

**BEFORE THE ADJUDICATING AUTHORITY  
HON'BLE NATIONAL COMPANY LAW TRIBUNAL  
AT MUMBAI BENCH  
INTERLOCUTORY APPLICATION NO. 4004 OF 2023  
IN  
COMPANY PETITION 1330/(IB)-MB-V/2020**

**In the matter of an  
Application under  
Section 30(6) read with  
Section 31 of the Insolvency  
and Bankruptcy Code, 2016**

**I.A. 4004 OF 2023**

**Sripatham Venkatasubramanian  
Ramkumar**

**Resolution Professional for  
Privilege Industries Limited**

**...Resolution Professional /  
Applicant**

**In the Matter of  
Unity Small Finance  
Bank Limited**

**..Financial  
Creditor/Petitioner**

***Versus*  
Privilege Industries  
Limited**

**...Corporate  
Debtor**

**Order Dated: 23.02.2024**

**Coram**

Hon'ble Reeta Kohli, Member (Judicial)

Hon'ble Madhu Sinha, Member (Technical)

**Appearance**

**For the Resolution Professional:** Adv. Jash Shah (PH)

**ORDER**

***Per: Reeta Kohli, Hon'ble Member (Judicial)***

1. The present Application is being filed on behalf of the Resolution Professional ("**Applicant**") of Privilege Industries Limited ("**Corporate Debtor**") under Section 31 of the Insolvency and Bankruptcy Code, 2016 ("**Code**") for seeking approval of the Resolution Plan (as amended) dated August 8, 2023, submitted by **SNJ Breweries Private Limited** ("**Successful Resolution Applicant**") and thereby concluding the corporate insolvency resolution process ("**CIRP**") of the Corporate Debtor.
2. This Hon'ble Tribunal admitted the Corporate Debtor into corporate insolvency resolution process ("**CIRP**") as per the Insolvency and Bankruptcy Code, 2016 ("**Code**") vide Order dated February 15, 2023 ("**Admission Order**"). Vide the Admission Order, Mr. Devendra Prasad was appointed as the Interim Resolution Professional ("**IRP**") of the Corporate Debtor.

3. Subsequent to the Admission Order, the erstwhile IRP issued a Public Announcement and thereafter collated the claims and constituted the Committee of Creditors (“**CoC**”) of the Corporate Debtor on March 14, 2023, which as on date comprises of Omkara Asset Reconstruction Company Private Limited and Unity Small Finance Bank Limited.
4. Further, the first meeting of the Committee of Creditors (“**CoC**”) was convened on March 20, 2023, whereby the CoC *inter alia* resolved to replace Mr. Devendra Prasad with the Applicant as the Resolution Professional of the Corporate Debtor.
5. Thereafter, the Applicant came to be appointed as the Resolution Professional (“**RP**”) of the Corporate Debtor, by this Hon’ble Tribunal *vide* Order dated March 31, 2023.
6. Subsequently, the Applicant has been conducting the CIRP of the Corporate Debtor and has taken necessary steps for the same. In this regard, the Applicant has convened the Second Meeting of the CoC on May 5, 2023, wherein *inter alia* it was resolved to issue the FORM G and the eligibility criteria regarding prospective resolution applicants was discussed. The CoC also deliberated upon the appointment of various advisors / professionals, including legal advisors to the Applicant, registered valuers for the Corporate Debtor etc.
7. Accordingly, the Applicant issued the FORM G on May 6, 2023, inviting prospective resolution applicants to submit

their Expression of Interest (“**EoI**”). The FORM G, in consultation with the CoC of the Corporate Debtor, has been revised from time to time by issuing corrigendum.

8. Thereafter, the Applicant convened the Third Meeting of the CoC on May 30, 2023, in which the Applicant and the CoC decided on the request for resolution plan (“**RFRP**”) and the evaluation matrix for resolution plans of prospective resolution applicants. The Applicant also updated the CoC regarding the EoI received by various prospective resolution applicants.
9. On June 26, 2023, the Applicant convened the Fourth Meeting of the CoC, wherein the Applicant *inter alia* provided operational updates to the CoC and also discussed regarding certain potential litigations with the CoC.
10. Thereafter, the Applicant conducted the Fifth Meeting of the CoC on July 27, 2023, wherein the Applicant and the CoC discussed regarding the operational updates of the Corporate Debtor as well as the appointment of auditor for compliance check of the various prospective resolution applicants as per Section 29A of the Code.
11. At this stage, it is submitted that there were 9 prospective resolution applicants (“**Final PRAs**”) which are held to be eligible for submitting resolution plans for the Corporate Debtor. From the Final PRAs, the Applicant had received 6 (six) Resolution Plans for the Corporate Debtor on July 21, 2023, which were opened by the Applicant on July 24, 2023.

