



**IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH-
I**

IA No. 14 of 2024

IN

CP(IB) No.1807 of 2018

Under Section 30 of the Insolvency and
Bankruptcy Code, 2016

IA No. 14 of 2024

In the Application of

Mr. Avil Menezes

Resolution Professional of Topworth Urja
& Metals Limited

...Resolution Professional/Applicant

In the matter of

Bank of Baroda

...Financial Creditor/Applicant

Versus

Topworth Urja & Metals Limited

...Corporate Debtor/Respondent

Order pronounced on 26.05.2025

Coram:

Hon'ble Member (Judicial) : Sh. Justice Virendrasingh G. Bisht (Retd.)

Hon'ble Member (Technical) : Sh. Prabhat Kumar

Appearances:

For the Applicant : Mr. Shyam Kapadia a/w Ryan Dzouza and Mr.
Gaurav Jain, Ld. Counsel

For the COC : Ld. Senior Counsel Prateek Kapadia a/w Rohit
Aggarwal and Suyesha Kakarla, Ld. Counsel

For ED : None

**ORDER****Brief Facts:**

1. The present Application is filed by Resolution Professional **Mr. Avil Menezes** (hereinafter referred to as the “Applicant/Resolution Professional”) under Section 30 of the Insolvency and Bankruptcy Code, 2016 (“Code”) for seeking approval of the Resolution Plan dated 29.05.2023 amended upto 16.10.2023, submitted by Evonith Holdings Pvt. Ltd. (“Successful Resolution Applicant/SRA”), which is approved by 100% of the voting share of the members of the Committee of Creditors (hereinafter referred to as 'CoC') in the 14th CoC meeting dated 05.01.2024, for **Topworth Urja & Metals Limited** (hereinafter referred to as the “Corporate Debtor”) and for passing order/appropriate direction that this Tribunal may deem fit in the present matter.
2. The Corporate Debtor is a public limited company bearing CIN U27109MH1993PLC074950 was incorporated on 05.11.1993 having its registered address at 308, 3rd Floor Ceejay House, Dr. A. B. Road, Worli, Mumbai - 400018. Its Authorized share capital is Rs. 58,00,00,000/- and its paid-up capital is Rs. 50,85,82,570/-.
3. The SRA is a private limited company incorporated under the Singapore Companies Act and having its corporate office at 137 Telok Ayer Street #08-01 Singapore, 068602.
4. The CP (IB) No.1807 of 2018 was filed under Section 7 of IBC, 2016 by **Bank of Baroda** (hereinafter referred to as the “Financial Creditor”), which was admitted into CIRP vide Order dated 12.08.2022 passed by this Bench thereby appointing **Mr. Alok Saxena** as the Interim Resolution Professional (“IRP”) of the Corporate Debtor.
5. Hon’ble National Company Law Appellate Tribunal (“NCLAT”) vide order dated 18.08.2022 stayed the formation of CoC. The stay was lifted by Hon’ble NCLAT vide order dated 20.12.2022.
6. CoC was constituted by the IRP on 31.12.2022 in accordance with Section 21 of the Code and Regulation 17 (1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.



7. On 13.01.2023, the Hon'ble Supreme Court of India upheld the decision of the Hon'ble NCLAT and dismissed the appeal preferred by the suspended director.
8. The IRP convened the 1st CoC meeting on 13.01.2023 wherein the CoC directed the IRP to file an application before this Tribunal seeking exclusion of 125 days in light of the stay on formation of CoC passed by the Hon'ble NCLAT. Accordingly, IA 1083/2023 was filed to seek exclusion of 125 days between 18.08.2022 to 22.12.2022. The same was allowed vide order dated 27.03.2023.
9. The IRP convened the 2nd CoC meeting on 20.02.2023 wherein the CoC unanimously resolved to replace the IRP and appoint the Applicant herein, as the resolution professional ('RP') of the Corporate Debtor (which was allowed by this Tribunal vide order dated 10.04.2023 passed in the Interlocutory Application 1276/2023 filed by CoC through a financial creditor). Further, with the resolution passed by the CoC, IRP appointed two registered valuers namely GAA Advisory LLP and IndiaAppraisers.com Private Limited. Further, in the 2nd CoC meeting, the CoC members approved the eligibility criteria for PRAs.
10. The IRP issued Form G on 06.03.2023 inviting expression of interest from Prospective Resolution Applicant(s) ("PRAs") in English newspapers namely The Financial Express (English & All India Edition), in Marathi newspaper namely Navshakti (Marathi & Mumbai, Pune, Nashik and Nagpur Edition) and Hindi newspaper namely Navbharat (Hindi & Mumbai, Pune, Nashik and Nagpur Edition) for inviting Expression of Interests ("EoIs") from PRAs.
11. Evaluation Matrix as per Regulation 36B of CIRP Regulations was approved by the CoC in the 4th meeting of CoC held on 24.03.2023. The same was revised in the 5th CoC meeting held on 26th April 2023. Further, in the 4th CoC meeting, a transaction auditor, namely M/s J Mandal was appointed by the CoC in order to determine the transactions covered under Sections 43, 45, 50, and 66 of the Code.
12. On 3rd April 2023, final list of PRAs was prepared.
13. The last date for submission of the resolution plan(s) was 29.05.2023 as extended by the CoC in the 5th CoC meeting.



14. Resolution plans submitted by the PRAs were opened in the 6th CoC meeting held on 31.05.2023 and continued on 01.06.2023. Further, as approved by the CoC in the 6th CoC meeting, the Applicant appointed an independent agency namely Bagchi & Gupta for investigating on the eligibility of the PRAs under Section 29 A of the Code. Further, sub-committee was formed to invite PRAs for discussions, negotiations and suggest suitable amendments to the resolution plan. It was also agreed that the sub-committee shall only be for the limited purpose of discussions / negotiations.
15. IndiaAppraisers.com Private Limited submitted its valuation report. Later, two addendums to the report were submitted on 07th July 2023 and 23rd October 2023.
16. This Tribunal vide order dated 14.06.2023 extended the CIRP period of the Corporate Debtor by a further period of 90 days till 11.09.2023 in IA 2098/2023.
17. The GAA Advisory LLP submitted its valuation report on 30.06.2023. The COC in 9th meeting dated 14th July 2023 of the Corporate Debtor unanimously decided to convene negotiation process and it was agreed by the COC that the PRAs shall submit their respective revised resolution plans on or before 27th July 2023.
18. The Applicant had issued a process note for conducting negotiation process, to all the eligible PRAs who had submitted their resolution plans in order to conduct fair and transparent process for the purpose of maximizing the assets of the Corporate Debtor. The last date to submit a revised resolution plan for all the PRAs was 27.07.2023.
19. In the 11th CoC meeting held on 28.07.2023 wherein all the revised resolution plans received by the Applicant were opened.
20. During the 12th CoC meeting, Negotiation Process amongst all the PRAs was conducted by the Applicant in consultation with the CoC for maximization of value of assets of the Corporate Debtor. After 13 rounds of negotiation process, the Applicant declared closure of the negotiation process and it was requested to each such PRAs to submit the last revised financial proposal within 4 Business Days.



21. Vide order dated 15.09.2023, this Tribunal allowed IA no. 4244 of 2023 & thereby extended CIRP period by another 60 days with CIRP period of 330 days ending on 10.11.2023.
22. Out of 11 resolution plans submitted by the prospective resolution applicants, 5 resolution plans were found to be compliant in accordance with the provisions of the Code read with CIRP Regulations and after deliberating the same with the COC, the same were presented for voting. The voting of the resolution plans was still ongoing, and the COC had requested 4 weeks for voting on the resolution plans. The compliant resolution plans were put to vote. Voting lines were kept open from 28th October 2023 till 5th January 2024.
23. This Tribunal vide order dated 9th November 2023 in IA 5129/2023 allowed further extension of 60 days to the CIRP of the Corporate Debtor. Accordingly, the last date of CIRP period was 11th January 2024.
24. The Resolution Plan of Evonith Holdings Pvt Ltd was approved by the CoC on 05.01.2024. Further, the Applicant issued a Letter of Intent in favour of the SRA.
25. The SRA, accordingly accepted the LoI issued by the Applicant in accordance with the RFRP. The SRA through its affiliate has furnished a Performance Bank Guarantee of INR 30,00,00 000/-.
26. MS Agrawal Foundries Private Limited had filed an Interlocutory Application no.1799/2024 against the RP, CoC and SRA under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 ("Code") r/w Rule 11 of the National Company Law Tribunal Rules, 2016 ("NCLT Rules") challenging the approval of the Resolution Plan of SRA by the CoC of the Corporate Debtor under the Corporate Insolvency Resolution Process ("CIRP"). The same was dismissed by this bench vide order dated 06.02.2025.

