

ORDER

Per: Kuldip Kumar Kareer, Member Judicial

1. The present Interlocutory application is filed by **Mr. Ritesh R. Mahajan**, the Applicant and Resolution Professional of **V-Accurate Management Services Private Limited** ('the Corporate Debtor') seeking approval of the resolution plan submitted by Ranjit Mansingh Jagtap under section 30(6) of the Insolvency and Bankruptcy Code, 2016 ('the Code') read with Regulation 39 (4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 ('CIRP Regulations'). The Resolution Plan was duly approved by 100% of the Committee of Creditors ('CoC').
2. The Applicant submits that the Financial Creditor, TJSB Sahakari Bank Limited, initiated the Corporate Insolvency Resolution Process ('CIRP') against the Corporate Debtor under Section 7 of the Code on 09.03.2021 and appointed Mr. Ritesh Mahajan, as the Interim Resolution Professional (IRP).
3. The IRP made public announcements in Form A on 11.03.2021 in the newspapers viz Financial Express (English Language) and Loksatta (Marathi Language) Pune Editions and also published additionally on the website of the IBBI.
4. Pursuant to the Public Announcement, the creditors submitted their claims with the IRP. Based on the claims, the IRP constituted

Committee of Creditors ('CoC'). The first meeting of the CoC was held on 25.05.2021 and the IRP was appointed as the Resolution Professional ('RP').

5. Thereafter, Information Memorandum ('IM') was prepared and circulated to the members of the CoC on 08.06.2021. Further, in accordance with Regulation of 27 of the CIRP Regulations, 2016, two registered valuers were appointed.
6. Invitation for Expression of Interest ('EoI') in Form G was published in Financial Express (English) and in Navrashtra (Marathi) Pune edition on 06.08.2021. The last date for submission of EoI was 21.08.2021.
7. Pursuant to the same, the Applicant received one response to the said Form G. Thereafter, the Applicant provided the eligibility criteria and detailed EoI to the Prospective Resolution Applicant ('PRA'). The draft of Request for Resolution Plan ('RFRP') along with the Evaluation Matrix were discussed in the fourth CoC meeting held on 31.08.2021. The draft of RFRP was amended and approved by the Applicant and the members of the CoC through e-voting on 31.08.2021. The approved RFRP and Evaluation Matrix were sent to the PRA through email dated 31.08.2021. As no objection to the provisional list of PRA was received from the CoC, a final list of PRA was circulated on 05.09.2021 to the members of CoC.
8. The Applicant received Resolution Plan from Mr. Ranjit Jagtap, PRA in a sealed envelope on 16.10.2021 along with the Demand Draft of Rs.

3,00,000/- as a Bid Bond Amount. The said Resolution Plan was discussed by the members of CoC in the sixth meeting held on 15.11.2021. The members of the CoC requested the Resolution Applicant to revise the Resolution Plan.

9. Thereafter, 69 days were excluded from the period of the CIRP vide Order dated 15.11.2021 passed by this Tribunal. Thereafter, the members of the CoC considered the necessity of the extension of the CIRP period. Vide Order dated 24.11.2021, extension of the CIRP period was granted from 12.11.2021 to 10.02.2022 by the Adjudicating Authority.
10. The revised Resolution Plan was submitted on 17.01.2022 in the seventh CoC meeting. The CoC suggested certain modifications in the Resolution Plan. The Resolution Applicant assured the members of the CoC that the said changes will be incorporated in the Resolution Plan.
11. The CIRP period was further extended by 30 days till 10.02.2022. The Resolution Applicant submitted the revised Resolution Plan and also circulated the same to the members of the CoC on 19.01.2022.
12. The revised Resolution Plan was placed before the members of the CoC in the 10th CoC meeting held on 23.02.2022. Detailed discussion between the members of the CoC and the Resolution Applicant took place. The Resolution Applicant resolved the queries of the members of the CoC as to financial proposals, sources of funds etc.

