



**IN THE NATIONAL COMPANY LAW TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

**IA NO.4313 (PB)/2023
IN
CP (IBPP) NO.01(PB)/2022**

Section: Under Section 54K, 54L Read with Section 30(6) and 31 of The Insolvency and Bankruptcy Code, 2016, read with Regulation 48 of the Insolvency and Bankruptcy Board of India (Pre-Packaged Insolvency Resolution Process) Regulations, 2021

In the matter of

ENN TEE International Limited

.....Corporate Debtor

Versus

In the matter of

Ritu Rastogi, Resolution Professional of
ENN TEE International Limited.

..... Applicant

Order pronounced on: 19.10.2023

CORAM:

**CHIEF JUSTICE (RETD.) RAMALINGAM SUDHAKAR,
HON'BLE PRESIDENT**

**SH. AVINASH KUMAR SRIVASTAVA,
HON'BLE MEMBER (TECHNICAL)**

Appearances :

For the SRA : Ms. Prachi Johri, Advocate along with Mr. Mukesh
Kumar, AGM, SBI
For the RP : Eshna Kumar, Ms. Prachi Bhatia, Mr. Shubham
Jaiswal, Ritu Rastogi, Advs. For RP



ORDER

1. Preliminary

1.1. The present interlocutory application bearing IA No.4313 (PB) 2023 was filed on 30.05.2023; however, it was lying in defect which were removed by applicant on 11.08.2023 and thereafter it was registered on 11.08.2023. There was thus a delay of 51 days in removing the defects and only thereafter it could be listed for hearing adjudication. The application was filed by Ms. Ritu Rastogi, Resolution Professional ("**RP**") of ENN TEE International Limited (CIN: U18101DL1999PLC098394), under the provisions of Sections 54 K of the Insolvency & Bankruptcy Code,2016 [hereinafter referred to as "**the Code**" or "**IBC**"] read with Regulation 44 and 45 of the IBBI (Pre Packed Insolvency Resolution Process) Regulations, 2021 ("**PPIRP Regulations**") for approval of the Resolution Plan submitted by Enn Tee International Limited through its Promoter in respect of Enn Tee International Limited ("**Corporate Debtor**") and for seeking the following relief:

- a) *Allow the Present application and approve the Resolution Plan dated 07.02.2023 alongwith its Addendum;*
- b) *Pass an order for termination of the Pre Packaged Insolvency Resolution Process upon approval of the Resolution Plan under Section 54L, IBC;*
- c) *Pass any other appropriate orders as this Hon'ble Adjudicating Authority may deem fit and proper in the present case.*



- 1.2. It is stated that the corporate debtor is engaged in the business of manufacturing and supplying of Polyester and Polypropylene Dope Dyed Yarn and narrow fabric. The products of Enn Tee International Limited are sold under the brand name “**Minklene**” and the unit is partially operational. Enn Tee International Limited is a registered MSME.
- 1.3. The underlying Company Petition CP (IBPP) No.01(PB)2022 filed by Enn Tee International Limited under Section 54C of the Code for initiation of Pre Packed Insolvency Resolution Process (“**PPIRP**”) of the Corporate Debtor was admitted by this Adjudicating Authority *vide* its order dated 10.10.2022 and Ms. Ritu Rastogi (IBBI Reg No. IBBI/IP-P00204/2017-18/10393) was appointed as RP.

2. Collation of claims by RP

- 2.1. The Applicant submits that the public announcement was made on 13.10.2022 in Form P9 for inviting claims from the creditors/ stakeholders. A copy of Public Announcement made by the RP is annexed as **Annexure B** of the application.
- 2.2. The RP submits that the COC was constituted on 18.10.2022 consisting of sole Financial Creditor i.e. State Bank of India (SBI) and COC has only one voting member with 100% voting right and a total of five CoC meetings have been held during PPIRP period as follows:

Particulars	Date of CoC Meeting
1 st CoCMeeting	28.10.2022



Particulars	Date of CoC Meeting
2 nd CoC Meeting	17.12.2022
3 rd CoC Meeting	06.02.2023
4 th CoC Meeting	17.03.2023
5 th CoC Meeting	18.05.2023

