

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

**IA No.5789 of 2023
IN
CP (IB) No.162 /MB/C-I/2023**

Under Section 30 (6) of the Insolvency and Bankruptcy Code, 2016 (“code”) r/w Regulation 39(4) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 for seeking approval of the resolution plan under the provisions of Section 31(1) of the code.

IA No.5789 of 2023

In the Application of

Mr. Ritesh R. Mahajan

(“Resolution Professional of the Corporate Debtor”)

...Applicant

In the matter of

**Saisidha Sugar Equipments And Engineering Company Private
Limited**

...Petitioner/Financial Creditor

Versus

Indian Sugar Manufacturing Company Limited

...Corporate Debtor

Order Delivered on :- 06.02.2024

Coram:

Hon’ble Member (Judicial) : Justice V.G. Bisht (Retd.)

Hon’ble Member (Technical) : Mr. Prabhat Kumar

Appearances:

For the Resolution Professional : Mr. Rohit Gupta, Advocate i/b Mr. Indrajeet Hingane, Advocates.
For the SRA : Mr. Gaurav Joshi, Senior Advocate a/w Mr. Viraj Parekh, Advocate, Mr. Umang Mehta, Advocate i/b Dhruve Liladhar & Co

ORDER

Per: Justice V.G. Bisht, Member (Judicial)

1. The present application is moved by Resolution Professional **Mr. Ritesh Mahajan** (hereinafter called as “the Applicant”) under section 30 (6) of the Insolvency and Bankruptcy Code, 2016 (“code”) r/w Regulation 39(4) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 for seeking approval of the resolution plan of Consortium of M/s Shri Dutt India Private Limited and M/s Shri Dutt Biofuels Private Limited (hereafter called as the “**Successful Resolution Applicant/SRA**”) under the provisions of Section 31(1) of the code, for the Corporate Debtor and for passing order/appropriate direction that this Tribunal may deem fit in the present matter.
2. An application under Section 7 of the IBC 2016, in Company Petition No. C.P. (IB)/162(MB)2023 was admitted and Mr. Ritesh R. Mahajan was appointed as IRP. The Applicant on 15th April, 2023 constituted the Committee of Creditor.
3. Pursuant to the aforesaid order and in accordance with Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the Applicant made a Public Announcement in the prescribed Form-A on 31st March 2023, published in the Financial Express

(English Language) PAN India and Pudhari (Marathi Language) all Maharashtra Editions.

4. The Applicant, along with his team, visited the factory site of the Corporate Debtor situated at Havinal, Karnataka to take over the possession of the assets of the Corporate Debtor. The possession was finally handed over to the Applicant on 25th April 2023. Thereafter, the Applicant called for the 2nd CoC Meeting, scheduled to be held on 12th May 2023. In this meeting, important discussions and approvals were addressed, including the publishing of Form-G to invite expressions of interest from the Prospective Resolution Applicants, discussing and approving the Eligibility Criteria under Section 25(2)(h) of the IBC, 2016, and deliberating on the proposal for running the Corporate Debtor on a Lease Rental Basis. Accordingly, the Applicant published the Invitation of Expression of Interest in Form-G on 20th May, 2023, in the three leading newspapers in their respective languages: The Financial Express (English Language) PAN India Edition, Pudhari (Marathi Language) All Maharashtra Edition, and Vijayvani (Kannada Language) All Karnataka Edition, with wide circulation as per Regulation 36A of the CIRP Regulation, 2016.
5. In order to ensure the continuity of the Corporate Debtor as a going concern, the CoC Members and the Applicant deemed it appropriate to grant operational control of the Corporate Debtor. This operational control was expected to generate substantial income for the Corporate Debtor. Accordingly, the proposal received from Shri Dutt Biofuel Private Limited for operating the Corporate Debtor on a Lease Rental Basis. The final Lease Rental Agreement was presented for voting to

the CoC Members on the E-voting platform. The Agreement received approval from the CoC members on 5th June 2023.

