

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
NEW DELHI BENCH, COURT-VI**

**I.A. 41/2024  
IN  
C.P. No. IB-73/PB/2023**

**(Under Section 30 (6) and 31 of the Insolvency and Bankruptcy Code, 2016 read with Regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016))**

**M/S. VIRTUAL BUSINESS SOLUTIONS Pvt. Ltd.**

**.... FINANCIAL CREDITOR**

**VERSUS**

**M/S. DEV VERSHA PUBLICATION Pvt. Ltd.**

**..... CORPORATE DEBTOR**

**AND**

**AND IN THE MATTER OF:**

**MR. SANJAY KUMAR JHA  
RESOLUTION PROFESSIONAL OF  
M/S. Dev Versha Publication Pvt. Ltd.**

**.... APPLICANT**

**SH. MAHENDRA KHANDELWAL, HON'BLE MEMBER (JUDICIAL)**

**SH. ATUL CHATURVEDI, HON'BLE MEMBER (TECHNICAL)**

**PRESENT**

**For the Resolution Professional: Adv Prerana Priyanshu**

**ORDER**

**PER: ATUL CHATURVEDI MEMBER (TECHNICAL)**

**ORDER DELIVERED ON: 25.02.2025**

1. The present application has been filed under Section 30(6) read with Section 31(1) of the Insolvency & Bankruptcy Code, 2016 ('the Code') read with Regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 ('Regulations') by Mr. Sanjay Kumar Jha, Resolution Professional (RP) of Dev Versha Publication Private Limited ('Corporate Debtor'), seeking approval of the Resolution Plan submitted by R.K. Advertising Service , Sole Proprietorship of Mr. Ashok Singhal ('Successful Resolution Applicant') as approved by the Committee of Creditors ('CoC') in its 9<sup>th</sup> CoC Meeting held on 11.05.2024.
2. Briefly stated, the facts as averred by the applicant in the application are as follows:
  - a) That the Corporate Insolvency Resolution Process against the Corporate Debtor was initiated vide order dated 26.09.2023 and Mr. Sanjay Kumar Jha was appointed as IRP in the matter.
  - b) Public Announcement in 'Form A' intimating the public regarding the commencement of corporate insolvency process against M/s Dev Versha Publication Pvt Ltd and calling the creditors to submit their proof of claim was published on 15.10.2023, in Financial Express, English Daily and in 'Jansatta', Hindi Daily widely Circulated in the surrounding area of New Delhi and part of Haryana. The last date of submission of claims was 27.10.2023 and not later than 14 days from the date of Insolvency Commencement date (i.e. 26.09.2023), as stated in the Public Announcement.
  - c) The claim in Form C on 26.10.2023, was received from M/s Virtual Business Solution Private Limited for an unsecured loan of INR 1,56,02,226/-
  - d) Formation of the COC after verification of the claim(s) received by the RP was done and I.A. 6119/2023 was filed before the Adjudicating Authority for submission of RP's Report Certifying the Formation of COC.
  - e) That the 1<sup>st</sup> COC meeting was held on 10.11.2023, wherein the CoC with 100% voting decided to authorise IRP to continue as the Resolution Professional in the present CIRP and the same was been taken on record by the Adjudicating

Authority pursuant to Section 22(3)(a) of the IB Code, vide its Order dated 14.12.2023 in IA/6516/2023.

