

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH**

IA(IBC)/Plan/02/KOB/2024

IN

CP(IB)/05/KOB/2021

(Under Sections 30(6) and 31(1) of the IBC, 2016 read with Regulation 37(m) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016).

In the matter of:

**Samson and Sons Builders and Developers
Pvt. Ltd.**

Memo of Parties:

Mr. K. Parameswaran Nair, Resolution Professional, Samson and Sons Builders and Developers Pvt. Ltd.

Address:

37/1736E, Kripasagaram, K. Murali Road, Kadavanthara, Ernakulam, Kerala- 682 020.

Email: - cakpnair@gmail.com.

... Applicant

In the Original matter of: -

Mr. Vijayakumaran J.

... Operational Creditor.

-Vs-

M/s. Samson and Sons Builders and
Developers Pvt. Ltd.

... Corporate Debtor.

Order delivered on: 14.08.2024

Coram:

Hon'ble Member (Judicial) : TMT. Justice T Krishna Valli.

Hon'ble Member (Technical) : Shri. Ravichandran Ramasamy.

Appearances:

For the Applicant : Mr. Vinod P.V., Adv.

ORDER

Per: Coram

1. The application has been filed under Sections 30(6) and 31(1) of the IBC, 2016 read with Regulation 37(m) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 by the Resolution Professional in the matter of the. M/s. Samson and Sons Builders and Developers Pvt. Ltd. seeking the approval of the Resolution Plan submitted for Project Peral Crest by the Successful Resolution Applicant Peral Crest Apartments Buyers Association. The CoC approved the Resolution Plan under Section 30(4) of IBC, 2016 with **68.30%** voting.
2. The Company Petition CP(IB)/05/KOB/2021 was filed by M/s Vijayakumaran J, VJ Constructions against M/s. Samson and Sons Builders and Developers Pvt Ltd, the Corporate Debtor, under Section 9 of the Insolvency and Bankruptcy Code, 2016 ("Code") which was admitted vide Order dated 03.11.2021. Accordingly, Mr. Muhammed Davood K. having Registration No. IBBI/LPA-001/IP-

P02357/2020-2021/13499 was appointed as the Interim Resolution Professional (“IRP”) from the Panel of IPs. It is stated that Mr. Muhammed Davood K. vide letter dated 07.11.2021 informed the Registry about his inability to continue as IRP due to his poor health and hence vide Order dated 09.11.2022, this Tribunal replaced the IRP with Mr. Lukose Joseph as an IRP from the panel of IPs. The order was issued on 12.11.2022. In the 2nd meeting of the CoC held on 10.01.2022, Mr. K Parameswaran Nair was appointed as the Resolution Professional (“RP”) and this Tribunal confirmed the appointment of RP vide Order dated 16.03.2022 in IA(IBC)/14/KOB/2022.

3. It is stated that the IRP made a public announcement inviting claim on 15.11.2021 in Form-A in two newspapers, viz, Deshabhimani and Business Line, and a supplement to the Paper publication on 21.11.2021 and 22.11.2021 with the name of representatives for Class of Creditors. Based on the updated claims received, the COC of the Corporate Debtor consists of the following members and their voting shares as follows:

Sl No.	Name of Financial Creditor (Secured/Unsecured)	Voting Percentage
1.	Kerala Financial Corporation (Secured FC)	19.48%
2.	State Bank of India (Secured FC)	9.05%

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)(Plan)/02/KOB/2024

IN

CP(IB)/05/KOB/2021

In re: - Mr. Vijayakumaran J. Vs. M/s. Samson and Sons Builders Developers Pvt. Ltd.

3.	Unsecured Financial Creditors belonging Class of Creditors Home Buyers	68.30%
4.	Unsecured Financial Creditors belonging Class of Creditors Deposit Holders.	3.00%
5.	Toyota Financial Services India Ltd- Secured Financial Creditor.	0.17%
	Total	100%

4. It is stated that the total claims received and admitted by IRP/ RP as on 02.05.2024 are as follows:

Sl No.	Category of Creditor	Claim received	Claim admitted (provisionally)
1.	Financial Creditor (Secured) ➤ SBI ➤ KFC ➤ Toyota Financial Services India Ltd.	14,94,01,359 32,16,57,547 28,11,083	14,94,01,359 32,16,57,547 28,11,083
2	Unsecured Financial Creditors (other than Financial Creditors)	3,00,00,000	-

