

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH-1**

I.A. No.10 OF 2024

in

CP (IB) No.525/9/HDB/2019

In the matter of M/s. ABHIRAMA STEELS LTD.

And

In the matter of Section 30 (6) & 31 (1) of IBC Read with Regulation 39 (4)
of IBBI (CIRP) Regulations, 2016 Read with Rule 11 of NCLT Rules, 2016

Between:

M/s. Abhirama Steels Ltd.

Represented by its Resolution Professional

Mr. MarutiVenkataSubba Rao Poluri

(IBBI/IPA-002/IP-N00924/2019-2020/1300)

Flat No. A-505, H.No. 14-20-677/1002, Vishnu Vistara Apartments

,Bhagyanagar Colony Main Road, Madhapur ,Hyderabad,Telangana -500081

.... Applicant/Resolution Professional

In the matter of:

M/s. BinjusariaIspat Pvt. Ltd.

...Operational Creditor

Vs.

M/s. Abhirama Steels Ltd.

... Corporate Debtor

Date of order: 17.09.2024

Coram:

DR. VENKATA RAMAKRISHNA BADARINATH NANDULA

HON'BLE MEMBER (JUDICIAL)

SHRI CHARAN SINGH, HON'BLE MEMBER (TECHNICAL)

Appearance

For Applicant: Shri B.Chandrasen Reddy, Senior Counsel assisted by
Shri.Ch. Srinivasulu, Advocate for RP

RP: Mr.Maruti Venkata Subba Rao Poluri.

PER: BENCH O R D E R

1. This Application is filed by the Resolution Professional of M/s. **Abhirama Steels Ltd** (hereinafter referred to as the “Corporate Debtor” or “CD”) under Section 30(6) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the “Code” or “IBC 2016”), seeking approval of the Resolution Plan dated 11.03.2024 submitted by M/s. Dwaraka Iron Industries Private Limited (hereinafter referred to as the “Resolution Applicant”) for Rs.14.50 crores in respect of the Corporate Debtor and to grant the concessions/waivers as mentioned in para 2 of the Application.

2. AVERMENTS IN THE APPLICATION:

2.1 ADMISSION OF THE PETITION AND APPOINTMENT OF INTERIM RESOLUTION PROFESSIONAL / RESOLUTION PROFESSIONAL:

This Tribunal admitted the petition filed by the Operational Creditor under Section 9 of Insolvency and Bankruptcy Code, 2016 read with Rule 6 of IBBI (Application to Adjudicating Authority) Rules, 2016 vide order dated 16.11.2021 and ordered initiation of Corporate

Insolvency Resolution Professional (CIRP). The Applicant herein was appointed as Interim Resolution Professional, who was later confirmed as Resolution Professional.

2.2 BRIEF OVERVIEW OF THE CIRP PROCESS: -

- **Invitation of claims:** The IRP issued Public Announcement in FORM - A on 23.11.2021 and certain claims were received and constituted Committee of Creditors (COC) consisting of Indian Bank with 92.92% voting share and Arien Trading Private Limited having 7.08% voting share. The RP constituted Committee of Creditors and filed which has been filed with the Hon'ble Bench and the Hon'ble Bench has taken note of the same. Indian Bank and Arien Trading Private Limited are Financial Creditors of the Corporate Debtor. The List of Operational and Financial Creditors and amounts claimed and admitted by the IRP are as follows:

S.No.	Nature of Claim	Name of the Creditor	Amount claimed (In Rs.)	Amount Admitted (In Rs.)
1	Operational Creditor	Binjusaria Private Limited	4,52,06,027.00	4,52,06,027.00
2.	Operational Creditor	Dwaraka Iron Private Limited	2,00,00,000.00	2,00,00,000.00

3.	Operational Creditor	PVR Murthy (Promoter)	1,29,16,813.00	1,29,16,813.00
4.	Operational Creditor	P Vani Murthy (Promoter)	2,38,61,575.00	2,38,61,575.00
5.	Operational Creditor	Abhishiek Palaparthi (Promoter)	6,64,90,191.00	6,64,90,191.00
	Total Claim of operational Creditors		Rs.16,84,74,606/-	Rs.16,84,74,606/-
6.	Financial Creditor	Indian Bank	39,98,46,490.41	39,98,46,490.41
7.	Financial Creditor	Arlen Trading Private Limited	3,04,98,000.00	3,04,98,000.00
	Total claim of Financial Creditors		Rs.43,03,44,490/-	Rs.43,03,44,490/-

