

**IN THE NATIONAL COMPANY LAW TRIBUNAL
COURT-III, NEW DELHI**

IA-5306/2023

In

IB-65(ND)/2021

IN THE MATTER OF: IB-65(ND)/2021:

M/s. BASF INDIA LIMITED

..... Operational Creditor

VERSUS

M/s. MEGHAARIKA INTERNATIONAL PRIVATE LIMITED

..... Corporate Debtor

AND IN THE MATTER OF: IA-5306/2023:

*Under Section 30(6) r/w Section 31 of IBC, 2016 r/w Regulation 39(4) of IBBI
(CIRP Regulations), 2016*

Mr. SHAIKH NAFIS ANJUM

Resolution Professional of the Corporate Debtor

..... Applicant/ Resolution Professional

Pronounced On: 04.04.2024

CORAM:

SHRI BACHU VENKAT BALARAM DAS, HON'BLE MEMBER (JUDICIAL)

SHRI ATUL CHATURVEDI, HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant/ RP : Mr. Atul Bhatia, Adv.

For the SRA :

ORDER

PER: ATUL CHATURVEDI, MEMBER (TECHNICAL)

1. The present application has been filed by Mr. Shaikh Nafis Anjum, Resolution Professional ("RP") of M/s. Meghaarika International Private Limited ("Corporate Debtor") under the provisions of Section 30(6) read with Section 31 of the Insolvency & Bankruptcy Code, 2016 ("the Code" or "IBC") read with Regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 ("CIRP Regulations") for approval of the Resolution Plan in respect of M/s. Meghaarika International Private Limited ("Corporate Debtor") submitted by Successful Resolution Applicant ("SRA") namely M/s. Subhlaxmi Investment Advisory Private Limited.

2. Brief Background of the Case:

- 2.1** An application under Section 9 of the Insolvency and Bankruptcy Code, 2016 ("IBC") was filed by the Operational Creditor i.e., M/s. BASF India Limited against the Corporate Debtor i.e., M/s. Meghaarika International Private Limited and the said application was admitted by the order of this Adjudicating Authority dated 25.01.2023 and a moratorium was declared including the appointment of Mr. Shaikh Nafis Anjum as an Interim Resolution Professional. Subsequently, the 1st CoC meeting was convened on 28.02.2023, wherein the present Applicant namely Mr. Shaikh Nafis Anjum was confirmed as Resolution Professional in terms of Section 22 of IBC.
- 2.2** Thereafter, the Resolution Plan was submitted by the Successful Resolution Applicant namely M/s. Subhlaxmi Investment Advisory Private Limited which was approved by the CoC in its 8th meeting dated 12.09.2023 (e-voting concluded on 17.09.2023) under Section 30(4) of the IBC by 100% voting share in respect of the CIRP of the Corporate Debtor after considering its feasibility and viability.

3. Background of the Corporate Debtor:

- 3.1** The Corporate Debtor was incorporated on 13.09.2007, as a Private Company Limited by Shares (Non-govt. Company) having CIN: U74900DL2007PTC168151 under the Companies Act, 1956 with the Registrar of Companies, NCT of Delhi and Haryana. The Registered Office Address of the Corporate Debtor was at 703, 7th Floor, DLF Tower- B, District Centre, Jasola, New Delhi-110044. The Corporate Debtor was incorporated for the business of trading of chemicals namely IBA, NBA, PNA, DOP, etc. which are used in the manufacturing of Plasticizers.

4. Collation of claims by RP

- 4.1** In terms of Section 13 and Section 15 of the Code, the Applicant/RP made the public announcement which was published in newspapers i.e., Financial Express (English) and Jansatta (Hindi) Delhi NCR Edition on 02.02.2023 in Form-A to invite the stakeholders for submission of their claims. The Applicant/RP in response to the said Public Announcement dated 02.02.2023 has received two Claims, one from the Financial Creditors namely Bank of Baroda and the other from the Operational Creditor namely M/s. BASF India Limited. The Resolution Professional in this matter has not received any claims from the Workmen and Employees of Corporate Debtor and other Creditors.