6. Pursuant the publication of the Invitation of Expression of Interest in Form-G dated 20th May 2023, the Applicant received various responses from interested parties. The Applicant provided each interested party with a Detailed Invitation for Expression of Interest. On or before the last date, i.e., 5th June 2023, for the receipt of expressions of interest, the Applicant received 2 (Two) Expressions of Interest from two Prospective Resolution Applicants (PRAs), namely, the Consortium of M/s Shri Dutt India Private Limited and M/s Shri Dutt Biofuels Private Limited, and M/s. Twentyone Sugars Limited in consortium with Sharda Construction and Corporation Private Limited. The Applicant scheduled 3rd (Third) CoC Meeting dated 7th June, 2023, wherein the RFRP was put before the CoC for the necessary approvals.
7. Just before the issuance of the Provisional List of Prospective Resolution Applicants (PRAs) on 15th June 2023, the Applicant received emails from 2 (Two) interested parties requesting an extension of the last date for the submission of Expressions of Interest, originally set for 5th June 2023. The Applicant decided to convene the 4th CoC Meeting dated 17th June, 2023 to propose revisions to the previous Invitation for Expression of Interest issued in Form-G dated 20th May, 2023. In the CoC Meeting, the CoC Members concurred with the views and suggestions of the Applicant to revise the previous Invitation for Expression of Interest by extending the last date for submission. This extension aims to allow interested parties to participate in the Resolution Process of the Corporate Debtor.

8. The Applicant prepared the Information Memorandum in accordance with Regulation 36 of the CIRP Regulations, 2016. An email dated 12th July 2023 was sent, along with a Confidentiality Undertaking, to all CoC Members, requesting their agreement to facilitate the circulation of the Information Memorandum. The Applicant received Confidentiality Undertakings from all CoC members and subsequently circulated the Information Memorandum to them on 20th July 2023. Additionally, the Applicant shared the Addendum to the aforementioned Information Memorandum from time to time.
9. After completing due diligence and in accordance with Regulation 36A(10) of the CIRP Regulations, 2016, the Applicant issued and circulated the provisional list of eligible Prospective Resolution Applicants to the CoC Members and all Prospective Resolution Applicants on 15th July 2023. A period of 5 days was provided for objections to the inclusion or exclusion of a Prospective Resolution Applicant in the provisional list, allowing for the submission of supporting documents. This objection period concluded on 20th July 2023.
10. On 20th July 2023, the Applicant issued the Information Memorandum, Evaluation Matrix, and Request for Resolution Plans (RFRP) to all Prospective Resolution Applicants. The PRAs were requested to submit their Resolution Plans to the Resolution Professional no later than 21st August 2023.
11. On 27th July 2023, the Applicant circulated the Final List of Prospective Resolution Applicants to all members of the CoC. On 17th August 2023, the Applicant received an email from one of the Prospective Resolution Applicants, namely SNJ Sugars & Products Ltd., stating that they are not interested in participating in the Resolution Process of the Corporate Debtor. On 21st August 2023, the Applicant received two

Resolution Plans from two Prospective Resolution Applicants (PRAs). Both Resolution Plans were diligently verified by the Applicant, meeting the requirements of Section 30(2) of the IBC, 2016. Subsequently, the verified Resolution Plans were circulated to all CoC Members on 29th August 2023.

12. Thereafter, the Applicant scheduled the 5th CoC Meeting for 11th September 2023 to discuss the Resolution Plans. In the meeting, both Prospective Resolution Applicants (PRAs) were invited to present their respective Resolution Plans. The CoC Members were requested to submit a Confidentiality Undertaking for the Valuation Report. During the discussions, the Applicant highlighted certain amendments needed in the Resolution Plans of both PRAs. The CoC Members directed the PRAs to substantially improve their Resolution Plans.
13. Pursuant to the appointment of the 2 sets of the valuers for each class, the Valuers after conducting their valuation submitted their Valuation Reports to the Applicant. Thereafter, in accordance with the Sub Regulation- 2 of Regulation 35 of IBBI of CIRP Regulations, the Applicant via email dated 27th September, 2023, circulated the Fair Values and Liquidation Values of the Corporate Debtor to the members of the CoC after receiving the Confidentiality Undertaking from the respective members. Meanwhile, it was communicated to the CoC Members that the Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor commenced on 23rd March 2023, and the initial 180-day period of the CIRP was scheduled to end on 19th September 2023. Accordingly, after obtaining approval from the CoC Members, the Applicant filed an Interlocutory Application in IA(I.B.C)/4370/MB/2023 on 19th September, 2023. Subsequently, the Tribunal allowed the Interlocutory Application vide order dated 3rd October, 2023.

