



**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**AHMEDABAD**  
**COURT - 2**

ITEM No.301

IA(Plan)/6(AHM)2024 in C.P.(IB)/9(AHM)2021

**Orders under Section 30 of IBC,2016**

**IN THE MATTER OF:**

Sunit Jagdishchandra Shah Resolution Professional of M/s  
Shree Rajeshwaranand Paper Mills Limited  
V/s  
Income Tax Department Through Commissioner/Principal  
Commissioner & Ors.

.....Applicant

.....Respondent

**Order delivered on: 27/11/2024**

**Coram:**

**Mrs. Chitra Hankare, Hon'ble Member(J)**  
**Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)**

**ORDER**

The case is fixed for pronouncement of order.

The order is pronounced in open Court vide separate sheet.

**DR. V. G. VENKATA CHALAPATHY**  
**MEMBER (TECHNICAL)**

**CHITRA HANKARE**  
**MEMBER (JUDICIAL)**



**BEFORE THE ADJUDICATING AUTHORITY  
THE NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD (COURT - II)**

**IA 6 of 2024**

**In**

**CP(IB) No. 9 / NCLT / AHM / 2021**

(Application under Section 30(6) of the Insolvency and Bankruptcy Code, 2016.)

**In the Matter of:**

Mr. Sunit Jagdishchandra Shah  
Resolution Professional of  
M/s Shree Rajeshwaranand Paper Mills Limited.  
Having address at:  
801-802, 8<sup>th</sup> Floor, Abhijeet-1, Opp. Bhuj,  
Mercantile Bank, Mithakali Six Roads,  
Navrangpura, Ahmedabad-380009.

....Applicant

Versus

Income Tax Department  
Through Commissioner/Principal Commissioner  
Having address at:  
Room No. 321, Aayakar Bhavan,  
M. K. Road, Mumbai-400020.

...Respondent No.1

Mr. Prakashchandra Rasiklal Vora  
Member of the Suspended board  
Having address at:  
A1, Pushkar-4, Fifth Floor 401,  
Paldi, Ahmedabad-380004.

... Respondent No.2

Mr. Ashit Lilachand Modi  
Member of the Suspended board  
Having address at:



6/D, 1304, Maitri GHS, Damodar Park,  
LBS Marg, Ghatkopar (West),  
Mumbai-400086.

...Respondent No.3

Mr. Jayeshkumar Tulsidas Surati  
Member of Suspended board  
Having address at:  
B-1, Sundarampark, next to Vrundavan Township,  
Hansot Road, Ankleshwar-393001.

...Respondent No.4

Mrs. Hemali Shripal Vora  
Member of the Susupended board  
Having address at:  
305, Vihar Flat, Jay Bhiku Marg,  
Fatchpura, Paldi, Ahmedabad-380007.

...Respondent No.5

State Tax Department  
Through State Tax Officer,  
Having address at:  
Unit 55, Panchbatti Station Road,  
Bharuch, Gujarat-392001.

...Respondent No.6

**Order pronounced on 27.11.2024**

**CORAM:**

**MRS. CHITRA HANKARE**  
**HON'BLE MEMBER (JUDICIAL)**

**DR. V. G. VENKATA CHALAPATHY**  
**HON'BLE MEMBER (TECHNICAL)**

**Present:**

For the Applicant : Mr. Navin Pahwa, Sr. Adv. a.w. Mr. Nipun  
Singhvi Adv. a.w. Vishal Dave, Adv. and  
Ms. Pragati Tiwari, Adv. & Mr. Rahul  
Bhavsar, Adv.

RP : Mr. Sunit Shah in person.



For the Income Tax : Ms. Bhumi Gandhi, Adv. for Ms. Maithili  
Mchta, Adv.  
For the RoC : Ms. Rupa Sutar, Dy. RoC.  
For the RA : Mr. Ravi Pahwa, Adv.  
For the Respondent : Ms. Mauleen Marfatia, Adv. R.No.2, and Ms.  
Hemali Vora, Party in Person For R. No.5

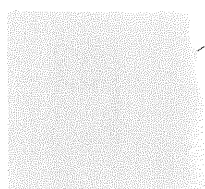
### **JUDGEMENT**

1. The Present Application is filed under Section 30(6) of the Insolvency and Bankruptcy Code, 2016 ("IBC, 2016/the Code") by the Resolution Professional of the corporate debtor inter alia praying to approve the Resolution Plan under Section 30(6) of the Code, submitted by Mercury Terra Firma the successful Resolution Applicant.
2. Bank of India, the sole Financial Creditor, had filed an insolvency application under Section 7 of the Code being CP(IB) 9 of 2021 for initiation of Corporate Insolvency Resolution Process ("CIRP") against the Corporate Debtor which was admitted vide Order dated 07.12.2022 and whereby Ms. Vineeta Maheshwari was appointed as IRP. The public announcement inviting the claims from creditors of the Corporate Debtor was made in Form-A on 16.12.2022 and after receipt of claims, the IRP constituted the Committee of Creditors ("CoC") comprised of



two secure financial creditors and four unsecured financial creditors.