12. Following were the prospective resolution applicants who appeared in the final list of PRAs and had submitted a resolution plan by July 21, 2023:
  - Associated Alcohols and Breweries Limited
  - Consortium of Sharda Construction & Corporation Private Limited & Haridra Laxmi Krishival Private Limited
  - Grainotch Industries Limited
  - Nav Durga Fuel Private Limited
  - Som Distilleries & Breweries Limited
  - SNJ Breweries Private Limited
  
13. The Applicant and the CoC invited all the Resolution Applicants to present their resolution plans on July 27, 2023, and July 28, 2023, and the resolution applicants were given an opportunity to correct the inconsistencies / non compliances noted and submit the corrected resolution plans with improvement in resolution plan amounts offered by August 2, 2023.
  
14. Amongst the resolution plans along with amendments thereto received by August 8, 2023, the three eligible resolution plans submitted by SNJ Breweries Private Limited, Associated Alcohols and Breweries Limited and Grainotch Industries Limited were put by the Applicant to vote before the CoC, from August 9, 2023 to August 23, 2023.

15. Subsequent to the voting, the CoC has, with a 79.60% majority, approved the Resolution Plan dated August 2, 2023, of the Successful Resolution Applicant i.e., **SNJ Breweries Private Limited** (“**Approved Resolution Plan**”), as per Section 30 (4) of the Code.
16. The Applicant also submits that the Successful Resolution Applicant is compliant under Section 29A of the Code.
17. For the ready reference of this Hon’ble Tribunal, the salient features of the Approved Resolution Plan are as follows:
  - The Successful Resolution Applicant (SNJ Group) has a major presence in the Alcohol manufacturing industry with its own ENA unit, distilleries (Grain & Molasses), breweries & IMFL units.
  - The Successful Resolution Applicant has successfully taken over M/s Empee Distilleries Ltd as a going concern under the Code and has not defaulted in implementation of this resolution plan.
  - The Approved Resolution Plan provides for full upfront payment (i.e. all amounts under the Approved Resolution Plan are to be paid within 60 days).
  - Successful Resolution Applicant has allowed Financial Creditors to proceed against Personal Guarantors and other Corporate Guarantors and Proceeds from avoidance application shall accrue to CoC.

- Successful Resolution Applicant has proposed to pass on profits earned during CIRP period and EBITDA generated between the plan approval date by this Hon'ble Tribunal till closing date as an additional consideration to Secured Financial Creditors.
- Successful Resolution Applicant has proposed for liabilities pertaining to operations of Crown Beers India Private Limited (“**CB IPL**”) to be taken up separately by CB IPL as per provisions of Settlement Agreement dated January 18, 2021.
- The value of payments as envisaged in the Approved Resolution Plan to all stakeholders is INR 383.30 Crores, CIRP Costs payable at actuals, Profits earned during CIRP period & EBITDA Surplus to Secured FCs as additional consideration and these are proposed to be funded from internal accruals of the Successful Resolution Applicant.
- The Successful Resolution Applicant has provided documentation related to their available internal accruals (both bank statements for available funds and unutilized borrowings limits in Successful Resolution Applicant as well as its group companies and Receivables expected to accrue from Government entities who are customers to the Successful Resolution Applicant) to satisfy the members of the CoC on their financial capability to implement the Approved Resolution Plan.

- Successful Resolution Applicant shall make necessary additional investments and infuse necessary working capital to operationalize, revive and run the business of the Corporate Debtor as a going concern which is estimated to be INR 110 Crores approximately.
- **The summary of payouts as envisaged in the Approved Resolution Plan is provided below:**

Particulars	Pay-out proposed under the Plan		
	INR Crs.	Timeline	Source
CIRP Costs	Actuals	15 Days	Successful Resolution Applicant's own funds
OC - Statutory Dues	2.28	15 Days	
OC - Employees & Workmen & Others	-	NA	
<b>Sub-Total (A)</b>	<b>2.28</b>		
Secured FC - Upfront - I	37.93	15 Days	Successful Resolution Applicant's own funds
Secured FC - Upfront - II	75.86	30 Days	
Secured FC - Upfront - III	75.86	45 Days	
Secured FC - Upfront - IV	189.65	60 Days	
<b>Sub-Total to Secured FC (B)</b>	<b>379.30</b>		
Unsecured FC - Upfront - I	1.72	15 Days	Successful Resolution Applicant's own funds
<b>Sub-Total to Unsecured FC (C)</b>	<b>1.72</b>		
<b>Settlement as per plan (A+B+C=D)</b>	<b>383.30</b>		
<b>Cash &amp; Cash equivalents with CD (E)</b>	<b>Actuals to Secured FCs</b>	<b>Upfront</b>	<b>Profits earned during CIRP shall be distributed pro-rata amongst Secured FCs</b>