14. On 3rd October 2023, the Applicant sent an email to both PRAs, informing them of the amendments and proposed changes essential to enhance the feasibility and effectiveness of their respective Resolution Plans. The Applicant decided to schedule the 6th CoC Meeting for further consideration and deliberation on both Resolution Plans. The said meeting was postponed and rescheduled on 5th December 2023.
15. In the 6th CoC Meeting held on 5th December 2023, the Applicant invited both PRAs to conduct final negotiations with the CoC Members. The Consortium of M/s Shri Dutt India Private Limited and M/s Shri Dutt Biofuels Private Limited, being one of the PRAs, was invited first to present their revised Resolution Plan Amount.
16. In the 6th (Sixth) CoC Meeting held on 5th December 2023, the Applicant invited both PRAs to conduct final negotiations with the CoC Members. The Consortium of M/s Shri Dutt India Private Limited and M/s Shri Dutt Biofuels Private Limited, being one of the PRAs, was invited first to present their revised Resolution Plan Amount. However, after detailed discussion and deliberation, the CoC Members directed them to improve the financials, providing a 30-minute window for adjustments. The said PRA agreed and presented the improved Resolution Plan Amount after discussing with their management.
17. The second Prospective Resolution Applicant (PRA) was also invited to the aforementioned meeting. However, they stated that they would directly submit the Revised Resolution Plan. Consequently, the CoC Members and the Applicant decided to provide both PRAs with a 2-day window to submit their Revised Resolution Plans on or before 7th December 2023.

18. Additionally, the Applicant informed the CoC Members that, given the limited time available for completing the Corporate Insolvency Resolution Process (CIRP), a quick decision was necessary. Therefore, the Members were requested to decide and vote on the Resolution Plan via the E-voting platform until 13th December 2023. The Applicant mentioned the possibility of extending the timeline for voting up to 16th December 2023 if needed.
19. In the aforementioned meeting, to proactively address potential challenges, the Applicant sought approval from the CoC Members via E-voting on 13th December 2023 regarding the extension of the Corporate Insolvency Resolution Process (CIRP) period by an additional 60 days. This step was taken to ensure that if the CoC Members faced delays in obtaining approval from their higher authorities within the given time frame to vote on the Resolution Plan, the Applicant would have the option to file a necessary application before the Hon'ble National Company Law Tribunal (NCLT).
20. The CoC Members after being satisfied that the Revised Resolution Plan is Feasible and Viable, approved the Resolution Plan of the Consortium of M/s Shri Dutt India Private Limited and M/s Shri Dutt Biofuels Private Limited with 100% of voting.
21. A summary of the Resolution Plan and how it complies with the provisions of the Code has been prepared by the Applicant in form of a Compliance Certificate in Form-H as prescribed under the Regulation 39 (4) of the CIRP Regulation 2016. The Applicant sought specific clarifications from the Successful Resolution Applicant. In response, the Successful Resolution Applicant provided a Clarificatory Affidavit dated 20th December 2023, addressing the clarifications.

This Clarificatory Affidavit is an integral part of the Revised Resolution Plan dated 7th December 2023

22. The Applicant states and submits that, in accordance with the Form-H records, all the compliances and the Applicant Certificate, as outlined in the Regulations and as set out in Form-H, have been duly complied with.
23. The Applicant states and submits that, to the best of his knowledge and based upon his inquiries, the Resolution Applicant is not barred by Section 29A from presenting a Resolution Plan for the Corporate Debtor. Further, the Applicant has no reason to believe that the Resolution Plan approved by the CoC is contrary to any other law for the time being in force in India. The Resolution Applicant has also provided an Affidavit, giving an Undertaking under oath that they are not disqualified by the Provisions of Section 29A of the IBC, 2016.
24. In accordance with Regulations 38 (1A) of the CIRP Regulations 2016, the following is a brief detail of Revised Resolution Plan as approved by the CoC in their 6th CoC Meeting held on 5th December, 2023. The summary of payments made to different class of creditors is as follow:

Sr. No.	Particulars of Claim	Type of Claim	Admitted Amount (INR)	Settlement Amount (INR)	Term of Payment (in months)
1.	CIRP Costs	-	2,50,00,000	2,50,00,000	Within 3 (Three) Month
2.	Secured Financial Creditors	Secured	2,75,98,19,470	1,05,59,17,291	
3.	Unsecured Financial Creditors	Unsecured	2,25,80,96,119	36,12,95,379	