- Appointment of Registered Valuers:** Resolution Professional got the properties Valued through the Registered Valuers i.e. Ac.7-29 Guntas land situated at Sy.No.272/1 & 272/2, Chityal village & Grampanchayath, Pargi Mandal, Vikarabad District, Telangana, Financial Assets Valuation and Plant and Machinery. The details of valuation are summarized below:

THE SUMMARY TWO VALUATION REPORTS ARE AS FOLLOWS:

Opinion: 1

S.No	Type of Valuation	Valuer's Name	Fair Value (Amount in Rs.)	Liquidation Value (Amount in Rs.)
1	Financial Valuation	K. Shri Rama Rao & Associates	0	0
2	Plant & Machinery	Raj Kumar Sarda	4,45,60,000)	3,34,20,000
3	Land & Building (Industrial)	Pro Valuer (OPC Pvt Ltd)	3,50,00,000	2,27,00,000
4	Land & Building (Vacant land of 7 Acres)	Pro Valuer (OPC Pvt Ltd)	2,70,00,000	1,75,00,000
Total			10,65,60,000	7,36,00,000

Opinion: 2

S.No	Type of Valuation	Valuer's Name	Fair Value (Amount in Rs.)	Liquidation Value (Amount in Rs.)

1	Financial Valuation	DeepikaKabra	0	0
2	Plant & Machinery	G. PrabhakaraRao	4,72,00,000	3,30,00,000
3	Land & Building	CH. Sandeep	5,72,02,021	4,00,41,414
Total			10,44,02,012	7,30,41,414

Copies of Valuation Reports are enclosed at page no-123-255 to the Application.

- **Appointment of Transaction Auditor/ Forensic Auditor:**

Resolution Professional got the transaction Audit Report to find out any avoidance transactions covered under Section 43 to 66 of IBC, 2016. The Audit Report clearly states that there are no avoidance transactions which will attract Section 43 to 66 of IBC, 2016.

- **Expression of Interest:** The Resolution Professional on 12.03.2022 issued public announcement in Form G (“invitation of expression of interest”) for submission of Resolution Plan by the prospective Resolution Applicants. Pursuant thereto, the Applicant received six Expression of Interest along with all required documents and undertakings. That out of 6 Proposed

Resolution Applicants submitted their documents and they are qualified for submitting the Bid and not barred Under Section 29 of IBC, 2016. All the prospective Resolution Applicants have submitted EOIs and also submitted Non-disclosure undertaking as is stipulated under the Act.

- **Information Memorandum/RFRP and Evaluation Matrix:**

The Resolution Professional then shared the Information Memorandum, RFRP and Evaluation Matrix to facilitate the Applicant to submit the Resolution Plan. It is observed from the perusal of the RFRP that some properties of the corporate debtor are attached under MPID (Maharashtra Protection of Interest of Depositors in Financial Establishment Act, 1999).

The relevant portion of the same is reproduced as under:

Attachment of property by MPID Court

- 1) Land, Buildings, Plant and Machinery were mortgaged to Indian Bank in the year 2010 against the term loan and working capital loan sanctioned by the bank.
- 2) During the year 2016, MPID Court attached the above said properties under Maharashtra Protection of Investors Deposit (MPID) Act 1999 by way of a gazette notification dated 19 March 2016.
- 3) The reason for attachment is one of the original promoters of Abhirama Steels Limited was managing director of another company which

defaulted in payment of deposit to public.

4) Aggrieved by the action, Abhirama Steel Limited filed objection in the court in 2016 itself for unjustified attachment as the mortgaged happened much before the present attachment and also the company has nothing to do with the original promoters

5) In 2017, Indian Bank filed an objection in MPID court for release of attachment stating that the mortgage happened much before the attachment and SARFAESI Act overrides all other acts. sell the properties under SARFAESI Act with a rider that the

6) MPID Court vide its order dated 25 July 2018 allowed Indian Bank to proceeds of the sale to be deposited in MPID court for further orders.

7) Indian Bank is contesting the case in MPID court and confident of releasing the attachment as SARFAESI Act overrides all other acts and their mortgage is much before the attachment.

8) In the meantime, Indian Bank made a one-time settlement (OTS) at Rs. 12.90 Cr and the company deposited Rs. 5 Cr through an investor. The balance could not be paid in view of the above attachment.

