

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT – II**

IA/1007/2023 In C.P.(IB)/1765(MB)2018

(Under Section 30(6) r/w Section 31 of the Insolvency and Bankruptcy Code, 2016 r/w Regulation 39(4) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.)

Shailesh Verma, Resolution Professional for Lavasa Corporation Limited, Dasve Convention Centre Limited, Warasgaon Asset Maintenance Limited, Dasve Retail Limited, Warasgaon Power Supply Limited.

.....Applicant

Vs

Darwin Platform Infrastructure Limited

.....Respondent/Resolution Applicant

In the matter of

Raj Infrastructure Development India Private Limited

.....Operational Creditor

Vs

Lavasa Corporation Limited

.....Corporate Debtor

Order delivered on:-21.07.2023

CORAM:

SHRI SHYAM BABU GAUTAM
HON'BLE MEMBER (T)

SHRI KULDIP KUMAR KAREER
HON'BLE MEMBER (J)

Appearances:

For the Applicant: Kriti Kalyani, Advocate for RP
Ravi Kadam, Senior Counsel, Ashish Kamat, Senior
Counsel a/w Salonee Kulkarni, Kriti Kalyani i/b
Shradul Amarchand Mangaldas & Co.

For the Respondent: Ashish Kamat, Senior Counsel

ORDER

Per- Coram

1. It is an application filed under Section 30(6) read with Section 31 of the Insolvency & Bankruptcy Code, 2016 (“**the Code**”) read with Regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process Corporate Persons) Regulations, 2016 for approval of the Resolution Plan by this Bench based on the approval already given by the consolidated Committee of Creditors (“**CoC**”) with requisite majority of 96.41% u/s 30(4) of the Code.
2. Looking at the application moved by the Resolution Professional, it reveals that Lavasa Corporation Limited (“**LCL**”) is primarily engaged in the business of inter alia the construction and development of a private hill station in Pune, District of Maharashtra. LCL also obtained permission for the construction of

dams on the Warasgaon River and for construction of infrastructure for the development of the area as smart hill city. The other four corporate debtors are wholly-owned subsidiaries of LCL, and are engaged in the business of running convention centres/ providing recreational/ hospitality facilities (DCCL), infrastructure construction and services (WAML), design/ operate power and distribution infrastructure (WPSL) and rental/ leasing of retail shops and business of investment property (DRL).

3. Raj Infrastructure Development India Private Limited /Operational Creditor filed the petition u/s 9 of the Code against the Lavasa Corporation Limited, which this Bench admitted on 30.08.2018 by initiating Corporate Insolvency Resolution Process (“**CIRP**”) and appointing Mr. Devendra Prasad as the IRP. Further, vide orders dated 17.12.2018 and 05.02.2019, CIRP was initiated against Warasgaon Assets Maintenance Limited (“WAML”) and Dasve Convention Center Limited (“DCCL”) respectively by this bench. Interim Resolution Professional was subsequently confirmed as the Resolution Professional in respect of the CIRP of LCL, vide order dated 15.10.2018. Meanwhile, IRP made public announcement in Form A on 01.09.2018. Further, on 13.11.2018, the RP invited expressions of interest from prospective resolution applicants (“PRAs”) and prepared the Information memorandum, as per the provision of the Code. After much efforts and discussions, two resolution plans from (i) Haldirams consortium; and (ii) Mr. Aniruddha Deshpande were received. Subsequently, in November 2019, one of the resolution plans was found to be compliant with the mandatory requirements of the Code from the perspective of the RP and the same was submitted

to the COC of LCL, for its consideration. However, no resolution plan was approved in the standalone LCL CIRP.

4. Meanwhile, certain members of the COC of LCL (holding 55% of the total financial debt) filed an application, being IA No. 3664/2019, seeking the consolidation of the CIRP of LCL, along with two of its subsidiaries, namely WAML and DCCL and for the resolution of the debt of two other subsidiaries, viz. Dasve Retail Ltd. (“DRL”) and Warasgaon Power Supply Limited (“WPSL”). Further, vide order dated 26.02.2020, NCLT, Mumbai allowed the consolidation of the CIRP of LCL with of its two subsidiaries namely WAML and DCCL (“First Consolidation Order”). Further, vide the said order, NCLT Mumbai:

- A. Appointed the Applicant as the RP of the consolidated CIRPs of LCL, WAML and DCCL
- B. Granted an initial period of sixty (60) days, for the completion of the consolidated CIRP comprising LCL, DCCL & WAML.
- C. Envisaged that the consolidated COC of LCL, WAML and DCCL might take an informed decision regarding the resolution of debt of WPSL and DRL within the framework of the consolidated CIRP.

