



**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (COURT-I)
KOLKATA**

**I.A. (IB) No. 69/KB/2020
and
I.A. (IB) No. 33/KB/2020
and
I.A. (IB) No. 357/KB/2020
and
Inv. P. (IB) No. 02/KB/2021
and
I.A. (IB) No. 167/KB/2020
and
I.A. (IB) No. 1651/KB/2019
And
I.A. (I.B.C)/1845(KB)2024**

**in
CP (IB) No. 701/KB/2017**

***In the matter of*
Suresh Narayan Singh**

... Operational Creditor

Versus

Tayo Rolls Limited

...Corporate Debtor

And

I.A. (IB) No. 69/KB/2020

*An application under section 60(5) of the Insolvency and Bankruptcy Code, 2016 read
with rule 11 of the National Company Law Tribunal Rules, 2016.*

***In the matter of*
Suresh Narayan Singh**

... Applicant

Versus

**Anish Agarwal,
Resolution Professional of Tayo Rolls Limited**

...Respondent

And

I.A. (IB) No. 33/KB/2020

*An application under section 60(5) of the Insolvency and Bankruptcy Code, 2016 read
with rule 11 of the National Company Law Tribunal Rules, 2016.*

In the matter of



Suresh Narayan Singh

... Applicant

Versus

**Anish Agarwal,
Resolution Professional of Tayo Rolls Limited**

...Respondent

And

I.A. (IB) No. 357/KB/2020

An application under section 30(6) and 31(1) of the Insolvency and Bankruptcy Code, 2016 and regulation 39 of the Insolvency and Bankruptcy Board of India (Resolution Process for Corporate Persons) Regulations, 2016.

In the matter of

**Anish Agarwal,
Resolution Professional of Tayo Rolls Limited**

... Applicant

And

Inv. P (IB) No. 02/KB/2021

An application under section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with rule 11 of the National Company Law Tribunal Rules, 2016.

In the matter of

Tata Steel Limited

... Applicant

versus

**Mr. Anish Agarwal,
Resolution Professional of Tayo Rolls Limited**

... Respondent

And

I.A. (I.B.C)/1845(KB)2024

An application under section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with rule 11 of the National Company Law Tribunal Rules, 2016.

In the matter of

Aamcol Trexim Private Limited

.... Applicant

versus

**Anish Agarwal,
Resolution Professional of Tayo Rolls Limited**

...Respondent

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (COURT-I)

Tayo Rolls Limited



Coram:

Shri Bidisha Banerjee : Member (Judicial)
Shri Balraj Joshi : Member (Technical)

Appearances (via hybrid mode):

For the Suspended Board of Directors : 1. Mr. Ratnanko Banerji, Senior Advocate
2. Ms. Akshita Bohra, Advocate
3. Mr. Kanishk. Kejriwal, advocate

For Tata Steel Limited : 1. Mr. Jishnu Saha, Senior Advocate
2. Mr. Soorjya Ganguli, Advocate
3. Ms. Pooja Chakraborti, Advocate
4. Mr. D. Sadhu, Advocate
5. Ms. Kiran Sharma, Advocate

For Jharkhand Vidyut Vitran Nigam : 1. Mr. Sachin Kumar, Advocate
2. Mr. Surendra Kumar, Advocate

For Suresh Narayan Singh : 1. Mr. Akhilesh Kumar Shrivastava, Advocate
2. Mr. Ramesh Kusbaha, CA
3. Mr. Prince Verma, Advocate

For Resolution Professional : 1. Mr. Abhrajit Mitra, Senior Advocate
2. Mr. Rishav Banerjee, Advocate
3. Mr. Rachit Lakhmani, Advocate
4. Mr. Siddhanth Makkar, Advocate

For TRL Krosaki Refractories Limited : 1. Mr. Joy Saha, Advocate
2. Mr. Sayantan Bose, Advocate
3. Ms. Neha Mishra, Advocate

Order pronounced on: 17/12/2024

Per: Coram

1. This Court convened through hybrid mode.
2. The I.A.s along with the Intervention Petition are interrelated and are taken up for consideration analogously.

Brief facts of the case

3. The underlying Company Petition in C.P. (IB) No. 701/KB/2017 was filed by Mr. Suresh Narayan Singh, the Operational Creditor against Tayo Rolls Limited, the Corporate Debtor, to initiate Corporate Insolvency Resolution Process (“CIRP”), under section 9 of the Insolvency and Bankruptcy Code 2016, which was admitted *vide* order dated 05 April 2019.
4. Initially, Ms. Vinita Agarwal had been appointed as the Interim Resolution Professional. Thereafter, Committee of Creditors (“CoC”) passed a resolution in the 5th CoC meeting held on 27 July 2019 with 82.24% voting share to replace the IRP and appoint Mr. Anish Agarwal as the Resolution Professional. The same was approved by this Adjudicating Authority *vide* order dated 30 October 2019.
5. The newly appointed undertook the task of carrying out the CIRP of the Corporate Debtor as envisaged in the code finally culminating into a Resolution Plan which was filed by way of IA/357/KB/2020. There were a number of IAs filed by the objectors. Some of these IAs were disposed of earlier. However the more vociferously argued IAs took quite some time to hear and finally reserve the same for orders. The principal objections to the plan have been covered in IA/33/KB/2019, IA/69/2020, IA/167/KB/2020 and IVN/02/KB/2021. Another IA namely IA/1750/KB/2019 filed by TRL Krosaki was disposed of earlier but liberty was granted to make submissions in IVN 2 as and when the same was taken up.
6. These applications were finally heard and reserved for orders. These applications, which have been briefly described below for the sake of completeness have been disposed of by way of separate orders dealing with all the objections taken by the Workmen and Tata steel including TRL Krosaki.



