



IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI - BENCH-V
SPECIAL BENCH

IA (I.B.C) (Plan) No. 39/MB/2024

in

CP (IB) No. 02/MB/2022

[Under Sections 30(6) and 31 of the Insolvency and Bankruptcy Code, 2016 r/w Regulation 39(4) of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016]

Mr. Hari Kishan Bhoklay

[Registration No. IBBI/IPA-003/IP-N00228/2019-2020/12696]

RESOLUTION PROFESSIONAL OF

Geeta Refinery Pvt Ltd

GUT No 175, Rammurthi Village, Mantha Road, Jalna
Maharashtra- 431203.

.....Applicant

IN THE MATTER OF:

RBL Bank Ltd

... Financial Creditor

V/s

Geeta Refinery Pvt. Ltd.

.....Corporate Debtor

Pronounced: 18.12.2024



CORAM:

HON'BLE SHRI K. R. SAJI KUMAR, MEMBER (JUDICIAL)

HON'BLE MS. MADHU SINHA, MEMBER (TECHNICAL)

Appearances: Hybrid

Financial Creditor: Adv. Chetan Chawla (VC)

Applicant/RP: Adv. Manish Jha a/w Adv. Nausher Kohli (PH)

ORDER

BACKGROUND

1.1 This **IA (I.B.C) (Plan) No. 39/MB/2024** is filed by **Mr. Hari Kishan Bhoklay**, the Applicant/Resolution Professional (RP) on behalf of the Committee of Creditors (CoC) of Geeta Refinery Pvt Ltd, the Corporate Debtor (CD), seeking approval of the Resolution Plan (Plan), under Section 30(6) read with Section 31 of the Insolvency and Bankruptcy Code, 2016 (IBC) and Regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP Regulations), submitted by M/s. Varad Ferro-Alloys Private Limited, i.e., Successful Resolution Applicant (SRA) and duly approved by 100% e-voting share of the CoC in its meeting held on 25.02.2024.



2. CORPORATE INSOLVENCY RESOLUTION PROCESS (CIRP)

2.1 This Adjudicating Authority (AA) *vide* order dated 03.03.2023 in C.P.(IB) No.2/MB/2022, admitted the CD into CIRP filed by RBL bank Ltd. in respect of the CD, under Section 7 of the IBC. The Applicant was appointed as the Interim Resolution Professional and later confirmed as the RP for conducting CIRP of the CD.

2.2 Public announcement as per Regulation 6 of the CIRP Regulations in Form A was made on 06.03.2023 in the *Free Press Journal* and in *Navshakti* for inviting claims from creditors, workers and employees of the CD under Section 15 of the IBC. Based on the claims received, CoC was constituted on 24.03.2023.

2.3 Form G, for Expression of Interest (Eol), was invited on 18.04.2023 in *Financial Express; The Economic Times All India Edition*; and *Lokmat (All Maharashtra)* pursuant to the resolution of the 2nd CoC meeting dated 13.04.2023. The last date for submission of Eol was 03.05.2023. Pursuant to the publication of Form G, the CoC, in its 3rd meeting dated 11.05.2023 was informed that the Applicant/RP had received 4 Eols from 4 Prospective Resolution Applicants (PRAs). In the 4th meeting of the CoC held on 22.05.2023, following detailed deliberations and discussions, it directed the Applicant to republish Form G in widely circulated newspapers in Hindi and Marathi, specifically targeting the States of Madhya Pradesh and Maharashtra. In compliance with the said direction, the Applicant republished Form G on 23.05.2023, in *Dainik Bhaskar* (Hindi) and *Loksatta* (Marathi),



specifying 17⁰⁶-2023 as the last date for submission of Eol by interested parties. Pursuant to the fresh publication of Form G, enquiries were received from six entities; however, none of these entities submitted their Eol. In contrast, in response to the initial publication of Form G, the Applicant received Eols along with the required documents, including the Earnest Money Deposit (EMD) of ₹15,00,000/-.

2.4 Further, upon scrutiny of the Eols received, the Applicant/RP issued a provisional list of PRAs on 14.06.2023, wherein four 4 PRAs were found to be qualified, as under:

Sr. No	Name of PRAs	Incorporated In
1.	M/s. Gauri Agro Tech Pvt. Ltd	Jalna
2.	M/s. Varad Ferro Alloy Pvt Ltd	Jalna
3.	M/s. Nakshtra Corporate Advisors Ltd	Nagpur
4.	M/s. Gurpreet Galvanising Pvt Ltd	Hyderabad

2.5 The Applicant/RP received resolution plans from all the above PRAs, along with a Bid Bond Guarantee (BBG) of ₹50,00,000/-. These plans were presented before the CoC during the 6th meeting held on 07.08.2023. The Applicant submits that the 180-day period CIRP of the CD, commencing from 03.03.2023, ended on 30.08.2023. Pursuant to the CoC decision to seek extension of CIRP period, in its 7th meeting on 22.08.2023, I.A. No. 4036 of 2023 was allowed by the Bench for a 90-days' extension, on 06.09.2023, for a period until 28.11.2023.