3. Evaluation and voting

- 3.1 The Applicant submits that in the first COC meeting on 28.10.2022, the RP deliberated about Form-P10 containing the list of all the creditors and also placed before the COC the claims submitted by the Creditors of the Corporate Debtor, further the sole financial creditor State Bank of India filed a claim amount of Rs. 11,95,99,960/-.
- 3.2 It is further submitted that the 2nd COC meeting was held on 17.12.2022 where it was discussed that the Information Memorandum had been prepared by the applicant and that the valuation report had been received from the valuers so appointed, further a transaction auditor was also appointed to check for avoidable transactions.
- 3.3 The applicant submits that the liquidation value of the Corporate Debtor is Rs. 10.20 Cr. and fair value of the Corporate Debtor is Rs. 14.57 Cr.
- 3.4 It is further submitted that the 3rd meeting of the COC was held on 06.02.2023 in which COC members suggested some improvements in the already submitted plan, the CD after making required changes as negotiated submitted the revised plan. During the 3rd COC



meeting the revised plan was discussed in detail and the financial creditors requested further amendments to the resolution plan. The Directors of the CD agreed to further revise the plan and it was agreed that the CD would provide performance guarantee to the tune of Rs. 20 lakhs based on the commercial and other aspects.

- 3.5 The applicant submits that the revised plan was submitted on 07.02.2023 and the financial creditor took some time to assess the plan, further at this stage due to certain further discussions with the COC regarding the interest rate and conversion of cash credit limit, the Resolution Applicant was asked to submit an addendum to incorporate the changes.
- 3.6 The applicant submits that the 4th COC meeting was held on 17.03.2023 in which the Sole Member of COC i.e. SBI approved the resolution for seeking extension of time from this Adjudicating Authority. The applicant also submits that the 5th COC meeting was called in which the Resolution Plan dated 07.02.2023 alongwith addendum was put to vote and following Resolution was passed:

“RESOLVED THAT pursuant to Section 30(1) and (2) of Insolvency & Bankruptcy Code, 2016 read with Regulation 48 of the Pre-Pack Insolvency & Bankruptcy Board of India (Pre Pack Insolvency Resolution Process for Corporate Persons) 2016 and in accordance with any other relevant rules and regulations made thereunder, approval of the committee of creditors be and is hereby accorded to the resolution plan submitted by the CD through its promoter/Directors, a signed copy of which has been presented before the committee of creditors”.



The voting Result is as under: -

Particulars	Voting Share (Rs. In Crores)	Voting Share (in %)	Result
<i>Votes Cast in favour</i>	11.96	100%	<i>APPROVED BY REQUISITE MAJORITY</i>
<i>Votes Cast in Against</i>			
<i>Votes Abstained</i>			
Total	11.96	100%	

4. Cause of default and provision to meet the cause of default

4.1 It is stated in the resolution Plan as submitted by Mr. Harish Chander, the promoter of ETIL that in the year 2013-14 due to the dumping of yarn from China, the domestic market was disturbed and to match up the prices of China, the CD decreased the sale price of the yarn which also led to big setback to the operations of the CD. Further clause 3.1 (i) and (ii) of the Resolution Plan read as under:

“The problem started post demonetization in 2016 which affected both the top line & the bottom line growth of the company. They manage with difficulties, hence, unable to maintain the margins. Again, after the implementation of GST, Since July, 2017 the Company incurred huge losses from the unorganized sector which effects badly on financials of the Company because their majority



clientele belongs to unorganized sector.

Due to non-availability of sufficient working capital, company was running on very low capacity and due to burden of fixed expenses company operation was in loss. Despite continuing losses during the period from FY 2016 to FY 2022, the company continued in paying the dues to bank and paid a sum of Rs. 701.35 Lakh as interest and Rs. 186.93 Lakh as instalments (net of fresh disbursement) totaling to Rs. 880.61 Lakh.”

4.2 It is further stated that the demand of polypropylene yarn was declining continuously as the consumers of this type of yarn started to use other cheaper yarns. The Company has decided to convert partial capacity of the plant into polyester yarn and accordingly has installed essential equipment's with an investment of about Rs. 1.61 Crore. The Company has also upgraded its other machines, the production capacity of the machines has been increased to double and is helping to reduce the operational cost. After modification and upgradation of the plant, now the plant can manufacture various products catering to various segments of the market demand.

