

**IN THE NATIONAL COMPANY LAW TRIBUNAL**

**KOCHI BENCH**

**IA(IBC)/492/KOB/2023 IN CP(IBC)/54/KOB/2022**

**&**

**IA(IBC)/79/KOB/2024 IN IA(IBC)/492/KOB/2023**

**&**

**IA (IBC)/15/KOB/2024 IN CP (IBC)/54/KOB/2022**

*(U/s 30(6), 31(1), 31(2) & 60(5) of IBC, 2016,  
r/w 37(m) of the IBBI (Insolvency Resolution  
Process for Corporate Persons) Regulations  
2016 and Rule 11 of NCLT Rules, 2016)*

***In the matter of: Asten Realtors Private  
Limited***

**MEMO OF PARTIES:**

IA(IBC)/492/KOB/2023

RAJENDRAN P R,  
Resolution Professional of Asten Realtors  
Private Limited, 186/7, Padinjare Parippil,  
Kulayettikkara P.O, Ernakulam, Kerala -  
682317

**...Applicant**

IA(IBC)/79/KOB/2024

PIRAMAL CAPITAL AND HOUSING FINANCE  
LIMITED,  
601, 6<sup>th</sup> Floor, Amiti Bldg, Agastya Corporate  
Park, Kamani Junction, Opp. Fire Station,  
LBS Marg, Kurla (W), Mumbai – 400070

**...Applicant**

**-Vs-**

MR. RAJENDRAN PR,  
Resolution Professional of Asten Realtors  
Private Limited, Agasti & Associates, 1<sup>st</sup> Floor,

CNRWA-6, Cherupushpam Lane, Kadavnthra,  
Kochi -682020

**... Respondent No.1**

ASTEN NAUTICA HOME BUYERS WELFARE  
ASSOCIATION,  
Nautica Owners welfare Association, Inq  
Innovation, Inq Tower First Floor,  
Palarivattom, NH-Bypass

**... Respondent No. 2**

IA(IBC)/15/KOB/2024

GEORGE GEORGE,  
8B, Homestead Aptt. Thevara- Kochi 682015

**...Applicant No.1**

MANGATTU GEORGE RAVEEN,  
8B, Homestead Aptt. Thevara- Kochi 682015

**...Applicant No.2**

**-Vs-**

MR. RAJENDRAN PR,  
Resolution Professional of Asten Realtors  
Private Limited, Agasti & Associates, 1<sup>st</sup> Floor,  
CNRWA-6, Cherupushpam Lane, Kadavnthra,  
Kochi -682020

**... Respondent**

**Order delivered on: 14.08.2024**

***Coram:***

Hon'ble Member (Judicial) : TMT. (Retd.) Justice T Krishna Valli  
Hon'ble Member (Technical) : Shri. Ravichandran Ramasamy

***Appearances:***

**IA(IBC)/492/KOB/2023**

For the Applicant : Mr. E. Om. Prakash & Mr. Vinod P V, Advocate

**IA(IBC)/79/KOB/2024**

For the Applicant : Mr. Joseph Kodianthara, Advocate  
For the Respondent 1: Mr. E. Om. Prakash & Mr. Vinod P V, Advocate  
For the Respondent 2: Mr. S Ravi, Advocate

**IA(IBC)/15/KOB/2024**

For the Applicants : Mr. K P S Suresh, Advocate  
For the Respondent : Mr. E. Om. Prakash & Mr. Vinod P V, Advocate

**ORDER**

**PER CORAM**

1. These Applications involve a common set of facts and questions of law; hence the applications have been heard together and a common order is passed.
2. The IA(IBC)/492/KOB/2023 is filed by Mr. Rajendran PR, Resolution Professional of M/s Asten Realtors Private Limited, under section 30(6) and 31(2) of the IBC, 2016 ('the Code'), read with Regulation 37(m) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations 2016 ('CIRP Regulations') to

approve a project wise Resolution Plan submitted by Asten Nautica Buyers Welfare Association, the successful resolution applicant, and approved by the Committee of Creditor ('CoC') in its 8<sup>th</sup> meeting held on 16.10.2023 with 78.39 % voting shares. IA(IBC)/79/KOB/2024 seeks to reject the present resolution plan and to invite a fresh holistic Resolution Plan for the entire assets of the Corporate Debtor and IA(IBC)/15/KOB/2024 seeks to reject or amend the resolution plan with the approval of CoC to address the short-falls in applicants claim in the said Resolution plan respectively.

