

  
**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
DIVISION BENCH – I, CHENNAI**

**IA(IBC)/851(CHE)/2023 in CP(IB)/203(CHE)/2021**

*(Filed under Sec. 30(6) & 31 of the Insolvency & Bankruptcy Code, 2016)*

*In the matter of M/s. Rosvar Steels Pvt. Ltd.*

CA M. Suresh Kumar  
*Resolution Professional of*  
**M/s. Rosvar Steels Private Limited**  
M/s. SPP & Co., Chartered Accountants,  
No.27/9, Nivedh Vikas, Pankaja Mill Road,  
Puliyakulam, Coimbatore – 641 045

*... Applicant*

Along with

**IA(IBC)/1581(CHE)/2023 in CP(IB)/203(CHE)/2021**

*(Filed under Sec. 30(6) & 31 of the Insolvency & Bankruptcy Code, 2016)*

*In the matter of M/s. Rosvar Steels Pvt. Ltd.*

M/s. Lotus Steels  
Rep. by its proprietor,  
Mr. Rambabu Kankani,  
16/1, S.N. Layout,  
Edyarpalayam Post,  
Kavundampalayam,  
Coimbatore – 641 025

*... Applicant*

-Vs-

1. CA M. Suresh Kumar  
*Resolution Professional of*  
**M/s. Rosvar Steels Private Limited**  
M/s. SPP & Co., Chartered Accountants,  
No.27/9, Nivedh Vikas, Pankaja Mill Road,  
Puliyakulam, Coimbatore – 641 045



2. Ravichandran  
1/234, V.R. Gardens,  
Maddampalayam,  
Bilichi Post, Coimbatore – 641 019
3. Ragulan,  
1/234, V.R. Gardens  
Maddampalayam,  
Bilichi Post, Coimbatore – 641 019

... Respondents

Present:

*For Applicant* : *A.G. Sathyanarayana, Advocate*  
*In IA(IBC)/851(CHE)/2023*

*A. Vidya, Advocate*  
*P. Mohan Prasad, Advocate*  
*For M/s. Viruksham Legal*  
*In IA(IBC)/1581(CHE)/2023*

CORAM:

**SANJIV JAIN, MEMBER (JUDICIAL)**  
**VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)**

*Order Pronounced on 17<sup>th</sup> November 2023*

**ORDER**

*(hearing conducted physical mode)*

IA(IBC)/851(CHE)/2023 is an Application filed by the Resolution Professional of the Corporate Debtor viz., **Rosvar Steels Private Limited** (*hereinafter referred to as 'Corporate Debtor'*) under Section 30(6) & 31 of the Insolvency and Bankruptcy Code, 2016 (in short 'IBC, 2016') read



with Regulation 39 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (in short, 'CIRP Regulation, 2016') seeking relief as follows;

- A. *To pass an order approving the Resolution Plan which was approved by the CoC in its 9<sup>th</sup> CoC meeting held on 25.04.2023 as per Sections 30(6) & 31 of the Code; and*
- B. *To pass such other orders or further orders which may deem to be fit and proper in the interest of justice.*

**2. CORPORATE INSOLVENCY RESOLUTION PROCESS –  
ROSVAR STEELS PRIVATE LIMITED**

2.1. In an Application filed under Section '7' of the IBC, 2016, by the Financial Creditor, the CIRP in respect of the Corporate Debtor was initiated by this Tribunal vide order dated 09.06.2022 and one Mrs. Jayasree was appointed as the IRP. The IRP caused paper publication on 16.06.2022 in accordance with under Section 15 of IBC, 2016 r/w Regulation 6 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 in "Financial Express" (English) and "Makkal Kural" (Tamil).

2.2. It is stated that the 1<sup>st</sup> meeting of the CoC was convened on 13.07.2022 where the discussion were made for appointment of the "Resolution Professional". In the meantime, it is stated that the IRP appointed the IBBI



Registered Valuers for Plant & Machinery and Land & Building.

- 2.3. It is stated that the IRP has issued the Expression of Interest viz. Form – G and the same was published by the IRP on 26.08.2022 in “The New Indian Express” (English) and “Daily Thanthi” (Tamil).
- 2.4. In the meantime, in the 3<sup>rd</sup> CoC meeting it was resolved to appoint the Applicant herein as the Resolution Professional in respect of the Corporate Debtor. Accordingly, in an Application moved by the CoC in IA(IBC)/1021(CHE)/2022, this Tribunal vide its order dated 27.10.2022 appointed the Applicant herein as the Resolution Professional in respect of the Corporate Debtor.
- 2.5. It is submitted that the IRP has convened the 5<sup>th</sup> & 6<sup>th</sup> CoC meetings on 22.09.2022 and 10.10.2022 respectively and got approval of the Information Memorandum, Eligibility criteria and RFRP from the CoC members. Further it is stated that the IRP has updated the CIRP and receipt of Eols and further circulated the list of Eligible Participants to the CoC members.
- 2.6. It is submitted that the Applicant herein has taken possession of the Corporate Debtor on 07.11.2022 and



convened the 6<sup>th</sup> CoC meeting on 17.11.2022, wherein the RP has updated the CoC about the receipt of 2 Resolution plans and the same was opened in front of the CoC members. It is stated that the the CoC member directed the RP to negotiate with the PRAs for revising improved offer in the Resolution Plan since both the Resolution plans submitted by the two PRAs did not match the expected values and also the implementation timeline was quite higher.

- 2.7. It is submitted that the Applicant / RP convened the 7<sup>th</sup> CoC meeting on 03.12.2022, wherein the PRAs sought for a weeks' time for submission of revised resolution plan and the CoC after detailed negotiations agreed for the same.
- 2.8. In the meantime, since the 180 day CIRP was about to end on 06.12.2022, the RP moved an Application seeking extension of CIRP for 90 days and this Tribunal vide its order dated 03.03.2023 passed in IA(IBC)/382(CHE)/2023 has extended the CIRP period.
- 2.9. Thereafter, the RP placed the revised Resolution Plans received from both the PRAs with the CoC members in its 9<sup>th</sup> CoC meeting held on 25.04.2023, wherein the CoC has considered the revised resolution plan dt. 28.03.2023 as submitted by the promoters of the Corporate Debtor. It is stated that the Corporate Debtor is an MSME undertaking



and qualified under section 240A of the Code read with Section 29A of IBC, 2016 to submit a Resolution Plan.

2.10. It is stated that the Applicant / RP has duly verified the Resolution Plan and it was found that the Resolution Plan submitted by both the PRAs meets the conditions as laid down under Section 30 of IBC, 2016.