13. Subsequently, the Resolution Plan was put to vote and E-voting platform was opened on 03.03.2022 for voting. The members of the CoC approved the Resolution Plan with 100% voting.

14. Brief Background of the Corporate Debtor

- a. The Corporate Debtor Company was incorporated as a Private Limited Company on 12.06.2009 under the provisions of the Companies Act, 1956 and registered with Registrar of Companies Pune.
- b. The Corporate Debtor has its registered office at Vidyadhar Heights, 6th Floor, Garud Ganpati Square, Narayan Peth, Laxmi Road, Pune 411030 and is inter alia, engaged in business of providing Manpower and Payroll Processing and Compliance including Human Resource thereof and the main object of the company is to provide Security Services to its clients.
- c. Basic objective of the Corporate Debtor Company is to create productive employment.
- d. The cause of the default of the Corporate Debtor Company was that the industry faced a few challenges and limitations regarding the finance. To overcome the financial crunch, the Corporate Debtor availed Cash Credit Limit, Working Capital, Term Loan and Auto Finance Loan at various times from the bankers. Thereafter, the Corporate Debtor defaulted in the repayment of credit facilities.

15. Brief Background of the Resolution Applicant

The Resolution Applicant is the suspended director of the Corporate Debtor and is eligible under section 29A to submit the Resolution Plan as the Corporate Debtor is a registered MSME entity.

SALIENT FEATURES OF THE APPROVED RESOLUTION PLAN

A. The Resolution Applicant has paid performance security for an amount of Rs. 5,00,000/- on 08.03.2022.

B. The Successful Resolution Applicant i.e. Ranjit Mansingh Jagtap based on the relevant information provided with regard to the amount claimed, amount admitted and other liabilities of the Corporate Debtor proposed total discharge amount of Rs. 5,34,74,266/- as under:

Sr. No	Particulars of Claim	Type of Claim	Admitted Amount	Amount Provided under the Plan	Terms of Payment
1.	CIRP Cost			Rs. 42,38,078/- (As on 12.09.2023)	Within 30 days from the NCLT order approving the Resolution Plan.
2.	Secured Financial Creditor (TJSB Sahakari Bank Limited)	Secured	3,87,37,732	5,31,85,813	(a) 1.80% within 6 months from the NCLT order approving the Resolution Plan, (b) 6.22% within 12 months from the date of the NCLT order approving the Resolution Plan,

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT II**

I.A. NO. 713/MB/C-II/2022

In

C.P. (IB) No. 1359/MB/C-II/2021

					(c) 15.84% within 24 months from the date of the NCLT order Approving the Resolution (d) 15.40% within 36 months from the date of the NCLT order approving the Resolution Plan (e) 28.16% within 48 months from the date of the NCLT order approving the Resolution Plan, (f) 32.58% within 60 months from the date of the NCLT order approving the Resolution Plan.
3.	Statutory Dues	Unsecured	28,84,53,169	2,88,453	Within 6 months from the date of the Hon'ble NCLT order approving the Resolution Plan
	Total		32,71,90,901	5,34,74,266	

C. Payment of CIRP Cost

The Resolution Applicant as per Section 30(2) (a) of the Code, will provide for entire Insolvency Resolution Process Costs, in priority to the payments of the other debts of the Corporate Debtor within 30 days from the approval of the Resolution Plan by this Tribunal. The CIRP costs as on 12.09.2023 is Rs. 42,38,078/-.

D. The payment to Secured Financial Creditors: -

- a) The Secured Financial Creditor will assign the entire receivable from the Corporate Debtor to the Resolution Applicant for a total consideration of Rs. 5,31,85,813/-.
- b) The admitted claim amount of the Secured Financial Creditor together with interest @ 6% on reducing balance basis, aggregating Rs.5,31,85,813/- is proposed to be paid in 60 (sixty) monthly installments. The Secured Creditor shall have no further claim against the Corporate Debtor or the Resolution Applicant.

