

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

**M.A. 1039/ 2018
in C.P.(IB)-1686(MB)/2017**

Under section 30(6) of the
IBC, 2016 (approval of resolution plan)

Application moved by:
Mr. Manoj Kumar Agarwal

....Applicant/
Resolution Professional

In the matter of
The Rubber Products Ltd.

....Corporate Applicant/
Corporate Debtor

Order delivered on 19.02.2019

Coram: Hon'ble Shri. M.K. Shrawat, Member (Judicial)

For the Petitioner : Ms. Ami Jain, Adv.

Per M.K. Shrawat, Member (Judicial)

ORDER

1. It is a Miscellaneous Application filed on 18.09.2018 by Mr. Manoj Kumar, Resolution Professional u/s 30(6) of IBC, 2016 to confirm and obtain an order on the successful Resolution Plan approved by the Committee of Creditors of the Debtor Company viz. The Rubber Products. Ltd.

1.1 The Rubber Products Ltd. (hereinafter, "Corporate Debtor/ Corporate Applicant") filed an application on 05.12.2017 **u/s 10 of** the Insolvency and Bankruptcy Code (IBC), 2016, read with Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, to initiate the Corporate Insolvency Resolution Process (CIRP) against itself. The said Petition was admitted by an **order dated 02.01.2018** in terms of which Mr. Manoj Agarwal (Registration No. IBB/IPA-001/IP-P00714/



2017-2018/11222) was appointed as the Interim Resolution Professional (IRP). The CIRP period commenced thereafter.

2. The IRP, so appointed had informed the action taken towards commencement of CIRP as under: -

- (a) published the public announcement of CIRP in Form A dated 04.02.2018 in two newspapers and invited claims from the financial / operational creditors and workers / employees of the company in terms of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016;
- (b) Constituted the committee of creditors (CoC) on the basis of the claims received by him;
- (c) Appointed two valuers, namely, Mr Avinash Pendse and Delta Valuers & Appraisers LLP, to determine the liquidation value of the corporate debtor in accordance with Regulation 27 read with Regulation 35 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016;
- (d) Prepared and circulated the initial information memorandum containing matters referred to in Regulation 36(1)(a) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and circulated the same to the member(s) of CoC;
- (e) Prepared and circulated the further information relating to the information memorandum by email on 09.05.2018 containing matters referred to in Regulation 36(1)(b) read with Regulation 36(2) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, and circulated the same to the member(s) of CoC; and
- (f) Called the first meeting of CoC on 28.02.2018.



3. In its meeting held on 20.03.2018, the CoC resolved to appoint the **IRP as the RP** and communicated the same to NCLT in terms of Section 22(3)(a) of IBC, 2016.

4. The RP published an **advertisement** in the *Business Standard* edition dated 12.04.2018 and *Mumbai Laksha Deep* edition dated 12.04.2018 inviting EoI for submitting a Resolution Plan for the corporate debtor from interested parties on or before 26.05.2018.

5. In response thereto, received four responses from 1) Max Spare Limited; 2) Rajdeep Plastic Container (I) Pvt Ltd; 3) Jayashree Polymers Pvt Ltd; and 4) Wadhwa Group Holdings Pvt Ltd. The RP accordingly called the third CoC meeting on 09.05.2018 to take note of the revised information memorandum; the prospective resolution applicants and 2 more investors expressing interest after the last date indicated in EoI. The CoC decided to allow all **six parties** to submit their respective **resolution plans**.

6. The RP called the fourth CoC meeting on 06.06.2018 to inter alia decide on the extension of the CIRP period as the **180-day period for CIRP was to end on 01.07.2018**. The agenda of the said meeting was also to hold meeting with the two Resolution Applicants who had submitted resolution plans for necessary discussion. In the meeting the CoC members tried to negotiate for the better terms to be incorporated in the Resolution Plan. This process took sometime, therefore, the CoC again resolved to seek further extension of CIRP period. As a consequence, a Miscellaneous Application (MA No. 593/2018) was moved, which was allowed vide Order dated 04.07.2018 and the period was **extended for 90 days, i.e. till 30.09.2018**. A miscellaneous application (MA 1039/2018) containing Resolution Plan as approved by the CoC was annexed, submitted on 18.09.2018, seeking an order U/s 30(6) of IBC.



7. SUBMISSION OF RESOLUTION PLANS

7.1 Finally, the RP received revised resolution plans from (a) Mr. Jagmeet Singh Sabharwal; Ms. Sheetal Jagmeet Singh Sabharwal along with **M/s Max Spare Ltd (in short MSL) (Resolution Applicant)** on 13.06.2018; and (b) Rajdeep Plastics Containers (I) Pvt Ltd on 30.06.2018. The said resolution plans were discussed at the CoC meeting held on 10.07.2018 and advised to revise their respective resolution plans. In accordance with the said meeting, the RP received revised resolution plans from Mr. Jagmeet Singh Sabharwal; Ms. Sheetal Jagmeet Singh Sabharwal along with Max Spare Ltd on 17.07.2018. Rajdeep Plastics Containers (I) Pvt. Ltd did not give its resolution plan. On perusal of the said revised resolution plan it was suggested Mr. Jagmeet Singh Sabharwal; Ms. Sheetal Jagmeet Singh Sabharwal along with **M/s Max Spare Ltd (hereinafter referred to as the "resolution applicant")** to revise the said plan once again as certain provisions were not in accordance with the Code and related regulations. Accordingly, a final revised Resolution Plan was submitted on 14.08.2018, which was put up for due consideration by CoC at the meeting commenced on 01.09.2018. The said resolution plan was put to vote at the said meeting, which was **approved by 100% of the voting share of CoC**. The resolution plan preferred by Rajdeep Plastics Containers (I) Pvt Ltd was rejected by CoC at the said meeting.