<b>EBITDA Surplus between NCLT plan approval date &amp; effective date (F)</b>	<b>Actuals to Secured FCs</b>	<b>Upfront</b>	<b>EBITDA generated between NCLT approval and closing date shall be distributed to Secured FCs</b>
<b>Total settlement to various stakeholders (D+E+F=G)</b>	<b>INR 383.30 crores + CIRP Costs at actuals &amp; Profits earned during CIRP + EBITDA Surplus as additional consideration to Secured FCs</b>		

18. The implementation schedule as contemplated in the Approved Resolution Plan is set out hereinafter, for the ready reference of this Hon'ble Tribunal:

<b>Sr. No.</b>	<b>Activity</b>	<b>Timeline (days)</b>
<b>Part I – Approval Process of the Proposed Plan</b>		
1.	Approval of plan by Committee of Creditors.	X
2.	Application to NCLT for approval of plan.	X+15
3.	Approval of plan by NCLT.	X+45 or such other later date when the Resolution Plan may be approved by the Hon'ble NCLT (hereinafter referred to as Y)
<b>Part II – Implementation of Plan &amp; Settlement of Creditors</b>		
4.	Appointment of Monitoring Agent.	During Monitoring period, i.e. between Y and Y+60

5.	Constitution of Monitoring Committee.	During Monitoring period, i.e. between Y and Y+60
6.	Transfer of all assets of the Corporate Debtor, including licenses, permissions, grants, etc in favour of the Corporate Debtor.	Y+15
7.	Extinguishment of all liabilities of the Corporate Debtor, abatement of all legal proceedings, etc, i.e. coming into effect of all the terms of the Resolution Plan as enshrined in Clause 3.2 of the Resolution Plan.	Y
8.	Payment of CIRP costs.	Y+15
9.	Payment to operational creditors including government creditors.	Y+15 days
10.	Payment of 1 <sup>st</sup> tranche to financial creditors, both secured and unsecured.	Y+15 days
11.	Issuance of fresh equity shares to the Resolution Applicant.	Upon payment of CIRP costs, operational creditors including government creditors and the 1 <sup>st</sup>

		tranche to Secured and unsecured financial creditors
12.	Reconstitution of the Board of directors of the corporate debtor.	Upon payment of CIRP costs, operational creditors including government creditors and the 1 <sup>st</sup> tranche to Secured and unsecured financial creditors
13.	Payment of 2 <sup>nd</sup> tranche to financial creditors, both secured and unsecured.	Y+30 days
14.	Payment of 3 <sup>rd</sup> tranche to financial creditors, both secured and unsecured.	Y+45 days
15.	Payment of 4 <sup>th</sup> tranche to financial creditors, both secured and unsecured.	Y+60 days

16. Further, the Applicant has also informed the CoC that the Approved Resolution Plan is compliant as per the Code and the Rules and Regulations made thereunder.

17. Consequently, the Applicant has issued the Letter of Intent dated August 23, 2023, to the Successful Resolution

Applicant. On August 25, 2023, the Successful Resolution Applicant has unconditionally accepted the Letter of Intent.

18. Further, as required under the RFRP, the Successful Resolution Applicant also submitted a Performance Bank Guarantee (“**PBG**”) dated August 25, 2023, bearing number 0734723BG0000178, being the 15% of the total resolution plan amount i.e. Rs. 57,68,10,000/- (Rupees Fifty Seven Crore Sixty Eight Lakh and Ten Thousand Only).
19. It is pertinent for this Hon’ble Tribunal to note that the Approved Resolution Plan submitted by the Successful Resolution Applicant is unconditional. The Successful Resolution Applicant has also sought certain prayers, reliefs, concession and entitlement, which are set out in Part 15 of the Approved Resolution Plan.
20. Lastly, the compliance certificate under Form H provided under the CIRP Regulations is annexed hereto:

**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, Mr. Sripatham Venkatasubramanian Ramkumar, an insolvency professional enrolled with Indian Institute of Insolvency Professionals of ICAI and registered with the Board with registration number IBBI/IPA-001/IP-P00015/2016-2017/10039, am the resolution professional for the corporate insolvency resolution process (CIRP) of Privilege Industries Limited (CD).

