

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

IN THE MATTER OF SECTION 7 OF IBC, 2016

IA No. 44/JPR/2019
IA No. 57/JPR/2019
IA No. 58/JPR/2019
IA No. 58/JPR/2018
IA No. 63/JPR/2019
in
IB No. 571 (ND)/2017
TA No. 37/2018

IN THE MATTER OF

Sushant Aneja and Anr.

....Applicant/Corporate Debtor

Vs.

J.D Aneja Edibles Private Limited

... Non-Applicant/Financial Creditor

Coram:

**R.VARADHARAJAN,
Hon'ble Member (JUDICIAL)**

**FOR APPLICANT/
CORPORATE DEBTOR**

**: Rakesh Kumar Yadav, Manager of OBC
Prateek Kasliwal, Adv.
Vinod Kr. Chaurasia, CA
Madhusudan Sharma, RP**

**FOR NON APPLICANT/
FINANCIAL CREDITOR**

**: Susshil Daga, Adv.
Sandeep Jain, Adv.
Prateek Kedawat for R-7**

Sushant Aneja and Anr.

Vs.

J.D. Aneja Edibles Private Limited

ORDER

IA No. 44/ JPR/2019

1. This is an application preferred by the Resolution Professional of the Corporate Debtor for approval of resolution plan filed under Section 30(6) and Section 31 read with Section 60(5) of Insolvency and Bankruptcy Code, 2016 and the Attendant regulation being Regulation 39 of IBBI (CIRP Regulations, 2016). The facts as averred in the application discloses that based on the petition filed by the Financial Creditors of the Corporate Debtor, the petition was admitted on 04.06.2018 and that one Mr. Madhusudan Sharma having IBBI registration No. IBBI/ IPA-003/IP-L00046/2017-18/10395 was appointed as the Interim Resolution Professional (IRP) in relation to the CIRP Process initiated.
2. The Corporate Debtor, it is stated was being managed by one Mr. Rahul Aneja, Mrs. Ruchika Aneja being the directors of the Corporate Debtor and Mr. Pawan Aneja, Manager all occupying their offices at the time of insolvency commencement date. Consequent to the publication calling for the claims as provided under IBC, 2016 and the Attendant Regulations in the Economic Times (English) and Seema Sandesh (Hindi) on 06.06.2018 and after uploading the public announcement in the website as maintained by IBBI, the IRP received six claims from Financial Creditors and three

claims from Operational Creditors till 18.06.2018 being the last date specified for the submission of the claims. Save, Oriental Bank of Commerce(OBC) all the other Financial Creditors were related parties and shareholders. Thus, the IRP constituted a Committee of Creditors (CoC) with OBC as the sole member having 100% voting share.

3. In the first meeting of the CoC convened on 02.07.2018, it is averred that the IRP was appointed as the Resolution Professional (RP). Further in the second CoC meeting held on 08.08.2018, it is averred that two registered valuers being Crust Capital Group Private Limited and Adroit Technology Service Private Limited were appointed as the registered valuers under Regulation 27 of CIRP Regulations. Further an invitation of expression of interest and the eligibility criteria for the prospective Resolution Applicants to submit EOI and Form- G were also approved by the CoC.
4. It is also brought forth in the application that preliminary report of RP forming an opinion of preferential, under-valued, fraudulent, extortionate and related party transactions and such like transactions in terms of Section 43, 45, 49, 50 and 66 of the Code and Regulation 35(A) of the CIRP Regulations was also placed before the CoC in the second meeting held on 08.08.2018.
5. It is further averred that in terms of Section 25(2)(h), applications were invited from prospective Resolution Applicants for EOI to submit

resolution plans for the Corporate Debtor and it was also published in Form-G in the Economic Times (English) and Seema Sandesh (Hindi) on 18.08.2018 as well as duly uploaded in the website of IBBI.