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)(Plan)/02/KOB/2024

IN

CP(IB)/05/KOB/2021

In re: - Mr. Vijayakumaran J. Vs. M/s. Samson and Sons Builders Developers Pvt. Ltd.

	belonging to any class of creditors)		
3.	Class of Creditors- Deposit Holders	7,94,18,576	4,95,60,620
4.	Class of Creditors- Home Buyers	144,67,67,669	1,13,50,84,420
5.	Operational Creditors (Employees and Workmen)	-	-
6.	Operational Creditors (Govt. dues)	13,45,77,264	13,45,77,264
7.	Operational Creditors (Others)	17,86,66,335	4,58,64,892
8.	Other Creditors	9,49,95,479	8,68,76,287
	Total	243,47,63,493	192,58,33,472

5. It is stated that the Corporate Debtor was incorporated on 27.07.2009 and was engaged in the business of real estate development. Before the commencement of CIRP, there were ten projects under construction, which are at different stages of development. Out of ten projects, in four projects no construction ever commenced. The last AGM of the Corporate Debtor was held on 30.09.2014 and the balance sheet was filed before the ROC only up to 31.03.2014 at the CIRP commencement date of 03.11.2021. RP had filed an application for non-cooperation against the suspended directors. However, suspended directors filed a reply

stating that creditors ransacked them and the public and police put them in jail during 2016-2017. When they returned, many of the documents were either destroyed and ransacked or missing. After hearing the aforesaid applications, this Tribunal passed an order dated 22.12.2022 directing the suspended directors to cooperate. The RP and COC have conducted the verification of claims and proceeded with the conduct of CIRP with only the available information with the Corporate Debtor. It is further stated that the registered office was closed and the Corporate Debtor has not been operational since 2016 and has been in a defunct status since then.

6. It is stated that in terms of the provisions of Section 25(2)(h) of the Code read with Regulation 36A (1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 ("CIRP Regulations"), invitations in Form 'G' for Expression of Interest ("EOI") from potential resolution applicants (PRA'S) were issued on 09.06.2022, however, the Applicant did not receive any Resolution Plan.
7. Hence, the CoC in its meeting held on 08.11.2022 decided to invite both holistic and project-wise resolution plans for the Corporate Debtor because of the amendment to the Regulation by which the IBBI has inserted a new Regulation 37(m) with effect from 16.09.2022 to the IBBI [Insolvency Resolution Process for Corporate Persons] Regulation, 2016 ("Regulation") enabling the PRAs to submit project wise/asset wise Resolution Plan to the Corporate Debtor. Accordingly, the Applicant published the EOI on

12.11.2022 in two newspapers i.e., Business Line (English) and Deshabhimani (Malayalam). The last date for submission of EOI was 07.01.2023 The eligibility criteria for submission of the Resolution Plan were as follows:

- a) Minimum net worth of Rs. 3 Crores as investment in the Project.
 - b) Home Buyers Association of Allottees were excluded from EMD and reduced the Performance Guarantee to Rs. 15 lakhs due to substantial investment as Home Buyer Allottees.
8. It is stated that in response to the second EOI, the Applicant received EOI from 8 PRAs. The final list of PRAs, in accordance with Regulation 36A (12) of CIRP Regulation was issued on 18.12.2022. The last date for submission of the Resolution Plan was 07.01.2023.
9. It is stated that out of the 8 PRAs, 6 PRAs submitted the Project Resolution Plan as follows:

Sl No.	Project Name	Name of PRA
1.	Angel Woods JDA	Angel Wood Apartment Allottees Association
2.	Orchid Valley	Orchid Valley Apartment Buyers Association
3.	Pearl Crest-JDA	Pearl Crest Apartment Buyers Association
4.	Sanctuary	Sanctuary Apartment Owners Association

