

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
AMARAVATI BENCH AT MANGALAGIRI**

**IA (IBC) (Plan)/1/2024  
IN  
TCP (IB)NO.32/7/AMR/2019**

**Under section 30(6) and 31 of the Insolvency and Bankruptcy  
Code, 2016 read with Regulation 36B (6A) of Insolvency and  
Bankruptcy Board of India (Insolvency Resolution Process for  
Corporate Persons) Regulations, 2016**

**In the matter of  
M/S. SEVENHILLS HEALTHCARE PRIVATE LIMITED**

**Between:**

**Abhilash Lal,  
Resolution Professional of  
Sevenhills Healthcare Private Limited  
C-192, Belvedere Towers, DLF Phase II,  
Gurgaon – 122 002**

**..... Applicant / Resolution Professional**

**AND**

**Committee of Creditors  
(Through JM Financial Asset Reconstruction  
Company Limited)**

**.....Respondent**

**Date of order: 10.06.2024**

**CORAM:**

**Dr. Venkata Ramakrishna Badarinath Nandula, Hon'ble Member (Judicial)**

**PARTIES/COUNSELS APPEARANCE:-**

For Applicant/RP : Mr. Niranjana Reddy, Ld. Sr. Counsel along with  
Mr. Siddharth Ranade, Mr. Kaazvin Kapadia,  
Mr. Prakshal Jain, Mr. Vishal Pathak & Ms. Ananya  
Bajpai, Advocates

**ORDER**

1. IA (Plan) NO.1 OF 2024 is filed by the Resolution Professional under Section 30(6) & Section 31(1) OF IBC, for sale of the corporate debtor's asset under a resolution plan as per regulation 36B (6A) of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, seeking approval of the resolution plan submitted by Mr. M.K Rajagopalan (Resolution Applicant) for the Vishakhapatnam Hospital (Category -1 Asset/ Identified Undertaking) as duly approved by the Committee of Creditors with 100% votes.
- 2.1. To put precisely, this Tribunal vide its orders dated 13.03.2018 in TCP (IB)NO.32/7/AMR/2019 (CP (IB) NO.282/7/HBD/2018) admitted the application filed by the Axis Bank Limited/ Financial Creditor under section 7 of the code and Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor commenced with effect from 10 October 2022, further to which moratorium was declared and the Applicant was appointed as Interim Resolution Professional.
- 2.2. During the CIRP of the Corporate Debtor, the Applicant received claims from financial creditors, operational creditors, employees, workmen and other creditors. The claims were updated from time to time. Summary of claims are as follows:

Category of Creditor	Claim filed (in INR Crores) <i>(For the Corporate Debtor as a consolidated entity)</i>	Claim Admitted (in INR Crores) <i>(For the Corporate Debtor as a consolidated entity)</i>
Secured Financial Creditors	1301.19	1273.31
Operational Creditors (workmen and employees)	32.44	11.16
Operational Creditors (other than workmen and employees)	98.50	73.68
Operational Creditors (Statutory Creditors)	156.57	3.74
Other Creditors	6.18	0
<b>Total</b>	<b>1594.88</b>	<b>1361.89</b>

2.3. On receipt of claims from the Creditors pursuant to public announcement, the RP constituted the Committee of Creditors comprising of the following financial creditors of the Corporate Debtor M/s. Sevenhills Healthcare Private Limited

Sr. No.	Name of Creditor	Voting share (%)
i.	JM Financial Asset Reconstruction Company	76.66
ii.	Union Bank of India	7.49
iii.	State Bank of India	6.25
iv.	Punjab & Sind Bank	3.79
v.	UCO Bank	3.64
vi.	Central Bank of India	2.16
vii.	Allahabad Bank	0.01
<b>TOTAL</b>		<b>100</b>

- 2.4. The Applicant filed an application for seeking approval of the resolution plan for the Corporate Debtor and the same is approved by this Tribunal vide orders dated 26.07.2019. However, the said orders were eventually overturned by the Hon'ble Supreme Court vide orders dated 15.11.2019 which led to recommencement of CIRP of Corporate Debtor.
- 2.5. Consequently, on 13.02.2020 and later on 21.11.2020 a new invitation for expression of interest and Request for resolution plan (RFRP) was issued. The CIRP of Corporate Debtor was extended time-to-time in light of Covid-19 pandemic and the last date of submission of resolution plan was extended periodically. Subsequently, the Applicant received one resolution plan to the said RFRP. However, due to several non-compliances in the resolution plan, the same was rendered non-responsive and could not be treated as a complaint resolution.
- 2.6. Subsequently, considering the fact that no compliant resolution plans were received for the Corporate Debtor, as a consolidated entity, the CoC in its commercial wisdom, resolved to invite expression of interest for separate categories of assets as per Regulation 36B(6A) of CIRP Regulations in terms of Amendment dated 16 September 2022. On 06.01.2023, the Applicant issued a fresh invitation for Expression of Interest (EOI) which was followed by a RFRP dated 03.05.2023. The RFRP invited resolution plans under two categories – (i) Category 1- for the Vishakhapatnam Hospital, and (ii) Category 2- for the Mumbai Hospital and Corporate Debtor as a whole as going concern including all assets and liabilities of the Corporate Debtor but specifically excluding Vishakhapatnam Hospital.

2.7. In the light of the pending litigation with Municipal Corporation of Greater Mumbai (MCGM) the CoC extended the deadline for submission of resolution plans for categories time to time. The deadline for submission of the resolution plan for the Vishakhapatnam Hospital was extended till 31.08.2023 and applicant has received three resolution plans from Potential Resolution Applicants (PRAs) for the Vishakhapatnam Hospital, being :

- i. Mr. M K Rajagopalan (through MCM Healthcare)
- ii. Consortium of Mohan Reddy; and
- iii. Capri Gold Holdings Pvt Ltd.