2.6 The Applicant/RP submits that the resolution plans of the PRAs were discussed by the CoC in the 8th meeting held on 25.09.2023 and in the 9th



meeting held on 10.10.2023. During these meetings, the CoC proposed a revision in the offered plan value. However, out of the four PRAs, only one, M/s *Varad Ferro Alloy Private Limited*, submitted a revised resolution plan, increasing the resolution amount by ₹25 lakh and reducing the payment terms to 180 days, as opposed to the 360 days in the original plan.

2.7 The Applicant/RP further submits that RBL Bank Limited raised concerns regarding the inadequate amount offered to unsecured financial creditors in the revised resolution plan. Consequently, a discussion was scheduled with the resolution applicant, and the CoC meeting was adjourned to 23.10.2023. On that date, Ms. Neha Agarwal, Authorised Representative of M/s. Varad Ferro-Alloys Pvt Ltd, attended the meeting. The CoC expressed its concerns and requested a revision of the amount offered, particularly to unsecured financial creditors. Initially reluctant, Ms. Agarwal eventually agreed to increase the resolution amount by ₹3,67,634. The Applicant/RP then presented the resolution plan to the CoC for approval by e-voting.

2.8 The Applicant informed the CoC during the 10th CoC meeting on 21.10.2023 which continued on 23.10.2023, that e-voting on the above resolutions would be open from 27.10.2023 to 17.11.2023.

2.9 However, the CoC members requested more time for e-voting due to pending internal approvals and advised filing application for a 60-day CIRP extension, which was granted by the Tribunal on 04.12.2023. E-voting was extended until 19.02.2024, but on 18.01.2024, State Bank of India (having 98.74% voting share) requested another extension. The Applicant/RP, therefore, filed I.A. No.



2709138/01131/2024 for a 60-days' CIRP extension, which was allowed and disposed of *vide* order dated 05.04.2024 by this Tribunal.

2.10 The resolution plan submitted by M/s. Varad Ferro-Alloys Private Limited was placed before the CoC in its 10th CoC meeting and the same was approved by it by 100% voting share, through e-voting on 25.02.2024, thus M/s. Varad Ferro-Alloys Private Limited emerging as the Successful Resolution Applicant (SRA).

2.11 The SRA has provided to the Applicant/RP affidavit dated confirming its eligibility under Section 29A of the IBC for the purpose of submitting the resolution plan. The Applicant/RP issued letter of intent dated 27.02.2024 in favour of the SRA and confirmed that the EMD of Rs.15,00,000/- submitted at the time of EoI and BBG of Rs. 50,00,000/- would be treated as part of performance guarantee / security and additional Performance Guarantee of Rs. 85,00,000/- shall be submitted in the form of bank guarantee / demand draft in favour of the CD within 10 days of approval of the resolution plan by the CoC.

2.12 For the plan approval, the voting lines were opened during the 10th CoC meeting on 21.10.2023 and remained open till 25.02.2024. At the end of the e-voting, the Resolution Plan was approved by the CoC with 100% voting share. The Applicant/RP has undertaken that he has complied with all the requirements under Section 30(2)(a) to (f) of the IBC and Regulations 38(1)(a), 38(1A), 38(2)(a) to (c) and 38(3) of the CIRP Regulations. The RP has also provided compliance certificate in "FORM H" as mandated under Regulation 39(4) of the CIRP Regulations in seeking approval of the Plan by us. The



Applicant/RP has submitted that no application under Sections 43, 45, 47, 49, 50 or 66 of the IBC is pending.

3. VALUATION OF ASSETS OF CD AND CLAIMS RECEIVED

3.1 In order to assess the CD's assets, it was resolved during the 1st CoC meeting held on 31.03.2023 to appoint two Registered Valuers and they were appointed on 18.04.2023. The Fair Value (FV) and Liquidation Value (LV) of the assets of the CD were determined by the Valuers as follows:

Sr. No.	Assets / Name of Valuer	FV (Rs.)	LV (Rs.)
A)	SECURITIES AND FINANCIAL ASSETS (SFA)		
1	Mr. Ankit Gupta	48,96,632	32,28,797
2	Den Valuation (OPC) Private Limited	63,96,631	38,31,181
	Average	56,46,632	35,29,989
B)	PLANT AND MACHINERY (P&M)		
1	Mr. Nilesh Barad	7,61,44,000	5,59,12,000
2	Mr. Pranav Ambaselkar	7,62,67,000	5,14,52,000
	Average	7,62,05,500	5,36,82,000
C)	LAND AND BUILDING (L&B)		
1	Shriharsh Khadilkar	5,56,53,120	4,45,22,496
2	Surendra Gordey	4,98,00,000	4,23,00,000
	Average	5,27,26,560	4,34,11,248



