

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH - IV**

**I.A. (IBC)(Plan) No. 50 of 2024**

IN

C.P. (IB) No. 1170/MB/2021

*(Filed u/s. 30(6) of the Insolvency and Bankruptcy Code, 2016)*

**AAA Insolvency Professionals LLP**

Through *CA Ankit Goel*

Resolution Professional of *M/s. D.K. Realty (India) Pvt. Ltd.*

**... Applicant**

**ALONG WITH**

**I.A. No. 4483 of 2024**

IN

C.P. (IB) No. 1170/MB/2021

*(Filed u/s. 60(5) of the Insolvency and Bankruptcy Code, 2016, r/w. Rule 11 of  
NCLT Rules, 2016)*

**Dr. Samit Madhup Lal & Anr.**

**... Applicant(s)**

*v/s.*

**CA Ankit Goel**

Resolution Professional of *M/s. D.K. Realty (India) Pvt. Ltd.*

**... Respondent**

**IN THE MATTER OF**

**C.P. (IB) No. 1170/MB/2021**

**LIV Smart Welfare Association**

**... Financial Creditor**

*v/s.*

**D.K. Realty (India) Private Limited**

**... Corporate Debtor**

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**Order Pronounced on:** 09.12.2024

***Coram:***

Ms. Anu Jagmohan Singh  
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli  
Hon'ble Member (Judicial)

***Appearances:***

**I.A. (IBC)(Plan) No. 50 of 2024**

For APRN Enterprises : Mr. Mustafa Doctor (*Ld. Sr. Counsel*) a/w. Ms. Chitra Rentala, Ms. Kriti Srivastava, Ms. Priyanka Vishnoi *i/b.* Trilgal, Ld. Counsel for APRN Enterprises (*Secured Financial Creditor of Corporate Debtor*).

For the Applicant RP : Mr. Shyam Kapadia (*Through Virtual Mode*) a/w. Ms. Swechha Mishra, Ld. Counsel for the Resolution Professional.

For the Resolution Applicant : Mr. Nausher Kohli, Ld. Counsel for the Resolution Applicant.

**I.A. No. 4483 of 2024**

For the Applicant : Ms. Apoorva Chowdhury, Ld. Counsel for the Applicant. (*Through Virtual Mode*)

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## **ORDER**

1. At the outset, and in relation to the captioned plan-approval application; An Interlocutory Application bearing **I.A. No. 4483 of 2024** has been filed by **Mr. Samit Madhup Lal & Anr.** against the Applicant RP seeking admission of its claim and for directions in furtherance of possession of a unit being developed by the Corporate Debtor. During the course of hearing on 14.10.2024, the Applicant RP has categorically affirmed the treatment of Applicant's claim in consonance with Item **{9.6.3 (a)}** of the Resolution Plan in consideration hereto, under the titular head of '**TREATMENT OF DEFERRED ALLOTTEES SUBMITTING THEIR CLAIMS AFTER VOTING ON THE RESOLUTION PLAN**'. This Tribunal, *vide* its Order *dated* 14.10.2024, has expressly recorded the same. We are thus of the considered view that the application need not be ventured into, and resultantly stands **Disposed-of**. Ordered accordingly.
2. The captioned application bearing **I.A. (IBC)(Plan) No. 50 of 2024** has been filed on 06.08.2024 by **AAA Insolvency Professional LLP** (*Through CA Ankit Goel - Appointed via Resolution dated 15.06.2024*), the Applicant Resolution Professional ("RP / Applicant RP") of **M/s. D.K. Realty (India) Private Limited** ("Corporate Debtor"), *u/s.* 30(6) of the Insolvency and Bankruptcy Code, 2016 ("IBC, 2016") on behalf of the Committee of Creditors of the Corporate Debtor, seeking approval of the Resolution Plan submitted by **LIV Smart Welfare Association** ("Successful Resolution Applicant / SRA") and approved by 99.92% of the voting share of the members of the Committee of Creditors ("CoC") of the Corporate Debtor herein.

### **Background of Corporate Insolvency Resolution Process**

3. The brief facts of the captioned application bearing **I.A. (IBC)(Plan) No. 50 of 2024** in relation to the Corporate Insolvency Resolution Process ("CIRP") of

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M/s. D.K. Realty (India) Private Limited *i.e.* the Corporate Debtor herein, are as follows:

- 3.1** Pursuant to the captioned petition bearing C.P. (IB) No. 1170/MB/2021 filed by **LIV Smart Welfare Association** (“Financial Creditor”) *u/s.* 7 of IBC, 2016; This Tribunal was pleased to initiate CIRP of the Corporate Debtor herein *vide* Order *dated* 15.11.2022. In furtherance thereof, Mr. Nitin Jain was appointed as the Interim Resolution Professional (“IRP”).
- 3.2** The said IRP caused a public announcement to be made in FORM-A on 18.11.2022, informing the commencement of CIRP of the Corporate Debtor and thereby invited claims from creditors to enable the constitution of Committee of Creditors (“**CoC**”). Following the aforesaid publication of FORM-A, several claims were received and the CoC was accordingly constituted. The IRP subsequently submitted a report for constitution of CoC before this Tribunal, and the same was taken on record *vide* Order *dated* 13.02.2023.
- 3.3** The First Meeting of the CoC was conducted on 12.12.2022, wherein the CoC sought to replace the IRP with **AAA Insolvency Resolution Professionals LLP** *viz.* (*Applicant RP in the captioned application*) as the Resolution Professional. The Second Meeting of the CoC was subsequently conducted on 05.01.2023 whereby, the Applicant RP published FORM-G *i.e.* Notice inviting Expression of Interest (“**EOI**”) for submission of Resolution Plan for the Corporate Debtor on 14.01.2023. In light of the same, the last scheduled date of submission of EOIs was fixed as 29.01.2023.
- 3.4** In response to the publication of the said FORM-G, two EOIs were received and the same was duly apprised by the Applicant RP to the

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members of CoC at its Third Meeting *dated 09.02.2023*. The CoC however sought to re-publish the FORM-G “*..so that more and more RA’s can submit the plan and in this way a better market value of the project can be fetched..*”, and the same was duly effectuated by the Applicant RP on *17.02.2023*. Pursuant to the re- publication of the said FORM-G however, the CoC sought to unanimously cancel the second FORM-G in its Fourth Meeting *dated 11.03.2023*, “*..due to non-availability of data/ records/ information of the assets of the Corporate debtor.*” The Notice of Cancellation *apropos* the Second FORM-G was accordingly published by the Applicant RP on *17.03.2023*.