3. The 1<sup>st</sup> CoC meeting was held on 13.01.2023 wherein IRP apprised the members that she visited office cum factory premise of CD and shared observation that there were no machinery, furniture in the factory, it was just an abandoned. The 2<sup>nd</sup> CoC meeting was held on 02.02.2023 wherein the discussion were held for finalization of criteria for amount of Earnest Money Deposit, turnover, Net-worth etc and resolved to publish Form-G. Further CoC resolved to replace the IRP by appointing Mr. Sunit Shah as RP and therefore IA No. 282 of 2023 was filed for replacing the IRP to RP before this Tribunal and vide order dated 13.03.2023 this Tribunal appointed Mr. Sunit J Shah as the RP. The 3<sup>rd</sup> CoC meeting was held on 02.03.2023 wherein discussions were held to drop the turnover criteria for individual and net-worth criteria and discusses to republish Form-G.
4. In compliance with Regulation 36A(1) of IBBI (CIRP Regulations) an invitation for expression of interest (EoI) i.e Form-G was published on 10.03.2023 by the IRP in two newspapers i.e



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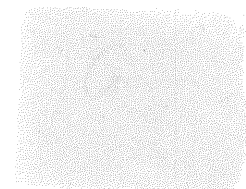
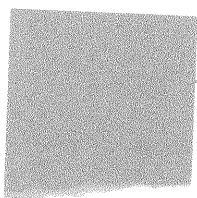
Business Standard (English) all over Gujarat edition and Sandesh (Gujarati) all over Gujarat edition. The 4<sup>th</sup> CoC meeting held on 20.03.2023 wherein the applicant informed that he has initiated process for taking handover of the CD and thereafter CoC proposed to reduce the EMD along with EoI.

5. The 6<sup>th</sup> meeting of CoC was held on 01.04.2023 wherein RP appraised the CoC that he has received 9 EoI and further CoC members suggested for changes in Request for Resolution Plan (RFRP) and evaluation matrix. In 7<sup>th</sup> CoC meeting which was held on 01.05.2023 applicant informed that he has finalised 8 EoI's and issued final list of prospective resolution applicant on 12.04.2023 and informed CoC the last date of submission of resolution plan is 11.05.2023.
6. The 8<sup>th</sup> meeting of CoC was held on 15.05.2023 wherein applicant placed and opened bids before the CoC of the proposed resolution plans and thereafter salient features. RP has also filed the police compliant before the Jhagadia Police Station due to missing of books of accounts, plant and machinery and other assets. In 9<sup>th</sup> meeting of CoC held on 25.05.2023 applicant apprised that plans are under vetting and



CIRP period about to expire on 05.06.2023. Therefore, RP filed an application being IA no. 670 of 2023 for extension of CIRP period, this Adjudicating Authority vide an order dated 19.06.2023 allowed the application and extended 90 days period of CIRP from 05.06.2023. Applicant also filed an application bearing IA No. 658 of 2023 against member of erstwhile management for non-cooperation and concealment of property of the CD which is pending for adjudication before this Tribunal.

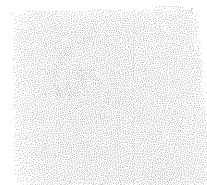
7. The 10<sup>th</sup> Meeting of CoC was held on 30.06.2023 wherein the applicant appraised that he is in the process of vetting the plans. The RP conducted 11<sup>th</sup> CoC meeting on 05.07.2023 for negotiation with the resolution applicant and for conducting Swiss Challenge Mechanism *per se* bidding which was held on 01.08.2023, thereafter all three resolution applicant submitted revised resolution plan on 08.08.2023.
8. The 12<sup>th</sup> CoC meeting was held on 13.07.2023 wherein applicant proposed various criteria to be included in RFRP and evaluation matrix. The RP discussed with CoC regarding successful completion of Swiss Challenge Mechanism *per se*





bidding in 13<sup>th</sup> CoC meeting held on 10.08.2023. In 14<sup>th</sup> CoC meeting held on 29.08.2023 RP appraised that he had refunded Earnest Money Deposit amount to two resolution applicants who has not participated in challenge mechanism. CoC also resolved to extend the period of CIRP beyond 270 days therefore, RP filed an application bearing IA No. 1073 of 2023 for another extension of CIRP period beyond 270 days for further 60 days from 04.09.2023 which was allowed by this Adjudicating Authority vide order dated 06.10.2023.