4.	Operational Creditors	Unsecured	20,54,01,574	20,54,016	
5.	Statutory Dues	Secured	97,37,838	97,37,838	
6.	Employees/ Workmen	Unsecured	16,48,036	16,48,036	
7.	Infusion in the Company for capital expenditure	No claims	-	20,00,00,000	Within 2 (Two) Years
8.	Infusion in the Company for repairs and working capital	No claims	-	10,00,00,008	
	Total		5,23,47,03,037	1,75,56,52,568	

25. The CIRP cost is assumed to be not more than Rs. 2.5 crore. However, the Insolvency Resolution Process Cost may increase until the Resolution Plan is approved and possession of the Corporate Debtor is handed over to the Successful Resolution Applicant after the said approval. The amount incurred by the Applicant towards Insolvency Resolution Process Cost after filing this present Interlocutory Application, and if the said incurred amount cannot be satisfied from the Lease Rent, will be communicated to the Successful Resolution Applicant every fortnight and the said amount will be paid by the Successful Resolution Applicant in priority over other payment

26. The Total outstanding Secured Financial Creditors along with the guarantees and underlying securities shall be assigned under this Resolution Plan at a total consideration of Rs. 1,05,59,17,291/- (Rupees One Hundred and Five Crores Fifty-Nine Lakhs Seventeen Thousand Two Hundred and Ninety-one only) in favour of the successful Resolution Applicant. The only exception to assignment would be of The Thane District Central Co-Op. Bank Limited and The Solapur Central Co-Op.

Bank Limited wherein no assignment of debt will be made. The amount paid to Sugar Development Fund is 86.05% as they are the sole first charge holder and for the rest it shall be 30% of admitted and verified amount of the Secured Financial Creditor.

27. The Total outstanding Unsecured Financial Creditors along with the guarantees and underlying securities shall be assigned under this Resolution Plan at a total consideration of Rs. 36,12,95,379/- (Rupees Thirty-Six Crore Twelve Lakhs Ninety-Five Thousand Three Hundred and Seventy-Nine Only) in favour of the successful Resolution Applicant. The unsecured financial creditors are being paid 16% of the admitted and verified amount. The only exception to assignment would be of The Thane District Central Co-Op. Bank Limited and The Solapur Central Co-Op. Bank Limited wherein no assignment of debt will be made.
28. The Total amount of outstanding Statutory Dues of Corporate Debtor as per Information Memorandum is Rs. 97,37,838/- (claim admitted for) (Rupees Ninety-Seven Lakhs Thirty-Seven Thousand Eight Hundred and Thirty-Eight Only). The said amount of Provident Fund dues shall be paid in full i.e. for an amount of Rs. 97,37,838/- (claim admitted for) (Rupees Ninety-Seven Lakhs Thirty-Seven Thousand Eight Hundred and Thirty-Eight Only).
29. The total payment proposed to Employees and Workmen of Corporate Debtor is Rs. 16,48,036/- which as per the present claim is 100%.

Section 30(2) of the Code

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

- a) Provides for payment of Insolvency Resolution Process cost in a manner specified by the Board in the priority to the payment of other debts of the corporate debtor;
 - b) Provides for payment of debts of operational creditor in such manner as may be specified by the board which shall not be less than
 - (i) The amount to be paid to such creditors in the event of liquidation of the corporate debtor under Section 53; or
 - (ii) The amount that would have been paid to such creditors, if the amount to be distributed under the Resolution Plan had been distributed in accordance with sub-section (1) of Section 53 in the event of liquidation of the corporate debtor.
 - c) Provides for management of the affairs of the Corporate Debtor after approval of Resolution Plan;
 - d) The implementation and supervision of Resolution Plan;
 - e) Does not prima facie contravene any of the provisions of the law for time being in force,
 - f) Confirms to such other requirements as may be specified by the Board.
 - g) As per the Affidavit, the Resolution Applicant is not covered under 29A.
31. In compliance of Regulation 38 of CIRP Regulations, the Resolution Professional confirms that the Resolution plan provides that
- a) The amount due to the Operational Creditors under resolution plan shall be given priority in payment over Financial Creditors.