**3.5** In consonance with Order of this Tribunal *dated 18.05.2023*; The CoC of the Corporate Debtor, *via* its Sixth Meeting *dated 22.06.2023*, sought to re-publish the FORM-G and further caused the issuance of Bid Evaluation Matrix (“BEM”) and Request for Resolution Plan (“RFRP”) “*..for evaluating and comparing Resolution Plans submitted by PRAs.*” The afore-stated FORM-G was accordingly re-published on *07.08.2023*. *Apropos* the same, the last date for submission of EoI was specified as *22.08.2023*, which was subsequently extended by 15 days pursuant to Eighth Meeting of CoC *dated 01.09.2023*. Notably, the afore-stated extension was pursuant to the Order of this Tribunal *dated 15.09.2023*.

**3.6** Pursuant to issuance of BEM and RFRP on *04.11.2023*; The Applicant RP submits that it received Resolution Plan(s) from two Prospective Resolution Applicants (“PRA”) *viz. LIV Smart Welfare Association and Kalyan Toll Infrastructure Limited*. The feasibility and viability of the proposed Resolution Plans along with the updated list of creditor(s) were discussed and deliberated upon in subsequent Meetings of the CoC, which further oversaw the appointment of a Transaction Auditor, leading upto

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the Sixteenth Meeting of CoC *dated 24.03.2024* whereby; The CoC sought to approve the Resolution Plan submitted by **LIV Smart Welfare Association** with 100% voting-share. The Applicant RP sought to file a plan-approval application *u/s. 33(2)* of IBC, 2016, bearing **I.A. No. 36 of 2024**, the financial viability and veracity of which was however questioned by this Bench. The said I.A. was subsequently withdrawn by the Applicant RP at the behest of the CoC, and the same was warranted for by this Tribunal *vide* its Order *dated 21.06.2024*.

- 3.7** In the intervening period, certain agreements were drawn up and discussed by the CoC in its Seventeenth Meeting *dated 27.05.2024* leading up to the execution of a CONSTRUCTION MANAGEMENT AGREEMENT *dated 01.07.2024* between the SRA and Zone Infracon Pvt. Ltd. (“*Builder*”) *a/w.* execution of a DEED OF CORPORATE GUARANTEE *dated 26.07.2024* between Kean Construction Pvt. Ltd. (*viz. holding-company of the builder*), Zone Infracon Pvt. Ltd., D.K. Realty (India) Pvt. Ltd. in favour of one APRN Enterprises Pvt. Ltd. (*viz. Secured Financial Creditor of the Corporate Debtor herein*). Pursuant to withdrawal of the plan-approval application as afore-stated, the Nineteenth Meeting of CoC was convened on *29.07.2024* wherein, the Resolution Plan *dated 29.07.2024* submitted by **LIV Smart Welfare Association** was approved with 99.92% voting-share, and the latter was accordingly declared as the Successful Resolution Applicant (“SRA”). The Applicant RP has thus filed the captioned plan-approval application which is in consideration hereto.

#### **Salient features of the Resolution Plan**

- 4.** The Applicant RP submits that the Resolution Plan on behalf of the Successful Resolution Applicant *viz.* **LIV Smart Welfare Association**, a Society registered under the *Societies Registration Act, 1860*, which “*..consists of flat(s) purchasers/*

homebuyers who had individually booked separate flat(s)/ unit(s) with the Corporate Debtor.” In terms of the Resolution Plan in consideration hereto, the Successful Resolution Applicant has proposed a payment of INR 163.02 Crores, in the manner as encapsulated hereunder:

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*SRA proposes to make a total payment of an amount of Rs. 163,02,93,632/- (Rupees One Hundred and Sixty-Three Crores Two Lakhs Ninety-Three Thousand Six Hundred and Thirty-Two) as specified below for the resolution of the Corporate Debtor in terms of the provisions of the Code:*

S. No.	Particulars	Amount Proposed by SRA
1.	CIRP Cost	2,02,93,632
2.	Operational Creditors (Workmen and Employees)	0.00
3.	Unsecured Financial Creditors	0.00
4.	Operational Creditors (Statutory Authorities and other Creditors not being Workmen and Employees)	1,00,00,000
5.	Secured Financial Creditors	160,00,00,000
6.	Other Creditors	0.00
	<b>Total</b>	<b>163,02,93,632/-</b>

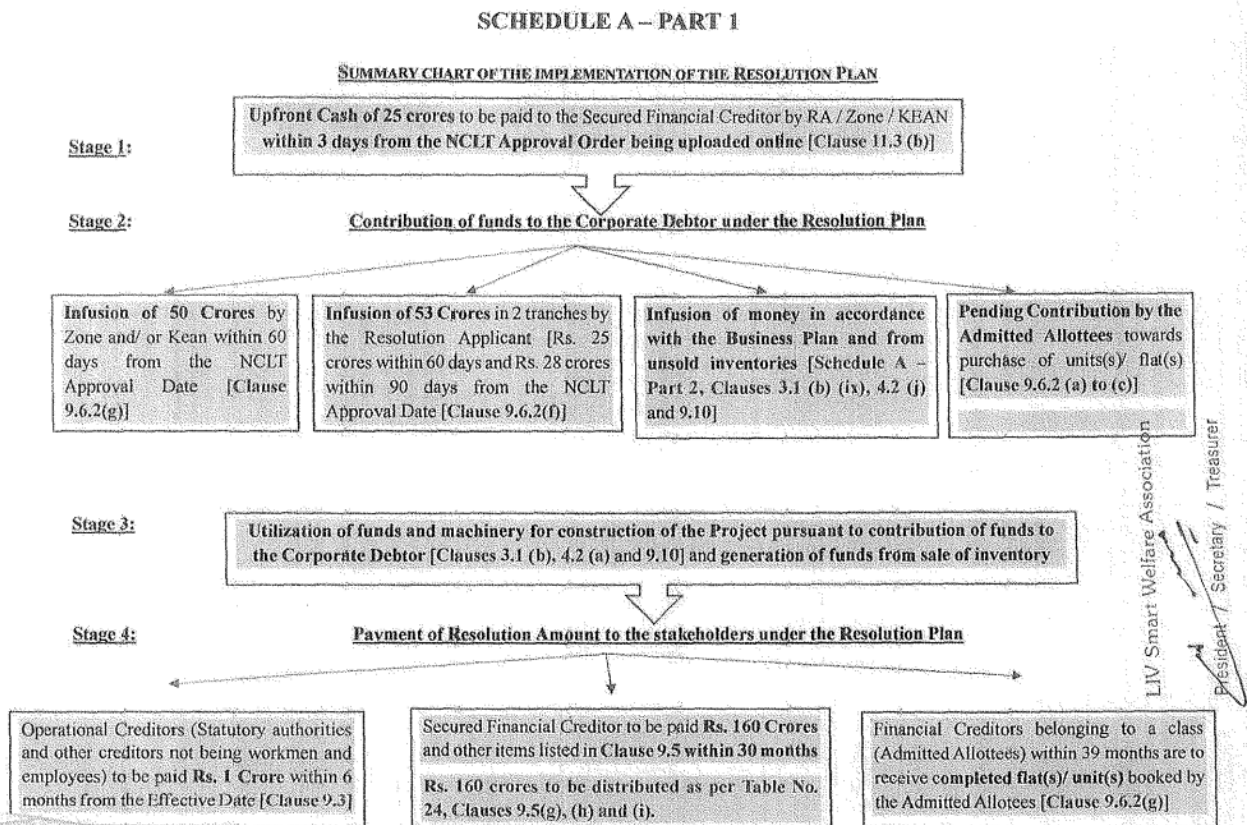
*RA shall be obligated to make a payment of Rs. 53 Crores in 2 (two) tranches to the Corporate Debtor for construction of the Project. Accordingly, the following payments will be made to the Corporate Debtor: (A) payment of Rs. 25 Crores to the Corporate Debtor within 60 (sixty) days of the NCLT Approval Date, and (B) the remaining payment of Rs. 28 Crores to the Corporate Debtor within 90 (ninety) days of the NCLT Approval Date. It is submitted that after completion of the project, the Home buyers will get the flats having considerable amount of value. Further, the amount released from the avoidance Application filed by the Resolution Professional shall be allocated to the Secured Financial Creditor.*