2.8. The final revised resolution plans were submitted to the CoC before the expiry of deadline on 8 December 2023. The Resolution plans were compliant to the provisions of IBC, the CIRP Regulations, and the RFRP and the PRAs were eligible to submit a resolution plan for Corporate Debtor under Section 29A of the IBC. During **the 47<sup>th</sup> meeting of the CoC**, the three resolution plans for the Vishakhapatnam Hospital of the Corporate Debtor were put to e-voting by the Applicant and the resolution plan submitted by one **Mr. M.K. Rajagopalan** was approved as Resolution Applicant for the Vishakhapatnam Hospital **by 100% majority voting share of the CoC.**

2.9. The Successful Resolution Applicant in terms of RFRP has accepted the LoI unconditionally and provided performance Bank Guarantee from the Indian Bank, Puducherry Branch. The Applicant further submits that all the requirements envisaged under the Code and Rules/Regulations made thereunder have been met. After obtaining approval from COC, RP submitted an application before the Hon'ble Adjudicating Authority for approval of the Resolution Plan for Vishakhapatnam Hospital (Category -1 Asset) of the Corporate Debtor.

**3. Salient Terms and Conditions of the Resolution Plan are as below :**

- A.** Mr. M.K. Rajagopalan, Successful Resolution Applicant who submitted the resolution plan is a based from the Union Territory of Puducherry, having seven educational and research institutions. He established “MGM Healthcare” Super Speciality Hospital in the year 2016. The required funds will be infused by the Resolution Applicant & Associates from their own funds.
- B.** The Resolution Applicant proposes to bring-in-the Total Resolution Plan amount of **INR.171.00 Crores** by way of an unsecured loan into the Resulting Company, i.e., MGM Healthcare Private Limited (MHCPL) which in turn would transfer the total outlay of INR 153 crores to the no-lien account of the Corporate Debtor.
- C.** The Total Outlay is proposed to be paid towards settlement of dues to all creditors and statutory authorities (after prior payments of CIRP Costs and claims of operational creditors), as envisaged under the Resolution Plan and the remaining INR 18.00 crores are to be brought in after the demerger of the Visakhapatnam Hospital from the Corporate Debtor, as infusion of funds in the Resulting Company for the purpose of capital expenditure and working capital requirements of the Demerged Undertaking, i.e., Category – 1/ Identified Undertaking
- D.** FINANCIAL PROPOSALS: The amount provided to the stakeholders under resolution Plan Rs.153,00,00,000 /-, which is tabulated below:-

Sr. No.	Category of Stakeholder	Sub-Category of Stakeholder	Amount Claimed	Amount Admitted	Amount Provided under the Plan	Amount Provided to the Amount Claimed (%)
(1)	(2)	(3)	(4)	(5)	(6)	(7)

1.	Secured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	N.A	N.A	N.A	N.A
		(b) Other than (a) above:				
		(i) who did not vote in favour of the resolution Plan	Nil	Nil	Nil	Nil
		(ii) who voted in favour of the resolution plan	13,01,19,46,097	12,73,30,68,861 <sup>1</sup>	1,51,19,48,682	11.62 %
		Total [(a) + (b) ]	13,01,19,46,097	12,73,30,68,861	1,51,19,48,682	11.62 %
2.	Unsecured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	N.A	N.A	N.A	N.A
		(b) other than (a) above:				
		(i) who did not vote in favour of the resolution Plan				
		(ii) who voted in favour of the resolution plan				
		Total [(a) + (b) ]	N.A	N.A	N.A	N.A
3.	Operational Creditors	(a) Related party of the Corporate Debtor	48,64,067	24,26,736	NIL	NIL
		(b) other than (a) above:				
		(i) Government	156,57,07,857	3,73,68,552	5,51,318	0.04%
		(ii) Workmen & Employees	32,44,37,178	11,16,48,512	1,25,00,000	3.85%
		(iii) Other Operational Creditors	98,02,32,207	73,44,96,534	50,00,000	0.51%
Total [(a)+(b)]	287,52,41,309	88,59,40,334	1,80,51,318	0.63%		

<sup>1</sup> Out of this total amount, an amount of Rs. 423,17,55,872/- is Secured by security over Vishakhapatnam Hospital in addition to other security.

4.	Other debts and dues		6,17,82,094	NIL	NIL	NIL
	<b>Grand Total</b>		<b>1594,89,69,500</b>	<b>1361,90,09,195</b>	<b>153,00,00,000</b>	<b>9.59%</b>

**E.** The Successful Resolution Applicant proposes to distribute the Resolution Plan amount to different stakeholders in the following manner:

Sl No	Name of the Creditor	Amount Claimed	Amount admitted	Amount proposed in the Resolution plan
		Rs. In Crores		
	CIRP Costs	Actuals	Actuals	
	Financial Creditors (Secured)	1301.19	1273.31	151.19
	Operational Creditors (workmen and employees)	32.44	11.16	1.25
	Operational Creditors (other than workmen and employees)	98.50	73.68	0.06
	Operational Creditors (Statutory Creditors)	156.57	3.74	0.50
	Other Creditors	6.18	Nil	Nil
	Equity Shareholders	Nil	Nil	Nil
	<b>Total</b>	<b>1,594.88</b>	<b>1,361.89</b>	<b>153.00</b>
	<b>Total Outlay</b>			<b>153.00</b>
	Fresh infusion into Resulting Company by way of unsecured loan, towards capital expenditure and Working capital requirements of the identified undertaking			<b>18.00</b>
	<b>Total Resolution Plan Amount</b>			<b>171.00</b>

**F. Details of Scheme of Demerger under Resolution Plan**

- i. The Scheme of Arrangements presented under section 230 to 232 of the Companies Act, 2016 read with regulation 36B(6)A of the IBBI (Insolvency Resolution Process against Corporate Persons)



Regulations, 2016 is to be treated as an integral part of the Resolution Plan submitted by the Resolution Applicant.