- f) The Form-G in relation to Invitation for Expression of Interest ("EOI") from prospective resolution applicants was tabled by the RP and approved with 100% voting at the 2<sup>nd</sup> COC Meeting held 04.12.2023. Subsequently, the approved Form G and Invitation for Expression of Interest (EOI) was published in Financial Express, English Daily and in 'Jansatta', Hindi Daily, on 04.12.2023, wherein the last date for submission of EOI was provided as 19.12.2023.
- g) Pursuant to Form-G in relation to Invitation for EOI, the RP received EOI with Earnest Money Deposit of Rs. 2,00,000/- (Rupees Two Lakh) from R.K. Advertising on 18.12.2023 and the same was taken note of by the COC in the 3<sup>rd</sup> COC meeting held on 29.12.2023. Concurrently during the said meeting, the COC appointed an external legal consultant for the preparation of a due diligence report on R.K Advertising Service pursuant to Section 29A of the IB Code and also took note of the 2 (two) Valuation Reports dated 16.12.2023 and 06.01.2024, respectively, as submitted by the RP. Furthermore, the COC deliberated upon and duly extended the date for submission of resolution plan from 13.01.2024 (as per the Form G) to 31.01.2024.
- h) In the 4<sup>th</sup> COC meeting dated 06.01.2024, the COC took note of the due diligence report under Section 29A of the IB Code pertaining to the prospective resolution applicant, namely, R.K. Advertisement, and accordingly, approved the final list of resolution applicant submitted by the RP consisting of R.K. Advertising Service as the sole Resolution Applicant. Further, the COC approved the time period for issuance of the Information Memorandum ("IM") to the Resolution Applicant as on or before 11.01.2024, upon request of the Resolution Applicant, and thereafter, the COC suo moto extended the time granted to the Resolution Applicant for submission of its Resolution Plan from 31.01.2024 up to 10.02.2024 (i.e. 30 days from the said date of issuance of IM).
- i) The RP received a request from the Resolution Applicant for extension of time period for submission of Resolution Plan by the Resolution Applicant, by 15 days, from 10.02.2024 to 25.02.2024 vide email communication dated 07.02.2024, on the grounds that the Resolution Applicant was in the process of completion of their due diligence for submission of their Resolution Plan. Pursuant to the said request from the Resolution Applicant, the COC granted an extension of 15 days under Regulation 36B (6) of the CIRP Regulations, i.e. from 10.02.2024 to 25.02.2024, in the 5<sup>th</sup> COC meeting held on 10.02.2024.

- j) Based on further request for extension dated 01.03.2024 by the Resolution Applicant, the Applicant tabled the said extension request before the COC during the 6th COC meeting held on 07.03.2024. During the 6th COC meeting on 07.03.2024, the COC gave conditional approval of the Resolution Applicant's request for an extension beyond 25 .02.2025 until 22.03.2024 to finalize and submit its Resolution Plan in accordance with Regulation 36B (6) of the CIRP Regulations. The Hon'ble Adjudicating Authority was pleased to approve the extension of the CIRP period by 90 days with effect from 25.03.2024 for completion of the CIRP, vide its Order dated 05.04.2024 in IA No. 1633/2024.
- k) It is submitted that the Applicant duly received the Resolution Plan from the SRA on 22.03.2024, and presented it and unsealed before the CoC during its 7th meeting held on 26.03.2024.
- l) Subsequently, following thorough legal due diligence and technical vetting, the Applicant formally submitted the Resolution Plan for consideration before the CoC during its 9th meeting convened on 11.05.2024. During this meeting, the Applicant provided a comprehensive overview of the Plan's contents, highlighting its alignment with the mandatory requirements outlined in the IB Code and the CIRP Regulations. Additionally, the Applicant presented a detailed table outlining payment schedules and timelines as per the Plan. The CoC, after considering the viability and feasibility of the said Resolution Plan submitted by the R.K. Advertising Service, approved the same with 100% voting. It is submitted that the COC, in the said meeting, further approved the constitution of a Monitoring Committee consisting of Mr. Sanjay Rana (being representative of the Financial Creditor), Mr. Ashok Singhal (being representative of the SRA) and the Applicant, for complete and timely implementation of the approved Resolution Plan.
- m) It is submitted that following the CoC's resolution, the Applicant promptly dispatched a Letter of Intent ("LOI") to the SRA on 17.05.2024, officially notifying the SRA of the Plan's approval and requesting the issuance of an irrevocable Performance Guarantee totaling INR 5,00,000. Pursuant to the same, the SRA vide email dated 21.05.2024 has confirmed submission of the Performance Guarantee for an amount of INR 5,00,000 with the Corporate Debtor, which has been received on 22.03.2024 along with the submission of the Resolution Plan.

n) The Applicant herein in the capacity as the Resolution Professional states that the approved Resolution Plan meets all the requirements envisaged under the IB Code and the Rules/Regulations made thereunder. In this regard, the Applicant is hereby placing on record the Compliance Certificate dated 15.05.2024 in Form - H, as required under Regulation 39(4) of the CIRP Regulations.

3. We have heard the submissions made by the Ld. Counsel for the applicant and have gone through the documents produced on record.