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5. The Successful Resolution Applicant has proposed Project Completion timeline(s), *via* Item {9.1 (c)}, in the manner as extracted hereunder:

Particulars	Number of Towers	Duration for completion from NCLT Approval Date	Start month	End month
Phase 1	7	16 months	Month 1	Month 16
Phase 2	7	20 months	Month 4	Month 23
Phase 3	7	20 months	Month 12	Month 31
Phase 4	7	20 months	Month 20	Month 39
Entire Project	28	39 months	Month 1	Month 39

6. In furtherance of the (proposed) schedule for flow of funds, the Successful Resolution Applicant has relied on the following Summary Chart, as extracted hereunder:





7. The Successful Resolution Applicant has proposed to implement the said Resolution Plan in consonance with Clause(s) {9.2} and {9.5} of the Resolution Plan, and the same has been encapsulated as hereunder:

Sr. No.	Activity	Particulars
1.	Payment of CIRP Costs as approved by CoC	As per actuals in full and in priority. Paid in 2 parts: Upto 31.12.2023 From 01.01.2024 till Effective Date
2.	Payment to Operational Creditors (Statutory authorities and other Creditors)	In priority over Financial Creditors E+6 Months in 1 Tranche
3.	Payment to Dissenting Financial Creditors	In accordance to Section 30(2) of the Code
4.	Payment to Secured Financial Creditors	Total amount 160 Crores Rs. 25 Crores: E+3 Days Rs. 7.5 Crores: E+3 Months Rs. 10 Crores: E+6 Months Rs. 14.69 Crores: E+9 Months Rs. 14.69 Crores: E+12 Months Rs. 14.69 Crores: E+15 Months Rs. 14.69 Crores: E+18 Months Rs. 14.69 Crores: E+21 Months Rs. 14.69 Crores: E+24 Months Rs. 14.69 Crores: E+27 Months Rs. 14.69 Crores: E+30 Months
5.	Payment to admitted allottees	By RA, Zone and Kean in terms of the Resolution Plan.

6.	Payment to deferred allottees submitting claims after voting of Resolution Plan	In respect of certain units/ flats being developed by the Corporate Debtor, certain Allottees may not have been able to file their claims with the RP during CIRP. Public Notice by RA: E+3 Days Submission of Claims: 60 days from Public Notice by RA.
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8. The Successful Resolution Applicant *viz.* **LIV Smart Welfare Association**, has further confirmed that it is eligible to submit the Resolution Plan in consonance with Section 29A of IBC, 2016.
9. In response to specific queries/ instructions of this Bench, the Resolution Professional has sought to file three Affidavits to place on record the following:
- Affidavit dated 30.08.2024: To place on record the voting results *dated* 06.08.2024 approving the Resolution Plan of the SRA, which is in consideration hereto.
  - Affidavit dated 26.09.2024: To place on record the financial statements of Kean Construction Private Limited (*viz. holding-company of the builder*) and the Due Diligence Report *dated* 11.04.2024 of the SRA *u/s.* 29A of the IBC, 2016.
  - Affidavit dated 10.10.2024: To place on record the financials of the SRA *a/w.* financials and the Compliance Report *u/s.* 29A of IBC, 2016, of its Group Companies *viz. Kean Construction Pvt. Ltd., Zone Infracon Pvt. Ltd. and Kargwal Constructions Pvt. Ltd.* The same has been filed in compliance with the Order of this Tribunal *dated* 20.09.2024.

We have duly perused the documents sought to be placed on record *via* the afore-stated Additional-Affidavit(s), and the same duly form part of the records hereto.

**Viability of the Resolution Plan**

21. The Applicant RP hereby submits that the Resolution Plan approved by the CoC is in compliance with the legal requirements as mandated under IBC, 2016.