3. This Tribunal admitted Asten Realtors Private Limited, the corporate debtor (CD) into CIRP on 25.01.2023 and appointed Mr. Rajendran P R as the Interim Resolution Professional (IRP) who was confirmed as the Resolution Professional (RP) on 25.03.2023. The CIRP ended on 21.12.2023 after due extensions. This application was filed on 13.11.2023. The RP admitted the claims till 15.08.2023, and the Final list of Claims of CD as on 10.10.2023 is as follows:

Sl.	Creditor	Claim Amount	Admitted Claim
1	Secured Financial Creditors	NIL	NIL
2	Class of Creditors (Home Buyers)	3,15,32,77,567	1,89,11,57,179
3	Financial Creditors (unsecured)	1,75,29,35,131	1,20,84,99,800
4	Operational Creditors (Employees)	1,62,74,555	1,37,79,908
5	Operational Creditors (Workmen)	NIL	NIL

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6	Operational Creditors (Government dues)	16,31,25,453	91,99,353
7	Operational Creditors (Others)	16,52,17,209	7,42,51,998
8	Other Creditors	10,83,92,885	10,61,47,741
	TOTAL	5,35,92,22,800	3,30,30,35,979

The COC consists of 3 unsecured financial creditors as follows: -

Piramal Capital Housing & Finance Ltd	21.61%
Allottees of Real Estate Projects	60.21%
Fedex Finance (P) Ltd	18.18%
TOTAL	100%

- Corporate Debtor is in the business of real estate development and currently has three ongoing projects and one completed project. The Resolution Professional received 299 claims totalling Rs.121.39 Crores for "Rajagiri Campus Court", 22 claims for Rs. 59.68 Crores for "Asten Nautica", and 3 claims for Rs.5.99 Crores for "Aurum Woods" which are the ongoing projects. "Asten Viveria" the completed project, has pending registrations for a few already handed-over units.
- The RP Invited Expressions of Interest (EOI) for the Resolution Plan on March 28, 2023, which was extended till July 11, 2023, following a request from the Home Buyers Association. The RP received two prospective Resolution Plans from Rajagiri Campus Court Home Buyers Welfare Association for Project Asten Campus Court, and Asten Nautica Home Buyers Welfare Association for Project Asten Nautica within time. No resolution plan was

received for Project Austen Arum Woods and its remaining assets. Prospective Resolution Applicants corrected the plan's deficiencies and submitted revised plans on 09.10.2023. The 8<sup>th</sup> COC on 16.10.2023 approved the plans with 78.39% voting rights.

6. These applications are concerned with the resolution plan for the project "Project Austen Nautica". The Resolution Professional received claims from 22 home buyers in the project produced in Annexure A/14. The resolution plan was submitted by the home buyer's association of the project consisting of 20 members, represented by its Secretary Mr. Dileep Mohan.
7. The brief background of the project is that the land consists of 205.142 cents in Kumbalam Village, Cochin where two towers totalling 24,687.67 m<sup>2</sup> are to be constructed. Tower 1 is 70% complete and Tower 2 construction has not commenced yet. The building permit expired on February 16, 2022. As per the joint venture agreement dated 01.06.2013 entered between the CD and landowner Dr. Xavier Mathew for the project, the CD advanced a refundable deposit of ₹1 crore to the landowner and further agreed on the landowner 25% of the built area in the project. The main issue with this project is the pending litigation regarding Coastal Regulation Zone (CRZ) norm violations. The Panchayat denied the building permit renewal due to non-compliance. The Corporate Debtor challenged this with Writ Petition No. 20293/2020, which the Hon'ble High Court of Kerala ruled in favour of the Corporate Debtor on 21.12.2020. Subsequently, the CRZ Authority appealed,

leading to Writ Appeal No. 676/2021, which remained unresolved during the CIRP. On 18.10.2023, the court directed the Committee to assess CRZ compliance and ordered the Panchayat to renew the permit if the project meets permissible limits. The court's order is produced as Annexure A/15.

