

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
BENGALURU BENCH**

C.P. (IB)No.69/BB/2018  
U/s.10 of IBC, 2016  
R/w Rule 7 of I&B (AAA) Rules, 2016

**And**

I.A No.349/2019  
U/s. 30(6) of the IBC, 2016  
R/w Regulation 39(4) of  
Insolvency and Bankruptcy Board of India  
(Insolvency Resolution Process for  
Corporate Persons) Regulations, 2016

**Shri B. Parameshwara Udpa**  
*Resolution Professional of  
M/s. Shantha Projects Limited*

**Office situated at:**

No.827/7, 8<sup>th</sup> A Main,  
4<sup>th</sup> Block, BEL Layout,  
Vidyaranyaपुरa,  
Bengaluru – 560 097

- Applicant/RP

**In the matter of:**

M/s. Shantha Projects Limited  
S-9/A, 1<sup>st</sup> Floor,  
Shantha Skyline Apartment,  
Adjacent to KPTCL,  
M.J.Nagar, Hospet,  
Karnataka – 583 203.

- Corporate Applicant

**Versus**

**State Bank of India**

Stressed Assets Management Branch,  
2<sup>nd</sup> Floor, Office Complex Building,  
LHO Campus, No.65,  
St.Marks Road,  
Bengaluru – 560 001.

- Respondent



**Date of Order: 26<sup>h</sup> September, 2019**

**Coram:** 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)  
2. Hon'ble Dr. Ashok Kumar Mishra, Member (Technical)

**Parties/Counsels Present:**

For the Applicant : Ms. Varsha Hittinhalli along with  
Shri Parameshwara Udpa, RP

**ORDER**

**Per:** Rajeswara Rao Vittanala, Member (J)

1. I.A.No.349/2019 in C.P.(IB)No.69/BB/2018 is filed Shri B. Parameshwara Udpa ('Applicant/Resolution Professional') U/s. 30(6) of the IBC, 2016 R/w Regulation 39(4) of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, by inter alia seeking to approve the final Resolution Plan dated 08.07.2019 submitted by M/s. Bhadrashree Steel and Power Ltd in the interest of justice and equity.
2. Brief facts of the case, which are relevant to the issue in question, as mentioned in the Application, are as follows:
  - (1) C.P. (IB)No.69/BB/2018 is filed by M/s. Shantha Projects Limited (Corporate Applicant) U/s.10 of the IBC, 2016, R/w Rule 7 of the I&B(AAA) Rules, 2016, was admitted by an order dated 10.10.2018, by initiating CIRP, appointing Shri B. Parameshwara Udpa, as Interim Resolution Professional, imposing moratorium etc. Subsequently, the Committee of Creditors of the Corporate Debtor, in their first meeting held on 07.11.2018 confirmed the

appointment of Shri B. Parameshwara Udpa as the Resolution Professional.

- (2) Subsequently, the Tribunal, vide order dated 05<sup>th</sup> April 2019 extended CIRP of the Corporate Debtor by further 90 days beyond 180 days starting from 10<sup>th</sup> April 2019 to 09<sup>th</sup> July, 2019 upon an application filed by RP under Section 12(2) R/w Section 60(5) of the Code.
- (3) The RP, in pursuant to the provisions of Section 25(2)(h) of the Code, invited Expression of Interest (EOI) from potential Resolution Applicants for the purpose of submission of resolution plans for the Corporate Debtor. The advertisement for inviting EOI was published on 20.01.2019, calling upon the potential resolution applicants to submit EOIs, in accordance provisions of the Code on or before 23.03.2019. The Applicant has placed before the CoC, (SBI) the Resolution Plan submitted by M/s. Bhadrashree Steel and Power Ltd. and the CoC has informed the Applicant that the same has been forwarded with recommendation to their corporate office for placing before the competent authority and higher officials for finalization of the Resolution Plan.
- (4) In view of the same and the finalisation by the CoC (SBI), it was resolved by the CoC on 03.07.2019 that suitable measures be taken and necessary application be preferred to the Adjudicating Authority to exclude the time period of 12 days in procuring the copy of the Admission Order by the Applicant from the total 270 days provided for the completion of the CIRP. The Resolution Applicant M/s. Bhadrashree Steel and Power Ltd., has submitted



Resolution Plan, dated 22.03.2019 for Rs.12.00 Crores. After much negotiations, the Resolution Applicant revised plan on 08.07.2019 for Rs.14.30 Crores in addition to the CIRP cost to the extent of 25,00,000/-. The said Resolution Plan, along with Resolution Professional report, the queries raised with Resolution Applicant, reply received from the Resolution Applicant and Audited Balance Sheet as on 31.03.2018 of BS&PL. Directors details and clarity about payment of CIRP cost, list of group of companies and surplus available in support of the sources of funds and the capability of Resolution Applicant, were placed before the CoC along with a certificate as required under Regulation 39(2) of I&B BoI (IRPCP) 2016. Also the Affidavit under taking submitted by Sri Mukesh Goel Director of M/s. Bhadrashree Steel and Power Ltd.