Salient Features of the Resolution Plan

27. The total outlay of the Resolution Plan is as follows ("**Total Resolution Plan Amount**"):

(Amount in crores)



Sr. No	Stakeholders/ Costs	Amount Claimed	Amount Admitted	Amount Proposed	Remarks
1.	Outstanding CIRP Costs	54.38	54.38	54.38	Upfront - within 30 days
2.	Workmen and Employees	1.25	1.18	1.18	Upfront - within 30 days
4.	Operational Creditors (including Government dues but excluding workmen and employees)	473.04	287.24	1.82	Upfront - within 30 days
6.	Secured Financial Creditors	2662.52	2662.42	242.62	Upfront payment of INR 42.62 Crores and balance payment of INR 200 Crores in 5 years by way of NCDs.
				117.23	Interest on NCD
				23.87	Towards Bank Guarantee
				61	Industrial Promotion Subsidy Scheme
7.	Unsecured Financial Creditors	6.35	6.35	Nil	-
	Total Payment	3197.53	3011.57	502.1	

28. It is submitted that the Successful Resolution Applicant has proposed to pay Non-Convertible Debentures (“NCD”) amounting to INR 200 crores (Indian Rupees Two Hundred Crore Only) on the closing date whose interest rate and repayment structure is as follows:

(Amount in crores)



Year	NCD Outstanding at the start of year (In Crores)	Interest Rate p.a.	Interest Amount (In Crores)	Redemption %	Redemption Amount	NCD Outstanding at the end of year
1	200.00	12%	24.00	10%	20.00	180.00
2	180.00	15%	27.00	10%	20.00	160.00
3	160.00	18.50%	29.60	18%	36.00	124.00
4	124.00	18.50%	22.94	25%	50.00	74.00
5	74.00	18.50%	13.69	37%	74.00	0.00
	Total		117.23		200.00	

29. Indicative timeline for implementation of the successful resolution plan is as follows:

INDICATIVE ACTIVITY SCHEDULE		
Sr. No.	Activity	Indicative Timeline (days)
I – Approval Process		
	Presentation of Resolution Plan to the COC.	To be completed prior to NCLT approval of the Resolution Plan
	Approval of Resolution Plan by COC.	
	Application to the NCLT for approval of the Resolution Plan.	
	Approval of the Resolution Plan by the NCLT	T
	Intimation to all Financial Creditors and Operational Creditors, existing shareholders and other Stakeholders of the approval of the Resolution Plan.	
	Appointment of members of the Monitoring Committee and Monitoring Agent.	T+1
II – Interim Period		
	Completion of the Conditions (such date “Y”)	Y
	Issue of Implementation Notice in terms of Clause 7.2 of Part B of the Resolution Plan.	Y+7



INDICATIVE ACTIVITY SCHEDULE		
Sr. No.	Activity	Indicative Timeline (days)
III – Infusion of Funds, Acquisition, Settlement of Creditors and Mandatory Payments		
	Upfront Payment in in accordance with Section 3.10.3 of Part A (<i>Business Plan</i>) and Section 1.2 of Part B (<i>Financial Proposal</i>) of this Resolution Plan	Y + 23
	Capital Reduction (i.e., for the acquisition of control of the Corporate Debtor by the Resolution Applicant) and Capital Infusion into the Corporate Debtor.	Y+ 23
	Issuance of AFC-NCDs	Y+ 23

30. The Applicant submits that Monitoring Committee shall be constituted consisting of
- 2 (Two) representatives of the Approving Financial Creditors;
 - 2 (Two) representatives of the Resolution Applicant;
 - 1 (One) external expert nominated by the Resolution Applicant in consultation with the CoC shall be bound to undertake the actions required for the implementation of this Resolution Plan. Further, the Monitoring Agent appointed by the Interim Board shall be responsible for the supervision and implementation of the Resolution Plan.
31. Cash Balance
- All available free and unencumbered or lien marked cash and bank balances lying in any trust and retention account or any other bank account of the Corporate Debtor or any fixed deposits in the books of the Corporate Debtor ("Cash Balance") as on the Effective Date, after payment of the Unpaid CIRP Costs, payment towards Outstanding Contributions and unpaid Monitoring Agency Cost as per this Resolution Plan ("Surplus Cash Balance") shall first be



utilized towards replenishment of 100% Margin Money in relation to the Specified BGs. The balance Surplus Cash Balance shall accrue to the benefit of the unrelated Financial Creditors and the CoC shall be entitled to distribute such Surplus Cash Balance in its commercial wisdom. It is clarified that only the actual Surplus Cash Balance in the bank account of Corporate Debtor shall be payable to the Financial Creditors and the same shall not include any receivables, inventory or any other asset of the Corporate Debtor.

- ii. Cash Balance and any receivable or any other accruals post the Effective Date until the Closing Date shall accrue solely to the Corporate Debtor and neither the Resolution Applicant or the Corporate Debtor shall be required to transfer the proceeds to the creditors of the Corporate Debtor and the same can be utilised by Resolution Applicant at its own discretion towards going concern operations of the Corporate Debtor.

32. Industrial Promotion Subsidy –

- i. The Corporate Debtor is likely to receive approximately INR 61,00,00,000/- as Industrial Promotion Subsidy ("Subsidy") under Package Scheme of Incentive 2007.
- ii. The Resolution Applicant has proposed the following treatment of the Subsidy:

Timeline	Proposed Treatment
If the Subsidy amount is received by the Corporate Debtor prior to the Closing Date	The Subsidy shall form part of the Cash Balance and the same shall be treated in accordance with the terms of Clause 1.3 (utilization of available cash balances and Industrial Promotion Subsidy) of Part B of the Resolution Plan.
If the Subsidy amount is received after the closing date	An amount equivalent to the CIRP Cost to the extent its



	deducted from the Upfront Payment to Secured FC shall accrue to the benefit of the unrelated Financial Creditors. For the avoidance of doubt, it is clarified that the payout to the Financial Creditors under this provision shall not exceed INR 61,00,00,000 in any circumstances whatsoever.
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Statutory Compliance:

33. In compliance of Section 30(2) of IBC, 2016, the Resolution Professional has examined the Resolution plan of the Successful Resolution Applicant and confirms that this Resolution Plan:

- a) Provides for payment of Insolvency Resolution Process cost in a manner specified by the Board in the priority to the payment of other debts of the corporate debtor;
- b) Provides for payment of debts of Operational Creditor 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 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 sub-section (1) of Section 53 in the event of liquidation of the corporate debtor.
- c) Provides for management of the affairs of the Corporate Debtor after approval of Resolution Plan;
- d) The implementation and supervision of Resolution Plan;
- e) Does not prima facie contravene any of the provisions of the law for time being in force,
- f) Confirms to such other requirements as may be specified by the Board.



- g) As per the Affidavit, the Resolution Applicant is not covered under 29A.
34. In compliance of Regulation 38 of CIRP Regulations, the Resolution Professional confirms that the Resolution plan provides that
- a) The amount due to the Operational Creditors under Resolution Plan shall be given priority in payment over Financial Creditors.
 - b) It has dealt with the interest of all Stakeholders including Financial Creditors and Operational Creditors of the Corporate Debtor.
 - c) A statement that neither the Resolution Applicants nor any related parties have failed to implement nor have contributed to the failure of implementation of any other Resolution Plan approved by the Adjudicating Authority in the past.
 - d) The terms of the plan and its implementation schedule.
 - e) The management and control of the business of the Corporate Debtor during its term.
 - f) Adequate means of Supervising its implementation.
 - g) The Resolution Plan Demonstrates that it addresses
 - i. The cause of the Default
 - ii. It is feasible and viable
 - iii. Provision for effective implementation
 - iv. Provisions for approvals required and the time lines for the same.
 - v. Capability to Implement the Resolution Plan
35. The Resolution Professional has submitted Form-H under Regulation 39(4) of the CIRP Regulations to certify that the Resolution Plan as approved by the CoC meets all the requirements of the IBC and its Regulations, the relevant parts of which are reproduced below:

**FORM H
COMPLIANCE CERTIFICATE**

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

I, Avil Menezes, an insolvency professional enrolled with The Indian Institute of Insolvency Professional of ICAI and registered with the Board with registration number IBBI/PA-001/IP-P00017/2016-2017/10041, am the resolution professional for the corporate insolvency resolution process (CIRP) of Topworth Urja & Metals Limited.

