



**INSOLVENCY PROFESSIONAL AGENCY
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA**

Casebook Issue

**Corporate Insolvency
Resolution Process
Journey of**

**Birla Tyres
Limited**



INSOLVENCY UNCOVERED

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About Birla Tyres Limited.¹

Birla Tyres Limited was first established in 1991, as part of Kesoram Industries Limited, initially collaborating, in the production and development of its tyres with world-class tyre manufacturer Pirelli. Since then, the Company has built a reputation for quality and is now recognized as one of the best tyre manufacturers in India having grown its pan India presence through various sales depots. The Company also has an advanced R&D centre with some of the world's most modern equipment, working to create better and safer tyres.

SNAPSHOT OF THE COMPANY:

Company Name	Birla Tyres Limited
Constitution	Public Limited Company
Corporate Identification Number ("CIN")	L25209WB2018PLC228915
Incorporation date	22.11.2018
Registered office	9/1, R.N. Mukherjee Road 8th Floor, Birla Building Kolkata, West Bengal- 700001
Location of plants	AT/P.O. Chhanpur, via. Kuruda, Dist. Balasore, Odisha, Pin-756056
Business operations	Tyre Manufacturing
Principal business activities	It is engaged in manufacturing of tyres for commercial vehicles, farm vehicles and heavy earthmoving machinery as well as motorcycles and three wheelers.
Description of main products & services	Truck & Bus Bia Tyres, Farm Vehicle Tyres, Off-The Road Tyres, Two and Three-Wheeler Tyres and Tubers & Flaps.
Business Segments	Automotive Components – Tyre Manufacturing – Bias and PCR Tyres.

The Company is a public company limited by shares, and incorporated on 22.11.2018, under the provisions of Companies Act, 2013.

The Company demerged from Kesoram Industries Ltd vide NCLT Order dated 08.11.2019, under a scheme of arrangement and listing of shares effective from 01.01.2019. Thereby, the Company continued operations post the demerger from Kesoram Industries Limited, the revenue for which was INR 538.46 Crores whereas the loss reported was INR 288.99 Crores

for the year ending 31.03.2020. Further, with receipt of trading approvals from the Stock Exchanges the shares of Birla Tyres Limited got listed on Bombay Stock Exchange and National Stock Exchange with effect from 10.02.2020.

The directors of the Corporate Debtor are Amit Choudhary, Shyam Sundar Choudhary, and Anurag Choudhary.

Major Financial Creditors/Bankers

The major Individual Financial Creditors are:

S.No.	Name	Voting Share
1	Axis Bank Limited	49.55
2	Asset Reconstruction Company (India) Limited	17.35
3	State Bank of India	10.56
4	DBS Bank India Ltd. (Erstwhile: The Lakshmi Vilas Bank Ltd)	5.4
5	West Bengal Infrastructure Development Finance Corporation Limited (WBIDFC Ltd)	5.34
6	Karur Vysya Bank Ltd.	3.59
7	Punjab National Bank	2.23
8	HDFC Bank	1.88
9	ICICI BANK	0.93
10	J.C. Flowers Asset Reconstruction Pvt. Ltd.	0.32

CIRP of Birla Tyres Limited.²

CIRP initiation under Section 9 of IBC, 2016

The Corporate Insolvency Resolution Process (CIRP) of Birla Tyres Limited was initiated following an application under Section 9 of the Insolvency and Bankruptcy Code, 2016. Section 9 allows operational creditors to initiate insolvency proceedings upon the occurrence of a default. In this case, SRF Limited, an operational creditor, filed the application before the National Company Law Tribunal (NCLT), Kolkata Bench, alleging a default in the payment of approximately Rs. 15.84 crore for the supply of tyre cord fabric.

The application was filed due to Birla Tyres' persistent failure to honor its payment obligations despite repeated reminders and the issuance of a demand notice. The petition was admitted on May 5, 2022, after NCLT found sufficient evidence of default.

Admission and Initiation of CIRP of Birla Tyres Limited

When the matter was first considered on 20 October 2021, the Adjudicating Authority issued a notice to the Corporate Debtor via speed post and e-mail, both of which were delivered by 25th October 2021 and 22nd December 2021 respectively. The Corporate Debtor's counsel appeared on 22nd December 2021 and sought three weeks to file a reply affidavit, which was granted along with a two-week window for the Operational Creditor to file a rejoinder. The matter was then scheduled for 28 February 2022. However, on that date, the Corporate Debtor again sought more time to file the reply, and the Authority granted an additional two weeks, rescheduling the hearing to 5 April 2022.

On 5 April 2022, the Corporate Debtor once again requested further time, citing disruptions at the factory premises due to a workers' agitation between 3 January and 12 March 2021 and ongoing proceedings before the Divisional Labour Commissioner, Balasore. It was also submitted that a petition under Section 144 CrPC was filed before the SDM Balasore due to unrest caused by the workers. The Adjudicating Authority, however, found the reasons unconvincing and declined to grant further time, particularly since no formal application for extension had been filed and no evidence was provided to show that the relevant records were inaccessible. The matter was then reserved for orders after hearing from the Operational Creditor.

The Adjudicating Authority observed that the Corporate Debtor had made a casual and repeated attempt to delay the proceedings by seeking adjournments for the fourth consecutive

time from October 2021. The reference to worker agitation in September 2021 was deemed an excuse to prolong the matter. Given the time-bound nature of proceedings under the Insolvency and Bankruptcy Code, 2016, aimed at maximizing asset value, the Authority found no justification for further delay and refused to grant additional time for filing the reply affidavit.