8. The salient features of the resolution plan are: -
- a) The Resolution Applicant undertakes that it will not remove any additional assets or engage in the Corporate Debtor's business, proposing the Resolution Plan solely under Regulation 37(m) of the CIRP Regulations for Project Nautica.
  - b) The Resolution Applicant will address the claims of 20 Home Buyers in Nautica Tower-1 by completing construction and handing over possession, settling claims of Rs. 59.16 Crores. For Nautica Tower-2, the Applicant proposes to refund 50% of payments to Home Buyers due to non-commencement of construction.
  - c) The Resolution Applicant aims to complete the Project's construction, hand over apartments to allottees, and settle the Land Owner's dues. The Land Owner has consented to the Resolution Plan, produced as Annexure A/16.
  - d) The Estimated cost to be incurred for the completion of the project and other expenses are stated as Rs.30,94,56,250/- and the Source of funds is mainly from the Homebuyer's receivables, sale of balance units, and additional contributions by homebuyers.

- e) The resolution plan does not propose any settlement to other claimants/creditors other than Homebuyers/allottees.
- f) The execution of the plan is contingent upon the approval of CRZ approval and NOC and clearance from the Hon'ble Kerala High Court in writ petition.
9. The Resolution Professional has submitted the details of various compliances as envisaged by the Code and the CIRP Regulations which a Resolution Plan is required to adhere to, as follows:

Section/ Regulation	Requirement	Clause of Resolution Plan	Compliance (Yes / No)
Section 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	12	Yes
Section 29A	Whether the Resolution Applicant is eligible to submit a resolution plan as per final list of Resolution Professional or Order, if any, of the Adjudicating Authority?	10.2.4	Yes
Section 30(1)	Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?	10.2.1	Yes



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30(2)	<p>Whether the Resolution Plan-</p> <p>(a) Provides for the payment of insolvency resolution process costs?</p> <p>(b) Provides for the payment to the operational creditors?</p> <p>(c) provides for the payment to the financial creditors who did not vote in favour of the resolution plan?</p> <p>(d) provides for the management of the affairs of the corporate debtor?</p> <p>(e) provides for the implementation and supervision of the resolution plan?</p> <p>(f) contravenes any of the provisions of the law for the time being in force?</p>	<p>Para No.9 (Clause 4.4)</p> <p>Para No. 8.9,8.10 &amp; 8.11</p> <p>Note No.1 (Para 8.1)</p> <p>Not Applicable since plan is under clause 37(m) of the CIRP Regulation,2 016 &amp; not CD as a whole.</p> <p>Para No. 11.4, 16</p> <p>10.2(e)</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>NA</p> <p>Yes</p> <p>Yes</p>
Section 30(4)	<p>Whether the Resolution Plan</p> <p>(a) is feasible and viable, according to the CoC?</p>		<p>Yes</p>

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	(b) has been approved by the CoC with 66% voting share?	78.39%	Yes
Section 31(1)	Whether the Resolution Plan has provisions for its effective implementation plan, according to the CoC?	9 & 11.2	Yes
Regulation 35A	Where the resolution professional made a determination if the corporate debtor has been subjected to any transaction of the nature covered under sections 43, 45, 50 or 66, before the one hundred and fifteenth day of the insolvency commencement date, under intimation to the Board?	Intimated to the Borad on 18.8.2023 & 3.11.2023	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?	Para No.9	Yes
Regulation 38(1A)	Whether the resolution plan includes a statement as to how it has dealt with the interests of all stakeholders?	Para 8.1 to 8.15	Yes
Regulation 38(1B)	i. Whether the Resolution Applicant or any of its related parties has	Para 10.1	No

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	<p>failed to implement or contributed to the failure of implementation of any resolution plan approved under the Code.</p> <p>ii. If so, whether the Resolution Applicant has submitted the statement giving details of such non-implementation?</p>	Not Applicable	NA
Regulation 38(2)	<p>Whether the Resolution Plan provides:</p> <p>(a) the term of the plan and its implementation schedule?</p> <p>(b) for the management and control of the business of the corporate debtor during its term?</p> <p>(c) adequate means for supervising its implementation?</p>	<p>9 &amp; 11.2</p> <p>Not Applicable since plan is under clause 37(m) of the CIRP Regulation, 2016 &amp; not CD as a whole.</p> <p>11.4,16</p>	<p>Yes</p> <p>NA</p> <p>Yes</p>
Regulation	Whether the resolution plan demonstrates that –		