2. The details of the CIRP are as under:



Sl. No.	Particulars	Description
1	Name of the CD	Topworth Urja & Metals Limited.
2	Date of Initiation of CIRP	12 August 2022
3	Date of Appointment of IRP	12 August 2022
4	Date of Publication of Public Announcement	15 August 2022
5	Date of Constitution of CoC	31 December 2022
6	Date of First Meeting of CoC	13 January 2023
7	Date of Appointment of RP-	10 April 2023 (Order was received on 17 April 2023)
8	Date of Appointment of Registered Valuers	Valuer 1 GAA Advisory LLP & were appointed on 27 September 2022. Valuer 2 IndiaAppraisers.com Private Limited were appointed on 27 September 2022
9	Date of Issue of Invitation for EoI	06 March 2023
10	Date of Final List of Eligible Prospective Resolution Applicants	03 April 2023
11	Date of Invitation of Resolution Plan	29 March 2023
12	Last Date of Submission of Resolution Plan	Last date for submission of resolution plan was 27 July 2023 which was extended by CoC from time to time till 16 October 2023.
13	Date of Approval of Resolution Plan by CoC	05 January 2024
14	Date of Filing of Resolution Plan with Adjudicating Authority	11 January 2024
15	Date of Expiry of 180 days of CIRP	13 June 2023 (After considering exclusion of 125 days approved by Hon'ble NCLT vide order dated 27 March 2023.
16	Date of Order extending the period of CIRP	Application for extension of CIRP period by 90 days was filed with the Hon'ble NCLT. The Hon'ble NCLT vide order dated 14 June 2023 allowed the extension application extending the last date of CIRP to 11 September 2023 Further an application for extension of CIRP period by 60 days was filed with the Hon'ble NCLT. The Hon'ble NCLT vide order dated 15 September 2023 allowed the said extension application extending the last date of CIRP to 10 November 2023. Thereafter an application for extension of CIRP period by 60 days (beyond 330 days) to enable CoC to vote on the plan was filed with the Hon'ble NCLT. The Hon'ble NCLT vide order dated 09 November 2023 allowed the said application thereby extending the



		last date of CIRP to 11 January 2024.
17	Date of Expiry of Extended Period of CIRP	11 January 2024
18	Fair Value	<ul style="list-style-type: none">IndiaAppraisers.com Private Limited has provided fair value of INR 488.79 Crores.GAA Advisory LLP has provided fair value of INR 432.81 Crores. <p>The average fair value of assets of corporate debtor was INR 460.80 Crores.</p>
19	Liquidation value	<ul style="list-style-type: none">IndiaAppraisers.com Private Limited has provided liquidation value of INR 353.18 Crores.GAA Advisory LLP has provided liquidation value of INR 330.79 Crores. <p>The average liquidation value of assets of corporate debtor was INR 341.99 Crores.</p>
20	Number of Meetings of CoC held	15 CoC meeting were held till 11 th January 2024.

3. I have examined the Resolution Plan received from Resolution Applicant, Evonith Holdings Pte Limited (“EHPL”) and approved by Committee of Creditors (CoC) of Topworth Urja & Metals Limited.

4. I hereby certify 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 (CIRP Regulations) and does not contravene any of the provisions of the law for the time being in force.
- the Resolution Applicant viz. Evonith Holdings Pte 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 contents of the said affidavit are in order.
- the said Resolution Plan has been approved by the CoC in accordance with the provisions of the Code and the CIRP Regulations made thereunder. The Resolution Plan has been approved by 100 % of voting share of financial creditors after considering its feasibility and viability and other requirements specified by the CIRP Regulations.
- I sought vote of members of the CoC by electronic voting system which was kept open from 28 October, 2023 to 05 January, 2024, i.e. at least 24 hours as per the regulation 26.



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5. The list of financial creditors of the Topworth Urja & Metals Limited being members of the CoC and distribution of voting share among them is as under:

Sl. No.	Name of Creditor	Voting Share (%)	Voting for Resolution Plan (Voted for / Dissented / Abstained)
1	State Bank of India	31.80	Voted For
2	Indian Bank	19.76	Voted For
3	Bank of Baroda	18.94	Voted For
4	Punjab National Bank	18.83	Voted For
5	Canara Bank	5.87	Voted For
6	UCO Bank	2.50	Voted For
7	Bank of India	2.30	Voted For
	Total	100.00	

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

6A. Minutes of the committee meeting relating to discussion and decisions about resolution plan are attached with this certificate- Minutes of the 14th CoC Meeting of the Corporate Debtor held on 26 October 2023 are attached with this certificate.

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

(Amount in Rs. Crores)

Sl. No.	Category of Stakeholder *	Sub-Category of Stakeholder	Amount Claimed	Amount Admitted	Amount Provided under the Plan	Amount Provided to the Amount Claimed (%)	Amount Provided to the Amount Admitted (%)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1	Secured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	-	-	-	-	-
		(b) Other than (a) above: (i) who did not vote in favour of the resolution Plan	-	-	-	-	-
		(ii) who voted in favour of the resolution plan	2662.52	2662.42	436.43	16.391%	16.392%
		Total [(a) + (b)]	2662.52	2662.42	436.43	16.39%	16.39%
2	Unsecured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	-	-	-	-	-
		(b) Other than (a) above: (i) who did not vote in favour of the resolution Plan	-	-	-	-	-



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		(ii) who voted in favour of the resolution plan					
		Total [(a) + (b)] (Refer Note 1)	6.35	6.35	-	-	-
3	Operational Creditors	(a) Related Party of Corporate Debtor	159.68	159.68	1.01	0.63%	0.63%
		(b) Other than (a) above:					
		(54) Government	252.51	71.72	0.45	0.18%	0.63%
			0.24	0.24	0.24	100 %	100 %
		(ii) Workmen	1.01	0.94	0.94	93.07%	100%
		(iii) Employees	60.86	55.92	0.36	0.59%	0.64%
		(iv) For goods and services					
		Total[(a) + (b)]	474.30	288.5	03.00	0.63%	1.04%
4	Other debts and dues		-	-			
Grand Total			3143.16	2957.27	439.43	13.98%	14.85%

Notes:

- Makalu Trading Company has filed an application bearing IA (IBC 812/2023) in relation to the claim submitted by the creditor for the outstanding interest component, which was not admitted by the erstwhile IRP. The Hon'ble NCLT vide order 21 November 2023 allowed the application directing the Respondent for admission of the interest claim and accordingly the Resolution Professional admitted the claim amounting to INR 6.35 Crores on 08th January 2024. Further the resolution applicant in its resolution plan has proposed Nil payment to unsecured financial creditor.
- The total resolution plan value as per the resolution plan is INR 502.10 crores. The amount of INR 439.43 crores in the table above excludes the following components:
 - Unpaid CIRP Cost of INR 54.38 Crores admitted by the Resolution Professional as on 30th September 2023.
 - INR 8.29 Crores – towards bank guarantee provided to Ministry of Coal during the CIRP period.
- Total amount provided under Resolution Plan is INR 502.10 Crores, for clarity bifurcation of same is provided below:

Particulars	Amount in Crore	Amount in Crore
Total Resolution Plan Value		502.10
Less: Cash Component		
- CIRP Cost	54.38	
- Secured Financial Creditors	42.62	
- Operational Creditors (Workmen and Employees)	1.18	
- Other Operational Creditors	1.82	100.00
Less: Non-Convertible Debentures to Secured Financial Creditors		200.00
Less: Interest on Non-Convertible Debentures		117.23
Less: Towards Bank Guarantees		23.87
Less: Industrial Promotion Subsidy Scheme pass through to Secured Financial Creditors		61.00

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



Sl. No	Category of Share Holder	No. of Shares held before CIRP	No. of Shares held after the CIRP	Voting Share (%) held before CIRP	Voting Share (%) held after CIRP
1	Equity	49,94,159	NIL	100%	Nil
2	Preference	9,16,667	NIL	-	Nil