2.11. It is submitted that the proposed Resolution Amount in both the Resolution Plans are more than the Liquidation Value and both the PRAs meet the Minimum Eligibility Criteria as fixed by the CoC and also the PRAs are having adequate net worth and financial resources to pay the Resolution Plan amount and also to provide the required Bank Guarantees. The details of the Overall Resolution Plan comparison is as follows;

Particulars	Amount Claimed	Amount Admitted	Settlement Value	
			Ravichandran & Ragulan	V.Rambabu Kankani
Secured Financial Creditors	35,34,72,143	35,34,72,143	13,72,49,971	10,60,41,000
Unsecured Financial Creditors	2,72,87,315	2,72,87,315	19,10,112	27,29,000
Unsecured Financial Creditors [Related Party]	2,91,48,891	2,91,48,891	-	-
Operational Creditors [Workmen]	-	-	-	-
Operational Creditors [Employees]	-	-	-	-
Operational Creditors [Government Dues]	4,60,94,699	4,60,94,699	32,26,629	10,17,360
Operational Creditors [Others]	10,09,95,726	10,07,19,499	70,50,365	1,00,72,000
<b>Total Claims to be settled</b>	<b>55,69,98,774</b>	<b>55,67,22,547</b>	<b>14,94,37,077</b>	<b>11,98,59,360</b>
<b>CIRP Cost - Estimated</b>			<b>50,00,000</b>	<b>50,00,000</b>
Restart Expenses		-	10,00,000	10,00,000
Contingency		-	15,00,000	15,00,000
<b>Total Plan Value</b>			<b>15,69,37,077</b>	<b>12,73,59,360</b>
<b>Payment Duration</b>			<b>12 Months</b>	<b>24 Months</b>



- 2.12. It is stated that the CoC members expressed their satisfaction as regards the financial strength of the parties for implementation of the plan. Further, the Due Diligence certificate for both the plans was submitted to the CoC members by the Resolution Professional and the same was taken on record after discussion along with the Bid Evaluation Matrix.
- 2.13. It is stated that the CoC after detailed discussions and in its deliberations has approved the plan submitted by **Mr. Ravichandran and Ragulan** with **97.60%** Voting rights through E-voting and **2.40%** abstained from voting considering the payout ratio timelines in the present economic scenario and the background of the Corporate Debtor. Further, it is submitted that the Resolution Plan of Mr.V.Rambabu Kankani was rejected by the CoC members.
- 2.14. It is stated that the CoC approved the Resolution Plan submitted by Ravichandran and Ragulan by considering the feasibility and viability of the Resolution Plan with 97.6% voting rights by passing the following resolution:

*“RESOLVED THAT the Revised Resolution Plan dated 28.03.2023 submitted by Mr. Ravichandran & Ragulan for the Resolution Process of the Corporate Debtor is hereby approved and confirmed by this committee under Section 30(4) of the Insolvency and Bankruptcy Code, 2016 and the*



*RP is directed to take necessary steps for obtaining the approval of the Adjudicating Authority under the provisions of IBC”*

- 2.15. It is submitted that further to the approval of the Resolution Plan, the RP has given a letter declaring the PRA as the Successful Resolution Applicant (SRA) i.e. Mr.Ravichandran and Ragulan and requested them to submit the required 10% Performance Bank Guarantee. In pursuance of the same, the SRA has transferred the Bank Guarantee viz. RTGS bearing No. FDRLH23125505197-RAVI dt.05.05.2023 into the CIRP account of the CD on 05.05.2023 itself.
- 2.16. It is submitted that the assets of the Corporate Debtor assets were not encumbered / charged / attached by any of the Statutory Authorities.
- 2.17. It is further submitted that the RP has conducted review of the transactions of the specified period and no avoidance transactions are identified during the review. Further the RP in discussion with the COC has decided not to appoint any external Forensic auditors as the RP's transaction review findings does not have any PUFEE transaction.
- 2.18. The Applicant has filed the Compliance Certificate 'Form – H' as required under Regulation 39(4) of the CIRP



Regulations, along with this Application. The list of Financial Creditors who voted for the Resolution Plan is as follows;

Sl. No.	Name of Creditor	Voting Share (%)	Voting for Resolution Plan (Voted for / Dissented / Abstained)
1	Indian Overseas Bank	92.83%	Voted for
2	Premkabir	0.98%	Voted for
3	Citi Bank	2.40%	Abstained
4	Celestium Financials Ltd	0.93%	Voted for
5	Ganeshamoorthy	0.64%	Voted for
6	JV Finance	0.22%	Voted for
7	Sivakumaran A	1.49%	Voted for
8	Vijaya Jagannathan	0.50%	Voted for
Total		100%	

Note: 97.6% In Favour; 2.4% Abstained; and 0% Dissented

### 3. OBJECTION TO RESOLUTION PLAN – IA(IBC)/1581(CHE)/2023

3.1. IA(IBC)/1581(CHE)/2023 is an Application filed by the Unsuccessful Resolution Application viz. Lotus Steels, Rep. by its Proprietor Mr. Rambabu Kankani, seeking relief as follows;

- A. *Implead the Applicant as a necessary and proper party in IA/851(CHE)/2023;*
- B. *Permit the Applicant to place on record its formal objections in respect of IA/851(CHE)/2023 seeking for approval of Resolution Plan of the 2<sup>nd</sup> Respondent for the Corporate Debtor;*



- C. *Direct the CoC members to reconsider the Resolution Plan submitted by the Applicant; and*
- D. *Pass any such further orders as may be deemed necessary in the best interest of justice and equity.*
- B. *To pass such other orders or further orders which may deem to be fit and proper in the interest of justice.*

3.2. It is stated that the Applicant submitted the Resolution Plan to the RP on 22.10.2022 and the RP invited the Applicant for discussion on 25.11.2022. It is stated that the Applicant has submitted a Revised Resolution Plan on 17.02.2023 which was not even considered by the CoC. Hence, it is stated that due consideration was not given to the proposal of the Applicant.

3.3. It is stated that the Resolution Plan of the Successful Resolution Applicant was approved without even considering the revised Resolution Plan submitted by the Applicant the Applicant was not given an equal opportunity to place the Revised Resolution Plan before the CoC.

3.4. The Respondent has filed reply. It is stated that the RP convened the 7<sup>th</sup> CoC meeting on 03.12.2022 wherein the PRAs sought weeks' time for submission of revised resolution plan after detailed negotiations and the same



was agreed by the CoC members. Further to the same, the RP has placed the revised resolution plans received from both the PRAs with the CoC members in its 9<sup>th</sup> CoC meeting held on 25.04.2023 for their discussion and deliberation.

3.5. It is stated that it was quite surprise to the CoC members that the applicant rather increasing the plan value has re-submitted the same plan with slight changes without increasing their Resolution Plan amount, however the Promoters of the Corporate Debtor quoted maximum value as much as possible and the same is suppressed by the Applicant with *malafide* intention and playing fraud before this Tribunal as it believed to be that they have not been provided any opportunity to revise their plans.