22. At this juncture, we find it germane to draw reference to the extensions and/or exclusions sought during the CIRP of the Corporate Debtor, and the same have been tabulated hereunder for ready reference:

I.A. No.	Filed On	Relief Sought	Status
2030 of 2023	12.05.2023	Extension of 90d beyond 180d <i>w.e.f.</i> 14.05.2023	Allowed <i>vide</i> Order <i>dated</i> <b>18.05.2023</b>
3676 of 2023	12.08.2023	Extension of 60d beyond 270d <i>w.e.f.</i> 12.08.2023	Consolidated extension of 210 days Allowed <i>vide</i> Order <i>dated</i> <b>01.05.2024</b>
5025 of 2023	11.10.2023	Extension of 60d beyond 330d <i>w.e.f.</i> 11.10.2023	
5735 of 2023	11.12.2023	Extension of 90d beyond 390d <i>w.e.f.</i> 10.12.2023	
1197 of 2024	08.03.2024	Extension of 60d beyond 480d <i>w.e.f.</i> 09.03.2024	Allowed <i>vide</i> Order <i>dated</i> <b>01.05.2024</b>
3881 of 2024	09.07.2024	Extension of 90d beyond 540d <i>w.e.f.</i> 09.05.2024	Allowed <i>vide</i> Order <i>dated</i> <b>14.10.2024</b>

23. As per the Applicant RP, the averages of the Fair Value and Liquidation Value have been determined by the Registered Valuer(S) viz. G Tech Valuers Private Limited and RK Associates. The averages of the said determination of the requisite Fair Value and Liquidation Value, as provided in FORM-H, are as hereunder:

Average Fair Value:

INR 663,00,25,048/-

*(Indian Rupees Six hundred and sixty-three crores, twenty-five thousand, and forty-eight only)*

Average Liquidation Value:

INR 370,18,97,980/-

*(Indian Rupees Three hundred and seventy crores, eighteen lakhs, ninety-seven thousand, nine hundred and eighty only)*

24. The Learned Counsel for the Applicant Resolution Professional has annexed a certificate of the FORM-H to the Application, under Regulation 39(4) of the CIRP Regulations, 2016, to certify that the Resolution Plan approved by the CoC meets all the requirements of the IBC, 2016, as extracted hereunder:

**FORM H  
COMPLIANCE CERTIFICATE**

)Under Regulation 39(4) of the Insolvency and Bankruptcy Board of India )Insolvency Resolution Process for Corporate Persons( Regulations, 2016

AAA Insolvency Professional LLP (Represented through Mr. Ankit Goel, Authorized Partner of AAA Insolvency Professional LLP), an insolvency professional entity enrolled with Indian Institute of Insolvency Professional of ICAI and registered with the Insolvency and Bankruptcy Board of India with registration number [IBIIPA IBBI/IPE-0002/IPA-1/2022-23/50001] the resolution professional entity for the corporate insolvency resolution process )CIRP( of D.K. Realty (India) Private Limited.

2. The details of the CIRP are as under:

Sl. No.	Particulars	Description
1	Name of the CD	<b>D.K. Realty (India) Private Limited.</b>
2	Date of Initiation of CIRP	<b>15.11.2022</b>
3	Date of Appointment of IRP	<b>15.11.2022</b>
4	Date of Publication of Public Announcement	<b>18.11.2022</b>
5	Date of Constitution of COC	<b>07.12.2022</b>  <b>Reconstituted on –</b> <b>04.02.2023</b>  <b>Reconstituted on –</b> <b>07.10.2023</b>
6	Date of First Meeting of COC	<b>12.12.2022</b>
7	Date of Appointment of RP	<b>05.01.2023</b>
8	Date of Appointment of Registered Valuers	<b>22.12.2022</b>
9	Date of Issue of Invitation for EoI	<b>1<sup>st</sup> time issued on -</b> <b>14.01.2023</b> <b>2<sup>nd</sup> time reissued -</b> <b>17.02.2023</b> <b>3<sup>rd</sup> time reissued –</b> <b>07.08.2023</b>
10	Date of Final List of Eligible Prospective Resolution Applicants	<b>14.11.2023</b>
11	Date of Invitation of Resolution Plan	<b>07/08/2023</b>
12	Last Date of Submission of Resolution Plan	<b>25.12.2023</b>
13	Date of Approval of Resolution Plan by COC	<b>06-08-2024</b>
14	Date of Filing of Resolution Plan with Adjudicating Authority	<b>--</b>
15	Date of Expiry of 180 days of CIRP	<b>14.05.2023</b>

16	Date of Order extending the period of CIRP	<p><b>Order dated 18.05.2023 (90 days extension beyond 180 days) - CIRP Period concluding on 12.08.2023 as per Order.</b></p> <p><b>NCLT passed the order for allowing the below mentioned applications in the hearing held on 01.05.2024 but copy of order is still awaited;</b></p> <p><b>application filed on 12.08.2023 (60 days extension beyond 270 days) – CIRP Period concluding on 11.10.2023 as per the Extension Application</b></p> <p><b>application filed on 11.10.2023 (60 days extension beyond 330 days) – CIRP Period concluding on 10.12.2023 as per the Extension Application</b></p> <p><b>application filed on 11.12.2023 (90 days extension beyond 390 days) – CIRP Period concluding on 09.03.2024 as per the Extension Application</b></p> <p><b>application filed on 08.03.2024 (60 days extension beyond 480 days) – CIRP Period concluding on 08.05.2024 as per the Extension Application</b></p>
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		<b>Further RP filed an application for extension of 90 days as approved in 18<sup>th</sup> COC held on 27.06.2024 which is pending before the Hon'ble NCLT</b>
17	Date of Expiry of Extended Period of CIRP	<b>06.08.2024</b>
18	Fair Value	<b>6,63,00,25,048</b>
19	Liquidation value	<b>3,70,18,97,980</b>
20	Number of Meetings of COC held	<b>19</b>

3. I have examined the Resolution Plan received from Resolution Applicant (**LIVSMART Welfare Association**) and approved by Committee of Creditors )“**COC**”( of D.K. Realty (India) Private Limited.

4. I hereby certify that-

i) ( the said Resolution Plan complies with all the provisions of the Insolvency and Bankruptcy Code 2016 )Code(, the Insolvency and Bankruptcy Board of India )Insolvency Resolution Process for Corporate Persons( Regulations, 2016 )CIRP Regulations( and does not contravene any of the provisions of the law for the time being in force.

ii) ( the Resolution Applicant (LIV SMART Welfare Association) has submitted an affidavit pursuant to section 30)1( of the Code confirming its eligibility under section 29A of the Code to submit resolution plan. The contents of the said affidavit are in order.

iii) ( the said Resolution Plan has been approved by the COC in accordance with the provisions of the Code and the CIRP Regulations made thereunder. The Resolution Plan has been approved by 99.92% of voting share of financial creditors after considering its feasibility and viability and other requirements specified by the CIRP Regulations.

iv) ( The voting resolutions were proposed in the meeting of the 19<sup>th</sup> COC held on 29.07.2024 where members holding 99.92% of the voting rights were present through Video Conferencing mode. The voting was sought by electronic voting system which was kept open at least for 24 hours as per the regulation 26 commencing from 02.08.2024 at 04:00 PM and concluding on 05.08.2024 at 07:00 P.M.

