

✓

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
SINGLE BENCH, CHENNAI**

*MA/337/IB/2018 filed in CP/623/IB/2017 by
Mr. V. Nagarajan, Resolution Professional under
Section 30 (6) of the Insolvency and Bankruptcy
Code, 2016.*

In the matter of

Indian Bank

..... Financial Creditor

Vs.

M/s. NSR Steels Private Limited (Corporate Debtor)

..... (through Resolution Professional)

Order delivered on 30th of August, 2018

CORAM:

CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

Corporate Debtor : Through Resolution Professional

ORDER

Per: CH. MOHD SHARIEF TARIQ, MEMBER (J):

1. Under consideration is Miscellaneous Application No. 337/IB/2018 filed in CP/623/IB/2017 which has been submitted under Section 30(6) of Insolvency and Bankruptcy Code, 2016 (I&B Code, for short) read with Regulation 39(4) of IBBI (CIRP) Regulations, 2016. The Resolution Professional has *inter alia* prayed to approve

✓

the Resolution Plan under Section 31(1) of the I&B Code, 2016.


2. Initially, an Application under Section 7 of I&B Code, 2016 read with Rule 4 of the Insolvency Bankruptcy (Application to Adjudicating Authority) Rules, 2016, was filed by the Indian Bank (in short, 'Financial Creditor') against M/s. NSR Steels Private Limited (in short, 'Corporate Debtor'). The CP/623/(IB)/CB/2017 was admitted on 24.11.2017, moratorium was declared, the IRP was also appointed.

3. The IRP took over the management and affairs of the Corporate Debtor and caused public announcement under Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons), Regulations, 2016, for inviting the claims of the creditors in two leading newspapers and after verification of the claims received, the IRP constituted Committee of Creditors (CoCs), the copy of public announcement and

constitution of CoCs, are placed on record at pages 24 to 26 of the typed set filed with the Application.

4. In the 1st meeting of CoCs held on 08.01.2018, the IRP viz., Mr. V. Nagarajan, was recommended for appointment of RP. Thereafter, the CoCs were reconstituted from time to time subsequent to further claims received from Financial Creditors of the Corporate Debtor.

5. As per Section 25 (2) (h) of I&B Code, 2016, the Resolution Professional has invited 'Expression of Interest' (EoI) calling for the 'Resolution Plan' for the Corporate Debtor from the prospective Resolution Applicants and published in 'The New Indian Express' on 21.04.2018. The copy of advertisement is placed at page 27 of the typed set filed with the Application.

6. Pursuant to the publication of 'EoI', the Resolution Professional received one proposal from M/s. Ferrosco Industries Private Limited. Subsequently, CIRP was extended for a further period 

of 90 days on 07.06.2018 by this Adjudicating Authority from 24.05.2018.

7. The Resolution Plans submitted by the Resolution Applicants were deliberated upon in the 6th meeting of CoCs held on 04.08.2018 in order to approve and accept the Resolution Plan. After the discussions and deliberations, the CoCs vide its 6th meeting dated 04.08.2018, has unanimously approved the Resolution Plan presented by M/s. Ferrosco Industries Private Limited. The copy of the minutes of 6th meeting of CoCs is placed at pages 30 to 38 of the typed set filed with the Application.

8. The CoCs while granting the approval to the 'Resolution Plan' has passed the Resolution as follows:-

“RESOLVED THAT pursuant to the provisions of Section 30 of The Insolvency and Bankruptcy Code, 2016 read with Regulations 37, 38, 39 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 including amendments as notified from time to time and subject to such other applicable provisions/regulations in this connection, and subject to the approval of the Hon'ble National Company Law Tribunal, Chennai

Bench, Chennai, the Draft Resolution Plan as submitted by M/s. Ferrosco Industries P. Ltd., Coimbatore, which was duly circulated to the members of the committee of creditors and suspended board of directors of the Corporate Debtor who are also present at this meeting and the copy of the same is placed before the meeting, be and is hereby approved with 100% voting.”

9. The CoCs also resolved to authorise Mr. V. Nagarajan, the Resolution Professional to file an Application along with approved ‘Resolution Plan’ to this Authority to seek an order for approval of the same.

10. The ‘Resolution Plan’ provides that the crystalized amount of Rs.10 Crores as per the schedule of repayment along with interest mentioned therein shall be repaid to the Secured Financial Creditors by a fresh infusion of funds by way of capital restructuring by the Resolution Applicant. The ‘Resolution Plan’ provides revised shareholding pattern and also provides to make payment to unsecured financial creditors at 12% of the admitted amount as it is expected to continue to deal with them for further business requirements. The

'Resolution Plan' further provides that as per the Information Memorandum (IM), there are no claims/dues from the Operational Creditors under workmen and employees category, as all such dues have been paid. The 'Resolution Plan' also provides the sources of funds for meeting payments under the Resolution Plan.

11. Thus, 'Resolution Plan' annexed with the Application meets the requirements of Section 30 (2) of the I&B Code, 2016 and Regulations 37, 38, 38(1A) and 39 of IBBI (CIRP) Regulations, 2016. The 'Resolution Plan' is also not in contravention of any of the provisions of Section 29A. The Resolution Professional has also certified that the "Resolution Plan" approved by the CoCs is in conformity with the relevant provisions of the I&B Code, 2016, and the Regulations framed. The said Certificate is placed at page 74 of the typed set filed with the Application. The 'Resolution Plan' stands approved by the CoCs with 100% voting share. Therefore, the 'Resolution Plan'

annexed with MA/337/IB/2018 filed in CP/623/IB/2017 is hereby approved, which shall be binding on the Corporate Debtor and its employees, members, creditors, guarantors and other stakeholders involved in the Resolution Plan including Resolution Applicant. The permission has also been granted for amending MoA and AoA, and to file the same with the RoC for record as prescribed.

12. The order of moratorium dated 24.11.2017 passed by this Adjudicating Authority under Section 14 of the I&B Code, 2016 shall ceased to have effect from the date of passing this Order.

13. The Resolution Professional shall forward all record relating to the conduct of the CIRP and the 'Resolution Plan' to the IBBI, so that the Board may record the same on its data-base.

14. The approved 'Resolution Plan' shall become effective from the date of passing of this Order.

15. The Resolution Professional shall forthwith send a copy of this Order to the participants and the Resolution Applicant.

16. The Order is pronounced in the open court.


(CH. MOHD SHARIEF TARIQ)
MEMBER (JUDICIAL)

P. ATHISTAMANI