3.6. It is stated that the Applicant has submitted the revised resolution plan dt. 17.02.2023 and the RP has placed both the Resolution plans for discussion to the Committee of Creditors. Further, the CoC after detailed discussions and in its deliberations has approved the plan submitted by the Promoters of the Corporate Debtor with 97.60% Voting. rights through E-voting and 2.40% abstained from voting considering the payout ratio timelines in the present economic scenario and CD background considering the feasibility and viability and value maximization to the CD.



3.7. It is stated that the Applicant has submitted the Resolution Plan amount for a value of Rs.12,73,59,360/- for a period of 24 months as compared to the Promoters of the Corporate Debtor who gave the Resolution Plan amount for a value of Rs.15,69,37,077/- over a period of 12 months.

3.8. Heard the submissions made by the Applicant and Respondent. In the present case, the Resolution Plan amount offered by the Applicant is much less than the value of the amount offered by the Promoters of the Corporate Debtor. Moreover, the CoC in its commercial wisdom has approved the Resolution Plan of the Promoters of the Corporate Debtor. At this juncture, it is significant to refer to the Judgment of the Hon'ble NCLAT in the matter of M.K. Rajagopalan –Vs- S. Rajendran in Company Appeal (AT)(Ch)(Ins) No. 58 of 2023 wherein it is held as under;

*31. On a careful consideration of the respective contentions advanced on either side, this 'Tribunal', keeping in mind of a vital fact that the 'Petitioner / Appellant', being an 'Unsuccessful Resolution Applicant', has no 'Locus', to 'assail' a 'Resolution Plan' or its 'implementation', coupled with a candid fact that he is not a 'Stakeholder', as per Section 31 (1) of the I & B Code, 2016, in relation to the 'Corporate Debtor', this 'Tribunal', without any 'haziness', holds that the 'Petitioner / Appellant', is not an 'Aggrieved Person', coming within the ambit of Section 61 (1) of the I & B Code, 2016, especially, when he is not a 'Privy', to the 'Resolution Plan'. Viewed in that perspective, the 'Leave', sought for in IA No.*



215 of 2023 in Comp. App (AT) (CH) (INS.) No. 58 of 2023,  
sans merits.

3.9. Thus, it is now trite that an 'Unsuccessful Resolution Applicant', has no 'Locus', to 'assail' a 'Resolution Plan'. In view of the aforesaid circumstances, the present Application i.e. IA(IBC)/1581(CHE)/2023 stands **dismissed**.

#### 4. ABOUT THE RESOLUTION PLAN

4.1. The Resolution Plan dated 20.10.2022 (subsequently modified on 28.03.2022) submitted by the Successful Resolution Applicant, viz. **Mr.Ravichandran and Ragulan** provides for the following payments:

➤ Plan Allocation as follows:

TOTAL PLAN VALUE	RAVI & RAGULAN PLAN	
	Settlement %	Settlement value
Class of Creditors		
Secured financial creditors belonging to any class of creditors	-	-
Unsecured financial creditors belonging to any class of creditors	-	-
Secured financial creditors (other than financial creditors belonging to any class of creditors)	36%	12,72,49,971
Unsecured financial creditors (other than financial creditors belonging to any class of creditors)	7.00%	19,10,112
Unsecured financial creditors (Related Parties)	-	-
Operational creditors (Workmen)	-	-
Operational creditors (Employees)	-	-
Operational creditors (Government Dues)	7.00%	32,26,629
Operational creditors (other than Workmen and Employees and Government Dues)	7.00%	70,50,365
Other creditors, if any, (other than financial creditors and operational Creditors)	-	-
<b>Total Claims to be settled</b>	-	<b>13,94,37,077</b>
CIRP cost - estimated	-	50,00,000
Restart Expenses	-	10,00,000
Contingency	-	15,00,000
Payment to Secured Financial Creditors – towards PG	-	1,00,00,000
<b>TOTAL PLAN VALUE</b>	-	<b>15,69,37,077</b>



4.2. The Resolution Plan provides for payment of the CIRP Costs on actual basis and on priority to any other creditor of the Corporate Debtor. The unpaid CIRP costs, estimated at INR 50.00 lakh.

4.3 The timelines for implementation as follows;

➤ Timelines for implementation as follows:

<b>TOTAL FINANCIAL OUTLAY</b>					
	<b>30 DAYS</b>	<b>90 DAYS</b>	<b>6 months</b>	<b>12 months</b>	<b>TOTAL</b>
	<b>Rs. In lakhs</b>	<b>Rs. In lakhs</b>	<b>Rs. In lakhs</b>	<b>Rs. In lakhs</b>	<b>Rs. In lakhs</b>
Release of EMD paid - Capital Fund	25.00	-	-	-	25.00
Performance Guarantee- Capital Fund	38.62	-	-	-	38.62
Sale of Furnace Division	-	-	300.00	-	300.00
Capital fund brought in	61.38	-	-	-	61.38
Internal Generation of funds	-	6.34	52.85	-	59.19
Loan funds to be brought in	438.62	311.78	219.78	115.00	1,085.18
					-
	<b>563.62</b>	<b>318.12</b>	<b>572.63</b>	<b>115.00</b>	<b>1,569.37</b>
<b>Disbursement:</b>					
CIRP Cost	50.00	-	-	-	50.00
Restart Expenses	10.00	-	-	-	10.00
Payment to Secured Fin. Crs	318.12	318.12	636.25	-	1,272.50
Payment to Secured Fin. Crs - towards PG	-	-	-	100.00	100.00
<b>TOTAL PAYMENT TO SECURED FINANCIAL CREDITORS</b>	<b>318.12</b>	<b>318.12</b>	<b>636.25</b>	<b>100.00</b>	<b>1,372.50</b>
Payment to UnSecured Fin. Crs	19.10	-	-	-	19.10
Payment to Govt. Dues	32.27	-	-	-	32.27
Payment to other Operational Crs.	70.50	-	-	-	70.50
Provision for Employees	-	-	-	-	-
Contingency	-	-	-	15.00	15.00
	<b>500.00</b>	<b>318.12</b>	<b>636.25</b>	<b>115.00</b>	<b>1,569.37</b>



## 5. SOURCE OF FUND

5.1. An outlay of Rs.15.69,37,077/- (Rupees Fifteen Crores Sixty nine Lakhs thirty seven thousand and seventy seven only) is proposed under this Plan (Total Financial Outlay") in respect of insolvency resolution of the Company, which will comprise of:

- (a) Infusion of Rs.1.25 Crores Equity Subscription Amount either from own funds or from Supporting investors.
- (b) An amount of Rs.10.85 Crores as Loan funds shall be infused by the Resolution Applicants into the Company as loan as per the provisions of this Plan.
- (e) An amount of Rs.3 Crores as realization from the sale of the Furnace Division.
- (d) Rs.59,19,000/- is expected to be generated out of the operations of the CD during this period. However, the Resolution applicant undertakes to bring in this fund from his own source, incase the internal generation does not materialize,

## 6. CAPITAL RESTRUCTURING

6.1. This Plan proposes reduction of the Company's share capital from Rs.3,85,19,000/- to Rs.38,51,900/- without any payout to the shareholders of the company, by reducing the face value of each issued and outstanding equity share of the Company from Rs.10/- (Rupees Ten) to Re.1/- (Rupee



One) ("Face Value Reduction").The necessary corporate actions (if any) for Face Value Reduction shall be taken by the Monitoring Agent.

