

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH (COURT- I) CHENNAI**

ATTENDANCE CUM ORDER SHEET OF THE HEARING
HELD ON **21.06.2024** THROUGH VIDEO CONFERENCING

PRESENT: HON'BLE SHRI. SANJIV JAIN, MEMBER (JUDICIAL)
HON'BLE SHRI. VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

IN THE MATTER OF : My Fare Tours & Travels Pvt Ltd
Vs
Premier Futsal management Pvt Ltd

MAIN PETITION NUMBER : IBA/441/2019

(IA/MA) APPLICATION NUMBERS

IA/1978(CHE)/2023

ORDER

Present: Ms. Chitra Srinivas, RP in person.

Vide order pronounced in the Open Court, the Resolution Plan is set aside. RP is directed to call a CoC meeting and proceed with the CIRP from Form-G stage. He is directed to complete the process within a period of 90 days from the date of order after carrying out the valuation exercise including intangible assets before calling EOI.

Sd/-

(VENKATARAMAN SUBRAMANIAM)
MEMBER (TECHNICAL)

MG

Sd/-

(SANJIV JAIN)
MEMBER (JUDICIAL)

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH – I, CHENNAI**

IA(IBC)/1978(CHE)/2023 in IBA/441/2019

(Filed under Sec. 30(6) & 31 of the Insolvency & Bankruptcy Code, 2016)

IN THE MATTER OF:

Chitra Srinivas
Resolution Professional of
Premier Futsal Management Private Limited
Asta AVM, Flat B4E
P.V. Rajamannar Salai, K.K. Nagar,
Chennai- 600 078.

... Applicant

Present:

For RP : *V. Mahesh, PCS*

C O R A M

**SANJIV JAIN, MEMBER (JUDICIAL)
VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)**

Order Pronounced on 21st June 2024

O R D E R

(Heard through -VC-)

IA (IBC)/1978 (CHE)/2023 is an Application filed by the
Resolution Professional of the Corporate Debtor viz., **Premier Futsal**

Management Private Limited under Section 30(6) of the Insolvency and Bankruptcy Code, 2016 (in short 'IBC, 2016') read with Regulation 39 (4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (in short, 'CIRP Regulation, 2016') seeking the approval of resolution plans submitted by the successful resolution Applicants **Zinema Media and Entertainment Limited (Resolution Plan 1)** and **Mrs. Daisy Adhav Arjuna (Resolution Plan 2)**.

2. CIRP OF THE CORPORATE DEBTOR

2.1 In an Application filed under Section 9 of the IBC, 2016 in IBA/441/2019, this Tribunal initiated Corporate Insolvency Resolution Process in respect of the Corporate Debtor vide order dated 31.01.2020 and appointed one Mr. Kedarram Ladha as the Interim Resolution Professional of the Corporate Debtor.

2.2 Thereafter, in the 13th COC meeting the Applicant herein was appointed as the Resolution Professional of the Corporate Debtor and the same was confirmed by this Tribunal order dated 03.01.2022 in IA/930/CHE/2021.

3. EXPRESSION OF INTEREST (EOI)

3.1 It is stated that the Applicant herein published Form G, inviting Expression of Interest, with the consent and approval of the COC and in accordance with the IBC provisions on 06.05.2023 in two newspapers viz. *Business Standard (English)* and *The Hindu (Tamil)*. In response to this, three EOI were received, two of which were incomplete and were not considered by the Applicant/ Resolution Professional and there was only one Prospective Resolution Applicant as on 10.06.2023.

3.2 It is stated that Sole EOI received, as mentioned above, was from a Party who did not have any experience in the industry in which the CD operates. Since the CD is in a niche area of business, the COC felt that it would be better to issue one more EOI to attract genuine interested parties who belong to the sports/ entertainment industry.

3.3 The Resolution Professional on the instructions of the COC issued EOI in Form G for the second time in *Business Standard (English)* and *Makkal Kural (Tamil)*, on 22.06.2023. The last date to submit EOI was 21.07.2023. Thereafter, in response to the

publication on 22.06.2023, EOI's was received from three prospective Resolution Applicants.