Upon admission of the application, the NCLT Kolkata Bench issued an order initiating CIRP against Birla Tyres Limited. The tribunal's order triggered a moratorium under Section 14 of the IBC, prohibiting the institution or continuation of suits, recovery actions, and enforcement of security interests against the corporate debtor.

Seikh Abdul Salam was appointed as the Interim Resolution Professional (IRP) to oversee the affairs of the corporate debtor during the CIRP. He was tasked with taking control and custody of the management of Birla Tyres, constituting the Committee of Creditors (CoC), and conducting the resolution process in accordance with the IBC.

Appointment of IRP

Mr. Seikh Abdul Salam, having IP registration number 12966, was appointed as an Interim Resolution Professional, vide NCLT order dated 5th May 2022 in application number CP/250/2021 dated 19th August 2021, under section 16 of the Insolvency and Bankruptcy Code.

Public Announcement

As per Section 15 of the IBC and Regulation 6 of the CIRP Regulations, the IRP made a public announcement on 7th May 2022 inviting claims from creditors. The announcement provided the last date for submission of claims which was 19th May 2022 and the contact details of the IRP.

In response, financial and operational creditors submitted claims which were verified by the IRP. Claims amounting to approximately Rs. 1,800 crores were admitted, including those from major financial creditors such as State Bank of India, ICICI Bank, and Yes Bank.

Constitution of CoC and Appointment of RP

The IRP constituted the CoC on 28th May 2022 based on the claims admitted from financial creditors. The CoC held its first meeting on 3rd June 2022, and Seikh Abdul Salam was confirmed as the Resolution Professional by the Adjudicating Authority vide order dated 29th June 2022.

Information Memorandum

In accordance with Regulation 36 of the CIRP Regulations, the RP prepared and published the Information Memorandum (IM) on 15th October 2022. The IM included critical information such as the financial position of the company, assets and liabilities, litigation status, and operational performance.

The IM served as a basis for prospective applicants to assess the viability and prospects of Birla Tyres as a going concern.

Expression of Interest to invite Prospective Resolution Applicant(s)

The RP invited Expressions of Interest (EoI) from prospective resolution applicants to submit a resolution plan. The first invitation was issued on 1st August 2022 and due to insufficient response and to seek more competition, an extension was sought on 13th August 2022, extending the deadline to 30th September 2022, against which 21 persons expressed their interest, and the first provisional list of eligible Prospective Resolution Applicants (PRA) was issued on 10th October 2022.

The final list of PRAs was issued on 25th October 2022 which included Dickey Alternative Investments Trust (acting through its fund manager Dickey Asset Management Pvt Ltd), Falcon Marine Exports Limited, Jindal Poly Films Limited, Jindal Power Limited, KLJ Resources Limited, RKG Fund-I, scheme of RKG Trust, etc.

Interested applicants were required to fulfill eligibility criteria under Section 29A of IBC and submit requisite documentation, including net worth certificates and undertakings.

Request for Resolution Plans

Post shortlisting of eligible applicants, the RP issued a formal Request for Resolution Plan (RFRP) along with an evaluation matrix dated 15th October 2022 which had a deadline of upto 14th November 2022. The RFRP detailed the manner in which plans would be submitted, evaluated, and voted upon by the CoC.

The evaluation matrix outlined criteria such as upfront payment to creditors, equity infusion, business revival strategy, and timeline for implementation.

Replacement of Resolution Professional

Mr. Pratim Bayal was appointed as a Resolution Professional vide NCLT order dated 31st October 2022 in application number IA (I.B.C)/729(KB)2022 dated 27th July 2022, under section 22 of the Insolvency and Bankruptcy Code, 2016.

Approval of Resolution Plan³

Multiple resolution plans were submitted in response to the RFRP. After scrutiny and negotiations, the CoC approved a joint resolution plan submitted by Dalmia Bharat Refractories Limited with Himadri Specialty Chemicals Limited as a Strategic Partner.

The resolution plan was approved by the CoC vide meeting dated 31st July 2023 with a voting share of 82.48%. The approved plan proposed a revival strategy including debt repayment of approximately Rs. 300 crore and business restructuring measures.

The approved resolution plan was submitted to NCLT, Kolkata Bench, for final approval under Section 31 of IBC. After reviewing the plan and ensuring compliance with statutory provisions, the tribunal approved the resolution plan on 19th October 2023.

As part of the implementation of the plan, the shares of Birla Tyres Limited were delisted from the stock exchanges, and new management took over the affairs of the company.

Timelines

S.No.	Particulars	Date
1	Incorporation of Birla Tyres Limited	22 nd November 2018
2	Initiation of CIRP	5 th May 2022
3	Appointment of IRP	5 th May 2022
4	Public Announcement	7 th May 2022
5	Constitution of CoC	28 th May 2022
6	First Meeting of CoC	3 rd June 2022
7	Appointment of Resolution Professional	29 th June 2022
8	Issuance of Expression of Interest	1 st August 2022
9	Publication of Information Memorandum	15 th October 2022
10	Request for Resolution Plan	15 th October 2022
11	Replacement of Resolution Professional	31 st October 2022
12	Approval of Resolution Plan by CoC	31 st July 2023
13	Approval of Resolution Plan by AA	19 th October 2023

Bibliography

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