5.	Nova Castle	Nova Castle Apartment Owners Association
6.	Sharon 1	Sharon Hill Residents Association.

10. It is stated that out of the six Resolution Plans thus received, three Resolution Plans submitted by Angel Wood Apartment Allotees Association, Orchid Valley Apartment Buyers Association and Pearl Crest Apartment Buyers Association were found compliant per the provisions of the IBC, 2016. The Applicant has placed all the Resolution Plans before the CoC at its 10th meeting held on 27.01.2023 and 02.02.2023 along with the preliminary report of RP on the Plans after circulating the copy to all the members of the CoC, who have submitted the confidentiality agreement.
11. It is stated that IBBI has amended the Regulation permitting project-wise Resolution Plans for the revival of the Corporate Debtor, it does require the approval of all numbers of CoC including approval of home buyers in other projects for its approval. There are 10 Projects in the Corporate Debtor and only in 6 Projects, RP has received the Resolution Plans and out of 6 Resolution Plans thus received, 3 Resolution Plans were non-compliant with the IBC, 2016 and IBBI Regulations. It is stated that since Regulation 37(m) provides for the asset-wise sale of the Corporate Debtor, the compliance report was also made in pursuance of the Liquidation Value about the said assets. Because of the non-compliant nature of the Resolution Plans for three of the Projects, the members of the

CoC in its 11th meeting held on 04.04.2023 resolved not to put all the Resolution Plans for voting until and unless all the Plans were found compliant and further resolved by 77.31% voting Rights to seek an extension of 90 days from this Tribunal. Subsequently, the RP applied an extension application i.e. IA(IBC)/157/KOB/2023. That application was rejected by this Tribunal and an order for Liquidation of the Corporate Debtor by vide order dated 26.04.2023.

12. It is also stated that the CoC in its 12th CoC held on 14.04.2023 approved the three Resolution Plans for the Project Pearl Crest, Angel Wood, and Orchid Valley. In the vent of the liquidation order passed by this Tribunal on 26.04.2023, the applications filed before this Tribunal for the approval of the Resolution Plan became infructuous. It is further stated that aggrieved by the order of liquidation, the home has filed appeal before the Hon'ble NCLAT. The Hon'ble NCLAT vide order dated 27.07.2023 stayed the Liquidation Proceedings and also finally on 02.05.2024 allowed the appeals by setting aside the order of Liquidation and granted 90 days to the Resolution Professional to complete the CIRP process.
13. It is stated that concerning the Project " Pearl Crest" , there were disputes between the land owner and home buyers and there was no consensus when the initial plan was filed. Petitions were pending before this Tribunal to remove their land from the Assets of the Corporate Debtor. Subsequent to the passing the order of Liquidation, home buyers and Land owners have arrived at a

consensus and submitted a revised Resolution Plan for consideration before the CoC.

14. It is stated that out of the 5 Resolution Plans received after restoring the CIRP by the Hon'ble NCLAT, only the Plan submitted by Pearl Crest Apartment Buyers Association for the project "Pearl Crest" was only compiled under the provisions of IBC, 2016 and the Regulations. Hence the RP has placed the Resolution Plan of Pearl Crest for voting in the 15th CoC held on 11.06.2024. The CoC has approved the Resolution Plan submitted by Pearl Crest Apartment Buyers Association with 68.30% voting rights.
15. It is stated that the Applicant issued the Letter of Intent to the Resolution Applicant on 19.06.2024. According to the issue of Letter of Intent, the Successful Resolution Applicant has remitted the performance guarantee to the current account No.41085054510 with SBI of the Corporate Debtor maintained by the Applicant at State Bank of India instead of the Performance Guarantee has already remitted for Rs.15,00,000/.
16. Pursuant to the approval of the Resolution Plan by CoC, the Applicant has prepared the Compliance Certificate in Form 'H' to comply with Regulation 39(4) of the IBBI (CIRP) Regulations. It is stated that the Resolution Applicant has confirmed in its Declaration/ Affidavit dated 17th May 2024 and Undertaking dated 17th May 2024 that they are eligible under Section 29A of the Code to submit a Resolution Plan. Further, the Resolution Applicant also

meets the eligibility criteria of PRA's for submitting the Resolution Plan as decided by the COC in its meeting held on 08.11.2022

17. It is stated that the details of various compliance as envisaged within the Code and the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 ("CIRP Regulations") that the Resolution Plan is required to adhere to which is reproduced hereunder: -

SUBMISSION OF RESOLUTION PLAN IN TERMS OF SUB-SECTION (2) OF THE CODE

Section/Regulation	Requirement	Clause of the Resolution Plan/Additional Documents.
Section 30(2)(a) of the Code	The Resolution Plan provides for the payment of Insolvency Resolution Process costs in a manner specified by the Board in priority to the repayment of other debts of the Corporate Debtor.	Clause 5.9.5 of page no. 40 of the Resolution Plan provides for the proportionate share of the CIRP cost for the Peral Crest Project either Rs. 14 lakhs or the share of actual CIRP cost.