6. In light of the advertisement calling for expression of interest, it is stated that three EOIs were received till the last date, namely, 03.09.2018 from the following parties, namely,

- a) Rahul Aneja and Pradeep Kumar Dawra Consortium
- b) Rahul and Ruchika Consortium
- c) Sukh Shanti Estates Pvt. Ltd.

and that the CoC deliberated on the above three EOIs in its meeting held on 11.09.2018.

7. In the fourth meeting held on 18.10.2018, it is stated by the Resolution Professional that M/s Sukh Shanti Estates Pvt. Ltd. did not respond to the request and reminders for documents and details as required under Section 29(A) of IBC, 2016 as well as other details as were required. In the circumstances, the EOI of Sukh Shanti Estates Pvt. Ltd. was rejected. In light of rejection, request for resolution plan including Evaluation Matrix and Information Memorandum were issued to the other two prospective Resolution Applicants and up to 17.10.2018, no resolution plan in Form-G was received from even these two proposed Resolution Applicants. Time was extended till 29.10.2018 based on the request.

8. The application also brings to light that in application IA No. 58/JPR/2018 dated 15.10.2018 has been filed before this Tribunal for appropriate relief in relation to preferential and other transactions in terms of Section 43, 45, 50 and 66 of the Code as against the respondents named therein.
9. It is reported that on 30.10.2018, the fifth CoC meeting was convened as per the extended date of 29.10.2018 since only one resolution plan was received, the RP was directed to check for compliance with the requirements of IBC, 2016 and Regulations Attendant therein in relation to the resolution plan. RP after ascertaining the compliance with the Code and Regulations by the Resolution Applicant and with an opportunity being provided to the Resolution Applicant to cure the deficiencies for which time was given till 12.11.2018 and based on the submissions of the revised plan, the 6th meeting of the CoC was convened on 17.11.2018 and the revised resolution plan was submitted by the resolution applicant, which was placed before the CoC for discussion. The options available to the CoC in relation to the resolution plan to the CoC and rejection of resolution plan, it is stated was also brought to notice by the Resolution Professional to the CoC. In light of the same, it was decided by the CoC to seek for an extension of the CIRP by a further period of 90 days to enable the modifications and improvements in the resolution plan particularly in



relation to the source of funds and time lines for implementation of the resolution plan from the Resolution Applicant.

10. Under the above circumstances, it is averred that an application was moved before this Tribunal under Section 12(2) and (3) of IBC, 2016 and the period was extended by further 90 days of the CIRP of the Corporate Debtor.
11. In the 7th and 8th CoC meetings held on 17.12.2018 as well as 14.01.2019, the CoC discussed the resolution plans as submitted by the Resolution Applicant for further improvement in the resolution plan and upon further discussion between the Resolution Applicant and the CoC a final Resolution Plan consisting of the revised resolution plan dated 25.12.2018 and second dated 13.01.2019 was put forth and upon consideration by the CoC was approved in the 9th CoC held on 30.01.2019.
12. The salient features of the resolution plan have been brought forth in paragraph-18 of the application, which is reproduced hereunder: -

“That the Resolution Plan provides for payment as per the table appended hereinafter:

Sr. No.	Particulars	Amount (In Rs. Lakh	Timelines*
1.	CIRP Cost	15	Within one month
2.	Operational Creditors other than related parties including to those who did not submit claim	156	Within two months

3.	Secured Financial Creditor	361	Within three months
4.	Interest to Secured Financial Creditor	18	Within three months
5.	Unsecured Financial Creditors-Related parties and CIRP Applicants	56	In Five Years
6.	Operational Creditors- Related Parties of the Resolution Applicant	20	After payment to all other creditors
7.	Unsecured Financial Creditors-Related party of Resolution Applicant	101	After payment to all other creditors
8.	Payment to Equity shareholders	10	Within three months
	Sub Total	737	

*From the date of approval of the Resolution Plan by the Hon'ble Adjudicating Authority”.