Since the details of attachment of properties of corporate debtor is provided in the RFRP it is clear that SRA has submitted this resolution plan having prior knowledge of these aspects.

2.3 APPROVAL OF RESOLUTION PLAN:-

- The Resolution plan received from M/s.Dwaraka Iron Industries Private Limited, was placed before the COC in the 17th CoC Meeting held on 02.05.2024 and 03.05.2024. E voting was done wherein the COC members are unanimously (100%) approved the Resolution Plan. Minutes of 17th COC are annexed at page no.574-578.
- The Successful resolution Applicant has submitted his Resolution Plan on 13.6.2022 for RS. 9.70 Crores and finally after elaborate negotiations with Committee of Creditors by all the PRAs, the successful Resolution Applicant offered for Rs.14.50 Crores as his final Bid. After negotiations between the Resolution Applicant and the Committee of Creditors, the Resolution Applicant submitted final Resolution Plan on 11.03.2024.
- The Resolution Plan submitted by **M/s. Dwaraka Iron Industries Private Limited** is approved with 100% voting in the 17th COC Meeting held on 02.05.2024. The salient points of the resolution passed by the CoC is hereunder:
- **LETTER OF INTENT:** The Resolution Professional issued a 'Letter of Intent' (LoI) dated 04.05.2024 to **M/s. Dwaraka Iron Industries Private Limited**.
- **Details of performance Security(received as referred to in sub-regulation(4A) of Regulation 36B):** It is averred that Upfront amount of Rs.1.45 Crores(10% of Resolution Bid amount of Rs.14.5 crores paid on 04.05.2024, will be treated as performance security.

- **Period of CIRP:** The CIRP commenced on 22.11.2021 and 330 days of CIRP expired on 08.05.2024.
- **COC Meetings:** A total of 17 meetings of Committee of Creditors were held since the commencement of CIRP.
- **Declaration U/s31(4)**–The Resolution Applicant declares under Section31(4) that it shall try to, pursuant to the Resolution Plan approved under Section 31 sub-section (1), obtain the necessary approval required under any law for the time being in force within a period of one year from the Date of Approval of the Resolution Plan by the Adjudicating Authority under sub-section (1) or within such period as provided for in such law, whichever is later. A copy of the Resolution Plan along with its annexures dated 11.03.2024 is annexed at page no.567-573.

3. Salient Features of Resolution Plan: -

- (a) The Successful Resolution Applicant (SRA) M/s. Dwaraka Iron Industries private Limited was incorporated on 17th March, 2020 under the Companies Act, 2013 vide CIN-U27310TG2020PTC139847. The registered office of the Company 1-1-384/B/3 TO 5 BAKARAM, GANDHI NAGAR, Hyderabad, HYDERABAD,Telangana, India, 500080. The First Directors of the Company are Mr. Miryala Ravindar Reddy (98.33%) and Mr. Miryala Navya Reddy(1.67%).
- (b) The Company is into the manufacture of TMT Bars under the brand name of DWARAKA TMT. The Company has taken manufacturing

plant of Corporate Debtor Situated at Sy. No. 272/1, Chityal (Village), Pargi (Md), Vikarabad (Dt) on lease basis for a period of two years which was renewed for further period of two years. Presently the Company is making a production of nearly 10,000 MT per month. The Company is selling its product in the states of Telangana, Andhra Pradesh, Karnataka and Maharastra. The Company is selling its product under Distributor and Dealer network. There is a huge scope for Company to expand the market by selling its product to big Corporates and projects

- (c) The Financial Plan and proposed distribution of the Resolution Plan approved by the CoC is mentioned below.

Timelines for payment:

Particulars	Proposed Amount
Upfront Amount of 10% of approved Resolution Bid Amount within 3 days from the date of issuance of Letter of Intent (LOI) by Bank Transfer	01.45 Cr
Performance Guarantee/Bank Transfer amount of 10% of approved Resolution Bid amount within 30 days from date of issuance of Letter of Intent (LOI)	01-45 Cr
Balance amount of 80% of approved Resolution Bid amount within 30 days from Date of Issuance of NCLT Order.	11.60 Cr
Total	14.50 Cr

SECURED FINANCIAL CREDITORS

Particulars	Description
Total Dues	Rs.39.98 Crores (This include Rs.39.98 Crs payable to Indian Bank
Dues Admitted	Rs.39.98 Crores (This include Rs.39.98 Crs payable to Indian Bank
Amount provided under Resolution Plan	Rs.13.62 Crores (This include Rs.13.62 Crs payable to Indian Bank .
Note	The distribution of the Resolution Plan Payment amount to Financial Creditors at the time of Upfront payment as well as Deferred Payment will be decided by the Committee of Creditors (referred as 'COC') and the details will be Provided to the RA basis which distribution of the Resolution Plan Payment Amount among the Financial Creditors will take place.

a. Workmen & Employees Dues – As no claims were received by Resolution Practitioner, Resolution Plan is not submitted.

b. Employee Dues–As no claims were received by Resolution Practitioner, Resolution Plan is not submitted.

