

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**BENGALURU BENCH**  
**(Exercising powers of Adjudicating Authority under**  
**The Insolvency and Bankruptcy Code, 2016)**  
**(Through Physical/Video – Conferencing/Hybrid Mode)**

I.A No. 01/2024  
in  
CP (IB) No.09/BB/2022  
U/s. 31(1) of the Insolvency and Bankruptcy Code, 2016

**IN THE MATTER OF:**

**Mr. Shivadutt Bannanje,**

Resolution Professional of

M/s Dnyanyogi Shri Shivkumar Swamiji Sugars Limited

Having Office at:

N-705, North Block, Manipal Centre,

No.47, Dickenson Road,

Bangalore- 560 042.

... Applicant

**In the matter of:**

Sharanappa Sangappa Alur and others

... Financial Creditors

Versus

M/s Dnyanyogi Shri Shivkumar Swamiji Sugars Limited ... Corporate Debtor

**Order delivered on: 24.04.2024**

**Coram:**

Hon'ble Shri. K. Biswal, Member (Judicial)

Hon'ble Shri. Manoj Kumar Dubey, Member (Technical)

**PRESENT:**

For the RP

: Shri Raghuram Cadambi

**ORDER**

**Per: Manoj Kumar Dubey, Member (Technical)**

1. This is an Application filed by the Mr. Shivadutt Bannanje (hereinafter referred to as 'Applicant/Resolution Professional') under section 30 (6) read with section 31 and 60(5)(c) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the 'Code') and read with Rule 11 of the National Company Law Tribunal Rules, 2016, seeking approval of the Resolution Plan. The Resolution Plan duly approved by the Committee of Creditors (CoC) with the requisite majority has been placed on record.
2. Brief facts of the case are given hereunder:
  - (a) This Tribunal, vide order dated 07.03.2022 in C.P (IB) No. 09/BB/2022 ordered the commencement of Corporate Insolvency Resolution Process against M/s Dnyanyogi Shri Shivkumar Swamiji Suagrs Limited, by admitting the application filed under Section 7 by Shri Sharanappa Sangappa Alur and 8 other financial creditors of the Corporate Debtor. Further, vide order dated 07.03.2022, Smt Pavitra Vyas was appointed as the Interim Resolution Professional of the Corporate Debtor.
  - (b) Subsequently, as stipulated under Section 15 of the Code and in terms of Regulation 6(1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations 2016 (hereinafter referred as the 'Regulation'), the IRP issued a public announcement in Indian Express and Kannada Prabha on 09.03.2022 in prescribed 'FORM A' for intimation of initiation of Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor and called for invitation of claims from creditors. As per the public announcement, 21.03.2022 was the last date for submission of claims. Pursuant to the public announcement, the IRP collated the claims received and constituted the CoC, comprising of 12 (Twelve) financial creditors.
  - (c) Accordingly, the IRP convened the first CoC meeting on 06.04.2022, wherein the members of the CoC with 72.72% voting resolved to reject the proposal for continuation of the IRP as Resolution Professional. Subsequently, the IRP convened the second CoC meeting on

25.04.2022, wherein the members of the CoC, resolved to appoint Mr. Shivdutt Bannanje; the Applicant herein as the Resolution Professional.

- (d) Further, I.A No. 174 of 2022 was filed under Section 22 (3) (b) of the Code, for seeking replacement of the IRP, by appointing Mr. Shivdutt Bannanje as the Resolution Professional of the Corporate Debtor. This Tribunal vide order 30.05.2022 allowed the said I.A and appointed Mr. Shivdutt Bannanje as the Resolution Professional of the Corporate Debtor.
- (e) It is submitted that IRP appointed the registered valuers to determine the fair value and the liquidation value of the Corporate Debtor, and had prepared and circulated the information memorandum to the CoC. Moreover, the third meeting of the CoC of the Corporate Debtor was convened on 07.07.2022, during which issues including requirement for appointment of the statutory auditors were discussed with the CoC. Further, during the third CoC meeting the CoC members objected to the inclusion of the nine financial creditors in the CoC on the premise that they are related parties of the Corporate Debtor. Since, the CoC was constituted by the IRP and since the Applicant lacked the power to exclude the related parties and reconstitute CoC, the Applicant filed an application in I.A No. 339 of 2022 seeking appropriate orders from this Tribunal.
- (f) Further, the Applicant convened the fourth CoC meeting on 22.07.2022 in which the Applicant placed the quotes received from three prospective statutory auditors before the CoC. However, the said agenda was not resolved during the fourth CoC meeting due to lack of requisite votes of the CoC. The fifth CoC meeting was convened on 01.08.2022 during with matters relating to appointment of the statutory auditors and publication of Form G and suitable resolutions were proposed and put for e-voting. The aforesaid resolutions were passed upon receipt of requisite votes of the CoC members on 05.08.2022.
- (g) The Applicant published brief particulars of the invitation for Expression of interest as per Regulation 36A of CIRP Regulation and

the last date for submission of Expression of interest by the interested prospective resolution applicants was 22.08.2022. In furtherance of the invitation for Expression of interest, three (3) Expressions of interests were received from the following prospective resolution applicants: (1) Shri Prabhulingeshwar Sugars and Chemical Limited (ii) Nirani Sugars Limited (iii) SRP Distillery Private Limited and Bilagi Sugar Mill Limited.

- (h) Moreover, as the time limit for completion of the CIRP of the Corporate Debtor was ending 03.09.2022, the Applicant convened sixth CoC meeting on 26.08.2022, wherein the CoC members unanimously resolved to seek extension of time period for completion of the CIRP of the Corporate Debtor by a period of ninety (90) days. Accordingly, the applicant filed an application in I.A No. 333 of 2022 before the Tribunal seeking extension of the time limit for completion of the CIRP of the Corporate Debtor, by a period of 90 days starting from 04.09.2022 until 02.12.2022. The said application was allowed by this Tribunal on 07.10.2022 and accordingly, the time limit for completion of CIRP was extended until 02.12.2022.
- (i) Thereafter, the Applicant convened the seventh CoC meeting on 07.09.2022, wherein CoC unanimously accorded approval to the information memorandum, request for resolution plan and evaluation matrix which were to be provided to all resolution applicants. Subsequently, the final list of prospective resolution applicants was issued on 09.09.2022 and the same was communicated to all the interested resolution applicants by email. Further, the Applicant issued the information memorandum, request for resolution plan, and evaluation matrix to the resolution applicants on 09.09.2022.
- (j) Subsequently, one of the resolution applicants, SRP Distillery Private Limited., requested for an extension of time to submit their resolution plan, through email dated 11.10.2022. Taking into consideration the request made by SRP Distillery Private Limited, the Applicant convened the eighth CoC meeting on 14.10.2022, wherein the CoC unanimously resolved to grant extension of seven days until

23.10.2022 to all the prospective resolution applicants for submission of their resolution plans.