5. Evaluation and voting

- 5.1** The 2nd CoC Meeting was convened on 24.03.2023 wherein the CoC approved the publication of Form-G and appointed valuers for conducting the Valuation of the Corporate Debtor. The 3rd CoC Meeting was convened on 15.04.2023 wherein the CoC approved the Evaluation Matrix and Request for Resolution Plan (RFRP) to decide eligibility criteria as per Section 25(2) of the Code. The RP prepared and issued Information Memorandum of the Corporate Debtor, in terms of Section 29 of the Code and as per Regulation 36 of the CIRP Regulations.
- 5.2** The Form-G was Published on 30.03.2023 for inviting Expressions of Interest (EoI) in various newspapers i.e., Financial Express (English) and Jansatta (Hindi) Delhi NCR Edition. The Last date of receipt of EoI was 15.04.2023.
- 5.3** The 4th CoC Meeting was convened on 20.05.2023 wherein the RP apprised the member of the CoC that pursuant to the publication of Form-G, one Resolution Applicant (“RA”) namely M/s. Subhlaxmi Investment Advisory Private Limited had submitted the EoI and proposed for extension of submission of last date of Resolution Plan and the CoC approved the extension for submission of the Resolution Plan and extended the Last date of submission of resolution plan to 16.06.2023.
- 5.4** The 5th CoC Meeting was convened on 22.06.2023 wherein the only resolution plan submitted by M/s. Subhlaxmi Investment Advisory Private Limited was opened before the CoC members.
- 5.5** The 6th CoC Meeting was convened on 04.07.2023, wherein the Resolution Plan submitted by M/s. Subhlaxmi Investment Advisory Private Limited (Resolution Applicant-RA) was placed before the CoC. The CoC after deliberation requested the RA to submit its revised resolution plan.
- 5.6** The 7th CoC Meeting was convened on 14.07.2023 wherein, the RP presented the revised resolution plan received from the resolution applicant. The CoC decided to put the said resolution plan for e-voting and the e-voting was commenced on 24.07.2023 and concluded on 05.09.2023. However, the CoC did not take any decision on the resolution plan due to pending approval from their higher authorities.
- 5.7** Since CIRP period of 180 days was expiring on 24.07.2023, therefore the CoC passed a resolution to extend the CIRP period by 60 days. Accordingly, the applicant filed an application seeking the extension of CIRP period by 60 days

and the same was allowed by this Adjudicating Authority vide its Order dated 04.08.2023.

- 5.8** The 8th CoC meeting was convened on 12.09.2023 wherein, the Applicant inter-alia apprised the members of the CoC that the final transaction audit report has still not been received from the transaction auditor. Upon inquiry from the transaction auditor, it was informed that they have recently received some information from the suspended board and are in the process of reviewing the same. During the meeting, the Applicant also informed the CoC members that based on his own assessment of the limited data provided by the Ex-management and the records available with him, he could not find any transaction which may be required to be exempted under any of the category named preferential, undervalued, fraudulent and extortionate (PUFE) transactions that the Corporate Debtor may have entered into during the two years with respect to a related party and one year for any other party preceding the insolvency commencement date.
- 5.9** The Resolution Plan submitted by the Resolution Applicant was put for e-voting on 15.09.2023 and the same was concluded on 17.09.2023. With the conclusion of the e-voting, the resolution plan submitted by M/s. Subhlaxmi Investment Advisory Pvt. Ltd. has been approved by the CoC with 100% voting share.
- 5.10** The Resolution Professional submits that a total of 8 (Eight) CoC meetings have been held during the CIRP period which are as follows:

S. No.	Sequence of Meeting of CoC	Date of Meeting	CoC Members Present
1.	First Meeting of CoC	28.02.2023	Yes
2.	Second Meeting of CoC	24.03.2023	Yes
3.	Third Meeting of CoC	15.04.2023	Yes
4.	Fourth Meeting of CoC	20.05.2023	Yes
5.	Fifth Meeting of CoC	22.06.2023	Yes
6.	Sixth Meeting of CoC	04.07.2023	Yes
7.	Seventh Meeting of CoC	14.07.2023	Yes
8.	Eighth Meeting of CoC	12.09.2023	Yes