In addition, the Resolution Applicant has also agreed to pay contingent tax liability, as and when liability is crystalized and payable. Income Tax Officer, Ward-2, Sriganaganagar vide order 2018-19/2138 dated 28.12.2018 has raised a demand of Rs. 41 lakh on the CD after reassessment for the Assessment Year 2011-12. Appeal against the said demand it is stated that has been filed on 23.01.2019.

13.As per the Resolution Plan it is stated that no interest shall be paid to existing unsecured loan for next five years the Plan implementation period (page 18 of the Plan). Undertakings to that effect by the related parties- Mrs. Promila Rani Aneja, Proprietor of Prime Trade link, Mr Pawan



Kumar Aneja, Partner of Prime Multitrade Co., and Mr. Rahul Aneja, Karta of Rahul Aneja (HUF) for unconditional consent not to claim interest on their dues from the CD for the Resolution Plan implementation period have been duly annexed.

14. Further the amount provided to the different types of creditors as well as other stake holders under the resolution plan has been given in Paragraph- 19 which for ready reference as reproduced hereunder: -

The amount provided for the stakeholders under the Resolution Plan is as under: (Amount in Rs. Lakh)

Sr. No.	Category of Stakeholder*	Amount Claimed	Amount Admitted	Amount Provided under the Plan#	Amount Provided to the Amount Claimed(%)
1. a	Secured Financial Creditors	423	361	361	100%
b	Interest to Secured Financial Creditors		-	18	
2.	Unsecured Financial Creditors, due to:	246	157	157	100%
a	Related party shareholders and applicant for CIRP	132	56	56	100%
b	Resolution Applicants and their Related parties	114	101	101	100%
3 a.	Operational Creditors (OC).	180	168	176	100%
b.	OCs-Other than related parties who submitted claims	155	148	148	100%

c.	OCs-Other than related parties who did not submit claims			8	
d.	OCs-Related Parties		20	20	100%
e.	Government				
f.	Workmen				
g.	Employees	0.50	-	-	
6.	Other Debts and Dues				
	Total	849	687	712	

15. In paragraph-26 of the application, it is brought forth by the RP that the Resolution Applicant meets the eligibility in the net worth criteria of Rs. 5 Crores for submission of EOI and the resolution plan in terms of Section 25(2)(h) of IBC, 2016. The resolution applicants, it is stated has also provided an affidavit confirming their eligibility to submit the resolution plan under Section 29 A of the IBC, 2016 pursuant to Section 30(1) of IBC, 2016.

16. It is further stated by the Resolution Professional that the contents of the said affidavit are in order in view of Corporate Debtor being a small-scale industry unit. It is averred to this effect that certificate has also been produced from the relevant authority thereby being eligible to claim exemption from the application of clause-(C) of Section 29(A) in light of provisions of Section 240(A) of the IBC, 2016. The application goes on to

also state that the resolution applicant are members of Board of Corporate Debtor whose powers stands suspended and that even though, one of the parties being related to the Corporate Debtor has an account with OBC being classified as a non-performing asset for more than a year but however, OBC has not declared the said person as a wilful defaulter.

17. Ultimately, it has been stated that the resolution plan as submitted by the resolution applicants, namely, M/s Rahul and Ruchika Consortium and as approved by the Committee of Creditors by 100% voting share is in order and thereby seeking for direction of this Tribunal being the adjudicating authority to declare the resolution plan upon its approval to be binding on the company, its creditors, guarantors, members, employees and stakeholders involved in the resolution plan in accordance with Section 31(1) of IBC, 2016 as well as based on consequential orders.
18. IA No. 57/JPR/2019 has been filed by the Financial Creditor who in the first place initiated the proceedings before this Tribunal seeking for CIRP of the Corporate Debtor and taking into consideration this Tribunal admitted the petition and initiated the CIRP. The grievance expressed by the applicant in IA No. 57/JPR/2019 is that his claim is not admitted in full by the RP including the principal and interest as claimed in a sum of Rs. 1,31,61,143/- and that as against the said claim the resolution plan discloses only a sum of Rs. 52.72 lakhs and that the same is scheduled to be paid



under the resolution plan in instalments for the next five years till 31.03.2024. Further, in addition to the above application another application has also been filed by the applicant in IA No. 58 of 2019 wherein under the same set of facts an objection to the final Resolution plan is being raised as filed by the resolution applicant and also seeking for its rejection on the ground of being discriminatory, irrational and inconsiderate to the rights and interest of the applicant, thereby virtually making this applicant as a dissenting Financial Creditor to the resolution plan.

