



**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**MUMBAI BENCH, COURT-II**

**IA No. 1626/2024**

**In**

**CP (IB) 4260/MB/2018**

Under Section 60 (5) of IBC r/w Regulation  
32(E), 32(A), 44, 45(3)(A) and 46(5) of the IBBI  
(Liquidation Process) Regulations, 2016

**Mr. Ashok Kumar Golechha,**

Liquidator of Spark Green Energy (Satara) Ltd.  
Having its registered address:

Unit # 207, 2<sup>nd</sup> Floor, Kshitij, Near Azad Nagar  
Metro Station, Veera Desai Road, Andheri West,  
Mumbai – 400 053.

**... Applicant/Liquidator**

**AND**

**IA No. 3067/2024**

**In**

**CP (IB) 4260/MB/2018**

Under Section 60 (5) of IBC r/w Regulation  
32(E), 32(A) of the IBBI (Liquidation Process)  
Regulations, 2016

**Shri Dutt India Private Limited**

Successful Bidder in relation to E-auction sale of  
Spark Green Energy Satara Ltd. As a Going  
Concern.



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109-110, First Floor, Arcadia, Opp. NCPA gate  
No. 05, 195, Nariman Point, Mumbai – 400021.

.... Applicant/Successful Bidder

IN THE MATTER OF

Union Bank of India .... Financial Creditor

Versus

Spark Green Energy (Satara) Limited

... Corporate Debtor

Order delivered on :- 26/11/2024

**Coram:**

**Anil Raj Chellan**  
**Member (Technical)**

**Kuldip Kumar Kareer**  
**Member (Judicial)**

**Appearances:**

**For the Applicant** : Senior Counsel, Mr. Gaurav Joshi a/w  
Adv. Rashi Shah (in IA No. 3067/2024)

**For the Applicant/Liquidator :** Counsel, Manish Jha a/w Adv.  
Chaitanya Nikte (in IA No. 1626/2026)

**ORDER**

***Per: - Anil Raj Chellan, Member (Technical)***

1. By way of this common order, we propose to dispose of the following two interim applications which arise from the same set of facts and the reliefs claimed by the Applicants are also the same.



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- (a) IA No. 1626 of 2024 is filed by the Applicant, the Liquidator of Spark Green Energy Satara Limited (the 'Corporate Debtor') under Section 60(5) of the Insolvency and Bankruptcy Code ('the Code') read with Regulation 32(e), 32A, 44, 45(3)(a) and 46(5) of the IBBI (Liquidation Process) Regulations 2016 ('Liquidation Regulations'); and
  - (b) IA No. 3067 of 2024 is filed under Section 60(5) of the Code by the Applicant, the Successful Bidder of the e-auction conducted for the sale of the Corporate Debtor as a going concern under Regulation 32(e) of the Liquidation Regulations.
2. The Liquidator of the Corporate Debtor and the Successful Bidder of the e-auction (hereinafter collectively referred to as "Applicants") seek the common reliefs in IA No. 1626 of 2024 and IA No. 3067 of 2024 as under:
- (a) This Tribunal be pleased to confirm the sale of the Corporate Debtor as a going concern without dissolution.
  - (b) This Tribunal be pleased to direct that from the date of order confirming sale as a going concern, the status of Corporate Debtor in Registrar of Companies (RoC) be reflected as active from the status of liquidation and direct the liquidator to write a letter to the RoC informing him to change the status of the Corporate Debtor from under liquidation to active.



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- (c) This Tribunal be pleased to grant the reliefs and concessions stated in the applications to the Successful Bidder as the Corporate Debtor is sold as going concern in liquidation.
- (d) This Tribunal be pleased to grant any other reliefs and concessions as this Tribunal may deem fit in the interest of justice.

*Brief Facts of the Case as pleaded by the Applicants*

3. The Applicants state that upon an application filed by Union Bank of India under Section 7 of the Code, the Corporate Insolvency Resolution Process ('CIRP') of the Corporate Debtor was initiated vide order of this Tribunal dated 28.11.2019. Subsequently, on the recommendations of the Committee of Creditors ('CoC') in its 20<sup>th</sup> meeting held on 14.09.2021 and on the application bearing IA No. 2571 of 2021 filed, this Tribunal vide its order dated 28.07.2023 ordered liquidation of the Corporate Debtor and appointed the Applicant in IA No. 1626 of 2024 as the Liquidator of the Corporate Debtor (hereinafter 'Liquidator').
4. The Liquidator has taken various actions as contemplated under the IBBI (Liquidation Process) Regulations, 2016 ('Liquidation Regulations') including inviting the claims from all the classes of



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creditors, filing of asset Memorandum along with a Preliminary Report, filing of a list of stakeholders, etc.