I.A. (IB) No. 69/KB/2020¹


7. The I.A. has been filed by Suresh Narayan Singh, authorised representative of 284 workers of the Tayo Rolls Limited, seeking the following prayers:
- a) *Adjudication of claims of Creditors specially the Petitioner and the JBVNL and assignment of voting rights percentage in accordance with the same;*
 - b) *Restoration of time lost without CIRP under the two RPS;*
 - c) *Determination of eligibility of the RP in view of purported disciplinary action initiated by the IBBI and the observations made by this Hon'ble Bench in some other matter against him;*
 - d) *Any other direction that the Hon'ble Bench may deem fit and proper for the proper adjudication of issue.*

I.A. (IB) No. 33/KB/2020²

8. The I.A. has been filed by Suresh Narayan Singh, authorised representative of 284 workers of the Tayo Rolls Limited, seeking the following prayers:
- a) *To direct the RP to constitute the CoC strictly in accordance with law, removing the JBVNL from the CoC and also to re-examine the claims of various other creditors shown in his minutes of 9th CoC meeting;*
 - b) *To allow or direct the Workmen to furnish their formal resolution plan for takeover of the Company;*
 - c) *Direction of the RP to allow the professional appointed by the Workmen to visit the plant of Jamshedpur and other properties to take stock of the*

¹We are considering this I.A. as numbered in the e-filing portal, the hardcopy of the same has been numbered as I.A. 33/KB/2020

²²We are considering this I.A. as numbered in the e-filing portal, the hardcopy of the same has been numbered as I.A. 69/KB/2020



Corporate Debtor, its revival constraints, valuation of assets and properties, SWOT analysis which are sine qua non for any takeover in the present situation;

- d) *Determination of eligibility of the RP in view of his failure to commence the CIRP of the Corporate Debtor and various proceedings against him;*
- e) *Any other direction that the Hon'ble Bench may deem fit and proper for the proper adjudication of issue.*

I.A. (IB) No.167/KB/2020

9. The I.A. has been filed by Suresh Narayan Singh, authorised representative of 284 workers of the Tayo Rolls Limited, seeking the following prayers:

- a) Cancellation of Expression of Interest issued and published by the RP;*
- b) Direction to correct and issue a fresh Expression of Interest;*
- c) Any other direction that the Hon'ble Bench may deem fit and proper for the proper adjudication of issue.”*

I.A. (IB) No. 1651/KB/2019

10. I.A. (IB) No. 1651/KB/2019 is an application under section 12(2) and 12(3) of the Insolvency and Bankruptcy Code, 2016 by the Resolution Professional Mr. Anish Agarwal seeking the following reliefs:

- a. Allow the present application*
- b. Extend the CIRP in accordance with the provisions as laid out in section 12(2) of the IBC and pass appropriate order under 12(3) for extension of the period and*
- c. Any other direction that the Hon'ble Bench may deem fit and proper for the proper adjudication of issue.*



I.A. (I.B.C)/1845(KB)2024

11. I.A. (I.B.C)/1845(KB)2024 is an application under Section 60(5) of the Insolvency and Bankruptcy Code, 2016, read with Rule 11 of the National Company Law Tribunal Rules, 2016 filed by Aamcol Trexim Private Limited (Applicant) seeking the following reliefs:

- a. Opportunity and adequate time period be granted to the applicant herein, for filing Resolution Plan before the Resolution Professional, the respondent herein and delay, if any, be condoned for the ends of justice;*
- b. Resolution Professional be directed to provide all information memorandum, pertaining to TAYO Rolls Limited;*
- c. Ad interim order in terms of the prayer above;*
- d. Any further order or orders direction or directions as this Hon'ble Court may deem fit and proper.*

I.A. (IB) No. 357/KB/2020

- e. I.A. (IB) No. 357/KB/2020 is an application under section 30(6) of the Insolvency and Bankruptcy Code, 2016, after approval of the resolution plan by the Committee of Creditors (“CoC”).
- f. This application was filed by Mr. Anish Agarwal, Resolution Professional of **Tayo Rolls Limited [CIN: L27105JH1968PLC000818]** by invoking the provisions of section 30(6) of the Insolvency and Bankruptcy Code, 2016 (“**the Code**” or “**IBC**”) read with regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (“**CIRP Regulations**”) for approval of a Resolution Plan in respect of **Tayo Rolls Limited (“Corporate Debtor”)**.

Constitution of CoC

- g. The IRP, pursuant to Regulation 6(1) of the CIRP Regulations, made public announcement on 10 April 2019 published in **The Times of India** (“English”) and **Prabhat Khabar** (“Hindi”) newspapers, regarding initiation of Corporate

Insolvency Resolution Process and called proof of claims from the financial and operational creditors, workers and employees of the corporate debtor in the specified forms. The last date of submission of claims was 22.04.2019.