UNSECURED FINANCIAL CREDITORS – Rs. 3.05 Crs liable to Arlen Trading Private Limited and Amount Provided Under Resolution Plan was 0.10 Crs payable to Arlen Trading Private Limited.

OPERATIONAL CREDITORS– The Payments factored for Operational Creditors is stated as below-

Operational Creditors –

Particulars	Description
Total Dues	Rs.6.52 Crores (This include Rs.4.52 Crs payable to Binjusariya Ispat Private Limited and Rs.2.00 Crs payable to Dwaraka Iron Industries Private Limited.
Amount provided under Resolution Plan	Rs.0.06 Crores (This include Rs.0.06 Crs payable to Binjusariya Ispat Private Limited)

Summarized format of proposed amount to be paid towards the CIRP to the implementation of proposed resolution plan is set out below:

S.No	Particulars	Rs. (In Crs)
A	CIRP Cost	0.72
B	Secured Financial Creditors	13.62
C	Unsecured Financial Creditors	0.10
D	Operational Creditors	0.06
E	Employee Claims	0.00
F	Other Creditors	0.00
G	Payment to Outside Party (A+B+C+D+E+F)	14.50

H	Repairs / Deposit	2.00
I	Working Capital	4.00
J	Investment in Company (I+H)	6.00

K	Fund Required from promoters (G+J)	20.50
L	Borrowing WC	12.00
M	Total Funds Required (L+K)	32.50

FINANCIAL PROPOSALS:

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

(Amount in Rs. lakh)

Sl. No.	Category of Stakeholder*	Sub-Category of Stakeholder	Amount Claimed	Amount Admitted	Amount Provided under the Plan#	Amount Provided to the Amount Claimed (%)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	Secured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	-NIL	-	-	-
		(b) Other than (a) above: (i) who did not vote in favour of the resolution Plan (ii) who voted in favour of the resolution plan Indian Bank	NIL NIL 3998	- 3998	- 1362	- 34.07%

		Total[(a) + (b)]	3998	3998	1362	34.07%
2	Unsecured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	NIL			
		(b) Other than (a) above:	NIL			
		(i) who did not vote in favour of the resolution Plan	NIL			
		(ii) who voted in favour of the resolution plan	305	305	10	3.28%
		Arlen Trading Private Limited				
		Total[(a) + (b)]	305	305	10	3.28%
3	Operational Creditors	(a) Related Party of Corporate Debtor	NIL			
		(b) Other than (a) above:				
		(i)Government				
		(ii)Workmen				
		(iii)Employees		652		
		(iv)Others	452	452	6	0.92%
		1. Binjusariya Ispat Pvt Ltd				

		2. Dwaraka Iron Pvt Ltd	200	200	-	-
		Total[(a) + (b)]	652	652	6	0.92%
4	Other debts and dues	NIL	NIL	NIL	NIL	NIL
Grand Total			4955	4955	1378	27.81%

Term of the Resolution Plan:

The term of the resolution plan is 30 days from the date of approval of the resolution plan by this Tribunal.

Monitoring Committee

On approval of the resolution plan, a Monitoring Committee comprising of an Insolvency Professional nominated by the SRA, one representative of the Resolution Applicant and one representative of COC will be constituted to supervise the implementation of the resolution plan Section 30(2)(d). **(Resolution Plan (page 449 and 543))**.

Compliance of mandatory contents of Resolution Plan under the Code and Regulations.