9. The 17<sup>th</sup> meeting of CoC was held on 19.10.2023 whercin RP informed that there were two plans for consideration but one resolution applicant requested for withdrawal of plan. CoC stated that they want to discuss with remaining RA i.e Mercury Terra Firma regarding the plan. CoC required further time and they directed RP to file an application for extension of CIRP period for further 90 days. Accordingly, RP filed an application bearing IA No. 1269 of 2023 seeking extension of CIRP period for further 60 days, this Adjudicating Authority vide an order dated 30.10.2023 allowed extension of CIRP period up to 10.12.2023 and directed RP to expedite the CIRP process.







10. The 19<sup>th</sup> CoC meeting was held on 01.11.2023 wherein RP informed CoC about emails from potential buyers showing interest for participation in resolution process. One of the CoC member proposed in exercise of commercial wisdom re-issue of Form-G and Merry Terra Firma to be allowed to be participate in the new process. Accordingly, RP republished Form-G on 03.11.2023 in two news paper i.e Business Standard (English) and Sandesh, Baroda edition (Gujarati). RP conducted 20<sup>th</sup> CoC meeting on 06.11.2023 and discussed with CoC with respect to proposed RFRP and evaluation matrix.
11. Pursuant to republication of Form G, RP conducted 21<sup>st</sup> CoC meeting and appraised CoC that he has received 13 EoI. Out of these only 3 resolution plan received i.e 1) JRD Fibre Composite Private Limited, 2) Mohsinali Varteji, Mehendihasan Varteji, Mr. Shailesh Kothari and Mr. Sanjay Donga and 3) Mercury Terra Firma, which were discussed with CoC. In 22<sup>nd</sup> CoC meeting held on 30.11.2023 discussions were held with PRA. State Bank of India raised query and insisted that plan should be unconditional and RA took time to clarify the same. The 23<sup>rd</sup> meeting of CoC was held on 04.12.2023 wherein RP informed



that CIRP period expires on 10.12.2023, CoC requires further 30-45 days to get approval from higher authority to vote upon the resolution plan. Accordingly, RP filed an application bearing IA no. 1424 of 2023 before Court-1 for seeking another extension of CIRP period of 60 days which was listed on 15.12.2023 wherein both the members recused themselves from this case. RP conducted 24<sup>th</sup> meeting of CoC on 22.12.2023 and apprised CoC about the recusal of the case. Thereafter this case was listed before Court-2 on 08.01.2024 wherein this court granted extension up to 20.02.2024 by allowing IA 1424 of 2023.

12. The 26<sup>th</sup> CoC meeting was held on 22.01.2024 wherein RP apprised that Cirrus Chemicals has mailed the applicant on 16.01.2024 for withdrawal of resolution plan and refund the EMD amount and compliance check and vetting of all remaining plan completed. CoC also reiterated that claim of GVAT shall be considered as operational creditor. Applicant conducted 27<sup>th</sup> meeting of CoC on 07.02.2024 on specific request of SBI in relation to proposing a liquidator other than the present RP and also liquidator fees.



13. In the meeting held on 22.01.2024 discussions were held in regard to approval of resolution plan received from RA/Approval of liquidation process in case the resolution plan gets rejected. Voting was started from 29.01.2024 to 14.02.2024 wherein the CoC approved the resolution plan submitted by Mercury Terra Firma with 97.36 % voting.
14. It is stated that as the Resolution Plan was approved, letter of intent was issued to the SRA on 15.02.2024 against which SRA has already paid Rs. 10,00,000/- toward EMD along with EOI and Rs. 1,00,00,000/- for Earnest Money Deposit.
15. The key features of Resolution Plan, in brief, are stated to be as under:

Resolution applicant Proposed Amount	Amount Claimed (in Rs.)	Amount Admitted (in Rs.)	Amount Provided In Plan	Amount waived	Payout As % of admitted	Timeline [From the dt of Appointed dt]	Para of Resolution Plan
A. Payment to the FCs							
[i] Secured FCs	77,06,83,872	71,78,31,110	39,35,60,000	32,42,71,110	51.07 %	3 Months	Sec.4.1.2.1
[ii] Unsecured FCs	29,33,57,511	4,68,34,328	50,00,000	4,18,34,328	1.70 %	30 days	Sec.4.1.2.2
A. Total [i+ii]	1,06,40,41,383	76,46,65,438	39,85,60,000	36,61,05,438	52.77 %		
B. Payment towards the OCs (including Statutory Dues)	27,80,97,445	23,32,52,171	60,00,000	22,72,52,171	2.16 %	30 days	Sec.4.1.4