- h. The CoC was first constituted on 03 May 2019, and was later reconstituted with the nineteen (19) Operational Creditors. A report on the constitution of the CoC, was filed before the Adjudicating Authority. The list of creditors was updated from time to time and uploaded in the IBBI website.
- i. The Applicant states that a total of twelve CoC meetings have been held during CIRP period, as follows:

Particulars	Date of the CoC Meeting
1 st CoC meeting	03.05.2019
2 nd CoC meeting	06.06.2019
3 rd CoC meeting	26.06.2019
4 th CoC meeting	09.07.2019 (notice was scheduled but cancelled)
5 th CoC meeting	27.07.2019
6 th CoC meeting	28.08.2019
7 th CoC meeting	11.11.2019
8 th CoC meeting	06.12.2019
9 th CoC meeting	19.12.2019
10 th CoC meeting	23.01.2020
11 th CoC meeting	07.02.2020
12 th CoC meeting	21.02.2020

IN THE NATIONAL COMPANY LAW TRIBUNAL
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Tayo Rolls Limited

Collation of claims

j. The amounts claimed and admitted are summarised below:

Amount in INR:


Sl. No.	Nature of Creditor	Amount Claimed	Amount Admitted	Voting %age
1.	Financial Creditor (related Party)	42688 Lakh	42688 Lakh	----
2.	Operational Creditor			
a.	Laxmi Constructions	2,009,516.56	1,511,202.62	0.0370%
b.	Bihar Air Products Limited	288,034.05	288,034.05	0.0071%
c.	Bhagat Sales Corporation	2,038,507.89	1,425,626.00	0.0349%
d.	Jharkhand Bijli Vitran Nigam Limited (JBVNL)	4,405,335,190.00	3,663,017,046.00	89.7254%
e.	Union Roadways Limited	1,724,891.00	1,092,124.00	0.0268%
f.	Mr. Dinesh Choudhary	2,442,131.00	1,693,522.85	0.0415%
g.	SKGC	5,843,628.00	2,463,520.00	0.0603%
h.	S.N. Singh (Representative of Workers)	1,900,438,183.54	288,892,223.65	7.0764%
i.	Ashapura International Limited	358,255.00	209,235.00	0.0051%
j.	Mascot Electromech Private Limited	1,768,847.82	709,482.00	0.0174%
k.	Lalit Prasad Narayan	81,985,343.00	236,882.00	0.0058%
l.	Birendra Kalundia	1,891,679.00	1,013,045.00	0.0248%
m.	Deputy Comissioner of Sales Tax	90,697,270.00	76,030,526.00	1.8624%
n.	Central Excise	85,420,209.00	28,138,396.00	0.6892%
o.	TRL Krosaki Refractories Ltd	4,965,560.00	4,150,153.00	0.101658%
p.	Employee State Insurance	22,806,826.00	8,519,500.00	0.2087%
3.	Other debts (Provident Fund)	14 Lakh	14 Lakh	----



Fair Value	Rs. 161,68,83,525
Liquidation Value	Rs. 107,82,37,570/-
Admitted value of debts	835,33,00,000/-
Plan Value	412,39,00,000/-
Haircut (%)	99.50

CIRP and compliances

- k. The Applicant submits that in terms of the provisions of section 25(2)(h) of the Code read with regulation 36A(1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, invitations in Form 'G' for Expressions of Interest ("**EoI**") from potential resolution applicants was issued on 24 December 2019 in **Financial Express**(English) (All India Edition), **Hindustan** (Hindi) (Jharkhand edition) and **Aajkal** (Bengali) (Kolkata edition) newspapers. The notices were also published on the website of the Insolvency and Bankruptcy Board of India (**IBBI**).
- l. The Resolution Professional received three EoIs from Jharkhand Bijli Vitran Nigam Limited, ElectroSteels Limited and J.C. Flower Asset Reconstruction Private Limited. It is further submitted that J.C. Flower Asset Reconstruction Private Limited failed to deposit the Earnest Money Deposit despite giving opportunity to deposit the same, hence, J.C. Flower Asset Reconstruction Private Limited was excluded from the list of prospective Resolution Applicants.
- m. The provisional list of prospective Resolution Applicants was issued on 18 January 2020 The Final list of eligible Resolution Applicants containing five Applicants was issued on 23 January 2019. The RP shared the Information Memorandum, Evaluation Matrix and Request for Resolution



Plan (“**RFRP**”) with the Prospective Resolution Applicants on 18 January 2020. The last date of submission of Resolution Plan was 19 February 2020.

- n. Thereafter, the Resolution Professional received three more EoIs from Mr. Harinder K Singh, Orissa Metaliks Private Limited and Shyam Steel Industries Limited *vide* email. The EoIs were accepted by the CoC in the meeting held on 07 February 2020. Shyam Steel Industries Limited failed to deposit the Earnest Money Deposit and was excluded from the list of prospective Resolution Applicants.
- o. The Final List of Prospective Resolution Applicants was re-issued on 11 February 2020. Mr. Harinder K Singh was also removed by the Resolution Professional on 13 February 2020 since he did not qualify the eligibility criteria which was required as per the EoI. Considering the same, a Final List of Prospective Resolution Applicants was re-issued on 13 February 2020 with three Prospective Resolution Applicants, *viz.* Electrosteel Steels Limited, Jharkhand Bijli Vitran Nigam Limited and Orissa Metaliks Private Limited.
- p. As per regulation 35(2) of the CIRP Regulations, after receipt of the Resolution Plan, the RP informed the fair value and liquidation value of the Corporate Debtor to the CoC. These values are Rs.161,68,83,525/- and Rs. 107,82,37,570/- respectively.

Evaluation and voting

- q. The Resolution Professional received only one Resolution Plan from Jharkhand Bijli Vitran Nigam Limited. The Resolution Plan was presented by the Resolution Professional in the 12th CoC meeting held on 21 February 2020, the CoC approved the Resolution Plan of Jharkhand Bijli Vitran Nigam Limited on 21 February 2020 with 92.45% voting share³.

³Pp. 101-116 of the I.A.

- r. In accordance with regulation 36B(4A) of the CIRP Regulations, the Successful Resolution Applicant has deposited the Performance Bank Guarantee i.e., 2% of the Bid Amount on 24 February 2020⁴.