- (k) It is submitted that the registered valuers appointed by the IRP submitted their respective reports and as per valuation reports, the average fair value and liquidation value of the corporate debtor calculated on the basis of each valuation report qua each category of assets are mentioned below:

Sl.No	Category of Asset	Average Fair Value (in INR)	Average Liquidation Value (in INR)
1	Land	13,28,75,000	9,64,06,250
2	Building	13,72,71,264	10,29,78,448
3	Plant & Machinery	53,73,50,000	38,90,00,000
4	Securities and Financial Assets	2,39,74,029	2,24,41,001
	<b>Total</b>	<b>83,14,70,293</b>	<b>61,08,25,699</b>

- (l) Further, since all prospective resolution applicants had submitted their resolution plans, the Applicant convened the ninth CoC meeting on 29.10.2022, where sealed covers containing all the proposed resolution plans were opened in the presence of the CoC. During this meeting, the summary of financial proposal, payment terms, and payment schedule, proposed under each resolution plan was discussed by the CoC. The CoC discussed the financial offers proposed under each resolution plan and directed the Applicant to invite all the resolution applicants to be present in the forthcoming CoC meeting for in-person discussion and negotiation.
- (m) Consequently, the next CoC meeting CoC had in person discussions with each resolution applicants and all the resolution applicants proposed to better their financial offer and re-submit their modified resolution plans. As per section 30 of the Code read with Regulation 39(3) of the CIRP Regulations, the modified resolution plans received from all the resolution applicants were presented before the CoC in

the eleventh CoC meeting on 18.11.2022. During this meeting, the Applicant prepared and presented the evaluation matrix before the CoC, with a view to facilitate the CoC to evaluate all the resolution plans in view of Regulation 30 (3 )(a) of the CIRP Regulations.

- (n) During the eleventh CoC meeting, the CoC evaluated all the resolution plans as per evaluation matrix, recorded its deliberations on the feasibility and viability of each resolution plan and accordingly, decided to vote on all the resolution plans at the same time.
- (o) Accordingly, all the modified final resolution plans were put for e-voting, which commenced on 19.11.2022 at 10.00a.m and closed on 21.11.2022 at 4;00 p.m. The final resolution plan of SRP Distillery Pvt Ltd received the highest votes of the CoC i.e., 100% votes.
- (p) The final resolution plan dated 11.11.2022 submitted by SRP Distillery Private Limited and Bilagi Sugar Mill Limited was approved by the CoC was approved by the CoC with 100% votes, in accordance with Regulation 39(3B) of CIRP Regulations.
- (q) Accordingly, in view of the provisions of the Code and CIRP Regulations, the Applicant issued the Letter of Intent (LOI) dated 22.11.2022 SRP Distillery Private Limited and Bilagi Sugar Mill Limited being the successful resolution applicant, which was accepted by the successful resolution applicant on the same day.
- (r) The Applicant filed I.A No. 588 of 2022 seeking approval of the Resolution Plan submitted by the Successful Resolution Applicant- SRP Distillery Private Limited and Bilagi Sugar Mill Limited. It is submitted that unsuccessful resolution applicant M/s Nirani Sugars Limited, filed an application in I.A No. 589 of 2022 seeking stay of further processing of the Resolution Plan approved by the CoC and also issue direction to reconstitute CoC and also to declare the Resolution Plan approved by CoC as null and void.
- (s) This Tribunal heard both the applications, I.A No. 339 of 2022 and 589 of 2022 and vide order dated 02.06.2023 allowed the application in I.A No. 339 of 2022. Operative portion is as follows” *“We therefore conclude that the respondent in I.A No. 339 of 2022 are required to be excluded as per requirements of first proviso to section 21(2) of IBC,*

*2016, being related parties to the Corporate Debtor; and therefore, the entire constitution of the CoC is erroneous in the eyes of law. For this reason, this Adjudicating Authority hereby directs the RP to reconstitute the CoC and to proceed further in the matter as per law.”*

- (t) In compliance with the order of this Tribunal, in I.A. No. 416 of 2023 dated 23.06.2023 the Applicant reconstituted the CoC by excluding the nine related parties of the corporate debtor and commenced the CIRP afresh. Consequently, the Applicant published brief particulars of the invitations for expression of interest. As per the published Form G, the last date for submission of expressions of interest by the prospective resolution applicants was on 25.07.2023. In furtherance of the invitation for expression of interest, the Applicant received five expressions of interest out of which only three expression of interests filed by three applicants met the eligibility criteria. The expression of interests submitted by the following applicants were eligible: (a) TwentyOne Sugars Limited (b) Indian Cane Power Limited (c ) Siddhasiri Souhadra Sahakari Sangh Niyamit.
- (u) It is submitted that the Applicant in the Twelfth CoC meeting informed the CoC that the time period for the completion of the CIRP has ended on 02.12.2022 and apprised of the fact that since this Tribunal through order dated 23.06.2023 directed the Applicant to commence the CIRP process from the Form G stage, it was necessary to seek exclusion of time period in order to complete the CIRP process. Accordingly, the CoC in its twelfth meeting unanimously resolved to seek an exclusion of 337 days i.e., time period from the publication of Form G on 07.08.2022 to the publication of the fresh Form G on 10.07.2023. Accordingly, the Applicant filed an application in I.A No. 756 of 2023 before this Tribunal, seeking exclusion of the time period of 337 days extending the time period for completion of the CIRP till 04.11.2023. This Tribunal vide order dated 23.11.2023 allowed the application for the exclusion of 337 days .
- (v) The Applicant convened the thirteenth CoC meeting on 28.07.2023, wherein the CoC unanimously accorded approval to the information memorandum, request for resolution plan and evaluation matrix,

which were to be provided to all resolution applicants. Further, CoC considered the expression of interest received and approved the provisional list of the prospective resolution applicants. Consequently, the Applicant issued the provisional list of the prospective resolution applicants on 04.08.2023 and information memorandum, request for resolution plan, evaluation matrix to the resolution applicants on 09.08.2023.

(w) The Applicant convened the seventeenth meeting of the CoC on 01.12.2023, where sealed covers containing all the proposed resolution plans were presented and opened in the presence of the CoC. The CoC discussed and deliberated the financial offers proposed under each resolution plan, thereafter the CoC decided to invite all the resolution applicants to be present in the forthcoming CoC meeting for in-person discussion of the resolution plan with the CoC.