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)(Plan)/02/KOB/2024

IN

CP(IB)/05/KOB/2021

In re: - Mr. Vijayakumaran J. Vs. M/s. Samson and Sons Builders Developers Pvt. Ltd.

Section 30(2)(b) of the Code	The Resolution Plan provides for the debts of the Operational Creditors in such manner as may be specified by the Board which shall not be less than the amount to be paid to the Operational Creditors in the event of Liquidation of the Corporate Debtor under Section 53 or less than the amount payable to the Operational Creditors if the Resolution proceeds were to be distributed by the priority under	Clause 5.9.4 of page no. 39 of the Resolution Plan.
------------------------------	---	---

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)(Plan)/02/KOB/2024
IN

CP(IB)/05/KOB/2021

In re: - Mr. Vijayakumaran J. Vs. M/s. Samson and Sons Builders Developers Pvt. Ltd.

	Section 53, whichever is higher.	
Section 30(2)(b) of the Code	The Resolution Plan provides for the payment of liquidation value to the dissenting Financial Creditors.	NA since no secured Financial Creditor. But there is deed of assignment with Muthoot Fincorp Ltd and the charge was created with RoC Kochi. As per the deed of assignment dated 22.06.2016 with the Muthoot Fincorp Ltd by CD the promoters have pledged 10,000 Sqft of future commercial space to the Muthoot Fincorp. In the plan there is no clause for the settlement of the mortgage of 10,000 Sq ft area in

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)(Plan)/02/KOB/2024
IN

CP(IB)/05/KOB/2021

In re: - Mr. Vijayakumaran J. Vs. M/s. Samson and Sons Builders Developers Pvt. Ltd.

		<p>the 2nd floor by Muthoot Fincorp. But Muthoot Fincorp Ltd has not yet submitted any claim before IRP/RF till the date. [Clause 7.1.10 Page 50 of the plan].</p> <p>In the absence of any claim from Muthoot, RP has not considered the claim for the purpose of compliance under Section 30(2)</p>
Section 30(2)(c) of the Code	The Resolution Plan provides for the management of the affairs of the Corporate Debtor after approval of the Resolution Plan	Clause 10.2, Page76 of the Plan.

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)(Plan)/02/KOB/2024
IN

CP(IB)/05/KOB/2021

In re: - Mr. Vijayakumaran J. Vs. M/s. Samson and Sons Builders Developers Pvt. Ltd.

Section 30(2)(d) of the Code	The Resolution Plan provides for the implementation and supervision of the Resolution Plan.	Clause 10, Page 75 of the Plan
Section 30(2)(e) of the Code	The Resolution Plan does not contravene any of the provisions of the law for the time being in force.	Clause No. 11, page 81 of the plan. Does not contravene any provisions subject to the deed of assignment with Muthoot Fincorp Ltd dated 22.06.2016.

**MANDATORY CONTENTS OF RESOLUTION PAN IN TERMS OF
REGULATION 38 OF THE CIRP REGULATIONS**

Regulation	Requirement	Provision in Resolution Plan
Regulation 38(1)	The amount due to the Operational Creditors under a Resolution Plan shall be given priority in	Actual amount offered is given in Page 42 of the plan

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)(Plan)/02/KOB/2024

IN

CP(IB)/05/KOB/2021

In re: - Mr. Vijayakumaran J. Vs. M/s. Samson and Sons Builders Developers Pvt. Ltd.

	<p>payment over Financial Creditors. over Financial Creditors</p>	
<p>Regulation 38(1)(A)</p>	<p>The Resolution Plan shall include a statement as to how it has dealt with the interests of all the stakeholders, including Financial Creditors and Operational Creditors of the Corporate Debtor.</p>	<p>Clause 12 Page 81 and Clause 5.9 Page 37 -43. The plan does not cover Muthoot Fincorp liability since they have not filed it claim.</p>
<p>Regulation 38(1)(B)</p>	<p>The Resolution Plan shall include a statement giving details of the Resolution Applicant or any of its related parties has failed to implement or contribute to the</p>	<p>NIL</p>

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)(Plan)/02/KOB/2024
IN

CP(IB)/05/KOB/2021

In re: - Mr. Vijayakumaran J. Vs. M/s. Samson and Sons Builders Developers Pvt. Ltd.

