

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

MA 552/2017 in TCP. No. 839/I&BP/NCLT/MAH/2017

Under section 31 of IBC, 2016

Mr. Devendra Padamchand Jain
Resolution Professional Applicant

In the matter of

Shirdi Industries Ltd.

... Corporate Debtor

Order delivered on : 12.12.2017

Coram:

Hon'ble Mr. B.S.V. Prakash Kumar, Member (J)

Hon'ble Mr. V. Nallasenapathy, Member (T)

For the Applicant: Mr. Rakesh Agarwal, Resolution Applicant, Mr. Jay Choksi,
Advocate for RP

For the Secured Creditors : Mr. Rohan Agrawal, i/b MDP Partners, Advocate for
State Bank of India, Mr. Nitin Jhacker, Sr. Counsel, i/b V. Deshpande & Co, J M
Financial Asset Reconstruction Co. Ltd., Ms. Meenakshi Mhapharikar, i/b. V.
Deshpande & Co for Edelweiss Asset Reconstruction Co. Ltd.

Per V. Nallasenapathy, Member (Technical)

ORDER

This is an Application filed by the Resolution Professional under Section 31 of the Insolvency and Bankruptcy Code, 2016, seeking approval of the Resolution Plan as approved by the Committee of Creditors in its meeting held on 25.10.2017 with 99.43% voting in favour of the Resolution Plan submitted by the Resolution Applicant.

2. The Corporate Debtor, Shirdi Industries Ltd. was put under Insolvency Resolution Process by an order of this Adjudicating Authority dated 18.5.2017, Mr. Devendra Padamchand Jain was appointed as Interim Resolution Professional (IRP), the said IRP issued Public Announcement inviting the Creditors to submit

the proof of their claim on 23.5.2017. The IRP conducted the first meeting of Committee of Creditors on 15.6.2017 wherein the IRP was confirmed as Resolution Professional, a decision was taken to conduct TEV study of the Corporate Debtor and the promoter of the Corporate Debtor was permitted to submit the Resolution Plan. On 16.6.2017, the RP appointed ITCOT Consultancy and Services Ltd for conducting TEV study and it was reported by ITCOT that the Corporate Debtor is technically and commercially viable. An advertisement was issued inviting expression of interest seeking investment in terms of Section 25(h) of the IB Code, 2016, for which there was no response.

3. The Applicant Resolution Professional further submits that the promoters have submitted their Resolution Plan on 21.6.2017, the same was discussed in the 3rd COC meeting held on 8.9.2017 and the Resolution Applicant was advised to submit revised Resolution Plan in line with restructuring agreement already made with 82% of Financial Creditors with adjustments based on provisions under IB proceedings and the change in timeline for payment.

4. Accordingly, Mr. Rakesh Kumar Agarwal on behalf of the promoters of the Corporate Debtor submitted the Resolution Plan on 11.10.2017, the said Resolution Plan was approved by the Committee of Creditors with 99.43% voting in favour of the resolution plan, with some modifications, in its meeting held on 25.10.2017. The Resolution Applicant confirmed the acceptance of modification suggested by the Committee of Creditors and submitted the signed copy of the final Resolution Plan which was approved by the Committee of Creditors

5. This Bench has noticed that the M/s. Sharp and Tannan were appointed as the auditors for conducting forensic audit and for monitoring the monthly cash flow including the inflow and utilization of the corporate debtor on a real time basis from September 2015 onwards, by the M/s. JM Financial Asset Reconstruction Company Ltd., which is the lead bank having 64.5 % shares in the secured loans. Further, it seems that M/s. Mott MacDonald Pvt. Ltd were entrusted with the task of conducting TEV study of the project of the corporate debtor. The report of both the agencies were found to be satisfactory and the creditors are satisfied that there are sufficient checks and balances to control outflow and inflow of the corporate debtor.

6. Under the resolution plan, the resolution applicant has offered to make the payment to secured financial creditors and unsecured financial creditors as shown in the chart below

Payment under resolution plan approved by CoC			
Particulars	Existing Financial (100% of financial creditors voted in favour of the plan) (Rupees in Lacs)	Secured Creditors of secured creditors voted in favour of the plan) (Rupees in Lacs)	Existing Unsecured Financial Creditors - voted in favour of the plan (Rupees in Lacs)
Outstanding amount as on 31/03/2014 with interest		40100.00	1000.00
Claim amount under insolvency proceedings		65187.3	1815.6
Total amount receivables upon liquidation of assets of corporate debtor		10305.0	Nil
Total amount receivables upon liquidation of assets of guarantors of financial credit.		997.6	Nil
Payment		17385.53 (Commencing from Dec 2017 and ending in March 2022)	250 (Commencing from June 2018 and ending in March 2022)
Amounts received		17.00	-
Right to Recompense		5500 (Commencing from June 2022 and ending in March 2024)	Nil
Fresh shares		20% of total paid up capital of corporate debtor in Dec 2017	Nil
Pledging of shares		51 % of total paid up capital of Corporate Debtor (82% already pledged and balance by Dec 2017)	Nil

7. The resolution plan has approved by the CoC in the meeting held on 25.10.2017 with 99.43 % of voting in favour of the plan, it was provided that before the approval of the resolution plan by the Adjudicating Authority the secured debt of Standard Chartered Bank and State Bank of India shall be assigned and paid fully. The affidavit filed by the senior Vice President of the secured creditor M/s.

JM Financial Asset Reconstruction Company Ltd reveals that the resolution applicant has complied with the condition. It was further reported that the promoters have deployed funds to the extent of Rs. 32.14 Crores since April 2015 to September 2017 in the corporate debtor company. It was also reported that the financial and operating performance of the corporate debtor improved substantially during the years 2015 to 2018 in line with the TEV Study projections. All these factors weighed in favour of the resolution applicants who happens to be the promoters of the corporate debtor.

8. The M/s. JM Financial Asset Reconstruction Company Ltd further states that there is a provision to nominate a director on behalf of secured creditors on the Board of corporate debtor provided the plan is approved by the adjudicating authority.

9. On perusal of the resolution plan, this Bench being satisfied with the valuation given by the registered valuer, estimation of turnover during the resolution period, repayment schedule to the financial creditors both secured and unsecured and the affidavit of the major financial creditor M/s. JM Financial Asset Reconstruction Company Ltd., approves the resolution plan as voted by 99.43 % of the Committee of Creditors

10. Accordingly, this MA No: 552/2017 is hereby allowed by vacating the moratorium already granted at the time of admission of Company Petition No: 839/2017. It is made clear that the corporate debtor is liable to pay the direct taxes, indirect taxes, municipal taxes, etc. as applicable without any exemption as sought in the resolution plan.

11. In view of the approval of the Resolution Plan as sought by the Insolvency Resolution Professional, this bench hereby discharges the Insolvency Resolution Professional from duties of the Insolvency Resolution Process by submitting all the records maintained by him before the Insolvency and Bankruptcy Board of India as provided under the Insolvency and Bankruptcy Code, 2016 and the regulations thereunder.

Sd/-

V. NALLASENAPATHY
Member (Technical)

Sd/-

B. S.V. PRAKASH KUMAR
Member (Judicial)