

Annexure – 2

Name of the corporate debtor: Darshan Developers Private Limited ; Date of commencement of CIRP: July 26, 2021 ; List of creditors as on: October 03, 2022

List of Unsecured financial creditors (other than financial creditors belonging to any class of creditors)

(Amount in ₹)

Sl. No.	Name of authorised representative, if any	Identification No.	Details of claim received		Details of claim admitted				Amount of contingent claim	Amount of any mutual dues, that may be set-off	Amount of claim under verification	Amount of claim not admitted	Remarks, if any
			Date of receipt	Amount claimed	Amount of claim Admitted	Nature of Claim	Whether related party?	% voting share in CoC, if applicable					
1	TDH Realty LLP	AAK-7986	12.08.2021	1,25,60,36,505	0	Unsecured	No	0	0	0	0	1,25,60,36,505	Refer Note 1
2	Safe Home Developer s & Contractors	Mr. Abdul Khatri (ADGPK4179H)	30.06.2022	13,21,32,336	0	Unsecured	No	0	0	0	0	13,21,32,336	Refer Note 2
3	Safe Citi Developers Private Limited	U45200MH2005PTC151886	30.06.2022	2,49,00,000	0	Unsecured	No	0	0	0	0	2,49,00,000	Refer Note 2
	Total	-	-	1,41,30,68,841	0	-	-	0	0	0	0	1,41,30,68,841	-

Note 1:

The amount of claim of INR 1,25,60,36,505 has not been admitted by the IRP and an IA No. 685 of 2022 has been filed by the claimant. The said matter is pending adjudication before the Hon'ble NCLT Mumbai Bench.

Note 2:

As per the Joint Venture Agreement, the Corporate Debtor had to make staggered payment to Safe Citi Developers Private Limited (Safe Citi), wherein certain payments have been made by the Corporate Debtor to Safe Citi. Your claim of INR 2,49,00,000 submitted in Form C is inadmissible as an Operational Debt on the following grounds supported by judgements:

- a. In the case of S. M Builders and Developers vs Ramee Constructions Private Limited; the National Company Law Tribunal (Mumbai) has dealt with the scope of Section 5(21) and the Hon'ble Tribunal defined Operational Debt as a claim in respect of the "Provision of goods or services including employment, or a debt in respect of the repayment of dues arising under any law for the time being in force and payable to the Central Government, any State Government or any local authority". The bench held that the Petitioner was a Joint Venture Partner with the Corporate Debtor and had not made any claim in respect of the provision of goods or services. Furthermore, the debt claimed therein did not arise under any law for the time being in force payable to Central Government or State Government. Therefore, it was of the view that the Petitioner did not come within the meaning of "Operational Creditor as defined under sub-section 20 read with sub-section 21 of Section 5 of the Code which is a prerequisite for triggering insolvency under the Code".

- b. The aforesaid case also referred M/s. Sree Sankeshwara Foundation and Investments vs. M/s Dugar Housing limited, wherein the NCLAT made a similar observation that both the Resolution Applicant and Corporate Debtor being parties to a joint venture project, the Applicant could not claim to be “Operational Creditor” as the debt claimed did not relate to supply of goods nor service rendered by the Appellant.

Note 3:

The claim submitted in the Form C is on the basis of Joint Venture Agreement dated 5 August 2008 as well as the Development Agreement dated 10 March 2013. Besides the above-mentioned documents, you have also relied upon the Society Development Agreement dated 14 January 2004, the Society Power of Attorney dated 14 February 2004, Slum Authority LOI dated 30 June 2005 and the Slum Authority revised LOI dated 10 May 2021. As per the Development Agreement, the Corporate Debtor had to make staggered payment to Safe Home Developers and Contractors (Safe Home), wherein certain payments have been made by the Corporate Debtor to Safe Home. Your claim of INR 13,21,32,336 submitted in Form C is inadmissible as an Operational Debt on the following grounds supported by judgements:

- a. In the case of S. M Builders and Developers vs Ramee Constructions Private Limited; the National Company Law Tribunal (Mumbai) has dealt with the scope of Section 5(21) and the Hon’ble Tribunal defined Operational Debt as a claim in respect of the “Provision of goods or services including employment, or a debt in respect of the repayment of dues arising under any law for the time being in force and payable to the Central Government, any State Government or any local authority”. The bench held that the Petitioner was a Joint Venture Partner with the Corporate Debtor and had not made any claim in respect of the provision of goods or services. Furthermore, the debt claimed therein did not arise under any law for the time being in force payable to Central Government or State Government. Therefore, it was of the view that the Petitioner did not come within the meaning of “Operational Creditor as defined under sub-section 20 read with sub-section 21 of Section 5 of the Code which is a prerequisite for triggering insolvency under the Code”.
- b. The aforesaid case also referred M/s. Sree Sankeshwara Foundation and Investments vs. M/s Dugar Housing limited, wherein the NCLAT made a similar observation that both the Resolution Applicant and Corporate Debtor being parties to a joint venture project, the Applicant could not claim to be “Operational Creditor” as the debt claimed did not relate to supply of goods nor service rendered by the Appellant.