5. The Liquidator has also appointed a set of valuers in accordance with Regulation 35 of the Liquidation Regulations to determine the realizable value of the assets. As per the valuation reports submitted, the average liquidation value for land and building is Rs. 2,63,98,325/- (Rupees Two Crore Sixty-Three Lakh Ninety-Eight Thousand Three Hundred Twenty-Five Only) and valuation of plant and machinery is Rs. 9,50,50,000/- (Rupees Nine Crore Fifty Lakh Fifty Thousand Only) (in aggregate Rs. 12,14,48,325/-).
6. The Liquidator states that in the second Stakeholders Consultation Committee (SCC) meeting held on 04.09.2023, it was unanimously resolved to sell the Corporate Debtor as a going concern on a reserve price of Rs. 14.50 Crore. Accordingly, the Liquidator issued an e-auction notice on 11.09.2023 and the sale was held on 16.10.2023.
7. In response to the e-auction notice, the Liquidator received two EoIs along with the participation fee of Rs. 1 Lakh. However, out of the two EoIs only one bidder namely, Shri Datt India Private Limited had submitted the EMD of Rs. 1 Crore to participate in the e-auction for the sale of the Corporate Debtor as a going concern within the



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prescribed period. The said bidder was also considered eligible to participate in the e-auction after verifying its eligibility under Section 29A of the Code.

8. The Liquidator further submits that the e-auction was held on 16.10.2023 as per the e-auction notice wherein Shri Datt India Private Limited placed a bid at the reserve price of RS. 14.50 Crores and evolved as the successful bidder in the e-auction.
9. The Liquidator states that the Letter of Intent was issued to the Successful Bidder vide email dated 17.10.2023 as per which the residual bid amount was to be paid on or before 15.11.2023 without interest. If any amount is paid after 15.11.2023, interest @ 12% shall be payable and in case there is further delay beyond 90 days the sale shall stand cancelled.
10. The Liquidator states that the Successful Bidder paid the residual bid amount of Rs. 13.49 Crore and Rs. 23,55,021/- towards interest @ 12% on 13.01.2024 in the liquidation account of the Corporate Debtor. After receipt of the full and final amount, the Liquidator issued the sale certificate to the Successful Bidder on 25.01.2024 and handed over physical possession of the assets on 19.02.2024.



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11. It is further stated that the Liquidator distributed the proceeds of sale in accordance with the Section 53 of the Code and the Secured Creditors have issued the 'no dues cum security release certificate' discharging their security on the assets of the Corporate Debtor.
12. The Liquidator submits that he has completed the Liquidation Process within a period of one year from the Liquidation Commencement Date and distributed amongst stakeholders. Since the sale consideration was not sufficient to satisfy the entire admitted claim of secured financial creditors, no distribution has been made to other secured creditors, operational creditors including statutory authorities and shareholders.
13. It is further stated that the original title deeds relating to the assets of the Corporate Debtor which were in the possession of the Union Bank of India were not traceable and hence the original title deeds could not be handed over to the Successful Bidder. However, Union Bank of India lodged a Police complaint on 20.02.2024 and made a public announcement on 21.02.2024, and issued a certificate in favour of the Successful Bidder, as regards the loss/misplacement of the original title deeds.
14. The Liquidator further submits that the Union Bank of India has been substituted in place of the Liquidator in the pending IAs (IA No. 298



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of 2021 and IA No. 2515 of 2020) relating to avoidance applications for prosecuting these applications. Presently, one application filed by BEST for considering its claim as a secured creditor and admitting the interest amount of its claim which was rejected by the Applicant is pending before this Tribunal and undertaking has been obtained from the existing secured creditors that in the event, the application is allowed in favour of BEST, the existing secured creditors shall refund the excess distribution as per the revised calculations and the same shall be distributed to BEST undertaking.

