,544/- in priority to all other 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 Applicant, keeping in view the objectives of the Code. (Clause 3 of Financial Proposal).
- (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 9 (c) of the Resolution Plan).**

- 6, ***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*”.
7. 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.***
8. 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*”.

9. 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.....”*

10. 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.
11. We therefore, hereby approve the Resolution Plan submitted by **Mr. Samala Raja Shekar** (“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 Applicant, 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 Applicant 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 Applicant 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.4,00,000/- 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.
- (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 Applicant 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 1589/2023 stands disposed of.

SD/-

(Charan Singh)  
MEMBER (TECHNICAL)

SD/-

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

Binnu