**6.2. Infusion of Equity:**

(i) A need based amount upto a maximum of Rs.1.25 Crores (Indian Rupees One Crores Twenty five lakhs only) (either in one or more tranches) shall be infused by the RA sourced from their Investors (indirectly or directly, through its subsidiary(les) / special purpose vehicle(s)/ limited liability partnership/ nominees of the Resolution Applicant into the Company from its own funds, in consideration of which, the Monitoring Agency on behalf of the Company will issue to 1.25 Crores equity shares of Rs.1/- each.

(ii) All the corporate actions (if any) required to achieve the aforesaid events shall be taken by the Monitoring Agent acting on behalf of the Company and upon completion of such delisting, Promoter Capital Reduction and Infusion of Rs.1.25 Crores Equity Subscription Amount, the Company's issued and paid up equity share capital shall stand at Rs.1,63,51,900/- (Indian Rupees One Crores Sixty Three Lakhs Fifty One thousand Nine Hundreds only). The equity shareholding of the CD post reduction shall be as follows;



Category of shareholder	% of Equity Shareholding
Mr. R. Ravichandran and Mr. G. Ragulan directly or indirectly through subsidiary(ies)/special purpose vehicle/limited liability partnership firms including nominees - Existing Promoter Group	100 %
Non-Promoter Shareholder (public shareholder)	Nil
<b>Total Issued, subscribed and Paid up equity Capital</b>	<b>100.00%</b>

**6.3. Reconstitution of board of directors and management of the Company**

- (i) From the NCLT Approval Date till the Handover Date, the powers of existing directors shall remain suspended and all the actions shall be taken by the Monitoring Agent at the instructions of the Resolution Applicant.
- (ii) On and from the Handover Date all existing directors of the Company shall be deemed to have resigned and vacated their office, and new board of directors of the Company shall be constituted in accordance with Applicable Law (including the applicable requirements of appointing independent directors)

**7. IMPLEMENTATION, MANAGEMENT AND SUPERVISION OF THE RESOLUTION PLAN**

- 7.1. The various timelines for implementation of the Resolution Plan is set out in Annexure – I of the Resolution Plan and the same is extracted hereunder;



Annexure - 1	
Various Timelines for Plan Implementation:	
Date of Order of AA approving the Plan	
Date of Receipt of the Order	T
Date of Formation of the Monitoring Committee	T+5
Date of Opening Escrow Account	T+5
Date of Release of IOB No Lien Deposit	T+30
Date of Deposit of Balance funds by RA (Over 6 months)	T+180
Date of Completion of mca formalities for extinguishment of Promoter Shares	T+30
Date of Completion of mca formalities for Issue of Fresh equity (Over 2 years as and when brought in by RA)	T+180
Date of Completion of mca formalities for inducting the new board	T+30
Date of handover of the physical possession of the CD	T+30
Date of Cancellation of all Charges over the Assets of the CD by SFC and others	T+180

7.2. The Resolution Applicants proposes that upon the approval of the Resolution Plan by the Hon'ble NCLT, Resolution Professional (currently the Resolution Professional) shall be appointed (by virtue of the order of the Hon'ble NCLT) and act as the monitoring agent ("Monitoring Agent) in consultation with the Resolution Applicants and the CoC (to the extent necessary), on such terms and fees as may be agreed between the Monitoring Agent and the Resolution Applicant, to run the Corporate Debtor as a going concern, to oversee the activities of the Corporate Debtor and to take all the necessary corporate actions required to implement this Plan, from NCLT Approval Date till the Handover Date.

7.3. Accordingly, the Monitoring Committee shall consist of

- (i) CA Mahalingam Suresh Kumar, RP – Chairman (Monitoring Agent)



- (ii) Representative of the CoC
- (iii) Representative of the Resolution Applicant

7.4. Monitoring Agent shall ensure that the implementation of the Resolution Plan is commenced from the NCLT Approval Date

7.5. "**Handover Date**" shall mean the date of issuance of fresh shares to Resolution Applicants or nominees of the Resolution Applicants.

7.6. The Monitoring Agent shall have the powers of a Resolution Professional under IBC to the extent applicable and as maybe required for carrying out the activities contemplated under this Plan. It is hereby clarified that the costs and fee to the Monitoring Agent and his advisors in respect of the same shall be paid from the cash flows of the Corporate Debtor and if the cash flows will be inadequate. same shall be paid by the Resolution Applicants.

7.7. The complete control of the Corporate Debtor and its business activities shall be transferred/handed over to the Resolution Applicant/newly appointed board of directors by the Monitoring Agent on the Handover Date. **However, the Monitoring Committee shall be in force till the implementation of the Resolution Plan.**



7.8. From NCLT Approval Date till Handover Date (i) the Monitoring Agent shall supervise the implementation of the Plan in consultation with the Resolution Applicants; (ii) On or after the NCLT Approval Date, the Monitoring Agent shall facilitate issue of new shares for the funds brought in by the RAs through the investor; (iii) the Monitoring Agent may decide to appoint advisors, legal and technical consultants, etc, as may be required with the consent of the Resolution Applicants and the CoC (to the extent necessary); and (iv) the management and operations of the Company shall be undertaken by the Monitoring Agent in consultation with the Resolution Applicants and the CoC (to the extent necessary) in the ordinary course and on a going concern basis.

7.9. From NCLT Approval Date till Handover Date, all the decisions which could otherwise have been taken by the Company's board of directors shall be taken by the Monitoring Agent in consultation with the Resolution Applicants.

7.10. Without prejudice to the foregoing, it is hereby clarified that all costs and fees relating to any pending disputes, ongoing litigations or any appeals filed on or prior to the Handover Date, where such disputes/ litigations pertain to



the insolvency resolution process of the Company and/or the Resolution Plan, and wherein the Resolution Professional is or has been made a party, such costs and expenses shall be met out of the cash flows of the Company and if the cash flows will be inadequate, same shall be paid by the Resolution Applicants.

7.11. If so required by the Monitoring Agent, the current management team of the Company will undertake all such actions and shall do all such acts, deeds and things as may be necessary to implement the Plan (including executing any and all documents as may be required for the purposes of implementation of the Plan).