7.2 A Miscellaneous Application (MA1039/2018) dated 18th September, 2018 was filed by the RP u/s 30(6) of IBC read with regulation 39(4) of the Insolvency and Bankruptcy Board of India (insolvency resolution process for corporate persons), 2016, (Regulations) for approval of the resolution plan u/s 31(1) of IBC, in the matter of the Rubber Products Ltd, Corporate Debtor (CD).

8. BACKGROUND OF THE CORPORATE DEBTOR

8.1 The M/s Rubber Products Ltd (Corporate Debtor) was established in 1965 for manufacturing various industrial products of natural and synthetic rubber. Rubber Products Ltd is a widely held



public limited company listed on Bombay Stock Exchange. Spread across an area of two acres, the company's manufacturing unit is located at Wagle Industrial Estate, Thane (Mumbai). It has a manufacturing unit at Thane consisting of four independent manufacturing SBUs for: Moulded items, Rubber Sheets, Rubber Hoses, Coated Fabrics. The company had a prestigious clientele of over 1000 companies, covering almost every sector of the industry, which included highly reputed private sector industries, and Public Sectors like Railway, Defence, Civil Aviation and Telecommunications and a rapid highway in exports, which contributed to 30% of the total turnover. It has been awarded with "Export Award" from IRMA for consistence export performance for successive years. The company's R&D department is recognized by the Dept. of Science & Technology and has continuously developed various innovative products. Its Quality Assurance Department has its own testing labs and is fully equipped to ensure 1005 quality control. It is informed that the said unit is under lockout since 28.08.2017.

9. BACKGROUND OF RESOLUTION APPLICANT

Names of the Applicant	Mr. Jagmeet Sabharwal Singh	Mrs. Sheetal Jagmeet Sabharwal	Max Spare Limited * incorporated on 04/04/1967
Address	301-302, Quantum Park, Union Park, Pali Hill, Khar (West), Mumbai-400 052.	803-804, Quantum Park, Union Park, Pali Hill, Khar (West), Mumbai-400 052.	8, Shyam Kripa, 15 th Road, Near Mini Punjab Hotel, Above Tulip Nurshing Home, Khar West
Educational Qualification/ Constitution	B.Com Diploma in Polymer Technology from London	M.D.-Gynecologist	Deemed Public limited company
Achievements /Industry	An active member of Young Entrepreneurs Organization (YEO), India Chapter Chapter Chair-EO Bombay Chapter for 2008-2009		Manufacturing company. (CIN: U32109MH1967PLC013 711)
Net Worth	197 Crores	15.64 Crores	49.6 Crores
Name of the Company in which Applicant is a Director	a) Max Spare Ltd. b) United Van Der Horst Ltd., c) B.R. Steels Pvt. Ltd. d) Inco Color Pvt. Ltd.	a) Max Spare Ltd. b) United Van Der Horst Ltd., c) B.R. Steels Pvt. Ltd. d) Inco Color Pvt. Ltd.	



*Max Spare Limited shall act as a co-applicant to Mr. Jagmeet Singh Sabharwal and Mrs. Sheetal Jagmeet Singh Sabharwal.

9.1 The details of the company in which applicants are directors, informed as under:

a. United Vn Der Horst Ltd. (UVDHL)

UVDHL is an engineering company with turnover of Rs. 3.83 Cr in FY 18. It was earlier a loss-making Company which Mr Jagmeet Sabharwal turned into a profit-making unit. It was a listed company but trading was suspended due to penal reasons which were made good and trading was resumed on BSE w.e.f. 30th May, 2018. Its plant is located at Taloja with app market value of Rs. 56 Cr. It has a good business potential to grow. The company will touch turnover of Rs. 6 to 8 Cr in FY 2019 and Rs. 12 Cr in FY 2020.

b. B. R. Steels Ltd.

B.R.Steels Ltd has been into manufacturing of colour pigments for tiles with a turnover of Rs 80 Cr. It has its plant at Mhape at MIDC. It has been running its plant at 75% capacity utilisation and the Company is expecting to touch 100% utilisation by Sept 2018.

c. Into Colors Pvt. Ltd.