4. Some key features of the Resolution Plan are as follows:

**OVERVIEW OF THE RESOLUTION PLAN**

I. The amounts provided for the stakeholders under the Resolution Plan is as under:

7. The amounts provided for the stakeholders under the Resolution Plan is as under

(Amount in Rs. lakh)

Sl. 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	0	0	0	0
		(b) Other than (a) above:	0	0	0	0
		(i) who did not vote in favour of the resolution Plan	0	0	0	0
		(ii) who voted in favour of the resolution plan	0	0	0	0
		Total[(a) + (b)]	0	0	0	0
2	Unsecured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	0	0	0	0
		(b) Other than (a) above:	1,56,02,226	1,56,02,226	1,51,00,000	1,51,00,000
		(i) who did not vote in favour of the resolution Plan	0	0	0	0
		(ii) who voted in favour of the resolution plan	1,56,02,226	1,56,02,226	1,51,00,000	1,51,00,000
		Total[(a) + (b)]	1,56,02,226	1,56,02,226	1,51,00,000	1,51,00,000
3	Operational Creditors	(a) Related Party of Corporate Debtor	0	0	0	0
		(b) Other than (a) above:	0	0	0	0
		(i) Government	0	0	0	0
		(ii) Workmen				
		(iii) Employees				
(iv) .....						
Total[(a) + (b)]	0	0	0	0		

## II. Source of Funds

The Corporate Debtor is a going concern and has leased assets from MCD for advertising rights, generating leasing income. The Corporate Debtor intends to acquire more leased assets, further increasing leasing and advertising revenue. As a result, payments will mainly be made from internal accruals and cash flows. If there's any shortfall, the SRA shall pay for the same with personal funds/internal sources.

## III. Compliances

The final Resolution Plan submitted by SRA meets the requirements of Section 30(2) of the Code as under: -

9. The compliance of the Resolution Plan is as under:

Section of the Code / Regulation No.	Requirement with respect to Resolution Plan	Clause of Resolution Plan	Compliance (Yes / No)
25(2)(h)	Whether the Resolution Applicant meets the criteria approved by the CoC having regard to the complexity and scale of operations of business of the CD?	Para 3.1	Yes
Section 29A	Whether the Resolution Applicant is eligible to submit resolution plan as per final list of Resolution Professional or Order, if any, of the Adjudicating Authority?	Para 3.6 Para 3.7	Yes
Section 30(1)	Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?	Affidavit Submitted on the time of appointment as Resolution Applicant	Yes
Section 30(2)	Whether the Resolution Plan- (a) provides for the payment of insolvency resolution process costs? (b) provides for the payment to the operational creditors? (c) provides for the payment to the financial creditors who did not vote in favour of the resolution plan? (d) provides for the management of the affairs of the corporate debtor? (e) provides for the implementation and supervision of the resolution plan? (f) contravenes any of the provisions of the law for the time being in force?	Para No. 6.2 page No.13 Para No.6.3 page No.13 Para No. 6.4 Page No. 16 Para No. 19 page No.30 Para No. 18.3 Page No. 29	YES YES
Section 30(4)	Whether the Resolution Plan (a) is feasible and viable, according to the CoC? (b) has been approved by the CoC with 66% voting share?	YES YES	YES YES
Section 31(1)	Whether the Resolution Plan has provisions for its effective implementation plan, according to the CoC?	YES	YES

Regulation 38 (1)	Whether the amount due to the operational creditors under the resolution plan has been given priority in payment over financial creditors?]	Para No.6.6 Page No. 17	
Regulation 38(1A)	Whether the resolution plan includes a statement as to how it has dealt with the interests of all stakeholders?	Para No. 21.6.11  Page No. 35	
Regulation 38(1B)	(i) Whether the Resolution Applicant or any of its related parties has failed to implement or contributed to the failure of implementation of any resolution plan approved under the Code.  (ii) If so, whether the Resolution Applicant has submitted the statement giving details of such non-implementation?]	Para 21.1, Para 21.2 Para 21.3 Para 21.4 Page No. 30 and 31	
Regulation 38(2)	Whether the Resolution Plan provides: (a) the term of the plan and its implementation schedule?  (b) for the management and control of the business of the corporate debtor during its term?  (c) adequate means for supervising its implementation?	Para No. 20.1 Page No.- 30 Para 21.5 Page-31  Para No. 19 Page No. 29  Para No. 17 Page No. 26-27	
38(3)	Whether the resolution plan demonstrates that –  (a) it addresses the cause of default?  (b) it is feasible and viable? (c) it has provisions for its effective implementation? (d) it has provisions for approvals required and the timeline for the same? (e) the resolution applicant has the capability to implement the resolution plan?	Para No.23 page No. 6 -7 Yes Yes Yes Yes	
39(2)	Whether the RP has filed applications in respect of transactions observed, found or determined by him?	No	
Regulation 39(4)	Provide details of performance security received, as referred to in sub-regulation (4A) of regulation 36R.]	Performance Security by Providing  BANK Guarantee Demanded from Resolution Applicant	