3.4 It is stated that, the Applicant/ Resolution Professional finalized the Provisional list of Prospective Resolution Applicants on 31.7.2023 and the Final list of Prospective Resolution Applicants on 05.08 2023.

3.5 It is stated that, Information Memorandum (IM) and Evaluation Matrix of the three PRA's along with the RFRP were prepared and circulated to the COC in accordance with the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The last date to submit the Resolution plans was fixed as 05.09.2023.

4. DELIBERATIONS OF COC

4.1 It is stated that, PRA's viz., Zinema Media and Entertainment Limited, Ms. Daisy Aadhav Arjuna and Subhlaxmi Investment Advisory Private Limited submitted Resolution Plans on 05.09.2023, which were considered by the COC in the meeting held on 06.09.2023.

4.2 It is stated in para (e) of the Application that, the COC discussed in detail the Resolution plans submitted by the PRA's and requested them to increase the offer amount and submit revised resolution plan by 09.09.2023.

4.3 It is stated that PRA's Zinema Media and Entertainment Limited and Mrs. Daisy Aadhav Arjuna Private Limited submitted the revised resolution plan on 09.09.2023, whereas Subhlaxmi Investment Advisory Private Limited did not submit any revised plan. **The COC approved the resolution plans on 09.09.2023 in tandem unanimously and the same are as follows**

A. Resolution Plan One: By Zinema Media and Entertainment Limited - For Acquisition of Assets, more specifically explained in subsequent paragraphs For total consideration of Rs.1,07,00,000/-.

B. Resolution Plan Two: By Mrs. Daisy Adhav Arjuna - For the CD on the whole, without the assets taken over by Resolution Applicant ONE. Total consideration is Rs. 28,00,000/- Inclusive of CIRP cost.

4.4 The minutes of the COC meeting held on 09.09.2023 along with the voting ballot are appended as *Annexure E* of the Application typeset. The relevant portion of the COC minutes approving the Resolution Plan is extracted here under

“(ii) *Resolution Plan of Zinema Media and Entertainment Limited:*

The Resolution Professional then informed the COC members about the revised offer of Zinema Media and Entertainment Limited (Zinema). She informed that the Total Payout is Rs. 1,07,00,000/- Out of which the amount to be paid to Unsecured Financial creditors is Rs.10,85,000 (in cash) and Rs. 90,00,000/- value of equity shares of Zinema by way of preferential allotment to the unsecured Financial Creditors within a period of 90 days from the date of approval as per preferential guidelines and with the approval of SEBI, Amount to be paid to Operation Creditors (Govt. Le Income Tax Dept) is Rs. 89,000/- and to other Operational Creditors other than Govt is Rs.11,000/- and CIRP cost of Rs.5,15,000/- An amount of Rs. 7 lacs would be adjusted against previous payments, Rs. 2.5 lacs would be paid within 30 days and Rs. 7.5 lacs would be paid within 60 days of approval of the Resolution Plan by Hon’ble NCLT.

The RP further informed that Zinema is only taking the following assets (not accounted and assigned any value in the Balance Sheet of the CD but value perceived by the Resolution Applicant), and not the Company as a whole -

1. Premier Futsal Brand Ownership
2. League content from all seasons
3. Audio, video and textual marketing and promotional content created
4. Premier Futsal Social channels ownership and rights
5. Naam hai Futsal - Audio composition and Video - Composed by AR Rehman and sung by Virat Kohli

6. Registered Logo.

7. All offline and online contents created and coverage available on all platforms with accessories like CD and other storage data equipments.

(iii) Resolution Plan of Mrs. Daisy Adhav Arjuna

The Resolution Professional then presented the revised offer of Mrs. Daisy Adhav Arjuna to the COC members. RP and the COC members noted that the fact that Zinema is taking over only certain assets of the CD was communicated to Mrs. Daisy during the meeting of COC with Mrs. Daisy. **Mrs. Daisy agreed to not take the assets which are specifically taken by Zinema. She is taking all the other assets and the Company as a whole.** The RP informed the COC members that CIRP of the CD would be deemed to be complete only if resolution for the CD as a whole is achieved.