Into Colors, a subsidiary of B.R. Steels Pvt.Ltd. has its plant at Ankleshwar in Gujarat manufacturing pigment for tiles. Currently the Company has been utilising 75% of its installed capacity which will be increased to 100% by Sept 2018. The Company achieved its turnover of Rs. 60 Cr in FY 2018.

d. Max Spare Ltd. (MSL)

Max Spare Limited shall be the co-applicant. Max Spare Ltd was earlier known as Spareage Seals Ltd was established in 1959. It has been manufacturing engineering spare parts which are applicable for manufacturing Industries. Its turnover reached Rs. 111.04 Cr in FY 2017-18. It has 50,000 worth of patents and caters to all segments. It also exports its products and its export turnover in FY 18 was Rs. 28 Cr. The Company has two plants - At Thane and



Khopoli. Both the plants have been running at 85 to 90% capacity utilisation. The company is headed by Mr. Jagmeet Sabharwal Singh. The promoters have been in this line of operation since 1959. The company was initially manufacturing only seals, later in the year 2009 company ventured into manufacture of V-belts with the acquisition of Nirlon V-belts holding a small share of approx. 6% in the total sales. The company commenced operations through manufacturing of rubber seals for domestic and overseas supply. It currently has two manufacturing facilities located at Khopoli and Thane for manufacturing seals and V-belts. Since 1959 Max Spare Limited is specialized in the field of Hydraulic, Pneumatic, Rotary seals, and O-rings. Also serving many of its customers with special rubber sealing element in wide range of elastomers and thermoplastics. Today, Max Spare Ltd. has a customer base of over 8000 government organizations and corporates that include the Indian Defence Organization (DRDO) and Indian Railways, Steel Mills, Power Plant, Cement, and a variety of organizations across different fields. Max Spare Ltd. offers total quality products, services and speedy delivery at a competitive price. A deep-rooted sales and service network covering all major Indian cities allows us to respond in a short time. Max Spare Ltd. has been serving to all the major sectors of the Indian Economy, some of them. Max Spare Ltd has been aggressive in delivering stock items within 24 hours. Its current plant at Wagle Estate in Thane has reached its saturation point in terms of manufacturing capacity. The company's vision is to expand its products and business. For this, Company has been looking for new premises in its vicinity.

10. Balance sheet/Performance /Net worth of MSL are summarized hereunder:-

(Rs in lakhs)

FINANCIAL PERFORMANCE

Particulars	Financial Year			
	2014-15	2015-16	2016-17	2017-18
Sales	8,440	7,075	8,529	11,101
Profit after tax	469	278	342	576
Net-worth	4,516	4,508	4,786	4,960



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(Amt in Rs)

FINANCIAL POSITION

Sr No	Particulars	FY 2014-15	FY 2015-16	FY 2016-17
A	Shareholders Fund			
	Share Capital	4,95,60,000	4,95,60,000	4,95,60,000
	Reserve & Surplus	18,03,42,967	20,81,33,490	24,23,18,622
		22,99,02,967	25,76,93,490	29,18,78,622
B	Non-Current Liabilities			
	Long Term Borrowings	11,64,37,955	8,49,14,853	6,16,24,800
	Deferred Tax Liability	-	-	-
	Other Long Term Liabilities	22,16,87,220	19,30,80,510	18,66,97,168
	Long Term Provisions			
		33,81,25,175	27,79,95,363	24,83,21,968
C	Current Liabilities			
	Short Term Borrowings	18,77,41,183	21,52,92,810	24,19,10,479
	Trades Payable	5,26,21,104	5,49,94,033	6,59,42,491
	Other Current Liabilities	68,31,081	64,22,179	83,34,493
	Short Term Provisions	3,02,40,887	2,07,49,294	2,20,77,012
		27,74,34,255	29,74,58,316	33,82,64,475
D	Total Liabilities	84,54,62,397	83,31,47,169	87,84,65,065
	Non-Current Assets			
E	Fixed Assets			
	i) Tangible Assets	23,17,70,654	36,55,87,748	34,35,77,097
	ii) Intangible Assets	9,43,923	9,99,539	10,60,865
	iii) Capital Work in Progress	14,65,24,298	-	-
		37,92,38,874	36,65,87,287	34,46,37,962
F	Other Non-Current Assets	4,12,56,689	3,09,25,916	3,26,09,747
	Current Assets			
	Inventories	21,15,29,908	22,55,36,429	24,46,84,760
	Trade Receivables	16,18,13,427	18,11,54,734	21,71,63,781
	Cash & Cash Equivalents	2,07,16,782	1,14,27,186	1,08,95,842
	Other Current Assets	3,09,06,717	1,75,15,617	2,84,72,973
		42,49,66,834	43,56,33,966	50,12,17,356
G	Total Assets	84,54,62,397	83,31,47,169	87,84,65,065



10.1 The Rubber Products Ltd (Corporate Applicant/Debtor) has been in similar line of business that Max Spare Ltd. has been into. The unit of Rubber Products is suitable in terms of expansion of Max Spare Ltd. The clients of The Rubber Products Ltd will also become customers of Max Spare Ltd and will help boost sales of Max Spare Ltd. Max Spare Ltd has proficiency in acquisition of raw materials, labour, staff, utilities, etc. The acquisition of The Rubber Products Ltd will help increase the production and sales of Max Spare Ltd. This acquisition will also generate employment to labour and staff. It will also increase the revenue to the Govt. by developing this unit in terms of GST.