An appeal was preferred by OCs of DCCL against the First Consolidation Order, however, the same was, dismissed by the Hon’ble NCLAT, vide order dated 26.02.2021.

5. As per the discussion made in 1st meeting of the Consolidated CoC, it was considered that the Applicant had filed petitions under Section 10 of the Code praying for the commencement of CIRP in respect of Dasve Retail Limited (“DRL”) and Warasgaon Power

Supply Limited (“WPSL”). Further, vide order dated 08.02.2021, this Tribunal initiated CIRPs of DRL and WPSL. Thereafter, the COC filed applications seeking consolidation of DRL and WPSL with the consolidated CIRP of LCL, WAML and DCCL. Hence, vide order dated 13.05.2021, this Tribunal allowed the consolidation of the CIRPs of DRL and WPSL with the existing consolidated CIRP of LCL, DOCL & WAML (the consolidated CIRP of LCL, DCCL, WAML, DRL and WPSL referred to as the “Consolidated LCL CIRP”. Further, the Applicant was appointed as the RP in respect of the Consolidated LCL CIRP and granted an initial time period of 90 days to complete the consolidated CIRP of LCL.

6. The Consolidated COC, in its 8th meeting dated 22.02.2021, resolved to cancel the resolution plan process received earlier and initiate a fresh resolution plan process considering the Second Consolidation Order. A Fresh public announcement was issued for the submission of resolution plans in respect of the Consolidated LCL CIRP. The last date for submissions of resolution plans was 13.07.2021, which was thereafter extended to 26.07.2021 and further to 31.07.2021. Revised RFRP and evaluation matrix were issued by the Applicant separately. Submissions were received from the following three entities in respect of the Consolidated LCL CIRP:

1. *Divisha Real Estate Advisors LLP;*
2. *Darwin Platform Infrastructure Limited; (Respondent herein)*
and
3. *Mr. Madhav Dhir, Ms. Shrishti Dhir & Dhir Hotels and Resorts Private Limited (referred to as “Dhir”).*

Further, In the 14th COC meeting, the Applicant apprised the COC of the receipt of the aforesaid submissions. However, since Divisha Real Estate Advisors LLP failed to make payment of the EMD and submitted only a brief of the draft resolution plan, the COC decided to proceed with the remaining two resolution plans received from the Respondent and Dhir.

7. Multiple rounds of review of the resolution plans submitted were undertaken by the RP, the COC and their advisors, from the perspective of compliance of the Code as well as to ensure compliance with the terms of the RFRP. The COC also reviewed the other commercial factors, shared observations and feedback with the PRAs and held meetings and extensively negotiated with the PRAs. Considering the comments and feedback received from the RP, the COC and their advisors, the two PRAs submitted their revised updated resolution plans/addenda thereto, for further consideration. In the 16th COC Meeting, the Applicant informed the COC that both the resolution plans under consideration were found to be Code-compliant. Further, the Applicant advised the COC that considering the same, both the resolution plans may be put up for voting, subject to the feasibility and viability check in respect of the said resolution plans being compliant of Regulations 38(3)(a), (b) and (e) of the CIRP Regulations.

8. In the 17th COC meeting, the COC members informed the Applicant that additional time will be required for completion of the feasibility and viability check and addressing of certain pending commercial queries/clarifications raised by the COC and its legal counsel by the resolution applicants and accordingly, the resolution

plans can only be voted on once such check is completed. Further, the COC resolved that an additional time period of 30 days be sought for completion of the Consolidated LCL CIRP and the Applicant was authorised to approach NCLT Mumbai for filing of an application for seeking the further extension. Further, vide order dated 29.11.2021, the NCLT extended the period of the consolidated LCL CIRP till 25.12.2021.