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38(3)	(a) it addresses the cause of default?	11	Yes
	(b) it is feasible and viable?	11.1	Yes
	(c) it has provisions for its effective implementation?	11.2	Yes
	(d) it has provisions for approvals required and the timeline for the same?	11.2	Yes
	(e) the resolution applicant has the capability to implement the resolution plan?	11.2	Yes
Regulation 39(2)	Whether the RP has filed applications in respect of transactions observed, found or determined by him	Transaction U/s 43 & 66 filed	Yes
Regulation 39(4)	Provide details of performance security received, as referred to in sub-regulation (4A) of regulation 36B	Rs.25 Lakhs Deposited in the bank account of the CD	

10. It is submitted that the Resolution Professional filed applications under Sections 66, 43, and 44 of the Code, to appropriate action taken under fraudulent transactions. The Resolution Plan states that any benefits from these applications shall be apportioned towards admitted claims other than present allottees of the project as per section 53 waterfall mechanism.

11. The Resolution Professional has filed the Compliance Certificate in Form 'H' as per Regulation 39(4) of the Insolvency and Bankruptcy

Board of India (Insolvency Resolution Process for Corporate Persons) regulations 2016 produced as Annexure A/2. The Resolution Applicant produced as Annexure A/3 confirmed eligibility under Section 29A of the Code in their Declaration and Undertaking dated 10.07.2023 and meets Prospective Resolution Applicants criteria per the COC meeting on 27.03.2023. The performance security of Rs.25 Lakhs was deposited in the bank account of the CD.

12. As per the valuation report, the RP states that the fair value of CD is Rs 1,48,16,17,725/- and liquidation value of CD is Rs. 1,14,05,45,270/- and the fair value of Project Asten Nautica of the CD is Rs 25,45,52,931/- and liquidation value of Project Asten Nautica is Rs. 19,79,85,613/-

13. DETAILS OF RESOLUTION PLAN/PAYMENT SCHEDULE

No.	Class of Creditors	Admitted	Proposed Settlement Amount	Repayment Time Line
1.	Financial Creditors			
1.1	Piramal Capital Housing & Finance Ltd	656260800	Nil	NA
1.2	Fedex Finance Private Ltd	552239000	Nil	NA
1.3	Sibin K Kuriakose	0	Nil	NA
1.4	Siraj Mather	0	Nil	NA

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1.5	Sunil Antony	0	Nil	NA
	TOTAL	1208499800		
Allottees In Real Estate Projects as a Class (306 No.)				
1.6	Rajagiri Campus Court Tower I	574689083	Nil	
1.7	Rajagiri Campus Court Tower II	639173966	Nil	
1.8	Nautica Tower I	591666706	100% of amount admitted by way of completing the Apartments and Handing over of the Possession to each claimant.	Detailed Implementation Plan Given. Total Implementation period 18 months.
1.9	Nautica Tower II	5095364	50% of Amount Admitted by way of full settlement/ amount available under section 53 distributions.	
1.10	Aurum Woods	59857431	Nil	NA
1.11	Viveria	20674629	Nil	NA
	TOTAL	1891157179		
2.	Operational Creditors			
2.1	Govt. Dues (ESI & Central Excise)	9199353	Nil	In case of payment subject to Note given, within 90

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				days of approval of the plan and priority to other creditors
2.2	Employees	13779908	Nil	In case of payment subject to Note given, within 90 days of approval of the plan and priority to other creditors
2.3	Suppliers & Service Providers	74251998	Nil	In case of payment subject to Note given, within 90 days of approval of the plan and priority to other creditors
	<b>TOTAL</b>	<b>97231259</b>		
<b>3.</b>	<b>Other Creditors</b>			
3.1	Other Creditors other than FC	106147741	Nil	NA- details provided
	<b>Total</b>	<b>106147741</b>		
	<b>Grand Total</b>	<b>3303035979</b>		

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4.	Other Claims- Not admitted			
4.1	EPFO	5774026	Nil	In case of payment subject to Note given, within 90 days of approval of the plan and priority to other creditors
4.2	Income Tax Dues	55190873.52	Nil	NA
4.3	State GST Department	148152074	Nil	NA
4.4	CIRP Cost	13287237	Actual CIRP cost excluding construction cost incurred in the project or cost directly attributable to individual project to keep the project as a going concern	In priority of all payment within 30 days of the approval of the plan, propose to pay the actual CIRP cost which is commonly incurred (excluding specific cost utilized or other projects) in the proportion of voting share of claim