- 5.11** The List of the Financial Creditors of the Corporate Debtor being members of the CoC and distribution of voting share is as under:

S.No.	Name of Creditor	Voting Share (%)	Voted For/ Abstained/ Dissented
1.	Bank of Baroda	100	Voted for

6. Details on Fraudulent and Avoidance transaction

The Resolution Professional has received the final Transaction Audit Report from the Auditor on 18.09.2023. In view of transaction audit report, the applicant is in consideration that there are no transactions that can be classified under the Sections 43, 45, 50 and 66 of Insolvency and Bankruptcy Code, 2016 during the period 01.04.2020 to 25.01.2023.

7. Valuation of the Corporate Debtor

In terms of Regulation 27 read with Regulation 35 of CIRP Regulations, the Applicant appointed two valuers entities namely “AAA Valuation Professionals LLP” and “Corporate Professionals Valuation Services Private Ltd.” who were entitled to determine the fair and liquidation value of the Corporate Debtor. As per the Form-H, the fair and liquidation value of the assets of the Corporate Debtor are as follows:

The Fair Value of the Corporate Debtor is Rs. 3,90,295/- and the Liquidation Value of the Corporate Debtor is Rs. 3,31,670/-.

8. Details of Resolution Plan/Payment Schedule

The Resolution Applicant has to the extent possible, taken into account the interests of all stakeholders of the Corporate Debtor in the following manner:

8.1 Payment of CIRP Cost

The Resolution Applicant will fund CIRP Cost to be paid by Resolution Applicant. In accordance with Section 30(2)(a) of the Code, the CIRP cost shall be paid in priority to the payments proposed for other Creditors of the Corporate Debtor.

8.2 Proposal For Financial Creditors

a. Financial Creditors - Secured Financial Creditors

As per Information Memorandum/the List of Creditors as provided in IM/as updated by the RP subsequent thereto, creditors in this category have submitted claims amounting to Rs. 387,313,843.13/- (in case RP has not included name of any creditor, who has filed the claim and whose claim has been rejected by the RP in full, in the list of Creditors in this category, such creditors will also be governed by the terms of this Resolution Plan) and RP has admitted the said claims for an amount of Rs 38,48,13,834.13/-. Resolution Applicant propose to pay a sum of Rs 40,00,000 /- to this category of Creditors.

b. Financial Creditors - Unsecured Financial Creditors

As per Information Memorandum/the List of Creditors as provided in IM/as updated by the RP subsequent thereto, creditors in this category have submitted claims amounting to Rs. NIL (in case RP has not included name of any creditor, who has filed the claim and whose claim has been rejected by the RP in full, in the list of Creditors in this category, such creditors will also be governed by the terms of this Resolution Plan) out of which RP has admitted the said claims for an amount of Rs. NIL. Resolution Applicant propose to pay a sum of Rs. Nil. to this category which shall be distributed and paid proportionately to all the Creditors within this category as proposed hereunder.

8.3 Proposal For Operational Creditors

a. Operational Creditors- Other than Workmen & Employees & Statutory Authorities

As per Information Memorandum/the List of Creditors as provided in IM/as updated by the RP subsequent thereto, creditors in this category have submitted claims amounting to Rs. 6,56,83,911.22/- (in case RP has not included name of any creditor, who has filed the claim and whose claim has been rejected by the RP in full, in the list of Creditors in this category, such creditors will also be governed by the terms of this Resolution Plan) out of which RP has admitted the said claims for an amount of Rs 6,56,83,911.22/-. Resolution Applicant propose to pay a sum of Rs. 65,000/-.

b. Operational Creditors- Workmen & Employee related dues

As per Information Memorandum/the List of Creditors as provided in IM/as updated by the RP subsequent thereto, creditors in this category have submitted claims amounting to Rs. NIL (in case RP has not included name of any creditor, who has filed the claim and whose claim has been rejected by the RP in full, in the list of Creditors in this category, such creditors will also be governed by the terms of this Resolution Plan). Resolution Applicant propose to pay a sum of Rs NIL to this category as there is no claim in this category.