- ii. The Resolution Plan proposes to demerge the Visakhapatnam Hospital of the Corporate Debtor (on a going concern basis), as permitted under Regulation 37(ba), 37(m) and 36B(6A) of the CIRP Regulations, to an existing company **MGM Health Care Private Limited (MHCPL)** which is owned and managed by the Resolution Applicant and his family members. The Visakhapatnam Hospital (Category – 1) is proposed to be transferred in accordance with the RFRP and Regulation 36B(6A) of the CIRP Regulations, hence there is no cancellation or delisting of any shares of the Corporate Debtor proposed under the Resolution Plan. Further, there is no amendment of the statutory incorporation documents of the Corporate Debtor proposed under the Resolution Plan. The Resolution Plan also does not provide for any issuance of securities of the Corporate Debtor, for cash, property, securities or in exchange for claims or interests given that the Visakhapatnam Hospital will be transferred pursuant to Regulation 36B(6A) of the CIRP Regulations as an independent asset of the Corporate Debtor.

#### **G. Business Plan:**

- i. The Resolution Plan envisages to demerge the Identified Undertaking (Under Regulations 37 (ba), 37(m) and 36B (6A) of the CIRP Regulations) into the Resulting Company (identified for the purpose). The Identified Undertaking will be demerged into the Resulting Company on a going concern basis according to the Scheme of Demerger which forms an integral part of the Resolution Plan.

- ii. The Resolution Plan states that the Resolution Applicant is currently the Executive Chairman of MHCPL and has been instrumental in its growth. The rich experience of the Resolution Applicant would help in streamlining the existing operations of the Corporate Debtor and incorporate the best practices to achieve operational efficiency.
- iii. The proposed Turnaround Plan comprises of:
  - a) Stabilising the cash flow through cost control and tight monitoring of operations.
  - b) Refurbishment and Revamp of the infrastructure and facilities;
  - c) Recruitment of specialist consultants; (Refurbishment and upgradation of critical equipment;
  - d) Introduction of modernised medical treatment like robotic surgery, etc.,
  - e) Rebranding and marketing; and
  - f) Introduction of patient loyalty programmes.
- iv. The Resolution Applicant has assessed the financial requirements, required to provide quality healthcare services at the Visakhapatnam Hospital. The Resolution Applicant has estimated and proposes to invest a sum of INR 18.00 Crores into the Resulting Company over a period of 12 months from the date of approval of the Resolution Plan by this Hon'ble Tribunal. The Financial requirements are proposed to be addressed by:
  - a) Infusion of cash to maintain positive cash flow;
  - b) Better rate negotiation with all vendors;
  - c) Revision of tariff
  - d) Fresh negotiation with all insurance companies for a better rate;
  - e) Constantly monitoring the revenue and profitability; and
  - f) Implementation of cost reduction measures.

## **H. Implementation of Resolution Plan :**

- i. The Resolution Applicant shall bring in the Total Outlay of INR 153.00 Crores through the Resulting Company, within 30 days of the approval of the Resolution Plan (including the Scheme of Demerger) by this Hon'ble Tribunal. After disbursement of the amounts as indicated in the Resolution Plan in the no-lien bank account, the Scheme of Demerger will be implemented.
- ii. The Resolution Plan and the transactions contemplated therein will be implemented by the Resolution Applicant through MHCPL. The Resolution Plan states that the Resolution Applicant along with MHCPL shall be jointly and severally responsible for discharging all responsibilities and obligations under the Resolution Plan. It is further stated in the Resolution Plan that MHCPL and the Resolution Applicant shall be jointly and severally liable for any breach of any term of the Resolution Plan by MHCPL and/or the Resolution Applicant and/or any of the shareholders of MHCPL. The entire Identified Undertaking (which means the business of Category I along with all the assets and liabilities associated thereto) shall be taken over by the Resolution Applicant through MHCPL on a going concern basis

## **I. Timeline for implementation of the Plan**

The estimated timelines for the implementation of the Plan are as Follows:



**K. Compliance of mandatory contents of Resolution Plan under the Code and CIRP Regulations:-**

The Applicant has conducted a thorough compliance check of the Resolution Plan in terms of the Code as well as Regulations 38 & 39 of the Insolvency and Bankruptcy Board of India (Corporate Insolvency Resolution Process) Regulations, 2016 (herein after referred to as Regulation) and has submitted his Form-H under Regulation 39 (4). It is submitted that Resolution Applicant has filed an Affidavit declaring that they are eligible to submit the plan under Section 29A of the Code and that the contents of the said affidavit are in order. The fair value and Liquidation value as submitted in Form-H is Rs. 121.48Crores and Rs. 87.93 respectively.

