



INSOLVENCY PROFESSIONAL AGENCY
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA

Casebook Issue

11:

Resolution Process of
Vardhman Industries
Limited



**INSOLVENCY
UNCOVERED**

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About Vardhman Industries Limited¹

Vardhman Industries Ltd. is an established name nationally & internationally as one of the leading manufacturers of Colour Coated Sheets and Coils, conforming to International standards. Vardhman Industries Limited has made technically advanced colour coating plant which is one of its kind in Northern India, having in-house production of Colour Coated Profile sheets, Colour Coated Plain Sheets and Colour Coated Coils.

It has its registered office at NTH Complex, 4th Floor, A-2 Shaheed Jeet Singh, Marg, Qutub Institutional Area, New Delhi - 110067. Its Authorised Capital is Rs 80000000/- and Paid up Capital is Rs 45000000/-

Major Financial Creditors/Bankers²

The directors of the Vardhman Industries availed secured loan amounting to Rs 94,19,00,000/- from State Bank of India and Rs 34,00,00,000 from IDBI Bank by creating charge of fixed assets and hypothecation of movables in their favour.

The business of the company failed soon as it incurred huge losses and were unable to honour its obligation towards its creditors i.e SBI, IDBI Bank and M.N Chemicals. The Corporate debtor was declared NPA on 02.01.2017 by SBI and 07.02.2017 by IDBI Bank. The last Annual general meet of the company was held on 27/09/2019.

CIRP of Vardhman Industries Limited

Vardhman Industries Limited files an application for initiating CIRP under the Insolvency and Bankruptcy Code, 2016 ³.

Vardhman Industries Limited (VIL) filed an application under Section 10 of the Insolvency and Bankruptcy Code, 2016 (Code) read with Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rule, 2016 on 21.08.2017. The VIL herein the Corporate Debtor (CD) owed a sum of Rs. 86,29,97,013/- (Rs. Eighty six crores twenty nine lakh ninety seven thousand and thirteen only) to SBI and 32,13,20,753/- (Rs Thirty two crores thirteen lakh twenty thousand seven hundred and fifty three only) to IDBI Bank, herein the Financial Creditors (FCs). The application was fixed for hearing for the first time on 25.08.2017.

State Bank of India files an application before NCLT opposing the appointment of IRP⁴:

VIL, in its application for initiating the CIRP proceedings suggested the name of Mr. Rajesh Kumar Loomba to be appointed as the Interim Resolution Professional (IRP). State bank of India filed an application before the NCLT opposing the appointment of Mr. Rajesh Kumar Loomba as IRP and instead suggested the name of Sh. Manoj Maheshwari as IRP considering the size of the unit and appointment and competency of the firm as well as taking into consideration the stake of financial creditors involved in VIL.

SBI accuses VIL of not complying with the Special Investigative Audit (SIA) and not submitting the required requisite financial Information of the business of the CD⁵

SBI in its observation filed before the Adjudicating Authority, accused VIL of not sharing the requisite financial information of the company and not complying with the observations of the SIA report since it was taken up with the VIL in joint lenders forum dated 02.03.2017. SBI also alleged that the company has sold the equity stake in JSW Vallabh Tinplate Pvt Ltd to promoter's family and has reduced the investment in JSW Vallabh Tinplate from Rs 14.13 crores to Rs 2.38 Crores and the same needs to be reckoned for security through pledge for the recovery of the debt due to the FCs.

VIL files a rejoinder before the NCLT in response to the reply filed by the SBI⁶

In response to the allegations, VIL stated that the CD incurred huge losses in the financial year 2016-17 and was under debt and had repayment obligations hence it reduced the investment in JSW Vallabh Tinplate from Rs 14.13 crores to Rs 2.38 Crores as it could not foresee any return in the investment made. In connection with the filing of books of accounts, VIL filed audited financial investment for financial year 2014-15, 2015-16, 2016-17 and the provisional financial statement from 01.04.2017- 19.08.2017. The CD also agreed upon appointing Sh. Manoj Maheshwari as the IRP for conducting the CIRP of the CD.

NCLT accepts the application filed by the VIL and orders for initiating CIRP of VIL⁷

NCLT, on 16.11.2017, admitted the application filed by the CD under section 10(4)(a) of the code, imposed Moratorium under section 14 of the code and appointed Sh. Manoj Maheshwari as the IRP for carrying out the CIRP of the CD.

After accepting JSW's Resolution plan, NCLT directs modifications to be made in the Resolution plan⁸

JSW's resolution plan for the stressed Vardhman Industries was approved by the National Company Law Tribunal in December 2018. The NCLT, on April 16, 2019, modified the resolution plan holding that any unrecovered amount due to VIL from any third party would be used to pay the balance amount to dissenting financial creditors. It also directed the successful resolution applicant to approach Income Tax department for the entitlement of carry forward losses. It also declined to end claims of VIL's subsidiaries, associate companies and joint ventures over it. JSW appealed to the NCLAT and argued that the NCLT was not empowered to impose any condition after the committee of creditors had approved the plan.

JSW moves to NCLAT, which sets aside the conditions imposed on JSW Steel by NCLT?