(x) Accordingly, the CoC interacted with the resolution applicant's in-person. One of the CoC member, i.e., Bank of India expressed their dissatisfaction with the amount proposed to be paid to them under the resolution plan and requested the representative to consider increasing the proposed amount. Considering the request of the CoC, the representatives showed their willingness to revise the resolution plan and re-submit the modified resolution plan with a revised financial offer.

(y) The CoC after deliberation requested the Applicant to put the resolution plans for voting. In the nineteenth CoC meeting all the Resolution plans were put for e-voting, which commenced on 16.12.2023 at 02:00P/M and closed on 21.12.2023 at 8:00 p.m. subsequently, the final resolution plan of Indian Cane Power Limited, received the highest votes of the CoC i.e., 100% votes. As resolved by the CoC, the final resolution plan dated 12.12.2023 submitted by Indian Cane Power Limited was approved by CoC with 100% vote.

3. The salient features of the Resolution Plan dated 12.12.2023 as approved by the CoC is as under:



- a. The Successful Resolution Applicant (SRA) i.e., Indian Cane Power Limited, was incorporated in the year 2002 under the provisions of the Companies Act, 1956. The company is a fully automated sugar and power industry in India. The SRA is interested in acquiring the Corporate Debtor under this Resolution Plan, with the objective to revive the Corporate Debtor by, inter alia efficiently operating the Business Undertaking.
- b. Further, as per the Resolution Plan submitted, the total payout towards settlement of CIRP costs and claims of creditors is as below:

Class of Stakeholders	Amount Claimed (in INR)	Amount Admitted (in INR)	(Resolution Proposal) (In INR)	Percentage (%)
Secured financial creditors	56,81,51,000	56,81,51,000	56,81,51,000	100
Unsecured financial creditors	33,80,30,909	33,80,30,909	6,99,00,000	20.68
Unsecured financial creditors (related parties)	48,13,30,752	48,11,30,752	48,113	0.01
Employees & workmen	2,91,45,870	2,81,99,154	2,81,99,154	100
Employees & workmen (gratuity claim )	80,40,620	49,36,582	49,36,582	100
Employee Provident Fund	20,36,869	20,36,869	20,36,869	100
Operational Creditors other than Workmen, Employee and Govt. Dues	6,49,29,676	4,82,26,900	48,227	0.10

Statutory authorities/government dues secured	24,74,30,766	24,74,30,766	25,00,000	1.01
Statutory authorities/government dues	2,39,35,78,046	2,39,23,69,662	23,92,370	0.1
<b>Total</b>	<b>4,13,26,74,508</b>	<b>4,11,05,12,594</b>	<b>67,82,12,315</b>	<b>16.50</b>

<b>CIRP Expenses (Approx.)</b>		1,39,59,721	1,39,59,721	100
Infusion in the Company for capital expenditure			25,00,00,000	
Infusion in the Company for Repairs and working capital			25,00,00,000	
<b>Total Plan</b>			<b>1,19,21,72,036</b>	
Performance Guarantee			15,00,00,000	

- c. As set out above there will be total induction of **Rs. 119,21,72,036/-** (Rupees One Hundred Nineteen Crore Twenty-One Lakh Seventy-Two Thousand and Thirty-Six Only) being the plan value out of which **Rs. 69,21,72,036/-** (Rupees Sixty-Nine Crore Twenty-One Lakh Seventy-Two Thousand and Thirty-Six Only) is paid to the stakeholders and

balance **Rs. 50,00,00,000/-** (Rupees Fifty Crore Only) is for capital expenditure and working capital.

- d. It is submitted that in accordance with Section 30(1) of the Code the successful resolution applicant has submitted an affidavit, dated 24.11.2023 declaring that they are eligible under Section 29A of the Code to submit the Resolution Plan.
- e. The resolution applicant proposes to pay CIRP Cost in full at actuals and in priority to all other claimants/stakeholders, on actual basis and pay 100% of the admitted claims of Secured Creditor of the corporate Debtor.
- f. It is submitted that as per the communication received from the Resolution Professional, the total Insolvency Resolution Process Cost is **Rs. 1,39,59,721/-** (Rupees One Crore Thirty-Nine Lakh Fifty-Nine Thousand Seven Hundred Twenty-One Only) until the current date. These costs shall be paid in full and in priority to all other debts of M/s Dnyanyogi Shri Shivkumar Swamiji Sugars Limited after the approval of the Resolution Plan by the Adjudicating Authority. Any excess amount, as approved by the CoC, shall only be borne and paid by the Resolution Applicant on a priority basis after proper verification and with appropriate evidence of the expenses incurred.
- g. Further, total amount of outstanding due to Secured Financial Creditors of the Corporate Debtor as per the Information Memorandum is Rs. 56,81,51,000/- (Rupees Fifty-Six Crore Eighty-One Lakh and Fifty-One Thousand Only) (claim received and admitted for), an aggregate amount of Rs. 56,81,51,000/- (Rupees Fifty-Six Crore Eighty-One Thousand and Fifty-One Only) is proposed to be allocated for the resolution of the debt owed to the Secured Financial Creditors ("SFCs"). The said proposed Resolution Amount represents 100% of the Admitted Claim Amount. The payment to the secured Financial Creditors, shall be made by the Resolution Applicant upfront, i.e., within 30 days of the approval of the Resolution Plan by this Tribunal.
- h. It is submitted that save and except specifically dealt with under this Resolution Plan, no other payments or settlements (of any kind) shall

be made to any other Person in respect of claims filed under the CIRP (including, for the avoidance of doubt, any unverified portion of their claims). Further, no payments or settlements (of any kind) shall be made to any related party or members or any of the suspended directors.

- i. It is submitted in the Resolution Plan that the management and control of Corporate Debtor shall be handed over to the Board of Directors of the Resolution Applicant for proper running of the Corporate Debtor subject to approval of the Committee of Creditors and the Adjudicating Authority. Further the existing technical team of the other Plants of the Resolution Applicant shall be involved for smooth overhauling, as well as restarting of the commercial operations of the Plant. This includes work related to all licenses and permissions. Additionally, Resolution Applicant shall conduct necessary compliance with MCA and other concerned and applicable authorities as per applicable laws.
- j. The Plan further provides for supervising resolution plan and its implementation. The Resolution Professional and one representative of the Resolution Applicant shall supervise the implementation of the Resolution Plan. During the said tenure the RP shall act as the Chairman of such committee and shall get remuneration of Rs. 50,000 per month during the said period. The Resolution Applicant shall submit a report every fortnight in the format suggested by the RP to apprise him about the progress in supervising the implementation of the Resolution Plan until the Resolution Plan is successfully implemented.
- k. It is submitted that the Resolution Plan provides for the Merger of corporate Debtor with the Successful Resolution Applicant. It is stated that the Corporate Debtor would be merged into the Resolution Applicant. The Appointed Date of the merger would be 30<sup>th</sup> day from the date of approval of the Resolution Plan by the NCLT, whichever is later. As on the appointed date of the merger, the Corporate Debtor would be a wholly owned subsidiary of the Resolution Applicant and consequently no shares of the Resolution Applicant would be issued

on the merger of the Corporate Debtor. As a consequence of the merger, the Equity Shares of the Corporate Debtor owned by the shareholders of the Corporate Debtor would stand cancelled.