5. The list of financial creditors of the CD, D.K. Realty (India) Private Limited being members of the COC and distribution of voting share among them is as under:

Sl. No.	Name of Creditor	Voting Share )%(	Voting for Resolution Plan )Voted for / Dissented / Abstained(
1.	APRN Enterprises Pvt. Ltd. (Financial Creditor)	81.02%	Voted for

2.	Triton Overseas Private Limited (Financial Creditor)	0.08%	Not Voted
3.	Financial Creditors in Class	18.90%	Voted for

6. The Resolution Plan includes a statement under regulation 38)1A( of the CIRP Regulations as to how it has dealt with the interests of all stakeholders in compliance with the Code and regulations made thereunder.

7. The amounts provided for the stakeholders under the Resolution Plan is as under:

(Amount in INR(

Sl. No.	Category of Stakeholder*	Sub-Category of Stakeholder	Amount Claimed	Amount Admitted	Amount Provided under the Plan#	Amount Provided 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	NA	NA	NA	NA
		(b) Other than (a) above:				
		(i) who did not vote in favour of the resolution Plan	NA	NA	NA	NA
		(ii) who voted in favour of the resolution plan	18,36,68,23,75	18,36,68,23,735	1,60,00,00,000	8.71%



		Total[(a) + (b)]	18,36,68,23,73 5	18,36,68,23,7 35	1,60,00,00,00 0	
2	Unsecured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	NA	NA	NA	NA
		(b) Other than (a) above:  (i) who vote in favour of the resolution Plan  (ii) who NOT voted in favour of the resolution plan	4,04,13,55,036  NA	3,79,84,07,63 4  NA	Delivery of Flats/Units and offer for refund as proposed in the plan  NA	100%
		Total[(a) + (b)]	4,04,13,55,036	3,79,84,07,63 4	0	
3	Operationa l Creditors	(a) Related Party of Corporate Debtor	NA	NA	NA	NA
		(b) Other than (a) above:  (i) Workmen  (ii) Employees  (iii) Government  (iv) Other than (Employees and	0  0  10,60,13,387	0  0  10,60,13,387	0  0  Ex-gratia amount of 1,00,00,000 (for	NA  NA  0.86% (for govern ment/s

		Workmen, and Government dues)	1,04,39,90,118	94,21,58,221	government/s tatutory authorities and other creditors not being workmen and employees)	tatutory authorities and other creditors not being workmen and employees)
		Total[(a) + (b)]	1,15,00,03,505	1,04,81,71,608	1,00,00,000	
4	Other debts and dues	NA	NA	NA	NA	NA
<b>Grand Total</b>			<b>23,55,81,82,276</b>	<b>23,21,34,02,977</b>	<b>1,61,00,00,000</b>	

\*If there are sub-categories in a category, please add rows for each sub-category.

# Amount provided over time under the Resolution Plan and includes estimated value of non-cash components. It is not NPV.]

8. The interests of existing shareholders have been altered by the Resolution plan as under:

Sl. No	Category of Share Holder	No. of Shares held before CIRP	No. of Shares held after the CIRP	Voting Share )%( held before CIRP	Voting Share )%( held after CIRP
1	Equity - Keemaya Build Private Limited Ravindra K. Jadhav	7,59,100 900	0 0	99.88% 0.12%	0% 0%
2	Preference	NA	NA	NA	NA

9. The compliance of the Resolution Plan 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?	Section 4	Yes

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?	Clause 9.12	Yes
Section 30)1(	Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?	Clause 9.12	Yes
Section 30)2(	Whether the Resolution Plan-		
	(a) provides for the payment of insolvency resolution process costs?	Clause 9.2	Yes
	(b) provides for the payment to the operational creditors?	Clause 9.3	Yes
	(c) provides for the payment to the financial creditors who did not vote in favour of the resolution plan?	Section 9.4	Yes
	(d) provides for the management of the affairs of the corporate debtor?	Section 5	Yes
	(e) provides for the implementation and supervision of the resolution plan?	Clause 8 & 9	Yes
	(f) contravenes any of the provisions of the law for the time being in force?]	Section 13.3	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?	Under Sections 3, 4, 6 and 7, and Clause 10.2	Yes Yes
Section 31)1(	Whether the Resolution Plan has provisions for its effective implementation plan, according to the COC?	Section 9 & 10.1	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?]	Clauses 9.3	Yes
Regulation 38)1A(	Whether the resolution plan includes a statement as to how it has dealt with the interests of all stakeholders?	Section 9 Clause 9.10	Yes
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 9 Clause 9.14	NO

Regulation 38)2(	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?	Clause 9.1(a)  Clause 5.1, 8.3 to 8.5  Clause 8.4 to 8.5	Yes  Yes  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?	Clause 2.4  Sec. 3,4,6 and 7, and clause 10.2  Sec. 9 and Clause 10.1  Clause 10.1  Clause 10.1	Yes  Yes  Yes  Yes  Yes
39)2(	Whether the RP has filed applications in respect of transactions observed, found or determined by him?	–	RP is in the process of filing of application before the Hon'ble NCLT
Regulation 39(4)	Provide details of performance security received, as referred to in sub-regulation (4A) of regulation 36B.]	Clause 4.1(e)	Yes  EOI is submitted by the registered association

			of allottees, having support of 200 allottees, the condition of deposit of performance security of Rs. 25 Crores would not be applicable
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10. The CIRP has been conducted as per the timeline indicated as under:

Section of the Code / Regulation No.	Description of Activity	Latest Timeline under regulation 40A	Actual Date
Section 16)1(	Commencement of CIRP and Appointment of IRP	T	15.11..2022
Regulation 6)1(	Publication of Public Announcement	T+3	18.11.2022
Section 15)1)(c) /Regulation 12 )1(	Submission of Claims	T+14	29.11.2022
Regulation 13)1(	Verification of Claims	T+21	06.12.2022
Section 26)6A( / Regulation 15A	Application for Appointment of Authorised Representative, if necessary	T+23	07.12.2022
Regulation 17)1(	Filing of Report Certifying Constitution of COC	T+23	07.12.2022
Section 22)1( and regulation 17)2(	First Meeting of the COC	T+30	12.12.2022
Regulation 35A	Determination of fraudulent and other transactions	T+115	05.05.2024
Regulation 27	Appointment of two Registered Valuers	T+47	22.12.2022
Regulation 36 )1(	Submission of Information Memorandum to COC	T+54]	18.02.2023
Regulation 36A	Invitation of EoI	T+75	07.08.2023 - Reissue
	Publication of Form G	T+75	07.08.2023 - Reissue
	Provisional List of Resolution Applicants	T+100	30.10.2023
	Final List of Resolution Applicants	T+115	14.11.2023
			i. PUMA Realtors Pvt. Ltd (CS One Group)  ii. Authum Investment & Infrastructure Limited (In consortium with