D)	Average of the Total Value	13,45,78,692	10,06,23,237
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3.2 The list of the CD's creditors, uploaded on the website of Insolvency and Bankruptcy Board of India (IBBI), based on the claims received by the Applicant is as under:

a) **Claims of Financial Creditors:**

Sr no.	Financial Creditor	Amount Claimed (Rs.)	Amount Admitted (Rs.)	Voting %
1	State Bank of India	212,41,46,634	212,41,46,634	98.74
2	RBL Bank Limited	2,71,57,067	2,71,57,067	1.26
	Total	215,13,03,701	215,13,03,701	100

b) **Claims of Operational Creditors Suppliers and Service providers:**

Sr. No.	Operational Creditor	Amount Claimed	Amount Admitted
1	Aetos Agro Merchants Private Limited	60,00,000	60,00,000

c) **Claims of Operational Creditors (Statutory and Government Dues):**

Sr. No.	Operational Creditor	Amount Claimed	Amount Admitted
1	Income Tax Officer –TDS	21,97,376	21,97,376
2	Income Tax Department	18,91,726	18,91,726

3.3 It is submitted that there are no dues outstanding towards the employees and workmen of the CD and no claims have been received from them. Thus,



the SRA does not propose any pay-out to the employees. However, any payment due to the employees of the CD shall be deemed to made immediately from the Effective Date.

4. BRIEF BACKGROUND OF CD

4.1 The CD was incorporated on 24.08.1998 as a Private Limited Company. The CD was engaged in the business of refining of edible oils - crude soya oil, crude palm oil, crude sunflower oil and washed cotton seed oil. The CIN of the CD is U31410MH1998PTC 116338 and its registered address is UT No. 175, Rammurthi Village, Mantha Road, Jalna, Maharashtra.

5. BRIEF BACKGROUND OF SRA

5.1 M/s. VARAD FERRO-ALLOYS PRIVATE LIMITED [CIN No. CIN U27310MH2017PTC297429] was incorporated on 17.07.2017 as Private Limited Company. It is involved in the business of trading in scrap, TMT bars, wire, and other related commodities on a retail basis. The registered office is at Santosh Hybrid Seeds Co. Pvt. Ltd., Survey No. 137 Part, Jalna Bhokardan Road, Opp. Dhawleshwar Temple, Jalna, Maharashtra- 431203.

5.2 The net worth of the SRA is Rs.4.37 Core for the financial year 2020-2021 and Rs.16.04 Core for the financial year 2021-2022, as stated in the Resolution Plan.

6. SALIENT FEATURES OF PLAN APPROVED BY COC

6.1 The summary of the payments to be made under the Plan dated 23.07.2024 as proposed by the SRA is as follows:

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Sl. No.	Category of Stakeholder*	Sub-Category of Stakeholder	Amount Claimed	Amount Admitted	Amount Provided under the Plan#	Amount Provided under the Plan to the Amount Claimed (%)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	Secured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	--	--	--	--
		(b) Other than (a) above: (i) who did not vote in favour of the resolution Plan	44,20,89,578	44,20,89,578	7,82,29,422	17.70

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		(ii) who voted in favour of the resolution plan				
		Total[(a) + (b)]	44,20,89,578	44,20,89,578	7,82,29,422	17.70
2	Unsecured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	--	--	--	--
		(b) Other than (a) above:				
		(i) who did not vote in favour of the resolution Plan	--	--	--	--
		(ii) who voted in favour of the	170,92,14,123	170,92,14,123	2,56,38,212	1.50

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		resolution plan				
		Total[(a) + (b)]	170,92,14,123	170,92,14,123	2,56,38,212	1.50
3	Operational Creditors	(a) Related Party of Corporate Debtor	--	--	--	--
		(b) Other than (a) above:				
		(i) Government	40,89,102	40,89,102	6,950	0.17
		(ii) Workmen	--	--	--	--
		(iii) Employees	--	--	--	--
		Total[(a) + (b)]	40,89,102	40,89,102	6,950	0.17
4	Other debts and dues	Suppliers / Vendors	138,55,630	138,55,630	23,555	0.17
Grand Total			216,13,92,803	216,13,92,803	10,38,98,139	19.54

Note

a. CIRP Cost shall be paid at actuals. This amount is estimated to be Rs.5,00,000/-;