**L. RELIEFS AND CONCESSIONS:**

Sl. NO.	RELIEFS AND/OR CONCESSIONS AND APPROVALS SOUGHT BY THE RESOLUTION APPLICANT(CLAUSE 5.13 OF THE RESOLUTION PLAN)	ORDERS THEREON
1.	In addition to the approval sought hereinabove, the Resolution Applicant shall at no point of time, directly or indirectly have any obligation, liability or duty in relation to any and all dues, liabilities or obligations payable to, claims, counter claims, demands, actions or penalties, made or imposed by any or any arrears, dividend or obligations owed or payable to (including but not limited to all interests, damages, losses, expenses and third part claims), monitory or otherwise, and any right, title, interest enjoyed by any actual or potential other stakeholders of the company including any group companies whether under that or otherwise, whether or not claimed, whether or not filed, whether or not crystalized, whether or not accrued, whether or not admitted,	<b>Granted, subject to the provisions of the Companies Act, 2013.</b>

	<p>whether or not notional, whether or not known, whether due or contingent, whether or not disputed, present or future, whether or not been adjudicated in any proceedings, whether or not decreed, whether or not reflected in the financial statements of the company, or whether or not reflected in any record, document, statement or otherwise arising prior to or after the date of the approval of this plan by AA, but pertaining to period prior to the date of approval of this plan by AA or in any other manner as a result of or in connection with this Resolution plan, shall be deemed to have been irrevocably waived and permanently extinguished and return of in full with effect from the date of the order of Adjudicating Authority approving this Resolution plan in respect of identified undertaking. To give effect to such waiver and extinguishment, any contract, agreement, deed or document, whether oral or written, expresses or implied, statutory or otherwise pursuant to which any such dues, liabilities, obligations, claims, counter claims, demands, actions, penalties, right, title or interest is claimed (other than as specifically mentioned herein) shall stand modified with effect from the date of the Order of the AA approving the Resolution Plan without any further act, deed by Resolution Applicant and the approval of the Resolution Plan by AA shall be deemed to be sufficient notice which may be required to be given to any person for such matters and no further notice shall be required to be given.</p>	
2.	<p>All Government Authorities to waive the non-compliance of the Corporate Debtor prior to the date of the Approval of the Resolution Plan by Hon'ble Adjudicating Authority in respect of identified undertaking. The relevant Governmental authorities shall not initiate any investigations, actions or proceedings in relation to any noncompliance with applicable law by the Corporate Debtor during the period prior to the date of approval of Resolution Plan by AA in respect of identified undertaking. Neither shall</p>	<p><b>Granted, Subject to the Provisions of Section 32A of IBC, 2016 and other</b></p>

	the Resolution Applicant nor the representative directors, officers and employees appointed on and as of date of approval of resolution plan by AA be liable for any violations, liabilities, penalties or fines with respect to or pursuant to the CORPORATE DEBTOR not having in place the requisite licenses and approvals required to undertake its businesses as per applicable law or any non-compliance of applicable law by CORPORATE DEBTOR in respect of identified undertaking.	<b>Applicable Laws.</b>
3.	Upon the approval of the Resolution plan by AA, all the new enquiries, investigations, whether civil or criminal, notices, suits, claims, disputes, litigations, arbitration or other judicial, regulatory or administrative proceedings will be deemed to be barred and will not be initiated or admitted against the Resolution Applicant or his nominees or corporate debtor in relation to any period prior to the date of approval of this Resolution plan by AA or on account of the acquisition of control by Resolution Applicant over the identified undertaking pursuant to this Resolution Plan.	<b>Granted, subject to the provisions of the IBC, 2016.</b>
4.	Statutory dues like ESI, EPF, Professional Tax, Wealth Tax, Sales Tax, Service Tax, Goods & Services Tax, VAT, Import Duty, Property Tax, Vacant Land Tax, Lease Rents due to the Government departments, Electricity dues, Water dues, Customs or Excise dues, confiscatory Rights for non-fulfillment of any obligations including any export obligation undertake by the CORPORATE DEBTOR in the past under the provisions of DGFT, or any other claims from statutory Authorities etc., in respect of identified undertaking for the period prior to approval of the Resolution plan will not be paid by the Resolution Applicant unless valid claims have been filed by Statutory Authorities during CIRP period.	<b>Granted.</b>
5.	If certain businesses permits (including but not limited to permission for supply of water, electricity, construction of sites, operation of lifts, fire, sanitation, health or any other relevant licenses/permit, not limited to those stated herein)	<b>This is for the appropriate authorities to</b>

	<p>of the CORPORATE DEBTOR which would be required for the CORPORATE DEBTOR to utilize the identified undertaking have lapsed, expired, suspended, cancelled, revoked or terminated or the CORPORATE DEBTOR has non-compliances in relation thereto. Accordingly, all the governmental authorities to provide reasonable time period after the date of approval of resolution plan by AA for the Resolution applicant to access the status of these approvals and permits and ensure that the identified undertaking of the CORPORATE DEBTOR is compliant with the terms of such approvals and permits and applicable law without initiating any investigations, penalties, actions or proceedings in relation to such non-compliance.</p>	<p><b>consider keeping in view of clean slate principle envisaged under IBC, 2016.</b></p>
<p>6.</p>	<p>Waiver of any Income Tax and Minimum Alternate Tax (MAT) liability or consequences (including interest, fine, penalty, etc) on the Resulting Company, Demerged Company and the Resolution Applicant on account of various steps as proposed in the Resolution Plan, including but not limited to liabilities if any under Section 28, Section 43, Section 50, Section 56, Section 79 and Section 115JB of the Income Tax Act, 19691, including, without limitation:</p> <p>a. Waiver of MAT arising due to the impact of the implementation of the resolution plan in the books of accounts of the Company without any impact on brought forward tax and books loss/depreciation, pursuant to this Resolution Plan.</p> <p>b. Waiver of Income Tax under the provisions of the Income Tax Act arising due to impact of the implementation of the resolution plan in the books of accounts of the Company without any impact on brought forward tax and books loss/depreciation, pursuant to this Resolution Plan.</p> <p>c. The Scheme of Arrangement / Reconstruction (Demerger) envisaged to transfer the Identified Undertaking to the Resulting Company as</p>	<p><b>This is for the appropriate authorities to consider keeping in view of clean slate principle envisaged under IBC, 2016.</b></p>