Period of Payment	Amount (Rs)
Within 6 months from the order approving the Resolution Plan by NCLT	952880
Within 12 months from the order approving the Resolution Plan by NCLT	3310729
Within 24 months from the order approving the Resolution Plan by NCLT	8426522
Within 36 months from the order approving the Resolution Plan by NCLT	8186522
Within 48 months from the order approving the Resolution Plan by NCLT	14981522
Within 60 months from the order approving the Resolution Plan by NCLT	17327639
Total	53185813

E. Payment to Operational Creditors and workmen

As per the Information Memorandum, no creditor or workmen has filed a claim as operational creditor other than statutory dues. Hence, no amount is proposed to be paid to operational creditors or workmen.

F. The payment of Statutory Dues:

The Resolution Applicant shall pay an amount of Rs. 2,88,453/- within 6 months from the date of order approving the Resolution Plan passed by this Tribunal in the following manner: -

Sr. No.	Particulars	Net Admitted Amount	Resolution Amount	Percentage
1.	E.S.I.C.	2,57,03,081	25,703	0.10%
2.	GST (State)	15,17,83,000	1,51,783	0.10%
3.	GST (Central)	11,09,67,088	1,10,967	0.10%
	Total	28,84,53,169	2,88,453	

G. Sources of Funds:

- a) The Resolution Applicant in his personal capacity will raise the funds required for the resolution of the Corporate Debtor. The Resolution Applicant will make the payments to the Financial Creditors through own funds by way of Equity Share Capital or through bank loans.
- b) The Resolution Applicant has provided the letter of intent received from M/s Swaraajya Management Services LLP wherein the said party has assured the Resolution Applicant the business to the tune of **Rs. 6,74,50,000,00/-** for the tenure of Resolution Plan.

H. Monitoring Committee for Supervision and Implementation of the Plan

A Monitoring Committee comprising of representatives of the Secured Financial Creditor, the Resolution Applicant and the Resolution Professional shall be formed to supervise the implementation of the Resolution Plan. The remuneration payable to the representatives is also set out in the Resolution Plan.

I. Performance Guarantee

The Resolution Applicant has arranged a performance security, as per the terms of RFRP, for an amount of Rs.5,00,000/- in the form of Bank deposit with TJSB Sahakari Bank Limited on 08.03.2022. The amount paid by the Resolution Applicant at the time of submission of Expression of Interest and the amount of Rs.5 lakh paid as performance security will be appropriated towards payment to Secured Financial Creditor.

J. Preferential/Fraudulent Transactions.

There are no applications relating to preferential or fraudulent transaction filed or pending against the erstwhile directors or any other party.

K. Eligibility of Applicant under Section 29A of the Code:

The Successful Resolution Applicant has provided an affidavit confirming eligibility u/s. 29A of the Code to submit the Resolution Plan.

L. Other Terms

- (i) The Resolution Plan envisages to cancel the existing paid-up Equity Share Capital of the Corporate Debtor without payment of any amount to the existing shareholders.
- (ii) Proposes appointment of the Resolution Applicant Mr. Ranjit Mansingh Jagtap and Mr. Ramesh Aoundhakar as directors of the Corporate Debtor without following other procedures under the Companies Act, 2013.
- (iii) The Resolution Applicant to be permitted to draw up the financial statements of the Corporate Debtor in compliance with the applicable Accounting Standards.
- (iv) The Resolution Applicant also sought various reliefs and concessions relating to the Corporate Debtor, However, the Resolution Applicant vide his additional affidavit dated 04.11.2023 confirmed that the Resolution Plan submitted by him is not conditional and that any averment or statement which indicate it to be conditional be ignored or specifically rejected by NCLT. With respect to the relief sought as regards licenses, the Resolution Applicant desires to approach the competent authority for renewal of licenses, if any, has expired or lapsed.