9. The compliance of the Resolution Plan is as under:

Sr. No.	Description/Requirement	Whether Complied or Not (Yes / No)	Relevant clause nos. under the Resolution Plan)	Comments
30(1)	Affidavit stating that the Resolution Applicant is eligible under Section 29A of the IBC, 2016	Yes	-	-
Section 30(2) of the Code:				
(a) r/w Regulation 38(1)(a) of CIRP Regulation	provides for the payment of insolvency resolution process costs in a manner specified by the Board in priority to the payment of other debts of the corporate debtor;	Yes	Part B (Financial Proposal) - Section 2.1 (Payment of CIRP Costs) @ Page No. 34 of the Resolution Plan <i>2.1.1 In accordance with the Code, the unpaid CIRP Costs and the Monitoring Agency Costs shall be paid in priority over payments to any other Creditors on Closing Date as per Section 1.2 of Part B (Financial Proposal).</i> <i>2.1.5 The CIRP Cost and the Monitoring Agency Costs shall be paid in full and in priority to any other creditor of the Corporate Debtor.</i>	
(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)	Yes	<u>OPERATIONAL CREDITORS (EXCLUDING WORKMEN AND EMPLOYEES)</u> Part B (Financial Proposal) - Section 2.3.1 (i) (Payment to Other Operational Creditors) @ Page No. 41 of the Resolution Plan. (i) <i>The Other Operational Creditors shall be paid the Other Operational Creditor Payments out of the Operational Creditor Payments/OC Payments, in priority to any payments being made to the Financial Creditors notwithstanding anything contained in this Resolution Plan. The manner of distribution of the Other Operational Creditor Payments will be in</i>	



	<p>of section 53 of the Code. whichever is higher,</p> <p>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</p>	Yes	<p>accordance with Section 3.10 of Part A (Business Plan/Financial Projections) of the Resolution Plan. The Resolution Applicant believes that the amounts being offered to the Operational Creditors under this Resolution Plan are greater than (a) the amount to be paid to the Operational Creditors in the event of liquidation of the Company under Section 53 of the Code; or (b) the amount that would have been paid to the Operational Creditors, if the amount to be distributed under this Resolution Plan had been distributed in accordance with the order of priority in sub-section (1) of Section 53 of the Code, whichever is higher. Therefore, acceptance of this Resolution Plan shall be in the best interest of all the Operational Creditors of the Company. Post such payment, all dues of the Operational Creditors shall be written off in full and shall be, and be deemed to be, permanently extinguished as on the Effective Date, provided that the Resolution Plan is implemented on or before the Closing Date. The Resolution Professional shall ensure that payments to Operational Creditors are in accordance with the mandatory provisions of Code.</p> <p>(ii) It is clarified for the avoidance of doubt that all Government and Statutory Authority claims (whether filed or admitted or not) are claims and debt (as defined under the IBC) as applicable, and would consequently qualify as claims of Operational Creditors. Accordingly, the terms of this</p>	
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			<p><i>Resolution Plan applicable to Other Operational Creditors shall be binding on the Government and Statutory Authorities as well (subject to Rainbow Judgment).</i></p> <p>READ WITH</p> <p>Part B (Financial Proposal) - Section 1.2.1 (Summary Proposal) – Sr. No. 4 (Operational Creditors including Outstanding Statutory Authorities Debt / Other Operational Creditors (excluding Workmen and Employees)) @ Page Nos. 31 of the Resolution Plan</p> <p><i>Out of Upfront Payments, the Resolution Applicant proposes to make payment of INR 1,82,09,209 (Indian Rupees One Crore Eighty Two Lakh Nine Thousand Two Hundred and Nine) to all Operational Creditors (excluding Workmen and Employees) (“Other Operational Creditors”), in compliance with Applicable Law, Rainbow Judgement including Section 30(2)(b) of the IBC (“Other Operational Creditors Payments”), towards full and final settlement of the Outstanding Other Operational Creditor Debt.</i></p> <p><i>The distribution of the Other Operational Creditors Payments among the Other Operational Creditors shall be in accordance with Section 3.10.3 of Part A (Business Plan/Financial Projections) of the Resolution Plan.</i></p> <p><i>In the event that the Other Operational Creditors Payments is not sufficient to make payment to the Operational Creditors in accordance with Section 30(2)(b) of the Code, then the excess amount shall be proportionately deducted from the payments proposed to Approving Financial Creditors.</i></p>	
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			<p><u>WORKMEN AND EMPLOYEES</u></p> <p>Part B (Financial Proposal) - Section 1.2.1 (Summary Proposal) – Sr. No. 3 (Workmen and Employees) @ Page No. 30 of the Resolution Plan</p> <p><i>Out of Upfront Payments, the Resolution Applicant proposes to make payment of INR 1,17,90,791/- (Indian Rupees One Crore Seventeen Lakhs Ninety Thousand Seven Hundred and Ninety-One only) to the Workmen and Employees) (“Workmen and Employee Payments”). The Resolution Applicant proposes to make payment to Workmen and Employees, in compliance with Applicable Law including Section 30(2)(b) of the IBC towards full and final settlement of Outstanding Workmen and Employees Debt, whether submitted directly or through an authorized representative.</i></p> <p><i>The distribution of the Workmen and Employees Payments among the Workmen and Employees shall be in accordance with Section 3.10.3 of Part A (Business Plan/Financial Projections) of the Resolution Plan.</i></p> <p><i>In the event that the Workmen and Employee Payments is not sufficient to make payment to the Operational Creditors in accordance with Section 30(2)(b) of the Code, then the excess amount shall be proportionately deducted from the payments proposed to Approving Financial Creditors.</i></p> <p><u>DISSENTING FINANCIAL CREDITORS:</u></p> <p>Part B (Financial Proposal) - Section 2.2.1 (i) (Financial Creditors) @ Page Nos. 34 of the Resolution Plan</p> <p><i>(i) Mandatory Dissenting Financial Creditor Payments will be made to the Dissenting</i></p>	
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			<p><i>Financial Creditors in priority to the Approving Financial Creditors, in such manner as specified in Section 3.10.3 of Part A (Business Plan/Financial Projections) and Section 1.2 of Part B (Financial Proposal) of the Resolution Plan. For avoidance of doubt, it is clarified that the Dissenting Financial Creditors shall be entitled to receive only the Mandatory Dissenting Financial Creditor Payments.</i></p> <p>READ WITH</p> <p>Part B (Financial Proposal) - Section 1.2.1 (Summary Proposal) – Sr. No. 2 (Financial Creditors) @ Page Nos. 23 -23 of the Resolution Plan</p> <p>(a) <i>The Financial Creditors who do not vote in favour of this Resolution Plan (“Dissenting Financial Creditors”) will be entitled to receive at least the amount that they would have received in accordance with sub-section (1) of Section 53 of the Code in the event of a liquidation of the Corporate Debtor (“Mandatory Dissenting Financial Creditor Payments”) in priority to the Financial Creditors who vote in favour of this Resolution Plan (“Approving Financial Creditors”) as per Applicable Law, from the Upfront Payments to FCs. Therefore, Section 30 of the Code would be complied with, even with respect to the Dissenting Financial Creditors.</i></p> <p><i>It is clarified that Dissenting Financial Creditors will be paid out from the Upfront</i></p>	
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			<p><i>Payment to Secured FCs in the manner specified in Section 3.10.3 of Part A (Business Plan/Financial Projections) of the Resolution Plan.</i></p> <p><i>(b) It is clarified that the Corporate Debtor shall, to the extent that there is any shortfall, make payment of the balance Mandatory Dissenting Financial Creditors Payment out of the scheduled repayment of the Residual Debt whenever they fall due as per the Annexure 5 (Salient Terms and Conditions of the Resolution Plan), towards full and final settlement of the Outstanding Financial Creditor Debt of the Dissenting Financial Creditor(s). For the avoidance of doubt, it is clarified that the Mandatory Dissenting Financial Creditor Payments shall be made in priority to any payment to the Approving Financial Creditors. For avoidance of doubt, it is clarified that the Dissenting Financial Creditors shall be entitled to receive only the Mandatory Dissenting Financial Creditor Payments, in priority to the AFC NCD. It is further clarified that no AFC NCDs shall be allotted to the Dissenting Financial Creditors.</i></p>	
(c)	provides for the management of the affairs of the Corporate Debtor after approval of the resolution plan	Yes	Part B (Financial Proposal) - Section 5 (Management and Control of the Corporate Debtor) @ Page Nos. 69 - 70 of the Resolution Plan	
(d)	The implementation and supervision of the resolution plan	Yes	Part B (Financial Proposal) - Section 6 (Supervision and Implementation of the Resolution Plan) @ Page Nos. 70 – 71 of the Resolution Plan	-