	detailed in Annexure -1 to this Resolution Plan shall not be subjected to the provisions of section 56 of the Income Tax Act, upon implementation of the Resolution Plan.	
7.	Post the order or NCLT, no re assessment/revision or any other proceedings under the provisions of the Income Tax Act imitated in the identified undertaking to period prior to the acquisition of identified undertaking by the Resolution Applicant and any consequential demand should be considered non-existing and as not payable. Any proceedings which were kept in abeyance in view of the Insolvency process or otherwise shall stand abated and not be revived post the Order of NCLT.	<b>Granted, subject to the provisions of the IBC, 2016 and other applicable laws.</b>
8.	Post the Order of NCLT, the RA shall be permitted to withdraw or continue at his discretion, all pending income tax litigations filed by CORPORATE DEBTOR/RP or income tax authorities, if any in respect of the business of the identified undertaking before any adjudicating/appellate authorities or courts in India.	<b>Granted.</b>
9.	Post the Order of NCLT, RA and CORPORATE DEBTOR shall be provided waiver from all tax dues including any interests and penalties in respect of identified undertaking demerged to Resultant Company by way of Scheme of Arrangement/Reconstruction (Demerger) which forms part of this resolution plan.	<b>This is for the appropriate authorities to consider keeping in view of clean slate principle envisaged under IBC, 2016.</b>
10.	Post the Order of NCLT, the RA shall be allowed to write-off assets (if any) and be permitted to claim the same as tax deduction in the year of such write-off pertaining to the identified undertaking.	<b>Granted, subject to provision of Income Tax Act and other applicable laws.</b>
11.	Any obligation, claim, demand, assessment, liabilities etc., on the account of Income Tax Act,	<b>Granted, subject to</b>

	1961 including provisions of the Minimum Alteration Tax, pertaining to Identified Undertaking for a period prior to date of approval of the Resolution plan by AA shall stand extinguished under the Resolution plan upon the approval of Resolution plan by AA. Further, any reversal/write-off or liabilities upon implementation of this Resolution plan and resultant credit to the Profit & Loss Account shall not be subjected to the provisions Section 41 (1) of the Income Tax Act in the hands of the Resulting Company and CORPORATE DEBTOR.	<b>provision of Income Tax Act and other applicable laws.</b>
12.	The transaction contemplated under this Resolution plan (including a potential merger) shall not be considered void under any Applicable Laws, including without limitation, Section 281 of the Income Tax Act, 1961 and Section 81 of the Central Goods and Service Tax, 2017.	<b>Granted, subject to provision of Income Tax Act and other applicable laws.</b>
13.	To provide relief to the Resolution Applicant/Corporate Debtor from all past litigations in respect of the Identified Undertaking, up to the date of implementation of this Resolution Plan pending at different levels and provide waiver from all tax dues including interest, penalty & prosecution for all historic disclosed tax dues and undisclosed tax dues. All pending notices assessment order, pending summons and pending assessments (including those set out in the table below) in respect of the business of the identified Undertaking would be treated as closed. Further no action would be taken for any action/transaction carried out before the date of implementation of this Plan. It is clarified that no tax (including interest 7 penalty) would be paid for any liability or claim raised or non-compliance for period up to the date of Implementation of this Plan. Further, any re assessment, revision or other proceedings under the provisions of the Income Tax Act would be deemed to be barred in relation to any period prior	<b>Granted in terms of the Hon'ble Supreme Court in Ghanashyam Mishra And Sons Private Limited Versus Edelweiss Asset Reconstruction Company Limited in CIVIL APPEAL NO.8129 OF 2019.</b>

	to the date of implementation of this Plan, by virtue of the order of the NCLT approving this Resolution Plan and the Resolution Applicant shall at no point of time be, directly or indirectly, held responsible or liable in relations thereto.	
14.	It is prayed that the respective Governmental Authorities (including but not limited to the Central Board of Direct Taxes, Central Board of Indirect Tax and Customs/respective Value Added Tax / GST Authorities, tribunals, arbitral body, land revenue records, stamp authorities) shall provide relief from applicability of and payment of Taxes (including under the provisions of Goods and the Services Tax) in respect of the Identified Undertaking, which may arise as a result of implementation of this Resolution Plan either on the Resolution Applicant or the CORPORATE DEBTOR or any other Person who is likely to be impacted due to the implementation of this Resolution Plan (including but not limited to Sections 50B, 50C, 50CA, 50D under the Income Tax Act as well as the Central Goods and Services Tax Act, 2017.	<b>This id for the CBDT and other appropriate authorities to consider keeping in view the objects of IBC.</b>
15.	The Resolution Applicant shall not be treated as a predecessor or successor for the purpose of enforcing any income tax liability under the provisions of sub-section (2) of section 170 of the Income Tax Act.	<b>Granted, in respect of Identified Undertaking.</b>
16.	The CORPORATE DEBTOR/Resolution applicant shall not be treated as assessee in default in respect of any non-compliance with the provisions of Chapter XVII-B and / or Chapter XVII- BB of the Income Tax Act, 1961 up to the date of implementation of the resolution plan.	<b>This id for the CBDT and other appropriate authorities to consider keeping in view the objects of IBC.</b>
4.	To provide relief to the Resolution Applicant/Identified Undertaking / CORPORATE DEBTOR / Resolution Professional such that all pending litigation, notices, past and on-going assessments, past and on-going investigations, tax demands under all	<b>This id for the CBDT and other appropriate authorities to consider</b>