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				admitted from allottees (as informed 31.56% of voting shares).
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14. The resolution plan proposes no contingency but the time frame for obtaining the relevant licenses for the completion of the project is 6 months.
15. IA(IBC)/79/KOB/2024 is filed by Piramal Capital and Housing Finance Limited under section 60(5) and Section 31(2) of the Code for rejection of the resolution plan.
16. The Resolution Professional admitted the claim of Piramal Capital and Housing Finance Limited to the tune of Rs. 65,62,60,800.34/- and rejected the claim of Rs. 2,53,39,206/-.
17. The Resolution Professional classified the Piramal Capital and Housing Finance Limited as an unsecured creditor, but the same was challenged in IA No. 346/KOB/2023 wherein this Tribunal on November 10, 2023, affirmed the Piramal Capital and Housing Finance Limited as a secured creditor.
18. It is submitted that the Resolution Applicant's Resolution Plan aimed to complete its project but completely failed to make any payments to creditors according to their eligibility, thereby neglecting their financial obligations in the process.
19. The objection of calling for a Resolution Plan for a specific project was raised by the Piramal Capital and Housing Finance

Limited, however, the Resolution Professional without providing any clarification proceeded to accept the asset-wise Resolution Plan and put the same for the vote. They have pointed out the legal observation and raised objections to the resolution plan put forth for voting.

20. It is submitted that the various parts of the resolution plan violate principles of natural justice and unfairly treat Project Asten Nautica Allottees.
21. It is further submitted that the homebuyers of Nautica Tower 1 are getting 100% of the amount admitted by way of completing the apartment, however for Nautica Tower 2, it is 50% repayment of the amount, and the rest of the creditors are not considered in the Resolution plan including the amount to Employee Provident Fund Organisation.
22. Piramal Capital and Housing Finance Limited submitted that the dissenting financial creditor should receive the same amount in liquidation as their admitted claim. As the secured creditor, Piramal Capital and Housing Finance Limited is entitled to its full claim, prioritized over unsecured Homebuyers under Section 53(1)(b) of the IBC.
23. Piramal Capital and Housing Finance Limited relying upon ***Jaypee Kensington Boulevard Apartments Welfare Association v. NBCC (2022) 1 SCC 401***, the Hon'ble Supreme Court of India ruled that Section 30(2)(b)(ii) of the Code guarantees dissenting creditors will receive equivalent

monetary compensation to liquidation proceedings.

24. IA(IBC)/15/KOB/2024 is filed by the homebuyer of the present project, who has entered into a flat purchase agreement with the Corporate Debtor seeking relief against the action of the Resolution Professional by admitting his claim to only Rs.23504318/- against the claim of Rs.37795393/- thereby rejecting the claim to tune of Rs.14291075/-.
25. It contends that the instances of CD exemplify corporate fraud, mismanagement, or negligence and the ex-management of the CD must be held accountable for its liabilities and should not maintain control over assets via proxies or a COC, especially if key members have ties to the Corporate Debtor's Directors.
26. Further submitted that the plan needs to include comprehensive details on a feasible execution strategy, focusing on monetization and technical implementation moving forward.
27. It is stated that the Resolution Applicant is a welfare association focused on maintaining flats and common activities, not on profit-driven construction projects. It lacks incorporation details, bye-laws, and a supporting resolution, indicating it does not have the mandate to submit a resolution plan for such activities.
28. Heard the submissions made by the Ld. Counsel for the Resolution Professional, and perused the records. We find that the Resolution Plan for project-wise resolution of the Asten Nautica project of the CD has been approved with a 78.39% voting share which is the

requisite majority required for approval. As per the CoC, the Plan meets the requirement of being viable and feasible for the revival of the project- Asten Nautica of the Corporate Debtor by settlement of the entire claims of the Homebuyers. By and large, the compliances have been done by the RP and the Resolution Applicant for making the Plan effective after approval by this Bench.

29. The main contentions of the opposing party- Piramal Capital & Housing Finance Pvt Ltd to this resolution plan is that vide order dated 10.11.2023, they have been classified as the secured creditor by this Tribunal and by virtue of the same, the claims of them have to be prioritized over other unsecured financial creditor class of homebuyers under Section 53(1)(b) of the IBC in which case, their claim is to be settled in full. That section 30(2)(b) as well as section 30(4) compliance with distribution mechanism u/s 53 IBC and rights of dissenting financial creditors are not complied.

