RUCHI SOYA: A BRIEF ANALYSIS

In the Indian Insolvency scenario the insolvency and bankruptcy is governed by a uniform law of Insolvency and Bankruptcy Code, 2016 ("Code") which came into force in 2016. In the almost 4 years of its inception, the Code has seen a lot of important judgments and orders being given by the National Company Law Tribunal ("NCLT") / National Company Law Appellate Tribunal ("NCLAT") as well as the Apex Court of India. These orders have helped resolved the gaps in the codified law as well as issues left by the legislation to the facts and circumstances in the cases.

Since the coming into force of the provisions of CIRP with effect from December 1, 2016, 3312 CIRPs have commenced by the end of December 2019. Of these, 246 have been closed on appeal or review or settled; 135 have been withdrawn; 780 have ended in liquidation and 190 have ended in approval of resolution plans. One of these resolved cases is that of Ruchi Soya Industries Limited ("Ruchi Soya"). This Article highlights the flow of events and the pertinent questions answered by the Courts in this matter.

Brief Facts of the matter:

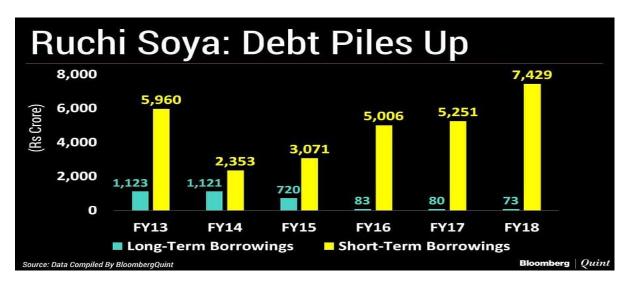
Ruchi Soya has many manufacturing plants and its leading brands include Nutrela, Mahakosh, Sunrich, Ruchi Star and Ruchi Gold.

Ruchi Soya was a part of the second list of 28 defaulters the Reserve Bank of India flagged for resolution. In December 2017, the NCLT had referred Ruchi Soya for insolvency proceedings on the application of financial creditors Standard Chartered Bank and DBS Bank. Shailendra Ajmera was appointed as resolution professional (RP) to manage the affairs of the company and undertake the insolvency proceedings.

Ruchi Soya in 2015 bet on castor seeds as prices rose as high as Rs 5,000 a quintal. The company didn't hedge the exposure and a 40 percent crash after the new crop arrived and weak global demand left it with cash losses in the quarter ended March 2016. It was also on the radar of Securities and Exchange Board of India's scanner for allegedly manipulating castor seed futures. The February 2016 contract for castor seed fell by 20 percent in January, and Ruchi Soya and its group entities allegedly had a large portion of the open interest, according to SEBI's probe, which forced the National Commodity and Derivatives Exchange to suspend trading. The SEBI investigation also revealed that Ruchi Soya had transferred Rs 76.77 crore in January that year to at least five entities also holding significant positions in castor seed contracts. Finding

¹IBBI Newsletter, Oct-Dec 2019, available at https://ibbi.gov.in/uploads/publication/62a9cc46d6a96690e4c8a3c9ee3ab862.pdf

Ruchi Soya guilty of market rigging, the regulator barred the company from the securities market. The financial impact from its exposure to the contract wasn't big but Ruchi Soya failed to recover from the setback.



Ruchi Soya had a total debt of about Rs 12,000 crore. Ruchi Soya Industries owed around ₹9,345 crore to financial creditors and another ₹2,750 crore to operational creditors. Among financial creditors, the State Bank of India (SBI) has the maximum exposure of around ₹1,800 crore, followed by Central Bank of India (₹816 crore), Punjab National Bank (₹743 crore) and Standard Chartered Bank India (₹608 crore).



Image Source: Business Standard

After the Reserve Bank of India identified it among the largest bad loan cases, SBI-led lenders dragged the edible oil maker to the National Company Law Tribunal under the Insolvency and Bankruptcy Code. Patanjali Ayurved Ltd. and Adani Wilmar Ltd. swooped in, with the Adani Group firm emerging as the highest bidder.

Initially, Resolution Plans were submitted, *inter-alia*, by Adani Wilmar Limited ("Adani Wilmar") and Patanjali Group to acquire Ruchi Soya. The Resolution Plan submitted by Adani Wilmar was approved by the Committee of Creditors in August 2018. Patanjali Ayurved had approached NCLT challenging the decision of Ruchi Soya's lenders to approve Adani Wilmar's ₹6,000 crore takeover bid.Patanjali group came second with its bid of around ₹5,700 crore, including the infusion of about ₹1,700 crore into the edible oil company.