#### IV. Payment of CIRP Cost

Sr. No.	Payment to be made	Amount Payable	Timeline for Payment
1.	CIRP Cost	Rs. 10,31,610 (paid separate from Plan Value based on actuals)	INR 10,00,000 on Effective Date and any remaining amount in actuals to be paid in full and in priority to claim of any other creditors.
2.	Financial Creditors	1,56,02,226	Within 240 days from Effective Date
3.	Operational Creditors & Employees/Workmen	NIL	N/A

\* "Effective Date" shall mean date of approval of the Resolution Plan by the Hon'ble Adjudicating Authority.

- V.** The RA (Resolution Applicant) propose to pay the total CIRP cost of Rs. 10,31,610/- (Ten Lakh Thirty-one Thousand Six Hundred Ten) in full at actual basis in priority to the debts of other Operational Creditors and Workmen and employees. Presently the substantial amount of CIRP cost is paid from the CIRP Account through the amount which is earned by the Corporate Debtor from the running business.
- VI.** The CIRP cost of Rs. 10,31,610/- (Ten Lakh Thirty-one Thousand Six Hundred Ten) will be separate from the Plan Value of Rs. 1,51,00,000/- (One Crore Fifty-One Lakh). The Plan Value including CIRP Cost is Rs. 1,61,31,610 (One Crore

Sixty-one Lakh Thirty-one Thousand Six Hundred Ten). In the Present matter CIRP Cost is separately and directly paid or payable to RP from CIRP Account.

**VII. Term of the Resolution Plan and its Implementation Schedule**

The Term of the Plan is 1(one) Year. The total plan value of INR 1,51,00,000/- shall be paid in 2 tranches, with an upfront payment of INR 10,00,000/- on the dated of approval of the plan by the Hon'ble Adjudicating Authority ("Effective Date"). The remaining deferred payment of INR 1,41,00,000/- shall be paid within 240 days from the Effective Date. Furthermore, the CIRP cost shall be paid separately on an actual basis and in priority to payments to the creditors.

**VIII. Capital Restructuring and Management of the Corporate Debtor Post Approval of Resolution Plan –**

**Capital Restructuring:** The authorized share capital of the Corporate Debtor will remain unchanged. However, all existing shares will be cancelled, and SRA will then subscribe to 10,000 equity shares at Rs. 10 each. The remaining capital structure will consist of a combination of preference share and debt, ensuring adequate financing for the Corporate Debtor's operations.

**Management:** The suspended board of directors will be automatically dissolved, requiring no further action or compensation. The Monitoring Committee shall oversee the appointment of a Reconstituted Board within 15 days of its formation, to manage the Corporate Debtor's affairs under the committee's supervision. Further, new board will be staffed by professionals nominated by the SRA, ensuring compliance with Section 29A of the IBC, while the reconstituted Corporate Debtor will not be held accountable for any past non-compliance by previous directors.

**IX.** There are no objections to the Resolution Plan by any of the stakeholders.

**X.** The SRA has filed an affidavit dated 19.12.2023 stating that the Resolution Plan is not conditional to the approval/grant of exemptions/relief(s) waiver sought in the Resolution Plan.

**XI.** With respect to compliance regarding Regulation 39(4) of the CIRP Regulations, the applicant has filed compliance certificate in Form-H certifying that the Resolution Plan submitted by the successful resolution applicant meets the requirements as laid down in various sections of the Code and the CIRP Regulations and there are sufficient provisions in the Plan for its effective implementation as required under the Code. Further, an affidavit has been obtained from the Successful Resolution Applicant stating that he is not ineligible under the provisions of Section 29A of the Code, 2016.