	Indirect Tax statutes (including those set out in the table below), in respect of the businesses of the Identified Undertaking proposed to be transferred would be treated as closed and no further action would be taken for any action / transaction carried out before the implementation of this resolution plan. It is clarified that no tax (including interest and penalty) would be paid for any liability or claim raised for period up to the date of approval of this plan.	<b>keeping in view the objects of IBC.</b>
5.	The Resolution Applicant / Identified Undertaking / CORPORATE DEBTOR / resolution Professional shall not be liable in any manner whatsoever or otherwise prosecuted (threatened, impleaded or otherwise) as a result of any tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized, any contravention of any provisions of any Indirect tax acts or the rules made thereunder as may be prescribed, in respect of the Identified Undertaking, by the Company or Existing Promoter, subsidiary companies and / or group companies of the Company for the period up to the date of approval of this Plan.	<b>Granted, Subject to the Provisions of Section 32A of IBC, 2016 and other Applicable Laws.</b>
6.	The contingent liabilities and Non-Fund Based debt of the company (letter of credit and bank guarantee, whether invoked or uninvoked) related to the Identified Undertaking stand irrevocably and unconditionally abated, settled and extinguished in perpetuity.	<b>Granted.</b>
7.	All benefits, exemptions, deductions, rebates, reliefs, etc. under any tax laws in India available to the Company with respect to the Identified Undertaking shall not lapse pursuant to the Resolution Plan and shall be available post the date of Implementation of this plan in respect of the Identified Undertaking.	<b>Granted, in respect of Identified Undertaking.</b>
8.	It is prayed that the Resolution Applicant or Resolution Professional or any other person in management and control of the Identified Undertaking (including for the avoidance of doubt any subsidiaries, associate companies or affiliates) shall not be held liable for any	<b>Granted, however a time period of 1</b>

	<p>continuing Non-Compliance (including for any interest and penalty) of the CORPORATE DEBTOR in respect of the Identified Undertaking, under any Applicable Law which had arisen of the or started during the period prior to the date of approval of this Resolution Plan by Adjudicating Authority. Post the date of approval of this Resolution Plan by Adjudicating Authority, the Resolution Applicant may be provided a reasonable time period by various authorities for curing such non compliances post takeover of control from Resolution Applicant in respect of the Identified Undertaking. In respect of non-compliances not pertaining to the Identified Undertaking, the Resolution Applicant / Resulting Company / Demerged Company / Resolution Professional shall not be liable in accordance with the provisions of applicable laws and IBC.</p>	<p><b>year is envisaged under IBC, 2016 for compliance.</b></p>
<p>9.</p>	<p>All Governmental authorities to 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;</p>	<p><b>This is for the appropriate authorities to consider keeping in the view the objects of IBC, 2016.</b></p>
<p>10.</p>	<p>The entire Identified Undertaking which includes business along with all the assets and liabilities associated thereto of the Category 1- Visakhapatnam Hospital belonging Applicant through MHCPL on a going concern basis by way of a Scheme of Demerger / Reconstruction, as provided in the Annexure I, which forms an integral part of this Resolution Plan shall be deemed to be approved by the NCLT by virtue of the order of the NCLT approving this Resolution Plan under Section 31 of the IBC. Identified Undertaking of the CORPORATE DEBTOR shall be free and clear of all encumbrances, on implementation of this Resolution Plan. The Resolution Applicant will continue to run the hospital and other facilities at Visakhapatnam</p>	<p><b>Granted.</b></p>

	(Identifies Undertaking) on a going concern basis and plans to operate the hospital under the name 'MGM Seven Hills'.	
11.	The Resolution Applicant shall be allowed to terminate / renegotiate material contracts including but not limited to agency agreements entered by the CORPORATE DEBTOR in respect of the Identified Undertaking before the IC date without any penalty or interest at its own discretion.	<b>Granted.</b>
12.	All creditors of the CORPORATE DEBTOR to withdraw all legal proceedings commenced against the CORPORATE DEBTOR in relation to claims, including without limitation all criminal proceedings, proceedings under section 138 of the Negotiable Instruments Act, 1881 and proceedings under SARFAESI and RDDBFI, within 30 days of the date of approval of this Plan by the Hon'ble NCLT and not undertake or omit to take any action which precipitates or continues the proceedings against the CORPORATE DEBTOR in respect of the Identified Undertaking.	<b>Granted, in respect of Identified Undertaking.</b>
13.	All approvals necessary under Applicable Laws including but not limited to Companies Act, 2013, Foreign Exchange Management Act, 1999, and rules/regulations made thereunder and all other statutory and regulatory approvals in respect of the Identified Undertaking, required for the implementation of the Plan shall be deemed to have been complied with pursuant to receipt of the order of AA approving the Plan.	<b>This is for the appropriate authorities to consider keeping in the view the objects of IBC, 2016.</b>
14.	Any proposals required / concessions granted from / by any government authority or other participating interest holders if already granted, to be deemed to be transferred and carried forward, to the Resolution Applicant in respect of the Identified Undertaking.	<b>Granted, in respect of Identified Undertaking.</b>
15.	All the claims / litigations / proceedings by employees / workmen or before any Labour department for non-payment of any dues / contribution or any other moneys such as and including but not limited to terminal benefits and	<b>Granted, in respect of Identified Undertaking.</b>