11. GIST OF RESOLUTION PLAN – TOTAL DEBT AND AMOUNT OFFERED TO BE PAID (FORM H)

11.1 In the Resolution Plan submitted by the successful Resolution Applicant, means of finance to be arranged are as under:

SOURCES OF FINANCING RESOLUTION PLAN	Amount(₹)
I. Unsecured loan by Resolution Applicant	
a) For acquisition of Rubber Products Limited	21,25,00,000
b) Margin money for revival/expansion	1,50,00,000
II. Bank loan for revival/expansion	3,50,00,000
TOTAL:	26,25,00,000

11.2 MEANS OF FINANCE

(Rs. in Lakhs)

Sr No	Nature	0-30 days	2-6 months	7-12 months	13-24 months	25-36 months	37 month	Total
1. Existing Business of Resolution Applicant								
Unsecured Loans		1202.27	210.26	67.50	543.35	-	251.62	2275.00
Sub Total		1202.27	210.26	67.50	543.35	-	251.62	2275.00
2. Through Banks								
Term Loan		0.00	52.50	70.00	87.50	-	-	210.00
Working Capital Loan		0.00	52.50	87.50	-	0.00	-	140.00
Sub total		-	105.00	157.50	87.50	-	-	350.00



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Sr No	Nature	0-30 days	2-6 months	7-12 months	13-24 months	25-36 months	37 month	Total
Grand Total		1202.27	315.26	225.00	630.85	-	251.62	2625.00

11.3 FUNDS DISPENSATION PROPOSED UNDER RP

(Rs. in Lakhs)

Sr. No	Nature	0-30 days	2-6 months	7-12 months	13-24 months	25-36 months	37 months	Total
A	CIRP Cost	62.00	-	-	-	-	-	62.00
B	Workmen Dues	234.20	-	-	-	-	-	234.20
C	Employees Dues	65.68	-	-	-	-	-	65.68
D	Statutory Dues	187.51	-	-	-	-	-	187.51
E	Operational Creditors	312.00	-	-	-	-	-	312.00
F	Secured Financial Creditors	300.00	165.26	-	-	-	-	465.26
G	Unsecured Financial Creditors	-	-	-	505.85	-	-	505.85
H	Equity Shareholders	40.88	-	-	-	-	251.62	292.50
I	Sub Total	1202.27	165.26	0.00	505.85	0.00	251.62	2125.00
	REVIVAL OF RPL	-	-	-	-	-	-	-
J	Repairs & Maintenance	-	-	-	-	-	-	-
	a) Land & Building	-	75.00	-	-	-	-	75.00
K	Additional Plant & Machinery	-	-	100.00	125.00	-	-	225.00
L	Working Capital	-	75.00	125.00	-	-	-	200.00
M	Sub Total	-	150.00	225.00	125.00	-	-	500.00
N	Total (I+M)	1202.27	315.26	225.00	630.85	-	251.62	2625.00

12.0 LIST OF FINANCIAL AND OPERATIONAL CREDITORS OF THE CORPORATE DEBTOR



12.01 The list of Financial and Operational Creditors along with their respective claimed vis-a-vis admitted outstanding is attached with the Resolution Plan.

Financial Creditors

Sr.No.	Name of the Creditor	Amount Claimed	Amount Admitted
1.	State Bank of India	4,65,26,171	4,65,26,171
2.	Sucharita Hegede	11,258,071	11,258,071
3.	Sameer Sadanand Shetty	27,258,891	26,858,228
4.	B Fouress Pvt. Ltd.	11,600,000	5,000,000
5.	Fouress Engineering (I) Pvt. Ltd.	7,468,798	7,468,798
Total		10,41,11,931	9,71,11,268

Operational Creditors

Sr. No.	Name of the Creditors	Amount Claimed	Amount Admitted
1.	Karkhanis & Kothari	121,573	121,573
2.	Samruddhi Enterprises	637,476	637,476
3.	Zenish Reclamation	410,535	410,535
4.	JR Jain & Co.	4,862,227	3,693,627
5.	Supersil Chemich als (I) Pvt. Ltd.	193,690	193,690
6.	Black Industries	587,861	398,749
7.	Tasc Chemical Industries Pvt Ltd	131,164	123,281
8.	Adroit Corporate Services Pvt Ltd	124,931	96,847
9.	Rockchem Products	1,249,345	678,187
10.	Royal Engineers	796,504	608,751
11.	Shreeji Multitrade	192,138	166,080
12.	Fiba Shipping Agency	891,985	891,985
13.	Zeal Pharmachem	3,870,277	3,870,277
14.	M.B. Industries	214,753	171,624
15.	Ambica Tarpaulins	226,032	226,032
16.	Aashirvad Agro Industries	203,625	202,375
17.	Amey Enterprises	229,126	229,126
18.	Polmann India Ltd	246,122	245,377
19.	Subhash V Satam	492,258	492,258
20.	Sushila Catering Services	465,002	465,002
21.	Deputy Comm. CGST Div.VI Thane (Note i)	35,339,529	7,875,409
22.	A.B. Brothers	331,803	230,508
23.	Nyne Organics Pvt Ltd (Note ii)	10,732,874	-
24.	Ambika Enterprises	121,325	121,325
25.	Fouress Engineering (I) Pvt. Ltd.	364,653	364,653
26.	Security Guard Board for Brihan Mumbai & Thane District	685,722	640,900
27.	Tejak Chemicals	63,760	24,427
28.	AshwiniVaze& Associates	67,400	43,200
29.	Jain Vinay& Associates	106,175	106,175
30.	Advocate Shekhar M Shetty	715,168	715,168
31.	Advocate Satish C Hegde	43,000	36,000
32.	Sameer Apte& Co	50,000	45,000
33.	Surendra Elastomers Private Ltd.	3,970,431	3,970,431