15. The Liquidator has prepared a final report dated 08.03.2024 and filed Form-H.
16. The Liquidator submits that the Corporate Debtor has been sold as a going concern as per the Liquidation Regulations. In order to ensure the smooth running of the business of the Corporate Debtor, it is imperative that certain additional reliefs/concessions/relaxations and permissions are allowed which would be essential and necessary to run the business of the Corporate Debtor as a going concern by the Successful Bidder.
17. It is also stated that the permissions/relaxations/concessions/reliefs are crucial to kick-start the business of the Corporate Debtor and



achieve value maximization of the Corporate Debtor. The Liquidator sought sanctioning of the reliefs and concessions stated therein.

18. The Successful Bidder has also stated the facts and has sought the same reliefs.

*Analysis*

19. We have heard the Counsel for the Applicants and perused the documents on record.
20. Before delving into the submissions of the Counsels and prayers in the Applications, it will be useful to notice the legal position of a 'going concern sale' under the Code and allied Regulations.
21. The Code read with the Liquidation Regulations framed thereunder envisages three modes of revival of corporate debtor:
  - (a) Resolution through CIRP under Chapter II of the Code;
  - (b) Sale of the Corporate Debtor as a going concern under Liquidation Regulations 32(e) and (f);
  - (c) A scheme of compromise or arrangement under Section 230 of the Companies Act, 2013, following an order for liquidation passed under Chapter III of the Code.



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The reason for incorporating modes (b) and (c) referred herein above is obvious that liquidation is a matter of last resort and sale as a going concern is likely to fetch better value for all stakeholders. If the assets of the corporate debtor are sold separately or enforced by the secured creditors, many intangibles forming part of a business such as contracts, leases, licenses, concessions, operational assets, manpower, technology, etc would be lost in the process as these assets either may not be transferable at all or may require third-party concurrence/approval for each such transfer.

22. The present case is in the liquidation so we focus our examination on the sale of the corporate debtor as a going concern in the liquidation process. Section 35(1) (f) of the Code lays down the powers and duties of the liquidator, one of which is, to sell the immovable and movable properties and actionable claims of the corporate debtor in liquidation by public auction or private contract, with power to transfer such property to any person or body corporate, to sell the same in parcels in such manner as may be specified.

Regulation 32 of the Liquidation Regulations further provides as under:



32. Sale of Assets, etc-

The liquidator may sell-

- (a) an asset on a standalone basis;
- (b) the assets in a slump sale;
- (c) a set of assets collectively;
- (d) the assets in parcels;
- (e) the corporate debtor as a going concern; or
- (f) the business(s) of the corporate debtor as a going concern:

Provided that where an asset is subject to security interest, it shall not be sold under any of the clauses (a) to (f) unless the security interest therein has been relinquished to the liquidation estate.

Thus, in Regulation 32 of the Liquidation Regulations, two modes are contemplated for the sale of the corporate debtor as a going concern.

The distinguishing factor between the sale of the corporate debtor as a going concern as per sub-clause (e) and the sale of the business of the corporate debtor as a going concern as per sub-clause (f) appears to be that in the former situation, the corporate entity will continue without any dissolution.

23. While the Liquidation Regulations explicitly recognise 'sale as going concern' as one of the methods of sale, neither the Code nor the



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Liquidation Regulations provides the definition of 'going concern'. In one of the round table of IBBI with stakeholders held on 21.05.2018 to understand difficulties in selling corporate debtor as a going concern described 'going concern' as under:

“Going Concern” means all the assets, tangibles, or intangibles and resources needed to continue to operate independently a business activity which may be whole or a part of the business of the corporate debtor without values being assigned to the individual asset or resource.”

Although the above description of 'going concern' may not be of much relevance, it is apparent that the central aim of selling a corporate debtor as a going concern under the liquidation process is to preserve the corporate entity as a functional business to save employment while maximising the returns for stakeholders. In other words, the ownership of the corporate debtor is transferred to the acquirer for operationalisation of the corporate debtor on certain terms and conditions as contained in the process document.