9. Further, on 13.12.2021, the COC Meeting was held wherein COC members gave an opportunity to both the PRAs to further improve their commercial offers and submit an addendum to their respective resolution plans. On account of revisions made to the resolution plans during the voting schedule, FCs, who might have already cast their respective votes prior to the receipt of such addenda, were provided with an opportunity to either change or retain their vote as it was. Further, considering the requests of the COC members in this regard, the timelines for voting were further extended - initially by another 2 days from the earlier-date i.e. until 22.12.2021, and thereafter until 3 PM and extended to 4.30 PM of 23.12.2021. Further, the Resolution plan submitted by Darwin Platform Infrastructure Limited was approved by 96.41% of the COC. Thereafter, the Letter of Intent (“LOI”) was issued to the Respondent, which was unconditionally accepted. On 31.12.2021, the Applicant received a copy of the Performance Bank Guarantee for an amount of INR 25 Crores issued by ICICI Bank on behalf of the Respondent as per the terms of the approved Resolution Plan.
10. After this, the Applicant had filed an IA No. 52 of 2022 (“*Earlier Plan Approval Application*”), under Section 30(6) of the Code

praying for the approval of the resolution plan. On 09.02.2023, this Tribunal passed an order in the Earlier Plan Approval Application directing certain modification to be considered and carried out in the resolution plan by the COC. The operative part of the order dated 09.02.2023 is extracted hereunder:

“8. In view of the above, we are of the opinion that it is essential for the Consolidated CoC to re-examine the Resolution Plan and endeavour to allocate funds for the fulfilment of Government and statutory dues in the same proportion as provided to the Secured Financial Creditors. Since the Secured Financial creditors have been provided with 20.50% of the amount claimed, it is directed that the Government and other statutory dues be treated in the same manner and proportion in any subsequent revised Plan that may be submitted by the Resolution Applicant. The Resolution Applicant is hereby granted two weeks for submission of modified or fresh Resolution Plan to the RP and the RP is directed to place the same before the consolidated CoC for their consideration.

9. Hence, this Bench is of the view that the RP shall place the revised Resolution Plan before the Consolidated CoC for their reconsideration in the light of the above observations. In view of the foregoing reasons, IA No. 52 of 2022 is disposed of in the above terms.”

11. In 24th COC Meeting, the COC discussed the Order dated 09.02.2023 passed by this Tribunal. The Applicant placed the addendum dated 20.02.2023 before the COC. The COC approved the modifications made to the resolution plan vide the addendum in compliance with the order dated 9th February, 2023 with voting majority of 84.05%. Further, in the 25th COC Meeting, the voting result on the addendum dated 20.12.2023 to the resolution plan

was discussed. The modification introduced by the addendum was tabled and approved by the COC with the requisite majority. Hence, the Applicant has filed the present application seeking approval of Resolution Plan as submitted by the Respondent and approved by COC.

Background of the SRA:

12. The Successful Resolution Applicant (“SRA”)/Darwin Platform Infrastructure Limited (“DPIL”) was established in the year 2010 and is engaged in infrastructure contracts and services. Currently, DPIL is involved in refurbishing of projects and maintenance works. DPIL is part of the Darwin Platform Group, promoted by Mr. Ajay Harinath Singh and is supported by his two brothers, Mr. Vijay Harinath Singh and Dr. Balwant Singh. The Group is involved in various industry segments such as infrastructure, refineries, retail, hospitality, etc. The RP has mentioned the challenges that lie ahead of the successful RA which are:

- Current phase of the Project, being phase-I is a part of the overall township comprising 12,500 acres across more than 18 villages). The completion of the present phase itself may take up to 8 – 10 years.
- Environmental Clearance (EC) was received from Ministry of Environment, Forest and Climate Change (MOEF) on 09.11.2011 for the construction of 1st Phase of the township on land admeasuring 2048.75 Hectares. The said EC expired on 08.11.2018 subject to an extension up to 08.11.2021 under an MOEF notification dated 14.09.2016. The Corporate Debtor has filed an Extension Application dated 31.10.2018 for the EC which is still pending before the SEIAA.