30. Admittedly this plan has the effect of the Resolution Applicant taking the position of the Joint venture partner in the shoes of CD and directly executing the project Asten Nautica without providing any payment to other creditors be it secured or unsecured or operational or others and is intended to complete the project by bringing additional investments through the homebuyers and enable their resolution. The liquidation value of the project is also not sufficient for settling any creditors other

than the unsecured financial creditor class as per the section 53 mechanism as there is seen no workmen/employee dues to be settled in priority other than CIRP costs. If one is to go by the section 53 mechanism also, the opposing party Piramal cannot have a valid claim with respect to this particular project because their loan is not pooled into the construction directly as per the records. Being so, the charge cannot operate in favour of the creditor in this particular project. Therefore, the claim of Piramal as the secured creditor is not a valid objection to reject this Plan.

31. With regard to the second opposing party, i.e., a claimant in the project whose full claim is not admitted, it is seen that the plan is intended for complete resolution of the project -Asten Nautica which is made at the behest of the homebuyers. Isolated claims at this belated stage and also seeing that the resolution plan presupposes the homebuyer's resolution which includes this opposing party, these objections cannot be deemed reasonable enough to reject the plan for it affects the homebuyers in its entirety. Any action to admit this claim will be arbitrary at the least.

32. Now we do find that situation being as stated supra, this plan is the only feasible and viable solution to the resolution of the project otherwise the end of this will be liquidation, which will hinder high detriment to the homebuyer class. It has also been expressly undertaken that the homebuyer class in this project does not take any claim in CD or its business and their rights are

only limited to this project, the JV, and its execution. The other creditors are well within their rights to get their settlement out of the residual proceedings. Since this is a project-wise plan, we also rely on Hon'ble NCLAT in *Flat Buyers Association Winter Hills-77, Gurgaon vs Umang Realtech Pvt Ltd* that each project is to be considered separately and handed over the project will not be part of CIRP, and Hon'ble Supreme Court in *Bikram Chatterjee and Ors. V. UOI & Ors.* where it is held that CD cannot be pushed into liquidation without transferring assets to homebuyers. Hence in the interest of justice and noting that provisions under IBC, particularly sections 30 and 31 of the Code and regulations 38 and 39 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 have been largely complied with, we find that this plan needs to be approved. No other circumstances exist that militate against the grant of approval for the Resolution Plan.

33. 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.
34. Therefore, subject to the observations made in this Order, the Resolution Plan in question is hereby **approved** by this Bench. The Resolution Plan shall form part of this Order.
35. The Resolution Applicant requests, proposes, and prays for the

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following reliefs and concessions to be granted to the Corporate Debtor and/or the Resolution Applicant, as the case may be, on the Approval Date.

<b>Sl. No.</b>	<b>Relief/Concessions/Waiver sought</b>	<b>Order</b>
1.	Request exemptions and relief seek the benefit of all Income Tax from the appropriate authorities as available to IBC Companies.	It is for appropriate authorities to consider
2.	Request to settle all legal proceedings pending against the particular project - Asten Nautica in any court or tribunal or tax authorities and other contingent liabilities irrevocable and unconditional as on the Effective Date.	Granted subject to provisions of IBC and other applicable laws and in terms of the judgement of the Hon'ble SC in Ghanshyam Mishra and Sons vs Edelweiss Asset Reconstruction Company 2021 SCC online SC 313
3.	Request to release all encumbrances, charges, security interest, etc, created on the project-Asten Nautica on the	Granted subject to provisions of IBC and other applicable laws

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	Effective Date.	
4.	Request all actions with regard to the project Asten Nautica/ claims/ rights etc as mentioned in the Balance Sheet of the Corporate Debtor, as well as off balance sheet items, as on the Effective Date shall be the assets/ claims/ rights of the Resolution Applicant and shall be dealt with at its sole discretion.	Granted subject to provisions of IBC and other applicable laws and in terms of the judgement of the Hon'ble SC in Ghanshyam Mishra and Sons vs Edelweiss Asset Reconstruction Company 2021 SCC online SC 313
5.	Request to direction to the statutory Authorities for renewal of the licenses and permits with the available documents on records of the departments.	It is for appropriate authorities to consider
6.	Request exemption from RERA compliance for completion of the phase 1 project	It is for appropriate authorities to consider
7.	Request exemption from capital gain under income tax stamp duty and other regulatory charges for transfer of the JV agreement.	It is for appropriate authorities to consider