			<p>Cosmos Prime Projects Ltd.)</p> <p>iii. Panchshil Realty and Developers Private Limited</p> <p>iv. Ashdan Properties Private Limited (In consortium with Classic Promoters and Builders Private Limited</p> <p>v. Kalyan Toll Infrastructure Limited RKG Fund Scheme</p> <p>vi. Liv Smart Welfare Association</p> <p>vii. Square Four Housing &amp; Infrastructure Development Private Limited</p> <p>viii. Shree Naman Developers Private Limited</p>
Regulation 36B	Issue of Request for Resolution Plan, which includes Evaluation Matrix and Information Memorandum to Resolution Applicants	T+105	04.11.2023
Section 30)6( / Regulation 39)4(	Submission of COC approved Resolution Plan	T+165	NA
Section 31)1(	Approval of Resolution Plan	T=180	06.08.2024

11. The time frame proposed for obtaining relevant approvals is as under:

S. No.	Activity/ approval	Estimated timeline
<b>To start the project of 3B + G + 13 residential floors and commercial units of Project LivSmart of D. K. Realty (India) Private Limited</b>		
1.	Application for revalidation of plans	Within 30 days of the Resolution Professional giving permission to apply

S. No.	Activity/ approval	Estimated timeline
2.	Latest survey remarks from assistant engineer (Survey of Municipal Corporation of Greater Mumbai)	30 days concurrent activities
3.	Revalidation of intimation of approval & commencement certificate	Concurrent activities. (However, dependent on remarks from authorities and compliance thereof)
4.	Revalidation of Chief Fire Officer's ("CFO") no objection certificate ("NOC") for current height, if required	Concurrent activities. Application will be made on permission given by the RP
5	Structural stability certificates of existing structures with non-destructive test	60 days
6.a	Revalidation of industrial to residential/ commercial permission, if required	Concurrent activities. (However, dependent on remarks from authorities and compliance thereof)
6.b	Revalidation of current NOC of civil aviation (G+13)	Concurrent activities. (However, dependent on remarks from authorities and compliance thereof)
7.	Full commencement certificate / Regularization of all wings for current heights upto Ground +13 floors	Concurrent activities. (However, dependent on remarks from authorities and compliance thereof)
8.	RERA Act compliance/ re-registration/ fresh registration	1 month from the date of revalidation of commencement certificate
9.	RERA Act documents to be submitted: (a) Uploading of all permissions and revalidations on the portal under the RERA Act; (b) Uploading of all certificates of architect, engineer & chartered accountant or costs incurred till date etc.; (c) Removal of stay orders; (d) Uploading of all progress of works till date;	At the time of making application under the RERA Act as per point no.8 above

S. No.	Activity/ approval	Estimated timeline
	(e) Balance costs certificate required from chartered accountant, architect and engineer; and  (f) Uploading all orders of the Hon'ble NCLT, Government of India, State Government, etc.	
10.	Ministry of Environment and Forests ("MoEF") NOC compliances;	Concurrent activity
<b>Subsequent to start of work the concurrent approvals upto completion and occupation certificate</b>		
1.	Department of Industries NOC for change of user/ closure of factory	90 days for the application to be made
2.	Civil aviation NOC – revised for enhanced height (G+14)	Application will be made within 90 days post receiving civil aviation NOC for ground plus 13 floor structure as mentioned in point 6(b) herein
3.	Revised chief fire officer's NOC for enhanced height, if required	Subsequent to the application for aviation NOC for new height
4.	Occupation certificates of all balance 17 rehab buildings of 3.11 scheme	Subject to competent authority's order
5.	Completion/ handover certificates of rehab layout infra works  1. Electric supply;  2. Water supply;  3. Drainage / sewage treatment plant;  4. Storm water drain's & nalla;  5. Road setbacks etc. and international layout roads;  6. Chief fire officer completions;	Subject to competent authority's order



S. No.	Activity/ approval	Estimated timeline
	<p>7. Lift installation certificate from Public Works Department;</p> <p>8. Consent to operate (“CTO”) – Maharashtra Pollution Control Board;</p> <p>9. Railway NOC for occupation certificate;</p> <p>10. Railway NOC for occupation certificate;</p> <p>11. Verification of heights by Mumbai International Airport Limited (“MIAL”) for completion of civil aviation requirements;</p> <p>12. Tree authority compliances;</p> <p>13. Amenities – hospital &amp; nurse training institute; and</p> <p>14. Annexure II from project implementing agency for slum dwellers affecting vital public purpose project land.</p>	
<b>For completion of works and occupation certificate of D. K. Realty (India) Private Limited</b>		
1.	Compliance of industrial to residential/ commercial permission conditions	On project completion as per uploaded specifications
2.	Final Urban Land Ceiling and Regulation Act (“ULC”) NOC under section 22 of the ULC & compliance of conditions of any other ULC NOC	Confirmation required from Urban Development Department (“UD”) ULC regarding repeal of section 22 of the ULC. Application will be made
3.	Compliance of labour commission NOC conditions	Annual compliance as per statutory/ regulatory requirement
4.	Compliance of conditions of Department of Industries NOC, if any like factory closure permission, user change, etc.	On complying with ULC conditions of UD, if any

S. No.	Activity/ approval	Estimated timeline
5.	Public Works Department inspector's lift installation NOC	Subsequent to completion of related construction and compliances, within 45 days application will be made
6.	Chief Fire Officer's completion	
7.	Consent to Operate (“CTO”) from Maharashtra Pollution Control Board	
8.	Tree authority's NOC/ completion	
9.	MCGM's road departments' NOC/ completion for internal layout roads/ setbacks handing over, etc.	
10.	Storm water drain NOC / completion	
	Nalla remarks / completion	
11.	Drainage/ sewage treatment plant completion with payment of extra water sewerage charges	
12.	Departmental compliance for completion of water supply connection	
13.	Electric meters installation power supply confirmation	
14.	Compliance of railway NOCs	
15.	Pest Control Officer NOC / compliance	
16.	Receiving station / substation completion for the layout	
17.	Compliance towards lease of land underneath Corporate Debtor's sale building to the society of purchasers by SRA	

*\*Above table is prepared on the basis of information provided in the technical due diligence report submitted by Talreja Advisory & Consultancy Services and the same is provided in the resolution plan.*