19. A reply to both the applications, namely, IA No. 57/JPR/2019 and 58/JPR/2019 has been filed by the resolution professional wherein, it is brought to the notice of this Tribunal that as against the name of the applicants in the said IAs the amount as reflected in the final resolution plan is based on the claim which had been admitted by the resolution professional and in this connection it is pointed out from the individual reply filed to IA no. 57/JPR/2019 that despite email communications dated 20.06.2018, 29.08.2018 and 02.09.2018 wherein repeated request was made to the applicants/ Financial Creditors to provide any agreement or document in support of the rate of interest as agreed between the applicants on the one hand and the CD on the other, no evidence has been submitted



with regard to the agreed rate of interest which is sought to be claimed at the rate of 18 per cent per annum.

20. It is also pointed out that varying rates of interest had been charged and that in relation to the payments of interest as claimed by the applicants/ Financial Creditors, since 31.03.2013 no such claim has been filed before any legal forum save, in the application filed before this Tribunal for initiation of the CIRP as against the Corporate Debtor.
21. In view of the applicability of Limitation Act to IBC, 2016 and since the said claim in relation to interest is beyond the three years period, the claim for interest has not been admitted by the RP and that the same is justified.
22. It is also brought to the notice of this Tribunal that applicant/FC is related party to the Corporate Debtor and since all the related parties being Financial Creditors have been categorised and dealt as such in the final resolution plan without any discrimination and under the circumstances seeks for these two application to be dismissed.
23. We have carefully considered these applications including the one filed for approval of Resolution Plan unanimously voted favourably by the Committee of Creditors in its meeting held on 30.01.2019 and which has prompted the resolution professional to move this application in IA No. 44/JPR/2019. The facts in relation to the CIRP process hitherto which has taken place as can be culled out from the application as filed by the RP has

been fully detailed in the preceding paragraphs and for sake of brevity the same are not repeated.

24. Compliance certificate in Form-H has been duly annexed as Annexure 19 along with the typed set filed by the RP. Perusal of the said form discloses that Oriental Bank of Commerce is the only Financial Creditor not related and having a 100 percent voting strength. The dissenting FC who has filed Application No. 57 and 58 of 2019 are related party Financial Creditors and in the circumstances, they do not have any say in the decision of the CoC. From clause-VI of Form H it is seen that the resolution plan in the opinion of the Resolution Professional factors the interest of all the stake holders and in addition it is stated that the resolution applicant in the resolution plan has factored the payment of statutory dues as well and that from the date of approval of the resolution plan, the resolution plan contemplates the full payment to be made in relation to the claims as reflected in the resolution plan. The adherence to the various time schedules by the learned RP is also brought forth in Clause X of the Form H as filed by the RP and despite the regulations in relation to the time lines coming into force on and from 03.07.2017 and the CIRP initiated prior to it still, all the time line as prescribed has been adhered to in relation to the instant CIRP.



25. Affidavits under Section 29A of IBC, 2016 by the resolution applicants along with certificate as well as confirmation by the bank about the status of NPA accounts has also been filed along with the application and it is evident that the accounts have not been declared as wilful defaulters. As already evident from the preceding paragraphs the resolution professional has brought forth that the conditions laid down of CoC in relation to minimum requirements for filing the resolution plan as prescribed under Section 25(2)(h) has been duly complied with by the resolution applicant.
26. From the resolution plan it is evident that the RA proposed to deal in relation to CIRP cost, payment to creditors as well as the sources of funds in relation to the funding of the resolution plan has been described in detail and which is of relevance is reproduced hereunder from the resolution plan.