2. The details of the CIRP are as under:

<b>Sl. No.</b>	<b>Particulars</b>	<b>Description</b>
1	Name of the CD	Privilege Industries Limited
2	Date of Initiation of CIRP	February 15, 2023
3	Date of Appointment of IRP	February 15, 2023 (order received on February 20, 2023)
4	Date of Publication of Public Announcement	February 22, 2023
5	Date of Constitution of CoC	March 14, 2023
6	Date of First Meeting of CoC	March 20, 2023
7	Date of Appointment of RP	March 31, 2023 (order received on April 18, 2023)
8	Date of Appointment of Registered Valuers	April 28, 2023
9	Date of Issue of Invitation for EoI	May 6, 2023
10	Date of Final List of Eligible Prospective Resolution Applicants	May 29, 2023
11	Date of Invitation of Resolution Plan	May 6, 2023; May 25, 2023; June 28, 2023; July 5, 2023
12	Last Date of Submission of Resolution Plan	July 21, 2023
13	Date of Approval of Resolution Plan by CoC	August 23, 2023
14	Date of Filing of Resolution Plan with Adjudicating Authority	August 30, 2023
15	Date of Expiry of 180 days of CIRP	September 4, 2023 (considering 23 days exclusion of timelines sought per application filed with Hon'ble NCLT, Mumbai bench

		on August 11, 2023 with efilng number 2709138069142023)
16	Date of Order extending the period of CIRP	Not applicable
17	Date of Expiry of Extended Period of CIRP	Not applicable
18	Fair Value	RV1 – INR 272 crores RV2 – INR 294 crores Average – INR 283 crores
19	Liquidation value	RV1 – INR 205 crores RV2 – INR 220 crores Average – INR 213 crores
20	Number of Meetings of CoC held	7 CoC meetings held on the following dates 1 <sup>st</sup> CoC - March 20, 2023; 2 <sup>nd</sup> CoC – May 5, 2023; 3 <sup>rd</sup> CoC – May 30, 2023; 4 <sup>th</sup> CoC – June 26, 2023; 5 <sup>th</sup> CoC – July 27, 2023; 6 <sup>th</sup> CoC – August 7, 2023; 7 <sup>th</sup> CoC – August 22, 2023

3. I have examined the Resolution Plan received from Resolution Applicant (SNJ Breweries Private Limited) and approved by Committee of Creditors (CoC) of Privilege Industries Limited.

4. I hereby certify that-

(i) 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.

(ii) the Resolution Applicant SNJ Breweries Private 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.

(iii) 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 79.60 % of voting share of financial creditors after considering its feasibility and viability and other requirements specified by the CIRP Regulations.

(iv) I sought vote of members of the CoC by electronic voting system which was kept open at least for 24 hours as per the regulation 26 (Pursuant to the 6<sup>th</sup> CoC meeting held on August 7, 2023, the voting window was kept open between 12 PM of August 9, 2023 and 6 PM of August 23, 2023).

5. The list of financial creditors of the CD [Privilege Industries 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	Omkara ARC Private Limited	79.60%	Voted for
2	Unity Small Finance Bank Limited	20.40%	Abstained
	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.

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

**(Amount in Rs)**

Sl. No.	Category of Stakeholder	Sub-Category of Stakeholder	Amount Claimed	Amount Admitted	Amount Provided under the Plan	Amount Provided to the Amount Claimed (%)
(1)	(2)	(3)	(4)	(5)	(6)	(7)

1	Secured Financial Creditors (Note 1)	(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 (Note 1)	2,53,13,855	2,53,13,855	1,72,39,000	68.10%
		(ii) who voted in favour of the resolution plan	5,54,42,73,382	5,54,42,73,382	3,77,57,45,000	68.10%
		Total[(a) + (b)]	5,56,95,87,237	5,56,95,87,237	3,79,29,84,000	68.10%
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 (Note 1)	1,39,57,65,086	1,39,57,65,086	1,72,01,831	1.23%
		(ii) who voted in favour of the resolution plan	-	-	-	-
		Total[(a) + (b)]	1,39,57,65,086	1,39,57,65,086	1,72,01,831	1.23%
3	Operational Creditors	(a) Related Party of Corporate Debtor	2,88,23,432	-	-	-
		(b) Other than (a) above:				
		(i)(a) Employee State Insurance Corporation	45,988	45,988	19,408	42.20%
		(i)(b) Deputy Commissioner of State Tax (MUM-E609),	14,83,85,400	5,39,07,407	2,27,48,926	42.20%