However, Patanjali Group challenged, *inter-alia*, eligibility of Adani Wilmar to submit the Resolution Plan under Section 29A of the Code and process for negotiation.

While the application filed by Patanjali Group was being argued before the NCLT Mumbai, Adani Wilmar withdrew its Resolution Plan citing delays in the CIRP. Subsequently, Patanjali Group negotiated its Resolution Plan with the Resolution Professional ("RP") and Committee of Creditors. Adani Wilmar, which emerged as the highest bidder, after a long drawn battle with Patanjali, had in December 2018 written to the RP regarding significant delays in resolution process that led to deterioration of Ruchi Soya's assets.Later, Adani Wilmar, which sells edible oil under the Fortune brand, withdrew from the race.

Patanjali, the lone player left in contention after the exit of Adani Wilmar, had last increased its bid value by around ₹200 crore to ₹4,350 crore for Ruchi Soya. This excluded capital infusion of ₹1,700 crore into the company. Committee of Creditors ("CoC") met to discuss the revised bid of Patanjali and decided to conduct the voting process on 30th April 2019.

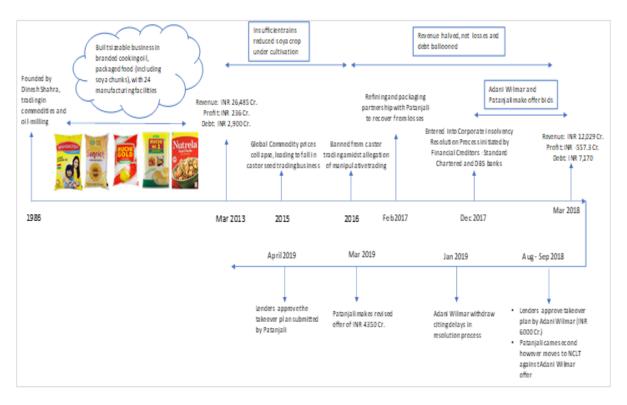
The CoC had then approved the Resolution Plan submitted by Patanjali Group with approx. 96% vote in favour.

As per the plan proposed by Patanjali, Out of the ₹4,350 crore offered by Patanjali group, ₹4,235 crore would be utilised to pay creditors while ₹115 crore would be used for capital expenditure and working capital requirements of Ruchi Soya. As per the regulatory filing made by Ruchi Soya, ₹4,053.19 crore would be paid to secured financial creditors, ₹40 crore to unsecured financial creditors, ₹90 crore to operational creditors, ₹25 crore to clear statutory dues, ₹14.92 crore to workmen/employees and ₹11.89 crore to provide counter bank guarantee.²

 $^{^2\}underline{\text{https://www.livemint.com/companies/news/patanjali-ayurved-completes-acquisition-of-bankrupt-ruchi-soya-for-rs-4-350-crore-11576684912487.html}$

Timeline:

Ruchi Soya's history



Source: Televisory's Research

Ruchi Soya was delisted in November 2019, about two years after the insolvency proceedings against the company were initiated in 2017 by the lenders. The final sale transaction was completed in December 2019 and Patanjali Ayurved paid Rs 4,350 crore to take over Ruchi Soya. The company was then relisted in January 2020.

Performance of the Company- Pre CIRP, During CIRP, Post Liquidation

Before and during CIRP, the Company was exposed to commodity price fluctuations in its business. Looking at the nature of products, all major raw materials as well as finished goods being agro-based are subjected to market price variations. Prices of these commodities continue to be linked to both domestic and international prices, which in turn are dependent on various Macro/ Micro factors. These Commodities are also increasingly becoming asset classes. Prices of the Raw materials and finished products manufactured by Ruchi Soya were also fluctuating widely due to a host of local and international factors. However, they have continued to place a strong emphasis on their risk management and have successfully introduced and adopted various measures for hedging the price fluctuations in order to minimize its impact on profitability.

The following table highlights the financial performance of Ruchi Soya in the last five years.