24. In the above background, the main contention of the Applicants is that the sale of the corporate debtor as a going concern has all the same attributes and characteristics of a resolution plan sanctioned under



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Section 31 of the Code. Consequently, whatever benefits and rigors apply to the resolution plan under Section 31 of the Code must equally apply to sale as a going concern in the liquidation process. Against this backdrop, it becomes necessary to notice that approval of the resolution plan involves multi-stakeholder consultations and application of mind in planning the future viability of the corporate debtor and takes place within the institutional framework of the Code. Further, a resolution plan once approved by the Adjudicating Authority is binding on all stakeholders as per the explicit provisions of the Code, and as a result, the stakeholders are bound to take the exercise of restructuring carefully and pragmatically. On the contrary, sale as a going concern is a mere sale instead of restructuring. Most of the stringent provisions that apply to the resolution plan are conspicuously absent in the case of sale as a going concern. The viability and feasibility of keeping the corporate concern are never a consideration and the decision is left to the liquidator requiring no approval from the Adjudicating Authority. Thus, although both modes aim to revive the corporate debtor, in our opinion, both are different, not comparable and belong to distinctly different categories under the Code.

25. It is noticed that 'the clean state theory of resolution plan' as recognised by the Hon'ble Supreme Court in *Ghanashyam Mishra & Sons Pvt. Ltd*



*v. Edelweiss Asset Reconstruction Company Ltd (2021) 9 SCC* has been extended in a few cases of sale of the corporate debtor as a going concern during the liquidation process even though statutory provisions supporting the theory are limited to resolution plans. Thus, the primary question that falls for our consideration is whether the clean slate theory can be applied regardless of the terms and conditions of sale outlined in the process document. Additionally, we should examine what reliefs and concessions, such as waivers and exemptions from statutory and other liabilities, the Adjudicating Authority can grant to facilitate the operation of the corporate debtor's business.

26.1 Bearing in mind the elaborate and general reliefs that are claimed in the Applications, it would be apposite to deal with other prayer first. The Applicants seek to confirm the sale of the Corporate Debtor as a going concern without dissolution. No provision in the Code or Regulations has been brought to our notice requiring confirmation of sale by the Adjudicating Authority.

26.2 The records reveal that the Corporate Debtor was incorporated to generate, transmit, and distribute electrical energy for industrial and non-industrial uses. It was implementing a project on renewal energy by setting up 25 MW biomass-based power plants. However, the plant



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was not completed and commissioned, so the manufacturing operations were never started. Since no resolution plan was approved, the CoC, at its last meeting held on 14.09.2021, approved the liquidation of the Corporate Debtor and recommended the sale of its assets as a going concern.

26.3 As per the Report filed by the Liquidator, the total claims submitted in respect of the Corporate Debtor is Rs. 498.31 crores, and admitted claims are Rs. 341.15 crore. The average Realisable value of assets as determined by the valuers in the liquidation process is Rs.16.84 crore and the average liquidation value is Rs. 12.14 crores. Further, SCC in its second meeting held on 14.09.2023, observed that the Resolution Plans received during CIRP were lower than the liquidation value of Rs.16.75 crores ascertained during CIRP and hence decided to fix the reserve price by taking an average of the Realisable value and liquidation value determined during the liquidation process which comes to Rs.14.50 crore. Accordingly, SCC approved the Reserve Price, the timeline for the e-auction process, the Earnest Money Deposit, and the process document for the e-auction ('Process Document).



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26.4 Accordingly, the e-auction was held on 16.10.2023 and Shri Datt India Private Limited was declared as a successful bidder (the Successful Bidder') for the reserve price of Rs.14.50 Crores. Upon receipt of the full bid amount together with interest for the late payment, the Liquidator issued the sale certificate on 25.01.2024 and handed over the physical possession of the assets on 19.02.2024. The Liquidator has further proceeded to distribute the sale consideration in accordance with Section 53 of the Code and the Secured Creditors have issued their no dues cum security release certificate discharging their security on the assets of the Corporate Debtor.

26.5 At this stage, nothing remains for the Adjudicating Authority to confirm the sale undertaken by the Liquidator in consultation with the SCC. The commercial wisdom exercised by SCC is neither subject to review of this Tribunal nor requires approval of the Tribunal as in the case of a resolution plan submitted under Sections 30 and 31 of the Code. The role of the Tribunal, in an auction sale, is very limited and the statute intentionally left the decision and sale process to the SCC and the liquidator unless challenged by any person. There is no scope for endorsement of the sale process or compliance with the Code and applicable Regulations. Therefore, we do not find any merits in the prayer seeking confirmation of Sale by the Tribunal, that too at a



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belated stage after completing the entire process of sale. We, therefore, merely take note of the sale of assets of the Corporate Debtor as a going concern.