voluntary retirement dues in respect of the Identified Undertaking, shall be withdrawn and stand dismissed accordingly and the Resolution Applicant shall no longer be required to make any payments / dues by whatsoever name called in relation to such litigations/proceedings/dues by whatever name so called.	
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4. In the above backdrop we heard Shri Niranjana Reddy, Ld. Senior Counsel , along with Mr. Siddharth Ranade Ld. Counsel for the for the Resolution Professional/Applicant. He submits that the Resolution Plan meets the requirement of Section 30 (2) of the Code, as under:
- a. **Compliance of Section 30 (2) (a):** The Resolution Plan provides for the payment of CIRP costs in priority. The costs shall be paid within one month from the date of the receipt of the certified copy of the approval of this plan from the Adjudicating Authority (Clause 5.4.1 of the Resolution plan at page 38)
  - b. **Compliance of Section 30 (2) (b):** The Resolution Plan provides payment of Rs. 1,81,00,000/- towards the debts of the Operational Creditors in such manner as specified by Regulation 38(1) of the IBBI (Insolvency Resolution Process for Corporate Persons Regulations) 2016. (Clauses 3& 6 under financial proposal)
  - c. **Compliance of Section 30 (2) (c):** There are no dissenting Financial Creditors as the resolution plan is approved with 100% voting share. (5.4 and 5.5 of the Resolution Plan)
5. The Resolution Plan is in compliance of Regulation 38 of the Regulations in the following manner :
- a. **Compliance of Regulation 38(1) (a)** of the CIRP Regulations 2016: The Plan provides for payment of 0.63% of the claimed amount of the operational creditor on priority.

- b. **Compliance of Regulation 38 (1A):** Declaration by the Resolution Applicant that the Resolution Plan has considered the interest of all the stakeholders of the Corporate Applicant, keeping in view the objectives of the Code (Clause 5.3 of the Resolution plan page 36)
  - c. **Compliance of Regulation 38 (1) (B):** Declaration by the Resolution Applicant that neither the Resolution Applicant nor any of its related party has either failed or contributed to the failure of the implementation of any other approved Resolution Plan. (Clause 3.13 of the Resolution Plan page 23).
6. It is noted that in light of the introduction of Regulation 36B (6A) of the CIRP Regulations Amendment, which became effective on September 16, 2022, if the Resolution Professional (RP) does not receive a resolution plan in response to the RFRP, as opposed to situations where received plans are considered unsatisfactory, the RP is authorized, subject to approval by the Committee of Creditors (CoC), to issue an RFRP for the sale of one or more assets of the Corporate Debtor.

*36B(6A), "If the resolution professional, does not receive a resolution plan in response to the request under this regulation, he may, with the approval of the committee, issue request for resolution plan for sale of one or more of assets of the corporate debtor."*

The corporate insolvency resolution process aims to resolve all assets and liabilities of a Corporate Debtor through a comprehensive resolution plan. Regulation 36B (6A) allows Potential Resolution Applicants to submit plans for specific assets if no comprehensive plan is received. It is noted that in the present case, where no compliant plans were received for the entire Corporate Debtor, the Committee of Creditors decided to invite expressions of interest for separate asset categories. The RFRP included two categories: one for the Vishakhapatnam Hospital and another for the Mumbai Hospital and the Corporate Debtor as a going concern, excluding Vishakhapatnam



Hospital. This approach aims to optimize the resolution process by attracting tailored proposals for each asset category, ensuring the best outcome for stakeholders.

7. It is to be noted here that the resolution plan proposing restructuring of a corporate debtor requires approval of the committee of creditors and the Adjudicating Authority. Further, in terms of explanation to Section 30(2) of the Code, if any approval of shareholders is required under the Companies Act or any other law for the time being in force for the implementation of actions under the resolution plan, **such approval shall be deemed to have been given and it shall not be a contravention of the Companies Act or law.** In view of the deemed consent of shareholders and the resolution plan being binding upon the creditors, where the resolution plan contemplates restructuring of the corporate debtor by way of merger, amalgamation or demerger, the corporate debtor should not be required to comply with the merger framework.
8. In this connection, the **Hon'ble Supreme Court, in, Innovative Industries Ltd. Vs ICICI Bank & Anr, wherein the Hon'ble Supreme Court** has held that "**it is settled law that a consolidating and amending Act like the present Central enactment forms a code complete in itself and is exhaustive of the matters dealt with therein**". This principle could also be relied upon to support the view that there should not be any requirement to follow the merger framework for implementation of the restructuring proposal which has been approved by the NCLT as a part of the resolution plan. Hence, the Adjudicating Authority is of the opinion that there is no bar for the Resolution Applicant to propose the change in object of the Corporate Debtor through restructuring in order to run the business as a going concern and compliance with the process set out under the provisions of Section 230-232 of the Companies Act, 2013 ("Companies Act").

9. It is clarified that the approval under the NCLT Order shall constitute adequate approval (under Section 230 to 232 and other relevant provisions of the Companies Act, 2013) for the demerger of the Transferor Company and the Transferee Company, as of Implementation Date, in accordance with all provisions of Applicable Law. This Scheme will result in the consolidation of the business of each of the Transferor Company or Demerged Company i.e., M/s SevenHills Healthcare Private Limited and Resulting or Transferee Company i.e., MGM Healthcare Private Limited as existing as on the Appointed Date.
  
10. In **K. Sashidhar v. Indian Overseas Bank & Others (in Civil Appeal No. 10673/2018)** 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. On receipt of such proposal, the Adjudicating Authority (NCLT) is required to satisfy itself that the resolution plan as approved by CoC meets the requirements specified in Section 30(2). No more and no less”*.
  