## 5. Analysis and Findings

- i. This Adjudicating Authority finds that the Resolution Plan was submitted by the Successful Resolution Applicant namely M/s. R.K. Advertising Service which was approved by the CoC in its 9th meeting dated 11.05.2024 under Section 30(4) of the IBC by 100% voting share is valid and no provision of the IBC is contravened.
- ii. We find that the Resolution Plan meets the requirement of being a viable and feasible and for revival of the Corporate Debtor. By and large, there are provisions for making the Plan effective after approval by this Bench.
- iii. This Adjudicating Authority has further relied on the Hon'ble Supreme Court's decision in the matter of **Vallal RCK vs. M/s. Siva Industries and Holdings Limited and Others, Civil Appeal Nos. 1811-1812 of 2022** whereby the Hon'ble Apex Court has answered the question as to whether **'the adjudicating authority (NCLT) or the appellate authority (NCLAT) can sit in an appeal over the commercial wisdom of the Committee of Creditors ("CoC") or not'**. We rely upon the following paragraphs:

“21. This Court has consistently held that the commercial wisdom of the CoC has been given paramount status without any judicial intervention for ensuring the 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 the 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 or 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”

- iv. The applicant has prayed for number of waivers in the Resolution Plan. As to the relief and concessions sought in the resolution plan, by taking into consideration the decision of the Hon’ble Supreme Court in the matter of **Embassy Property Development Private Limited v. State of Karnataka & Ors. in Civil Appeal No. 9170 of 2019**, we direct the Successful Resolution Applicant to file necessary application before the necessary forum/ authority in order to avail the necessary relief and concessions, in accordance with respective laws. The relevant part of the judgement is reproduced herein below:-

*39. Another important aspect is that under Section 25 (2) (b) of IBC, 2016, the resolution professional is obliged to represent and act on behalf of the corporate debtor with third parties and exercise rights for the benefit of the corporate debtor in judicial, quasi-judicial and arbitration proceedings. Section 25(1) and 25(2)(b) reads as follows:*

*“25. Duties of resolution professional –  
(1) It shall be the duty of the resolution professional to preserve and protect the assets*

*of the corporate debtor, including the continued business operations of the corporate debtor.*

*(2) For the purposes of sub-section (1), the resolution professional shall undertake the following actions:-*

*(a).....*

*(b) represent and act on behalf of the corporate debtor with third parties, exercise rights for the benefit of the corporate debtor in judicial, quasi-judicial and arbitration proceedings.”*

*This shows that wherever the corporate debtor has to exercise rights in judicial, quasi-judicial proceedings, the resolution professional cannot short-circuit the same and bring a claim before NCLT taking advantage of Section 60(5).*

*40. Therefore in the light of the statutory scheme as culled out from various provisions of the IBC, 2016 it is clear that wherever the corporate debtor has to exercise a right that falls outside the purview of the IBC, 2016 especially in the realm of the public law, they cannot, through the resolution professional, take a bypass and go before NCLT for the enforcement of such a right.”*

- v. In so far as the approval of the resolution plan is concerned, this Adjudicating Authority is duty bound to follow the judgement of the **Hon’ble Supreme Court in the matter of K.Sashidhar v. Indian Overseas Bank (2019) 12 CC 150**, wherein the scope and interference of the Adjudicating Authority in the process of the approval of the Resolution Plan is elaborated as follow:-

*35. 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 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. 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.

- vi. Also, the Hon'ble Supreme Court of India in the matter of **Committee of Creditors of Essar Steel India Limited vs. Satish Kumar Gupta & Ors., Civil Appeal No. 8766-67 of 2019, vid its judgement dated 15.11.2019** has observed as follows:

*“38. This Regulation fleshes out Section 30(4) of the Code, making it clear that ultimately it is the commercial wisdom of the Committee of Creditors which operates to approve what is deemed by a majority of such creditors to be the best resolution plan, which is finally accepted after negotiation of its terms by such Committee with Prospective Resolution Applicants.”*

6. In light of the above-quoted judgements, it is clear that the **“Commercial wisdom of CoC”** is given paramount status. This Adjudicating Authority is not endowed with the powers of jurisdiction or authority to analyse or evaluate the commercial

decision of the CoC. The Resolution Plan was submitted by the Successful Resolution Applicant namely M/s. R.K Advertising Service which was approved by the CoC in its 9th convened meeting dated 11.05.2024 under section 30(4) of the IBC by 100% voting share, this Adjudicating Authority cannot interfere in the same.