	failure of implementation of any other resolution plan approved by the AA at any time in the past	
Regulation 38(2)(a)	The Resolution Plan shall provide the term of the Plan and its implementation schedule	Schedule 4 of page no. 113 of the plan over a period of 42 months from the approval by AA.
Regulation 38(2)(b)	The Resolution Plan should state the management and control of the business of the Corporate Debtor during its term.	Clause 10.2 of page no. 76 of the plan i.e.; by the Monitoring Committee.
Regulation 38(2)(c)	The Resolution Plan should have adequate means for supervising its implementation.	Clause 10 of page no. 75 of the plan.
Regulation 38(2)(e)	The Resolution Plan should be in	Clause No. 11 of page no. 81

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)(Plan)/02/KOB/2024
IN

CP(IB)/05/KOB/2021

In re: - Mr. Vijayakumaran J. Vs. M/s. Samson and Sons Builders Developers Pvt. Ltd.

	compliance with the provisions of the law for the time being in force	
Regulation 38(3)	The Resolution Plan shall demonstrate that it addresses the cause of default, it is feasible and viable, it has provisions for its effective implementation, it has provisions for approvals required and the timeline for the same and	Clause 3.1 Page 22 of the plan Clause 3.3 Page 25 of the plan Chapter 10 Page: 75 and Clause 8 Page 68 of the plan Not specifically mentioned the timeline for approvals. The Resolution Applicant has to take all the

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)(Plan)/02/KOB/2024
IN

CP(IB)/05/KOB/2021

In re: - Mr. Vijayakumaran J. Vs. M/s. Samson and Sons Builders Developers Pvt. Ltd.

	the RA has the capability to implement the Resolution Plan.	necessary approvals. Yes
--	---	-----------------------------

18. It is stated that the Successful Resolution Applicant has submitted an Undertaking/ Declaration /Affidavit under Section 29A. The Successful Resolution Applicant has also given an undertaking as provided under Regulation 39(1)(c) of CIRP Regulation.
19. The relevant information concerning the total financial proposal under the Resolution Plan is tabulated as under: -

Particulars	Amount in Lakhs
Payment towards CIRP	Estimated Cost Rs. 13.98 Lakhs
Payment to Operational Creditors, excluding employees and workmen along with statutory dues.	Rs. 0.50 Lakhs
Payment to employees and workmen.	0.00
Payment to Statutory dues	Rs. 4.91 Lakhs
Payment to Secured Financial Creditors in multiple installments.	0.00

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)(Plan)/02/KOB/2024
IN

CP(IB)/05/KOB/2021

In re: - Mr. Vijayakumaran J. Vs. M/s. Samson and Sons Builders Developers Pvt. Ltd.

Payment to Unsecured Financial Creditors (Homebuyers=₹803.40 Lakhs for 25 homebuyers +₹14.50 Lakhs for 29 non-claimant homebuyers + Deposit Holders = ₹1.81 Lakhs).	Rs. 819.704 Lakhs
Payment to Related Party dues	NIL
Payment to Equity Shareholders.	NIL
Payment towards Working Capital.	Rs. 30 Lakhs
Payment towards Capital Expenditure (To land owner Mr. Lydia Cherian ₹ 150 Lakhs + Repurchase of land from CD for ₹3.57 Lakhs)	Rs. 153.57Lakhs
Total	Rs. 1022.66 Lakhs.

20. We have heard the submissions made by the counsel for all the parties and perused the materials available on record. It is emphasized that upon approval of a resolution plan by the CoC the Adjudicating Authority's obligation under Section 31 of the Code is to confirm that the plan fulfills the requirements outlined in subsections (2) and (4) of Section 30. Additionally, the Adjudicating

Authority is barred from interfering with the commercial wisdom of the CoC. The Hon'ble Apex Court has consistently upheld that the CoC's commercial wisdom should be given paramount importance, without any judicial interference, to ensure the timely completion of the prescribed processes under the IBC.

21. Hence, when evaluated with the aforementioned facts, we believe that the CoC has duly considered the feasibility and viability of the Plan, and other compliance under Section 30(2) of the Code. Consequently, the Resolution Plan meets the stipulated requirements of the Code and relevant regulations. Moreover, the Resolution Plan conforms with the law and does not violate any provisions of Section 29A of the Code.
22. This Tribunal notes that the Resolution Plan submitted the Resolution Applicant per Sections 30 and 31 of the Code and also complies with Regulations 38 and 39 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. No circumstances exist that militate against the grant of approval for the Resolution Plan. Thus, the Application filed by the Resolution Professional is hereby **approved**.
23. We are further relying on *Ghanshyam Mishra and Sons Private Limited v/s Edelweiss Asset Reconstruction Company Limited* (2021 SCC online SC 313) where the Hon'ble Supreme Court held that 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.