She then informed that Mrs. Daisy is offering a total payout of Rs.28,00,000/- including the CIRP cost of Rs. 5,15,000/-. Payment is only proposed to be made to Unsecured Financial Creditors. No payment is proposed for the Operational Creditors including Government Income Tax). She is undertaking to make the entire payment within a period of 30 days from the approval of Resolution Plan by the Hon'ble NCLT.

4. Provisions of Regulation 36B (6A) of Insolvency And Bankruptcy Board of India (Insolvency Resolution Process For Corporate Persons) Regulations, 2016

The RP informed the COC members that Regulation 36B (6A) of Insolvency And Bankruptcy Board Of India (Insolvency Resolution Process For Corporate Persons) Regulations, 2016 provides that **If the resolution professional, does not receive a resolution plan in response to the request under this regulation, he may, with the**

approval of the committee, issue request for resolution plan for sale of one or more of assets of the corporate debtor.

However, in this case, even though the EOI was issued for the CD as a whole, one of the Resolution Applicant viz, Zinema Media and Entertainment Limited, submitted a Plan for certain assets of the Company (not accounted and assigned any value in the Balance Sheet of the CD but value perceived by the Resolution Applicant) The other two Resolution Applicants submitted Plans for the CD as a whole. She informed the COC members that another Request for Resolution Plan may have to be issued for the sale of assets separately of the Corporate Debtor. The matter was deliberated by the COC members.

The RP informed the COC members that as instructed by the COC members, she had filed application for extension of CIRP process by a period of 150 days from the date of application by virtue of which the CIRP process comes to an end on 9.9.2023 and the Resolution plan has to be approved by that date. She further informed that the application for extension of CIRP process was heard and the matter was Reserved for Orders and Orders were still pending to be issued by the Hon'ble NCLT as on the date of the COC meeting. The RP and COC were not clear till what date the extension for CIRP process would be granted by the Hon'ble NCLT.

Thus in view of paucity of time, it was decided not to go for another issue of RFRP and decided to review and approve the Resolution Plans if they are in conformity with other provisions of the Code. The RP and the COC members noted that the procedural requirements of Regulation 36B (6A) of IBBI (IRPCP) Regulations, 2016 could not to adhered to due to the timelines as explained above. Barring this unintentional procedural lapse, the Resolution Plans are in accordance with the Section 30(2) of the IBC, 2016 read together with Regulations 37 and Regulations 38 of IBBI (IRPCP) Regulations, 2016 and does not violate the letter and spirit of IBC Code.

Since the value of the Resolution Plan proposed by Zinema for the assets of the CD was substantial and if the CD were to be put into liquidation, it would not have benefitted any of the stakeholder the COC in their commercial wisdom decided to consider the Plan in accordance with Regulation 37 (m) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations 2016. The COC noted that Mrs. Daisy had submitted Resolution Plan for the CD as a whole but agreed to take over CD minus the assets taken over by Zinema.

(i) Approval of Resolution Plan of Zinema Media and Entertainment Limited

RESOLVED THAT approval of the Committee of Creditors be and is hereby accorded, under Section 30(4) of the Insolvency and Bankruptcy Code, 2016 to the Resolution Plan submitted by Zinema Media and Entertainment Limited for the Corporate Debtor, M/s. Premier Futsal Management Private Limited."

"FURTHER RESOLVED THAT, Ms.Chitra Srinivas, Resolution Professional be and is hereby authorized to file the Appropriate Application to the Adjudicating Authority for necessary Orders/ directions as provided under section 30(6) of the Insolvency and Bankruptcy Code, 2016".

(ii) Approval of Resolution Plan of Mrs. Daisy Adhav Arjuna

"RESOLVED THAT approval of the Committee of Creditors be and is hereby accorded, under Section 30(4) of the Insolvency and Bankruptcy Code, 2016 to the Resolution Plan submitted by Ms. Daisy Aadhav Arjuna for the Corporate Debtor M/s. Premier Futsal Management Private Limited." "Further Resolved that, Ms. Chitra Srinivas, Resolution Professional be and is hereby authorized to file the Appropriate Application to the Adjudicating Authority for necessary Orders/ directions as provided under section 30(6) of the Insolvency and Bankruptcy Code, 2016".