*The RA in concert with the Builder have also done their independent due diligence about the approvals, permissions or licenses required to restart the construction at the project. The RA and/or the Builder would not use any gap in the information against the Resolution Professional or the COC.*

12. The Resolution Plan is not subject to any contingency.

13. Following are the deviations / non-compliances of the provisions of the Insolvency and Bankruptcy Code, 2016, regulations made or circulars issued thereunder )If any deviation/ non-compliances were observed, please state the details and reasons for the same(:

Sl. No.	Deviation/Non-compliance observed	Section of the Code / Regulation No. / Circular No.	Reasons	Whether rectified or not
	N/A			

14. The Resolution Plan is being filed 30 days before the expiry of the period of CIRP provided in section 12 of the Code. - No

14A. Whether the resolution professional has, in accordance with regulation 35A,-

- (a) applied to the Adjudicating Authority on or before the one hundred and thirty-fifth day of the insolvency commencement date: No
- (b) filed Form CIRP 8 with the Board on or before the one hundred and fortieth day of the insolvency commencement date: Yes

15. Provide details of section 66 or avoidance application filed / pending.

Sl. No.	Type of Transaction	Date of Filing with Adjudicating Authority	Date of Order of the Adjudicating Authority	Brief of the Order
1	Preferential transactions under section 43	NA	NA	NA
2	Undervalued transactions under section 45	NA	NA	NA
3	Extortionate credit transactions under section 50	NA	NA	NA
4	Fraudulent transactions under section 66	NA	NA	NA

*Note: Resolution Professional is in the process of filing of avoidance application under section 66.*

15A. The committee has approved a plan providing for contribution under regulation 39B as under:

- a. Estimated liquidation cost: NA
- b. Estimated liquid assets available: NA
- c. Contributions required to be made: NA
- d. Financial creditor wise contribution is as under:

Sl. No.	Name of financial creditor	Amount to be contributed (Rs.)
	N/A	

15B. The committee has recommended under regulation 39C as under:

- a. Sale of corporate debtor as a going concern: NA
- b. Sale of business of corporate debtor as a going concern: NA

The details of recommendation are available with the resolution professional.

15C. The committee has fixed, in consultation with the resolution professional, the fee payable to the liquidator during the liquidation period under regulation 39D.- NA

The members of COC discussed the provisions as laid in the Code are Regulation 39B, 39C and Regulation 39D of CIRP regulations and it was decided that the discussion upon these provisions in the 1st Stakeholders Consultation Committee (“SCC”), in case non approval of resolution plans or order for liquidation is passed by the Hon’ble NCLT.

16. I hereby certify that the contents of this certificate are true and correct to the best of my knowledge and belief, and nothing material has been concealed therefrom.

Name of the Resolution Professional: **AAA Insolvency Professionals LLP**  
(Represented through Mr. Ankit Goel, Authorized Partner of AAA Insolvency Professional LLP)

IP Registration No: **IBIIPA IBBI/IPE-0002/IPA-1/2022-23/50001**

Address as registered with the Board: **E-10A, Kailash Colony, Delhi- 110048**

Email id as registered with the Board: [anilgoel@aaainsolvency.com](mailto:anilgoel@aaainsolvency.com)

Date: 06.08.2024

Place: Delhi

### **Findings of this Tribunal**

25. In the circumstances mentioned hereinabove, the Applicant Resolution Professional has filed this Application seeking approval of this Tribunal on the Resolution Plan, submitted by the Resolution Applicant *viz.* **LIV Smart Welfare Association** stating that the plan is in accordance with Section 30(2) of IBC, 2016, and other provisions laid thereunder.

26. The Applicant RP has filed the Compliance Certificate in FORM-H along with the plan. Upon perusal, the same is found to be in order. The Resolution Plan has been approved by the members of CoC in the Nineteenth Meeting of CoC convened on 29.07.2024 wherein, the Resolution Plan *dated* 29.07.2024 submitted by **LIV Smart Welfare Association** was approved with 99.92% voting-share. The Applicant RP has further sought to submit that there are

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*“..no pending dues of provident fund or gratuity fund and no dues of workmen for the period of 24 months as per Section 53(1)(b) of the Code.”*

27. We further note that there is an application in the process of being filed and is *admittedly* pending scrutiny, apropos certain fraudulent transaction(s) *u/s.* 66 of the Code, as duly specified in Form-H hereto. During the course of hearing, the Applicant RP has stated on record that he will pursue all or any such avoidance transaction application(s), and that the SRA will cooperate under the tenets of law. We make it expressly clear that the approval of the Resolution Plan will not ipso-facto amount to abatement of such applications, and the same may be carried forward independently notwithstanding the same, on the terms as specified herein.
28. The Resolution Applicant has additionally sought certain Waivers, Concessions and Relief per Section {12} of the Resolution Plan. We make it expressly clear that no reliefs, concessions and dispensations that fall within the domain of other government department/authorities are granted hereto, and the same shall be dealt with by the respective competent authorities/fora/offices, Government (State or Central) with regard to the respective reliefs, if any. Be that as it may, the Learned Counsel for the Applicant RP has categorically affirmed during the course of hearing on 20.09.2024, that the implementation of the Resolution Plan is not conditional and/ or contingent upon grant of any or all of such reliefs, concessions and dispensations by this Tribunal.
29. Upon perusal of the Resolution Plan, this Bench deemed it fit to seek clarification in relation to the (proposed) implementation of the same apropos the (proposed) timeline for payment of the Operational Creditors. The captioned plan-approval application was accordingly listed for clarification on

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02.12.2024, and the Ld. Counsel appearing at the behest of Resolution Professional sought two-days' time to provide the said clarification. In compliance with the same, the Resolution Professional has sought to file its Affidavit dated 03.12.2024, whereby the following has been brought on record:

“

8. *That in order to comply with the directions of the Hon'ble Adjudicating Authority, the 22<sup>nd</sup> meeting of the CoC was convened on 3 December 2024 wherein the representative of LivSmart Welfare Association, the successful resolution applicant also remained present.*
9. *That LivSmart Welfare Association, proposed an appropriate modification to Clause 9.3 of the Resolution Plan, in compliance with the directions of this Hon'ble Adjudicating Authority. Accordingly, LivSmart Welfare Association proposed an addendum to the Resolution Plan providing for payment of ex-gratia amount of INR 1 Crore to the operational creditors within 2 days of the order approving the Resolution Plan being uploaded on the website of this Hon'ble Adjudicating Authority instead of six months as originally envisaged under the Resolution Plan.*
10. *That an addendum for modification of Clause 9.3 of the Resolution Plan in the following manner was shared by LivSmart Welfare Association with the RP vide email dated 3 December 2024:*