The Applicant has conducted a thorough compliance check of the Resolution Plan in terms of the Code as well as Regulations 38 & 39 of

the Insolvency and Bankruptcy Board of India (Corporate Insolvency Resolution Process) Regulations, 2016 and has filed Form 'H' prescribed under Regulation 39(4) of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. **The fair value and Liquidation value as submitted in Form-H is Rs.10,65,60,000/- and Rs. 7,36,00,000/- respectively.**

4. In the above backdrop we heard Mr.Ch.Srinivasulu, Counsel for the Resolution Professional. The Resolution Professional hereby certifies that the contents of the Resolution Plan dated 13.06.2022 and 11.03.2024 submitted by the SRA meets all the requirements of the IBC and Regulations. The Compliance Certificate of Resolution Professional Under Regulation Clause 39 (4) of IBBI (CIRP) Regulations, 2016 prescribed in **Form-H** annexed to the Application at page no.584-591. Further submits that the Resolution Plan meets the requirement of Section 30 (2) of the Code, as under:-

5. (a) Corporate Insolvency Resolution Process cost and Sources of Payment [Section 30(2)(a)]

Committee of creditors have to approve the estimated Corporate Insolvency Resolution Process Cost (CIRP cost) on actual basis (over

and above for Rs.0.72 Cr provided in the Resolution Plan) up to the date of payment of full and final amount of Resolution Plan and the same will be approved and allocated within the Resolution Amount by the Committee of Creditors. In accordance with Regulation 38(1)(a) of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) is required to be paid in priority to other creditors. CIRP cost as stated above will be paid in priority to all other creditors by the Resolution Applicant.

(b) Priority of Dues to Operational Creditors over Financial Creditors [Section 30(2)(b))

The Resolution Amount is Rs. 14,50,00,000/- which is less than CIRP Cost, admitted claims of Secured, Unsecured Financial Creditors and Operational Creditors aggregating to Rs.59.88 crores. There is a Liquidation Value to Operational Creditors, hence the RA has allocated Rs.5.00 Lakhs from the Upfront Payment under the Proposed Resolution Plan (Note that the Proposed Covered Due Amount will be same) to such extent to pay the Operational Creditors to the extent of Liquidation Value in priority to any financial creditors. In case, the Liquidation Value of the Operational Creditors is higher than the Amount decided to be paid by the RA, then the RA shall allocate increase the Upfront Payment under the Proposed Resolution Plan to such extent (Difference between Resolution Plan Payment to Operational Creditors and the Liquidation Value of the Operational Creditors) to pay the Operational Creditors to the extent of Liquidation Value in priority to any financial creditors.

(c) Management of the affairs of Corporate Debtor after approval of the Resolution Plan [Section 30(2)(c)]- During the term of the Approved Resolution Plan (viz till the completion of the Payment and vesting of full control to the RAs), Existing Board to retire and RA will appoint Directors to take over the Management of the Company for better operations on completion of Tenor of the Monitoring Committee The RA will appoint 3 Directors who may be in Executive/Non-executive Director Capacity.

The Resolution Plan is in compliance of Regulation 38 of the Regulations in the following manner:

- (a) **Regulation 38(1) of the CIRP Regulations 2016:** RA would have prioritized payment of dues to operational creditors over the Financial creditors under the proposed Resolution plan.
- (b) **Regulation 38(1)(a) of the CIRP Regulations 2016:** The Resolution Plan Amount is Rs 14,50,00,000/-s is lower than aggregate amount of admitted claims of Secured Financial Creditors, and CIRP cost. The Resolution Amount is proposed to be distributed as follows:

Provision has been made for payment of estimated CIRP Cost at Rs.72.00 Lakhs or Actuals, to be determined by RP, in priority to Payment to Secured Financial Creditors and will be paid from the Payment being made to Secured Financial Creditors.

Sum of Admitted Claims of Secured Financial Creditors is Rs.39.88 Crores.

Sum of Admitted Claims of Unsecured Financial Creditors is Rs.3.05 Crores.

Sum of Admitted Claims of Statutory Dues under Operational Creditors is Rs.16.85 Crore.

Sum of Admitted Claims of Operational Creditors is NIL.