Payment of CIRP Cost

In compliance to the provisions of Section 30 of IBC read with Regulation 38 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulation, 2016 resolution applicant will make payment of CIRP cost in priority to any other class of creditors. Further, if CIRP cost is pending at the time of approval of plan also will be paid immediately.

i. Payment to creditors

Full payment to secured Financial Creditors : Resolution applicant propose to make full payment to the Oriental Bank of Commerce being the sole secured financial creditor having total outstanding debt of Rs. 3,61,21,364.19, as admitted by Resolution Professional (Amount claimed was Rs. 4,23,36,001.68). Oriental Bank of commerce has agreed to provide overdraft facility of Rs. 326 lacs and the balance amount shall be paid out of the funds

infused by the Resolution Applicant. Further resolution applicant shall make interest to the secured creditor on the amount outstanding in its account from the date of commencement of CIRP till date of approval of resolution plan.

Full payment to Operational Creditors; Resolution applicant propose to make full payment to all the operational creditor of the Corporate Debtor as per the books of accounts of the Corporate Debtor. The amount is estimated to be Rs. 176 lacs. This amount includes the claim of creditors who have not submitted their claims. However in case of liquidation the payment to operational creditors will be delayed and they might have to sacrifice some amounts as the liquidation value will not be such to allow the 100% payment to operational Creditors. In compliance to the regulation 38 (f) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process of Corporate Persons) Regulation, 2016 Resolution applicant shall make to the Operational Creditor under a resolution plan in priority over financial creditors. Amount due to related parties shall be paid only after payment of all other creditors. Operational creditors shall be paid out of the funds invested by the Resolution Applicant and from the amount recovered from sale of stock and receipt from debtors.

Full payment to unsecured Financial Creditors:

Resolution applicant propose to make full payment of Rs. 55.72 lacs (amount admitted by Resolution Professional) to Mr. Sushant Aneja and Nitesh Aneja, HUF who has initiated CIRP in instalments in next five years as per the schedule given below. Other financial debts are owed to Resolution Applicants themselves and they undertake not to withdraw any amount out of the claim admitted by the Resolution Applicant before the full payment of the other unsecured financial creditors viz. Rs. 55.72 lacs. The payment will be paid within six months from the date of approval of the resolution plan thereafter payment will be made in half yearly instalments starting from 30.09.2019.

Repayment summary schedule of amount due to Financial Creditor (Unsecured)

Date	With in six months	31.03.2020	30.09.2021	31.03.2022	30.09.2022
Amount	5,00,000	5,00,000	5,00,000	5,00,000	5,50,000



Date	30.03.2023	30.09.2023	31.03.2024	30.09.2024	31.03.2025
Amount	5,50,000	6,00,000	6,00,000	6,36,000	6,36,000

Total liabilities taken over and Sources of Funds:

S. No.	Particulars (Liabilities)	Amounts admitted	Amounts in plan
1.	CIRP Cost	-	15
2.	Bank Interest	-	18
3.	Operational Loss during CIRP	-	17
4.	Operational Creditors	169	176
5.	Secured Financial Creditor	361	361
6.	Unsecured Financial Creditor	157	157
	Total	687	744

Sources of funds	Amounts (in lacs)
Fresh infusion	95
Funds owned and deferred by resolution applicants	121
Bank overdraft	326
Funds realized during CIRP	107
Funds from operations	95
Total	744

Payment schedule for all liabilities

CIRP cost of Rs. 12 lacs have already been paid from operational realizations.