- b. *The resolution applicant proposes to run the business by inducting Rs.2,00,00,000/- (Rupees Two Crores) and out of the current working capital of the company. The net receipts from the successful resolution of the material litigations filed by the company shall also be utilised towards working capital;*
- c. *The Tribunal, by order dated September 2, 2024, directed the Resolution Professional to admit the claim of M/s. ADM Agro Industries Kota & Akola Pvt. Ltd. The claim of INR 78,55,630/- was admitted on September 3, 2024, with a proposed payment of INR 13,355/- (0.17% of the admitted claim) from the contingency fund within 90 days).*

6.1 It is submitted that the terms of the Plan and its implementation schedule shall be within a period of 180 (One Hundred Eighty Days) days from the date of approval of the Plan by this Bench. It is submitted that the Plan provides for effective implementation as per the timelines set out, which is in compliance with Regulation 38(2)(a) of the CIRP Regulations.

6.2 In Section 5 B 'MANDATORY CONTENTS OF THE RESOLUTION PLAN', the SRA has stated the causes for default committed by the CD, and has thus complied with the provisions of Regulation 38(3)(a) of the CIRP Regulations.

6.3 As far as the source of funds for the implementation of the Plan is concerned, the SRA has provided the following details of the Resolution Plan:

Sr. No	Particulars	0-90 days	91-180 Days	Total
		(3 Months)	(3Months)	Total 6 months)
A	Equity Shares	25,00,000/-	-	25,00,000/-



	Sub-Total(A)	25,00,000/-	-	25,00,000/-
B	Interest Free Unsecured Loan from RA and/ or promotors of RA/ Internal Accruals	2,25,00,000/-	8,03,67,634/-	10,28,57,634/-
	Sub-Total(B)	2,25,00,000/-	8,03,67,634/-	10,28,57,634/-
C	Towards Working Capital from Internal Accruals	-	2,00,00,000/-	2,00,00,000/-
	Sub-Total(C)	-	2,00,00,000/-	2,00,00,000/-
	Total (A+B)	2,50,00,000/-	10,03,67,631/-	12,53,67,634/-

6.5 Fund infusion into the CD has been described in Section 4 of the Plan. The Implementation Schedule is at Clause B under Section 4 of the Plan.

6.6 It is submitted that the Plan shall be implemented through the following structure:

a) CIRP Cost:

As per regulation 38(1), CIRP cost will be paid in priority to any Financial Creditor. - (As approved by Based on information received from the IRP/RP, the CIRP costs incurred are paid from the operations of the Corporate Debtor. In the event of any unpaid CIRP cost, the Resolution Applicant shall make full payment for such total unpaid CIRP cost only. The CIRP cost shall be paid against the GST



invoice in the name of the CD received from vendors so that Input Tax Credit of GST amount paid on the said invoices can be availed by the Company in future

**The RA proposes to set aside a sum of Rs. 5,00,000/- (Rupees Five Lacs only) for payment of pending CIRP Cost which will be paid upon Resolution Plan becoming effective in terms of Section 30(2)(a) of the Code and Regulation 38(1)(a) of the CIRP Regulations. However, if CIRP cost duly approved by CoC exceeds Rs. 5 Lacs, then any such shortfall amount will be additionally paid by Resolution Applicant. The Resolution Applicant will infuse additional funds (if needed), by way of equity or any other appropriate means, to meet the pending CIRP Costs. If unpaid CIRP cost is less than Rs. 5 Lacs, Resolution Applicant shall pay such lesser amount to meet the CIRP cost. CIRP cost already paid through the revenue of the Business during CIRP, shall not be paid by the Resolution Applicant. Only pending CIRP cost shall be paid by the Resolution Applicant.*

b) Treatment to Financial Creditor (Secured Creditor)

As per the Information Memorandum, the total amount of claims admitted relating to Financial Creditors is Rs.2,15,13,03,701/-. The Plan proposes to pay Rs.**10,38,98,139** /- in a span of 180 days from the Effective Date as per schedule provided in Section 4 of the Plan. The SRA proposes to make the payment as follows: no payment is to be made within the first 90 days, and a payment of Rs.



7,82,29,422/- will be made between the 91st and 180th days, bringing the total amount to Rs. 7,82,29,422/. On payment of aforesaid dues, all the dues of Financial Creditors including interest, penalty and charges (if any) would be deemed to have been settled/paid. It would be full and final settlement of dues with no right to claim further. No further liabilities/claims would be payable.