c. Operational Creditors- Statutory Authorities/Government Dues

As per Information Memorandum/the List of Creditors as provided in IM/as updated by the RP subsequent thereto, creditors in this category have submitted claims amounting to NIL (in case RP has not included name of any creditor, who has filed the claim and whose claim has been rejected by the RP in full, in the list of Creditors in this category, such creditors will also be governed by the terms

of this Resolution Plan) out of which RP has admitted the said claims for an amount of Rs NIL.

d. Operational Creditors- Other than Workmen & Employee and Govt Dues

The amount proposed by the Resolution Applicant for the creditors who falls under this category in terms of provisions of IBC has been proposed as a fix lump sum amount payable to all the creditors of this category who have filed their claims or not or/and whose claims have been admitted by RP for full/part amount or/and whose claims have been rejected by the RP in full and final settlement of liability towards all such creditors who are required to/eligible to file claim under this category.

8.4 Proposal For Other Creditors (Form-F)

As per Information Memorandum/the List of Creditors as provided in IM/as updated by the RP subsequent thereto, creditors in this category have submitted claims amounting to Rs. NIL (in case RP has not included name of any creditor, who has filed the claim and whose claim has been rejected by the RP in full, in the list of Creditors in this category, such creditors will also be governed by the terms of this Resolution Plan) out of which RP has admitted the said claims for an amount of Rs. NIL. Resolution Applicant propose to pay a sum of Rs. NIL to this category as there being no claim.

8.5 Proposal For Existing Shareholders

- a. As per MCA records and Information Memorandum, the Corporate Debtor has issued/subscribed/paid-up capital of Rs. 60,000,000/- divided into 60,00,000 equity shares of Rs. 10/- each.
- b. The Resolution Applicant proposes to cancel entire paid-up share capital of Rs 6,00,00,000 of the Corporate Debtor. Hence, entire fully paid-up share capital stand cancelled/extinguished without any payment (including any cancelled value of the said equity shares or preference shares) to the holders of the said shares. Any other equity-linked securities, securities convertible into or exchangeable with equity shares of the Corporate Debtor and all other securities of the Corporate Debtor, if any, shall also stand cancelled and extinguished without any payment and/or further action. Physical share certificate or such documents giving such rights to the holder and are in their possession shall stand cancelled and will hold no legal value. The RA shall introduce a fresh equity share capital of Rs. 10 lakhs.
- c. The Resolution Applicant hereby proposed Mr. Ramesh Kumar Goyal, Mr. Rasik

Goyal, Mr. Nitin Jain, Mr. Sanhit Jain to be the shareholders of the Corporate Debtor after the approval of resolution plan. Further Resolution Applicant is free to nominate any shareholder and remove any shareholder with in the plan implementation period. The Resolution Applicant further declares that all the purposed shareholders shall be appointed in compliance with Section 29A of the Code.

8.6 The amount provided for the stakeholders under the Resolution Plan is as under:

(Amount in Rs. lakh)

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 (SFC)	(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	NIL	NIL	NIL	NIL
		(ii) who voted in favour of the resolution plan	38,73,13,8 34.13	38,48,13,8 34.13	40,00,000* (Please see the Note below)	1.033%
		Total[(a) + (b)]	38,73,13,8 34.13	38,48,13,8 34.13	40,00,000	1.033%
2	Unsecured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	NIL	NIL	NIL	NIL
		(b) Other than (a) above:	NIL	NIL	NIL	NIL
		(i) who did not vote in favour of the resolution Plan				

		(ii) who voted in favour of the resolution plan				
		Total[(a) + (b)]	NIL	NIL	NIL	NIL
3	Operational Creditors	(a) Related Party of Corporate Debtor	NIL	NIL	NIL	NIL
		(b) Other than (a) above:	6,56,83,91 1.22	6,56,83,91 1.22	65,000	0.091%
		(i)Government	NIL	NIL	NIL	NIL
		(ii)Workmen	NIL	NIL	NIL	NIL
		(iii)Employees	NIL	NIL	NIL	NIL
		(iv)				
		Total[(a) + (b)]	6,56,83,91 1.22	6,56,83,91 1.22	65,000	0.091%
4	Other debts and dues		NIL	NIL	NIL	NIL
Grand Total			45,29,97,7 45.35	45,04,97,7 45.35	40,65,000	0.896%