11. The Hon'ble Supreme Court has further held at para 35 of the above judgement that *the discretion of the adjudicating authority (NCLT) is circumscribed by Section 31 limited to scrutiny of the resolution plan “as approved” by the requisite percent of voting share of financial creditors. Even in that enquiry, the grounds on which the adjudicating authority can reject the resolution plan is in reference to matters specified in Section 30(2), when the resolution plan does not conform to the stated requirements.*

12. The Hon'ble Supreme Court in **Committee of Creditors of Essar Steel India Limited vs. Satish Kumar Gupta & Ors, (2020) 8 SCC 531** held that *“The limited judicial review available to AA has to be within the four corners of section 30(2) of the Code. Such review can in no circumstance trespass upon a business decision of the majority of the CoC. As such the Adjudicating Authority would not have power to modify the Resolution Plan which the CoC in their commercial wisdom have approved”*.
13. The Hon'ble Supreme Court of India, in the recent ruling in re **Vallal RCK vs M/s Siva Industries and Holdings Limited & Ors**, has held as under:-

*“21. This Court has consistently held that the commercial wisdom of the CoC has been given paramount status without any judicial intervention for ensuring completion of the stated processes within the timelines prescribed by the IBC. It has been held that there is an intrinsic assumption, that financial creditors are fully informed about the viability of the corporate debtor and feasibility of the proposed resolution plan. They act on the basis of thorough examination of the proposed resolution plan and assessment made by their team of experts. A reference in this respect could be made to the judgments of this Court in the cases of **K. Sashidhar v. Indian Overseas Bank and Others, Committee of Creditors of Essar Steel India Limited through Authorised Signatory v. Satish Kumar Gupta and Others, Maharashtra Seamless Limited v. Padmanabhan Venkatesh and Others, Kalpraj Dharamshi and Another v. Kotak Investment Advisors Limited and Another, and Jaypee Kensington Boulevard Apartments Welfare Association and Others v. NBCC (India) Limited and Others.***

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

*“95. ....However, we do take this opportunity to offer a note of caution for NCLT and NCLAT, functioning as the adjudicatory authority and appellate authority under the IBC respectively, from judicially*

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

14. Therefore, the resolution plan, when tested on the touch stone of the aforesaid facts and the rulings, we are of the view that the instant resolution plan satisfies the requirements of Section 30 (2) of the Code and Regulations 37, 38, 38 (1A) and 39 (4) of the Regulations. We also found that the Resolution Applicant is eligible to submit the Resolution Plan under Section 29A of the Code.
15. On a perusal of the reliefs etc sought above, it is seen that the same is claimed under the general reliefs under the IBC, under judicial pronouncements, and under powers pertaining to different government authorities/departments. As regards the aforementioned claims under the IBC, it is clarified that this Adjudicating Authority has powers to decide the reliefs claimed which are directly relatable to the Resolution Process and not over those pertaining to extraneous issues. Regarding the reliefs/waivers pertaining to the domain of various departments/governmental authorities, it is further clarified that this Adjudicating Authority has no power to sanction these waivers, etc. and the Successful Resolution Applicant is at liberty to approach the competent authorities/courts/legal forums/office(s) Government or Semi-Government/State or Central Government for appropriate relief(s) sought in the plan. Approval of the Resolution Plan does not mean automatic waivers.

16. The Resolution Applicants shall obtain the necessary approval required under any law for the time being in force within one year from the date of this order or within such period as provided for in such law, whichever is later.
  
17. In view of forgoing, I, hereby approve the Resolution Plan submitted by **Mr.K. Rajagopalan (SRA)**, along with annexure, schedules forming part of the Resolution Applicant annexed to the Application and order as under:
  - I. The Resolution Plan in question is hereby approved by this Adjudicating Authority, subject to the observations made in this order. The Resolution Plan and Scheme of Demerger along with annexures and schedules forming part of the plan shall form part of this order. The Resolution Plan is binding on the Corporate Debtor its employees, members, creditors, including the Central Government and all other stakeholders.
  
  - II. The reliefs and concessions as set forth in Clause 5.13 of Resolution Plan are granted subject to the observations made there against herein above.
  
  - III. The approval of the Resolution Plan shall not be construed as waiver of any statutory obligations/ liabilities of the Corporate Debtor and shall be dealt with by the appropriate Authorities in accordance with law. Any waiver sought in the Resolution Plan, shall be subject to approval by the Authorities concerned as held by Hon'ble Supreme Court in the matter of **Ghanashyam Mishra and Sons Private Limited Versus Edelweiss Asset Reconstruction Company Limited** in CIVIL APPEAL NO.8129 OF 2019 dated 13.04.2021.

- IV. In case of non-compliance with this order or withdrawal of the Resolution Plan by the Successful Resolution Applicant, the CoC shall forfeit the Performance Security furnished by the Resolution Applicant in the form of Performance Bank Guarantees.
- V. The monitoring committee as proposed in clause 5.9.3 of the resolution plan shall be constituted for supervising the effective implementation of the Resolution Plan.
- VI. It is hereby ordered that the Performance Bank Guarantee furnished by the Resolution Applicant shall remain as performance Bank Guarantee till the amount proposed to be paid to the creditors under this plan is fully paid off and the plan is fully implemented.
- VII. Liberty is hereby granted for moving any application if required in connection with the implementation of this Resolution Plan.
- VIII. The Category – 1 asset is proposed to be transferred in accordance with the RFRP and Regulation 36B (6A) of the CIRP Regulations, Therefore no cancellation or delisting of any shares of the Corporate Debtor is required. Further, there is no amendment of the statutory incorporation documents of the Corporate Debtor.
- IX. 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.
- X. The Applicant shall forthwith send a copy of this order to the CoC and the Resolution Applicant.

- XI. The Registry is directed to furnish free copy to the parties as per Rule 50 of the NCLT Rules, 2016.
- XII. Accordingly, IA (IBC) (PLAN)/1/2024 stands disposed of.

*Sd/- Dated 10.06.2024*

**Dr. VENKATA RAMAKRISHNA BADARINATH NANDULA,  
(MEMBER JUDICIAL)**

*Sneha, LRA*