27 Having dealt with the prayer regarding confirmation of sale by the Tribunal, we proceed further to various reliefs and concessions sought by the Applicants in the Applications.

*28.1 The Applicant prays that a direction be issued that on and from the Date of Order of the Hon'ble Tribunal, all the claims or demands made by, or liabilities or obligations owed or payable to any actual or potential creditors of the Corporate Debtor including Compulsory Convertible Debentures, Government Dues (including but not limited to liabilities, interest and penalties, duties, etc. on account of income-tax, minimum alternate tax, tax deduction at source, tax collection at source, goods and services tax, custom duty, value added tax, service tax, wealth-tax, cess, etc.) whether direct or indirect, whether admitted or not, due or contingent, asserted or unasserted, crystalized or uncrystalized, known or unknown, secured or unsecured, disputed or undisputed including any liability arising out of non-compliance of provisions of any laws, rules, regulations, notifications, guidelines in relation to any period prior to the Date of Order of the Hon'ble Tribunal will be deemed to be permanently settled and discharged by the Liquidator*



*in accordance with Section 53 of the Code and will be written off in full by the Successful Bidder and shall stand permanently extinguished;*

28.2 Here, it will be advantageous to notice the relevant provisions of Liquidation Regulations:

*32A. Sale as a going concern.*

*(1) Where the committee of creditors has recommended sale under clause (e) or (f) of regulation 32 or where the liquidator is of the opinion that sale under clause (e) or (f) of regulation 32 shall maximise the value of the corporate debtor, he shall endeavour to first sell under the said clauses.*

*(2) For the purpose of sale under sub-regulation (1), the group of assets and liabilities of the corporate debtor, as identified by the committee of creditors under sub-regulation (2) of regulation 39C of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 shall be sold as a going concern.*

*(3) Where the committee of creditors has not identified the assets and liabilities under subregulation (2) of regulation 39C of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the liquidator shall identify and group the assets and liabilities to be sold as a going concern, in consultation with the consultation committee.*

*(4) The liquidator may sell the assets of the corporate debtor under clause (e) of regulation 32 exclusively only at the first auction.*



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*Explanation: For the purpose of this sub-regulation, it is hereby clarified that the sale of the corporate debtor under clause (e) of regulation 32 cannot be offered as the only option for bidders after the first auction.]*

*(5) Where the liquidator is of the opinion that it is viable to run the corporate debtor as a going concern, he shall consult the consultation committee and only on its advice he shall run the affairs of the corporate debtor as a going concern to the extent approved.*

28.3 In the first meeting, the SCC noted the aforesaid Regulation as also the decision of the CoC to sell the assets of the Corporate Debtor as a going concern. Thereafter, the second meeting of SCC held on 14.09.2023 decided to fix the Reserve price at Rs.14.50 crore and approved the process document for e-auction. The E-Auction Process Information Document for Sale ('the Process Document') issued by the liquidator pursuant to the approval of SCC provides, inter alia, that the Company is being sold as a going concern **with all the existing and future encumbrances/claims/dues/demands whether known or unknown to the Liquidator** (Clause 2 of the Terms and Conditions) and on 'As is where is basis' 'As is what is basis', **Whatever there is basis' and 'No recourse basis.** Clause 'C' - Introduction provides further that the successful bidder/s may approach NCLT to seek specific reliefs, if any.



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28.4 The Ld. Counsel for the Applicants has stated that there are few precedents where the concept of 'clean slate' was extended in the case of 'going concern sale' under liquidation. It is submitted that eliminating legacy liabilities would encourage potential buyers to acquire businesses in liquidation, which can lead to better recovery for creditors. Further, allowing the business to operate without the baggage of past liabilities aids in preserving jobs and achieving the objective of revival of the corporate debtor. The Ld. Counsel appearing for the Applicants further states that in the instant case, the sale consideration deposited by the Applicant has already been distributed in accordance with Section 53 of the Code and the Corporate Debtor ought to be released from all past claims. The Counsel for the Applicants further submits that it is just, fair, and in the interest of justice that the clean slate theory is applied in order to enable the Successful Bidder to run, operate, and manage the Corporate Debtor as a going concern.