			AND Part B (Financial Proposal) -Section 7.4 (Implementation Schedule) @ Page Nos. 71 - 72 of the Resolution Plan AND Part B (Financial Proposal) -Section 4 (Conduct Between Effective Date and Closing Date) @ Page Nos. 67 – 69 of the Resolution Plan	
(e)	does not contravene any of the provisions of the law for the time being in force	Yes	Part C (Miscellaneous) - Section 14 (iv) (Confirmations) @ Page No. 79 of the Resolution Plan	-
(f)	confirms to such other requirements as may be specified by the Board	Yes	Clause 6 @ Page No. 4 of the Covering Letter to the Resolution Plan <i>We confirm that the Resolution Plan submitted by us is consistent with all the requirements of submission as stated in the RFRP, the IB Code, the CIRP Regulations and subsequent communications / amendments from the Interim Resolution Professional / Resolution Professional (as per the instructions of the CoC) and/or the CoC.</i>	-
<p><i>Regulation 37 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process of Corporate Persons) Regulation, 2016 –</i></p> <p>A resolution plan shall provide for the measures, as may be necessary, for insolvency resolution of the corporate debtor for maximization of value of its assets, including but not limited to the following:</p>				
(a)	transfer of all or part of the assets of the corporate debtor to one or more persons	Yes	Part B (Financial Proposal) – Section 3 (Acquisition as a Going Concern) - Clause 3.9 - @ Page No. 66 of the Resolution Plan <i>The Resolution Applicant retains the right to cause/undertake a slump sale and/ or hiving-off/ sale of one or more business undertakings and /or assets and/or merger and/or demerger and/or restructuring and/or arrangement of the Corporate Debtor, on a subsequent date, i.e., after the Closing Date.</i>	-
(b)	sale of all or part of the assets whether subject to any security interest or not	Yes	Not Proposed	-



(ba)	restructuring of the corporate debtor, by way of merger, amalgamation and demerger	Yes	<p>Part B (Financial Proposal) – Section 3 (Acquisition as a Going Concern) - Clause 3.9 - @ Page No. 66 of the Resolution Plan</p> <p><i>The Resolution Applicant retains the right to cause/undertake a slump sale and/ or hiving-off/ sale of one or more business undertakings and /or assets and/or merger and/or demerger and/or restructuring and/or arrangement of the Corporate Debtor, on a subsequent date, i.e., after the Closing Date.</i></p>	
(c)	the substantial acquisition of shares of the corporate debtor, or the merger or consolidation of the corporate debtor with one or more persons	Yes	<p>Part B (Financial Proposal) – Section 3 (Acquisition as a Going Concern) - Clause 3.9 - @ Page No. 66 of the Resolution Plan</p> <p><i>The Resolution Applicant retains the right to cause/undertake a slump sale and/ or hiving-off/ sale of one or more business undertakings and /or assets and/or merger and/or demerger and/or restructuring and/or arrangement of the Corporate Debtor, on a subsequent date, i.e., after the Closing Date.</i></p> <p>AND</p> <p>Part B (Financial Proposal) – Section 3 (Acquisition as a Going Concern) - Clause 3.2 (i) - @ Page No. 64 of the Resolution Plan</p> <p><i>The Resolution Applicant and/or the Implementing Entity (as the case may be) will initially either directly (or indirectly through intermediate holding company(ies), its Affiliates and/or through an SPV) hold 100% of the paid-up share capital of the Corporate Debtor (with an option to divest the equity upto 49% at any time prior to or after the Closing Date, to any financial / strategic investor or partners or any Implementing Entity);</i></p> <p>AND</p> <p>Part B (Financial Proposal)</p>	-



			<p>– Section 3 (Acquisition as a Going Concern) - Clause 3.2(iii) - @ Page No. 64 of the Resolution Plan</p> <p>(iii) <i>Capital Infusion:</i></p> <p>(a) <i>Simultaneous with the step above, the Resolution Applicant and/or Implementing Entity (who shall be compliant with Section 29A of the Code) shall together subscribe to equity shares of the Company for such amount as may be determined by the Resolution Applicant/Implementing Entity in their sole and absolute discretion. Pursuant to the same, the Resolution Applicant/Implementing Entity shall initially hold 100% (one hundred per cent) of the share capital of the Corporate Debtor and acquire control of the Corporate Debtor.</i></p>	
(ca)	cancellation or delisting of any shares of the corporate debtor, if applicable	Yes	<p>Part B (Financial Proposal)</p> <p>– Section 3 (Acquisition as a Going Concern) - Clause 3.2 (ii) - @ Page No. 64 of the Resolution Plan</p> <p>(ii) <i>Capital Reduction-</i></p> <p>(a) <i>The Company shall undertake a capital reduction, whereby all the equity shares and preference shares of the Company held by any Person on a fully diluted basis shall stand cancelled and extinguished, without any pay-out, or cash consideration to the Financial Creditors, Operational Creditors, Employees and Workmen, statutory creditors, Other Creditors, other third parties, the existing shareholders and any other Person, under the provisions of the Companies Act, 2013 (“Capital Reduction”). The face value of the equity shares so</i></p>	-



			<i>cancelled shall be transferred to the capital reserve of the Company.</i>	
(d)	satisfaction or modification of any security interest	Yes	<p>Part B (Financial Proposal) - Section 1.2.1 (Summary Proposal) – Sr. No. 2 (Financial Creditors) – Clause E @ Page Nos. 27 of the Resolution Plan</p> <p><i>The Resolution Applicant and the Financial Creditors shall execute necessary Definitive Documents, as may be necessary, to give effect to the actions set out herein. Specifically in relation to the AFC NCDs, the terms and conditions of the existing finance documents and security documents in relation to the/to the extent of the Residual Debt shall cease to have effect and shall abate on the execution of Definitive Documents in relation to the conversion of the Residual Debt to AFC NCDs. All existing Encumbrances, mortgages and guarantees in respect of the Outstanding Financial Debt shall stand released or modified and the Financial Creditors shall extend all necessary co-operation to release or modify the Encumbrances, mortgages and guarantees over the Outstanding Financial Debt including without limitation filing of necessary forms and completing other formalities.</i></p> <p>READ WITH</p> <p>Part B (Financial Proposal) - Section 2.8.1 (Treatment of Security Interest and On-going Litigation) @ Page No. 51 of the Resolution Plan</p> <p>(ii) <i>any Encumbrance or collateral (whether enforced, crystallized or proceeded with or not) over the Assets (created and/or perfected for debt availed by the Corporate Debtor or a third party) (collectively “Security”), that exists by operation of Applicable Law, or in connection with any debt</i></p>	



			<p><i>owed to Financial Creditors (to the extent such debt has not been acquired or restructured in accordance with the terms and conditions set out herein), Operational Creditors, Other Creditors or any other debt or obligation of the Corporate Debtor, or in relation to a third party (including a Related Party) whose obligations were secured by the Corporate Debtor by creation of any Security in favour of another Person, at any time till the Closing Date, shall stand automatically revoked, released, cancelled, withdrawn, dismissed and deemed null and void (as the case may be) and all financial obligations in relation to such Security or Dispute shall be permanently extinguished on the Closing Date subject to Discharged Payments being made on the Closing Date.</i></p>	
(e)	curing or waiving of any breach of the terms of any debt due from the corporate debtor	Yes	<p>Part B (Financial Proposal) - Section 2.13.9 (viii) (Effect on Operational Creditors) @ Page Nos. 60 of the Resolution Plan.</p>	
(f)	reduction in the amount payable to the creditors	Yes	<p>Part B (Financial Proposal) - Section 2 (Treatment of Stakeholders) @ Page Nos. 34 – 63 of the Resolution Plan</p>	-
(g)	extension of a maturity date or a change in interest rate or other terms of a debt due from the corporate debtor	Yes	Not Proposed	-
(h)	amendment of the constitutional documents of the corporate debtor	Yes	<p>Part A (Business Plan) - Section 4.2.2 (Term of the Resolution Plan) @ Page No. 20 of the Resolution Plan</p> <p><i>The Resolution Applicant shall make appropriate modifications, if required to the constitutional documents of the Company to achieve the successful implementation of this Resolution Plan.</i></p>	-