- (5) It is stated that the average liquidation value is Rs.18.81 Crores. SBI, the sole members of the COC, in the meeting held on 20.07.2019, informed that earlier the mortgaged properties were brought for auction 9 times under provisions SARFASI Act 2002 and the last of such auctions was conducted 25.07.2018 with Reserve Price of Rs.16.49 Crores. All such auctions had failed for want of bidders. Hence it was resolved to accept the present Resolution Plan.
- (6) Details of claims received, admitted, rejected and amount provided under the plan:

Sl No	Claimant	Amt. Claimed	Admitted Amount	No. of claims rejected	Amount of claims rejected	Amount provided under the plan
1	State Bank of India	6857	6857	NA	NA	1430



	(Secured Financial Creditors)					
2	Un-secured Operational Creditors (Nos. 4)	488	187	1	301 (279+22) (Full 279 partial 22)	Nil
	Total	7345	7044	1	301	1430

- (7) The resolution Plan was placed before the Committee of Creditors (10<sup>th</sup> COC) in its meeting held on 20.07.2019 and thus it was resolved that the Resolution Plan is feasible and viable and was approved with 100% voting rights. Therefore,, after much deliberations, taking into account the combined position of the 10<sup>th</sup> meeting of CoC resolved on 20.07.2019 to approve the Resolution Plan dated 08.07.2019 and further resolved and directed the Resolution Professional to place the before the Adjudicating Authority.
3. Heard Ms. Varsha Hittinhalli, learned Counsel for the Applicant/Resolution Professional along with Shri B. Parameshwara Udpa, learned Resolution Professional. We have carefully perused the pleadings of party and extant provisions of the Code.
4. Ms. Varsha Hittinhalli, learned Counsel for the Applicant/Resolution Professional, while reiterating various averments made in the Application, has further submitted that the Resolution Plan, as approved by the CoC satisfy all requisite conditions as per the provisions of the Code and rules made thereunder and the same is approved with requisite majority



and also filed Compliance Certificate in Form-H, Under Regulation 39(4) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations 2016, and thus urged the Tribunal to approve the Resolution Plan.

5. In order to approve a Resolution Plan U/s. 31(1) of the Code, Resolution Professional should examine each Resolution Plan should confirm the following conditions as per Section 30(2) of the Code:

- a) provides for the payment of insolvency resolution process costs in a manner specified by the Board in priority to the repayment of other debts of the corporate debtor;*
- b) provides for the payment of the debts of operational creditors in such manner as may be specified by the Board which shall not be less than the amount to be paid to the operational creditors in the event of a liquidation of the corporate debtor under Section 53;*
- c) provides for all management of the affairs of the corporate debtor after approval of the resolution plan;*
- d) the implementation and supervision of the resolution plan;*
- e) does not contravene any of the provisions of the law for the time being in force;*
- f) conforms to such other requirements as may be specified by the Board.*

6. In compliance with the above requirements, the Applicant/ Resolution Professional has filed Compliance Certificate in Form-H, Under Regulation 39(4) of the IBBI (Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016:



i. **The details of the CIRP are as under:**

Sl. No.	Particulars	Description
1	Name of the CD	M/s. Shantha Projects Limited
2	Date of Initiation of CIRP	10.10.2018/22.10.2018
3	Date of appointment of IRP	10.10.2018/22.10.2018
4	Date of Publication of Public Announcement	24.10.2018
5	Date of Constitution of CoC	07.11.2018
6	Date of First Meeting of CoC	07.11.2018
7	Date of Appointment of RP	03.12.2018
8	Date of Appointment of Registered Valuers	05.12.2018
9	Date of Issue of Invitation for EoI	20.01.2019
10	Date of Final List of Eligible Prospective Resolution Applicants	28.02.2019
11	Date of Invitation of Resolution Plan	20.02.2019
12	Last Date of Submission of Resolution Plan	23.03.2019
13	Date of Approval of Resolution Plan by CoC	20.07.2019 and also the letter dated 23.09.2019 for amendments of payments to be made under the Resolution Plan dated 08.07.2019 which was approved by the CoC on 23.09.2019.
14	Date of Filing of Resolution Plan with Adjudicating Authority	22.07.2019
15	Date of Expiry of 180 days of CIRP	09.04.2019
16	Date of Order extending the period of CIRP	05.04.2019
17	Date of Expiry of Extended Period of CIRP	09.07.2019/23.07.2019
18	Fair Value	Rs.32.59 Crores
19	Liquidation value	Rs.18.81 Crores
20	Number of Meetings of CoC held	10