		Govt. of Maharashtra – Relating to CD’s operations				
		(i)(c) Deputy Commissioner of State Tax (MUM-E609), Govt. of Maharashtra – Relating to operations of Crown Beers	95,86,76,418	15,39,51,499	Please refer Note 2 below	
		(i)(d) Municipal Corporation of Greater Mumbai	5,68,56,354	-	-	-
		(ii) Workmen	-	-	-	-
		(iii) Employees	-	-	-	-
		Total[(a) + (b)]	1,19,27,87,592	20,79,04,894	2,27,68,334	1.91% (Refer Note 2 below)
4	Other debts and dues		8,68,23,657	-	-	-
	Grand Total		8,24,49,63,572	7,17,32,57,217	3,83,29,54,165	46.49%

**Note 1** – The resolution plan provides for profits earned during CIRP period and EBITDA generated between Hon’ble NCLT approval date and Closing date to be passed on to the Secured Financial Creditors in addition to the consideration as stated in above table.

**Note 2** – Resolution applicant has provided the following in its resolution plan with respect to admitted claims of Operational Creditors received from Deputy Commissioner of State Tax (MUM-E609), Govt. of Maharashtra relating to bottling operations of Crown Beers India Private Limited (Crown Beers) – “100% will be available from Crown Beers as per the pass through clause contained in the settlement agreement dated 18<sup>th</sup> October 2021 which is entered into between the Corporate Debtor and Crown Beers. However, it is clarified that in terms of the resolution plan, the Corporate Debtor as well as the Resolution applicant shall not be liable in any manner for these debts and all recoveries in this regard may be made from Crown Beers.” (reference - Clause 3.3 (iv)

*of the resolution plan*). The pay-out to Deputy Commissioner of State Tax (MUM-E609), Govt. of Maharashtra has been revised in accordance with the Affidavit dated 24.11.2023, filed by SNJ Breweries Private Limited- the Successful Resolution Applicant. The said redistribution has also been consented by Omkara Asset Reconstruction Private Limited (CoC member having 79.60% majority) vide its Affidavit dated 27.11.2023.

**Note 3** - Unity Small Finance Bank Limited had abstained from voting on the resolution plans. They have also filed an IA before the Adjudicating authority, IA/3592/2023 for considering themselves as Secured Financial Creditors.

8. 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	44,51,242	Nil	100%	Nil
2	Preference	Nil	Nil	Nil	Nil

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

Section of the Code / Regulation No.	Requirement with respect to Resolution Plan	Clause of Resolution Plan	Compliance (Yes / No)
25(2)(h)	Whether the Resolution Applicant meets the criteria approved by the CoC having regard to the complexity and scale of operations of business of the CD?	Section on Profile of RA and its group	Yes
Section 29A	Whether the Resolution Applicant is eligible to submit resolution plan as per final list of Resolution Professional or Order, if any, of the Adjudicating Authority?	Format XI of the Resolution Plan	Yes
Section 30(1)	Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?	Format XI of the Resolution Plan, Clause 2 of the Resolution Plan	Yes

Section 30(2)	Whether the Resolution Plan- (a) provides for the payment of insolvency resolution process costs? (b) provides for the payment to the operational creditors? (c) provides for the payment to the financial creditors who did not vote in favour of the resolution plan? (d) provides for the management of the affairs of the corporate debtor? (e) provides for the implementation and supervision of the resolution plan? (f) contravenes any of the provisions of the law for the time being in force?]	Clause 3.3.(ii); Clause 3.3.(xiii);  Clause 3.3.(viii); Clauses 5 & 6; Clauses 3.2 & 7; Clause 11	Yes
Section 30(4)	Whether the Resolution Plan (a) is feasible and viable, according to the CoC? (b) has been approved by the CoC with 66% voting share?	Clause 8; Yes, refer voting results forming part of minutes of 6 <sup>th</sup> CoC meeting	Yes
Section 31(1)	Whether the Resolution Plan has provisions for its effective implementation plan, according to the CoC?	Clauses 3.2 & 7	Yes
Regulation 38 (1)	Whether the amount due to the operational creditors under the resolution plan has been given priority in payment over financial creditors?]	Clause 3.3.(xiii);	Yes
Regulation 38(1A)	Whether the resolution plan includes a statement as to how it has dealt with the interests of all stakeholders?	Clauses 12, 17.(iii), Annexure E of the Resolution plan	Yes
Regulation 38(1B)	(i) Whether the Resolution Applicant or any of its related parties has failed to implement or contributed to the failure of	Resolution Applicant has	Yes