Compliance of the approved Resolution Plan with various provisions

- s. The Applicant has filed a Compliance Certificate in prescribed form, i.e., Form 'H'⁵ in compliance with regulation 39(4) of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- t. The Applicant has submitted details of various compliances as envisaged within the Code and the CIRP Regulations which a Resolution Plan should adhere to, which is reproduced hereunder:

I. Submission of Resolution Plan in terms of sub-section (2) of section 30 of the Code:

Clause of s.30(2)	Requirement	How dealt with in the Plan
1.	Plan must provide for payment of CIRP cost in priority to payment of other debts of Corporate Debtor in the manner specified by the Board.	Clause XIII at Page 58 of the Resolution Plan.
2.	(i) Plan must provide for payment of debts of OCs in such manner as may be specified by the Board which shall not be less than the amount payable to them in the event of liquidation u/s 53; (ii) Plan must provide for payment of debts of OCs in such manner as may be specified by the Board which shall not be not less than amount that would have been paid to such creditors, if the amount to be distributed under the resolution	Clause XIII at Page 58 of the Resolution Plan. Clause XIII at Page 58 of the Resolution Plan.

⁴Annexure E @ Pg. 199 of I.A.

⁵Annexure F @ Pg. 200-206 of I.A.



Clause of s.30(2)	Requirement	How dealt with in the Plan
	plan had been distributed in accordance with the order of priority in sub-section (1) of section 53, whichever is higher; (iii) provides for 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.	Not applicable in the Resolution Plan.
(c)	Management of the affairs of the Corporate Debtor after approval of the Resolution Plan.	Clause XI at Pages 48-52 of the Resolution Plan.
(d)	Implementation and Supervision	Clause XII at Pages 49-50 of the Resolution Plan.
(e)	Plan does not contravene any of the provisions of the law for the time being in force.	Clause X at Pages 45-46 of the Resolution Plan.
(f)	Conforms to such other requirements as may be specified by the Board.	Clause X at Pages 45-46 of the Resolution Plan.

II. Measures required for implementation of the Resolution Plan in terms of regulation 37 of CIRP Regulations:

Particulars	Relevant Page of the Revised Resolution Plan dealing aforesaid compliance with Regulation
A resolution plan shall provide for the measures, as may be necessary, for insolvency resolution of the corporate debtor for maximisation of value of its assets, including but not limited to the following: -	
(a) transfer of all or part of the assets of the corporate debtor to one or more persons;	Not proposed in the Resolution Plan.



Particulars	Relevant Page of the Revised Resolution Plan dealing aforesaid compliance with Regulation
(b) sale of all or part of the assets whether subject to any security interest or not;	Clause XIV at Page 59 the Resolution Plan.
(ba) restructuring of the corporate debtor, by way of merger, amalgamation and demerger;	Not proposed in the Resolution Plan.
(c) the substantial acquisition of shares of the corporate debtor, or the merger or consolidation of the corporate debtor with one or more persons;	Clause XII (c) at Page 52 and Clause XIV at Page 59of the Resolution Plan.
(ca) cancellation or delisting of any shares of the corporate debtor, if applicable;	Clause XII (d) at Page 53 and Clause XIV at Page 59of the Resolution Plan.
(d) satisfaction or modification of any security interest;	Not applicable in the Resolution Plan.
(e) curing or waiving of any breach of the terms of any debt due from the corporate debtor;	Clause XIV at Page 60 of the Resolution Plan.
(f) reduction in the amount payable to the creditors;	Clause X at Page 45 of the Resolution Plan.
(g) extension of a maturity date or a change in interest rate or other terms of a debt due from the corporate debtor;	Not proposed in the Resolution Plan.
(h) amendment of the constitutional documents of the corporate debtor;	Clause XII (e) (9) at Page 54 of the Resolution Plan.



Particulars	Relevant Page of the Revised Resolution Plan dealing aforesaid compliance with Regulation
(i) issuance of securities of the corporate debtor, for cash, property, securities, or in exchange for claims or interests, or other appropriate purpose;	Clause XIV at Page 60 of the Resolution Plan.
(j) change in portfolio of goods or services produced or rendered by the corporate debtor;	Clause XIV at Page 60 of the Resolution Plan.
(k) change in technology used by the corporate debtor; and	Clause XIV at Page 61 of the Resolution Plan.
(l) obtaining necessary approvals from the Central and State Governments and other authorities.	Clause XIV at Page 61 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.	Not Applicable

III. Mandatory contents of Resolution Plan in terms of regulation 38 of CIRP Regulations:

Ref to relevant Reg.	Requirement	How dealt with in the Plan
38(1a)	The amount payable to the operational creditors under a resolution plan shall be given	Not applicable in the Resolution Plan. There are no Financial Creditors



Ref to relevant Reg.	Requirement	How dealt with in the Plan
	priority in payment over financial creditors.	
38(1b)	The amount payable to the financial creditors, who have right to vote 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.	Not applicable in the Resolution Plan.
38(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.	Clause X at Page 161 and Clause XIV (b) at Pages 63-64 of the Resolution Plan.
38(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.	Clause XIV at Page 61 of the Resolution Plan.
38(2)	A resolution plan shall provide:	
	(a) the term of the plan and its implementation schedule;	Clause X at Pages 45-46 and Clause XII (h) at Pages 56 of the Resolution Plan.