7. The Resolution Plan dated 08.07.2019 received from Resolution Applicant M/s. Bhadrashree Steel and Power Ltd. (BSPL) and approved by Committee of Creditors (CoC) of State Bank of India

on 20.07.2019 and also the letter dated 23.09.2019 for amendments of payments to be made under the Resolution Plan dated 08.07.2019 which was approved by the CoC on 23.09.2019.

8. The Resolution Professional in his Compliance Certificate (Form H) has declared/certified as under :
- i. The said Resolution Plan complies with all the provisions of the IBC, 2016, the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP Regulations) and does not contravene any of the provisions of the law for the time being in force.
  - ii. The Resolution Applicant M/s. Bhadrashree Steel and Power Ltd. (BSPL) has submitted an affidavit pursuant to Section 30(1) of the Code confirming its eligibility under Section 29A of the Code to submit resolution plan. The contents of the said affidavit are in order.
  - iii. The said Resolution Plan has been approved by the CoC in accordance with the provisions of the Code and the CIRP Regulations made thereunder. The Resolution Plan has been approved by 100% of voting share of financial creditors after considering its feasibility and viability and other requirements specified by the CIRP Regulations.
  - iv. The voting was held in the meeting of the CoC on 20.07.2019 and 23.09.2019 where all the members of the CoC were present.
9. The list of financial creditors of the Corporate Debtor being members of the CoC and distributed of voting share among them is as under:





Sl. No.	Name of Creditor	Voting Share (%)	Voting for Resolution Plan (Voted for/ Dissented/Abstained)
1	State Bank of India	100%	100%

10. The Resolution Plan includes a statement under Regulation 38(1A) of the CIRP Regulations as to how it has dealt with the interest of all stakeholders in compliance with the Code and Regulations made there under.
11. The amount provided for the stakeholders under the Resolution Plan is an under:

Sl No.	Category of Stakeholder*	Amount Claimed	Amount Admitted	Amount Provided under the Plan#	Amount provided to the Amount Claimed (%)
1	Dissenting Secured Financial Creditors	N/A	N/A	N/A	N/A
2	Other Secured Financial Creditors	6857	6857	1420	21%
3	Dissenting Unsecured Financial Creditors	N/A	N/A	N/A	N/A
4	Other Unsecured Financial Creditors	N/A	N/A	N/A	N/A
4	Operational Creditors	488	187	25	14%
	Government	NIL	NIL	NIL	NIL
	Workmen	NIL	NIL	NIL	NIL
	Employees	NIL	NIL	NIL	NIL
	-----				
6	Other Debts and Dues	NIL	NIL	NIL	NIL
Total		7345	7044	1445	

\*if there are sub-categories in a category, please add rows for each sub-category.

#Amount provided over time under the Resolution Plan and includes estimated value of non-cash components. It is not NPV.



12. The interest of existing shareholders have been altered by the Resolution Plan as under:

Sl No.	Category of Shareholder	No. of Shares held before CIRP	No. of Shares held after the CIRP	Voting Share (%) held before CIRP	Voting Share (%) held after CIRP
1	Equity	19,50,000/-	20,00,000/-	100%	100%
2	Preference	NIL	NIL	NA	NA

13. The compliance of the Resolution Plan is as under:

Section of the Code Regulation No.	Requirement with respect to Resolution Plan	Clause of Resolution Plan	Compliance (Yes/No)
25(2)(h)	Whether the Resolution Applicant meets the criteria approved by the CoC having regard to the complexity and scale of operation of business of the CD?	5.1	Yes
Section 29A	Whether the Resolution Applicant is eligible to submit resolution plan as per final list of Resolution Professional or Order, if any, of the Adjudicating Authority?	4.3	Yes
Section 30(1)	Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?	4.3	Yes
Section 30(2)	Whether the Resolution Plan: (a) provides for the payment of insolvency resolution process costs? (b) provides for the payment of the debts of operational creditors? (c) provides for the management of the affairs of the Corporate Debtor? (d) provides for the implementation and supervision of the resolution plan? (e) contravenes any of the provisions of the law for the time being in force?	12.6 12.6(3) 19.4 23&24	Yes/Partially To the extent of Rs.25,00,000/- No. Yes No
Section 30 (4)	Whether the Resolution Plan (a) is feasible and viable, according to the CoC? (b) has been approved by the CoC with 66% voting share?	5 100% (20.07.2019)	YES YES
Section 31(1)	Whether the Resolution Plan has provisions for its effective implementation plan, according to the CoC?	23&24	Yes
Regulation 35A	Where the resolution professional made a determination if the Corporate Debtor has been subjected to any transaction of the nature		No (such transaction found)