5. Details of Resolution Plan/Payment Schedule

5.1. The amount claimed and the amount proposed in the Resolution Plan are tabulated below:



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Sl. No.	Outstanding Debt	Claims Admitted	Payout in the Resolution Plan
1.	PPIRP Cost	Rs. 6,00,000 (estimated costs)	To be paid from the available cash balance of the Company and then if any shortfall, from the contribution by the promoter of the Company
2.	Unrelated Financial Creditor (State Bank of India)	Rs. 11,96,00,000	Rs. 11,96,00,000 to be paid in the following manner: i. Term Loan of Rs. 5,81,00,000 An amount of Rs. 3,50,00,000 to be paid out of the sale proceeds of the non-core assets i.e. surplus land situated at SIDCUL, Haridwar. In case of a shortfall in payment from the sale of non-core assets, the promoters of the Company undertake to make the



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Sl. No.	Outstanding Debt	Claims Admitted	Payout in the Resolution Plan
			<p>differential payment from their own funds.</p> <p>Balance Amount of Rs. 2,31,00,000 shall be paid as per the terms and conditions between the Company and SBI as existing as on the date of commencement of PPIRP (Interest on this amount shall be paid as per the terms of the Resolution Plan from the date of approval of Resolution Plan by this Adjudicating Authority)</p> <p>ii. ECLGS Loan under Covid related Govt. Scheme of Rs. 2,50,00,000-</p> <p>Clause 5.3.2 of the resolution plan at page 20 provides 100% recovery against Guaranteed</p>



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Sl. No.	Outstanding Debt	Claims Admitted	Payout in the Resolution Plan
			<p>Emergency Credit Line (GECL) Term Loan by way of claim to be made to National Credit Guarantee Trustee Company (NCGTC), the guarantor under the scheme of loan.</p> <p>iii. Cash Credit Loan of Rs. 3.65 Cr.</p> <p>In the Plan, it is provided that at present the company has cash credit limit of Rs. 3.65 crores and as proposed in the plan an amount of Rs. 2.31 crores due under the various head of working capital term loan(WCTL) as on the commencement of PPIRP and the same shall be converted into cash credit limit. The total cash credit limit after the approval of resolution plan shall be</p>



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Sl. No.	Outstanding Debt	Claims Admitted	Payout in the Resolution Plan
			Rs. 5.96 crores (Rs. 3.65 Cr + Rs. 2.31 Cr). Further the interest on the cash credit limit of Rs 5.96 Cr. shall be paid @ base rate + 0.25% p.a and bank will renew the limit every year as per applicable norms of the Bank.
3.	Operational Creditors	Rs. 3,92,68,000	i. Government Dues (Rs. 57,00,000) Full payment is proposed to be made towards government dues as per clause 6.2.1 (ii) of the resolution plan ii. Employees and Workmen (Rs. 8,74,000) Full payment is proposed to be made towards dues of Employees and Workmen as per clause



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Sl. No.	Outstanding Debt	Claims Admitted	Payout in the Resolution Plan
			6.3 (ii) of the Resolution Plan. iii. Other Unrelated Operational Creditors (Rs. 3,26,89,000) Full payment is proposed to be made as per clause 6.2.1 (ii) of the Resolution Plan.
4.	Related Creditors		Nil Payment is provided towards related creditors in the Resolution Plan

5.2. Implementation Schedule of the Plan

S.No	Activity	Timeline (Days)
1	Approval of Resolution Plan by NCLT (Effective Date)	T
2	Appointment of Monitoring	T+5



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	Committee	
3	Payment of Unpaid CIRP cost	T+30
4	Payment to Operational Creditors	(T + 3 Years)
5	Change in Memorandum and Articles of Association etc, if required	T + 30
6	Remittance of share application money into settlement account	T + 180
7	Payment to Secured Financial Creditors and Operational Creditors	(T + 3 Years)

6. Compliance of the successful Resolution Plan with various provisions:

6.1. The Applicant has submitted the details of various compliances as envisaged by the Code and the PPIRP Regulations which a Resolution Plan is required to adhere to, as follows:

Section/ Regulation	Requirement	How dealt with in the Plan
Sec 30(2)		
(a)	Provides for the payment of Insolvency Resolution Process Cost.	Clause 5.4 (a) of the Resolution Plan provides that any unpaid CIRP cost will be first met out from the available cash balance of the



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Section/ Regulation	Requirement	How dealt with in the Plan
		Company and then from the contribution of the Resolution Applicant upto Rs. 6.00 lakh in priority to the payment of any other debts of the CD. In case the unpaid CIRP cost exceeds Rs. 6.00 lakh then it will be borne by the company/resolution applicant.
(b)	Plan must provide for payment to the Operational Creditors;	Clause 5.4(b) of the Resolution plan states that the operational creditors (including Government Claims & excluding the employees and workmen) shall be paid an aggregate amount of Rs. 383.94 lakh (Operational Creditors Settlement Amount). The payment to Operational Creditors shall be given priority in payment over financial creditors. The



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Section/ Regulation	Requirement	How dealt with in the Plan
		amount shall be repaid in 3 years (without any interest) from the date of approval of Resolution Plan by this Adjudicating Authority.
(c)	Management of the affairs of the Corporate Debtor after approval of the Resolution Plan.	It is stated that the management of the Company in Pre Packaged Insolvency Resolution Process has remained with the existing management who works with the Resolution Professional. After plan approval, management would vest in the Company.
(d)	Implementation and Supervision of Resolution Plan.	Clause 7.1 and 7.2 of the Resolution Plan provides for Implementation and Supervision of the Resolution Plan. It is stated that post approval of Resolution Plan by this



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Section/ Regulation	Requirement	How dealt with in the Plan
		Adjudicating Authority, the monitoring committee as constituted under this Plan shall supervise the implementation of the Resolution Plan.
(e)	Plan does not contravene any of the provisions of the law for the time being in force.	In terms of Section 54K(3) read with Section 30(2) (e) of the Code, the Resolution Applicant has filed an affidavit dated 29.08.2023 stating that the resolution plan is in compliance in all respects with the provisions of the code and does not contravene any of the provisions of the law for the time being in force.
Regulation 45(1)(a)	Affidavit that the Resolution Applicant is eligible to submit Resolution Plan	Affidavit under Section 29A of the Code has been filed by the Resolution Applicant as a part of additional affidavit dated 29.08.2023 filed with this



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Section/ Regulation	Requirement	How dealt with in the Plan
		Adjudicating Authority.
Regulation 45 (1)	(i) Whether the Resolution Applicant or any of its related parties has failed to implement or contributed to the failure of implementation of any resolution plan approved under the Code. (ii) If so, whether the Resolution Applicant has submitted the statement giving details of such non implementation.	In Clause 1.3 of the Resolution plan, the resolution Applicant declares that neither the Resolution Applicant nor any of its related parties have failed to implement or contributed to the failure of implementation of any resolution plan approved by the Adjudicating Authority at any time in past. Not applicable
Regulation 45(3)	Whether the Resolution plan	



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Section/ Regulation	Requirement	How dealt with in the Plan
	demonstrates that-	Clause 3.2 @ page 108 of the
	(a) It addresses the cause for default;	Resolution Plan outlines the steps already taken by the existing members in the revival of the Company.
	(b) It is feasible and viable;	At Clause 4 (viii) @ page 116 of the Resolution Plan it is stated that the Plan is feasible and viable as per law
	(c) It has provisions for its effective implementation	Clause 7 @ page 126 of the Resolution Plan includes details for supervision, implementation of the resolution plan and regulatory approvals. It is stated that from the Effective Date and until the Closing Date, the Monitoring Committee shall be constituted which shall supervise the implementation of the Plan.
	(d) It has provisions for approvals required and the timeline for the	Clause 5.2 @ page 117 of the Resolution Plan



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Section/ Regulation	Requirement	How dealt with in the Plan
	same; (e) The resolution applicant has the capability to implement the resolution plan	Clause 1.2 @ page 103 of the Resolution Plan states that the Resolution Applicant has vast experience of more than 45 years in the Textile industry and has the capability to implement the Resolution Plan.
Regulation 45(4)	Whether the resolution plan includes a statement as to how it has dealt with the interests of all stakeholders.	Clause 3.4.2 (ii) @ page 112 of the Resolution Plan has included a table dealing with application of funds under the resolution plan for all stakeholders including for payment to CIRP cost, payment to workers, payment to operational creditors, payment to staff, payment to financial creditors, payment for purchase of new machines and funds for working capital.