C. Employees and Workmen	63,17,548	62,57,548	7,00,000	55,57,548	11.08%		Sec.4.1.3
Total (A+B+C)	1,34,84,56,376	1,00,41,75,157	40,52,60,000	59,26,57,609	66.01		
D. payment of CIRP Cost (100%)  If CIRP cost exceeds 65 lacs, RA will pay additional amount over and above Resolution Plan value to cover CIRP cost			65,00,000			90 days	Sec.4.1.1
Total (A+B+C+D)			41,17,60,000				
E. Working Capital/Capex over the period			7,00,00,000				
Total (A to E)			48,17,60,000				
Payment to Existing Shareholders of the Corporate Debtor	NIL	NIL	NIL				
Total Payment			48,17,60,000				

16. In respect of source of funds (Section 4.4 of the Resolution Plan) it is stated that out of the total proposed amount Rs. 10.20 Cr. Shall be infused through subscription to the equity shares of the corporate debtor and Rs. 30.62 Cr through unsecured loan from friends, relatives, associates, banks etc.
17. In respect of the Monitoring Committee (Section 3.5 of the Resolution Plan) it is stated that Monitoring Committee shall



consist of Resolution Professional, One representative of CoC, One representative of Resolution Applicant wherein the monitoring committee will be chaired by the Resolution professional for effective implementation of the plan and monitoring committee shall be dissolved on effective date.

18. It is stated that the Resolution Plan is in compliance of Section 30(2) of the Code and Regulation 38(1A) of the CIRP Regulation, 2016. The Liquidation Value is to Rs. 33,16,25,906/- and Fair Value is Rs. 45,85,31,874/-
19. In respect to treatment of avoidance transactions application (Section 3.9 of the Resolution Plan) it is stated that the Resolution Applicant undertakes that if any amount is recovered or received in pursuance to order passed by this Tribunal, for application filed U/s 43 & 66, same shall belongs to secured financial creditor. Hence, the cost for the same after approval of resolution plan by this Tribunal shall also be borne by the secured financial creditor.
20. In respect of feasibility and viability it is stated that the Resolution Plan is feasible and viable, the plan confirms to all the mandatory requirements of the code and CIRP Regulations,



deals with the interest of all stakeholders, provides for payment to all stakeholders in line with the Code, provides for management and control of the corporate debtor, term and implementation schedule. The Resolution Applicant through support of experts as well as technically capable persons in the industry, who will assist him for the projected revival of the CD.

21. The Schedule of Payment as mentioned in Resolution Plan is as under:

Sr. No.	Time Line	Amounts (Rs)
1.	Within 1 month from appointed date	11,02,00,000
2.	Within 2 months days from appointed date	10,00,00,000
3.	Within 3 months days from appointed date	20,15,60,000
	<b>Total amount provided under the Plan for creditors</b>	<b>41,17,60,000/-</b>
<b># Need based infusion for working Capital/Capex over the period</b>		
4.	Within 1 year from Appointed Date	7,00,00,000

Note: RA assures to make the payment with interest as per the rate defined in RFRP after 60 days. Further, RA assures to make the payment within 90 days i.e 3 Months.

# The need-based funds would be infused for working capital/capex for smooth operations of the corporate debtor.



22. The suspended board of director filed reply to this application stating that the CIRP should be completed within 180 days, however, an extension from this Tribunal may be given for completing the said process subject to maximum 330 days, including time taken for pursuing the legal proceedings, if any. But in the instant case the RP has taken extension many times overlooking the legal provisions and the IBC Code itself hence the entire proceedings of the Resolution Professional are illegal and may be treated as non est.
23. The Department of Income Tax also filed a report stating therein that an amount of Rs.2,77,39,125 is outstanding of the corporate debtor and they have already filed their Form B. It is further requested that the amount may be included as claim by the COC.
24. Observations: The Resolution Plan approved by the COC in terms of Sec 30(4) appears to be in confirmity and compliance with Sec 30(2) of the IBC 2016. The RP had issued notices to six respondents including the Income Tax Authorities and ST Department. The Form H submitted mentions the Fair Value and Liquidation value, and the plan approved by COC ensures



that the recovery through resolution of the corporate debtor is found to be a better option exercised by the COC. While Income Tax Department have filed their reply stating that they have dues and filed Form B there is no reply received from state tax department. The reply of the Suspended Management have been taken on record as no specific mention objecting the plan has been mentioned. An IA filed by another Resolution Applicant has been disposed of based on its merits. Compliance to statutory requirement is the responsibility of CoC and RA and there are no IA opposing the plan filed on date in deciding this order.