13. The Plan has been approved by a majority of the CoC members.
The details of the said voting are set out as follows:

Sr. No.	Name of Creditor	Voting Share (%)	Voted for /Dissented /Abstained
1.	Union Bank of India (including claims of Corporation Bank, which is now amalgamated with Union Bank of India)	12.02%	Voted For
2.	L&T Finance Company Ltd.	10.92%	Voted For
3.	Asset Reconstruction Company of India Ltd. (ARCIL)	10.10%	Voted For
4.	Bank of India	9.44%	Voted For
5.	Axis Bank Ltd.	8.51%	Voted For
6.	Central Bank of India	8.44%	Voted For
7.	Punjab National Bank including claims of Oriental Bank of Commerce, which is now amalgamated with Punjab National Bank)	8.29%	Voted For
8.	Asset Care & Reconstruction Enterprise Ltd. (ACRE)	6.26%	Voted For
9.	Indian Bank (erstwhile Allahabad Bank, which is now amalgamated into Indian Bank)	5.25%	Voted For
10.	State Bank of India	3.25%	Voted For
11.	SSG Investment Holding India Ltd.	3.20%	Dissented

12.	Edelweiss Asset Reconstruction Company Ltd.	2.47%	Voted For
13.	Bank of Baroda	1.74%	Voted For
14.	India Opportunities II Pte Ltd.	1.15%	Voted For
15.	Karnataka Bank Ltd.	1.12%	Voted For
16.	Bennett Coleman & Company Limited	0.39%	Abstained
17.	Authorized Representative of Financial Creditor in A Class	7.45%	Voted For
	TOTAL	100%	96.41%

14. Treatment of Stakeholders under the Plan:

Sr. No.	Category of Stakeholder	Amount Claimed	Amount Admitted	Amount Provided under the Plan
1.	Secured Financial Creditors a. Creditors not having a right to vote under sub-section (2) of section 21 b. Other than (a) above:	NIL	NIL	Total payment to Financial Creditors (including assenting & dissenting financial creditors as well as secured and unsecured financial creditors) is INR 11,52,76,00,000/-

	<p>i. Who did not vote in favour of the Resolution Plan</p> <p>ii. Who voted in favour of the resolution plan</p>	<p>1,92,28,92,887/-</p> <p>54,30,00,88,697/-</p>	<p>1,92,28,92,887/-</p> <p>53,40,44,24,093/-</p>	<p>(which also includes interest payment amount of 2,23,76,00,000/- Crores)</p>
2.	<p>Unsecured Financial Creditors</p> <p>a. Creditors not having a right to vote under sub-sec (2) of sec. 21</p> <ul style="list-style-type: none"> • Related Party <p>b. Other than (a) above:</p> <p>i. Who did not vote in favour of the resolution plan</p> <p>ii. Who voted in favour of the resolution plan</p>	<p>4,47,24,26,948/-</p> <p>31,55,36,186/-</p> <p>7,59,34,77,645/-</p>	<p>42,38,48,049/-</p> <p>23,42,86,186/-</p> <p>4,77,87,585/-</p>	<p>NIL</p> <p>Axis Bank Limited is a Secured Financial Creditor as well as an Unsecured Financial Creditor. The Resolution Plan provides that the total payment to be made to Axis Bank Ltd. is INR 105.97 Crores (including interest on the deferred payment)</p>
3.	<p>Financial Creditors “A” Class</p>			

	(a) General	5,52,72,29,857/-	4,38,59,64,391/-	4,38,20,30,000/-
	(b) Financial			
	Creditors “A”	10,32,96,859/-	9,33,32,908/-	4,03,70,000/-
	Class- RERA/ Terminated Contracts			
	(c) Related Party	10,83,01,533/-	10,78,84,579/-	NIL
4.	Operational Creditors			
	(a) Related Party of Corporate Debtor	1,34,81,67,135/-	19,74,05,858/-	NIL
	(b) Other than (a) above:			
	i. Government	9,58,75,222/-	30,92,980/-	1,96,54,421/-
	ii. Workmen	NIL	NIL	NIL
	iii. Employees	9,36,04,087/-	5,57,57,922/-	5,57,57,922/-
	iv. General (includes vendor claim) & electricity dues.	2,06,06,05,461/-		93,20,000/-
	v. Homebuyers	58,52,05,446/-	9,26,94,553/-	6,30,000/-
5.	Other debts and dues:			
	a. General	99,66,06,141/-	42,52,470/-	NIL
	b. Related Party	12,96,35,991/-	12,96,35,991/-	NIL
	Grand Total	79,65,29,50,095/-	66,42,39,45,778/-	16,01,57,57,922/-