No amount is offered to Equity Shareholders because No Surplus from Resolution Amount is available for distribution among them. **(Page 545 of the Resolution Plan).**

Regulation 38 (1) (b): The Resolution Applicant declares pursuant to Regulation 38(18) of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, that the Resolution Applicant or any of its related parties has NOT / NEVER EVER 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

Term of Plan and its implementation schedule [**Regulation 38(2)(a)**] -

Term will start from the NCLT Order and will end on the date of payment of Balance Amount. The implementation schedule will be as follows:

Particulars	Proposed Amount
Upfront Amount of 10% of approved Resolution Bid Amount within 3 days from the date of issuance of Letter of Intent (LOI) by Bank Transfer	01.45 Cr
Performance Guarantee/Bank Transfer amount of 10% of approved Resolution Bid amount within 30 days from date of issuance of Letter of Intent (LOI)	01-45 Cr
Balance amount of 80% of approved Resolution Bid amount within 30 days from Date of Issuance of NCLT Order.	11.60 Cr

Total	14.50 Cr
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Management and Control Of The Business Of The Corporate Debtor During its Term [Regulation 38(2)(b)] -

During the term of the Approved Resolution Plan (viz till the completion of the Payment and vesting of full control to the RAs), Existing Board to retire and RA will appoint Directors to take over the Management of the Company for better operations on completion of Tenor of the Monitoring Committee. The RA will appoint 3 Directors who may be in Executive/Non-executive Director Capacity. The Constitution of the Board with regard to Managing Director, Executive Directors as well as Non-executive Directors will be decided later on. CEO, CFO, CS etc for the Company will be appointed at the later stage by the Board.

Adequate Means for Supervising Its implementation [Regulation 38(2)(c)] - Resolution Applicant has a Team of Experts to manage the supervision of implementation of the Approved Resolution Plan apart from the fact that the Approved Resolution Plan will be monitored and supervised by the Monitoring Committee till entire payment is made by the RA.

Further details of Regulation 38(3)(a),(b),(c),(d),(e) are annexed in the Resolution plan at page no.548 and 549.

6. At the outset we refer to the following judgements: -

- (a) Hon'ble Apex Court in *re Sashidhar v. Indian Overseas Bank & Others* (in Civil Appeal No. 10673/2018) 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. On receipt of such proposal, the Adjudicating Authority (NCLT) is required to satisfy itself that the resolution plan as approved by CoC meets the requirements specified in Section 30(2). No more and no less”.

- (b) The Hon'ble Supreme Court has further held at para 35 of the above judgement that:

the discretion of the adjudicating authority (NCLT) is circumscribed by Section 31 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.

- (c) The Hon'ble Supreme Court in **Committee of Creditors of Essar Steel India Limited Vs. Satish Kumar Gupta & Ors**, held that:-

“the limited judicial review available to AA has to be within the four corners of section 30(2) of the Code. Such review can in no circumstance trespass upon a business decision of the majority of the CoC. As such the Adjudicating Authority would not have power to modify the Resolution Plan which the CoC in their commercial wisdom have approved”.

- (d) The Hon'ble Supreme Court of India, in the recent ruling in *re Vallal RCK vs M/s Siva Industries and Holdings Limited & Ors*, has held as under:-

21. This Court has consistently held that the commercial wisdom of the CoC has been given paramount status without any judicial intervention for ensuring completion of the stated processes within the timelines prescribed by the IBC. It has been held that 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. A reference in this respect could be made to the judgments of this Court in the cases of K. Sashidhar v. Indian Overseas Bank and Others, Committee of Creditors of Essar Steel India Limited through Authorised Signatory v. Satish Kumar Gupta and Others, Maharashtra Seamless Limited v. Padmanabhan Venkatesh and Others, Kalpraj Dharamshi and Another v. Kotak Investment Advisors Limited and Another, and Jaypee Kensington Boulevard Apartments Welfare Association and Others v. NBCC (India) Limited and Others.

27. This Court has, time and again, emphasized the need for minimal judicial interference by the NCLAT and NCLT in the framework of IBC. We may refer to the recent observation of this Court made in the case of Arun Kumar Jagatramka v. Jindal Steel and Power Limited and Another:

“95.However, we do take this opportunity to offer a note of caution for NCLT and NCLAT, functioning as the adjudicatory authority and appellate authority under the IBC respectively, from judicially interfering in the framework envisaged under the IBC. As we have noted earlier in the judgment, the IBC was introduced in order to overhaul the insolvency and bankruptcy regime in India. As such, it is a carefully considered and well thought out piece of legislation which sought to shed away the practices of the past. The legislature has also been working hard to ensure that the efficacy of this legislation remains robust by constantly amending it based on its experience. Consequently, the need for judicial intervention or innovation from NCLT and NCLAT should be kept at its bare minimum and should not disturb the foundational principles of the IBC.....”

7. Therefore, the resolution plan, when tested on the touch stone of the aforesaid facts and the rulings, we are of the view that the instant resolution plan satisfies the requirements of Section 30 (2) of the Code and Regulations 37, 38, 38 (1A) and 39 (4) of the Regulations. We also found that the Resolution Applicant is eligible to submit the Resolution Plan under Section 29A of the Code.