**8. TABULATION OF VARIOUS COMPLIANCES REQUIRED UNDER THE PROVISIONS OF IBC, 2016**

8.1. The Applicant has submitted the details of various compliances as envisaged within the provisions of IBC, 2016 and CIRP Regulations, which requires a Resolution Plan to adhere to, which is reproduced hereunder:

CLAUSE OF S.30(2)	REQUIREMENT	HOW DEALT WITH IN THE PLAN
(a)	Plan must provide for payment of CIRP cost in priority to repayment of other debts of CD in the manner specified by the Board.	Clause 1.3 of the Resolution Plan.



(b)	Plan must provide for repayment of debts of OCs in such manner as may be specified by the Board which shall not be less than the amount payable to them in the event of liquidation u/s 53; or Plan must provide for repayment of debts of OCs in such manner as may be specified by the Board which shall be not less than 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 the order of priority in sub-section (1) of section 53, whichever is higher and (iii) provides for payment of debts of financial creditors who do not vote in favour of the resolution plan, in such manner as may be specified by the Board.	Clause 3.3 of the Resolution Plan,
(c)	Management of the affairs of the Corporate Debtor after approval of the Resolution Plan.	Clause 7.1 of the Resolution Plan.
(d)	Implementation and Supervision.	Clause 7.1 of the Resolution Plan.
(e)	Plan does not contravene any of the provisions of the law for the time being in force.	Clause 12.1 of the Resolution Plan.
(f)	Conforms to such other requirements as may be specified by the Board.	Clause 12.1 of the Resolution Plan.

**9. MEASURES REQUIRED FOR IMPLEMENTATION OF THE RESOLUTION PLAN IN TERMS OF REGULATION 37 OF CIRP REGULATIONS**



PARTICULARS	YES / NO
<i>A resolution plan shall provide for the measures, as may be necessary, for insolvency resolution of the corporate debtor for maximisation of value of its assets, including but not limited to the following: -</i>	
(a) transfer of all or part of the assets of the corporate debtor to one or more persons;	YES
(b) sale of all or part of the assets whether subject to any security interest or not;	YES
(c) restructuring of the corporate debtor, by way of merger, amalgamation and demerger;	NO
(d) the substantial acquisition of shares of the corporate debtor, or the merger or consolidation of the corporate debtor with one or more persons;	YES
(e) cancellation or delisting of any shares of the corporate debtor, if applicable;	NA
(f) satisfaction or modification of any security interest;	YES
(g) curing or waiving of any breach of the terms of any debt due from the corporate debtor;	YES
(h) reduction in the amount payable to the creditors;	YES



(i) extension of a maturity date or a change in interest rate or other terms of a debt due from the corporate debtor;	NO
(j) amendment of the constitutional documents of the corporate debtor;	NO
(k) issuance of securities of the corporate debtor, for cash, property, securities, or in exchange for claims or interests, or other appropriate purpose;	YES
(l) change in portfolio of goods or services produced or rendered by the corporate debtor;	NO
(m) change in technology used by the corporate debtor; and	NO
(n) obtaining necessary approvals from the Central and State Governments and other authorities.	YES

**10. MANDATORY CONTENTS OF THE RESOLUTION PLAN IN TERMS OF REGULATION 38 OF THE CIRP REGULATIONS:-**

<i>Reference to relevant Regulation</i>	<i>Requirement</i>	<i>How dealt with in the Resolution Plan</i>
38(1)	The amount due to the Operational Creditors under a Resolution Plan shall be given priority in payment over Financial Creditor.	Clause 3.3.1 and 3.3.2 of the Resolution Plan
38(1A)	A Resolution Plan shall include a statements as to how it has dealt with the interest of all stakeholders, including	Clause 3.1.1 of the Resolution Plan



<i>Reference to relevant Regulation</i>	<i>Requirement</i>	<i>How dealt with in the Resolution Plan</i>
	Financial Creditors and Operational Creditors of the Corporate Debtor	
38(1B)	A Resolution Plan shall include a statement giving details if the resolution Applicant or any of its related parties has 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.	Clause 12.1 of the Resolution Plan
38(2)	A Resolution Plan shall provide (a) the term of the plan and its implementation schedule	Clause 6.1 and 6.2 of the Resolution Plan.
	(b) the management and control of the business of the Corporate Debtor during its terms; and	Clause 7.1 of the Resolution Plan
	(c) adequate means for supervising its implementation	Clause 7.1 of the Resolution Plan
38(3)	A Resolution Plan shall demonstrate that (a) It addressed the cause of default;	Clause 2.1 (xiii) (xiv) (xv) (xvi) of the Resolution Plan
	(b) It is feasible and viable;	Clause 2.1 (xiii) (xiv) (xv) (xvi) of the Resolution Plan
	(c) it has provisions for its effective implementation;	Clause 2.1 (xiii) (xiv) (xv) (xvi) of the Resolution Plan
	(d) it has provisions for approvals required and the timeline for the same; and	Clause 2.1 (xiii) (xiv) (xv) (xvi) of the Resolution Plan
	(e) the Resolution Applicant has the capability to implement the Resolution Plan	Clause 2.1 (xiii) (xiv) (xv) (xvi) of the Resolution Plan

11. The successful Resolution Applicant has submitted a Certificate of Eligibility under Section 29A of IBC, 2016 to submit a Resolution Plan



under the provisions of IBC, 2016 and the same is filed by way of additional document to the typed set filed along with the Application.

## 12. ANALYSIS AND FINDINGS OF THIS TRIBUNAL

12.1. It is seen from Form – H that the Liquidation value of the Corporate Debtor is arrived at Rs.12.66 Crores and the corresponding Fair value is arrived at Rs.15.95 Crores and the Resolution Plan value is Rs.15.69 Crores.

12.2. Further, it is seen from Form – H, that the RP has NOT filed any Application under Section 43, 45, 49 and 66 of IBC, 2016.

12.3. In so far as the approval of the Resolution Plan is concerned, this Authority is convinced on the decision of the Committee of Creditors, following the much-celebrated Judgment of the Hon'ble Supreme Court in the matter of **K. Sashidhar –Vs– Indian Overseas Bank (2019) 12 SCC 150**, wherein in para 19 and 62 it is held as under;

“19.....In the present case, however, our focus must be on the dispensation governing the process of approval or rejection of resolution plan by the CoC. The CoC is called upon to consider the resolution plan under Section 30(4) of the I&B Code after it is verified and vetted by the resolution professional as being compliant with all the statutory requirements specified in Section 30(2).