15. The various payments along with their timelines as envisaged under the Resolution Plan are tabulated below:

<i>Particulars</i>	<i>(From the Effective Date) Day 90</i>	<i>Month 9</i>	<i>Month 15</i>	<i>Month 24</i>	<i>Month 36-60</i>	<i>Month 108</i>	<i>Total (in Crores)</i>
<i>Unpaid CIRP Costs</i>	80		0				80
<i>Secured Financial Creditors</i>	4.740 (Cash)	50.000 (Cash)	-	70.260 (Cash)	554 Cash	250 (Redemption of secured NCDs issued upon approval of the Plan)	929 + interest
<i>Workmen & Employees</i>	5.570		-				5.570
<i>Unsecured Financial Creditors</i>			0				0
<i>Operational Creditors</i>	9.690		0				9.690
<i>EC Extension/ Renewal Cost (including MPCB fee)</i>	5						5
<i>Working Capital Infusion (City annual maintenance)</i>			22.500				22.500
<i>Refurbishment and Repair Cost of existing Infrastructure and Assets</i>			70				70
<i>Cost of completion of</i>					250		250

<i>Under construction</i>							
<i>Satisfaction/ Resolution of Claims of Homebuyers (RA to deliver fully constructed units)</i>					438.203		438.203
<i>Home Buyers- RERA Cases</i>				4.037			4.037
	105	50	92	74.297	1,242.203	250	1,814

Remarks:

- All existing charges/lien/mortgages/security (except the re-pledged shares of the corporate debtors by the RA) shall be considered as security against the Resolution Plan Payments.
- An area of 50 acres in the township, at Wadavali village will continue as a security till the redemption of secured NCDs worth Rs. 250 Crores.
- Payments to secured financial creditors indicated in the table above does not include interest payable on these amounts. Deferred Payment of Rs. 679 Crores carries an interest @ 7% per annum thereon= 783 Crores in toto; and the NCDs worth Rs. 250 Crores carry a coupon rate of 6% per annum thereon = 320 Crores.

16. Source of Funds:

- a) Beyond the Upfront Amount/ Upfront Payment, INR 50 Crores proposed to be paid at the end of 9 months from the Effective Date, INR 70.26 Crores is proposed to be paid at the end of 24 months from the Effective Date and subsequent thereto, the remaining amounts to the tune of INR 1,371.240 Crores, over a period of 9 years from the Effective Date.

- b) The Resolution Plan envisages the amounts to be paid from cash funding to be generated inter alia, from project cash flows, external investments, internal accruals from the Resolution Applicant's group, etc. The Resolution Applicant has also provided a letter of undertaking and a non-disposal undertaking in respect of a director's property to meet the aforestated obligations.
 - c) Additionally, amounts towards undertaking repairs/ refurbishment of assets and working capital infusion, amounting to INR 92.50 Crores, proposed to be infused within 15 months from the Effective Date, shall be raised by way of equity infusion/ unsecured loans / advances. The Resolution Applicant has also undertaken to incur costs to the tune of INR 250 Crores towards the costs to complete the unfinished inventory, which shall be infused within a period 3 to 5 years from the Effective Date, by way of equity infusion/ unsecured loans/advances.
17. In relation to CIRP cost, the Resolution Plan envisages that the insolvency resolution process costs will be paid in full and in priority to any other creditors' dues. Unpaid CIRP Costs, to the tune of INR 80 Crores, shall be paid upfront, and in case the said costs are in excess of INR 80 Crores, such additional amounts shall be adjusted from payments proposed to be made to the secured financial creditors and the CIRP costs shall be paid in priority at the end of 90 days from the Effective Date. Further, in relation to Operational Creditors, the Resolution Plan proposes to make payments in compliance with Section 30(2)(b) of the Code read with Regulation 38(1)(a) of the CIRP Regulations. Save to related parties, the Resolution Plan envisages payment of INR 1 crore amongst certain sub-classes of operational creditors in proportion to their admitted claims. The Addendum dated 20.02.2023 also provides that in accordance with the order of this