Ref to relevant Reg.	Requirement	How dealt with in the Plan
	(b) the management and control of the business of the corporate debtor during its term; and	Clause XI at Pages 48-49 of the Resolution Plan.
	(c) adequate means for supervising its implementation.	Clause XII (f) at Pages 54-55 of the Resolution Plan.
	(d) Provides for the manner in which proceedings in respect of avoidance transactions, if any, 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.	Not applicable in the Resolution Plan.
38(3)	A resolution plan shall demonstrate that –	
	(a) it addresses the cause of default;	Clause VIII (b) at Page 25 and Clause VIII (f) at Page 43 of the Resolution Plan.
	(b) it is feasible and viable;	Clause XIV at Page 61 of the Resolution Plan.
	(c) it has provisions for its effective implementation;	Clause XII (h) at Pages 56-58 of the Resolution Plan.
	(d) it has provisions for approvals required and the timeline for the same; and	Clause XII (g) at Page 56 of the Resolution Plan.
	(e) the Resolution Applicant has the capability to	Clause VII at Pages 16-19 of the Resolution Plan.

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (COURT-I)

Tayo Rolls Limited



Ref to relevant Reg.	Requirement	How dealt with in the Plan
	implement the resolution plan.	

Details of Resolution Plan/Payment Schedule

u. The relevant information with regard to the amount admitted and the amount proposed to be paid by the Successful Resolution Applicant, *i.e., Jharkhand Bijli Vitran Nigam*, under the said Resolution Plan is tabulated hereunder:

Particulars	Claim Admitted (INR) (In Crores)	Payment Proposed (INR) (In Crores)	% of payment
CIRP Cost	N.A.	3.66 crores as estimated or as per actual till NCLT Approval Date. Payment - within 45 days from NCLT Approval Date	100
JBVNL as a Operational Creditors	366.30 crores	366.30 crores in the form of 12% preference shares to be redeemed in 8 years.	100
Operational Creditors other than JBVNL	13.06 crores	13.06 crores to be paid within 105 days from NCLT Approval Date	100
Workmen dues of 24 months	23.29 crores	23.29 crores to be paid within 90 days from NCLT Approval Date	100
Workmen dues other than 24 months	5.89 crores	5.89 crores to be paid within 90 days from NCLT Approval Date	100
Employees dues of 12 months	0.018 crores	0.018 crores to be paid within 90 days from NCLT Approval Date	100
Employees dues of 12 months	0.03 crores	0.03 crores to be paid within 90 days from NCLT Approval Date	100

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (COURT-I)**

Tayo Rolls Limited



Provident Fund Trust	0.14 crores	0.14 crores to be paid within 90 days from NCLT Approval Date	100
Other Creditors (Related Parties)	426.88 crores	NIL	0
Total	835.33	INR 412.39 crores to be paid	49.36

28. The Resolution Plan defines “*Effective Date*” as “*the date on which all the actions have taken place by the Resolution Applicant for starting the operations or business activities as per the business plan to the satisfaction of Monitoring Committee but not later than (8) eight years from NCLAT Approval Date*”.

Relinquishment/Waiver of liabilities and Approvals

29. The Reliefs, Exemptions and Waivers sought by the Resolution Applicant from the Adjudicating Authority are set out below for the successful implementation of the Resolution Plan. The Resolution Applicant clarifies in its letter dated 23 February 2023⁶ stated that in the Resolution Plan is unconditional.

Sr. No.	Relief, concessions and approvals sought
Waiver of the statutory liabilities / contingent liabilities incurred and accrued / disputed liabilities (Whether assessed or unassessed) due to statutory authorities viz. VAT, Sales Tax, Income Tax, Excise, Customs, REMA & Export Obligation etc.:	
1.	All unadmitted, unclaimed, unaccounted, disputed, continent, unassessed liabilities (if any) to be considered to be treated as waived off and nothing to be payable by Corporate Debtor against the same over and above what is proposed to be paid as per this Resolution Plan.
2.	Further to same, the Resolution Applicant would like to revive the Corporate Debtor with complete peace and certainty; therefore, any

⁶Annexure A @ Page 7 of S.A. dated 04.08.2023

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (COURT-I)**

Tayo Rolls Limited



Sr. No.	Relief, concessions and approvals sought
	other statutory dues, taxes, penalties, penal interest, demands, etc. other than for which the claim is received and admitted, incurred for the period till the final approval of the Resolution Plan by the Resolution Professional / Adjudicating Authority / NCLT and pursuant to implementation of this Resolution Plan to be considered as fully waived off and it needs to assured to the Resolution Applicant that no such claim from any person or authority shall disturb the process of revival of the corporate Debtor.
3.	On approval of Resolution Plan by the adjudication authority, income Tax Authority to: (a) allow reversal or withdrawal of all the disallowances and additions made in the income tax assessment proceeding in the preceding eight years and returns as submitted to be treated as assessed and all carry forward losses and depreciation to be treated as allowed; and (b) allow the filling of Income Tax returns for any preceding financial year, if not filed as on date, on approval of Resolution Plan and Income tax Department to allow waiver of the penalty an interest for late filling of the said returns /unpaid tax liability / demand. Further to allow the entire business loss and carry forward business and depreciation loss of the aforesaid year for a fresh period of 8 years.
4.	Further all Claims by and Proceedings before any Government authority to be allowed to be updated. future, any claims and Proceeding may be allowed to be withdrawn and abated / vacated. All Government Authority to release the Property including Bank accounts attached, if any.
5.	Any income Tax demands any TDS liabilities to be treated as waived off along with any penalties and interest thereon
6.	Any income Tax liabilities which may arise due to recognizing any deemed or notional income in the books of account pursuant to preparation of accounts and financial statements in accordance with the applicable Accounting Standards to be allowed as waived off in totality