1. It is submitted that the Corporate Debtor shall undertake capital reduction and cancel the entire existing equity share capital held by the promoter group and the others shareholders, i.e., 33,76,434 Equity Shares with a face value of Rs. 100/- each. Accordingly, pursuant to the NCLT order approving this Resolution Plan the entire existing share capital of the Corporate Debtor shall stand cancelled immediately without payment of any amount to the shareholders and without requirement of writing the words “and reduced” in the corporate name and style of the Corporate Debtor. Further, 10,00,000 equity shares of face value Rs. 10/- each aggregating to Rs. 1,00,00,000/- (Rupees One Crore Only) will be issued by the Corporate Debtor to the Resolution Applicant and to their nominated persons representing the Resolution Applicant, on approval of this Resolution Plan by Adjudicating Authority u/s 31(1) of the Code.
- m. It is submitted that in accordance with 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.
- n. The Resolution Plan confirms that neither the Resolution Applicant nor any of its related parties have failed to implement or contributed to the failure of implementation of any other Resolution Plan approved by the Adjudicating Authority at any time in the past in accordance with Regulation 38 (1B).
- o. It is submitted that the term of the plan and its implementation schedule for payment to the Financial Creditors, Operational Creditors and Statutory Dues/ Liabilities as envisaged in this Resolution Plan, shall commence from the Effective Date (means the date after approval of this Resolution Plan as envisaged under the Resolution Plan by NCLT order date. Only the date of receipt of Certified True Copy of the relevant Order as stated herein above shall be considered as Effective Date) and shall end in 3 Months from the date of the Effective Date (excluding a grace period of 12 months to

cover inadvertent delay, if any). Further, Resolution Applicant shall obtain necessary approvals from the Competent Authorities. Also, the terms of the Resolution Plan shall be implemented on the sanction of the Plan by the Hon'ble NCLT and it will not have any dependence on the approvals for concessions from the competent authorities.

- p. It is submitted that the CoC has passed a favourable resolution with 100% of the voting share approving the Resolution Plan in the 19<sup>th</sup> meeting of the CoC and as such, hence the requirements of Section 30(4) of Insolvency and Bankruptcy Code, 2016 have been complied with.
- q. It is submitted that the period of completion of the CIRP of the Corporate Debtor has not expired and as such the present Application is filed within time. Further, all requirements under the Insolvency and Bankruptcy Code, 2016 and The Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 have been duly complied with, and that the Resolution Plan may be approved in accordance with law. Moreover, in accordance with Regulation 36B(4A) of the CIRP Regulations, the Resolution Applicant, has furnished the performance security of Rs. 15,00,00,000/- that expires on 23.07.2024 and can be claimed on or before 23.07.2024.
4. Heard learned Counsel for the RP and carefully perused the pleadings on record.
5. The Corporate Debtor M/s Dnyanyogi Shri Shivkumar Swamiji Sugars Limited (the "Corporate Debtor") bearing Corporate Identification Number (CIN) U15421MH2000PLC012961 was incorporated under the laws of India on 15<sup>th</sup> November, 2000 under the jurisdiction of the Registrar of Companies (ROC), Mumbai, Maharashtra. Thereafter, on 13<sup>th</sup> November, 2002, the Corporate Debtor had shifted its registered office from the state of Maharashtra to State of Karnataka and was allotted Corporate Identification Number (CIN) U15429KA2002PLC031208. Further, the Corporate Debtor has a sugar manufacturing factory with installed capacity of 3,000 TCD (Tonnes Crushing per Day) Sugar Plant with 6 MW Co- Generation Unit. CIRP proceedings were initiated against the

Corporate Debtor by this Adjudicating Authority, vide order dated 07.03.2022 passed in CP (IB) No. 09/BB/2022. The present application is filed for approval of the Resolution Plan submitted by Indian Cane Power Limited. The approval has been sought under the provisions of Section 31(1) of the Insolvency and Bankruptcy Code, 2016.

6. Pursuant to the public announcement inviting claims from the creditors of the Corporate Debtor, the Resolution Professional had constituted the COC. The details of the Financial creditors, the distribution of voting share among them and the position of voting for the Resolution Plan is as under (Para 5 of Form H) :-

S. No.	Name of Creditor	Voting Share (%)	Voting for Resolution Plan (Voted for / Dissented / Abstained)
1	Tara Financial Service Private Limited	62.70	Voted in Favour
2	Bank of Inida –Bijapur	37.30	Voted in Favour

7. The details of stakeholders and the amounts provided for them under the Resolution Plan given in Para No. 7 of revised Form H (Rs in Lakhs); filed on 29.01.2024.

Sl. No.	Category of Stakeholder*	Sub-Category of Stakeholder	Amount Claimed	Amount Admitted	Amount Provided under the Plan#	Amount Provided to the Amount Claimed (%)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	Secured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	NA	NA	NA	NA
		(b) Other than (a) above:	NA	NA	NA	NA
		(i) who voted in favor of the resolution	5681.51	5681.51	5681.51	100

		plan				
		Total[(a) + (b)]	<b>5681.51</b>	<b>5681.51</b>	<b>5681.51</b>	<b>100</b>
2	Unsecured Financial Creditors	(a) Creditors not having a right to vote under subsection (2) of section 21	4811.31	4811.31	0.49	0.01
		(b) Other than (a) above:	NA	NA	NA	NA
		(i) who did not vote in favour of the resolution Plan				
		(ii) who voted in favour of the resolution plan	3380.31	3380.31	699	20.68
		Total[(a) + (b)]	<b>8191.62</b>	<b>8191.62</b>	<b>699.48</b>	<b>8.63</b>
3	Operational Creditors	(a) Related Party of Corporate Debtor	NA	NA	NA	NA
		(b) Other than (a) above:	NA	NA	NA	NA
		(i) Government dues	23935.79	23923.70	23.93	0.1%
		(ia) Government Due Secured*	2474.31	2474.31	25	1.01%
		Employee Provident Fund Dues	20.37	20.37	20.37	100