Tribunal dated 09.02.2023, the Resolution Applicant proposes to allocate a sum of Rs 1,96,54,421/- towards dues claimed by Government and statutory authorities. The said amount of Rs 1,96,54,421/- is 20.50% of the amounts claimed by such Government and statutory authorities and will result in the same proportion of recovery as is being made by the financial creditors. Additionally, the Resolution Plan envisages an operational creditors'-exigency fund of INR 6.73 Crores, which shall be used for any additional payment, if needed to be paid to the operational creditors, wherein an amount not more than INR 4 Crores will be paid separately to a single operational creditor over and above the apportioned amount received by such operational creditor from the above-stated resolution plan amount. This payment shall form part of the Upfront Payment. Further, an amount of INR 5.570 crores is proposed to be paid to the workmen and employees. This payment shall also form part of the Upfront Payment.

18. In relation to Dissenting Financial Creditors, the Resolution Plan clarifies that financial creditors, who do not vote in favour of this Resolution Plan, will be entitled to receive at least the amount that they would have received in accordance with sub-section (1) of Section 53 of the Code in the event of a liquidation of the Corporate Debtor, in priority to the payments being made to the financial creditors who vote in favour of the Resolution Plan, in compliance with Section 30 of the Code and Regulation 38 of the CIRP Regulations. The Resolution Plan clarifies that the payments to assenting financial creditors shall commence only after complete payment to Dissenting Financial Creditors. Further, in relation to Financial Creditors (excluding Financial Creditors in A Class), the Resolution Plan envisages a total cumulative pay-out of INR 929 Crores to the secured financial creditors

of the Corporate Debtor - comprising an Upfront Payment component of INR 4.740 Crores, a deferred payment of INR 674.26 Crores against a term loan/ appropriate instruments with coupon rate of 7% per annum (the accrual of which will commence upon expiry of 12 months from the Effective Date) and an amount of INR 250 Crores by way of redemption of secured non-convertible debentures to be issued to the secured financial creditors, having a coupon rate of 6% per annum (which shall accrue after 12 months from the Effective Date until the end of the 9th year from Effective Date) - which redemption and aggregate coupon amount shall be paid at the end of 108 months from Effective Date. The Resolution Plan proposes the distribution of the aforesaid amounts to the secured financial creditors in proportion to each creditor's admitted claim.

19. Moreover, in relation to treatment of homebuyers, the Resolution Plan envisages the delivery of fully-constructed properties to the financial creditors in A class of LCL, i.e. the homebuyers, within a period of five (5) years from the receipt of the Environmental Clearance on an actual-cost basis. It is proposed that the Homebuyers shall pay actual future construction costs to the RA towards obtaining constructed properties in the Project. In order to provide a transparent mechanism for the construction costs, the RA proposes that it shall constitute a "Construction Cost Determination Committee" of 4 Members consisting of equal representation of FCCA/Homebuyer's representatives and RA's Management Team, which shall estimate and approve the actual costs to be incurred for the construction and apportionment of such costs to individual home buyers.

20. Apart from proposing actual delivery of constructed apartments, the Resolution Plan also has provided the homebuyers with the following two exit alternatives:

Exit Clause: For the homebuyers who do not wish to continue and wait for delivery for the fully-constructed property as proposed, the Resolution Plan envisages a full and final settlement by payment of 40% of their entire admitted claims within 24 months of the receipt of the EC for Phase 1.

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Self-Construction: Within the contours and permissibility of such activity as per applicable laws, the Resolution Plan also envisages providing an option to the homebuyers to undertake self-construction of their properties, entirely at their own responsibility / accountability, costs and expenses.

Further, for homebuyers who have terminated contracts under RERA (cumulating to Rs. 9.33 Cr), the Resolution Plan proposes a resolution of the amounts ordered by the MAHA RERA under individual cases by way of payment of INR 4.037 crores within 24 months from the Effective Date.