**Note – As per the resolution plan approved by the COC, the CIRP cost above 12 lakhs shall be adjusted from the amount of 40 lakhs as proposed in the plan towards the claim of the financial creditor.*

9. Waivers, Reliefs, Concessions and Exemptions

9.1 The Resolution Applicant has prayed for the reliefs as enumerated under the Resolution Plan approved by the CoC. From the Resolution Plan approval date, all inquiries, investigations and proceedings, whether civil or criminal, suits, claims, disputes, interests and damages in connection with the Corporate Debtor or the affairs of the Corporate Debtor, pending or threatened, present or future in relation to any period prior to the plan approval date, or arising on account of implementation of this resolution plan shall stand withdrawn, satisfied and discharged. From the date of approval of the Resolution Plan, the Resolution Applicant shall be legally authorised to seek appropriate orders from respective authorities/courts/tribunals for renewal of licences/withdrawal/ dismissal or abatement of the proceeding as the case may be.

9.2 The Resolution Plan also provides details of Reliefs and Concessions as already set out in Paragraph 5.6 Extinguishment of Liabilities due to Past Actions (Page No. 213-216 of the Resolution Plan).

10. Ongoing Litigation Matters

Treatment of amounts claimed under Ongoing Litigation Matters

All Claims arising out of inquiries, investigations, notices, causes of action, suits, claims, disputes, litigation, arbitration, awards, decrees, order for execution of decree or other judicial, regulatory or administrative proceedings against, the Company or the affairs of the Company, pending or threatened, and the proceedings under Section 138 of the Negotiable Instruments Act, 1881, the Operational Creditor Claims and the Tax related Claims or liabilities in relation to any period prior to the insolvency commencement date or liability of any other nature not specified herein relating to the activities of the Corporate Debtor as on insolvency commencement date shall stand extinguished without any payment to them. All the cases to be treated as disposed off and the same shall be Binding to all the stakeholders.

11. Term of the Resolution Plan and its Implementation Schedule

11.1 In accordance with Regulation 38(2)(a) of CIRP Regulations, the term of this Resolution Plan shall commence from the effective date and end on the date on which the RA shall meet all obligations on its part as per the terms envisaged under this Resolution Plan. This Resolution Plan has the provisions of implementation which are set out in this Resolution Plan.

11.2 Notwithstanding anything contained in this Resolution Plan, Resolution Plan shall become effective or enforceable only after (i) the Resolution Plan is approved by the Adjudicating Authority in the manner previously proposed by the Resolution Applicant and approved by the CoC; or (ii) if approved by the Adjudicating Authority with any variance with any additional financial burden on resolution applicant, then such approval shall be acceptable to Resolution Applicant. Upon approval of the Resolution Plan by the Adjudicating Authority, this Resolution Plan shall ipso facto form part of the Adjudicating Authority order approving the Resolution Plan.

12. Details on Management and Implementation as per the Resolution Plan

12.1 The Resolution Plan also provides details of the Implementation Schedule under Regulation 38(2)(a) of CIRP Regulations, management and control under Regulation 38(2)(b) of CIRP Regulations and under Section 30(2)(c) of IBC, and supervision under Regulation 38(2)(c) of CIRP Regulations and under Section 30(2)(d) of IBC under the Resolution Plan. The same is already set out in Section

8- Mandatory Contents of the Resolution Plan, Page No. 50-55 of the Resolution Plan.

12.2 During the term of implementation of this Resolution Plan, the management and control of the Corporate Debtor shall be vested in the hands of Monitoring Committee as proposed by the Resolution Applicant under this Resolution Plan.

13. Feasibility and viability of Resolution Plan

Resolution Applicant categorically state that the Resolution Plan has worked out the Feasibility and Viability of Plan based on liabilities as provided in List of Creditors as provided in IM. The plan has not considered any unknown liabilities while working out the feasibility and any such liability will make the Plan unviable.