34.	B. M. Labour Contractors	276,702	230,242
35.	Functional Fabrics	805,131	595,814
36.	Rushabh Corporation	408,727	204,248
37.	Eternia Trading Pvt Ltd	2,107,457	2,103,341
38.	Lakshmikumaran & Sridharan	1,15,000	1,15,000
39.	Employee State Insurance Corporation	9,32,889	9,32,889
	Total	7,33,84,370	3,22,77,582

12.1 A note is appended to explain that certain claims, such as Tax, etc. are not taken into account in this Resolution Plan on account of the following reasons:

- Amount reflected in books of accounts is ₹78,75,409 pertaining to Deputy Comm. CGST Div.VI Thane which shall be recognized as contingent liability which will be admitted as and when it becomes Crystalized.
- In view of the cases pending in the court against M/s. Nyne Organics Pvt. Ltd., for ₹10,732,874/- the claimed amount is not approved, until further events, however, this is contingent liability subject to outcome of the court cases.
- Some of the operational creditors have not submitted their claims in the prescribed format along with the supporting documents Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- Majority of the operational creditors have not submitted their claims at all.
- Wherever the claims are not submitted by the operational creditors, their claims may be referred from the books of accounts of the company.
- The claim amount includes the principal amount and interest as per the contract/agreement/terms on invoice.

13.0 SUMMARY OF VALUATION AND COMPARISON BETWEEN VALUATION AND RESOLUTION PLAN

13.1 RP had appointed two valuers, namely, Mr. Avinash Pendse and Delta Valuers & Appraisers LLP, to determine the liquidation value of the corporate debtor in accordance with Regulation 27 read with Regulation 35 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The details of fair and liquidation value are as depicted in the following table:-



1	Fair Value	Rs. 30,38,19,397.85 (Average value determined by two valuers)
2	Liquidation value	Rs. 19,66,46,250.30 (Average value determined by two valuers)

13.2 It is observed from the above table that as against the liquidation value of the assets and properties of the CD amounting to Rs. 19,66,46,250/- the successful RA undertaken in the resolution plan to accept and discharge the following liabilities:-

Sr. No	Nature	0-30 days
A	CIRP Cost	62,00,000
B	Workmen Dues	2,34,19,799
C	Employees Dues	65,67,521
D	Statutory Dues	1,87,51,280
E	Operational Creditors	3,11,99,769
F	Secured Financial Creditors	4,65,26,171
G	Unsecured Financial Creditors	5,05,85,097
H	Equity Shareholders	2,92,50,363
	Total	21,25,00,000

14. RP'S OBSERVATION ON COMPLIANCE WITH THE PROVISIONS OF SECTION 30(2) AND OTHER MANDATORY REQUIREMENTS UNDER CIRP REGULATIONS

14.1 The following table displays the status of compliance of the provisions of section 30(2) of the IBC as also under mandatory regulations there under as reported by RP in Form H.

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 operations of business of the CD?	Section 3	Yes



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Section of the Code / Regulation No.	Requirement with respect to Resolution Plan	Clause of Resolution Plan	Compliance (Yes / No)
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?	Section 9 (Point 9.2 sub point I)	NA (However the resolution applicant fulfils the conditions mentioned)
Section 30(1)	Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?	NA	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?	(a) Section 4 (Point 4.1 - point A of table) and Table 15 (b) Section 4 (Point 4.1 - sub point B) and Table 16 (c) Section 8 (Point 8.1 subpoint b) (d) Section 8 (point 8.1 - subpoint a) and Section 19 (e) NA	(a) Yes (b) Yes (c) Yes (d) Yes (e) 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?	-	(a) Yes (b) Yes
Section 31(1)	Whether the Resolution Plan has provisions for its effective implementation plan, according to the CoC?	Section 8 (point 8.1 - sub point a) and Section 19	Yes
Regulation 35A	Where the resolution professional made a determination if the corporate debtor has been subjected to any transaction of the nature 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?	-	Yes
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?	(a) Section 4 (Point 4.1) (b) Section 4 (Point 4.1 - point B of table) (C) Section 4 (Point 4.1 - point C of table)	Yes



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Section of the Code / Regulation No.	Requirement with respect to Resolution Plan	Clause of Resolution Plan	Compliance (Yes / No)
Regulation 38(1A)	Whether the resolution plan includes a statement as to how it has dealt with the interests of all stakeholders?	Section 6	Yes
Regulation 38(2)	Whether the Resolution Plan provides: (a) the term 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?	(a) Section 6 (Point 6.2) (b) Section 8 (c) Section 8 (point 8.1 - sub-point a) and Section 19	Yes

14.0 DISPENSATION QUA EACH STAKEHOLDER (REGULATION 38(1A))

14.01 In terms of the Regulation 38(1A) introduced by the Second Amendment to CIRP regulations issued by IBBI on 5/10/2017, this paragraph tabulates below the mode in which this Resolution Plan has addressed the interests of various stakeholders:

Sr. No.	Stakeholder	Interests as addressed in Resolution Plan
1	Workmen and Employees	<p>Admitted claim amount - Rs. 2,21,76,152/- As per section 53(1), it is proposed that liquidation value due to workmen dues for last 24 months shall be paid within 30 days of approval of Resolution Plan by Adjudicating Authority subject to settlement of workmen dues. The same will be paid pari-passu to claim of Secured Financial creditors.</p> <p>Out of upfront payment of Rs.12,02,26,769/-, it is proposed to pay workmen dues as follows:</p> <ul style="list-style-type: none"> Admitted Claim Amount: Rs 2,21,76,152/- Unclaimed amount: Rs. 12,43,647/- Total amount: Rs. 2,34,19,799/- <p>Employee dues admitted claim amount - Rs. 56,41,775/-</p> <p>Out of upfront payment of Rs.12,02,26,769/-, it is proposed to pay Employee dues as follows:</p> <ul style="list-style-type: none"> Admitted Claim Amount: Rs 56,41,775/- Unclaimed amount: Rs. 9,25,746/- Total amount: Rs. 65,67,521/- <p>Note:</p> <ul style="list-style-type: none"> The Wages and Employees dues