7. On perusal of the documents on record, we are satisfied that the Resolution Plan is in accordance with Sections 25(2)(h), 29A, 30(2), 30(4) and 31(1) of the IBC and also complies with Regulations 35A, 36B(4A), 37, 38(1), 38(1A), 38(1B), 38(2), 38(3), 39(1), 39(2) and 39(4) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The Applicant/RP has filed a Compliance Certificate in the prescribed Form, i.e., Form-H as per the amended Resolution Plan in compliance with Regulation 39(4) of the CIRP Regulations. The Applicant/RP submits that the Successful Resolution Applicant is not disqualified under Section 29A of the Code to submit the Resolution Plan, as required by Regulation 39(1)(a) of the CIRP Regulations. A separate undertaking has also been submitted along with the EoI by the Successful Resolution Applicant, as mandated in terms of Regulation 39(1)(c) of the CIRP Regulations.
8. The reliefs, concessions and waivers sought by the Successful Resolution Applicant will be dealt with strictly as per law.
9. 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.
10. In case of non-compliance of this order or withdrawal of the Resolution Plan within the stipulated time, in addition to other consequences which follow under law, the CoC shall forfeit the EMD already paid by the SRA as well as the Performance Bank Guarantee.
11. In view of the above, we are of the considered view that the present application has been filed with bonafide means, in the interest of justice and to advance the objectives of the Code.



12. Thus, from the judgements cited supra, it is amply clear that only limited judicial review is available to the Adjudicating Authority under Section 30(2) read with Section 31 of the Code, 2016 and this Adjudicating Authority cannot venture into the commercial aspects of the decisions taken by the committee of the creditors.
13. Therefore, in our considered view, there is no impediment in giving approval to the Resolution Plan. Accordingly, we hereby **approve the Resolution Plan with a plan value of Rs.1,61,31,610/- (Rupees One Crore, Sixty One Lakh, Thirty One Thousand, Six Hundred and Ten Only)**, which shall be binding on the corporate debtor and its employees, shareholders of corporate debtor, creditors including the Central Government, any State Government or any local authority to whom statutory dues are owed, guarantors, successful resolution applicant and other stakeholders involved. In view of the above, **I.A. 41/2024 stands allowed. The Resolution Plan shall form part of this Order. “Effective Date”** means the date on which this Resolution Plan is approved by this Adjudicating Authority under Section 31 of the Code.
14. It is declared that the moratorium order passed by this Adjudicating Authority under Section 14 of the Code shall cease to have effect from the date of pronouncement of this order.
15. However, the resolution plan shall not be construed as waiver to any statutory obligations/liabilities arising out of the approved resolution plan and the same shall be dealt in accordance with the appropriate authorities concerned as per relevant laws. We are of the considered view that if any waiver is sought in the resolution plan, the same shall be subject to approval by the concerned authorities. The same view has been held by the Hon’ble Supreme Court in **Ghanshyam Mishra and Sons Private Limited vs. Edelweiss Asset Reconstruction Company Limited and Embassy Property Development case (supra)**.
16. Accordingly, MoA and AoA of the corporate debtor shall be amended and filed with the RoC for information and record as prescribed. While approving the ‘resolution plan’ as mentioned above, it is clarified that the resolution applicant shall pursuant to the resolution plan approved under section 31(1) of the Code, 2016, obtain all

the necessary approvals as may be required under any law for the time being in force within the period as provided for such in law.

17. The Resolution Professional shall forward all records relating to the Corporate Insolvency Resolution Process of the corporate debtor and the Resolution Plan to IBBI to be recorded at its database in terms of Section 31(3)(b) of the Code. The Resolution Professional is further directed to handover all the records, premises, properties of the corporate debtor to the Successful Resolution Applicant to ensure a smooth implementation of the resolution plan.
18. The approved 'Resolution Plan' shall become effective from the date of passing of this order. The Approved Resolution Plan shall be part of this order.
19. The Registry is hereby directed to send copies of the order forthwith to the IBBI, all the parties and their Ld. Counsel for information and for taking necessary steps.
20. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

File be consigned to the record.

No order as to costs.

**-SD/-**

**(ATUL CHATURVEDI)**  
**MEMBER TECHNICAL**

**-SD/-**

**(MAHENDRA KHANDELWAL)**  
**MEMBER JUDICIAL**