M. The Applicant further submits that the Resolution Plan submitted is in compliance **with Section 30 (2) of the Code and Regulation 38 (A) of the CIRP Regulations**. The RP has provided a compliance certificate in “**FORM H**” as mandated under the Code for seeking approval of the Resolution Plan from this Bench.

OBSERVATIONS OF THE ADJUDICATING AUTHORITY

16. We have heard the Applicant and perused the Resolution Plan and related documents submitted along with the Application.

17. The Bench had sought clarification regarding the sources of funds for the payment of the CIRP cost. The Resolution Applicant vide Additional Affidavit dated 04.11.2023 stated that the Resolution Applicant will make these payments from its own sources. Out of the total approximately quantified CIRP cost, of Rs. 42,38,078/-, 7,20,000/- has already been recovered from rent collected by the RP and hence the balance amount of Rs. 35,18,078/- will be paid within 30 days from approval of the Resolution Plan.

18. As referred to the above summary of the Resolution Plan, we are satisfied that all the requirements of Section 30 (2) are fulfilled and no provision of the law for the time being in force appears to have been contravened. The Resolution Plan is stated to be feasible and viable.

19. Section 30 (4) of the Code reads as follows:

“(4) The committee of creditors may approve a resolution plan by a vote of not less than sixty-six percent. of voting share of the financial creditors, after considering its feasibility and viability, the manner of distribution proposed, which may take into account the order of priority amongst creditors as laid down in sub-section (1) of section 53, including the priority and value of the security interest of

a secured creditor and such other requirements as may be specified by the Board.

20. Section 30(6) of the Code enjoins the Resolution Professional to submit the Resolution Plan as approved by the CoC to the Adjudicating Authority. Section 31 of the Code deals with the approval of the Resolution Plan by the Authority if it is satisfied that the Resolution Plan as approved by the CoC under section 30(4) meets the requirements provided under section 30(2) of the Code. Thus, it is the duty of the Adjudicating Authority to satisfy itself that the Resolution Plan as approved by the CoC meets the above requirements.

21. On perusal of the Resolution Plan, it is observed that the Resolution Plan provides for the following:

- a) Payment of CIRP Cost as specified u/s 30(2)(a) of the Code.
- b) Repayment of Debts of Operational Creditors as specified u/s 30(2)(b) of the Code.
- c) For Management of the affairs of the Corporate Debtor, after the approval of Resolution Plan, as specified u/s 30(2)(c) of the Code.
- d) The implementation and supervision of the Resolution Plan by the RP and the CoC as specified u/s 30(2)(d) of the Code.

22. The Resolution Plan has been approved by the CoC in the 10th CoC meeting held on 23.02.2022 with 100% votes in terms of Section 30(4) of the Code.

23. In *K Sashidhar v. Indian Overseas Bank & Others (in Civil Appeal No.10673/2018 decided on 05.02.2019)* the Hon'ble Apex Court held that if

the CoC has 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 (NCLT). On receipt of such a proposal, the Adjudicating Authority is required to satisfy itself that the Resolution Plan, as approved by CoC, meets the requirements specified in Section 30(2). The Hon'ble Apex Court further observed that the role of the NCLT is 'no more and no less'. The Hon'ble Apex Court further held that the discretion of the Adjudicating Authority is circumscribed by Section 31 and is 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.

24. In CoC of *Essar Steel* (Civil Appeal No. 8766-67 of 2019 decided on 15.11.2019) the Hon'ble Apex Court clearly laid down that the Adjudicating Authority would not have power to modify the Resolution Plan which the CoC in their commercial wisdom has approved. In para 42 Hon'ble Court observed as under:

"Thus, it is clear that the limited judicial review available, which can in no circumstance trespass upon a business decision of the majority of the Committee of Creditors, has to be within the four corners of section 30(2) of the Code, insofar as the Adjudicating Authority is concerned, and section 32 read with section 61(3) of the Code, insofar as

IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT II

I.A. NO. 713/MB/C-II/2022

In

C.P. (IB) No. 1359/MB/C-II/2021

the Appellate Tribunal is concerned, the parameters of such review having been clearly laid down in K. Sashidhar (supra).”