Operational loss during CIRP of approx. 17 lacs have been affected the value of the company

Schedule for remaining outstanding liabilities of Rs. 715 lacs (744-12-17lacs) are given below



Sr. No.	Particulars (Liabilities payable in first three months)	Amount (in lacs)
1.	CIRP Cost	3
2.	Operational Creditors other than related parties including unclaimed amount	156
3.	Secured financial Creditors	361
4.	Bank interest	18
	Total(A)	538
Sr. No.	Particulars –Sources of funds (First three months post approval)	Amount (in lacs)
1.	Funds already generated during CIRP	107
2.	Fresh infusion by Resolution Applicants in three months	45
3.	Bank overdraft	326
4.	Funds from operations	60
	Net funds available for payment	538

Sr. No.	Particulars (Liabilities Deferred)	Amount (in lacs)
1.	Unsecured financial creditors and shareholders – Resolution applicants	121
2.	Unsecured financial creditors- CIRP applicants.	56
	Total (B)	177

Sr. No.	Particulars (Liabilities payable in first three months)	Amount (in lacs)
1.	Funds owned and deferred by resolution applicants till completion of plan	121
2.	Cash flow as per projection of next five years	56
	Net funds required for deferred payment	177

Payment of Statutory Liabilities

All statutory liabilities outstanding during CIRP period shall be paid in time after approval of the Resolution plan

Payment of interest to Secured Creditor for CIRP Period



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Amount of interest due to secured creditor for the CIRP period shall be paid to secured creditor.

Interest on Unsecured Loan of Related Parties

Resolution applicants undertake not to make payment of interest on the amount unsecured loans of related parties till the completion of plan.

Management of affairs of Corporate Debtor after approval of Resolution plan

On approval of the resolution plan, the existing Board of Directors of Corporate Debtor shall continue which shall comprise of the following Directors;

1. Mr. Rahul Aneja
2. Ms. Ruchika Aneja

Resolution applicant proposes to appoint senior level executives, wherever needed to turnaround the business of the Corporate Debtor.

Implementation and Supervision of the Resolution Plan

Resolution applicant propose to pay CIRP cost, operational creditors, secured financial creditors and equity shareholders within three months of the approval of resolution plan. Unsecured financial creditors other than resolution applicant shall be paid in next five years and detailed above.

Resolution applicant proposes to appoint Mr. Sandeep Kumar Jain, CS and Insolvency Professional and one representative of Secured Financial Creditor as Monitoring Agency to supervise the implementation of the resolution plan and to bring any deviation in the resolution plan to the notice of NCLT. Appointment of Mr. Sandeep Kumar Jain would be for the entire tenure of the plan period and his fees and other expenses related to monitoring shall be paid by the Corporate Debtor and appointment of representative of Secured Creditor will be for the whole plan period or till repayment of complete debt of the secured creditor, cost of the authorised representative shall be borne by the secured creditor.



27. Further, it is also required to notice that the CoC taking into consideration all the aspects has taken a commercial decision in favour of the resolution plan. Even though in relation to the applicants in IA No. 57 and 58 of 2019 are opposing the resolution plan, however, we do not find much force in their contentions in opposing the resolution plan as all the related parties under the RP and their repayment are categorised under one umbrella and the repayments are required to take place accordingly under the Resolution Plan. However, it is required to notice that in relation to related parties IBC 2016 does not permit the related parties being Financial Creditor to participate in CoC for obvious reasons, as any transactions between the related parties cannot be equated to that type of transactions with outsiders on an arm's length basis and hence there is bound to be a differential treatment as between a related party being a related party to a Corporate Debtor whether it be secured or unsecured.

28. Further learned RP has also brought forth that despite repeated reminders through emails to the dissenting financial creditor/related parties / applicant in IA No. 57 and 58 of 2019, no supporting documents have been filed in relation to the claim of interest and in the circumstances the same was not taken into consideration in the final Resolution plan based on the claim admitted by the RP seems to be justified. Evidences have also been furnished along with the reply to the said effect and in the circumstances,

we do not want to interfere in the final Resolution Plan as submitted by the resolution applicant reflecting the loan amount admitted by the learned RP.