The financial creditor shall release / vacate the charge on all immovable assets of the Corporate Debtor with ROC and CERSAI (if any) as per the schedule of release of assets. They shall issue a No-Due Certificate stating that there are no dues from the CD after the receipt of last instalment payment as proposed.

c) Treatment to Unsecured Financial Creditors:

Against the admitted debt for Unsecured Financial Creditors, the SRA shall make payment of Rs.2,56,38,212/- (Two Crore Fifty-Six Lakh Thirty-Eight Thousand Two Hundred and Twelve Rupees) from the total outlay and towards full and final commitment of the Total Resolution Amount of Rs.12,53,67,634/- (Twelve Crore Fifty-Three Lacs Sixty-Seven Thousand Six Hundred and Thirty-Four Rupees) (Resolution Amount/Financial Plan Amount) which will be paid within 180 days of the receiving approval of the Resolution Plan by the Bench. On approval of the Resolution Plan, the Financial Creditors have to withdraw all the notices of wilful default, if any, including those reported to RBI, if any, and all the credit rating agencies for



the CD. The bank account of the Financial Creditors to be treated as Standard Account.

**The Total Amount i.e., Rs.12,53,67,634/- includes the working capital of Rs. 2 Cr. and total Plan value of Rs.10.53.67.634/-.*

d) Treatment to Operational Creditors (statutory Dues):

As per the Information Memorandum, the total amount of claim admitted relating to statutory dues is Rs.40,89,102/-. The Plan proposes to pay Rs.6,950/- within 90 days from the Effective Date. On payment of amount as proposed in the Resolution Plan, all the dues of statutory authorities including interest, penalty and charges, if any, would be deemed to have been settled/paid. It would be full and final settlement of dues with no right to claim further. No further liabilities/claims would be payable.

e) Treatment to Operational Creditor (other than workmen, employees and government):

Against the admitted debt of Rs.60,00,000/- from the Operational Creditors (other than workmen, employees and government), the SRA proposes to apportion Rs.10,200/- against full and final settlement of their dues as on the CIRP commencement date within 90 days from the Effective Date on priority in accordance with the applicable regulations. On payment of the aforesaid dues as mentioned in the Resolution Plan, all the dues of Operational Creditors (other than workmen, employees and government) including interest, penalty and charges, if any, would be deemed to



be settled/paid. The above amounts to be accepted in full and final settlement of any and all claims arising till the Effective Date, with no-right to-claim further liabilities claims.

f) Treatment to Workmen and Employees:

The Applicant/RP has not admitted claims of any workmen and employees. Hence, no amount is proposed to be paid to such Operation Creditors.

g) Treatment to equity shareholder:

The liquidation value payable to shareholders is assumed to be NIL and the existing shareholders, whether equity or preference, shall not be paid any amount for cancellation and reduction of their share capital and claim in relation thereto shall stand extinguished without any payment or recourse. No payment to the existing shareholders whether equity or preference is proposed. The SRA proposes to restructure the capital structure of the CD. These shares allotted in name the of erstwhile shareholders, whether equity or preference, shall stand cancelled upon approval of the Resolution Plan without any consideration on the date of approval of the Plan by the NCLT. The CD shall issue to the SRA 250,000 equity shares of Rs.10/- each within 90 days from the Effective Date. In terms of the Circular (IBC/01/2017) dated 25.10.2017, issued by the Ministry of Corporate Affairs, approval of the erstwhile shareholders of the CD to the transaction contemplated under the instant Resolution Plan, including the transfer/extinguishment of the entire existing share

capital, shall be deemed to have been given without any further act and deed immediately upon sanction of the Resolution Plan by the Adjudicating Authority.

h) Contingent Liabilities:

An amount of Rs.9,82,850/- has been set aside for any contingent liabilities which may arise/crystallise after the Effective Date that relates to the period prior to the order of NCLT approving the Resolution Plan whether it is mentioned or not in the Plan, subject to a maximum of Rs.50,000/- per case on issue of full and final settlement letter, no dues letter, receipt of the amount paid and withdrawal of all litigations including delayed payment of interest and penalty. The payment will be made only against receipt of no dues/ full and final settlement within a span of 12 months from the Effective Date. No further amounts will be payable on account of contingent liabilities. Upon such payment, all legal suits/dispute pending, shall be deemed to be quashed/abated and no further liability shall be dues against the same on the part of SRA/CD or any stakeholder. Any claim by any Financial or Operational Creditor after the approval of the Resolution Plan by CoC shall not be honoured / entertained or taken cognizance and it shall be deemed to be settled /NIL/ waived off totally. The unspent amount from the above contingency fund will be paid to the secured financial creditors.

6.7 Approval of various authorities for effective implementation:



The SRA shall take all the necessary approvals as and when required. At present, as the operations of the company are ongoing, all the approvals and licences are in place. Any other approval from any of the authorities shall be taken as and when needed for effective implementation of the Resolution Plan.