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8.	Request exemption from compensation/ penalties for any existing building rule violations / or wrongful acts of the CD which was beyond the control of the Resolution Applicant.	It is for appropriate authorities to consider
9.	Request relief from compensation awards /awards of any nature for non-commitments of the CD prior to the approval of the plan.	Granted subject to provisions of IBC and other applicable laws and in terms of the judgement of the Hon'ble SC in Ghanshyam Mishra and Sons vs Edelweiss Asset Reconstruction Company 2021 SCC online SC 313
10.	Request exemption from fines and penalties for non-renewal of the licenses/ compliance that occurred from CD prior to the approval of the plan including any violations of RERA Compliances	It is for appropriate authorities to consider
11.	Request reliefs from any stop memo from any of the statutory	It is for appropriate authorities to

IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOCHI BENCH

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	authorities for any violations /deviations which has occurred during the period of CD that were beyond the control of RA	consider
12.	On approval of this plan, the JD agreement stands fresh and the agreement is irrevocable by the landowners and all the conditions in this Resolution Plan are equally applicable to the landowners.	Granted subject to provisions of IBC and other applicable laws
13.	Request relief from all the existing disputes and litigations related to the project Asten Nautica and from all unclaimed claims and liabilities.	Granted subject to provisions of IBC and other applicable laws and in terms of the judgement of the Hon'ble SC in Ghanshyam Mishra and Sons vs Edelweiss Asset Reconstruction Company 2021 SCC online SC 313
14.	In case of any inconsistencies with any other laws for the time being in force, provisions under IBC shall prevail as per Section	Granted subject to provisions of IBC and other applicable laws

	238 of the Code.	
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36. 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.
37. 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.
38. The Resolution Plan is binding on the Corporate Debtor, its employees, members, and all its creditors including but not limited to secured, unsecured, financial, and operational creditors, guarantors, government and statutory and local authorities, and other stakeholders involved so that revival of the project- Asten Nautica of the Corporate Debtor can come into force with immediate effect
39. The Moratorium imposed under section 14 shall cease to have effect from the date of this order.
40. The Resolution Professional shall stand discharged from his duties with effect from the date of this Order. However, he shall perform

his duties in terms of the Resolution Plan as approved by this Adjudicating Authority.

41. The Monitoring Committee shall take charge of the implementation of the Resolution Plan of the Asten Nautica Project of the Corporate Debtor with effect from the date of this Order.
42. The Monitoring Committee shall endeavour to complete the plan implementation within **18 months from the date of this Order.**
43. The Resolution Applicant shall have access to all the Corporate Debtor's records, documents, assets, and premises with respect to the Asten Nautica Project with effect from the date of this order.
44. The Resolution Professional is further directed to hand over all records, documents, and properties of the Corporate Debtor Asten Nautica Project to the Resolution Applicant to enable the Resolution Applicant to finalize the further line of action required for starting the operations.
45. As the performance security amount already paid by the Resolution Applicant is to be utilized towards the revival of the Asten Nautica Project, any case of non-compliance with this order or withdrawal of the Resolution Plan cannot have an effect of forfeiture of the performance security.
46. Liberty is hereby granted for moving any Application if required in connection with the implementation of this Resolution Plan.

47. **IA(IBC)/492/KOB/2023** stands **allowed** and disposed of. **IA(IBC)/79/KOB/2024** and **IA (IBC)/15/KOB/2024** shall stand **dismissed**. The main Company Petition i.e., **C.P. (IB) No. 54/KOB/2022** shall stand **ordered** accordingly.

48. Certified copy of this Order be issued on demand to the concerned parties, upon due compliance with requisite formalities.

49. A copy of this Order is to be submitted by the Resolution Applicant in the Office of the Registrar of Companies, Kerala.

50. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel / Authorized Representatives for information and for taking necessary steps.

51. File be consigned to records.

Sd/-  
**RAVICHANDRAN RAMASAMY**  
**(MEMBER TECHNICAL)**

Sd/-  
**T KRISHNA VALLI**  
**(MEMBER JUDICIAL)**

Signed on this the 14<sup>th</sup> day of August 2024

Adarsh M Nair /LRA