14. Analysis and Findings

14.1 This Adjudicating Authority finds that the Resolution Plan was submitted by the Successful Resolution Applicant namely M/s. Subhlaxmi Investment Advisory Private Limited which was approved by the CoC in its 8th meeting dated 12.09.2022 (e-voting concluded on 17.09.2022) under Section 30(4) of the IBC by 100% voting share is valid and no provision of the IBC is contravened.

14.2 We find that the Resolution Plan meets the requirement of being a viable and feasible and for revival of the Corporate Debtor. By and large, there are provisions for making the Plan effective after approval by this Bench.

14.3 This Adjudicating Authority further relied on the Hon'ble Supreme Court's decision in the matter of **Vallal RCK vs. M/s. Siva Industries and Holdings Limited and Others, Civil Appeal Nos. 1811-1812 of 2022** whereby the Hon'ble Apex Court has answered the question as to whether '***the adjudicating authority (NCLT) or the appellate authority (NCLAT) can sit in an appeal over the commercial wisdom of the Committee of Creditors ("CoC") or not***'. We rely upon the following paragraphs:

"21. This Court has consistently held that the commercial wisdom of the CoC has been given paramount status without any judicial intervention for ensuring the completion of the stated processes within the timelines prescribed by the IBC. It has been held that there is an intrinsic assumption that Financial Creditors are fully informed about the viability of the Corporate Debtor and the feasibility of the proposed resolution plan. They act on the basis

of thorough examination of the proposed Resolution Plan and assessment made by their team of experts.”

*A reference in this respect could be made to the judgments of this Court in the cases of “**K. Sashidhar v. Indian Overseas Bank and Others, Committee of Creditors of Essar Steel India Limited through Authorised Signatory v. Satish Kumar Gupta and Others, Maharashtra Seamless Limited v. Padmanabhan Venkatesh and Others, Kalpraj Dharamshi and Another v. Kotak Investment Advisors Limited and Another and Jaypee Kensington Boulevard Apartments Welfare Association and Others v. NBCC (India) Limited and Others.***

*27. This Court has, time and again, emphasized the need or minimal judicial interference by the NCLAT and NCLT in the framework of IBC. We may refer to the recent observation of this Court made in the case of **Arun Kumar Jagatramka v. Jindal Steel and Power Limited and Another:***

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“95. However, we do take this opportunity to offer a note of caution for NCLT and NCLAT, functioning as the adjudicatory authority and appellate authority under the IBC respectively, from judicially interfering in the framework envisaged under the IBC. As we have noted earlier in the judgment, the IBC was introduced in order to overhaul the insolvency and bankruptcy regime in India. As such, it is a carefully considered and well thought out piece of legislation which sought to shed away the practices of the past. The Legislature has also been working hard to ensure that the efficacy of this legislation remains robust by constantly amending it based on its experience. Consequently, the need for judicial intervention or innovation from NCLT and NCLAT should be kept at its bare minimum and should not disturb the foundational principles of the IBC”

14.4 In light of the above-quoted judgements, it is clear that the “**Commercial wisdom of CoC**” is given paramount status. This Adjudicating Authority is not

endowed with the powers of jurisdiction or authority to analyse or evaluate the commercial decision of the CoC. The Resolution Plan was submitted by the Successful Resolution Applicant namely M/s. Subhlaxmi Investment Advisory Pvt. Ltd. which was approved by the CoC in its 8th convened meeting dated 12.09.2022 (e-voting concluded on 17.09.2022) under section 30(4) of the IBC by 100% voting share, this Adjudicating Authority cannot interfere in the same.