6.8 Implementation Schedule:

INDICATIVE ACTIVITY SCHEDULE		
Sr. No.	Activity	Timeline
PHASE I		Days
1.	Date of Order of NCLT / NCLAT / SC order approving the Resolution Plan (Effective Date)	E
2.	Notice on the Company's Website, if any	E+14 days
3.	Intimation to the CoC, IBBI, MCA, Tax authorities and various other statutory authorities (as applicable)	
4.	Intimation to all creditors, existing shareholders and other stakeholders of the Company	
PHASE II - SETTLEMENT OF CREDITORS		
5A	Payment to Secured Financial Creditors - Rs. Nil	E + 90 days
5B	Payment to Secured Financial Creditors - Rs. 7,82,29,422	E + 180 days
6A	Payment to Unsecured Financial Creditors - Rs. 2,39,82,850	E + 90 days
6B	Payment to Unsecured Financial Creditors - Rs. 16,55,362	E + 180 days



INDICATIVE ACTIVITY SCHEDULE		
Sr. No.	Activity	Timeline
7.	Payment to Sundry Operational Creditors Rs. 10,200	E + 90 days
8.	Payment to Workman and Employees Rs. NIL	E + 90 days
9.	Payment to Statutory Authorities Rs. 6,950	E + 90 days
10A	Payment to contingency Fund – Rs. 5,00,000	E + 90 days
10B	Payment to contingency Fund – Rs. 4,82,850	E + 180 days
PHASE III – IMPLEMENTATION OF PROPOSED PLAN		
11.	Cancelation/Reduction of existing equity of Erstwhile shareholders and issue of new shares	E + 90 days
12.	Infusion of Funds and subscription of equity shares by Resolution Applicant.	E + 90 days
13.	Infusion of funds through Interest Free Unsecured Loan from RA and/or promoters of RA / Internal Accruals – Rs. 10,28,67,634	E + 180 days
14.	Change in Memorandum and Articles of Association and other documentation if required under the proposed plan.	E + 90 days
15.	Management of Company: i. The erstwhile Board of Directors and KMPs of the CD will	E + 7 days



INDICATIVE ACTIVITY SCHEDULE		
Sr. No.	Activity	Timeline
	<p>cease to continue and new Management will be appointed with their roles and responsibilities;</p> <p>ii. New Board shall be constituted by inducting the members proposed in Section 5 (B).</p> <p>iii. Appointment of key managerial personnel, if required.</p> <p>iv. Resolution Applicant shall appoint statutory and internal auditors of their choice, subject to applicable regulations.</p>	
16.	Induction of Working Capital – Rs. 2,00,00,000	E + 180 days

7. Management of CD/Monitoring of Implementation:

7.1 The SRA has undertaken that implementation of the Plan will be managed and controlled by it under the guidance and supervision of a Monitoring Committee (MC) upon approval of the Plan by this Bench.

7.2 The MC shall be formed within 15 days from the Effective Date consisting of the Secured Financial Creditor (one member), SRA and will be chaired by the Applicant/RA for the effective implementation of the Resolution Plan. The remuneration of the Applicant/RA for acting as Chairperson shall be Rs.50,000/- per month and the same shall be borne by the SRA.

8. PERFORMANCE GUARANTEE

8.1 It is submitted that the SRA has deposited Rs. 50,00,000/- (Rupees Fifty Lakhs Only) along with the Resolution Plan as BBG. Within 10 days of approval



of the Plan by the CoC, the amount deposited along with Expression of Interest (Rs. 15,00,000/-) (Rupees Fifteen Lakhs Only) and BBG of Rs. 50,00,000/- (Rupees Fifty Lakhs Only) shall be converted to Performance Security and the Resolution Applicant had brought additional Rs. 85,00,000/- (Rupees Eighty-Five Lakhs Only) towards Performance Security on 06.03.2024. This was done in compliance with the RFRP.

9. RELIEFS AND CONCESSIONS

9.1 The SRA has sought various reliefs and concessions based on the clean slate concept laid down by the Hon'ble Supreme Court in various judgements, which are necessary to keep the CD as a going concern; release the CD from any and all liabilities/proceedings, disputes and noncompliance prior to the date of approval of the Plan by us and extended period for renewal or revival of licences for running the business of the CD.