	implementation of any resolution plan approved under the Code. (ii) If so, whether the Resolution Applicant has submitted the statement giving details of such non-implementation?]	declared that it has not failed to implement any resolution plan approved under the Code - Clause 11	
Regulation 38(2)	Whether the Resolution Plan provides: (a) the term of the plan and its implementation schedule? (b) for the management and control of the business of the corporate debtor during its term? (c) adequate means for supervising its implementation?	Clause 7;  Clauses 5,6 & 7; Clauses 5,6 & 7	Yes
38(3)	Whether the resolution plan demonstrates that – (a) it addresses the cause of default? (b) it is feasible and viable? (c) it has provisions for its effective implementation? (d) it has provisions for approvals required and the timeline for the same? (e) the resolution applicant has the capability to implement the resolution plan?	Clause 18; Clause 8; Clauses 3.2 & 7; Clauses 3.3, 5 to 7; Clauses 3.3, 4, 5 to 7	Yes
39(2)	Whether the RP has filed applications in respect of transactions observed, found or determined by him?	No	Not applicable
Regulation 39(4)	Provide details of performance security received, as referred to in sub-regulation (4A) of regulation 36B.]	August 25, 2023	Yes

10. The CIRP has been conducted as per the timeline indicated as under:

Section of the Code / Regulation No.	Description of Activity	Latest Timeline under regulation 40A	Actual Date
Section 16(1)	Commencement of CIRP and Appointment of IRP	T	February 20, 2023 (date of receipt of CIRP initiation order by IRP)
Regulation 6(1)	Publication of Public Announcement	T+3	February 22, 2023
Section 15(1)(c) / Regulation 12 (1)	Submission of Claims	T+14	March 6, 2023
Regulation 13(1)	Verification of Claims	T+21	March 14, 2023
Section 26(6A) / Regulation 15A	Application for Appointment of Authorised Representative, if necessary	T+23	Not applicable
Regulation 17(1)	Filing of Report Certifying Constitution of CoC	T+23	March 14, 2023
Section 22(1) and regulation 17(2)	First Meeting of the CoC	T+30	March 20, 2023
Regulation 35A	Determination of fraudulent and other transactions	T+115	Fraudulent & other transactions have not been determined
Regulation 27	Appointment of two Registered Valuers	T+47	April 28, 2023
Regulation 36 (1)	Submission of Information Memorandum to CoC	T+54]	May 19, 2023
Regulation 36A	Invitation of EoI	T+75	May 6, 2023
	Publication of Form G	T+75	May 6, 2023; 1 <sup>st</sup> corrigendum

			issued on May 25, 2023 to provide for revision of date of objections to provisional list of PRAs; <sup>2nd</sup> corrigendum issued on June 28, 2023 and <sup>3rd</sup> corrigendum issued on July 5, 2023 for revision of last date of submission of resolution plans
	Provisional List of Resolution Applicants	T+100	May 23, 2023
	Final List of Resolution Applicants	T+115	May 30, 2023
Regulation 36B	Issue of Request for Resolution Plan, which includes Evaluation Matrix and Information Memorandum to Resolution Applicants	T+105	May 31, 2023
Section 30(6) / Regulation 39(4)	Submission of CoC approved Resolution Plan	T+165	August 30, 2023
Section 31(1)	Approval of Resolution Plan	T=180	

11. The time frame proposed for obtaining relevant approvals is as under:

Sl. No.	Nature of Approval	Name of applicable Law	Name of Authority who will grant Approval	When to be obtained
1	Refer Clause 15 of the Resolution plan for complete list of reliefs and concessions required for implementation including from whom and the estimated timelines envisaged.	FEMA, SEBI, FERA, RBI, AML, ROC, Income Tax, GST, Sales tax, Business permits, SARFEASI, other statutory approvals, etc.	Authority competent to grant approval under respective law	Upon the Approval of Resolution Plan, the resolution applicant shall take all requisite steps for obtaining necessary approvals in accordance with applicable laws.

12. The Resolution Plan is not subject to any contingency.

13. Following are the deviations / non-compliances of the provisions of the Insolvency and Bankruptcy Code, 2016, regulations made or circulars issued thereunder (If any deviation/ non-compliances were observed, please state the details and reasons for the same):

Sl. No.	Deviation/Non-compliance observed	Section of the Code / Regulation No. / Circular No.	Reasons	Whether rectified or not
NIL				

14. The Resolution Plan is being filed **5** days before the expiry of the period of CIRP provided in section 12 of the Code.