		(ii) Workmen				
		(iia) salary dues and Leave Encashment	291.46	281.10	281.10	100
		(iib) Gratuity Dues	80.41	49.36	49.36	100%
		Employee	NA	NA	NA	NA
		(iv) Trade and Business-Related Creditors	649.30	482.27	.48	0.1
		Total[(a) + (b)]	27451.61	27231.10	401.32	1.51
4	Other debts and dues					
Grand Total			<b>41326.74</b>	<b>41105.12</b>	<b>6782.12</b>	<b>16.50%</b>

8. The compliance of the Resolution Plan has been given in Para No. 9 of revised Form H are as follows:-

Section of the Code / Regulation No .	Requirement with respect to Resolution Plan	Clause of Resolution Plan	Compliance )Yes /No(
25(2)(h)	Whether the Resolution Applicant meets the criteria approved by the CoC having regard to the complexity and scale of operations of business of the CD?	Part A	Yes
Section 29A	Whether the Resolution Applicant is eligible to submit resolution plan as per final list of Resolution Professional or Order, if any, of the Adjudicating Authority?	Annexure- 6 of the resolution plan: The Resolution Applicant has also submitted an affidavit, as required under Regulation 39(1) of the CIRP Regulations confirming its	Yes

		eligibility in terms of Section 29A of the Code.	
Section 30(1)	Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?	Annexure- 6 of the resolution plan: The Resolution Applicant has also submitted an affidavit, as required under Regulation 39(1) of the CIRP Regulations confirming its eligibility in terms of Section 29A of the Code.	Yes
Section 30(2)	Whether the Resolution Plan-		
	(a) provides for the payment of insolvency resolution process costs?	Sub-clauses 1 to 3 of Clause-C-2 in Part-C, Page No. 11 of the Resolution Plan	Yes
	(b) provides for the payment to the operational creditors?	Sub-Clause-IV of Clause-A of Clause-C-5 on Page No. 26 of the Resolution Plan	Yes
	(c) provides for the payment to the financial creditors (FC) who did not vote in favour of the resolution plan?	1. Sub-Clause-I of Sub-Clause-VI of Clause-C-3 on page 15 of the Resolution Plan. (Secured FC)  2. Sub-Clause-VI of Clause-C-4 on Page No. 19 of the Resolution Plan. (Unsecured FC)	Yes
	(d) provides for the management of the affairs of the corporate debtor?	Clause-C-15 on Page No. 58 to 59	Yes
	(e) provides for the implementation and supervision of the resolution plan?	Clause-C-16 on Page No. 60.	Yes
	(f) contravenes any of the provisions of the law for the time being in force?]	Sub-Clause-1 of PART-F on Page No. 64 of the Resolution Plan.	No
Section 30(4)	Whether the Resolution Plan  )a (is feasible and viable, according to the CoC?  )b (has been approved by the CoC with 66 % voting share?	The CoC  found the resolution plan to be feasible and viable, and voted in favour of the resolution plan with 100% votes	Yes
Section 31(1)	Whether the Resolution Plan has provisions for its effective implementation plan,	Clause- C-14 on Page No. 55 to 58.	Yes

	according to the CoC?		
Regulation38(1)	Whether the amount due to the operational creditors under the resolution plan has been given priority in payment over financial creditors?]	Sub-Clause-IV of Clause-A of Clause-C-5 26 of the Resolution Plan.	Yes
Regulation 38(1A)	Whether the resolution plan includes a statement as to how it has dealt with the interests of all stakeholders?	Sub-Clause- 3, 5, & 8 of Clause-C-14 on Page No. 55 to 57	Yes
Regulation 38(1B)	(i) Whether the Resolution Applicant or any of its related parties has failed to implement or contributed to the failure of implementation of any resolution plan approved under the Code.	Sub-Clause-2 of PART-F	No
	(ii) If so, whether the Resolution Applicant has submitted the statement giving details of such non-implementation?]	NA	
Regulation 38(2)	Whether the Resolution Plan provides: (a) the term of the plan and its implementation schedule?	Clause- C-14 Page No. 55 to 58 of the Resolution Plan	Yes
	(b) for the management and control of the business of the corporate debtor during its term?	Clause- C-15 on Page No. 58 to 59 of the Resolution Plan	Yes
	(c) )c (adequate means for supervising its implementation?	Clause-C-16 is found on Page No. 60.	
38(3)	Whether the resolution plan demonstrates that –  (a) it addresses the cause of default?	Clause 4 of Clause-C-1 is found on Page No. 11 of the Resolution Plan	Yes
	(b) it is feasible and viable?	Sub-Clause-8 of Clause-C-14 is found on Page No. 58 of the Resolution Plan.	Yes
	(c) it has provisions for its effective implementation?	Clause-C-14 is found on Page No. 57 of the Resolution Plan.	Yes

	(d) it has provisions for approvals required and the timeline for the same?	Sub-Clause-4 of Clause-C-11 is found on Page No. 44 to 51 of the Resolution Plan.	Yes
	(e) the resolution applicant has the capability to implement the resolution plan?	PART- A, Further a Letter of comfort from Canara Bank for effective implementation of the Resolution Plan has been obtained and is attached as annexure – 14.	Yes
39(2)	Whether the RP has filed applications in respect of transactions observed, found or determined by him?	Not Applicable; The Resolution Professional has not made opinion on preferential and other transactions	NA
Regulation 39(4)	Provide details of performance security received, as referred to in sub-regulation (4A) of regulation 36B.]	C-18 Page No. 60 to 61. A performance Guarantee of 15 Crore has been provided. The amount shall be adjusted with the Guarantee provided at the time of the Expression of Interest.	Yes

9. It is submitted by the Resolution Professional that the COC in its 19<sup>th</sup> meeting held on 14.12.2023 has approved the Resolution Plan with 100% voting share. This Tribunal on Perusal of the copy of the 19<sup>th</sup> meeting of the CoC attached along with the Petition observed that the CoC has “resolved that the resolution plan received from Indian Cane Power Limited be and is hereby approved by the Committee of Creditors”. Further, one of the members of the CoC i.e., Bank of India requested the Chairperson to open the voting timeline till 31.12.2023 stating the difficulties in obtaining internal procedural approval of the Bank for placing the vote for the Resolution Plan. Further, after deliberation, the CoC decided to open the voting timeline from 16.12.2023 to 21.12.2023. It is seen that the said Unsecured Financial Creditor has issued affidavit dated 05.02.2024 which is attached as Annexure A of diary no 877 wherein it is submitted that they have no objection to the resolution plan and have approved the same. Accordingly, the conditions provided for Section 30 (4) of the Code are satisfied.