8. We therefore, hereby approve the Resolution Plan submitted by **Dwaraka Iron Industries Private Limited** (“Successful Resolution Applicant”) along with annexures, schedules forming part of the Resolution Plan annexed to the Application and order as under:-
- a. The Resolution Plan along with annexures and schedules forming part of the plan shall be binding on the Corporate Debtor, its employees, members, creditors, including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force is due, guarantors and other stakeholders involved in the Resolution Plan.
 - b. All crystallized liabilities and unclaimed liabilities of the Corporate Debtor as on the date of this order shall stand extinguished on the approval of this Resolution Plan.
 - c. The approval of the Resolution Plan shall not be construed as waiver of any statutory obligations/ liabilities of the Corporate Debtor and shall be dealt with by the appropriate Authorities in accordance with law. Any waiver sought in the Resolution Plan, shall be subject to approval by the Authorities concerned as held by Hon’ble Supreme Court in the matter of ***Ghanashyam Mishra & Sons Private Limited Versus Edelweiss Asset Reconstruction Company Limited in CIVIL APPEAL NO.8129 OF 2019 dated 13.04.2021.***

- d. It is hereby ordered that the deposit amount of Rs.**1.45 crores** made by the Resolution Applicant shall remain as performance Guarantee till the amount proposed to be paid to the creditors under this plan is fully paid off and the plan is fully implemented.
- e. The Memorandum of Association (MoA) and Articles of Association (AoA) shall accordingly be amended and filed with the Registrar of Companies (RoC) Hyderabad 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.
- f. As far as the approval of the waivers sought in the Application are concerned, the waivers and concessions as may be applicable under the I&B Code, 2016 are allowed, and the SRA is granted liberty to file separate application during or after implementation of the Resolution plan.
- g. We further make it clear that in so far as the prayer (XV) seeking approval of Resolution plan by SRA lifting the attachment by “State Maharashtra through Economic Offence Wing. Unit Crime Branch, Mumbai under Maharashtra Protection of Interest of Depositors (in Financial Establishment) Act, 199 (MPID Act)” on the Factory, Land, Building, Plant and Machinery so as to get clean title for SRA is concerned, the same is hereby refused and the same cannot be granted by this Tribunal. SRA is at liberty to approach Competent Authority under MPID, Act for such relief.
- h. Thus, we hereby allow the following reliefs only:

- As mentioned in the Resolution plan, a Monitoring Committee can be constituted to supervise the implementation of the resolution plan Section 30(2)(d).
 - Issue/Transfer of Shares to SRA under preferential allotment And/or through transfer/Extinguishment of shares of Existing Shareholders upon approval of the plan.
 - Reduction of Share Capital through Reduction in Face Value of Equity Shares upon approval of the Resolution plan.
 - Consolidation of Face Value of the Shares Rs.10/- to Rs.1- per share upon approval of the Resolution Plan.
 - Change in Nomenclature of Balance of Funds of RA over and above Equity infusion of Rs.14.50 Crores upon approval of the Resolution Plan.
 - Grant waiver of Valuation of Share pricing by Registered valuer.
 - Grant waiver of liabilities to Secured Financial Creditor, workmen and Employees, Operational Creditors, Statutory dues etc, upon approval of the Resolution Plan submitted by SRA.
 - Upon Approval of the Resolution Plan extinguish the liabilities payable to promoters statutory Dues Viz.Income Tax Department, Sales Tax Dues and GST, Customs and other authorities under various Acts.
- i. Henceforth, no creditors of the erstwhile Corporate Debtor can claim anything other than the liabilities referred to supra.

- j. The moratorium under Section 14 of the Code shall cease to have effect from this date.
- k. 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.
- l. The Applicant shall forthwith send a copy of this order to the CoC and the Resolution Applicant.
- m. The Registry is directed to furnish free copy to the parties as per Rule 50 of the NCLT Rules, 2016.
- n. The Registry is directed to communicate this order to the Registrar of Companies, Hyderabad for updating the master data and also forward a copy to IBBI.
- o. Accordingly, **IA (plan) 10/2024** stands disposed of.

SD

(Charan Singh
Member (Technical)

SD

Dr. Venkata Ramakrishna Badarinath Nandula
Member (Judicial)

pavani