14A. Whether the resolution professional has, in accordance with regulation 35A,-

(a) applied to the Adjudicating Authority on or before the one hundred and thirty-fifth day of the insolvency commencement date:

No, as no preferential and other transactions were determined

(b) filed Form CIRP 8 with the Board on or before the one hundred and fortieth day of the insolvency commencement date: Yes, on 5<sup>th</sup> July 2023

15. Provide details of section 66 or avoidance application filed / pending.

Sl. No.	Type of Transaction	Date of Filing with Adjudicating Authority	Date of Order of the Adjudicating Authority	Brief of the Order
1	Preferential transactions under section 43	No preferential, undervalued, extortionate and fraudulent transactions as per applicable provisions of IBC, were found in the Corporate Debtor	Not applicable	
2	Undervalued transactions under section 45			
3	Extortionate credit transactions under section 50			
4	Fraudulent transactions under section 66			

16. I, Mr. Sripatham Venkatasubramanian Ramkumar hereby certify that the contents of this certificate are true and correct to the best of my knowledge and belief, and nothing material has been concealed therefrom.

Name of the Resolution Professional: Mr. Sripatham Venkatasubramanian Ramkumar

IP Registration No: IBBI/IPA-001/IP-P00015/2016-2017/10039

Address as registered with the Board: 1605, Block 1, Myhome Vihanga, Gachibowli, Hyderabad, Telangana ,500032

Email id as registered with the Board: [Ramkumar.sv@in.ey.com](mailto:Ramkumar.sv@in.ey.com)

Date: August 30, 2023

Place: Hyderabad

21. It is also pertinent to note that the value offered by the resolution applicant, SNJ Breweries Private Limited to all the stakeholders is more than the fair value of the assets of the



Corporate Debtor and a summary of the liquidation and fair value of Corporate Debtor is reproduced below:

<b>Valuer</b>	<b>Liquidation Value (INR Cr)</b>	<b>Fair Value (INR Cr)</b>
Inturi Veeriah, Aswarth M along with Ravisankar D – Registered Valuer 1	INR 205 Crs	INR 272 Crs
Pro Valuer (OPC) Pvt Ltd along with Arvind Puppala Srinivas and Gutta Koteswara Rao – Registered Valuer 2	INR 220 Crs	INR 294 Crs
<b>Average Value</b>	<b>INR 213 Crs</b>	<b>INR 283 Crs</b>

22. **OBSERVATIONS AND FINDINGS:**
- i. As per IBC Code 30(2)(a) – A Resolution Plan 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.
  - ii. As per Section 30(2)(b), the Respondent has agreed to pay operational creditors an amount which shall not be less than liquidation value or the amount that would have been paid to such creditors if the amount to be distributed

- under the Resolution Plan is distributed in accordance with priority under Section 53(1), whichever is higher.
- iii. The Resolution Applicant has agreed to meet the cost of project from existing resources including infusion of equity/debt through the parent company, from sale of unsold inventories and if required from raising finance through external sources.
  - iv. The Resolution Applicant has also agreed that dissenting financial creditors shall be paid in priority and not less than the value they would have been paid in the event of liquidation of the Corporate Debtor. The Respondent has proposed to liquidation value to unsecured financial creditors who dissent from the plan.
  - v. Section 30(2)(c) provides for the management of the affairs of the Corporate Debtor after approval of the Resolution Plan.
  - vi. Section 30 (2) (d) & Regulation 38(2)(c) Provides for a term of the plan, implementation schedule and supervision of the Resolution Plan.
  - vii. The Resolution Applicant proposes to appoint suitably qualified and experienced persons, key personnel and other officer for operations of the Corporate Debtor.
  - viii. The Resolution Plan does not contravene any of the provisions of the law for the time being in force. The Successful Resolution Applicant has undertaken to comply with the provisions of law in complying with the Resolution Plan.
  - ix. The Resolution Applicant has given a declaration that the Resolution Plan does not contravene any provisions of the law for the time being in force as per Section 30(2)(f).

- x. As per IBBI Guidelines 38(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.
- xi. The resolution applicant or any of its related parties has not 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.
- xii. The Resolution Plan is in compliance of the Regulation 38 of the Regulations in terms of Section 30(2)(f) as under:
  - a. The amount due to the operational creditors under a resolution plan shall be given priority in payment over financial creditors. Regulation 38(1).
  - b. The Resolution Plan has all the adequate means of supervising of the implementation of the Plan as required under Regulation 38(2) (c), of the IBBI, Insolvency resolution process for corporate persons, Regulation 2016.
  - c. Provides for the payment of CIRP Costs in priority to the repayment of any other debts of the Company (Regulation 38(1)(a)).
  - d. Provides for the manner of implementation and supervision of the Resolution Plan and adequate means for implementation and supervision of the Resolution Plan.
  - e. The amount payable under a resolution plan to the Financial Creditors, who have right to vote under sub-section (2) of section 21 and did not vote in favor of the resolution plan, shall be paid in priority over financial creditors who voted in favour of the plan.
  - f. The Resolution Applicant confirms that to the best of the

knowledge of the Resolution Applicant, the Resolution Plan is not in contravention of the provisions of Applicable Law and is in compliance with the Code and the CIRP Regulations.