29. In relation to IA No. 58/JPR/2018 filed by the RP bringing to the notice of this Tribunal about the transactions as contemplated under the provisions of Section 43, 45, 50 and 66 for orders under the corresponding sections, it is required to notice that even though the said application was filed on 15.10.18 no serious effort was taken by RP to press this application for disposal. In relation to the same it is required to note that the RP had not been too vigilant in pressing for an order to be passed as it is required to notice that under Section 29A (g) a person will not be eligible to be a resolution applicant who has been a promotor or in the management or in control of CD in which a preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction has taken place and in respect of which an order has been made by the adjudicating authority under this code.

30. However, no such order has been passed even though in application IA No. 58/JPR/2018 has been filed by the RP of which we have already expressed our opinion in relation to the conduct of the RP in not seriously pressing for this application to be disposed of prior to accepting the Resolution plan filed by the RA. Further it is also required to note that during the course of submission, learned RP brought to the notice of this Tribunal that the COC



has also been apprised of the several transactions alleged to be falling under the above sections however, the CoC has not chosen to press for the charges/ allegation made against the promoters of the Corporate Debtor, however has chosen to approve the resolution plan taking into consideration the commercial wisdom and in fact has given a clean chit while an appeal was pending before the Hon'ble NCLAT vide letter dated 16.08.2018 in relation to default. Further, it is also pointed out and a repeated assertion is made by the respondents, including the Resolution Applicants, in relation to IA No. 57 of 2018 that the Corporate Debtor is a closely held company and pre-dominantly carried with funds made available by related parties and that funds of the public are not involved for carrying out the affairs/business of the Corporate Debtor. It is also stressed that all the activities like purchase or sale are carried at arms length transactions only and not as averred by the RP, who at the time of oral submissions by learned counsel for RA/ Respondent contends that the same has been made by the RP without understanding the nature of business done by the Corporate Debtor being that of dealing in mustard seeds, mustard cake, mustard oil are driven by its own mechanics, however for the time being we are not closing application in CA No. 58 of 2018 filed by the RP in view of the directions issued to direct the monitoring agency in the concluding part of this order.



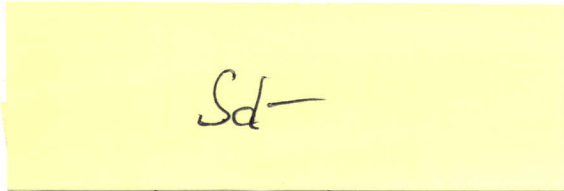
31. Be that as it may, taking into consideration the overall interest of the stakeholders of the Corporate Debtor, we approve the resolution plan however subject to the following direction

- (i) That the dissenting FC even though a related party shall be paid the principal amount due and as agreed before this Tribunal by the Resolution applicant before payment is made to the equity shareholders as contemplated under the resolution plan.
- (ii) Further in relation to the transactions as brought to the notice of this Tribunal by Ld. RP in CA No. 58 of 2018 cannot be easily brushed aside and if true cannot be also condoned and hence OBC being the sole financial creditor in the CoC and being part of the Monitoring Agency shall cause a detailed investigation to be made, transaction wise of the Corporate Debtor and bring to the notice of this Tribunal factoring the reply of the Corporate Debtor and all the respondents of any acts of the nature of transactions brought forth by the RP in the above said application. In the circumstances, the decision in CA No. 58 of 2018 is kept in abeyance and to await the report of the monitoring agency which shall be filed within a period of three months from the date of this order.
- (iii) The implementing and supervision authority shall have also the authority to bring to the notice of this Tribunal any deviation from the resolution plan including in relation to the losses, which may have

occasioned due to the conduct of the promoters of the Corporate Debtor prior to the initiation of the CIRP as against it.

- (iv) The moratorium imposed under Section 14 shall cease to have any effect henceforth.
- (v) All the records collected/ collated by the Resolution Professional during the course of CIRP shall be handed over to the Monitoring Agency and upon implementation of the Resolution Plan be handed over to the Resolution Applicant.

With the above directions all the applications, including IA 44/JPR/2019 is disposed of accordingly.



(R.VARADHARAJAN)
MEMBER (JUDICIAL)

Shakti