IN THE NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH- I

IA(IBC)(PLAN)/14/2024 in CP(IB)/1807/2018

(i)	issuance of securities of the corporate debtor, for cash, property, securities, or in exchange for claims or interests, or other appropriate purpose	Yes	Sr. No. 10 (Security) of Appendix (AFC NCD Terms Sheet) to the Resolution Plan AND Sr. No. 12 (Permitted Indebtedness and Permitted Security) Appendix (AFC NCD Terms Sheet) to the Resolution Plan	-
(j)	change in portfolio of goods or services produced or rendered by the corporate debtor	Yes	Not Proposed	-
(k)	change in technology used by the corporate debtor	Yes	Not Proposed	-
(l)	obtaining necessary approvals from the Central and State Governments and other authorities	Yes	Part B (Financial Proposal)-Section 8 (Other terms and conditions) @ Page Nos. 72 - 63 of the Resolution Plan <i>8.1- Approvals from various authorities: Under Applicable Law and as directed by the Adjudicating Authority, the implementation of the Resolution Plan may require approval from various authorities. The Monitoring Agency shall file applications with various authorities as required for implementation of the Resolution Plan, in a form and manner agreed with the RA.</i> <i>8.2. The RA shall be granted liberty to (i) recast/resubmit the financial statements and accounts of the Company for the financial years 2018-19, 2019-20, 2020-21, 2021-22, 2022-23 and any financial year immediately preceding the Closing Date; and (ii) file revised income tax returns of the Company for the financial years 2017-18, 2018-19, 2019-20, 2020-21, 2021-22, 2022-2023 and any financial year immediately preceding the Closing Date to the relevant Government and Statutory Authorities.</i> AND Annexure 4 (List of Permits, Licenses and Consents Which have Expired or to be Renewed or Extended) of the Resolution Plan.	-



(m)	sale of one or more assets of corporate debtor to one or more successful resolution applicants submitting resolution plans for such assets; and manner of dealing with remaining assets.	NA	-	Not Applicable as we understand from the RFRP that it provides for revival of the Corporate Debtor as a going concern and not sale of one or more assets of the Corporate Debtor.
Regulation 38 of CIRP Regulations - Mandatory contents of the resolution plan				
1(a)	The amount payable under a resolution plan to the operational creditors shall be paid in priority over financial creditors.	Yes	<p>Part B (Financial Proposal) - Section 2.3.1 (Payment to Other Operational Creditors) @ Page No. 41 of the Resolution Plan</p> <p><i>(i) The Other Operational Creditors shall be paid the Other Operational Creditor Payments out of the Operational Creditor Payments/OC Payments, in priority to any payments being made to the Financial Creditors notwithstanding anything contained in this Resolution Plan.....</i></p> <p>READ WITH</p> <p>Part B (Financial Proposal) - Section 2.4.2 (Workmen and Employees) @ Page No. 48 of the Resolution Plan</p> <p><i>The payment of Workmen and Employees Payments shall be, in full and final settlement of all Outstanding Workmen and Employee Debts of the Workmen and Employees of the Corporate Debtor. It is clarified that the Workmen and Employees Payments shall be made in priority to any payments being made to the Financial Creditors, notwithstanding anything contained in this Resolution Plan.</i></p>	-



1(b)	The amount payable under a resolution plan to the financial creditors, who have a right to vote under sub-section (2) of section 21 and did not vote in favour of the resolution plan, shall be paid in priority over financial creditors who voted in favour of the plan	Yes	Part B (Financial Proposal) - Section 2.2.1 (Financial Creditors) @ Page Nos. 34 of the Resolution Plan <i>(i) Mandatory Dissenting Financial Creditor Payments will be made to the Dissenting Financial Creditors in priority to the Approving Financial Creditors, in such manner as specified in Section 3.10.3 of Part A (Business Plan/Financial Projections) and Section 1.2 of Part B (Financial Proposal) of the Resolution Plan.</i>	
(1A)	A resolution plan shall include a statement as to how it has dealt with the interests of all stakeholders, including financial creditors and operational creditors, of the corporate debtor.	Yes	Part A (Business Plan) - Section 3.6 (Statement showing how the interests of all Stakeholders have been dealt with) @ Page No. 12 of the Resolution Plan	-
(1B)	A resolution plan shall include a statement giving details if the resolution applicant or any of its related parties has 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	Yes	Part C (Miscellaneous) - Section 14 (vii) (Confirmation) @ Page No. 79 of the Resolution Plan.	-
2	A resolution plan shall provide:			-
	(a) the term of the plan and its implementation schedule	Yes	Part B (Financial Proposal) - Section 6 (Supervision and Implementation of the Resolution Plan) @ Page Nos. 70 – 71 of the Resolution Plan AND Part B (Financial Proposal) - Section 7.4 (Implementation Schedule) @ Page Nos. 71 - 72 of the Resolution Plan AND Part A (Business Plan) – Section 4.2 (Terms of the Resolution Plan) @ Page No. 20 of the Resolution Plan	



			AND Part C (Miscellaneous) - Section 3 (Term of the Resolution Plan) @ Page No. 64 of the Resolution Plan	
(b) the management and control of the business of the corporate debtor during its term; and	Yes		Part B (Financial Proposal) - Section 5 (Management and Control of the Corporate Debtor) @ Page Nos. 69 - 70 of the Resolution Plan AND Part B (Financial Proposal) -Section 4 (Conduct Between Effective Date and Closing Date) @ Page Nos. 67 – 69 of the Resolution Plan	
(c) adequate means for supervising its implementation	Yes		Part B (Financial Proposal) - Section 6 (Supervision and Implementation of the Resolution Plan) @ Page Nos. 70 – 71 of the Resolution Plan AND Part B (Financial Proposal) -Section 7.4 (Implementation Schedule) @ Page Nos. 71 - 72 of the Resolution Plan AND Part B (Financial Proposal) -Section 4 (Conduct Between Effective Date and Closing Date) @ Page Nos. 67 – 69 of the Resolution Plan	
(d) The Resolution Plan provides for the manner in which proceedings in respect of avoidance transactions, if any, under Chapter III or fraudulent or wrongful trading under Chapter VI of Part II of the Code, will be pursued after the approval of the resolution plan and the manner in which the proceeds, if any, from such proceedings shall be distributed	Yes		Part B (Financial Proposal) – Section 2.2.12 @ Page No. 40 of the Resolution Plan. <i>All amounts actually received by the Company under a binding order of a competent court pursuant to exercise of powers and obligations by the Resolution Professional under Section 14, Sections 43 to 51 (both inclusive) and Section 66 of the Code will be to the benefit of the unrelated Financial Creditors and the Corporate Debtor shall transfer such amounts to the unrelated Financial Creditors, after deducting any fees, expenses, Taxes or any other costs that may be</i>	-



			<p><i>incurred by the Corporate Debtor and/or the Resolution Applicant in respect of such litigation.</i></p> <p>.....</p> <p><i>After the Effective Date, the any lender as may be designated by the CoC shall conduct and pursue the litigation for reversal of such transactions till their final disposal (including any appeals). The costs of such litigation shall be borne by the Financial Creditors.</i></p>	
3	A resolution plan shall demonstrate that			
(a)	addresses the cause of default	Yes	<p>Part A (Business Plan) - Section 3.2 (Reason for present state of Corporate Debtor) @ Page No. 12 of the Resolution Plan</p> <p>READ WITH</p> <p>Part A (Business Plan) - Section 3.3 (Proposal to Turnaround the Company) @ Page No. 12 of the Resolution Plan</p>	-
(b)	is feasible and viable;	Yes	<p>Part A (Business Plan) - Section 3 (Business Plan) @ Page Nos. 10 – 15 of the Resolution Plan</p> <p>READ WITH</p> <p>Annexure 6 (Financial Projections) of the Resolution Plan</p>	-
(c)	has provisions for its effective implementation;	Yes	<p>Part B (Financial Proposal) - Section 6 (Supervision and Implementation of the Resolution Plan) @ Page Nos. 70 – 71 of the Resolution Plan</p> <p>AND</p> <p>Part B (Financial Proposal) -Section 7.4 (Implementation Schedule) @ Page Nos. 71 - 72 of the Resolution Plan</p> <p>AND</p> <p>Part B (Financial Proposal) - Section 5 (Management and Control of the Corporate Debtor) @ Page Nos. 69 - 70 of the Resolution Plan</p> <p>AND</p>	-