- b) It has dealt with the interest of all Stakeholders including Financial Creditors and Operational Creditors of the CD.
- c) A statement that neither the Resolution Applicants nor any related parties have failed to implement nor have contributed to the failure of implementation of any other Resolution Plan approved by the AA in the past.
- d) The terms of the plan and its implementation schedule.
- e) The management and control of the business of the CD during its term.
- f) Adequate means of Supervising its implementation.
- g) The Resolution Plan Demonstrate that it addresses
 - i. The cause of the Default
 - ii. It is feasible and viable
 - iii. Provision for effective implementation
 - iv. Provisions for approvals required and the time lines for the same.
 - v. Capability to Implement the Resolution Plan

32. The Resolution Professional has annexed Form H of the Application under Regulation 39(4) In FORM H of the CIRP Regulations to certify that the resolution plan as approved by the CoC meets all the requirements of the IBC and its Regulations. The relevant extracts are as follows -

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. Ritesh R. Mahajan, an insolvency professional enrolled with ICSI Institute of

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Insolvency Professionals and registered with the Board with registration number IBBI/ IPA-002/IP-N00048/2017-18/10132, am the resolution professional for the corporate insolvency resolution process (CIRP) of M/s Indian Sugar Manufacturing India Limited (CD).

2. *The details of the CIRP are as under:*

Sl. No.	Particulars	Description
1	<i>Name of the CD</i>	<i>Indian Sugar Manufacturing India Limited</i>
2	<i>Date of Initiation of CIRP</i>	<i>23rd March, 2023</i>
3	<i>Date of Appointment of IRP</i>	<i>23rd March, 2023</i>
4	<i>Date of Publication of Public Announcement</i>	<i>31st March, 2023</i>
5	<i>Date of Constitution of CoC</i>	<i>15th April, 2023</i>
6	<i>Date of First Meeting of CoC</i>	<i>21st April, 2023</i>
7	<i>Date of Appointment of RP</i>	<i>01st May, 2023</i>
8	<i>Date of Appointment of Registered Valuers</i>	<i>06th May, 2023</i>
9	<i>Date of Issue of Invitation for EoI</i>	<i>1.) 20th May, 2023 ; 2.) 18th June, 2023 (Revised EOI)</i>
10	<i>Date of Final List of Eligible Prospective Resolution Applicants</i>	<i>27th July, 2023</i>

11	<i>Date of Invitation of Resolution Plan</i>	<i>20th July, 2023</i>
12	<i>Last Date of Submission of Resolution Plan</i>	<i>21st August, 2023</i>
13	<i>Date of Approval of Resolution Plan by CoC</i>	<i>18th December, 2023</i>
14	<i>Date of Filing of Resolution Plan with Adjudicating Authority</i>	<i>21st December, 2023</i>
15	<i>Date of Expiry of 180 days of CIRP</i>	<i>19th September, 2023</i>
16	<i>Date of Order extending the period of CIRP</i>	<i>03rd October, 2023</i>

17	<i>Date of Expiry of Extended Period of CIRP</i>	<i>18th December, 2023</i>
18	<i>Fair Value (Rs.)</i>	<i>133,05,42,702/-</i>
19	<i>Liquidation value (Rs.)</i>	<i>88,98,10,405/-</i>
20	<i>Number of Meetings of CoC held</i>	<i>6 (Six)</i>

*I have examined the Resolution Plan received from Resolution Applicant **Consortium of Shri Dutt India Private Limited and Shri Dutt Biofuels Private Limited** and approved by Committee of Creditors (CoC) of **Indian Sugar Manufacturing India Limited (Under CIRP)**.*

3. *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 **Consortium of Shri Dutt India Private Limited and Shri Dutt Biofuels 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 **100% 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.*

4. *The list of financial creditors of the CD Indian Sugar Manufacturing India Limited being members of the CoC and distribution of voting share among them is as under:*

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<i>Sl. No.</i>	<i>Name of Creditor</i>	<i>Voting Share (%)</i>	<i>Voting for Resolution Plan (Voted for / Dissented / Abstained)</i>
1	<i>Sugar Development Fund (SDF) represented by IFCI Limited</i>	8.85%	<i>Voted For</i>
2	<i>The Karnataka State Co-operative Apex Bank Limited</i>	18.87%	<i>Voted For</i>
3	<i>The Thane District Central Co-op. Bank Limited</i>	23.31%	<i>Voted For</i>
4	<i>The Solapur District Central Co-operative Bank Ltd</i>	2.83%	<i>Voted For</i>
5	<i>Shri Dutt Biofuels Private Limited</i>	17.86%	<i>Voted For</i>
6	<i>State Bank of India, Chadchan</i>	8.48%	<i>Voted For</i>
7	<i>Dhanashri Multi State Co-operative Credit Society Limited,</i>	1.41%	<i>Voted For</i>
8	<i>Saisidha Sugar Equipments And Engineering Company Private Limited</i>	18.37%	<i>Voted For</i>
	Total	100.00%	