62. ....In the present case, however, we are concerned with the provisions of I&B Code dealing with the resolution process. The dispensation provided in the I&B Code is entirely different. In terms of Section 30 of the I&B Code, the decision is taken collectively after due negotiations between the financial creditors who are constituents of the CoC and they express their opinion on the proposed resolution plan in the form of votes, as per their voting share. In the meeting of the CoC, the proposed resolution plan is placed for discussion and after full interaction in the presence of all concerned and the Resolution Professional, the constituents of the CoC finally proceed to exercise their option (business/commercial decision) to approve or not to approve the proposed resolution plan. In such a case, non-recording of reasons would not per-se vitiate the collective decision of the financial creditors. The legislature has not envisaged challenge to the “commercial/business decision” of the financial creditors taken collectively or for that matter their individual opinion, as the case may be, on this count.”

12.4. The Hon’ble Supreme Court of India in the matter of **Committee of Creditors of Essar Steels –Vs– Satish Kumar Gupta & Ors. in Civil Appeal No. 8766 – 67 of 2019** at para 42 has held as under;

42. ....Thus, it is clear that the limited judicial review available, which can in no circumstance trespass upon a business decision of the majority of the Committee of Creditors, has to be within the four corners of Section 30(2) of the Code, insofar as the Adjudicating Authority is concerned, and Section 32 read with Section 61(3) of the Code, insofar as the Appellate Tribunal is concerned, the parameters of such review having been clearly laid down in K. Sashidhar (supra).

12.5. The Hon’ble Supreme Court in the matter of **K. Sashidhar v. Indian Overseas Bank and Ors. (2019) 12 SCC 150** has lucidly delineated the scope and interference of the



Adjudicating Authority in the process of approval of the Resolution Plan and held as under;

“55. Whereas, the discretion of the adjudicating authority (NCLT) is circumscribed by Section 31 limited to scrutiny of the resolution plan “as approved” by the requisite per cent 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. Reverting to Section 30(2), the enquiry to be done is in respect of whether the resolution plan provides: (i) the payment of insolvency resolution process costs in a specified manner in priority to the repayment of other debts of the corporate debtor, (ii) the repayment of the debts of operational creditors in prescribed manner, (iii) the management of the affairs of the corporate debtor, (iv) the implementation and supervision of the resolution plan, (v) does not contravene any of the provisions of the law for the time being in force, (vi) conforms to such other requirements as may be specified by the Board. The Board referred to is established under Section 188 of the I&B Code. The powers and functions of the Board have been delineated in Section 196 of the I&B Code. None of the specified functions of the Board, directly or indirectly, pertain to regulating the manner in which the financial creditors ought to or ought not to exercise their commercial wisdom during the voting on the resolution plan under Section 30(4) of the I&B Code. The subjective satisfaction of the financial creditors at the time of voting is bound to be a mixed baggage of variety of factors. To wit, the feasibility and viability of the proposed resolution plan and including their perceptions about the general capability of the resolution applicant to translate the projected plan into a reality. The resolution applicant may have given projections backed by normative data but still in the opinion of the dissenting financial creditors, it would not be free from being speculative. These aspects are completely within the domain of the financial creditors who are called upon to vote on the resolution plan under Section 30(4) of the I&B Code.

58. Indubitably, the inquiry in such an appeal would be limited to the power exercisable by the resolution professional under Section 30(2) of the I&B Code or, at best, by the adjudicating authority (NCLT) under Section 31(2) read with Section 31(1) of



the I&B Code. No other inquiry would be permissible. Further, the jurisdiction bestowed upon the appellate authority (NCLAT) is also expressly circumscribed. It can examine the challenge only in relation to the grounds specified in Section 61(3) of the I&B Code, which is limited to matters “other than” enquiry into the autonomy or commercial wisdom of the dissenting financial creditors. Thus, the prescribed authorities (NCLT/NCLAT) have been endowed with limited jurisdiction as specified in the I&B Code and not to act as a court of equity or exercise plenary powers.”

*(emphasis supplied)*

12.6. Also, the Hon’ble Supreme Court in the matter of **Committee of Creditors of Essar Steel India Limited v. Satish Kumar Gupta and Ors.** (2020) 8 SCC 531 after referring to the decision in *K. Sashidhar (supra)* has held as follows;

“73. There is no doubt whatsoever that the ultimate discretion of what to pay and how much to pay each class or sub-class of creditors is with the Committee of Creditors, but, the decision of such Committee must reflect the fact that it has taken into account maximising the value of the assets of the corporate debtor and the fact that it has adequately balanced the interests of all stakeholders including operational creditors. This being the case, judicial review of the Adjudicating Authority that the resolution plan as approved by the Committee of Creditors has met the requirements referred to in Section 30(2) would include judicial review that is mentioned in Section 30(2)(e), as the provisions of the Code are also provisions of law for the time being in force. Thus, while the Adjudicating Authority cannot interfere on merits with the commercial decision taken by the Committee of Creditors, the limited judicial review available is to see that the Committee of Creditors has taken into account the fact that the corporate debtor needs to keep going as a going concern during the insolvency resolution process; that it needs to maximise the value of its assets; and that the interests of all stakeholders including operational creditors has been taken care of. If the Adjudicating Authority finds, on a given set of facts, that the aforesaid parameters have not been kept in view, it may send a resolution plan back to the Committee of Creditors to re-submit



such plan after satisfying the aforesaid parameters. The reasons given by the Committee of Creditors while approving a resolution plan may thus be looked at by the Adjudicating Authority only from this point of view, and once it is satisfied that the Committee of Creditors has paid attention to these key features, it must then pass the resolution plan, other things being equal."

*(emphasis supplied)*

12.7. The Hon'ble Supreme Court in its recent decision in **Jaypee Kensington Boulevard Apartments Welfare Association & Ors. v. NBCC (India) Ltd. & Ors.** in *Civil Appeal no. 3395 of 2020* dated 24.03.2021 has held as follows;

76. The expositions aforesaid make it clear that the decision as to whether corporate debtor should continue as a going concern or should be liquidated is essentially a business decision; and in the scheme of IBC, this decision has been left to the Committee of Creditors, comprising of the financial creditors. Differently put, in regard to the insolvency resolution, the decision as to whether a particular resolution plan is to be accepted or not is ultimately in the hands of the Committee of Creditors; and even in such a decision making process, a resolution plan cannot be taken as approved if the same is not approved by votes of at least 66% of the voting share of financial creditors. Thus, broadly put, a resolution plan is approved only when the collective commercial wisdom of the financial creditors, having at least 2/3rd majority of voting share in the Committee of Creditors, stands in its favour.

77. In the scheme of IBC, where approval of resolution plan is exclusively in the domain of the commercial wisdom of CoC, the scope of judicial review is correspondingly circumscribed by the provisions contained in Section 31 as regards approval of the Adjudicating Authority and in Section 32 read with Section 61 as regards the scope of appeal against the order of approval.