21. As per the provision of the Code, this Tribunal is duty bound to examine the Resolution Plan as to whether it satisfies the conditions as laid down in Section 30(2) of the Code. A comparison of the mandatory compliance under the Code *vis-à-vis* the same made under the Resolution Plan is tabulated hereunder;

<p style="text-align: center;">MANDATORY COMPLIANCE UNDER IBC CODE AND REGULATIONS</p>	<p style="text-align: center;">COMPLIANCE UNDER RESOLUTION PLAN</p>
<p>S.30(1)- Resolution Applicant to submit an affidavit stating that he is eligible under Sec.29A of the Code, 2016</p>	<p>Yes, the Resolution Professional in Form-H has certified that the Resolution Applicant has submitted an affidavit.</p>
<p>S.30(2)(a)- provides for the payment of insolvency resolution process costs.</p>	<p>Yes, Pg. 57-58, sub clause 2(a) r/w Pg. 98, clause (a) of the Resolution Plan.</p>
<p>S. 30(2)(b) – Provides for the payment to the operational creditors.</p>	<p>Yes, Pg. 67, sub clauses 2(g) and 2(j) r/w Pg 98-99, clause (b) of the Resolution Plan.</p>
<p>S.30(2)(c)- provides for the management of the affairs of the corporate debtor?</p>	<p>Yes, Pg. 70-71, under the heading “Management and control of the business of the Corporate Debtor during the Resolution Term” r/w sub clause 1(c) to Part B, under the heading “Management of the affairs of the Corporate Debtor after the approval of the Resolution Plan (Section 30(2)(c) & Regulation 38(2)(b) and Implementation and Supervision of Resolution Plan (Section 30(2)(d)” at Pg. 100-104 of the Resolution Plan dated 20.11.2021 r/w addenda dated 23.11.2021 and 16.12.2021.</p>
<p>S.30(2)(d)- provides for the implementation and supervision of the resolution plan?</p>	<p>Yes, Sub clause 1(c)to Part B under the heading “Management of the affairs of the Corporate Debtor after the approval of the Resolution Plan (Section 30(2)(c)& Regulation 38(2)(b) and Implementation and supervision of Resolution Plan (Section 30(2)(d) at Pg. 100-104 of the Resolution Plan dated 20.11.2021 r/w addenda dated 23.11.2021 and 16.12.2021.</p>

S.30(2)(e)- Contravene any of the provisions of the law for the time being in force.	Does not contravene any of the provisions of the law for the time being in force.
S.30(4)- Committee of Creditors approve the Resolution Plan by not less than 66% of voting share of Financial Creditors, after considering its feasibility, viability and such other requirement as specified by the Board	The CoC has approved the Resolution Plan with 96.41% of voting.

22. Under the Section “*Business Plan for Turnaround/ Financial Projections*”, the RA has identified the various aspects central to the turnaround of the businesses of the Corporate Debtors and has proposed the manner in which the Resolution Plan seeks to ensure obtaining environment clearances, completion of construction, maintaining existing infrastructure, planning and commencement of future development, etc.

City Maintenance/ Working Capital: Further, in order to operate the Corporate Debtors as a going concern, the Resolution Plan envisages working capital investment (city annual maintenance) to the tune of ~ INR 22.50 Crores (fully payable within 15 months from Effective Date) on a monthly basis from the Effective Date.

Infusions towards obtaining Environmental Clearances and Refurbishment/ Repair of existing infrastructure/ assets: The Resolution Plan contemplates that within 90 days of the Effective Date, the Resolution Applicant will infuse INR 5 Crores towards obtaining/ renewing Environmental Clearances (EC) (including towards MPCB

fee). Further, the Resolution Plan envisages infusions to the tune of INR 70 Crores payable within 15 months from Effective Date, towards refurbishment and repairs of city infrastructure and assets.

Manpower: The Resolution Plan envisages retention of all employees of the Corporate Debtor and usage of their services (subject to their availability) under as per new employment terms and conditions, based on their skills and necessity of business. However, as the development work at the site has been closed for over three (3) years, the Resolution Applicant shall decide and finalise such matters upon acquisition of the Corporate Debtors.