	POST CIRP	DURING CIRP		PRE-CIRP	
Particulars (In Crs.)	2020	2019	2018	2017	2016
Revenue	13,117.79	12,729.23	11,994.13	18,526.90	27,734.62
Other Income	57.58	100.02	35.15	93.48	70.82
Total Income	13,175.37	12,829.26	12,029.28	18,620.38	27,805.43
Expenditure	-5,381.57	-12,614.29	-17,899.16	-20,094.75	-27,995.37
Interest	-112.32	-6.99	-855.73	-832.21	-618.74
PBDT	7,793.80	214.96	-5,869.88	-1,474.38	-808.68
Depreciation	-135.77	-138.24	-140.37	-156.06	-149.88
PBT	7,658.02	76.72	-6,010.24	-1,630.43	-958.56
Tax			436.96	373.23	79.86
Net Profit	7,672.02	76.72	-5,573.28	-1,257.20	-878.70
Equity	59.15	65.29	65.29	65.29	66.82
EPS	871.28	2.35	-170.73	-44.41	-26.30
CEPS	263.99	6.58	-166.41	-33.73	-21.81

OPM %	59.41	1.69	-48.94	-7.96	-0.68
NPM %	58.49	0.60	-46.47	-6.79	-3.17

Source: BSE

From the financials of Ruchi Soya, it is clear that the authorised share capital of the Patanjali Consortium as on December 18, 2019 is merged with the authorised share capital of the Company. As a result, authorised share capital of the Company was increased from 25,305.00 Lakh consisting of 1,01,02,50,000 equity shares of Rs. 2 each and 51,00,000 preference shares of Rs. 100 each to Rs. 95,305.00 Lakh consisting of 2,11,20,50,000 equity shares of Rs. 2 each and 5,30,64,000 preference shares of Rs. 100 each. Further, with effect from December 17, 2019, the existing issued, subscribed, paid up 2,00,000 cumulative redeemable preference shares of Rs. 100 each stand fully cancelled and extinguished. As prescribed in the Resolution Plan, the reduction in the share capital of the Company amounting to Rs. 6,632.75 Lakh is adjusted against the debit balance as appearing in its profit and loss account (i.e. retained earnings).

As per the Resolution Plan approved, out of funds received amounting to Rs. 4,35,000 Lakh, Rs. 4,23,500 Lakh was to be utilised towards settlement of claims of creditors and Rs. 11,500 Lakh for improving the operations of the Company. Out of above, as on 31st March 2020, amount of Rs. 4,01,770.38 Lakh has been used to settle existing secured financial creditors, unsecured financial creditors (other than related parties), statutory dues, operational creditors (other than a related party) CIRP costs and pending utilisation Rs. 21,729.62 Lakh is kept in separate escrow accounts.³

As per approved resolution plan, the contingent liabilities and commitments, claims and obligations, stand extinguished and accordingly no outflow of economic benefits is expected in respect thereof. The Resolution plan further provides that implementation of resolution plan will not affect the rights of the Company to recover any amount due to the Company and there shall be no set off of any such amount recoverable by the Company against any liability discharged or extinguished. As a part of the Resolution Plan, the Company has transferred identified entities to the identified buyer its entire equity investment/ownership interest held in those identified entities, at a fair market value on "as is where is" and "as is whatever is" basis.

After the amalgamation, the company has also issued equity shares of face value of Rs. 2 for every 1 equity share of face value of Rs. 7 of SPV, aggregating 29,25,00,000 equity shares of Rs. 5,850.00 Lakh are issued. 0.0001% cumulative redeemable preference shares of face value of Rs. 100 each for every 1 (one) 0.0001% cumulative redeemable preference shares of face value of Rs. 100 each of the SPV, aggregating 4,50,00,000 preference shares of Rs. 45,000.00 Lakh are issued. 9% cumulative non-convertible debenture of face value of Rs. 1000000 for every 9%

³https://www.bseindia.com/corporates/resultNotes.aspx?Scrip_cd=500368&scripName=RUCHI%20SOYA%20INDU_STRIES%20LTD.&qtrcode=105.00

cumulative non-convertible debenture of face value of Rs. 10,00,000 each of SPV, aggregating 4,500 debentures of Rs. 45,000.00 Lakh are issued.