28.5 In the instant case, the terms and conditions of the Process Document state that the Company is being sold as a going concern with all the existing and future encumbrances/claims/dues/demands whether known or unknown to the Liquidator. In this context, the issue for consideration is whether the Tribunal can apply clean slate theory when the Process Document specifies otherwise.



28.6 It is on record that the Liquidator has distributed the sale consideration in accordance with Section 53 of the Code and the Secured Creditors have also issued their no dues cum security release certificate discharging their security on the assets of the Corporate Debtor. Thus, it is indisputable that this decision is binding on all the stakeholders who filed their claims with the liquidator and they cannot subsequently make additional claims or initiate action for any deficiency. However, the question is about the other claims that have not been filed with the liquidator at all. It is pertinent to note that the auction sale differs significantly from a private sale. In an auction sale, the Process Document—issued by the liquidator—sets out the terms and conditions under which the sale will occur. This document serves as the definitive guide for all participants, making it binding not only on the acquirer, liquidator, and creditors but also on the public, including potential bidders. Courts generally do not modify or nullify the terms of the Process Document, except if the terms contradict existing laws or violate public policy.

28.7 It would be here pertinent to refer to the case of *Jasamrit Designers Private Limited v. Gian Chand Narang, Liquidator of Apex Buildings Limited & Another (Company Appeal (AT) (Ins.) No. 258 of 2023*, wherein the Hon'ble NCLAT observed as under:-



“ 11. We may also observe that prayers which were included in IA No. 3207 of 2022 were too elaborate and general prayers which cannot be made as Successful Bidder. Successful Bidder in e-auction of the Corporate Debtor as a going concern can make only such prayers for reliefs/concessions which are commensurate and **in accordance with the terms and conditions of the process document**. Prayers in general in a very wide term as contained in I.A. No. 3207 of 2022 may not require any consideration by the Adjudicating Authority.”

28.8 The Hon'ble NCLAT, in the case of *Shantech International Pvt. Ltd. v. Devendra Singh, Liquidator of Venus Rolling Mills Pvt. Ltd* followed the principle that the waiver of liabilities with regard to dues of the Corporate Debtor should be dealt with according to the terms of the e-auction.

28.9 Since there is no specific provision in the Code or Liquidation Regulations that supports clearing all prior encumbrances in an asset sale, the Process Document's terms are paramount. This approach is particularly relevant under **Regulation 32A of the Liquidation Regulations**, which permits the liquidator to sell assets subject to existing liabilities. Thus, we are of the view that the terms of sale outlined in the Process Document during a liquidation sale are to be adhered to and that any reliefs or concessions sought by the acquirer—such as a release from prior encumbrances—must align with the Process Document's conditions.



28.10 Based on the discussions, we conclude that no claim filed with the liquidator shall survive after consideration of the same in accordance with Section 53 of the Code, and those claimants cannot subsequently make additional claims or initiate action for any deficiency. In relation to other claims, if any, existed on the date of sale by the liquidator, but no claim had been filed, a general direction cannot be issued that contradicts the terms of the Process Document. As a result, the relief in general is not granted.

*29.1. A direction be issued that all inquiries, investigations, assessments, notices, causes of action, suits, claims, disputes, litigations, arbitration, or other judicial, regulatory or administrative proceedings against, or in relation to, or in connection with the Corporate Debtor or the affairs of the Corporate Debtor (other than against the erstwhile Promoters or former members of the management of the Corporate Debtor), pending or threatened, present or future, in relation to any period prior to the Date of Order of the Hon'ble Tribunal or arising on account of the Acquisition shall be deemed to be withdrawn or dismissed;*

29.2 Section 32A of the Code provides that the liability of a corporate debtor, for offences committed prior to the commencement of the Corporate Insolvency Resolution Process, will stand extinguished from



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the date a resolution plan is approved by the adjudicating authority or sale of liquidation assets, subject to certain conditions being fulfilled. This immunity under Section 32A is applicable once the approved resolution plan mandates a change in the management of the corporate debtor if such persons (1) were not directly or indirectly related to the old management of the corporate debtor; or (2) have not abetted or conspired for the commission of such an offence committed by the corporate debtor. Sub-section (2) seeks to extend the warranty in respect of the properties of the corporate debtor upon approval of the resolution plan or sale of liquidation assets while providing assurance against liability. Lastly, sub-section (3) obligates any such persons to aid any enforcement authority investigating under any applicable law.