The Resolution Professional then announced that the Resolution Plans of Zinema Media and Entertainment Limited and Mrs. Daisy Adhav

Arjuna has been approved unanimously by the COC members. She informed the COC members that she would be sending ballot papers along with the minutes of the meeting and requested them to kindly sign and send it across for record purpose."

4.5 It is stated that extension of CIRP Application was filed by the Applicant before this Tribunal with relation the Corporate Debtor on 20.04.2023 and the same was allowed by this Tribunal on 12.09.2023. The said order of this Tribunal is appended as Annexure B of the Application typeset.

4.6 It is stated that as the CIRP extension application was pending before this Tribunal, the Applicant and the COC *in their commercial wisdom decided not to issue fresh RFRP in accordance to Regulation 36B 6A of the IBBI (Insolvency Resolution Process for Corporate Persons),2016* and decided to review and approve the resolution plan in accordance with the provisions of the code.

4.7 Further COC in its commercial wisdom decided to approve both the Resolution plans submitted by Zinema Media and Entertainment Limited and Mrs. Daisy, keeping in view the spirit of the IBC Code.

5. FINDINGS OF THIS TRIBUNAL

5.1 We have heard the submissions made by the Resolution professional and perused the Application in detail.

5.2 It is seen from the averments made in the application that, the EOI dated 21.07.2023 was issued for the Corporate Debtor as a whole. However the COC in the meeting dated 09.09.2023 approved the Resolution plans of Zinema and Mrs. Daisy Yadhav and the details are as follows

(i) Resolution Plan One: By Zinema Media and Entertainment Limited - For Acquisition of Assets as under,

“a) Premier Futsal Brand Ownership .

b) League content front all seasons.

c) Audio, video and textual marketing and promotional content created.

d) Premier Futsal social channels ownership and rights.

e) Naam hai Futsal Audio composition and Video-Composed by AR Rehman and sung by Virat Kohli.

f) Registered logo.

g) All offline and online contents created and coverage available on all platforms with accessories like CD and other storage data equipment.” - For TOTAL Consideration of Rs. 1,07,00,000/-.

(ii) Resolution Plan Two: By Mrs. Daisy Adhav Arjuna
- For the Corporate Debtor on the whole, (*without the*

assets taken over by Resolution Applicant ONE). Total consideration is Rs. 28,00,000/- inclusive of CIRP cost.

- 5.3. At this juncture, it is significant to refer to Regulation 36B (6A) of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, which is as follows;

(5) Any modification in the request for resolution plan or the evaluation matrix issued under sub-regulation (1), shall be deemed to be a fresh issue and shall be subject to timeline under sub-regulation (3). [Provided that such modifications shall not be made more than once.]

(6) The resolution professional may, with the approval of the committee, extend the timeline for submission of resolution plans.

(6A) If the resolution professional, does not receive a resolution plan in response to the request under this regulation, he may, with the approval of the committee, issue request for resolution plan for sale of one or more of assets of the corporate debtor.

- 5.4 It is seen that the RP has not maintained the sanctity of Regulation 36B (6A) of Insolvency And Bankruptcy Board of India (Insolvency Resolution Process For Corporate Persons) Regulations, 2016 which clearly states that, **If the resolution professional, does not receive a resolution plan in response to the request under this regulation, he may, with the approval of**

the committee, issue request for resolution plan for sale of one or more of assets of the corporate debtor.

- 5.5 It is seen that the valuation of the Corporate Debtor has been made as a whole, and not separately for the tangible and intangible assets of the Corporate Debtor. The valuation as stated by the RP in Form-H is as follows

1.	FAIR VALUE	Rs. 14,15,000.00/-
2.	LIQUIDATION VALUE	Rs. 14,15,000.00/-

- 5.6. It is also averred by the RP that the COC *in their commercial wisdom decided not to issue fresh RFRP in accordance to Regulation 36B 6A of the IBBI (Insolvency Resolution Process for Corporate Persons),2016* and decided to review and approve the resolution plan in accordance with the provisions of the code.