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Section/ Regulation	Requirement	How dealt with in the Plan
Regulation 45(5)(a)	Whether the amount due to the Operational creditors under the Resolution Plan has been given priority in payment over financial creditors	Clause 6.2.1 (ii) @ page 122 of the Resolution Plan provides that the amount proposed to be paid to Operational Creditors is in priority over the payment to financial creditors
Regulation 45(5)(b)	Whether the Amount due to 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	N/A as in the present case only one financial creditor i.e. State Bank of India and base plan has been approved by SBI at the time of giving consent for filing the present application.



- 6.2. The Applicant RP submits that the successful resolution applicant has submitted an affidavit in regard to the eligibility under section 29A of the Code, as required under the Code.
- 6.3. The Applicant RP has filed a Compliance Certificate dated 21.02.2023 in prescribed Form, i.e Form 'P12' in compliance with Regulation 49(1) of the PPIRP Regulations.

7. Sources of funds

- 7.1. The Resolution Plan envisages a total fund requirement of Rs. 10.19 crore over the period of 3 years towards payment of interest bearing loan, working capital term loan, capital expenditure, payment to the operational creditors and working capital. The resolution applicant is proposing to infuse Rs. 0.90 crore by disposing the obsolete machineries etc. The capital expenditure towards overhauling, replacement of machineries and starting up the operations of the closed machines is estimated at Rs. 1.25 Crores. Further the funds proposed in the resolution plan and its utilization is detailed below:

Particulars	Year- 1	Year- 2	Year- 3	Total (in Crores)
Funds to be infused by related parties as unsecured loan	1.00	0.25		1.25
Funds to be infused by RA	0.75	0.00		0.75



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as quasi capital				
Sale of Old Machines	0.90			0.90
Sale of Surplus Land	3.50			3.50
Cash Accrual	1.0535	1.3693	1.3693	3.7921
Total	7.2035	1.6193	1.3693	10.1921

Application of Funds, Amount in (Lakhs)

Particulars	Year-1	Year-2	Year-3	Total
Payment to CIRP Cost	6.00			6.00
Payment to Workers	4.38	0.00	0.00	4.38
Payment to Operational Creditors	127.98	127.98	127.98	383.94
Payment to Staff	1.45	1.45	1.45	4.36
Payment to Financial Creditors-	350.00			350.00



SBI				
Purchase of New Machines	125.00			125.00
Working Capital	105.54	32.50	7.50	145.53
Total	720.35	161.93	136.93	1019.21

7.2. The total value of the Resolution plan is of Rs. 17,19,00,000/- (Rupees Seventeen Crores Nineteen Lakhs only). The Resolution Plan defines “**Effective Date**” as the date on which this Adjudicating Authority approves the Resolution Plan.

7.3. It is stated that the total plan value is more than total infusion since some payout is by guarantor under the ECLGS scheme (Rs. 2.50 Cr) and cash credit limit (Rs. 3.65 Cr.) will be renewed every year on existing terms and conditions, working capital term loan (Rs. 2.31 Cr) to be continued on same terms and conditions.

8. Monitoring Agency:

Post Effective Date and prior to the Closing Date:

On and from the effective Date, and until the Closing Date, a monitoring committee shall be constituted for the Company. The Monitoring Committee shall consist of the Resolution Professional, one representative of the COC and one representative of the resolution



applicant/ CD, further the Monitoring committee shall supervise the implementation of the plan.

9. Term of the Plan

It is stated in the Resolution Plan that the date on which the implementation of the resolution plan is completed shall be the “Closing Date” and the term of the Plan shall be from the Effective Date until fulfilment of the actions set out in this Plan. From the Implementation schedule at para 5 *ibid*, it is seen that all payments to secured financial and operational creditors will be made in 3 years, hence it is inferred that the term of the plan is 3 years.

10. Details on fraudulent and avoidance transaction

It is stated in the affidavit dated 29.08.2023 as filed by the Resolution Professional that no transactions were found by the RP under Section 43, 45, 50 and 66 of the Code.