Resolution Plan Amount: The Resolution Plan contemplates an investment of Rs. 1,814 Crores including a “Resolution Plan Amount of INR 1,466.50 Crores to be paid/ discharged from funds infused over multiple tranches into the Corporate Debtor by way of cash funding and instruments, being equity, Project inflows, loans, advances or a combination thereof. These amounts shall be utilized for (i) mandatory payments under the Code, (ii) payments proposed to be made to certain creditors (including operational creditors) and the secured financial creditors of the Corporate Debtors, and (iii) meeting the working capital and/or expenditure requirements, etc.

23. The resolution plan of the RA complies with all the mandatory provisions of the Code. The Compliance Certificate, Form H, has been filed by RP along with the Application. As regards the Resolution Plan, from Form– H filed by the Resolution Professional, it is evident that consolidated Fair Value is INR 1,838.12 Crores and the consolidated Liquidation Value is INR 770.11 Crores. It is also observed that admitted claim value against the debtor company is more than the

liquidation value of the company. A perusal of Form-H as filed by the Resolution Professional also affirms the fact that the Resolution Plan is in compliance with the mandatory compliances, as stipulated under Section 30(2) of the Code and the Resolution Applicant has also filed an Affidavit to the effect that he is eligible to submit the Resolution Plan taking into consideration Section 29A of the Code.

24. The Monitoring Committee shall supervise the implementation of the Resolution Plan and shall review operational performance of the Corporate Debtor. The Monitoring Committee shall consist of an Insolvency Professional (earlier RP), one representative from Financial Creditors and one representative of the Resolution Applicant. The aforesaid Committee shall stand automatically dissolved on completion of term of the Resolution Plan.

Further, it is evident from Form-H that the Applicant has filed applications under Section 43, 45, 49, 50, 66 of I&B Code, 2016. Any amount realized on account of the Transaction Application in pursuant to Sections 43, 45, 49, 50, 66 of I&B Code, 2016 filed with this Tribunal will be distributed amongst financial creditors on pro rate basis. Moreover, this bench hereby directs that all expenses related to the said recovery shall be borne by the Financial Creditors and the Financial Creditors will pursue the abovementioned applications till the same are disposed of.

25. As regards to the Reliefs and Concessions stated in Clause 15 of the Resolution Plan, the exemption as sought for in relation to the payment of registration charges, stamp duty, taxes and fees arising out of the implementation of the Resolution Plan is not granted. As regards the other reliefs and concessions as sought for, which exempts the

Corporate Debtor from holding them liable for any offences committed prior to the commencement of CIRP and as stipulated under Section 32A of IBC, 2016 is granted to the Resolution Applicant. With regard to other concessions and reliefs, most of them are subsumed in the reliefs granted above. The relief which is not expressly granted above, shall not be construed as granted. The exemptions if any sought in violation of any law in force, it is hereby clarified that such exemptions shall be construed as not granted. Further in terms of the Judgement of Hon'ble Supreme Court in the matter of *Ghanshyam Mishra and Sons Private Limited Vs. Edelweiss Asset Reconstruction Company Limited*, on the date of approval of the Resolution Plan by the Adjudicating Authority, all such claims which are not a part of Resolution Plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim which is not a part of the Resolution Plan.

26. In view of the above stated discussion and the facts, the Resolution Plan meets the necessary statutory requirements under the Code as well as the Regulations, we hereby approve the same. The Resolution Professional is further directed to handover all records, premises / documents to Resolution Applicant to finalize the further line of action required for starting of the operation as contemplated under the Resolution Plan. The Resolution Applicant shall have access to all the records premises / documents through Resolution Professional to finalize the further line of action required for starting of the operation. Further, on payment of the entire amount to Financial Creditors, Financial Creditors shall unconditionally release all securities/corporate guarantees provided by the Corporate

Debtor/collaterals owned by the Corporate Debtor provided as security against the debt availed.

27. Accordingly, the **IA/1007/2023** is hereby allowed and the Resolution Plan is approved in the aforesaid terms. The Resolution Plan submitted along with the IA/1007/2023 shall form part of this order.

Sd/-

**SHYAM BABU GAUTAM
(MEMBER TECHNICAL)**

Sd/-

**KULDIP KUMAR KAREER
(MEMBER JUDICIAL)**