9.2 It is submitted that the Applicant/RP has not filed any avoidance transactions during the CIRP of the CD.

10. The compliance of the Resolution Plan reported by the Applicant/RP is as under:

Section of the Code / Regulation No.	Requirement with respect to Resolution Plan	Clause of Resolution Plan	Compliance)Yes / No(
25)2)(h(	Whether the Resolution Applicant meets the criteria approved by the CoC having regard to the complexity and scale of operations of business of the CD?	Relevant documents submitted at the time of Expression of	Yes

IN THE NATIONAL COMPANY LAW TRIBUNAL MUMBAI BENCH-V
SPECIAL BENCH

IA (I.B.C) (Plan) No. 39/MB/2024
in
CP (IB) No. 2/MB/2022



		Interest (EOI)	
Section 29A	Whether the Resolution Applicant is eligible to submit resolution plan as per final list of Resolution Professional or Order, if any, of the Adjudicating Authority?	Relevant documents submitted at the time of Expression of Interest (EOI)	Yes
Section 30)1(	Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?	Relevant documents submitted at the time of Expression of Interest (EOI)	Yes
Section 30)2(	Whether the Resolution Plan-		
	(a) provides for the payment of insolvency resolution process costs?		
	(b) provides for the payment to the operational creditors?		
	(c) provides for the payment to the financial creditors who did not vote in favour of the resolution plan?	Section 4 (B) – Utilization of Funds, page no. 58	Yes
	(d) provides for the management of the affairs of the corporate debtor?	Section 5 (B) Mandatory Contents of Resolution Plan” at Page 74	Yes

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	(e) provides for the implementation and supervision of the resolution plan?	Section 5 (A) – Measurement used for Successful implementation of the Resolution Plan, page no. 70	Yes
	(f) contravenes any of the provisions of the law for the time being in force?]	Section 2 (B) (1) given on of page no. 36.	Yes
Section 30)4(	Whether the Resolution Plan a) is feasible and viable, according to the CoC? b) has been approved by the CoC with 66% voting share?	Section 5 (B) Mandatory Contents of Resolution Plan” at Page 75	Yes
Section 31)1(	Whether the Resolution Plan has provisions for its effective implementation plan, according to the CoC?	Section 5 (B) Mandatory Contents of Resolution Plan” at Page 75	Yes
Regulation 38)1(	Whether the amount due to the operational creditors under the resolution plan has been given priority in payment over financial creditors?]	Section 5 (B) Mandatory Contents of Resolution Plan” at Page 71	Yes
Regulation 38)1A(Whether the resolution plan includes a statement as to how it has dealt with the interests of all stakeholders?	Section 5 (B) Mandatory Contents of	Yes

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		Resolution Plan” at Page 71	
Regulation 38(1B)	(i) Whether the Resolution Applicant or any of its related parties has failed to implement or contributed to the failure of implementation of any resolution plan approved under the Code. (ii) If so, whether the Resolution Applicant has submitted the statement giving details of such non-implementation?]	Section 5 (B) Mandatory Contents of Resolution Plan” at Page 72	No
Regulation 38)2(	(a) Whether the Resolution Plan provides:)a(the term of the plan and its implementation schedule?)b(for the management and control of the business of the corporate debtor during its term?)c(adequate means for supervising its implementation?	Section 5 (B) Mandatory Contents of Resolution Plan” at Page 72 to 73	Yes
38)3(	Whether the resolution plan demonstrates that –)a(it addresses the cause of default?)b(it is feasible and viable?)c(it has provisions for its effective implementation?)d(it has provisions for approvals required and the timeline for the same?)e(the resolution applicant has the capability to implement the resolution plan?	Section 5 (B) Mandatory Contents of Resolution Plan” at Page 74 to 76	Yes
39)2(	Whether the RP has filed applications in respect of transactions observed, found or determined by him?	--	No
Regulation 39(4)	Provide details of performance security received, as referred to in sub-regulation (4A) of regulation 36B.]	Performance Security of 150 lakhs provided by the Successful	Yes



		Resolution Applicant.	
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11. ANALYSIS AND FINDINGS

11.1 We have heard the Ld. Counsel for the Applicant/RP and perused the Plan and related documents submitted along with the I.A.

11.2 It is submitted by the Applicant/RP that the CoC has considered the feasibility and viability of the Plan and approved the same by 100% of the voting shares of the Financial Creditors. We notice that the Plan is in compliance of Section 30 of the IBC in that it provides for-

- a. priority of payment of CIRP cost to the payment of other debts of the CD;
- b. payment of debts of the OCs;
- c. the management of the affairs of the CD after approval of the Plan;
and
- d. the implementation and supervision of the Plan.

11.3 In *K Sashidhar Vs. Indian Overseas Bank and Ors.* (Civil Appeal No. 10673/2018), the Hon'ble Supreme Court held that if the CoC approves a resolution plan by the requisite percentage of voting share under section 30(6), it is imperative for the resolution professional to submit the plan to the AA. The AA is then required to satisfy itself that the resolution plan, as approved by the CoC, meets the requirements specified in Section 30(2). The law is now settled that the role of the AA is no more and no less than the above. The role of the AA with respect to a resolution plan is limited to



the matters specified in Section 30(2) of the IBC. Further, the AA is not required to interfere with the commercial wisdom of the CoC.