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (COURT-I)**

Tayo Rolls Limited



Sr. No.	Relief, concessions and approvals sought
7.	All Claims raised or to be raised or Proceeding initiated / filed in any form including any charges, levy, duty, interest, penalties, etc. by any Governmental Authority, including but not limited to Income Tax Authorities, Tribunals, Courts, Sales tax / Goods and Service Tax authorities, Excise and Custom department, Electricity Department, Pollution Control Board, Food safety and Standards Authority of India, Directorate General of Foreign trade (“ DGFT ”) (Ministry of Commerce), and any other private or Government authority in any or all the courts of India or Overseas as on date to be allowed to be waived off in totality
8.	To allow waiving of any Claims and Proceeding by DGFT and other Government Authority, whether existing as on the date hereof or which may arise in future in respect of any period prior to implementation of Resolution Plan, including waiving of pending export obligation in cases of pending export obligation not fulfilled, release of export guarantees provided by Corporate Debtor
Waivers of Minimum Alternate Tax (“MAT”) liability arising on account of write back of loans in case of the Corporate Debtor	
9.	The Resolution Plan envisages the write off of liabilities, if any, after paying the consideration for the Corporate Debtor. The write Back of this liability is expected to represent a notional profit / income in the Profitability statement of corporate Debtor. Such Notional Profit may also attract the provisions pertaining to Minimum Alternate tax (MAT) U/S 115JB of the Income Tax Act, 1961. The MAT would also bring a substantial amount of liability on the corporate Debtor and impact the liquidity position.
10.	Any potential MAT liability occurring on account of write-back of the liability, in terms of this Resolution Plan is requested to be treated as waived off.
11.	The proposed balance sheet as presented at Para XI to be accepted by

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (COURT-I)**

Tayo Rolls Limited



Sr. No.	Relief, concessions and approvals sought
	all the authorities including Ministry of Corporate affairs, Registrar of companies, Income Tax Authority as the balance sheet as on date of approval of Resolution Plan as a Reconstructed Balance Sheet without any Income tax liability or demand, as it's a fresh investment form the perspective of Resolution Applicant.
12.	Any potential MAT liability arising due to due to recognizing any deemed or notional income in the books of account pursuant to preparation of accounts and financial statement in accordance with the applicable Accounting Standards is requested to be treated as waived off
Waivers for Bombay Stock Exchange/ National Stock Exchange /SEBI	
13.	All the penal interest, interest, damages, penalties charged or chargeable for non-compliance of the various provisions of the Security and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 and Rules, Bye-Laws and Regulation of the Stock Exchanges including balance of the principal amount and payment of listing fees during the period of suspension of trading, if any, shall be treated as waived off / extinguished
Waivers for any / all liabilities arising with SEBI Regulations/ companies Act 1956 and 2013/ FEMA regulation / labour Laws	
14.	Any liability in excess of provision made in the Resolution Plan for settlement, arising with SEBI Regulations / Companies Act 2013/ Companies Act 1956 / FEMA regulation for the period prior to the CIRP date and till the dated of final approval of the Resolution Plan by the Adjudicating Authority/ NCLT to be allowed as waived off/ extinguished
15.	All the penalties , charges, fees, etc. arising out of non-compliance of the requirement if any of SEBI Regulations/ Companies Act / FEMA, Labour Laws, etc and their respective Regulations, Rules, Circulars, Notification, etc. for the period prior to the CIRP date and till the dated of final approval of the Resolution Plan by the



Sr. No.	Relief, concessions and approvals sought
	Adjudicating Authority to be allowed as waived off / extinguished; and.
16.	All the penalties, charges, fees, etc. arising out of non-compliance of the requirements of any of companies Act, FEMA, RBI, Labour Laws, Employee State Insurance Act, 1948, Provident Fund Act, 1952, Payment of Bonus Act, 1956, Contract Labour Act, 1973, The Minimum Wages Act, 1948, Equal Remuneration Act, 1976, Factories Act, 1948, Gratuity Act, 1972, other applicable legislations etc. and their respective Rules, Circulars, Notifications, etc. for the period prior to the CIRP date and till the date of final approval of the Resolution Plan by the Adjudicating Authority / NCLT to be allowed to be treated as waived off / extinguished
17.	Allowances of Carry Forward Losses The Corporate Debtor shall be deemed to allow carried forward and brought forward losses under the Income Tax Act, for a fresh period of eight years from NCLT Approval Date.
18.	Discharge Upon approval of this Resolution Plan by the Adjudicating Authority, the Corporate Debtor shall stand discharged under the existing / on-going legal proceedings in any court or before any authority or forum with respect to any non-compliance or financial liability or other liabilities and legal proceedings initiated against the Corporate Debtor for the period prior to the NCLT Approval Date.

Orders

30. On hearing the submissions made by the Resolution Professional, and perusing the record, we find that the Resolution Plan filed by **Jharkhand Bijli Vitran Nigam Limited** has been approved by the CoC with 92.45% voting share. As per the CoC, the plan meets the requirement of being viable and feasible for revival of the Corporate Debtor. By and large, all the compliances have been done by the Resolution Professional and the Resolution Applicant for making the plan effective after approval by this Bench.



31. It is important to note that considering an ambiguity in the plan as to whether the same was incumbent upon transfer of the lease of the 50 Acres of land which is given to the CD on a sub-lease by Tata Steel, the matter was put for clarification to clarify the following vide order dated Nov.4, 2024:

2 At page 179, under clause 38(3)(d), it has been mentioned that-

*“The Resolution Applicant has sought various waivers and concessions from Adjudicating Authorities as mentioned in para/section XVI of this Resolution Plan. The implementation of the Resolution Plan is dependent on getting such waivers and concessions from Adjudicating Authority Any other compliances will be carried out within the timeline specified during the term of the Resolution Plan. In case any of the approvals do not come within the term of the Plan, it will not impact overall implementation of the Resolution Plan. **This Resolution Plan is submitted on the strength that the Government of Jharkhand will renew the lease pertaining to the said Land directly in favour of the Corporate Debtor.**”*

(Emphasis applied)

3. From the above there appears to be an ambiguity as to whether the stipulation in bold, is a part of the Waivers and concessions or that it is the essential requirement of the Resolution plan. This position needs to be clarified to the extent that in case the Government of Jharkhand does not renew the lease directly in favour of the Corporate Debtor then whether or not this Plan, as approved by CoC, is impacted in any manner?

