

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT - 2

ITEM No.302

IA/1394(AHM)2023 in CP(IB) 38 of 2020

Order under Section 30(6) r.w 31 & 60(5) IBC

IN THE MATTER OF:

Satyendra Prasad Khorania RP of Sumeet Industries Ltd.

.....Applicant

.....Respondent

Order delivered on: 16/07/2024

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.

Sd/-

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

Sd/-

CHITRA HANKARE
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL

AHMEDABAD (COURT - II)

IA No. 1394 of 2023

In

CP(IB) No. 38 of 2020

(Filed under Section 30(6) r.w Section 31 and Section 60(5) of the IBC, 2016)

IN THE MATTER OF:

SUMEET INDUSTRIES LTD.

Through its Resolution Professional

Mr. Satyendra Prasad Khorania

Having registered office at 402,

OK Plus, DP Metro, Opp: Metro Pillar No.94

New Sanganer Road,

Jaipur-302019

... Applicant

Order pronounced on 16.07.2024

Coram:

Mrs.Chitra Hankare, Member (Judicial)

Dr.Velamur G Venkata Chalapathy, Member (Technical)

Present:

For the RP : Mr. Amol Vyas, Adv. a.w Mr. Danish Akhtar, Adv.

RP in person : Mr. Satyendra Prasad Khorania

For the CoC : Mr. Jaimin Dave, Adv. a.w Ms. Hirva Dave

JUDGEMENT

1. Following prayers are sought by the applicant which is as under:

(a) Allow the present application.

(b) Pass necessary order(s)/direction(s) under Section 31 of the Code, approving the Resolution Plan submitted by the Successful Resolution Applicant M/s. Eagle Fashions Pvt. Ltd., Eagle Fibers Limited, Eagle Synthetics Pvt. Ltd., Padmini Polytex Pvt. Ltd. Eagle Sizers & JPB Fibers jointly as Eagle Group, which has been approved by the CoC with 74.90% vote casted in favour of the resolution.

(c) Declare that upon approval of the resolution plan by this Hon'ble Tribunal, the provisions of the Resolution Plan shall be binding on the Corporate Debtor, its all the creditors (whether they have submitted the claims or not), guarantors, members, shareholders, employees, statutory authorities and other stakeholders in accordance with Section 31 of the Code, and shall be given to and implemented pursuant to the order of this Hon'ble Tribunal.

(d) Pass necessary order(s)/direction(s) declaring upon approval of the Resolution Plan by this Hon'ble Tribunal the liability of the Corporate Debtor for any offence prior to the commencement of Corporate Insolvency Resolution

Process shall cease in accordance with the provisions of Section 32A of the Code.

- (e) Pass appropriate order(s)/direction(s) approving the appointment of the monitoring committee as stated in the Resolution Plan and confirmed by the Committee of Creditors.
- (f) Pass necessary order(s)/direction(s) vacating the moratorium on Corporate Debtor imposed under Section 14 of the code.
- (g) Pass necessary order(s)/direction(s) discharging the Resolution Professional Mr. Satyendra Prasad Khorania from the duties of the Resolution Professional of the Corporate Debtor.
- (h) Declare the Corporate Insolvency Resolution Process conducted by the IRP/RP is processual legal, valid and proper.
- (i) Pass such other or further order / order(s) as may be deemed fit and proper in the facts and circumstances of the instant case.

2. An application was filed before this Tribunal as Rst.(revival) A 17 of 2024 which was allowed vide orders dated 25 June 2024 and this petition was readmitted in lieu of Orders passed by the Hon'ble NCLAT on 3 May 2024 in an appeal made by the applicant against the Orders passed by this

Tribunal in the same application for approval of Resolution Plan vide its Orders dated 5 April 2024. The relevant part of the order of Hon'ble NCLAT is as follows:

“We are of the view that minutes and the documents which have not been filed by the Resolution Professional as referred to in Paragraph 20 as noticed above, may be submitted by Resolution Professional along with an additional affidavit before the Adjudicating Authority within two weeks from today. Adjudicating Authority after receipt of the documents and minutes as noted by the Adjudicating Authority in the impugned order may proceed to consider the IA No.1394 of 2023 afresh and decide the same in accordance with law”.

3. The applicant, Resolution Professional has vide his affidavit dated 4 June 2024 filed certain documents in compliance of Orders of the Hon'ble NCLAT dated 30.5.2024, in respect of observations made in para 20 by this Tribunal in the impugned Order dated 5.4.2024.
4. The documents submitted by the applicant are as follows with our comments:
 - a) Copy of the Independent professional for investigation U/s. 29A: The due diligence report submitted by H Mittal & Co., Chartered Accountants after verification of the 5

eligible applicants for the resolution plan is observed to be satisfactory. In view of the same it is accepted.

- b) Copy of the RFRP: The copy submitted is perused and apparently to our notice, no deviation is noticed which has been issued under Regulation 36 B of IBBI Regulations, 2016 approved by the COC before issue. It appears from the documents submitted that it is in compliance of Regulations.
- c) Copy of Information Memorandum: The copy of information memorandum prepared pursuant to Sec. 29 of IBC read with Reg. 36 of IBBI (Insolvency resolution process for corporate persons) Regulations, 2016 is otherwise appears to be in order giving all details necessary for preparation of an appropriate Resolution Plan.
- d) Copy of FD receipt as proof of the Performance Security Receipt: The Successful Resolution Applicant has produced a FD in favour of the corporate debtor, a FDR with Bank of Baroda, with a maturity value of Rs.20.56 crores which is in compliance with the amount of Rs.20 crores sought in RFRP.
- e) Copy of minutes of 8th meeting of COC: It is observed from the minutes of the meeting that the RP had received 8 Expression of Interests out of which 5 plans were submitted and considered through a transparent auction

process through swiss challenge method The plans of all the 5 RAs were also discussed in detail. Since the COC has gone through a transparent process the same is considered of having been approved appropriately by the COC.

f) Valuation report of the corporate debtor: The applicant has submitted the valuation report of the corporate debtor which has been done by IBBI approved valuer. The fair value is arrived at Rs.293.31 crores while the Liquidation value is arrived at Rs.199.63 crores.

5. The relevant points needed for the approval of the resolution plan submitted in the present IA have been reconsidered fresh based on the fresh submissions by the Resolution Professional with necessary documents, in terms of the Order dated 30.5.2024 passed by the Hon'ble NCLAT, produced through affidavit submitted by the Resolution Professional. Based on the submissions and satisfactory contents to reconsider the Orders passed on 05.04.2024, we now observe that based on the documents submitted through this amended affidavit, the Plan now meets the necessary criteria for its consideration under Section 31 of IBC, 2016.

6. Accordingly we pass the following orders:

ORDER

- I. Application IA 1394 of 2023 in CP(IB) 38 of 2020 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.
- VI. The Resolution Professional, Mr. Satyendra Prasad Khorania 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 CIRP 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 Successful Resolution Applicant 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 Successful Resolution Applicant 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 restructuring of capital shall be binding on them. Further, 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.

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

XX. Accordingly, IA No1394 of 2023 in CP (IB) No. 38 of 2020 is disposed of.

Sd/-

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

GP-LRA

Sd/-

CHITRA HANKARE
MEMBER (JUDICIAL)