<u>Subsequently, the paid-up equity shares capital and preference share capital of the Company was increased to Rs. 5,916.82 Lakh and Rs. 45,000 Lakh, respectively, after the amalgamation of Patanjali with Ruchi Soya.</u>

To gather a better understanding of the performance of the Company, a comparative chart of some financial ratios is produced below⁴:

	POST CIRP	DURING CIRP		PRE-CIRP	
Particulars	2020	2019	2018	2017	2016
Basic EPS (Rs.)	871.28	2.35	-170.73	-44.41	-32.52
Revenue from	443.52	389.90	367.39	567.49	848.24
Operations/Share					
(Rs.)					
PBDIT/Share	15.50	6.80	-153.59	-20.04	3.50
(Rs.)					
PBIT/Share (Rs.)	10.91	2.56	-157.89	-24.82	-1.41
PBT/Share (Rs.)	258.92	2.35	-184.10	-49.94	-38.72
Net Profit/Share	259.40	2.35	-170.71	-38.51	-32.52
(Rs.)					
PBDIT/Share	15.50	6.80	-153.59	-20.04	3.50
(Rs.)					
PBIT/Share (Rs.)	10.91	2.56	-157.89	-24.82	-1.41
PBT/Share (Rs.)	258.92	2.35	-184.10	-49.94	-38.72
Net Profit/Share	259.40	2.35	-170.71	-38.51	-32.52
(Rs.)					
Enterprise Value	8,177.57	7,082.62	6,990.88	5,359.35	5,404.82
(Cr.) (EV)					
EV/EBITDA	17.84	31.91	-1.39	-8.19	47.34
MarketCap/Net	0.38	0.02	0.04	0.05	0.04
Operating					
Revenue					
Price/Net	0.38	0.02	0.04	0.05	0.04
Operating					
Revenue					
Earnings Yield	1.52	0.35	-10.77	-1.42	-0.99

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⁴ https://www.moneycontrol.com/financials/ruchisoyaindustries/ratiosVI/rsi#rsi

The ratios help understand the position of the company through a profitability, liquidity and valuation turnpoint and how they have fared pre and post their CIRP Process.

Pre- CIRP: Ruchi Soya had made losses during the 2016, 2017 and 2018. As a result of the losses the liquidity position of the company was substantially affected resulting in default in payment of its debts and adversely affecting the operations of the company. The liquidity and valuation ratios indicate the existence of uncertainty about the ability of the company to continue as a going concern. The Management of Ruchi Soya had initiated various steps such as cost rationalization, negotiations for debt restructuring and disposal of non-core assets to keep it as a going concern. The Company had incurred losses, its liabilities exceeded total assets and its net worth had been fully eroded as at 31st March 2018. In view of the continuing default in payment of dues, certain lenders have sent notices/letters recalling their loans given and called upon the Company to pay entire dues and other liabilities, receipt of invocation notices of corporate guarantees given by the Company, while also invoking the personal guarantee of Promoter Directors. Certain lenders had also issued wilful defaulter notices and filed petition for winding up of the Company. *Owing to the huge amount of debt that the company was under and the sale of non-core assets done to recover those losses, the profitability, valuation and liquidity ratios reflect a negative picture, determining that the company was in trouble.*

Post-CIRP: After implementation of approved resolution plan, the contingent liabilities and commitments, claims and obligations, stood extinguished and accordingly no outflow of economic benefits was expected in respect thereof. The Resolution plan, among other matters provide that upon the approval of this Resolution Plan by NCLT and settlement and receipt of the payment towards the IRP Costs and by the creditors in terms of this plan, all the liabilities demands, penalties, loss, claims of any nature whatsoever, damages, whether admitted/verified/submitted/rejected or not, due or contingent, asserted or unasserted, crystallised or uncrystallised, known or unknown, disputed or undisputed, present or future, including any liabilities, losses, penalties or damages arising out of non-compliances, to which the Company is or may be subject to and which pertains to the period on or before the Effective Date (i.e. September 06, 2019) and were remaining as on that date shall stand extinguished, abated and settled in perpetuity without any further act or deed. Ruchi Soya's liquidity position remained adequate as of end of financial year 2020, considering the absence of fixed debt obligations during financial year 2021, a low average collection period and availability of unencumbered liquid assets of over Rs 380 crore for meeting its required working capital needs. The rating agencies have predicted that the company has to ramp up operations under the new management which will improve its credit profile over the medium term. Once Patanjali took over Ruchi Soya, it expanded into different products as well as amalgamated its operations and profits thereof with Ruchi Soya's. This led to improvement in the profitability ratios of the company. The infusion of capital and merger of assets along with reduction in debt through creditors being paid off, led to increase in the valuation and liquidity ratios, thus projecting a healthy company to the market.