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

6A. Minutes of the committee meeting relating to discussion and decisions about resolution plan are attached with this certificate

7. The amounts provided for the stakeholders under the Resolution Plan is as under:
(Amount in Rs. lakh)

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<i>Sl. No.</i>	<i>Category of Stakeholder*</i>	<i>Sub-Category</i>	<i>Amount Claimed</i>	<i>Amount Admitted</i>	<i>Amount Provide d under the Plan#</i>	<i>Amount Provided to the Amount Claimet (%)</i>
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>	<i>(5)</i>	<i>(6)</i>	<i>(7)</i>
1	Secured Financial Creditors	<i>(a) Creditors not having a right to vote under sub-section (2) of section 21</i>	NIL	NIL	NIL	NIL
		<i>(b) Other than (a) above:</i>				
		<i>(i) who did not vote in favour of the resolution Plan</i>	NIL	NIL	NIL	NIL
		<i>(ii) who voted in favour of the resolution plan</i>	2,76,21,79,993	2,75,98,19,470	105,59,17,291	38.23%
		<i>Total[(a) +(b)]</i>	2,76,21,79,993	2,75,98,19,470	105,59,17,291	38.23%

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2	<i>Unsecured Financial Creditors</i>	<i>(a) Creditors not having a right to vote under sub-section (2) of section 21</i>	45,73,38,000	42,26,01,407	6,76,16,225	14.78 %
		<i>(b) Other than (a) above:</i>				
		<i>(i) who did not vote in favour of the resolution Plan</i>	NIL	NIL	NIL	NIL

		<i>(ii) who voted in favour of the resolution plan</i>	1,83,54,94,712	1,83,54,94,712	29,36,79,154	16.00%
		<i>Total[(a) + (b)]</i>	2,29,28,32,712	2,25,80,96,119	36,12,95,379	15.76%
3	<i>Operational Creditors</i>	<i>(a) Related Party of Corporate Debtor</i>	NIL	NIL	NIL	NIL
		<i>(b) Other than (a) above:</i>				
		<i>(i) Government</i>	97,37,838	97,37,838	97,37,838	100.00%
		<i>(ii) Workmen</i>				55.54%
		<i>(iii) Employees</i>	29,67,259	16,48,036	16,48,036	0.41%
		<i>(iv) Other Operational Creditor</i>	50,29,91,624	20,54,01,574	20,54,016	
		<i>Total[(a) + (b)]</i>	51,56,96,721	21,67,87,448	1,34,39,890	2.61%

	<i>Other debts and dues</i>		5,00,000	NIL	NIL	0.00%
<i>Grand Total</i>			557,12,09,426	523,47,03,037	143,06,52,560	25.68%

33. On perusal of the Resolution Plan, we find that the Resolution Plan provides for the following:
- Payment of CIRP Cost as specified u/s 30(2)(a) of the Code.
 - Repayment of Debts of Operational Creditors as specified u/s 30(2)(b) of the Code.
 - For management of the affairs of the Corporate Debtor, after the approval of Resolution Plan, as specified U/s 30(2)(c) of the Code.
 - The implementation and supervision of Resolution Plan by the RP and the CoC as specified u/s 30(2)(d) of the Code.
34. The RP has complied with the requirement of the Code in terms of Section 30(2)(a) to 30(2)(f) and Regulations 38(1), 38(1)(a), 38(2)(a), 38(2)(b), 38(2)(c) & 38(3) of the Regulations.
35. The RP has filed Compliance Certificate in Form-H along with the Plan. On perusal the same is found to be in order. The Resolution Plan has been approved by the CoC by majority of 100%.
36. The Applicant has filed IA No. 299 of 2024 seeking an extension of CIRP period of the Corporate Debtor till 07.01.2024. The Applicant submits that the CIRP period was expiring on 18.12.2023. The Applicant placed before the CoC in its 6th meeting held on 05.12.2023 an agenda for extending the CIRP period by 60 days, which was approved by 90.10% voting share. Since, the Resolution Plan application stands

approved by the CoC with 100% voting share, we deem it fit to extend the CIRP period till 07.01.2024.