**9.3. Settlement proposed to Operational (Statutory authorities and other creditors not being workmen and employees)**

*In accordance with Section 30(2)(b) of the IBC, the Operational Creditors (Statutory authorities and other creditors not being workmen and employees) shall be paid the liquidation value due to them in priority over Financial Creditors. Based on the information provided, the liquidation value accruing to such Operational Creditors of the Corporate Debtor is assumed to be NIL after distribution under CIRP; in the manner as provided for under Section 53 of the Code. In view of the above, the ex-gratia settlement amount proposed to such Operational Creditors collectively is Rs. 1 Crore, to be distributed in equal proportion, within 2 (two) days of the NCLT Approval Order being uploaded online on the website of the Hon'ble NCLT ~~within 6 (six) months from the Effective Date~~ in one trance.*

[...]

11. *That the modification to be made by way of an Addendum to the Resolution Plan proposed by the successful resolution applicant was discussed in the CoC in*

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*the 22<sup>nd</sup> meeting of the CoC. Pursuant to discussions and in compliance with the directions of this Hon'ble Adjudicating Authority, the CoC passed the resolution approving the modification the Resolution Plan by way of approval to the addendum of the Resolution Plan proposing payment to the operational creditors within 2 days of the order approving the Resolution Plan being uploaded on the website of this Hon'ble Adjudicating Authority, with a voting share of 81.02%, while the voting of the remaining unsecured financial creditors i.e. home buyers as class of creditors is continuing on the e-voting platform at the time of filing the present affidavit. The approval of the CoC by voting share of 81.02% has been taken into account for the proposes of placing the present affidavit on record before the next date of hearing on 04 December 2024.*

[...]

*12. That, therefore, the Resolution Plan stands modified to the extent as laid down in the addendum dated 03 December 2024 as approved by the majority of the CoC and the same is to be read as part and parcel of the Resolution Plan.*

[...]

”

In light of the afore-said, we find that the same is in due consonance with the extant tenets of law, and the Affidavit dated 03.12.2024 is accordingly taken on record.

**30.** Upon perusal of the Resolution Plan, it is observed that the Resolution Plan provides for the following:

- i.* Payment of CIRP Cost as specified *u/s.* 30(2)(a) of the Code.
- ii.* Repayment of Debts of Operational Creditors as specified *u/s.* 30(2)(b) of the Code.
- iii.* For management of the affairs of the Corporate Debtor, after the approval of Resolution Plan, as specified *u/s.* 30(2)(c) of the Code.
- iv.* The implementation and supervision of Resolution Plan by the RP and the CoC as specified *u/s.* 30(2)(d) of the Code.

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31. The Applicant RP has complied with the requirements of the Code in terms of Section 30(2)(a) to 30(2)(f) of IBC, 2016, and Regulations 38(1), 38(1)(a), 38(2)(a), 38(2)(b), 38(2)(c) & 38(3) of CIRP Regulations.
32. In the case of *K Sashidhar v. Indian Overseas Bank & Others (in Civil Appeal No.10673/2018 decided on 05.02.2019)* the Hon'ble Apex Court held that if the CoC had approved the Resolution Plan by requisite percent of voting share, then as per section 30(6) of the Code, it is imperative for the Resolution Professional to submit the same to the Adjudicating Authority (NCLT). On receipt of such a proposal, the Adjudicating Authority is required to satisfy itself that the Resolution Plan as approved by CoC meets the requirements specified in Section 30(2).
33. In *CoC of Essar Steel (Civil Appeal No. 8766-67 of 2019 decided on 15.11.2019)* the Hon'ble Apex Court clearly laid down that the Adjudicating Authority would not have power to modify the Resolution Plan which the CoC in their commercial wisdom have approved. In para 42 Hon'ble Court observed as under:
- “Thus, it is clear that the limited judicial review available, which can in no circumstance trespass upon a business decision of the majority of the Committee of Creditors, has to be within the four corners of section 30(2) of the Code, insofar as the Adjudicating Authority is concerned, and section 32 read with section 61(3) of the Code, insofar as the Appellate Tribunal is concerned, the parameters of such review having been clearly laid down in **K. Sashidhar (supra)**.”*
34. In view of the afore-stated discussions and the law thus settled, the instant Resolution Plan meets the requirements of Section 30(2) of the Code and Regulations 37, 38, 38 (1A) and 39 (4) of the Regulations. The Resolution



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Plan is thus not in contravention with any of the provisions of the Code, and is in accordance with law. The same needs to be approved.

35. The present Application bearing I.A. (IBC)(Plan) No. 50 of 2024 in C.P. (IB) No. 1170/MB/2021 is hereby **Allowed**. The Resolution Plan annexed to the Application is hereby approved. It shall become effective from this date and shall form part of this Order.

35.1. It shall be binding on the Corporate Debtor, 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 is due, guarantors and other stakeholders involved in the Resolution Plan.

35.2. At the risk of re-iteration, the approval of this resolution plan shall not be construed as waiver of any statutory obligations of the Corporate Debtor, and the same shall be dealt by the appropriate authorities in accordance with law.

35.3. Further in terms of the judgment of Hon'ble Supreme Court in the matter of *Ghanshyam Mishra & Sons Pvt. Ltd. v. 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 the 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.

35.4. The Memorandum of Association (MoA) and Articles of Association (AoA) shall accordingly be amended and filed with the Registrar of Companies (RoC), Mumbai, Maharashtra for information and record.

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- 35.5.** The Moratorium *u/s.* 14 of IBC, 2016, shall cease to have effect from the date of pronouncement of this Order.
- 35.6.** The Applicant shall supervise the implementation of the Resolution Plan and shall effectively file status of its implementation before this Tribunal from time to time without fail, preferably every quarter.
- 35.7.** The Applicant shall forward all records relating to the conduct of the CIRP and the Resolution Plan to the Insolvency and Bankruptcy Board of India, along-with the copy of this Order for requisite information.
- 35.8.** The Applicant shall forthwith send a Certified Copy of this Order to the CoC and the Successful Resolution Applicant, for necessary compliances thereof.

Sd/-

**ANU JAGMOHAN SINGH**  
**MEMBER (TECHNICAL)**

**09.12.2024**

*Aditya Kalia*

Sd/-

**KISHORE VEMULAPALLI**  
**MEMBER (JUDICIAL)**

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