Ruchi Soya now has 29.59 crore shares, of which 28.59 lakh or 0.97% are owned by public, while the Patanjali group holds 99.03%. If the company is to remain listed then Patanjali group will have to over time reduce its shareholding to the maximum permissible limit of 75% as per market regulations. Till then, the miniscule public shareholding and hence short supply of shares may be one reason for rising prices of its shares.

March of law:

As per the table produced below, the flow of events and the march of law have been described according to the orders passed in the Insolvency Process of Ruchi Soya by the NCLT and the NCLAT.

Order Dated	Order passed by	Brief of Order
15.12.2017	NCLT, Mumbai Bench ⁵	A company petition under Section 7 of the Code was filed by Standard Chartered Bank against Ruchi Soya Industries. The order of admission also raised the concern whether the Code will be applicable to agreement for ECB facility which is governed by English Law. The Tribunal decided that since the company is located in India and is governed by the laws of India, insolvency proceedings, if any, will be initiated in India too. In another relevant statement made by NCLT, they concluded that since Insolvency and Bankruptcy Code is a complete code in itself, the provisions of Power of Attorney Act, 1882, cannot override its provisions. Despite an appeal in a winding up petition being pending before the High Court, the admission application was admitted and Shailendra Ajmera was appointed as the Resolution Professional in the matter.
01.08.2018	NCLT, Mumbai Bench ⁶	The erstwhile director of Ruchi Soya, Mr. Vijay Kumar Jain, had filed an application because he was disallowed to attend the meeting of the CoC as well as he was not receiving the documents being presented to the CoC. The order passed by the NCLT was that the director would be allowed to attend the meeting of the CoC but would not be given any information which is considered confidential by the RP or the CoC.
31.01.2019	Supreme Court ⁷	The Hon'ble NCLT on August 1, 2018 held that the directors

⁵https://ibbi.gov.in//webadmin/pdf/order/2017/Dec/15th%20Dec%202017%20in%20the%20matter%20of%20Ruc hi%20Soya%20Industries%20Ltd.%20CP%201371%20&%20CP%201372-I&BP-NCLT-MAH-2017 2017-12-22%2012:33:39.pdf

⁶https://ibbi.gov.in//webadmin/pdf/order/2018/Aug/STANDARD%20CHARTERED%20BANK%20MA%20518-2018%20CP%201371-2018%20%20NCLT%20ON%2001.08.2018%20FINAL 2018-08-09%2009:46:45.pdf

		have the right to attend the COC meetings as per Section 24 of the Code. However, the directors could not receive information that is considered confidential by the resolution professional or the COC, including the resolution plans. In the first appeal, the decision of the NCLT was upheld by the appellate tribunal on August 9, 2018. The director then moved the Supreme Court, challenging the decision of the appellate tribunal. The Hon'ble Supreme Court held that the scheme of the Code makes it clear that the directors, though not members of the COC, have a right to participate in every meeting of the COC. In addition, for effective participation as vitally interested parties in discussion on resolution plans, they have the right to receive copies of the resolution plans presented to the COC. The Hon'ble Supreme Court also clarified that under Regulation 21(3)(iii) of the CIRP Regulations, the notice of the COC meeting, which is required to be given to the directors as well, must contain copies of all the documents relevant for matters to be discussed, including the resolution plans.
24.07.2019	NCLT, Mumbai	The resolution plan of Patanjali was approved by the
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 $[\]frac{^{7}\text{https://ibbi.gov.in//webadmin/pdf/order/2019/Jan/In%20the%20matter%20of%20Vijay%20Kumar%20Jain%20Vs}{\%20Standard%20Chartered%20Bank%20&%20Ors%20Civil%20Appeal%20No.%208430-2018 2019-01-31%2023:14:57.pdf}$