			Part B (Financial Proposal) -Section 4 (Conduct Between Effective Date and Closing Date) @ Page Nos. 67 – 69 of the Resolution Plan	
(d)	has provisions for approvals required and the timeline for the same; and	Yes	Part B (Financial Proposal)-Section 8 (Other terms and conditions) @ Page Nos. 72 - 63 of the Resolution Plan AND Annexure 4 (List of Permits, Licenses and Consents Which have Expired or to be Renewed or Extended) @ Page Nos. 97 - 99 of the Resolution Plan.	-
(e)	the resolution applicant has the capability to implement the resolution plan	Yes	Part A (Business Plan) - Section 1 (Overview of the RA) @ Page No. 8 - 9 of the Resolution Plan AND Annexure 2 (Overview of the Resolution Applicant) of the Resolution Plan	-
<u>Regulation 39 of CIRP Regulations</u>				
(a)	an affidavit stating that it is eligible under section 29A to submit resolution plans	Yes	-	-
(c)	an undertaking by the prospective resolution applicant that every information and records provided in connection with or in the resolution plan is true and correct and discovery of false information and record at any time will render the applicant ineligible to continue in the corporate insolvency resolution process, forfeit any refundable deposit, and attract penal action under the Code	Yes	Clause 7 @ Page No. 4 of the Covering Letter to the Resolution Plan <i>The information submitted by us is complete, strictly as per the requirements stipulated in the Request for Resolution Plan and is true and correct to the best of our knowledge and understanding. We acknowledge that we shall be solely responsible for any errors or omissions in our Resolution Plan.</i>	-
<u>Other Compliances under the Code</u>				
1.	Unconditionality of the Resolution Plan	Yes	Part C (Miscellaneous)-Section 1 (Conditions) @ Page No. 74 of the Resolution Plan. READ WITH	-



			<p>Part B (Financial Proposal) – Section 3.1 (Acquisition as a Going Concern) @ Page No. 63 of the Resolution Plan.</p> <p>READ WITH</p> <p>Part B (Financial Proposal) – Section 1.2.2 (Summary Proposal) @ Page Nos. 32 of the Resolution Plan.</p> <p><i>The Resolution Applicant shall make payment in accordance with the terms of the Resolution Plan on the Closing Date subject to there being (a) no stay on the implementation of the Resolution Plan; (b) no Material Adverse Effect suffered by the Corporate Debtor and (c) Satisfaction of the Conditions (Part C (Miscellaneous) of the Resolution Plan).</i></p>	
2.	Payment towards Statutory Dues	Yes	<p>Part B (Financial Proposal) – Section 2.3.1 (i) (Payment to Other Operational Creditors) @ Page No. 41 of the Resolution Plan.</p> <p><i>(i) The Other Operational Creditors shall be paid the Other Operational Creditor Payments out of the Operational Creditor Payments/OC Payments, in priority to any payments being made to the Financial Creditors notwithstanding anything contained in this Resolution Plan. The manner of distribution of the Other Operational Creditor Payments will be in accordance with Section 3.10 of Part A (Business Plan/Financial Projections) of the Resolution Plan. The Resolution Applicant believes that the amounts being offered to the Operational Creditors under this Resolution Plan are greater than (a) the amount to be paid to the Operational Creditors in the event of liquidation of the Company under Section 53 of the Code;</i></p>	-



			<p>or (b) the amount that would have been paid to the Operational Creditors, if the amount to be distributed under this Resolution Plan had been distributed in accordance with the order of priority in sub-section (1) of Section 53 of the Code, whichever is higher. Therefore, acceptance of this Resolution Plan shall be in the best interest of all the Operational Creditors of the Company. Post such payment, all dues of the Operational Creditors shall be written off in full and shall be, and be deemed to be, permanently extinguished as on the Effective Date, provided that the Resolution Plan is implemented on or before the Closing Date. The Resolution Professional shall ensure that payments to Operational Creditors are in accordance with the mandatory provisions of Code.</p> <p>It is clarified for the avoidance of doubt that all Government and Statutory Authority claims (whether filed or admitted or not) are claims and debt (as defined under the IBC) as applicable and would consequently qualify as claims of Operational Creditors. Accordingly, the terms of this Resolution Plan applicable to Other Operational Creditors shall be binding on the Government and Statutory Authorities as well (subject to Rainbow Judgment).</p> <p>READ WITH</p> <p>Part B (Financial Proposal) - Section 1.2.1 (Summary Proposal) – Sr. No. 4 (Operational Creditors including Outstanding Statutory Authorities Debt</p>	
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			<p>/ Other Operational Creditors (excluding Workmen and Employees)) @ Page Nos. 31 of the Resolution Plan</p> <p><i>Out of Upfront Payments, the Resolution Applicant proposes to make payment of INR 1,82,09,209 (Indian Rupees One Crore Eighty Two Lakh Nine Thousand Two Hundred and Nine) to all Operational Creditors (excluding Workmen and Employees) ("Other Operational Creditors"), in compliance with Applicable Law, Rainbow Judgement including Section 30(2)(b) of the IBC ("Other Operational Creditors Payments"), towards full and final settlement of the Outstanding Other Operational Creditor Debt.</i></p> <p><i>The distribution of the Other Operational Creditors Payments among the Other Operational Creditors shall be in accordance with Section 3.10.3 of Part A (Business Plan/Financial Projections) of the Resolution Plan.</i></p> <p><i>In the event that the Other Operational Creditors Payments is not sufficient to make payment to the Operational Creditors in accordance with Section 30(2)(b) of the Code, then the excess amount shall be proportionately deducted from the payments proposed to Approving Financial Creditors.</i></p>	
3.	Identify specific sources of funds that will be used to pay the amounts under Section 30(2)(a) and Section 30(2)(b) of the Code.	Yes	<p>Part A (Business Plan) – Section 1.6.2 (Financial Ability of the Resolution Applicant) @ Page Nos. 8 – 9 of the Resolution Plan.</p>	
4.	Such other information as may be necessary for assisting the CoC in evaluating of the Resolution Plan.	Yes	<p>Part B (Financial Proposal) - Section 1.5 (Other information as required in terms of CIRP Regulation and the RFRP) @ Page No. 29 of the Resolution Plan.</p> <p>AND</p> <p>Part A (Business Plan) - Section 1 (Overview of the</p>	



			RA) @ Page No. 6 of the Resolution Plan	
5.	The Resolution Plan cannot be modified after the approval of the Resolution Plan by the Adjudicating Authority	Yes	Part C (Miscellaneous)-Section 4 (Severability and Modifications) @ Page No. 74 - 75 of the Resolution Plan <i>4-.....No modification, change or amendment to the Resolution Plan shall be binding unless agreed to by both the RA and Financial Creditors in writing.</i>	-