24. We are particularly emphasizing judicial precedent where the Apex Court had already taken a view **that no claims can be entertained after the approval of the resolution plan by the CoC.**
25. The Resolution Applicant prays for the following reliefs and concessions to be granted to the Corporate Debtor and/or the Resolution Applicant, ***the orders thereon are indicated against each.***

Sl. no	Relief/Concessions/Waivers	Orders thereon
1.	The Ministry of Corporate Affairs and the NCLT shall permit the extinguishment of whatsoever rights and interests of the corporate debtor in the Pearl Crest Project in the manner contemplated in this Plan and for the release of the Pearl Crest Project to the Resolution Applicant as contemplated under the Resolution Plan.	Granted in terms of IBC, 2016.
2.	All governmental authorities shall grant any relief, concession or dispensation as	It is for the Appropriate

	may be required for the implementation of the transactions contemplated under the Plan in accordance with its terms and conditions, including any stamp duty payable in respect of any documents executed in relation to such transactions.	Authorities to consider.
3.	The CBDT/DOR shall grant the following exemptions/waivers: (i) from the applicability of Section 281 of the Income Tax Act, 1961. including obtaining a no-objection certificate from income tax authorities in respect of all the pending proceedings and dues (including interest and penalty) of the Corporate Debtor arising for periods up to the NCLT Approval Date (including such proceedings and dues for periods prior to the NCLT Approval Date that may crystallize subsequent to the NCLT Approval Date). Further, CBDT/DOR shall restrict/restrain from treating any transactions contemplated in this Plan as being void or non-compliant with any provisions of the Income Tax Act, 1961;	It is for the Appropriate Authorities to consider.

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)(Plan)/02/KOB/2024

IN

CP(IB)/05/KOB/2021

In re: - Mr. Vijayakumaran J. Vs. M/s. Samson and Sons Builders Developers Pvt. Ltd.

	and (ii) from all tax liabilities (including interest and penalty) and tax proceedings arising in respect of periods up to the NCLT Approval Date, including such liabilities/proceedings for periods up to the NCLT Approval Date that may crystallize subsequent to the NCLT Approval Date in respect of on-going or potential income Tax litigations at all levels.	
4.	That all existing legal proceedings and the right to extinguish any such proceedings for the period prior to the NCLT Approval Date in relation to land of the JV partners and land agreed to sell shall stand extinguished from and on the NCLT Approval Date.	Granted in terms of IBC, 2016
5.	To declare that the Plan is approved and the Plan is binding on the Corporate Debtor and its employees, members, all 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	Granted in terms of IBC, 2016.

	force, such as authorities to whom statutory dues are owed, guarantors, and other stakeholders involved in the Plan, pursuant to Section 31 of the Code.	
6.	All creditors (including the Financial Creditors) of the Corporate Debtor shall withdraw all legal proceedings commenced against the project/land of JV partners and land agreed to sell involved in the Projects including ongoing litigations in relation to their Claims, including proceedings under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and the Recovery of Debts and Bankruptcy Act, 1993 and shall quash all criminal proceedings including proceedings under Section 138 of the Negotiable Instruments Act, 1881, if any, immediately after the NCLT Approval Date.	Granted subject to the provisions of IBC, 2016 and other applicable laws.
7.	A direction be issued to the Resolution Professional/Monitoring Agent to, (i) write back all the liabilities attributable	Granted subject to IBC, 2016 and other

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)(Plan)/02/KOB/2024

IN

CP(IB)/05/KOB/2021

In re: - Mr. Vijayakumaran J. Vs. M/s. Samson and Sons Builders Developers Pvt. Ltd.