⁸https://ibbi.gov.in//uploads/order/9fe19063d2ab4fcebae37607485e0f5c.pdf

14.08.2019	NCLT, Mumbai Bench ⁹	which is <i>sub judice</i> before the Hon'ble Appellate Tribunal. The Resolution Professional also relied on Swiss Ribbons case to emphasize that the Resolution Professional is only given administrative powers as oppose to quasi-judicial powers. The Mumbai Bench had approved the resolution plan of Patanjali Ayurved Limited, subject to the submission of additional affidavit for acceptance of modifications in the resolution plan and other information as per the directions in the order. In compliance of the said order dated 24.7.2019, the Resolution Applicant has filed an affidavit, providing information relating to the source of funds. The Resolution Applicant was directed to submit the additional affidavit for acceptance of the modification in the Resolution Plan on 27.8.2019, failing which liquidation order was to be passed.
22.08.2019	NCLAT ¹⁰	The RP had filed an application under Section 43(1) of the Code for seeking reversal of the amounts debited from the account of the CD maintained with the ICICI Bank Limited before the insolvency commencement date and alleged to have been utilised against the payment of dues made by the CD in favour of the ICICI Bank Limited pursuant to 'Letter of Credit (LoC) issued by the ICICI Bank. Hon'ble NCLAT held that all the three transactions, in question, were made in ordinary course of business. This apart, that the transactions made on 8th December, 2017; 11th December, 2017 and 14th December, 2017 are either on the date of commencement of the 'corporate insolvency resolution process' or during the pendency of 'Corporate Insolvency Resolution Process'. Therefore, in terms of subsection (4) of Section 43 of the Code the transaction, in question, cannot be treated to be made 'one year preceding the insolvency commencement date' and hence is not said to be a preferential transaction.
12.03,2020	NCLAT ¹¹	After the approval of the Resolution Plan of Patanjali by the CoC and the NCLT, the appeal against the order or resolution was preferred with a delay of 17 days after the 30 days of appeal was over. NCLAT stated that they could not entertain the appeal having no jurisdiction to condone the delay of more than 15 days after 30 days. Further in view of the decision of the 'Committee of Creditors of Essar Steel India Limited vs. Satish Kumar Gupta &Ors.', NCLAT cannot sit in appeal on commercial wisdom of the 'Committee of Creditors', to annul

⁹https://ibbi.gov.in//uploads/order/c5b6c01ec0407c10a87fbe63e8dca5e8.pdf

¹⁰https://ibbi.gov.in//uploads/order/849aed18e03e5917631d69b9343979f5.pdf

¹¹https://ibbi.gov.in//uploads/order/f33c4e5ab60dc6882100db77c7010e15.pdf

	the resolution plan. NCLAT also directed that no further litigation would take place in this matter.
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Conclusion

Looking at the above flow of events and the stance of the courts in the litigation of the matter, it is very clear that the Adjudication Authorities are highly motivated to comply with the objectives of the Insolvency and Bankruptcy Code which is to bring the company to resolution and avoid liquidation of the company. Highlighting the importance of judgments passed by Supreme Court which have now given a much needed precedence, the matters of *Essar Steel*¹² and *Swiss Ribbons*¹³ were heavily relied on to drive home the point that the powers of the Resolution Professional are administrative and the supremacy of the wisdom of CoC is prevalent.

The resolution process of Ruchi Soya saw healthy competition between Resolution Applicants resulting in the best possible value for the Corporate Debtor, the importance of the wisdom of CoC, the calculation and power of the Resolution Professional in a matter of late submission of claims and preferential transactions.

The outbreak of Coronavirus (COVID-19) pandemic globally and in India is causing significant disturbance and slowdown of economic activity. The Government ordered a nationwide lockdown to prevent community spread of COVID-19 in India resulting in significant reduction in economic activities. Most of the manufacturing units of Ruchi Soya are in the business of essential commodities like edible oils and soya food products. The capacity utilization of the plants had been affected due to various factors like unavailability of labour, disrupted supplies of packing material, delays in port clearances for crude edible oil, limited availability of trucks and tankers for movement of raw material and finished goods and subdued availability of soya/mustard seeds for crushing plants. Though the distribution & supply chain network had been impacted but the Company was ensuring the movement of edible oils and soya food products to the end consumers. However, the Company's operations were not much impacted due to COVID – 19 pandemic. Patanjali Ayurved Ltd.'s investment in Ruchi Soya Industries Ltd. has multiplied in value as shares of India's largest edible oil maker jumped manifold since relisting - on the back of an illiquid stock and capital infusion-led prospects of a turnaround. This was despite a spike in volatility amid the coronavirus pandemic.

¹²https://ibbi.gov.in//uploads/order/d46a64719856fa6a2805d731a0edaaa7.pdf

¹³https://ibbi.gov.in//webadmin/pdf/order/2019/Jan/25th%20Jan%202019%20in%20the%20matter%20of%20Swiss%20Ribbons%20Pvt.%20Ltd.%20&%20Anr.%20Writ%20Petition%20(Civil)%20No.%2037,99,100,115,459,598,775,822,849%20&%201221-