25. The claims of Operational Creditors including Statutory Dues aggregating to Rs.23,32,52,171/- have been verified and admitted by the Resolution Professional. As the IM does not specify the liquidation value due to the operational creditors, hence the resolution applicant proposes payment of Rs.60,00,000/- towards full and final settlement of all the Operational creditors against all the verified and admitted claims. From which, Resolution Applicant proposes to pay amount Rs.56,87,358/- towards the dues of the EPFO from the



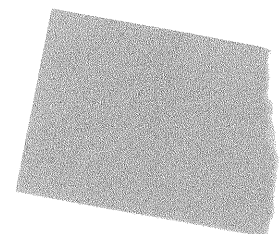


amount which is allocated towards Operational Creditors, Rest amount i.e., 3,12,642/- is proposed towards other operational creditors including income tax.

26. In view of above, we observe that the Resolution Plan is in compliance of the provisions and we are satisfied in respect of the same. We find that the Resolution Plan has been approved with 97.36 % voting share and is above the mandatory requirements. As per the CoC, the plan meets the requirement of being viable and feasible for the revival of the Corporate Debtor. On perusal of the documents on record, we are also satisfied that the Resolution Plan is in accordance with sections 30 and 31 of the IBC and also complies with regulations 38 and 39 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
27. Hence we pass the following order:-

**ORDER**

- I. Application is allowed.
- II. The approved 'Resolution Plan' shall become effective from the date of passing of this order.





- III. The order of moratorium passed by this Adjudicating Authority under Section 14 of IBC, 2016 shall cease to have effect from the date of this order.
- IV. 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.
- V. The monitoring committee as proposed in the resolution plan shall be constituted for supervising the effective implementation of the Resolution Plan and continue till the payment plan is fully realised and is distributed.
- VI. The Resolution Professional, Shri Sunit Jagdishchandra Shah, 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 from the date of this order.
- VII. The Resolution Professional shall forward all records relating to the conduct of the corporate insolvency resolution process and approved Resolution Plan to the Insolvency and Bankruptcy Board of India to be recorded in its database.



- VIII. As regards 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.
- IX. After the payment of the dues to the creditors, as per the resolution plan, all the liabilities/claims of the said stakeholders shall stand extinguished and other claims including Government/Statutory Authority, whether lodged during CIRP or not, shall stand extinguished after approval of the resolution plan.
- X. From the date of this order, all claims against the Corporate Debtor, except those provided in the plan of the Corporate Debtor stand extinguished.
- XI. From the date of this order, all encumbrances on the assets of the Corporate Debtor before the Resolution Plan shall stand extinguished. No reliefs and concessions are granted to guarantee if any issued by the suspended management in an individual capacity to any of the creditors.
- XII. For reliefs and concessions sought from the Government / Statutory Authorities, we direct the resolution applicant to



approach the concerned Authorities. The concerned Authorities are to consider and decide the matter as per applicable provisions of law for effective implementation of the Resolution Plan.

- XIII. As regards reliefs prayed under various provisions of the 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 the Income Tax Act, 1961.
- XIV. The Resolution Applicant shall be entitled to review, revise or terminate any appointments / agreements / understanding entered into by or on behalf of the Corporate Debtor in accordance with the terms and conditions of such agreements / MoUs / contracts.
- XV. The management of the Corporate Debtor shall be handed over to the Board of Directors as may be nominated by the SRA for the proper running of the operations /business of the Corporate Debtor.



- XVI. The Board of Directors of the Corporate Debtor shall also be reconstituted and procedural compliances shall be done to give effect to such reconstitution.
- XVII. The SRA 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 vide this order or within such period as provided for in such law, as the case may be.
- XVIII. 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 regards the restructuring of capital shall be binding on them.
- XIX. With respect to the grant of license/ Government approval, if the license or approval is terminated, suspended or 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.



XX. A certified copy of this order be issued to all concerned parties upon compliance of all requisite formalities.

XXI. Accordingly, IA (Plan) No./6(AHM)/2024 in CP (IB) No.9(AHM)/2021 is disposed of

sd-

**DR.V. G. VENKATA CHALAPATHY**  
**MEMBER (TECHNICAL)**

sd-

**CHITRA HANKARE**  
**MEMBER (JUDICIAL)**

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