36. On perusal of the Resolution Plan, we find that the Resolution Plan provides for the following:
- Payment of CIRP Cost as specified u/s 30(2)(a) of the Code.
 - Repayment of Debts of Operational Creditors as specified u/s 30(2)(b) of the Code.
 - For management of the affairs of the Corporate Debtor, after the approval of Resolution Plan, as specified u/s 30(2)(c) of the Code.
 - The implementation and supervision of Resolution Plan by the RP and the CoC as specified u/s 30(2)(d) of the Code.
37. The RP has complied with the requirement of the Code in terms of Section 30(2)(a) to 30(2)(f) and Regulations 38(1), 38(1)(a), 38(2)(a), 38(2)(b), 38(2)(c) & 38(3) of the Regulations.
38. The RP has filed Compliance Certificate in Form-H along with the Plan. On perusal the same is found to be in order. The Resolution Plan has been approved by the CoC by majority of 100%.
39. The reliefs & concessions set out in the Resolution Plan as “Effect of the Resolution Plan” under clause 13 of Part C of the Resolution Plan shall be available in accordance with the principle laid down by Hon’ble Supreme Court in case of *Ghanshyam Mishra and Sons Private Limited v/s. Edelweiss Asset Reconstruction Company Limited* Civil Appeal No. 8129 of 2019 and subject to the observations or limitations in the following paras.
- As regards to the assignment of the entire debt by the Assenting and Dissenting Creditors to Resolution Applicant or Implementing entity and conversion of such assigned debt into equity shares of the Corporate Debtor as contemplated in the Plan, this Adjudicating



authority has no objection so long as such transfer of unpaid debt is permissible in terms of judicial precedents, whereby the unpaid debt of the Creditors stands extinguished, or under the Companies Act, 2013 and accounting standards notified thereunder, and subject to necessary procedures and filing as prescribed under the Companies Act, 2013 and FEMA. Any increase in the authorized capital shall be subject to payment of prescribed fee, if any applicable, and filing of prescribed forms with the Registrar of Companies. Further, the Income Tax Department shall be at liberty to examine the tax implications arising from such conversion in terms of Section 2(24), Section 28 and Section 56 of the Income Tax Act, 1961 read with GAAR provisions thereunder in relation to assignment of unpaid debt and/or conversion thereof into equity of the Corporate debtor as well as subsequent treatment of such converted debt in the scheme of amalgamation.

- b. The Corporate Debtor's rights in the mines shall not get prejudiced on account of change in the shareholding and extinguishment of their dues in relation to such mines, however, relevant authorities shall be within its rights to levy any transfer charges as are payable under their scheme in such scenario. The relevant authorities shall be competent to deal with those mines, except on ground of non-compliances or non-payment by Corporate Debtor prior to date of this Order, as permissible under the relevant statute or regulations.
- c. The Applicant shall file necessary forms and pay prescribed fees, if any, in terms of provisions of the Companies Act, 2013 in relation to reduction in capital and issuance of fresh capital, however, the Registrar of Companies shall waive the additional fees, if any, payable on such filing.
- d. The SRA may approach prescribed authorities for waiver/reduction in fees, charges, stamp duty, and registration fees, if any arising from actions contemplated under the Resolution Plan and such request shall be dealt with subject to the relevant law/statute and adherence to the procedure prescribed thereunder.
- e. The SRA may file appropriate application, if required, for renewal of all Business Permits, rights, entitlements, benefits, subsidies and privileges



whether under applicable Law, contract, lease or license granted in favour of the Corporate Debtor or to which the Corporate Debtor is entitled to or accustomed to, which have expired on the Effective Date, and follow the dues procedure prescribed for the purpose upon payment of prescribed fees. It is clarified that continuance of approvals shall not be refused on account of extinguishment of any dues under IBC and extension or renewal thereof shall not be denied on account of past insolvency of the Corporate Debtor. No action shall lie against the Corporate Debtor for any non-compliances arising prior to the date of approval of Resolution Plan, however, such non-compliances shall be cured, if necessitated to keep the approval in force, after acquisition by the Corporate Debtor within period stipulated in the Resolution Plan.

- f. The contract with third parties shall be subject to consent of such parties.
- g. No orders levying any tax, demand or penalty from the Corporate Debtor in relation to period upto approval of the Resolution Plan shall be passed by any authority and such demand, if created, shall not enforceable as having extinguished in terms of approved Resolution Plan.
- h. The carry forward of losses and unabsorbed depreciation shall be available in accordance with the provisions of Income Tax Act or Rules made thereunder, and the Income Tax Department shall be at liberty to examine the same. Further, applicability of Section 115 JB or other provisions of Income Tax Act shall be subject to and in accordance with the provisions of Income Tax Act or Rules made thereunder. Further, the concerned tax authorities shall be at liberty to examine the carry forward of input tax credit available under Indirect Tax for its further carry forward.
- i. An application for compounding/condoning shall be filed in accordance with the procedure specified in respective law or concerned authority, however, no fine or penalty shall be imposed for non-compliances till the date of approval of this Plan or such further period as is permitted in terms of this Order.
- j. ROC shall update the records and reflect the Corporate Debtor as 'Active' upon filing of pending returns/forms after payment of normal fees (not additional fee). In case such filing is not permitted by the e-



filing portal, the ROC shall accept such forms/returns in physical format and manage to upload the same by back-end. The Corporate Debtor shall be exempted from using the words “and reduced”.

- k. The Compliances under the applicable law for all the statutory appointments by the Corporate Debtor shall be completed within 12 months or such further period as is stipulated in the plan, whereafter, the necessary consequence under respective law shall follow.

40. In *K Sashidhar v. Indian Overseas Bank & Others* (in Civil Appeal No.10673/2018 decided on 05.02.2019) the Hon’ble Apex Court held that if the CoC had approved the Resolution Plan by requisite percent of voting share, then as per section 30(6) of the Code, it is imperative for the Resolution Professional to submit the same to the Adjudicating Authority (NCLT). On receipt of such a proposal, the Adjudicating Authority is required to satisfy itself that the Resolution Plan as approved by CoC meets the requirements specified in Section 30(2). The Hon’ble Apex Court further observed that the role of the NCLT is ‘no more and no less’. The Hon’ble Apex Court further held that the discretion of the Adjudicating Authority is circumscribed by Section 31 and is limited to scrutiny of the Resolution Plan “as approved” by the requisite percent of voting share of financial creditors. Even in that enquiry, the grounds on which the Adjudicating Authority can reject the Resolution Plan is in reference to matters specified in Section 30(2) when the Resolution Plan does not conform to the stated requirements.

41. In view of the discussions and the law thus settled, the instant Resolution Plan meets the requirements of Section 30(2) of the Code and Regulations 37, 38, 38 (1A) and 39 (4) of the Regulations. The Resolution Plan is not in contravention of any of the provisions of Section 29A of the Code and is in accordance with law. The same needs to be approved. Hence, ordered.

42. The Resolution Plan is hereby **approved**. It shall become effective from this date and shall form part of this order with the following directions:

- i. It shall be binding on the Corporate Debtor, its employees, members, creditors, including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of



dues arising under any law for the time being in force is due, guarantors and other stakeholders involved in the Resolution Plan.

- ii. The approval of the Resolution Plan shall not be construed as waiver of any statutory obligations/liabilities of the Corporate Debtor and shall be dealt by the appropriate Authorities in accordance with law. Any waiver sought in the Resolution Plan, shall be subject to approval by the Authorities concerned in light of the Judgment of Supreme Court in ***Ghanshyam Mishra and Sons Private Limited v/s. Edelweiss Asset Reconstruction Company Limited***, the relevant paragraphs of which are extracted herein below:

“95. (i) Once a resolution plan is duly approved by the adjudicating authority under sub-section (1) of Section 31, the claims as provided in the resolution plan shall stand frozen and will be binding on the corporate debtor and its employees, members, creditors, including the Central Government, any State Government or any local authority, guarantors and other stakeholders. On the date of approval of resolution plan by the adjudicating authority, all such claims, which are not a part of the resolution plan shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim, which is not part of the resolution plan;

(ii) 2019 Amendment to Section 31 of the I&B Code is clarificatory and declaratory in nature and therefore will be effective from the date on which the Code has come into effect;

(iii) consequently, all the dues including the statutory dues owed to the Central Government, any State Government or any local authority, if not part of the resolution plan, shall stand extinguished and no proceedings in respect of such dues for the period prior to the date on which the adjudicating authority grants its approval under Section 31 could be continued.”

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



- iv. 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. It is clarified that the authorities shall not withhold the approval/consent/extension for the reason of insolvency of the Corporate Debtor or extinguishment of their dues upto approval of Resolution plan in terms of the approved plan. Any relief or concession as sought on the plan shall be subject to the provisions of the relevant Act.
- v. The moratorium under Section 14 of the Code shall cease to have effect from this date.
- vi. The Applicant shall supervise the implementation of the Resolution Plan and file status of its implementation before this Authority from time to time, preferably every quarter.
- vii. The Applicant shall forward all records relating to the conduct of the CIRP and the Resolution Plan to the IBBI along with copy of this Order for information.
- viii. The Applicant shall forthwith send a certified copy of this Order to the CoC and the Resolution Applicant, respectively for necessary compliance.

Sd/-

Prabhat Kumar

Member (Technical)

MK

Sd/-

Justice V.G. Bisht

Member (Judicial)