11. Waivers, Reliefs and Exemptions

The SRA has prayed for the reliefs, waivers and concessions as enumerated under the Resolution Plan approved by the CoC, namely, that from the plan approval date all inquiries, investigations and proceedings, whether civil or criminal, suits, claims, disputes, interests and damages in connection with the Corporate Debtor or the affairs of the Corporate Debtor, pending or threatened, present or future in relation to any period prior to the plan approval date, or arising on account of implementation of this



Resolution Plan, shall stand withdrawn, satisfied and discharged, from the date of approval of the 'Resolution Plan'. In this regard, the SRA shall be legally authorized to seek appropriate orders from respective authorities/ courts/ tribunals for renewal of licenses/ withdrawal/ dismissal or abatement of the proceedings as the case may be, as per law.

12. Findings

- 12.1. The Pre Package Insolvency Resolution Process (PPIRP) is a time-bound procedure and all stakeholders have to stick to the timelines. This case was admitted on 10.10.2022 and the moratorium came into effect immediately. The CoC took 5 rounds from 28.10.2022 to 18.05.2023 and Section 29A affidavit was filed on 29.08.2023. This application was registered on 11.08.2023 and we are inclined to allow this application after verification of compliance as required by the code.
- 12.2. We have called upon the counsels representing the corporate debtor and counsel for the RP as well as the officer of the Bank as to why there is delay in this matter for which extension was sought and granted by this Tribunal.
- 12.3. It was pointed out that immediately on admission, the matter should have gone to the Stressed Assets Wing of the concerned Bank, whereas it went to the Branch, and it took some time before it got transferred to the Stressed Assets Wing of the Bank. The issue also consumed sometime in the negotiation process, which was held at the Stressed Assets Branch and with its superior authority which is situated in Mumbai. The inter-branch discussion on the proposal consumed a lot of time.



- 12.4. Keeping this in mind, we would like to suggest that the moment an application under Section 54(C) is filed, the Stressed Assets Wing of the concerned Bank should take over the case for further negotiation to avoid delay and keep up the timelines.
- 12.5. We also impress upon the Stressed Assets Wing of the Bank to ensure speedy negotiations of the proposal so that valuable time is not lost. We observe above, to enable the MSME, to seek early resolution of the Stressed Assets under Chapter III-A proposals.
- 12.6. Subject to the observations made in this Order, the Resolution Plan in question is hereby **approved. The Resolution Plan shall form part of this Order.**
- 12.7. The Resolution Plan is binding on the Corporate Debtor and other stakeholders involved so that revival of the Debtor Company shall come into force with immediate effect.
- 12.8. The Resolution Professional shall submit the records collected during the proceedings to the Insolvency & Bankruptcy Board of India for their record.
- 12.9. **IA (IB) No.4313(PB) 2023** and the main Company Petition, *i.e.*, CP (IBPP) No.01(PB)/2022 shall stand ***disposed of*** accordingly.
- 12.10. Liberty is hereby granted for moving appropriate application if required in connection with implementation of this Resolution Plan.
- 12.11. A copy of this Order shall be filed by the Resolution Professional with the Registrar of Companies, NCT of Delhi & Haryana.
- 12.12. The Resolution Professional shall stand discharged from his duties with effect from the date of this Order, save and except those duties that are enjoined upon him for implementation of the approved Resolution Plan.



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- 12.13. The Resolution Professional is further directed to hand over all records, premises/ factories/documents available with it 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 through the Resolution Professional to finalise the further course of action required for starting of operations of the Corporate Debtor.
- 12.14. The Registry is directed to send copies of the order to the IBBI and MCA to take into consideration our observation at paras 12.1, 12.2, 12.3, 12.4, 12.5 and ensure that all the Banks comply with this and may also take appropriate steps in this regard and do the needful so that the Pre-Pack becomes effective method of resolution.
- 12.15. The Registry is directed to send copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
- 12.16. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.
- 12.17. File be consigned to the record.

Sd/-

**RAMALINGAM SUDHAKAR
PRESIDENT**

Sd/-

**AVINASH K. SRIVASTAVA
MEMBER (TECHNICAL)**

CO : NV
LRA: RS