11.4 We find that the Plan meets the requirements under Section 30(2) of the IBC and that it is not in violation of provisions of any law for the time being in force.

11.5 In the case of *Committee of Creditors of Essar Steel India Limited through Authorised Signatory Vs. Satish Kumar Gupta and Ors*, [Civil Appeal No. 8766-67 of 2019], the Hon'ble Apex Court clearly held that the Adjudicating Authority would not have the power to modify the Resolution Plan which the CoC in their commercial wisdom has approved. The Hon'ble Supreme Court in the matter of *Ghanshyam Mishra and Sons Private Limited Vs. Edelweiss Asset Reconstruction Company Limited*, [Civil Appeal No. 8129 of 2019] held that on the date of the approval of the resolution plan by the AA, all such claims which are not a part of the resolution plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect of a claim which is not a part of the resolution plan. There is no pending application before us for preferential transaction under Section 43, undervalued transaction under Section 47, fraudulent transaction under Section 49, extortionate credit transaction under Section 50 or fraudulent trading or wrongful trading under Section 66 of the IBC.

11.6 In view of the above discussions and the law thus settled, we are of the considered view that the Plan meets the requirements of Section 30(2) of the IBC and Regulations 37, 38, 38(1A), and 39(4) of the CIRP Regulations. The Plan is not in contravention of any of the provisions of Section 29A of



the IBC, as undertaken by the SRA, and is in accordance with law. We are satisfied that the Plan has provisions for its effective implementation. In view of factual and legal considerations, we find that the present application deserves to be allowed.

ORDER

The **IA (I.B.C.) (Plan) No. 39 of 2024 in C.P.(IB) 02 of 2023 is allowed** and the Resolution Plan submitted by '**M/s. VARAD FERRO-ALLOYS PRIVATE LIMITED**' is hereby **approved** in terms of Section 31(1) of the IBC.

- I. The Plan shall become effective from the date of this Order and shall form part of this Order. It shall be binding on the CD, its employees, members, creditors including the Central Government, any State Government, or any local authority, to whom a debt in respect of the payment of dues arising under any law for the time being in force, such as, authorities to whom statutory dues are owed, guarantors and other stakeholders involved in the Plan.
- II. Accordingly, no person or authority will be entitled to initiate or continue any proceedings with respect to a claim prior to the approval of the Plan which is not part of the Plan.
- III. The approval of the Plan shall not be construed as a waiver of any future statutory obligations/liabilities of the CD and shall be dealt with by the appropriate authorities in accordance with the law. Any waiver sought in the Plan relating to the period after the date of this Order, more particularly, licences and approvals for keeping the CD as a going concern, shall be



subject to approval by the authorities concerned and by this Order, we do not deter any authority from dealing with any of the issues arising after effecting the Plan. The CD may obtain necessary approvals required under any law for the time being in force from the appropriate authorities within a period of one year from the date of approval of the Plan.

- IV. The CD shall not be prosecuted for any offence committed prior to the commencement of CIRP in terms of Section 32A of the IBC.
- V. Further, all such claims which are not a part of the Plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings with respect to a claim which is not a part of the Resolution Plan.
- VI. The MC as proposed in the Plan shall be constituted to supervise and implement the Plan.
- VII. The moratorium declared under Section 14 of the IBC shall cease to have effect on and from the date of this Order.
- VIII. The RP shall stand discharged from his duties with effect from the date of this Order. However, he shall perform his duties in terms of the Plan as approved by us.
- IX. The SRA shall have access to all the CD's records, documents, assets and premises with effect from the date of this Order.
- X. The RP is further directed to hand over all records, documents and properties of the CD to the SRA to enable it to carry on the business of the CD.



- XI. Liberty is granted to the parties for moving any application, if required, in connection with implementation of this Plan.
- XII. The Applicant/RP shall forward all records relating to the conduct of the CIRP and the Plan to the IBBI along with a copy of this Order for information and record.
- XIII. The Applicant/RP shall forthwith send a certified copy of this Order to the CoC and the SRA respectively for necessary compliance.
- XIV. The Registry is directed to send electronic version of the Order to all the parties and their Ld. Counsel.
- XV. **I.A. (I.B.C) (Plan) No. 39/MB/2024** in **C.P.(IB) No. 02/MB/2022** is **allowed** and the **Plan is approved**. The I.A. is disposed of in terms of the above.

Sd/-
MADHU SINHA
MEMBER (TECHNICAL)
/priyanka/

Sd/-
K. R. SAJI KUMAR
MEMBER (JUDICIAL)