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		<p>considered above does not include the liability for the period of strike/lock-out (period beginning from June 2017).</p> <ul style="list-style-type: none">• The liability for the period beginning from June 2017 till date is considered as contingent liability and shall be treated as to be waived off.• The total amount due against Wages/Salaries has been calculated for the unpaid period maximum up to 24/12 months excluding the period of lock-out and has been waived off.						
2	Secured Financial Creditors							
	State Bank of India	<p>As per the claim filed by State Bank of India, the amount outstanding is Rs. 4.65 Crores. Secured Financial creditors will be discharged by 100% payment of the amount due to them.</p> <p>a) Upfront payment: Amount of Rs. 3,00,00,000 shall be made within 30 days of approval of Resolution Plan by NCLT.</p> <p>b) Balance amount: Amount of Rs. 1,65,26,171/- shall be paid along with interest @SBI Base Rate plus 2% p.a. on reducing balance method. Principal amount of Rs. 1,65,26,171/- shall be repaid in 5 equal monthly instalment of Rs. 33,05,274/- starting from second month from the date of approval of Resolution Plan by NCLT. The interest shall be calculated at the prevailing SBI Base Rate Plus 2% during the repayment period shall be paid along with the last instalment.</p>						
3	Operational Creditor	<p>Amount claimed by various Operational Creditors which is admitted by RP - Rs. 3,11,99,769/-</p> <table><tr><th>Particulars</th><th>Amount (Rs)</th></tr><tr><td>Operational Creditors-amount admitted by RP</td><td>3,11,99,769/-</td></tr><tr><td>Total</td><td>3,11,99,769/-</td></tr></table> <p>As per Regulation 38 of CIRP Regulations, liquidation value due to operational creditor shall be paid in priority to Financial Creditor within 30 days of approval of Resolution Plan by Adjudicating Authority.</p> <p>Out of upfront payment of Rs 12,02,26,769/- Operational Creditors shall be discharged as follows:</p> <ul style="list-style-type: none">• Rs.3,11,99,769/- being amount claimed shall be paid within 30 days of approval of Resolution Plan by Adjudicating Authority. <p>Note:</p> <p>1. If any interest element is included/claimed by the Operational Creditors then the interest amount claimed shall be waived off and the claim of Operational Creditors shall</p>	Particulars	Amount (Rs)	Operational Creditors-amount admitted by RP	3,11,99,769/-	Total	3,11,99,769/-
Particulars	Amount (Rs)							
Operational Creditors-amount admitted by RP	3,11,99,769/-							
Total	3,11,99,769/-							

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		<p>be discharged by payment of principal amount only.</p> <p>2. Any pending amount which is not claimed by the operational creditor or any amount which is claimed by operational creditor in incorrect format shall be waived off and the company or the Resolution Applicant shall not be liable for payment of the same.</p>
4	Tax/Statutory Dues/penalties/interest/Fines (Including TDS, EPF, VAT, Excise, ESIC/ FEMA/ Companies Law, etc.)	<p>As per Regulation 38 of CIRP Regulations, liquidation value due to operational creditor shall be paid in priority to Financial Creditor within 30 days of approval of Resolution Plan by Adjudicating Authority.</p> <p>As per section 5(21) Statutory liabilities shall form part of Operational Debt.</p> <p>Out of upfront payment of Rs.12,02,26,769/- statutory dues shall be discharged as follows:</p> <ul style="list-style-type: none"> Amount claimed and admitted Rs. 88,08,298; Unclaimed amount Rs. 99,42,982/-. <p>Shall be paid within 30 days of approval of Resolution Plan by Adjudicating Authority.</p>
5	Unsecured loan Payable to Related Party	<p>Amount claimed by unsecured financial creditors being related party is Rs.5,05,85,097*</p> <p>As per section 53 of IBC, 2016 unsecured financial creditors shall be paid after the dues of secured financial creditors, workmen dues for 24 months prior to liquidation and employee dues of 12 months prior to liquidation are discharged. Unsecured creditors shall be discharged as follows:</p> <ul style="list-style-type: none"> 12 equal monthly instalments of Rs. 42,15,424/-payable from 13th month after approval of Resolution Plan by NCLT plus interest @ 6% on reducing balance method.
6	Contingent Liability not provided for	No provision is made for these dues as the Liquidation Value is Nil and amount is not admitted by Resolution Professional.
7	Pending listing Fees of BSE if any	No provision is made for these dues as the Liquidation Value is Nil and amount is not admitted by Resolution Professional.
8	Existing Equity Shareholders	<p>Balance amount out of total consideration of Rs. 21.25 Crore (if any) after payment of:</p> <ul style="list-style-type: none"> CIRP cost; liquidation value due to operational creditors including workmen dues; amount if any due to operational creditor as proposed in the Resolution Plan; amount due to secured financial creditors as proposed in the Resolution Plan; and Principal amount due to unsecured financial creditors as proposed in the Resolution Plan. <p>Shall be distributed to Equity Shareholders. As per the current estimated amounts, the total amount available for Equity Shareholders is Rs. 2,92,50,363/-*.</p> <p>Equity Shareholders shall be paid in two phases:</p> <p>Phase I: Out of upfront payment, Re-1 per share shall be paid to equity shareholders as</p>



