

# IBC DOSSIER

Bulletin on Landmark Judgments under IBC, 2016



## **Daikin Airconditioning India Private Limited Vs. Kings Electronic Private Limited**

### **Brief Facts**

The Resolution Professional (hereinafter referred to as "Applicant") filed an application in accordance with Sections 30(6) and 31 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the "Code") to request approval of the Resolution Plan submitted by the Resolution Applicant, Hayaansh Opticals Pvt Ltd., which was unanimously approved by the members of the Committee of Creditors (hereinafter referred to as "CoC"). Under Section 9 of the Insolvency and Bankruptcy Code 2016, the Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor was started by order dated 04.11.2019. Ms. Poonam Basak was appointed as an interim resolution professional and later confirmed as a resolution professional.

According to Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 ("CIRP Regulations"), the IRP published a public

announcement on April 11, 2019, inviting claims from the Corporate Debtor's creditors. This was done in accordance with the CIRP commencement order. Two resolution plans were sent to the applicant by M/s Infinitee Infracon LLP and Hayaansh Optical Private Limited on 26.03.2022. The CoC members received the blueprints from the applicant. However, the CoC observed the change in the voting rights of the CoC members due to the acceptance of the increased claim amount at the thirteenth Meeting of the CoC held on 09.06.2022.

As a result, the CoC members and the Resolution Applicants engaged in negotiations over the commercial aspects of the Resolution Plans. The CoC members raised several issues, including the upfront payment being too small and the repayment schedule being too long, when the Representatives of RA, Hayaansh Optical Pvt Ltd, and Infinitee Infracon LLP presented the commercial aspects of the Resolution Plan submitted by them. The representatives of both RAs responded that they would come back with revised Resolution Plans after carefully considering the suggestions. Both Resolution Applicants then submitted revised plans on 20.06.2022, which were immediately, distributed to the CoC members.

## **Decision**

The court observed that according to section 30(2)(a) of the Code, a Resolution Plan stipulates how insolvency resolution process costs are to be paid, with the settlement of other corporate debtor debts receiving priority. In accordance with Section 30(2)(b), the Respondent agreed to pay Operational Creditors an amount that will not be less than the liquidation value or the amount that would have been paid to them if the money to be distributed under the Resolution Plan were distributed in accordance with Section 53(1)'s priority, whichever is higher.

The Resolution Applicant has additionally consented that dissenting financial creditors shall be paid in priority and not for less than the amount they would have received if the Corporate Debtor was liquidated. Unsecured financial creditors who object to the proposal may get liquidation value from the Respondent. Also, the Resolution Plan complies with all currently in force legal requirements and allows for the resolution plan's execution and supervision in accordance with Section 30(2)(e) of the Code. According to the Code's requirements, the Resolution Plan was accepted at the 14th COC meeting on 24.06.2022, with 92.54% of the vote cast electronically.

The court approved the Resolution Plan provided by Hayaansh Optical Pvt Ltd. It shall take effect as of this date. The Corporate Debtor, its staff, members, creditors, as well as the Central Government, any State Government, or any local body owed money for the payment of fees owed under any currently in effect law, shall be bound by it. Accordingly, amendments must be made to both the Memorandum of Association (MoA) and the Articles of Association (AoA) and filed with the relevant

Registrar of Companies (RoC) for information and record. The applicant for a resolution, for the Plan's implementation to be successful, you must gather the necessary permissions, under any currently in effect law, within such time as deemed appropriate. With effect from the date of this Order, the Resolution Professional will no longer be required to do any tasks, except for those required of him to carry out the authorized Resolution Plan, and the Registry is instructed to send copies of the order to all parties and their Ld. Counsel as soon as possible so that they can gather information and take the appropriate action. Hence, the Interlocutory Application No. 1897 of 2022 was allowed.

**[Link of the Order](https://ibbi.gov.in/uploads/order/4054fef75c3d9f30ee8d2ddfb3895877.pdf)**

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