77.1. Such limitations on judicial review have been duly underscored by this Court in the decisions above-referred, where it has been laid down in explicit terms that the powers of the Adjudicating Authority dealing with the resolution plan do not



extend to examine the correctness or otherwise of the commercial wisdom exercised by the CoC. The limited judicial review available to Adjudicating Authority lies within the four corners of Section 30(2) of the Code, which would essentially be to examine that the resolution plan does not contravene any of the provisions of law for the time being in force, it conforms to such other requirements as may be specified by the Board, and it provides for: (a) payment of insolvency resolution process costs in priority; (b) payment of debts of operational creditors; (c) payment of debts of dissenting financial creditors; (d) for management of affairs of corporate debtor after approval of the resolution plan; and (e) implementation and supervision of the resolution plan.

77.2. The limitations on the scope of judicial review are reinforced by the limited ground provided for an appeal against an order approving a resolution plan, namely, if the plan is in contravention of the provisions of any law for the time being in force; or there has been material irregularity in exercise of the powers by the resolution professional during the corporate insolvency resolution period; or the debts owed to the operational creditors have not been provided for; or the insolvency resolution process costs have not been provided for repayment in priority; or the resolution plan does not comply with any other criteria specified by the Board

77.6.1. The assessment about maximisation of the value of assets, in the scheme of the Code, would always be subjective in nature and the question, as to whether a particular resolution plan and its propositions are leading to maximisation of value of assets or not, would be the matter of enquiry and assessment of the Committee of Creditors alone. When the Committee of Creditors takes the decision in its commercial wisdom and by the requisite majority; and there is no valid reason in law to question the decision so taken by the Committee of Creditors, the adjudicatory process, whether by the Adjudicating Authority or the Appellate Authority, cannot enter into any quantitative analysis to adjudge as to whether the prescription of the resolution plan results in maximisation of the value of assets or not. The generalised submissions and objections made in relation to this aspect of value maximisation do not, by themselves, make out a case of interference in the decision taken by the Committee of Creditors in its commercial wisdom



78. To put in a nutshell, the Adjudicating Authority has limited jurisdiction in the matter of approval of a resolution plan, which is well defined and circumscribed by Sections 30(2) and 31 of the Code read with the parameters delineated by this Court in the decisions above referred. The jurisdiction of the Appellate Authority is also circumscribed by the limited grounds of appeal provided in Section 61 of the Code. In the adjudicatory process concerning a resolution plan under IBC, there is no scope for interference with the commercial aspects of the decision of the CoC; and there is no scope for substituting any commercial term of the resolution plan approved by the CoC. Within its limited jurisdiction, if the Adjudicating Authority or the Appellate Authority, as the case may be, would find any shortcoming in the resolution plan vis-à-vis the specified parameters, it would only send the resolution plan back to the Committee of Creditors, for re-submission after satisfying the parameters delineated by Code and exposted by this Court.

12.8. Thus, from the catena of judgments rendered by the Hon'ble Supreme Court on the scope of approval of the Resolution Plan, it is amply made clear that only limited judicial review is available for the Adjudicating Authority under Section 30(2) and Section 31 of IBC, 2016 and this Adjudicating Authority cannot venture into the commercial aspects of the decisions taken by the Committee of Creditors.

12.9. On hearing the submissions made by the Ld. Counsel for the Resolution Professional, and perusing the record, we find that the Resolution Plan has been approved with 97.6% voting share. As per the CoC, the plan meets the requirement of being viable and feasible for the revival of the Corporate Debtor. By and large, all the compliances have been done by the RP and the



Resolution Applicant for making the plan effective after approval by this Bench. On perusal of the documents on record, we are also satisfied that the Resolution Plan is in accordance with sections 30 and 31 of the IBC and also complies with regulations 38 and 39 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016,

12.10. The Resolution Plan along with Addendum in question is hereby **Approved** by this Adjudicating Authority, subject to the observations made in this order. The Resolution Plan shall form part of this Order. The Resolution Plan is binding on the Corporate Debtor and other stakeholders.

12.11. The Resolution Applicant has sought for reliefs and concessions under the Resolution Plan and the same are dealt with hereunder;

SL. No	RELIEF AND/OR CONCESSIONS AND APPROVAL SOUGHT BY RESOLUTION APPLICANT (CHAPTER 12 OF RESOLUTION PLAN)	ORDERS THEREON
1	The relevant Governmental Authorities will provide a reasonable period of time after the NCLT Approval Date (as available under applicable laws or 12 (Twelve) months following the NCLT Approval Date, whichever is longer) in order for the Resolution Applicants to assess the status of licenses and approvals required by the Company and to procure that the Company applies for the same and for regularizing any non-compliances under the Applicable Law existing prior to the NCLT Approval Date. Further, at the time of renewal or fresh application for licenses and approvals, the Governmental Authorities will not charge any fee, cost,	<b>Granted in terms of Section 31(4) of IBC, 2016 and also in view of clean slate principle enshrined under IBC, 2016.</b>



	interest, penalty, fine or any other amount in the same nature pertaining to the period prior to the NCLT Approval Date and such amounts, if any, due shall have been waived off or cancelled and the Resolution Applicants shall not be liable to pay any such amounts at the time of renewal or fresh application for licenses and approvals.	
2	The Central Board of Direct Taxes shall grant an exemption to the Company from the requirement of amounts in respect of taxes(including TDS) being withheld from payments made to the Company for a period of 1 (One) year from the NCLT Approval Date.	<b>This is for the CBDT and other appropriate authorities to consider keeping in view the object of IBC, 2016</b>
3	The Registrar of Companies, Ministry of Corporate Affairs and/or the NCLT shall have granted their approval for holding the annual general meeting of the Company for the FY pending on 31/03/2018, 31/03/2019, 31/03/2020,31/03/2021, 31/03/2022 following the expiry of the stipulated maximum period for holding such meeting under Applicable Laws.	<b>This is for the appropriate authorities to consider, keeping in view the object of IBC, 2016</b>
4	With respect to the proposed reconstitution of the board of directors of the Company on and from the Handover Date, the NCLT shall have directed the Ministry of Corporate Affairs and the jurisdictional registrar of companies to take on record such appointments and resignations of directors of the Company (as may be identified by the Resolution Applicants), and all relevant forms and necessary actions in this regard to affect such reconstitution.	<b>Granted</b>
5	The Department of Registration and Stamps of the relevant states and the Ministry of Corporate Affairs shall exempt the Resolution Applicants and the Company, from the levy of stamp duty and fees applicable in relation to this Plan (and all documents to be executed pursuant to it, including financial	<b>This is for the appropriate authorities to consider</b>