	<p>part consideration for deemed share transfer to Resolution Applicants. Total amount paid shall be Rs. 40,88,400 only</p> <p>Phase II: Balance amount if any shall be paid within one month after the expiry of 3 years from approval of Resolution Plan by NCLT. As per the current estimates amount of *Rs 2,51,61,963/- shall be paid on interest free basis.</p> <p>Note: As per the audited balance sheet as on 31st March, 2017 amount of Rs.78,000 on account of forfeiture of 15,300 shares due to non-receipt of share allotment money is not considered in the proposed resolution plan.</p> <p>* This amount available for distribution to Equity Shareholders would be reduced by;</p> <ul style="list-style-type: none"> any amount of claim by operational creditor other than those claimed and admitted by the Resolution Professional any amount claimed and accepted by any creditor other than the list of creditors mentioned in IM <p>After consideration of the above and subject to maximum total consideration of Rs 21.25 Crores, the amount payable to Equity Shareholders shall reduce to that extent.</p>
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15.0 SHARE CAPITAL STRUCTURE

15.01 The comparative chart of existing and proposed share capital structure is shown below:-

SHARE CAPITAL AS ON 2nd JAN, 2018

Particulars	Units	Amount / Number	Amount / Number
Authorized Share Capital (1,00,00,000 Equity Shares of Rs. 10 each)	Rs. Crores		10.00
Issued, Subscribed & fully paid up Capital	Rs. Crores	4.09	
(Out of above 15,10,020 shares of Rs.10 each were allotted as fully paid up Bonus shares by Capitalization of General Reserves)			
Add: Shares forfeited	Rs. Crores	0.01	4.10
No. of Shares	Numbers	40,88,400	
Add: Shares forfeited	Numbers	15,300	41,03,700
Face Value per Share	Rs.		10/- per share



**THE CAPITAL STRUCTURE OF EXISTING SHAREHOLDERS OF
RUBBER PRODUCTS LTD AFTER THE PROPOSED SHARE
TRANSFER ON APPROVAL OF RESOLUTION PLAN:**

Sr. No.	Particulars	No. of Shares Originally Held	Revised No. of Shares after approval of RP by NCLT	Share Capital after Reduction (Rs.)	% holding
1	Soumyalatha Sadanand Shetty	12,42,170	0	0	0
2	IDBI Trusteeship Services Ltd.	5,89,191	0	0	0
3	Raju Bhandari	3,60,982	0	0	0
4	Sucharita Ramcrishna Hegde	1,43,790	0	0	0
5	Saurav Gupta	1,18,736	0	0	0
6	Fouress Investment Pvt. Ltd.	1,05,000	0	0	0
7	Nitya Media Private Limited	1,00,000	0	0	0
8	Kamal Kumar Goyal	74,044	0	0	0
9	Jyoti P. Mehta	65,120	0	0	0
10	Girdharilal V. Lakhi	51,550	0	0	0
11	Others - shares held by public	12,37,817	0	0	0
		40,88,400	0	0	0

**PROPOSED SHARE CAPITAL STRUCTURE POST
APPROVAL OF RESOLUTION PLAN**

Particulars	No. of Shares Held	Face Value	Total Share Capital	% holding
Jagmeet Singh Sabharwal	20,43,950	10	2,04,39,500	49.994%
Sheetal Jagmeet Singh Sabharwal	20,43,950	10	2,04,39,500	49.994%
United Van Der Horst Ltd	100	10	1,000	0.002%
Dew Drops Properties	100	10	1,000	0.002%
Lata Kaimal	100	10	1,000	0.002%
Akshay Velyil	100	10	1,000	0.002%
Sangeeta Todkar	100	10	1,000	0.002%
	40,88,400		4,08,84,000	100%

16.0 WAIVER OF LIABILITIES

16.1 With the approval of the Resolution Plan u/s 31 (1) of IBC, the following waivers shall stand approved:

- a. Waiver of the Statutory Liabilities/ Contingent Liabilities incurred and accrued / due to statutory authorities viz. VAT, Sales Tax, Income Tax, Excise, Customs, FEMA & Export Obligation, etc.:



- The 'resolution applicant' proposes to make payment for all statutory liability as per the claim accepted by the Resolution Professional arising with various authorities as included in the plan in the manner as confirmed by CoC.
- Further, the 'resolution applicant' is to revive the company with complete peace and certainty; therefore, any other statutory dues, taxes, penalties, penal interest, demands, etc. other than for which the claim is received and admitted, incurred for the period till the commencement of CIRP date, is fully waived off and may be assured to the resolution applicant that no such claim from any person or authority shall disturb the process of revival.
- On approval of resolution plan Income Tax officer is expected for reversal or withdrawal of all the disallowances and additions made in the Income tax assessment proceedings in the preceding eight years and returns as submitted to be treated as assessed and all carry forward losses and depreciation to be treated as allowed
- Carried forward and brought forward losses shall be permissible as per Income tax Laws.
- Income tax returns for any preceding financial year, if not filed as on date, then Adjudicating Authority is expected to permit the Resolution Applicant to file the returns on approval of Resolution Plan and income tax department to waive the penalty and interest for late filing of the said returns/ unpaid tax liability/demand to be totally waived off.
- The 'Resolution Applicant' propose to make payment for the claims received by the Operational Creditors to the extent admitted as per the list mentioned in the Information Memorandum in the manner as full and final settlement of Operational creditors liabilities.
- In respect of claim of wages for the period of strike as well as lockout, since these disputes are pending before Industrial Court as well as Labour court the same are to be paid as per the provisions of Law.