- 14.5 On perusal of the documents on record, we are satisfied that the Resolution Plan is in accordance with Sections 25(2)(h), 29A, 30(2), 30(4) and 31(1) of the IBC and also complies with Regulations 35A, 36B(4A), 37, 38(1), 38(1A), 38(1B), 38(2), 38(3), 39(1), 39(2) and 39(4) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The Applicant/RP has filed a Compliance Certificate in the prescribed Form, i.e., **Form-H** as per the amended Resolution Plan in compliance with Regulation 39(4) of the CIRP Regulations. The Applicant/ RP submits that the Successful Resolution Applicant is not disqualified under Section 29A of the Code to submit the Resolution Plan, as required by Regulation 39(1)(a) of the CIRP Regulations. A separate undertaking has also been submitted along with the EoI by the Successful Resolution Applicant, as mandated in terms of Regulation 39(1)(c) of the CIRP Regulations.
- 14.6 The reliefs, concessions and waivers sought by the Successful Resolution Applicant will be dealt with strictly as per law.
- 14.7 As far as the question of granting time to comply with the statutory obligations/seeking sanctions from governmental authorities is concerned, the Resolution Applicant is directed to do the same within one year as prescribed under section 31(4) of the Code.
- 14.8 In case of non-compliance of this order or withdrawal of the Resolution Plan within the stipulated time, in addition to other consequences which follow under law, the CoC shall forfeit the EMD already paid by the SRA as well as the PBG.
- 14.9 In view of the above, we are of the considered view that the present application has been filed with bonafide means, in the interest of justice and to advance the objectives of the Code.

15. Order

- 15.1 The **IA-5306/2023** which is for approval of the Resolution Plan is **allowed** and the Resolution Plan of Rs. 40,65,000/- (Rupees Forty Lakh Sixty Five Thousand Only) is **approved. The Resolution Plan shall form part of this Order.**

“Effective Date” means the date on which this Resolution Plan is approved by this Adjudicating Authority under Section 31 of the Code. The main Company Petition, i.e., **IB-65(ND)/2021** stands **dismissed** accordingly.

- 15.2 The Resolution Plan is 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, so that the revival of the Corporate Debtor Company shall come into force with immediate effect.
- 15.3 The Moratorium imposed under section 14 of the Code shall cease to have effect from the date of this order.
- 15.4 Further from the effective date and until the transfer date, a 3-member Monitoring Committee or Managing Committee is to be constituted. The Committee shall consist of one representative of the Resolution Applicant, one representative of the CoC and the Resolution Professional.
- 15.5 The RP shall submit the records collected during the commencement of the proceedings to the Insolvency and Bankruptcy Board of India (“IBBI”) for their record.
- 15.6 Liberty is hereby granted for moving appropriate application(s), if required in connection with the implementation of this Resolution Plan.
- 15.7 A copy of this Order shall be filed by the Resolution Professional with the Registrar of Companies, (RoC), NCT of Delhi & Haryana. The Memorandum of Association (MoA) and Articles of Association (AoA) shall accordingly be amended and filed with the RoC, for information and record.
- 15.8 The Resolution Applicant, for effective implementation of the Plan, shall obtain all necessary approvals, under any law for the time being in force, within such period as may be prescribed.
- 15.9 The Resolution Professional shall stand discharged from his duties with effect from the date of this Order, save and except those duties that are enjoined upon him for implementation of the approved Resolution Plan. Further, the Resolution Professional shall supervise the implementation of the Resolution Plan and file the status of its implementation before this Authority from time to time,

preferably every quarter.

15.10 Further, in terms of the Judgment of the Hon'ble Supreme Court in the matter of **Ghanshyam Mishra and Sons Private Limited Vs. Edelweiss Asset Reconstruction Company Limited** Civil Appeal No. 8129 of 2019, wherein the Hon'ble Supreme Court held that on the date of the 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 claims which are not a part of the Resolution Plan.

15.11 The Resolution Professional is further directed to hand over all records, premises/factories/documents available with it to the Successful Resolution Applicant to finalise the further line of action required for starting the operation. The Successful Resolution Applicant shall have access to all the records and premises through the Resolution Professional to finalise the further course of action required for starting operations of the Corporate Debtor.

15.12 The Registry is hereby directed to send copies of the order forthwith to the IBBI, all the parties and their Ld. Counsel for information and for taking necessary steps.

15.13 Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

File be consigned to the record.

No order as to costs.

Sd-

**(ATUL CHATURVEDI)
MEMBER (TECHNICAL)**

Sd-

**(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)**