JSW appealed to the NCLAT and argued that the NCLT was not empowered to impose any condition after the committee of creditors had approved the plan. The NCLAT set aside conditions imposed on JSW Steel by the Delhi bench of the NCLT, relating to unrecovered dues, carried forward losses and rights of subsidiaries. NCLAT held that a successful resolution applicant cannot suddenly be faced with undecided claims, this would amount to a hydra head popping up which would throw into uncertainty amounts payable by a prospective resolution applicant who successfully takes over the business of the corporate debtor.


Concluding Notes


After knocking door of every Appellate Authority, Resolution Plan of VIL was approved on December 11, 2019 by NCLAT and the process of implementation of Resolution Plan was initiated submitted by JSW Steel Limited.


Payment to all the creditors were made on December 31, 2019 and the Monitoring and Implementation committee was dissolved. JSW has acquired 100% shares of VIL. After implementation, VIL has become a wholly owned subsidiary of JSW Steel Limited.


CIRP Timeline


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- 08.07.2017
 - Applicant filed affidavit of proof of service.


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- 21.08.2017
 - The application for initiating CIRP was filed by the CD.

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- 25.08.2017
 - The application for initiating CIRP was fixed for hearing for the first time.

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- 27.10.2017
 - NCLT heard the matter for the first time.

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- 16.11.2017
 - NCLT accepted the application filed by the CD for initiating CIRP of the CD.

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- 16.04.2019
 - NCLT modified the Resolution Plan submitted by JSW Steel.

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- 06.12.2019
 - NCLAT sets aside the conditions imposed on JSW Steel's Resolution plan by NCLT, Delhi.

Bibliography

¹ <http://www.mca.gov.in/MinistryV2/master+details.html>

² [https://ibbi.gov.in/webadmin/pdf/order/2017/Nov/16th%20Nov%202017%20in%20the%20matter%20of%20Vardhman%20Industries%20Limited%20Company%20Petition%20no.%20\(IB\)-303-\(ND\)-2017_2017-11-29%2016:55:06.pdf](https://ibbi.gov.in/webadmin/pdf/order/2017/Nov/16th%20Nov%202017%20in%20the%20matter%20of%20Vardhman%20Industries%20Limited%20Company%20Petition%20no.%20(IB)-303-(ND)-2017_2017-11-29%2016:55:06.pdf)

³ [https://ibbi.gov.in/webadmin/pdf/order/2017/Nov/16th%20Nov%202017%20in%20the%20matter%20of%20Vardhman%20Industries%20Limited%20Company%20Petition%20no.%20\(IB\)-303-\(ND\)-2017_2017-11-29%2016:55:06.pdf](https://ibbi.gov.in/webadmin/pdf/order/2017/Nov/16th%20Nov%202017%20in%20the%20matter%20of%20Vardhman%20Industries%20Limited%20Company%20Petition%20no.%20(IB)-303-(ND)-2017_2017-11-29%2016:55:06.pdf)

⁴ [https://ibbi.gov.in/webadmin/pdf/order/2017/Nov/16th%20Nov%202017%20in%20the%20matter%20of%20Vardhman%20Industries%20Limited%20Company%20Petition%20no.%20\(IB\)-303-\(ND\)-2017_2017-11-29%2016:55:06.pdf](https://ibbi.gov.in/webadmin/pdf/order/2017/Nov/16th%20Nov%202017%20in%20the%20matter%20of%20Vardhman%20Industries%20Limited%20Company%20Petition%20no.%20(IB)-303-(ND)-2017_2017-11-29%2016:55:06.pdf)

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⁶ [https://ibbi.gov.in/webadmin/pdf/order/2017/Nov/16th%20Nov%202017%20in%20the%20matter%20of%20Vardhman%20Industries%20Limited%20Company%20Petition%20no.%20\(IB\)-303-\(ND\)-2017_2017-11-29%2016:55:06.pdf](https://ibbi.gov.in/webadmin/pdf/order/2017/Nov/16th%20Nov%202017%20in%20the%20matter%20of%20Vardhman%20Industries%20Limited%20Company%20Petition%20no.%20(IB)-303-(ND)-2017_2017-11-29%2016:55:06.pdf)

⁷ [https://ibbi.gov.in/webadmin/pdf/order/2017/Nov/16th%20Nov%202017%20in%20the%20matter%20of%20Vardhman%20Industries%20Limited%20Company%20Petition%20no.%20\(IB\)-303-\(ND\)-2017_2017-11-29%2016:55:06.pdf](https://ibbi.gov.in/webadmin/pdf/order/2017/Nov/16th%20Nov%202017%20in%20the%20matter%20of%20Vardhman%20Industries%20Limited%20Company%20Petition%20no.%20(IB)-303-(ND)-2017_2017-11-29%2016:55:06.pdf)

⁸ <https://economictimes.indiatimes.com/industry/indl-goods/svs/steel/jsws-plea-upheld-against-order-on-varadhman-industries/articleshow/72398494.cms?from=mdr>

⁹ <https://economictimes.indiatimes.com/industry/indl-goods/svs/steel/jsws-plea-upheld-against-order-on-varadhman-industries/articleshow/72398494.cms?from=mdr>