10. At this juncture it is necessary to refer to Sub-section (2) of section 30 of the code which reads as follows:

*“The resolution professional shall examine each Resolution Plan received by him to confirm that each Resolution Plan –*

- (a) provides for the payment of insolvency resolution process costs in a manner specified by the Board in priority to the 3 [payment] of other debts of the corporate debtor;*
- (b) provides for the payment of debts of operational creditors in such manner as may be specified by the Board which shall not be less than-*
  - i.) the amount to be paid to such creditors in the event of a liquidation of the corporate debtor under section 53; or*
  - ii.) the amount that would have been paid to such creditors, if the amount to be distributed under the Resolution Plan had been distributed in accordance with the order of priority in sub-section (1) of section 53,*

*whichever is higher, and provides for the payment of debts of financial creditors, who do not vote in favour of the Resolution Plan, in such manner as may be specified by the Board, which shall not be less than the amount to be paid to such creditors in accordance with sub-section (1) of section 53 in the event of a liquidation of the corporate debtor.*

*Explanation 1. — For removal of doubts, it is hereby clarified that a distribution in accordance with the provisions of this clause shall be fair and equitable to such creditors.*

*Explanation 2. — For the purpose of this clause, it is hereby declared that on and from the date of commencement of the Insolvency and Bankruptcy Code (Amendment) Act, 2019, the provisions of this clause shall also apply to the corporate insolvency resolution process of a corporate debtor-*

- (i) where a Resolution Plan has not been approved or rejected by the Adjudicating Authority;*
- (ii) where an appeal has been preferred under section 61 or section 62 or such an appeal is not time barred under any provision of law for the time being in force; or*
- (iii) where a legal proceeding has been initiated in any court against the decision of the Adjudicating Authority in respect of a Resolution Plan;*

- (c) *provides for the management of the affairs of the Corporate debtor after approval of the Resolution Plan;*
- (d) *The implementation and supervision of the Resolution Plan;*
- (e) *does not contravene any of the provisions of the law for the time being in force*
- (f) *Conforms to such other requirements as may be specified by the Board.”*

11. The compliance of Section 30(2) of the Code is given in Para No.09 of Form-H (supra). The same is being further examined as under:

- a. **Section 30(2)(a):** The Resolution Plan in Point C-2 provides for the payment of Insolvency resolution process costs. The total Insolvency Resolution Process Cost is **Rs. 1,39,59,721/-** (Rupees One Crore Thirty-Nine Lakh Fifty-Nine Thousand Seven Hundred Twenty-One Only). These costs shall be paid in full and in priority to all other debts of M/s Dnyanyogi Shri Shivkumar Swamiji Sugars Limited after the approval of the Resolution Plan by the Adjudicating Authority. Any excess amount, as **approved** by the CoC, shall only be borne and paid by the Resolution Applicant on a **priority basis** after proper verification and with appropriate evidence of the expenses incurred.
- b. **Section 30(2)(b):** The Resolution Plan in Point C-5 provides for the settlement to the Operational Creditors. The plan categorizes operational creditors into (i) trade and business related creditors, (ii) workmen / employees, (iii) statutory authorities / government creditors. Trade and business-related creditors are being paid a sum of Rs. 48,227/- (Rupees Forty Eight Thousand Two Hundred and Twenty Seven only), which is **0.1%** of claims admitted. Workmen and employees are being paid a total of Rs. 3,31,35,736/- (Rupees Three Crores Thirty One Lakhs Thirty Five Thousand Seven Hundred and Thirty Six only) which is **100%** of the claims admitted. Government dues are further divided into three categories: (i) secured operational creditor, i.e., Deputy Commissioner, Commercial Taxes, in respect of a claim under the provisions of the Karnataka Sales Tax Act, 1957; (ii) unsecured operational creditors, and (iii) provident fund dues. In view of the

provisions of the Karnataka Sales Tax Act, 1957, which contemplates the creation of a charge in respect of due amounts, the Deputy Commissioner, Commercial Taxes, has been considered as a secured operational creditor, who is being paid a sum of Rs. 25,00,000/- (Rupees Twenty Five Lakhs only), which is **1.01%** of the admitted claim. The Resolution Professional had also obtained a legal opinion from the Hon'ble Mr. Justice V. Ramasubramanian in regard to the treatment of this claim, in view of the judgment of the Hon'ble Supreme Court in State Tax Officer v. Rainbow Papers Limited, (2022) ibclaw.in 107 SC. The said legal opinion is attached as Annexure 32 to the Application. Unsecured operational creditors are, like other operational creditors such as trade creditors, being paid a total of Rs. 23,92,370/- (Rupees Twenty Three Lakhs Ninety Two Thousand Three Hundred and Seventy only), which is **0.1%** of the admitted claim amount. The Regional PF Commissioner – II, Kalaburagi is being paid a sum of Rs. 20,36,869/- (Rupees Twenty Lakhs Thirty Six Thousand Eight Hundred and Sixty Nine only), which is **100%** of the admitted claim amount.

- c. **Section 30 (2)(c):** Resolution Plan Para C-15 deals with the management and control during the term of Resolution Plan. The management and control of Corporate Debtor shall be handed over to the Board of Directors of the Resolution Applicant for proper running of the Corporate Debtor subject to approval of the Committee of Creditors and the Adjudicating Authorities. Further the existing technical team of the other Plants of the Resolution Applicant shall be involved for smooth overhauling, as well as restarting of the commercial operations of the Plant. This includes work related to all licenses and permissions. Additionally, Resolution Applicant shall conduct necessary compliance with MCA and other concerned and applicable authorities as per applicable laws. The Resolution Plan also provides for Merger of Corporate Debtor with the Successful Resolution Applicant. The Appointed Date of the merger would be 30<sup>th</sup> day from the date of

approval of the Resolution Plan by the NCLT, whichever is later. As on the appointed date of the merger, the Corporate Debtor would be a wholly owned subsidiary of the Resolution Applicant and consequently no shares of the Resolution Applicant would be issued on the merger of the Corporate Debtor. As a consequence of the merger, the Equity Shares of the Corporate Debtor owned by the shareholders of the Corporate Debtor would stand cancelled.