37. The Resolution Plan stipulates that the proceeds arising out the recoveries made from PUFEE transactions will be distributed to the CoC members in accordance with their voting share. The Relevant portion of the Plan is reproduced hereinbelow:

“PART I: PROPOSAL FOR CONTINGENT LIABILITIES OF CORPORATE DEBTOR

...5. The recoveries out of PUFEE transactions, if any will be distributed to the COC members in accordance with their voting share. The litigation for the same will be looked into by the Resolution Applicant.”

38. As far as CIBIL report clearances pertaining to all the farmers and H&T contractors associated with the Corporate Debtor are concerned, CIBIL report clearance to be done immediately upon approval of the Resolution Plan. The Bank of Baroda, Bank of India, State Bank of India, Dhanshree Multi State Co-operative Bank, Indian Overseas Bank shall provide an account closing/clearance certificate to all the H & T Contractors & farmers against the full and final settlement of dues of the Corporate Debtor.

39. It is hereby clarified that the Carry Forward of losses and unabsorbed depreciation shall be subject to necessary compliances with the provisions under Section 79 of the Income Tax Act, 1961.

40. The relief sought under Section 66 and 230-232 of the Companies Act, 2013 are allowed subject to adherence to filing of prescribed documents with the applicable authorities along with prescribed fees, if any applicable to such forms. However, the company other than Corporate Debtor shall follow the due procedure for

scheme of arrangement in terms of Section 230-232 and the approval of this Tribunal shall be deemed to be granted qua Corporate Debtor.

41. In *K Sashidhar v. Indian Overseas Bank & Others* (in Civil Appeal No.10673/2018 decided on 05.02.2019) the Hon'ble Apex Court held that if the CoC had approved the Resolution Plan by requisite percent of voting share, then as per section 30(6) of the Code, it is imperative for the Resolution Professional to submit the same to the Adjudicating Authority (NCLT). On receipt of such a proposal, the Adjudicating Authority is required to satisfy itself that the Resolution Plan as approved by CoC meets the requirements specified in Section 30(2). The Hon'ble Apex Court further observed that the role of the NCLT is 'no more and no less'. The Hon'ble Apex Court further held that the discretion of the Adjudicating Authority is circumscribed by Section 31 and is limited to scrutiny of the Resolution Plan "as approved" by the requisite percent of voting share of financial creditors. Even in that enquiry, the grounds on which the Adjudicating Authority can reject the Resolution Plan is in reference to matters specified in Section 30(2) when the Resolution Plan does not conform to the stated requirements.
42. In view of the discussions and the law thus settled, the instant Resolution Plan meets the requirements of Section 30(2) of the Code and Regulations 37, 38, 38 (1A) and 39 (4) of the Regulations. The Resolution Plan is not in contravention of any of the provisions of Section 29A of the Code and is in accordance with law. The same needs to be approved. Hence ordered.
43. The Resolution Plan annexed to the Application is hereby approved. It shall become effective from this date and shall form part of this order with the following directions:

- i. It shall be binding on the Corporate Debtor, its employees, members, creditors, including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force is due, guarantors and other stakeholders involved in the Resolution Plan.
- ii. The approval of the Resolution Plan shall not be construed as waiver of any statutory obligations/liabilities of the Corporate Debtor and shall be dealt by the appropriate Authorities in accordance with law. Any waiver sought in the Resolution Plan, shall be subject to approval by the Authorities concerned in light of the Judgment of Supreme Court in *Ghanshyam Mishra and Sons Private Limited v/s. Edelweiss Asset Reconstruction Company Limited*, the relevant para's of which are extracted herein below:

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

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

(iii) consequently, all the dues including the statutory dues owed to the Central Government, any State Government or any local authority, if not part of the resolution plan, shall stand extinguished

and no proceedings in respect of such dues for the period prior to the date on which the adjudicating authority grants its approval under Section 31 could be continued.”

- iii. The Memorandum of Association (MoA) and Articles of Association (AoA) shall accordingly be amended and filed with the Registrar of Companies (RoC), Mumbai, Maharashtra for information and record. 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.
- iv. The moratorium under Section 14 of the Code shall cease to have effect from this date.
- v. The Applicant shall supervise the implementation of the Resolution Plan and file status of its implementation before this Authority from time to time, preferably every quarter.
- vi. 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.
- vii. The Applicant shall forthwith send a certified copy of this Order to the CoC and the Resolution Applicant, respectively for necessary compliance.

Sd/-
PRABHAT KUMAR
Member (Technical)
06.02.2024
Priyal

Sd/-
JUSTICE V.G. BISHT
Member (Judicial)