	arrangements) and their implementation.	
6	All Governmental Authorities shall grant any relief, concession or dispensation as may be required for implementation of the transactions contemplated under the Plan in accordance with its terms and conditions including any stamp duty payable in respect of any documents executed in relation to such transactions.	<b>Not Granted</b>
7	Notwithstanding the terms of the relevant agreements, the NCLT shall direct that prior approval of the counterparties shall not be required to be obtained for change in control/constitution of the Company pursuant to the terms of this Plan and such counterparties: (i) shall waive all objections/liabilities of the Company arising out of the initiation of corporate Insolvency resolution / bankruptcy proceedings involving the Company, appointment of the Resolution Professional and in respect of the implementation of this Plan; (ii) shall waive the right to suspend these agreements due to any previous delays/failures by the Company to make payments under such agreements; and (ii) shall not terminate the relevant agreements or take any adverse actions against the Company	<b>Not Granted</b>
8	Subject to the Resolution Applicants submitting an undertaking in the manner required by Appendix 5 of the Request for Resolution Plan (RFRP), the submission of this Plan shall not in any manner prejudice or affect the ability of the Resolution Applicants (or its affiliates) to be a 'resolution applicant' under the IBC in respect of any other person or in respect of any other corporate insolvency resolution process under the IBC	<b>Granted, subject to the provisions of IBC, 2016</b>
9	All agreements/arrangements between the Company and the persons currently classified as promoter or promoter group (including the Existing Promoter Group). persons acting in concert with promoters, holding companies, subsidiary companies, associate	<b>Granted</b>



	companies, group companies and/or their respective affiliates / associates, including without limitation the agreements forming a part of the data uploaded in the data room by the Resolution Professional, except the business contracts/ agreements which provides the business continuation, shall stand terminated, with no Liability to the Company (including but not limited to with regard to any previous breaches). However, it is clarified that all claims of the Company against such Related Parties (and all Liabilities of such Related Parties towards the Company) shall remain outstanding, due and payable in accordance with their terms.	
10	To the extent any amendments are notified or exemptions are granted before the NCLT Approval Date from the applicability of any laws (which are not in effect as on the date of submission of this Plan), the Resolution Applicants shall be entitled to avail the benefits of such amendments or exemptions, provided that it shall not affect the proposed treatment of any stakeholders as of the date of this Plan.	<b>Granted</b>
11	If applicable, the Financial Creditors of the Company shall regularize all the loan accounts of the Company and shall ensure that the assets classification of such loan accounts is "standard" in their books with effect from the Closing Date.	<b>This is for the Financial Creditor to consider</b>
12	All creditors (including the Financial Creditors) of the Company shall withdraw all legal proceedings commenced against the Company for the period prior to NCLT Approval Date, in relation to Claims including proceedings under Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and Recovery of Debt and Bankruptcy Act, 1993 and shall get all criminal proceedings quashed, including proceedings under Section 138 of the Negotiable Instruments Act, 1881 immediately after the NCLT Approval Date.	<b>Granted</b>



13	The approval of this Plan by the NCLT shall be deemed to have waived all the procedural requirements in terms of Section 66, Section 42 and other provisions of Companies Act 2013, the NCLT (Procedure for Reduction of Share Capital) Rules, 2016, and under any other Applicable Laws (including any circulars issued by the SEBI in this regard) for extinguishment of existing share capital by way of reduction of share capital and issuance of equity shares to Resolution Applicant.	<b>Granted, however the requisite fees are required to be paid.</b>
14	Further, the relevant Governmental Authorities shall not initiate any investigations, actions or proceedings against the Resolution Applicants or the new management (upon acquisition of the Company) including the board of directors, in relation to any non-compliance with Applicable Laws by the Company pertaining to any period up to NCLT Approval Date.	<b>Granted. However, the erstwhile promoters shall be liable under Section 32A of IBC, 2016</b>
15	The Resolution Applicant assumes that, in compliance of its duties under Regulation 35A of the CIRP Regulations, the Resolution Professional had determined whether the Company has been subjected to any transactions covered under sections 43, 45, 50 or 66 of the IBC or not and applied to the Adjudicating Authority for seeking appropriate relief. Accordingly, though the Resolution Applicant reserve its right to Institute any investigation pertaining to any transaction(s) carried out by the ex-management of the Company or to file appropriate applications before the court/tribunal of competent jurisdiction, the Resolution Applicant and its officers, directors, employees and the new management of the Company shall never be liable/responsible for any such transactions carried out by the ex-management of the Company. And in the event, any application filed by the Resolution Professional under Section 43 to 51 or 66 of the IBC, continues even after NCLT Approval Date, then the related costs shall be paid from the cash flows of the Company. In case, there are no sufficient cash flows in the Corporate Debtor, then the Resolution Applicants shall contribute to the remaining costs amount payable in relation to the legal proceedings. It is further clarified	<b>As per Form – H no Applications under Section 43, 45, 50 or 66 of IBC, 2016 has been filed by the RP.</b>



	that, the proceeds arising out of the aforementioned litigations shall be to the sole benefit of the Corporate Debtor/Resolution Applicants and the COC or any other Creditor will not have any right over such proceeds.	
16	All assets (including properties, whether freehold, leasehold, or license basis) of the Company shall continue to remain vested in the Company free and clear from all encumbrances, except such charges and encumbrances, which will be created pursuant to the terms of this Resolution Plan.	<b>Granted</b>
17	All domain names, servers, being currently used by the Company to the extent not owned shall continue to be available for use by the Company for a period of 6 months from the NCLT Approval Date.	<b>Granted</b>

12.12. As far as the question of granting time to comply with the statutory obligations / seeking sanctions from governmental authorities is concerned, the Resolution Applicant is directed to do the same within one year as prescribed under section 31(4) of the Code.

12.13. In case of non-compliance with this order or withdrawal of the Resolution Plan by the Successful Resolution Applicant, the Monitoring Committee shall forfeit the Performance Security furnished by the Resolution Applicant in the form of Performance Bank Guarantees.

12.14. The Resolution Applicant is directed to make payment of the entire Resolution Plan amount within the time period stipulated under the Resolution Plan i.e. 12 months, failing



which the entire amount paid by the Resolution Applicant (including the Performance Guarantee) as on the said date would stand automatically forfeited, without any recourse to this Tribunal.

12.15. Certified copy of this Order be issued on demand to the concerned parties, upon due compliance.

12.16. Liberty is hereby granted for moving any Application if required in connection with the implementation of this Resolution Plan.

12.17. A copy of this Order is to be submitted to the concerned Office of the Registrar of Companies.

13. IA(IBC)/851/CHE/2023 shall stand **disposed of** accordingly.

14. The *Registry* is directed to send e-mail copies of the order forthwith to all the parties and their Learned Counsel for information and for taking necessary steps. Files be consigned to the record.

**VENKATARAMAN SUBRAMANIAM**  
MEMBER (TECHNICAL)

**SANJIV JAIN**  
MEMBER (JUDICIAL)

*Raymond*