g. The Resolution Applicant confirms that the Resolution Applicant and its connected persons are not disqualified from submitting a resolution plan under Section 29A of the Code and other provisions of the Code and any other Applicable Law.

h. Provides for the management and control of the business of the Corporate Debtor during its term.

i. All the above factors demonstrate that the plan address the cause of default and the Resolution Applicant has the capacity to implement the Resolution Plan.

j. That the Resolution Applicant or any of its related parties has never 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. This is in compliance of Regulation 38(1)(b) of the Regulations.

k. The interests of all stakeholders (including Financial Creditors, Operational Creditors and other creditors, guarantors, members, employees and other stakeholders of the Company, keeping in view the objectives of the Code (Regulation 38(1A)).

23. The CoC has, with a 79.60% majority, approved the Resolution Plan dated August 2, 2023, of the Successful Resolution Applicant i.e., **SNJ Breweries Private Limited** ("**Approved Resolution Plan**"), as per Section 30 (4) of the Code.

24. In **K. Sashidhar v. Indian Overseas Bank & Others: 2019 SCC Online SC 257 (2019) 12 SCC 150** 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 Court observed that the role of the NCLT is 'no more and no less'. The Hon'ble 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.
25. The Hon'ble Apex Court at para 42 in **Committee of Creditors of Essar Steel India Limited Vs. Satish Kumar Gupta & Ors.: (2019) SCC** Online, clearly laid down that the Adjudicating Authority would not have power to modify the Resolution Plan which the CoC in their commercial wisdom have approved.

"Para 42- Thus, it is clear that the limited judicial review available, which can in no circumstance trespass upon a business decision of the majority of the Committee of Creditors, has to be within the

four corners of section 30(2) of the Code, insofar as the Adjudicating Authority is concerned, and section 32 read with section 61(3) of the Code, insofar as the Appellate Tribunal is concerned, the parameters of such review having been clearly laid down in K. Sashidhar (supra).”

26. In view of the above ruling of the Apex Court, the legislature has given paramount importance to the commercial wisdom of committee of creditors (CoC) and the scope of judicial review by the Adjudicating Authority (AA) is limited to the extent provided under section 31 of Code and of the Appellate Authority is limited to the extent provided under sub-section (3) of section 61 of the Code, is no more an untouched-matter.

27. 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 Resolution Plan is feasible and viable. There are no workers claims. Resolution Applicant agreed to pay the full CIRP costs and also future costs if any as certified by the Resolution Professional and CoC. The Resolution Plan balances the interest of all the stakeholders and thus it deserves to be approved.

### **Order**

- I. The Interlocutory Application No. 4004 of 2023 is allowed. The Resolution Plan submitted by *SNJ Breweries Private Limited*, is hereby approved. It shall become effective from

this date and shall form part of this order. 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 payment of dues arising under any law for the time being in force is due.

- II. The approval of the Resolution Plan shall not be construed as waiver of any statutory obligations of the Corporate Debtor and shall be dealt by the appropriate Authorities in accordance with law. It is seen that the Resolution Applicant sought several dispensations, concessions and waivers. Any waiver sought in the Resolution plan shall be subject to approval by the Authority concerned in the light of the Judgment of Supreme Court in **Ghanshyam Mishra and Sons Private Limited v/s. Edelweiss Asset Reconstruction Company Limited 2022 LiveLaw (SC) 771**, the relevant para's of which are extracted herein below:

“on the date of approval of the 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.”

“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. We shall clarify here that any amount recovered under any avoidance applications relating to the Corporate Debtor being allowed by the Adjudicating Authority would ensure unto the benefit of the Resolution Applicant.
- IV. The Memorandum of Association (MoA) and Articles of Association (AoA) shall accordingly be amended and filed with the Registrar of Companies (RoC), concerned for information and record. 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.
- V. The moratorium under Section 14 of the Code shall cease to have effect from this date.
- VI. The Applicant and the Monitoring Committee shall supervise the implementation of the Resolution Plan and the Applicant



shall 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 copy of this Order to the CoC and the Resolution Applicant for necessary compliance.
- IX. The Interlocutory Application No. 4004 of 2023 is accordingly allowed and disposed of.

Sd/-

**Madhu Sinha**  
**Member (Technical)**

//VLM//

Sd/-

**Reeta Kohli**  
**Member (Judicial)**