- d. **Section 30(2)(d):** The Resolution Plan Para C-16 deals with implementation and supervision of the Resolution Plan. The Resolution Professional and one representative of the Resolution Applicant shall supervise the implementation of the Resolution Plan. During the said tenure the RP shall act as the Chairman of such committee and shall get remuneration of Rs. 50,000 per month during the said period. The Resolution Applicant shall submit a report every fortnight in the format suggested by the RP to apprise him about the progress in supervising the implementation of the Resolution Plan until the Resolution Plan is successfully implemented.
- e. **Section 30 (2)(e) :** The Resolution Applicant declares that the Resolution Plan does not contravene any of the provisions of the Law for the time being in force.
- f. **Section 30 (2)(f):** It is submitted that Resolution Plan has complied with the Regulation 38 of Insolvency and Bankruptcy Board of India (Insolvency resolution process for corporate persons) Regulations, 2016 which are as follows:
- (1) Regulation 38 (1):** As per Regulation 38 (1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the amount due to the operational creditors under the Resolution Plan has been given priority in payment over financial creditors
- (2) Regulation 38 (1A):** It is submitted that the Resolution Applicant has considered the interest of all the stakeholders and accordingly has proposed to make payment in the following manner to the stakeholders



SUMMARY OF RESOLUTION AMOUNT					
Sr. No.	Particulars of Claim	Type of Claim	Admitted Amount (INR)	Resolution Amount (INR)	Payment Tenure
	CIRP Cost		1,39,59,721	1,39,59,721	Upfront Payment Within 30 days.
	Secured Financial Creditors	Secured	56,81,51,000	56,81,51,000	
	Unsecured Financial Creditors	Unsecured	33,80,30,909	6,99,00,000	
	Unsecured Financial Creditors (Related Parties)	Unsecured	48,11,30,752	48,113	
	Operational Creditors	Unsecured	48,226,900	48,227	
	Workmen and Employees (Towards Salary & Leave Encashment)	Unsecured	2,81,99,154	2,81,99,154	
	Workmen and Employees (Towards Gratuity)	Unsecured	49,36,582	49,36,582	
	Statutory Authorities/Government Dues	Secured (OC)/Unsecured (OC)	264,18,37,297	69,29,239	
	Infusion in the Company for capital expenditure	NA	NA	25,00,00,000	
	Infusion in the Company for repairs and working capital	NA	NA	25,00,00,000	
<b>Total</b>			<b>412,44,72,315</b>	<b>119,21,72,036/-</b>	

**(3) Regulation 38(1B):** As mandated under Regulation 38 (1B) of the CIRP Regulations, the Resolution Applicant confirms vide their Affidavit marked as Annexure 6 to the Resolution Plan that neither the Resolution Applicant nor any of its related parties have failed to implement or contributed to the failure of implementation of any other Resolution Plan approved by the Adjudicating Authority at any time in the past.

**(4) Regulation 38(3)(a):** The Resolution Applicant submits that the major causes of the default by the Corporate Debtor seem to be disproportionate debt to the scale of the operations of the Corporate Debtor, inefficient use of the Plant & Machineries and mismanagement of the fund flow. Fund diversion for various reasons and for other businesses could also be seen as one of the major reasons to lead an organisation towards Corporate Insolvency. Apart from this, overstaffing and

deployment of inefficient staff may also lead to losses. As per the financial records available, it could be seen that Corporate Debtor was financially supported by the financial creditors.

- (5) Regulation 38(3)(b):** The Resolution Applicant, through the Resolution Plan demonstrates that the Resolution Plan is feasible and viable as the Resolution Plan takes care of the interest of all the stakeholders. As the Corporate Debtor is passing through the insolvency process, it must have lost the creditworthiness among the suppliers. This could also be a reason for the additional requirement for working capital. The resolution Applicant has not only provided for the Creditors but also working capital/ repairs and maintenance to the tune of Rs. 25,00,00,000/- (Rupees Twenty-Five Crore Only). This essentially means that the Resolution Applicant shall ensure that the Plant is properly repaired and maintained as well as working capital requirements are met.
- (6) Regulation 38(3)(c):** It is submitted that the Resolution Applicant is projecting to take the Corporate Debtor to the highest capacity level with their expertise team and it has very strong technical team to supervise the implementation of this Resolution Plan. The Resolution Applicant has a vision to acquire this Corporate Debtor and make it profitable unit and to continue expansion and growth by incurring the Capital Expenditure for expansion. The Resolution Applicant has provided for a capital expenditure of Rs. 25,00,00,000/- (Rupees Twenty-Five Crore Only) in the Resolution Plan. The intention of the Resolution Applicant is to not only run the plant but also achieve cost effectiveness and expand the plant.
- (7) Regulation 38(3)(d):** The time line for approval of Resolution Plan is as stated in Clause 11 (4)(f) of the said Plan. In case any approval is delayed, the timelines would be accordingly delayed. The aforementioned timeline is indicative and a delay on account of regulatory reasons/ appeals/civil applications/writ petitions shall not be considered to a

contravention of this Resolution Plan, if all the steps are completed prior to the expiry of the Implementation Period.

**(8) Regulation 38 (3)(e).** With regard to the capability of the resolution applicant to implement the Resolution Plan, the Applicant has attached Letter of Comfort dated 15.11.2023 issued by Canara Bank wherein it is stated that “ *M/s . Indian Cane Power Limited has approached us to issue a letter of comfort to the extent of Rs. 100 Crores towards their Resolution plan for the subject sugar Factory. We do hereby inform that if required by the company we will arrange to approve their request to the tune of Rs. 100 Crores in the form of eligible mode of finance subject to fulfilment of applicable terms and conditions of our bank.*”.

12. It is observed that in Para 4 of Form H, the Resolution Professional has certified that the said Resolution Plan complies with all the provisions of the Insolvency and Bankruptcy Code 2016 (Code), the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and does not contravene any of the provisions of the law for the time being in force. Further, the Resolution Applicant Indian Cane Power Limited has submitted an Affidavit pursuant to section 30(1) of the Code confirming its eligibility under Section 29A of the Code to submit Resolution Plan. The content of the said Affidavit are in order. The Affidavits is attached as Annexure I Pg 139 to the Application. It is further certified that the Resolution Plan has been approved by the CoC in accordance with the provisions of the Code and the CIRP Regulations made thereunder. The Resolution Plan has been approved by 100% of voting share of creditors after considering its feasibility and viability and other requirements specified by the CIRP Regulations.

13. It is further observed that in accordance with regulation 36B (4A) of CIRP Regulations, the Resolution Applicant has furnished the Corporate Guarantee of Rs. 15,00,00,000/- by way of a Bank Guarantee and the said Guarantee shall remain in force up to 23.07.2024. The said Bank Guarantee is attached as Annexure 40 of the Application.

14.It is further observed from the plan that in C-14, point 4 of the Resolution Plan deals with the sources of funds. The Resolution Applicant has successfully obtained a Letter of Comfort (LoC) dated 15<sup>th</sup> November, 2023 from Canara Bank, to the extent of Rs. 100 Crore. This letter confirms the Bank's commitment and willingness to provide financial support crucial for the successful implementation of the present Resolution Plan. The copy of the said Letter of Comfort (LoC) dated 15<sup>th</sup> November, 2023 from Canara Bank is attached as Annexure No. 14 to the Application.