- 5.7. The provisions of IBC, 2016 provides equal opportunity to all the Resolution Applicants. There cannot be any selective opening of windows for certain Resolution Applicants to participate in the Resolution Process of the Corporate Debtor, as the RFRP was not amended in accordance to Regulation 36B (6A) of Insolvency and

Bankruptcy Board Of India (Insolvency Resolution Process For Corporate Persons) Regulations, 2016. In the instant case, there has been a material irregularity in exercising the powers by Resolution Professional & COC during the Corporate Insolvency Resolution Process.

5.8 We are therefore of the considered view that there was a lapse in conduct of the entire CIRP process more particularly governing the process post issue of Form G. There is clear violation of CIRP Regulation more particularly Regulation 36B (6A) of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

5.9 With regards to valuation of the Corporate Debtor, we find that the following assets

“a) Premier Futsal Brand Ownership .

b) League content front all seasons.

c) Audio, video and textual marketing and promotional content created.

d) Premier Futsal social channels ownership and rights.

e) Naam hai Futsal Audio composition and Video-Composed by AR Rehman and sung by Virat Kohli.

f) Registered logo.

g) All offline and online contents created and coverage available on all platforms with accessories like CD and other storage data equipment.”

taken by Zinema media for Rs.1,07,00,000/- have not been accounted and valued in the Corporate Debtor balance sheet. Further valuation exercise has not been carried out for these assets and a fresh valuation is required to be done.

6.0 In view of the above, we dispose of IA/1978/CHE/2023, with directions as follows;

- (a) The RP to call for a CoC meeting within a period of 10 days from the date of this order and proceed with the CIRP from the publication stage of 'Form – G' for inviting Expression of Interest afresh as per CIRP Regulations. Valuation exercise be carried out including intangible assets before calling for EOI.
- (b) The RP is directed to complete the Resolution Process within a period of 90 days from the date of this order.
- (c) By taking into consideration the Judgment of the Hon'ble Supreme Court in the case of Committee of Creditors of **Essar**

Steel India Limited -Vs- Satish Kumar Gupta and Others;
(2020) 8 SCC 531,

Para 79

*“...The effect of this declaration is that ordinarily the time taken in relation to the corporate resolution process of the corporate debtor must be completed within the outer limit of 330 days from the insolvency commencement date, including extensions and the time taken in legal proceedings. However, on the facts of a given case, if it can be shown to the Adjudicating Authority and/or Appellate Tribunal under the Code that only a short period is left for completion of the insolvency resolution process beyond 330 days, and that it would be in the interest of all stakeholders that the corporate debtor be put back on its feet instead of being sent into liquidation and that the time taken in legal proceedings is largely due to factors owing to which the fault cannot be ascribed to the litigants before the Adjudicating Authority and/or Appellate Tribunal, the delay or a large part thereof being attributable to the tardy process of the Adjudicating Authority and/or the Appellate Tribunal itself, it may be open in such cases for the Adjudicating Authority and/or Appellate Tribunal to extend time beyond 330 days. Likewise, even under the newly added proviso to Section 12, if by reason of all the aforesaid factors the grace period of 90 days from the date of commencement of the Amending Act of 2019 is exceeded, there again a discretion can be exercised by the Adjudicating Authority and/or Appellate Tribunal to further extend time keeping the aforesaid parameters in mind. **It is only in such exceptional cases that time can be extended, the general rule being that 330 days is the outer***

limit within which resolution of the stressed assets of the corporate debtor must take place beyond which the corporate debtor is to be driven into liquidation."

The CIRP period in respect of the Corporate Debtor is extended for a period of 90 days from the date of this order.

- (d) The Registry of this Tribunal is directed to forward a copy of this order to IBBI for information and records.

-Sd-

VENKATARAMAN SUBRAMANIAM
MEMBER (TECHNICAL)

-Sd-

SANJIV JAIN
MEMBER (JUDICIAL)

Vinita Varshini. K