	covered under Sections 43, 45, 50 or 66, before the one hundred and fifteenth day of the insolvency commencement date, under intimation to the Board?		
Regulation 38(1)	Whether the Resolution Plan identifies specific sources of funds that will be used to pay the – (a) insolvency resolution process costs? (b) liquidation value due to operational creditors? (c) liquidation value due to dissenting financial creditors?		YES No No
Regulation 38(1A)	Whether the resolution plan includes a statement as to how it has dealt with the interest of all stakeholders?		YES
Regulations 38(2)	Whether the Resolution Plan provides: (a) the terms of the plan and its implementation schedule? (b) for the management and control of the business of the Corporate Debtor during its term? (c) adequate means for supervising its implementation?	24 18.1	YES YES YES
38 (3)	Whether the resolution plan demonstrate that – (a) it addressee the cause of default? (b) it is feasible and viable? (c) it has provisions for its effective implementation? (d) it has provisions of approvals required and the timelines for the same? (e) the resolution applicant has the capability to implement the resolution plan?	4 4 23 15.3 22	YES YES YES YES YES
39 (2)	Whether the RP has filed application in respect of transactions observed, found or determined by him?		No such transactions found & informed to CoC

14. The above facts and circumstances established that the Resolution Plan dated 23<sup>rd</sup> September 2019 for M/s. Shantha Projects Limited, submitted M/s. Bhadrashree Steel and Power Limited, Resolution Applicant confirm all the requisite conditions so as to approve it under Section 31(1) of Code. The Resolution Plan is approved by the CoC with **100%** in



accordance with law. Therefore, we are of the considered opinion that the said Resolution Plan is a fit to be approved under Section 31(1) of the IBC, 2016. The extended period of time for CIRP, all together expires on 09.07.2019, and the instant Application for approval of Resolution Plan was filed on 22<sup>nd</sup> July, 2019, and thus there is small time gap of time. Therefore, the Resolution Professional has filed 324 of 2019 by seeking exclusion of 12 days in getting the copy of order of admission. The RP is justified seeking exclusion of 12 days' time and this CIRP in any case is not exceeding final time as stipulated by statute. Therefore, we are inclined to condone the delay in the interest of justice.

15. In the result, by exercising the powers conferred on this Adjudicating Authority, U/s.31(1) IBC, 2016, C.P. (IB)No.69/BB/2018 & I.A.No.349/2019 are disposed of with the following directions:

- (1) The Resolution Plan dated 23<sup>rd</sup> September, 2019 submitted by M/s. Bhadrashree Steel and Power Limited (Resolution Applicant) as approved by the Committee of Creditor at 10<sup>th</sup> meeting held on 20<sup>th</sup> July, 2019, which was finally approved by COC in its meeting held on 23.09.2019, with 100% is hereby approved by declaring that the Resolution Plan will be binding on the Corporate Applicant and its employees, members, creditors, guarantors, and other stakeholders involved in the resolution plan.
- (2) The moratorium imposed vide order dated 10.10.2018 passed in the CP shall cease to have affect from the date of communication of the order.



- (3) The Resolution Professional is directed to handover the management control all the assets, documents/records in physical and/or digital form on an as is where is basis to the Resolution Applicant immediately, and the Resolution Professional will ceased to be resolution professional.
- (4) The Resolution Professional shall forward all records relating to the conduct of the CIRP and the resolution plan to the Board to be recorded on its database.
- (5) The Resolution Applicant shall pursuant to the Resolution Plan approved under sub-section (1) obtain the necessary approval required under any law for the time being in force within a period of the one year from the date of approval of the Resolution Plan by the Adjudicating Authority under sub-section (1) or within such period as provided for in such law, whichever is later;
- (6) The Resolution Applicant is at liberty to file any Miscellaneous Application seeking for clarification, if any, in the implementation of the terms and conditions to the Resolution Plan.
- (7) I.A.No.324/2019 in C.P.(IB)No.69/BB/2018 is allowed by excluding 12 days from statutory period of CIRP, as prayed for.



**(ASHOK KUMAR MISHRA)**  
**MEMBER, TECHNICAL**



**(RAJESWARA RAO VITTANALA)**  
**MEMBER, JUDICIAL**