32. The same was answered by filing a Supplementary Affidavit affirmed on 08.11.2024. It has been clearly mentioned in para 5 of the said Affidavit that **“Even in the case the Government of Jharkhand does not renew the lease directly in favour of the Corporate Debtor- the Resolution Plan, as approved by CoC, will not be impacted in any manner”**.

33. Thus, the transfer of lease to the SRA by the Govt. of Jharkhand is not a necessary condition for the plan to succeed. The issue of the grant of lease to Tata Steel had already been a matter of consideration before Hon’ble Supreme Court and the same already stands decided and dealt with by this Adjudicating Authority in IVN/02/2021. As such it is clear that there is no ambiguity in so far



as the 50 Acre of land which is sub-leased to the CD by Tata Steel in that it would abide by the original terms and conditions of the sub-lease agreement as mentioned in our order in IVN/02/2021.

34. On perusal of the documents on record and the replies to the clarifications sought by us, we are satisfied that the Resolution Plan is in accordance with sections 30 and 31 of the IBC and also complies with regulations 38 and 39 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

35. As far as the question of granting time to comply with the statutory obligations or seeking approvals from authorities is concerned, the Resolution Applicant is directed to do so within one year from the date of this order, as prescribed under section 31(4) of the Code.

36. On the issue of the justiciability of the decision of the CoC, we rely on para 157 of the Judgement of **Hon'ble Supreme Court in Kalpraj Dharamshi v. Kotak Investment Advisors Ltd., (2021) 10 SCC 401 : 2021 SCC OnLine SC 204 at page 473**, which inter-alia states as under :

157. After considering the judgment of this Court in *ArcelorMittal (India) (P) Ltd. v. Satish Kumar Gupta* [*ArcelorMittal (India) (P) Ltd. v. Satish Kumar Gupta*, (2019) 2 SCC 1] and the relevant provisions of the I&B Code, this Court further observed in *K. Sashidhar* [*K. Sashidhar v. Indian Overseas Bank*, (2019) 12 SCC 150 : (2019) 4 SCC (Civ) 222] thus : (*K. Sashidhar case* [*K. Sashidhar v. Indian Overseas Bank*, (2019) 12 SCC 150 : (2019) 4 SCC (Civ) 222] , SCC p. 183, para 52)

"52. As aforesaid, upon receipt of a "rejected" resolution plan the adjudicating authority (NCLT) is not expected to do anything more; but is obligated to initiate liquidation process under Section 33(1) of the I&B Code. The legislature has not endowed the adjudicating authority (NCLT) with the jurisdiction or authority to analyse or evaluate the commercial decision of CoC much less to enquire into the justness of the rejection of the resolution plan by the dissenting financial creditors. From the legislative history and the background in which the I&B Code has been enacted, it is noticed that a completely new approach has been adopted for speeding up the recovery of the debt due from the defaulting companies. In the new approach, there is a calm period followed by a swift resolution process to be completed within 270 days (outer limit) failing which, initiation of liquidation process has been made inevitable and mandatory. In the earlier regime, the corporate debtor could indefinitely continue to enjoy the protection given under Section 22 of the Sick Industrial Companies Act, 1985 or under other such enactments which has now been forsaken. *Besides, the commercial*



wisdom of CoC has been given paramount status without any judicial intervention, for ensuring completion of the stated processes within the timelines prescribed by the I&B Code. There is an intrinsic assumption that financial creditors are fully informed about the viability of the corporate debtor and feasibility of the proposed resolution plan. They act on the basis of thorough examination of the proposed resolution plan and assessment made by their team of experts. The opinion on the subject-matter expressed by them after due deliberations in CoC meetings through voting, as per voting shares, is a collective business decision. The legislature, consciously, has not provided any ground to challenge the "commercial wisdom" of the individual financial creditors or their collective decision before the adjudicating authority. That is made non-justiciable."


(emphasis supplied)

37. Further, we have perused the reliefs, waivers and concessions as sought and as given in Clause XVI at Pages 65-68 of the Resolution Plan, in this regard, we refer to section 31 of the Code and rely upon the law laid down by the Hon'ble Supreme Court in **Ghanashyam Mishra and Sons Pvt Ltd v Edelweiss Asset Reconstruction Company Ltd**,⁷ wherein the Hon'ble Supreme Court has held that 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 Govt, any State Govt or any local authority, guarantors and other stakeholders.

The relevant part of the **Ghanshyam Mishra judgment(supra)** in this regard is given below:

61. All these details are required to be contained in the information memorandum so that the resolution applicant is aware, as to what are the liabilities, that he may have to face and provide for a plan, which apart from satisfying a part of such liabilities would also ensure, that the Corporate Debtor is revived and made a running establishment. The legislative intent of making the resolution plan binding on all the stakeholders after it gets the seal of approval from the Adjudicating Authority upon its satisfaction, that the resolution plan approved by CoC meets the requirement as referred to in sub-section (2) of Section 30 is, that

⁷2021 SCC OnLine SC 313 decided on 13.04.2021.




after the approval of the resolution plan, no surprise claims should be flung on the successful resolution applicant. The dominant purpose is, that he should start with fresh slate on the basis of the resolution plan approved.