25. In view of the discussions and the law thus settled, we are of the considered view that the instant Resolution Plan meets the requirements of Section 30(2) of the Code and Regulations 37, 38, 38(1A) and 39 (4) of the CIRP Regulations. The Resolution Plan is not in contravention of any of the provisions of Section 29A of the Code and is in accordance with law. We are thus inclined to allow the Application in the following terms.

ORDER

26. The Application IA No. 713 of 2022 in CP 1359 of 2019 is allowed. The Resolution Plan submitted by Mr. Ranjit Jagtap is hereby approved and it shall become effective from this date and shall form part of this order. It 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.

27. The Resolution Applicant vide its Additional Affidavit dated 04.11.2023 has confirmed that the Resolution Plan is not conditional and any averment or statement in the Resolution Plan which indicates to be conditional be

IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT II

I.A. NO. 713/MB/C-II/2022

In

C.P. (IB) No. 1359/MB/C-II/2021

ignored or specifically rejected by the Tribunal. Accordingly, no conditions precedent stated in the Resolution Plan shall prevail.

28. In terms of the Judgment of Hon'ble Supreme Court in the matter of *Ghanshyam Mishra and Sons Private Limited Vs. Edelweiss Asset Reconstruction Company Limited (Civil Appeal No. 8129 of 2019 decided on 13.04.2021)*, on the date of the approval of the Resolution Plan by the Adjudicating Authority, all such claims which are not a part of the Resolution Plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim which are not a part of the Resolution Plan. Accordingly, no person including the Central Government, any State Government or any local authority, guarantors and other stakeholders, will be entitled to initiate or continue any proceedings in respect to a claim prior to CIRP which is not a part of the Resolution Plan.

29. The Monitoring Committee as proposed in para C-13 of the Resolution Plan shall be constituted for supervising the effective implementation of the Resolution Plan.

30. The approval of the Resolution Plan shall not be construed as waiver of any future statutory obligations/liabilities of the Corporate Debtor and shall be dealt by the appropriate Authorities in accordance with law. Any waiver sought in the Resolution Plan relating to period after the date of this order shall be subject to approval of the Authorities concerned. This Tribunal will not deter such authorities to deal with any of the issues arising after effecting the Resolution Plan.

31. The concession sought in relation to the stamp duty, taxes, registration charges, etc for implementation of the approved Resolution Plan is not granted. However, the Resolution Applicant is at liberty to approach the competent authorities for the exemptions, if permitted under the law.
32. The Resolution Applicant, for renewal of various licenses and 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. However, if any approval of shareholders is required for extinguishment of existing shares of the Corporate Debtor, allotment of shares to the Resolution Applicant and reduction of share capital of Corporate Debtor under the Companies Act, 2013 or any other law for the time being in force for the implementation of actions under the Resolution Plan, such shareholders' approval shall be deemed to have been given and it shall not be a contravention of that Act or law.
33. As regards the immunity sought for the Resolution Applicant and the Corporate Debtor in accordance with the provisions of Section 32A of the Code, the same is not granted as Resolution Applicant was in the management or control of the Corporate Debtor before commencement of CIRP.
34. The reliefs and concessions which are not specifically granted or in violation of any law in force shall be construed as not granted.
35. The moratorium under Section 14 of the Code shall cease to have effect from this date.

IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT II

I.A. NO. 713/MB/C-II/2022

In

C.P. (IB) No. 1359/MB/C-II/2021

36. 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.

37. The Applicant shall forthwith send a certified copy of this Order to the CoC and the Resolution Applicant, respectively for necessary compliance.

Sd/-

**ANIL RAJ CHELLAN
MEMBER (TECHNICAL)**

Sd/-

**KULDIP KUMAR KAREER
MEMBER (JUDICIAL)**