

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-III**

I. A. No. 976 of 2020

I. A. No. 729 of 2021

In

C.P. No. 4301/IB/2018

In the matter of an Application under Section 30(6) and Section 31 of the Insolvency and Bankruptcy Code, 2016 read with Rule 39 of Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons Regulations, 2016

In the matter of
BMW India Financial Service Pvt. Ltd.
....Operational Creditor
v/s.
S.K. Wheels Pvt. Ltd.
.... Corporate Debtor

I.A. No. 976/2020

In the matter of an Application under Section 60(5) and read with Section 31 of the Insolvency and Bankruptcy Code, 2016

Mr. Vishal Ghisulal Jain

... Applicant/
Resolution Professional

I.A. No. 729/2021

M/s. Piramal Capital and Housing Finance Ltd.

... Applicant
v/s.

1. Anil Kumar (Resolution Applicant)
2. Vishal G. Jain (Resolution Professional)



... Respondents

Order delivered on 09.11.2021

Coram:

Hon'ble Shri H. V. Subba Rao, Member (Judicial)
Hon'ble Shri Chandra Bhan Singh, Member (Technical)

Appearance (through video conferencing):

For the Applicant: Mr. Aniruth Purusothaman, Advocate for
Applicant in MA No. 976 of 2020
Mr. Amar Vivek, Advocate for Resolution
Applicant
Mr. Anil Kumar, Resolution Applicant-in-person
Mr. Aditya Shiralkar, Advocate for Applicant in IA No.
729 of 2021

Per Shri H. V. Subba Rao, Member (Judicial)

ORDER

1. This is an Application under Section 30(6) of the Insolvency and Bankruptcy Code, 2016 (the Code) filed by the Resolution Professional seeking approval of the Resolution Plan submitted by the Resolution Applicant Mr. Anil Kumar.
2. The facts leading to the Application are as under:
 - i. Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor was initiated by this Bench by an order dated 29.03.2019 (Admission Order) and Mr. Vishal Ghisulal Jain was appointed as Interim Resolution Professional. The IRP published a public announcement on 16.06.2019 inviting claims from the creditors of the Corporate Debtor. The CoC in its 1st meeting held on 02.05.2019 appointed (the present Applicant) as the Resolution Professional (RP).
 - ii. Thereafter, Interim Resolution Professional upon verification of the same, constituted the CoC. Pursuant to the public



announcement RP received one Expression of Interest from the Prospective Resolution Applicant (PRA).

- iii. The Applicant in compliance of the provisions of the Code and Rules framed there under conducted the CIRP of the Corporate Debtor.
3. During the period of CIRP the RP issued Form-G on 16.06.2019 inviting expressions of interest (EOI) in "Free Press Journal, Mumbai Edition" in English and "Navshakti" in Marathi from prospective resolution applicants (PRAs). The last date for receiving the expression of interest was 01.07.2019 and last date for submission of Resolution Plan was 15.08.2019. The Applicant received one EOI from Prospective Resolution Applicants (PRA) Mr. Anil Kumar, who is the promoter of the Corporate Debtor. The resolution plan along with information memorandum, evaluation matrix was issued to the PRA. The Applicant further states that PRA requested for the extension of the last date for submission of the Resolution plan from 16.08.2019 to 16.09.2019. Further, with the consent of the CoC the last date for submission of resolution plan was extended till 16.09.2019. The Applicant received resolution plan from the Mr. Anil Kumar (the prospective resolution applicant).
4. It is worthwhile to mention that this Tribunal, in respect of the timelines of the CIRP of the Corporate Debtor, has passed an order of extension of 90 days vide order dated 24.09.2019. The CIRP thus stood extended from 25.09.2019 to 23.12.2019.
5. The CoC decided to appoint a Valuer. The RP accordingly appointed six registered valuers to determine the fair value and liquidation value of the Corporate Debtor, as required under Regulation 27 of the IBBI (IRP for Corporate Persons) Regulations, 2016. Subsequently,



registered valuers namely Mr. Puneet Tyagi, Mr. Vijay Bhatia, Mr. Dharam Pal Bhatia, Mr. Alok Kaushik, Mr. Gunjan Agarwal and Mr. Prateek Mittal were appointed to determine the fair value and liquidation value of the assets of the corporate debtor. These valuers had submitted their reports. The Liquidation and fair value of the Corporate Debtor is as follows:

Registered Valuers	Liquidation Value (Amount in Rupees)	Fair Value (Amount in Rupees)
Land and building		
Mr. Puneet Tyagi	37,22,55,735	46,53,19,669
Mr. Vijay Bhatia	35,68,80,325	42,74,60,758
Average of 1 & 2	36.45,68,030	44,63,90,214
Plant & Machinery		
Mr. Dharam Pal Bhatia	7,10,14,925	9,43,44,652
Mr. Alok Kaushik	4,46,50,346	5,75,83,127
Average of 1 & 2	5,78,32,636	7,59,63,890
Securities or Financial Assets		
Mr. Gunjan Agarwal	3,38,90,412	5,21,35,402
Mr. Prateek Mittal	7,82,926	7,82,926
Average of 1 & 2	1,73,36,669	2,64,59,164
Combined total	43,97,37,335	54,88,13,267

6. The Applicant submits that in the 7th meeting of the CoC held on 18.11.2019, the Applicant received resolution plan from Mr. Anil Kumar (Resolution Applicant). The Applicant/RP negotiated with the Resolution Applicant to make the resolution plans more robust and to improve the same.
7. The RP submits that the Corporate Debtor falls under the category of Micro, Small and Medium Enterprises as per the certificate of Registration tabled before the CoC and hence the ineligibility to submit Resolution Plan as per section 29A(h) of the Insolvency and