62. *This aspect has been aptly explained by this Court in the case of Committee of Creditors of Essar Steel India Limited through Authorised Signatory (supra).*


“107. *For the same reason, the impugned NCLAT judgment [Standard Chartered Bank v. Satish Kumar Gupta, 2019 SCC OnLine NCLAT 388] in holding that claims that may exist apart from those decided on merits by the resolution professional and by the Adjudicating Authority/Appellate Tribunal can now be decided by an appropriate forum in terms of Section 60(6) of the Code, also militates against the rationale of Section 31 of the Code. A successful resolution applicant cannot suddenly be faced with “undecided” claims after the resolution plan submitted by him has been accepted as this would amount to a hydra head popping up which would throw into uncertainty amounts payable by a prospective resolution applicant who would successfully take over the business of the corporate debtor. All claims must be submitted to and decided by the resolution professional so that a prospective resolution applicant knows exactly what has to be paid in order that it may then take over and run the business of the corporate debtor. This the successful resolution applicant does on a fresh slate, as has been pointed out by us hereinabove. For these reasons, NCLAT judgment must also be set aside on this count.”*

38. We also place reliance on the recent judgement of Hon’ble High Court of Rajasthan in the matter of **EMC v. State of Rajasthan** wherein it has been *inter-alia* held that :

“Law is well-settled that with the finalization of insolvency resolution plan and the approval thereof by the NCLT, all dues of creditors, Corporate, Statutory and others stand extinguished and no demand can be raised for the period prior to the specified date.”


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39. On the date of approval of resolution plan by the Adjudicating Authority, all such claims, which are not a part of resolution plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim, which is not part of the resolution plan. The Hon'ble Supreme Court also held that all the dues including the statutory dues owed to the Central Govt, any State Govt 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.
40. With respect to the waivers sought in relation to guarantors, the judgment of *Lalit Kumar Jain v Union of India & ors*,⁸ wherein the Hon'ble Supreme Court held in para 133 that sanction of a resolution plan and finality imparted to it by section 31 does not *per se* operate as a discharge of the guarantor's liability shall apply.
41. In view of the above position of law, the Resolution Plan approved by CoC and being approved by this Adjudicating Authority shall be binding on the Corporate Debtor and other persons, authorities etc. as specified in section 31 of the Code.
42. With respect to the reliefs and waivers sought for all inquiries, litigations, investigations and proceedings shall be granted strictly as per the section 32A of the Code.
43. The Resolution Plan has to be consistent with extant law. The Resolution Applicant shall make necessary applications to the concerned regulatory or statutory authorities for renewal of business permits and supply of essential services, if required, and all necessary forms along with filing fees etc. and such authority shall also consider the same keeping in mind the objectives of the Code, which is essentially the resolving of the insolvency of the Corporate Debtor and enabling the Corporate debtor to stand on its feet again.
44. In case of non-compliance of this order or withdrawal of Resolution Plan, the payments already made by the Resolution Applicant shall be liable for forfeiture. Since the plan envisages infusion of Capex and as decided in the 15th

⁸2021 SCC OnLine SC 396 decided on 21.05.2021.



CoC meeting a definitive plan shall be put in place by the reconstituted board & implementation ensured. The reconstituted board of the Corporate Debtor shall be responsible for infusion of the capex proposed in the plan as envisaged.

28. Subject to the observations made in this Order, the Resolution Plan is hereby **APPROVED** by this Bench. In this regard it is made clear that the plan includes only lease rights of the land admeasuring ~50 Acres and sub-leased to the Corporate Debtor by Tata Steel under the Sub-lease agreement dated 07.10.1969 between them which continues to be in force despite approval of this plan, as the SRA has undertaken that **“Even in the case the Government of Jharkhand does not renew the lease directly in favour of the Corporate Debtor- the Resolution Plan, as approved by CoC, will not be impacted in any manner”**.
29. **The Resolution Plan shall form part of this Order and shall be read along with this order for implementation.** The Resolution Plan thus approved shall be binding on the Corporate Debtor and other stakeholders involved in terms of section 31 of the Code, so that revival of the Debtor Company shall come into force with immediate effect.
30. The Moratorium imposed under section 14 of the Code shall cease to have effect from the date of this order.
31. The Resolution Professional shall submit copies of the records collected during the commencement of the proceedings to the Insolvency & Bankruptcy Board of India for their record and also return to the Resolution Applicant or New Promoters.
32. Liberty is hereby granted for moving any application if required in connection with implementation of this Resolution Plan.
33. A copy of this Order is to be submitted to the Registrar of Companies, West Bengal and Registrar of Companies, Jharkhand.
34. The Resolution Professional shall stand discharged from his duties with effect from the date of this Order, save and except the duties envisaged in the Resolution Plan.
35. The Resolution Professional is further directed to handover all records, premises/factories/documents to the Resolution Applicant to finalise the further



line of action required for starting of the operation. The Resolution Applicant shall have access to all the records and premises of the corporate debtor through the Resolution Professional to finalise the further line of action required for starting of the operation.

36. In view of the judgment passed by the Hon'ble Supreme Court of India in the matter of M/s Tata Steel Limited v. State of Jharkhand & Ors in Civil Appeal No(s).7929 OF 2015 (Arising out of SLP(C)No.36773/2012) on 24.09.2015 we find that **I.A. (IB) No. 1651/KB/2019** has become **infructuous** and is accordingly **disposed of**.

37. In view of the approval of the Resolution Plan submitted by JBVNL i.e., I.A. (IB) No. 357/KB/2020, **I.A. (I.B.C)/1845(KB)2024** has becomes **infructuous** and is accordingly **disposed of**.

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

Balraj Joshi
Member (Technical)

Bidisha Banerjee
Member (Judicial)

Order signed on the 17th day of December 2024.

FA/SM_LRA