	<p>to the project, including creditors, term loans. working capital loans, tax liabilities. other statutory liabilities, etc. which are not payable and reflect the total liabilities at the amount of the consideration (as reduced by the amount of insolvency resolution process costs) determined during CIRP; and (ii) the assets which are not recoverable (debtors, inventories and loans and advances, etc.) should be written down to their realizable value. The Resolution Professional/Monitoring Agent shall complete all the statutory processes and hand over the Peral Crest Project of the Corporate Debtor in a clean slate to the Resolution Applicant. The financial statement and returns filed shall be final and binding and shall be treated as conclusive.</p>	<p>applicable laws and as per Ghanshyam Mishra and Sons Private Limited vs Edelweiss Asset Reconstruction Company Limited 2021 SCC OnLine SC 313.</p>
<p>8.</p>	<p>A direction be issued to the Registrar of Companies and/or any Governmental Authorities to permit to update statutory filings by the Resolution</p>	<p>Granted subject to IBC, 2016 and other</p>

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)(Plan)/02/KOB/2024

IN

CP(IB)/05/KOB/2021

In re: - Mr. Vijayakumaran J. Vs. M/s. Samson and Sons Builders Developers Pvt. Ltd.

	Professional/Monitoring Agent immediately after the NCLT Approval Date without any fines or penalties as such statutory dues are completely waived by operation of this Plan for releasing charges if any created on the JV project.	applicable laws.
9.	All assets including properties (whether freehold, leasehold or license basis), awards, judgments, decrees, orders, all other actionable claims, rights, entitlements, benefits of the Corporate Debtor (whether reflected in the books or not) with regard to the Pearl Crest Project shall continue to remain vested in the Corporate Debtor free and clear from all encumbrances.	Granted in terms of IBC, 2016 and other applicable laws.
10.	A direction be issued that all Permits, granted in favour of the Corporate Debtor/land of JV partners and agreed to sell (whether expired, cancelled, terminated, or withdrawn) be renewed/granted or be deemed to continue without disruption, for the benefit of the Resolution Applicant, and	It is for the Appropriate Authorities to consider.

	<p>all additional permits required by the RA be made available immediately from the Record Date. All statutory approvals required to the RA to operate its assets (including that for electricity, fire, municipal authorities, building permits, environmental approvals and licenses) shall continue without any additional payments other than as contemplated in the Plan.</p>	
--	--	--

26. Regarding the reliefs/waivers pertaining to the domain of various departments/governmental authorities, it is further clarified that this Adjudicating Authority has no power to sanction these waivers, etc. and the Successful Resolution Applicant is at liberty to approach the competent authorities/courts/legal forums/office(s) Government or Semi-Government/State or Central Government for appropriate relief(s) sought in the plan. Approval of the Resolution Plan does not mean automatic waivers.
27. It is directed that any relief sought in the resolution plan, where the contract/agreement/understanding/proceedings/actions/notice etc. is not specifically identified or is for future and contingent liability, is at this moment not acceded to
28. Therefore, subject to the observations made, this Resolution Plan shall form part of this Order.

29. The Resolution Plan attached with this order shall become effective from the date of this order and shall form part of this order. The Resolution Plan as approved is binding on the Corporate Debtor, Creditors and others involved so that the revival of the Corporate Debtor can come into force with immediate effect.
30. The Moratorium imposed under section 14 shall cease to have effect from the date of this order.
31. In case of non-compliance of this order or withdrawal of the Resolution Plan, the CoC shall forfeit the Performance Guarantee amount already paid by the Resolution Applicant.
32. The RP shall stand discharged from his duties with effect from the date of this Order. He shall, however, perform his duties in terms of the Resolution Plan as approved by this Adjudicating Authority.
33. The Monitoring Committee shall take charge of the implementation of the Resolution Plan of the Pearl Crest (JDA Project) Project of the Corporate Debtor with effect from the date of this Order.
34. The Monitoring Committee shall endeavour to complete the plan implementation within **48 months from the date of this Order.**
35. The Resolution Applicant shall have access to all the Corporate Debtor's records, documents, assets and premises with effect from the date of this Order, to finalize the further line of action required for starting the business operations of the Corporate Debtor.

36. The Resolution Applicant shall file a copy of this Order with the Registrar of Companies, Kochi, inter alia for updating the status of the Corporate Debtor.
37. Accordingly, this Application being **IA (IBC)(Plan)/02/KOB/2024 IN CP(IB)/05/KOB/2021 is allowed.**
38. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Learned Counsel for information and for taking necessary steps.
39. Additionally, the Registry shall send a copy of this order to the Registrar of Companies, Ernakulam, Kerala.
40. A Certified Copy of this order may be issued, if applied for, upon compliance with all requisite formalities
41. File be consigned to records.

Sd/-
RAVICHANDRAN RAMASAMY

(MEMBER TECHNICAL)

Sd/-
T KRISHNA VALLI

(MEMBER JUDICIAL)

Dated this the 14th day of August, 2024.