15.On 31.01.2024 it is directed by this Tribunal that

*“3. Further, it is noticed from I.A filed on 26.12.2023 in Vol-7 of page no.1259 mentioned that some replacements of Sub-Clause 3 of Sub-Clause II of Clause –C-4 on page no.17 & 18 with the below mentioned para:*

*“3.Upon payment of the share to All Unsecured Financial Creditors (both in the First (1<sup>st</sup>) Category & Second (2<sup>nd</sup>) Category), as allocated in the Resolution Plan, the Resolution Applicant shall automatically stand subrogated in place of such financial creditor”.*

*Deletion of Sub-Clause-4 OF Sub-Clause II of Clause C-4 on page no. 18:*

*“4. I, the undersigned Resolution Applicant, hereby undertake to inform the Resolution Professional and the Committee of Creditors (CoC) members that Sub-Clause -4 of Sub-Clause II of Clause C-4 on page no. 18 shall be deleted from the Revised Resolution Plan dated 12.12.2023 and the said para shall be of no effect”.*

*It shows in para 17 & 18 of the revised Resolution Plan dated 12.12.2023 in (page nos.57 & 58 of Vol I) compilation filed in this I.A.*

*4.Therefore, Ld. Counsel for the RP is directed to file an approved amended Resolution Plan after considering the modification approved by the CoC on 14.12.2023, within a week’s time”.*

16.The Learned Counsel for the Applicant in compliance to the above direction filed approved amended Resolution Plan after considering the modification approved by the CoC on 14.12.2023 vide diary No. 877 dated 08.02.2024.

17.In respect of reliefs and concessions at C-11 of the Plan, it is observed that the relief and concessions claimed by the Resolution Applicant for

the approval of the plan are to be allowed only in accordance with Law. At this juncture, it is not possible for us to issue any blanket direction except to say that the Resolution Applicant may take necessary steps in respect of the said claims of reliefs and concessions and the public authorities / government authorities / Taxation department would duly consider the said requests / applications of the Resolution Applicant and take appropriate decision in accordance with Law.

18. It is further observed that the Resolution Applicant seeks for the merger of Corporate Debtor with the Successful Resolution Applicant. It is submitted that the Appointed Date of the merger would be 30<sup>th</sup> day from the date of approval of the Resolution Plan by this Tribunal. As on the appointed date the Corporate Debtor would be a wholly owned subsidiary of the Resolution Applicant and consequently no shares of the Resolution Applicant would be issued on the merger of the Corporate Debtor. As a consequence of the merger, the Equity Shares of the Corporate Debtor owned by the shareholders of the Corporate Debtor would stand cancelled.

19. It is observed that the Resolution Plan contemplates reduction in the share capital of the Corporate Debtor and an amalgamation between the corporate debtor and the Successful resolution Applicant. Further, it is prayer by the Applicant that on pursuant to this Tribunal's order approving the Resolution Plan the merger shall not require any other procedure as required under the Companies Act, 2013 including under Sections 230 to 232 of the said Act. The Learned Counsel for the Applicant placed reliance on General Circular No. IBC/01/2017 dated 25.10.2017 issued by the Ministry of Corporate Affairs. The para 5 of the said Circular reads as follows:

*"5. In view of above, it is also clarified that the approval of shareholders/members of the corporate debtor/company for a particular action required in the resolution plan for its implementation, which would have been required under the Companies Act, 2013 or any other law if the resolution plan of the company was not being considered under the Code, is deemed to have been given on its approval by the Adjudicating Authority".*

20. Further, the Learned Counsel relied on the order dated 22.03.2023 of NCLT, Chennai in *I.A No. 1286/CHE/2022 in I.B.A. No. 471/2020 in Renuka Devi Rangaswamy, Resolution Professional of UCAL Auto Private Limited*, wherein it was held that “ *in so far as the relief claimed in Clause 11 of the Resolution Plan, we hereby hold that this order approving the Resolution Plan shall be deemed to be an order of sanctioning a Scheme of arrangement with creditors under the provisions of Section 230-232 of the Companies Act, 2013*”.
21. Additionally, the Ld. Counsel for the RP has relied on the order of NCLT, Hyderabad bench-1 in *I.A (IBC) No. 1563/ 2022 in C.P.(IB)No. 17/9/HBD/2022 in the matter of Maligi Madhusudhana Reddy, Resolution Professional of LN Industries India Limited dated 24.03.2023* wherein it is held that “ *it is noted here that the resolution plan proposing restructuring of a corporate debtor requires approval of the committee of creditors and the AA. Further, in terms of explanation to Section 30(2) of the Code, if any approval of shareholders is required under the Companies Act or any other law for the time being in force for the implementation of actions under the resolution plan, such approval shall be deemed to have been given and it shall not be a contravention of the Companies Act or law. In view of the deemed consent of shareholders and the resolution plan being binding upon the creditors , where the resolution plan contemplates restructuring of the corporate debtor by way of merger, amalgamation or demerger, the corporate debtor should not be required to comply with the merger framework.*”
22. In view of the above discussions and for the aforesaid reasons, the instant IA bearing **I.A. No.01 of 2024 is allowed** and accordingly
- i. The Resolution Plan dated 02.02.2024 (Annexure A in diary No.877 dated 08.02.2024) submitted by M/s. Indian Cane Power Limited is hereby approved.
  - ii. Further, we hereby hold that approving of this Plan shall be deemed to be an order of sanctioning a Scheme of Amalgamation between the Corporate Debtor and the Successful resolution Applicant and approving the reduction of share capital.

- iii. Moreover, it is clarified that this order should not be construed as an order granting exemption from payment of stamp duty, taxes or any charges, if any, payment is due or required in accordance with law or in respect to any permission/compliance with any other requirement which may be specifically required under any law for the time being in force. The Resolution Plan as approved shall be binding on the Corporate Debtor and 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 such as authorities to whom statutory dues are owed, guarantors and other stakeholders involved in the Resolution Plan.
- iv. Further, it is observed that the Resolution Plan has provisions for its
- v. effective implementation has specified in Clause-14 of the Resolution Plan.
- vi. Under the provisions of section 31(3) of the Code, we also direct as under:
  - a. The moratorium imposed vide order dated 07.03.2022 in the main CP shall cease to have effect from the date of communication of this order.
  - b. The resolution professional shall forward all records relating to the conduct of the CIRP and the Resolution Plan to the Board to be recorded on its database.
- vii. Further, the Resolution Professional is directed to handover the management, control and all the assets, documents/records in physical and/or digital form to the Resolution Applicant immediately and the Resolution Professional will cease to act as a resolution professional accordingly.

**-Sd/-**

**(MANOJ KUMAR DUBEY)**  
**MEMBER (TECHNICAL)**

**-Sd/-**

**(K. BISWAL)**  
**MEMBER (JUDICIAL)**