- Any pending filing fees of the financials and other documents, if any as per The Companies Act 1956 and The Companies Act 2013 with Registrar of Companies for the period till the commencement of CIRP date shall be treated as per applicable law.
- Relevant authorities to either continue or issue new existing Manufacturing License/ Factory License given in name of Corporate Debtor without demanding any unclaimed past dues, as per applicable respective Laws.
- All unclaimed charges, penalties, punishment, etc., if any levied by Directorate of Enforcement, Department of Revenue, RBI, Economic Offence Wing, Directorate General of Foreign Trade, Ministry of Commerce, etc. on the Corporate Debtor shall be treated according to respective Laws.
- **Resolution Professional/Existing Promoters/ Existing or suspended Board of Directors and staff members of RPL to handover the possession of all the assets, records and books of accounts of corporate debtor to the Resolution Applicant on approval of the resolution plan by NCLT.**
- Post approval of Resolution Plan by CoC, Existing Board of Directors of the Corporate Debtor and Resolution Professional shall not take any significant financial/business decision regarding corporate debtor without the prior written consent of Resolution Applicant.
- Corporate Debtor shall be exempt from payment of Stamp duty which may arise on account of transfer of equity/issuance of equity as part of Resolution Plan.
- No transfer fees which shall be levied by MIDC or any other authority in case of this resolution which shall change the promoters/equity shareholding of the Corporate Debtor.
- Rubber Products Limited shall be exempted from provisions of Companies Act, 2013/1956 in case of loans taken from erstwhile promoters/directors of RPL till the loans taken from erstwhile promoters/directors are repaid after



approval of this Resolution Plan. The company shall not be treated as defaulter and by the time such loans are repaid, the company would be exempted from the provisions of the relevant sections.

- All the penal interest, interest, damages, penalties charged or chargeable for non-compliance of the various clauses of the Listing Agreement including balance of the principal amount shall be treated as waived off/extinguished.
- All the compliances required to relist the Equity Shares of the company and to relist the new structure of equity shares of the company immediately upon filing of the NCLT approval order shall be exempted by Stock exchanges in India.

17.0 Although this Resolution Applicant is seeking waiver in respect of number of liabilities, however, the same should be restricted to those government liabilities which are ascertained and crystallised as on the date when the CIRP commenced. On commencement of CIRP due to pronouncement of moratorium if any tax is levied, the same requires waiver. For rest of the tax demand a reliance is placed on a decision of NCLT, Chandigarh Bench in the case of **"State Bank of India vs. MOR Farms Pvt. Ltd."** dated 15.06.2018 in CA Nos. 71/2018 & 171/2018 in CP(IB)-51/Chd/Hry/2017 wherein waiver is granted in respect of tax dues. Although the question of waiver has been dealt with in this order by the respected Coordinate Bench, NCLT, Chandigarh. However, an important aspect is to be kept in mind that the petition in this case has moved u/s 10 of the Insolvency Code to declare itself insolvent. In other words, the Petitioner is seeking waiver in respect of all the statutory taxes & liabilities for the period during which the same management was at the helm of the affairs and liable for statutory compliances. The important point which requires due consideration is that the Resolution Plan is also now submitted by the entity/resolution applicant who has nexus with the Corporate



Debtor. Therefore, while placing reliance on the decision of respected Coordinate Bench, this aspect requires due consideration.

18.0 The latest position is that in the case of K. Shashidhar v. Indian Overseas Bank (SLP(c) No. 29181 of 2018) vide Order dated 05.02.2019 the Hon'ble Supreme Court has opined that the approval of the CoC of a Resolution Plan is to be accepted in toto by the Adjudicating Authority if a 75% voting share approves the said Plan. Because of the latest decision the scope of any suggestion or alteration in the impugned Resolution Plan is very limited. As far as the procedure is concerned, in this case the same has been followed as per the provisions of the Insolvency Code, therefore, the Resolution Plan has to be approved.

19.0 On the approval of the Resolution Plan, this Bench directs that moratorium order passed by this Tribunal under Section 14 of the Code shall cease to effect and that the Resolution Professional shall forward all the record relating to the conduct of the corporate insolvency resolution process and the Resolution Plan to the Insolvency and Bankruptcy Board of India to be recorded on its database.

20.0 Copy of this order be communicated to the Resolution Professional, Resolution Applicant, Financial Creditors and the counsel representing the guarantors of the suspended Board of Directors.

Sd/-

M.K. SHRAWAT
MEMBER(JUDICIAL)

Date: 19.02.2019
pvs



Certified True Copy
Copy Issued "free of cost"
On 25/2/2019


Assistant Registrar
National Company Law Tribunal Mumbai Bench