29.3 It is pertinent to observe that the immunity provided under Section 32A of the Code is premised on various conditions being fulfilled. Further, the relief claimed by the Applicant goes much beyond the sweep of Section 32A of the Code which cannot be permitted. In view of the above, we allow the relief to the extent permitted under Section 32A of the Code and nothing more.

30.1 **(Employee Related)**

*(a) A direction be issued that all or any liabilities of the Corporate Debtor arising from labour laws including but not limited to the Employee State*



*Insurance Act, 1948, The Employees' Provident Funds and Miscellaneous Provisions Act, 1952, The Payment of Bonus Act, 1965, Contract Labour Act, 1973, Minimum Wages Act, 1948, Equal Remuneration Act, 1776, The Factories Act 1948, The Payment of Gratuity Act 1972, The Workmen Compensation Act, 1923, etc. and any other Applicable Law pertaining to the period prior to the Acquisition Date ("Labour Laws") shall stand fully and permanently extinguished and /or stand discharged and the Applicant / Successful Bidder shall not be liable or responsible for the same;*

*b) A direction be issued that the Successful Bidder shall not be liable to pay any penalties, charges, fees, etc., arising out of non-compliance of the requirements if any of Labour Laws shall stand extinguished and any litigation / suit / proceeding in relation thereof shall be deemed as withdrawn and /or extinguished and /or become infructuous;*

30.2 It is a settled position of law that the Tribunal cannot exercise its jurisdiction over matters dehors the insolvency proceedings especially when such matters fall in the realm of public law such as labour and employment laws, is concerned. Furthermore, the Tribunal cannot clothe itself with jurisdiction which is not expressly conferred on it by the provisions of the Code or the allied rules and regulations. We are of the view that waiver of the liabilities under Labour Laws with respect to going-concern sales requires due consideration by the appropriate authorities empowered under each statute. Hence, this relief cannot be



granted by this Tribunal but the Successful Bidder is at liberty to approach the concerned authority to seek such reliefs.

*31.1 A direction be issued that all financial and pecuniary liabilities of the Corporate Debtor, if any, out of any non-compliance including without limitation provisions of any laws, in relation to or on account of tax rules, regulations, directions, notifications, circulars, guidelines, policies, licenses, approvals, consents or permissions, of the Corporate Debtor till the date of Order of the Hon'ble Tribunal, any penalty, whether contingent, assessed, known or unknown, interest, fines or fees and any other liabilities and/or obligations which may have a financial impact, to be settled and discharged by the Liquidator under Section 53 of IBC and they shall be deemed as fully satisfied and shall be deemed to be fully extinguished;*

31.2 In Gujarat Urja Vikas Nigam Limited v. Mr. Amit Gupta & Ors, the Hon'ble Supreme Court observed as under:

*“163 Although various provisions of the IBC indicate that the objective of the statute is to ensure that the corporate debtor remains a ‘going concern’, there must be a specific textual hook for the NCLT to exercise its jurisdiction. The NCLT cannot derive its powers from the ‘spirit’ or ‘object’ of the IBC. Section 60(5)(c) vests the NCLT with wide powers since it can entertain and dispose of any question of fact or law arising out or in relation to the insolvency resolution process. We hasten to add, however, that the NCLT’s residuary jurisdiction,*



*though wide is nonetheless defined by the text of the IBC. Specifically, the NCLT cannot do what the IBC consciously did not provide it the power to do.”*

31.3 Based on the aforesaid decision and recognising the complete absence of any provision in the Code and allied Liquidation Regulations which enables the granting of such reliefs, we only grant liberty to the Successful Bidder to approach the concerned authorities to seek such reliefs.

32.1 (a) ***A direction be issued that all powers of attorney or authorities executed by the Board of the Corporate Debtor on or prior to the Acquisition Date shall stand revoked, cancelled and shall be declared as void;***

***(b) A direction be issued that any/all cheques, bills of exchange, promissory notes, hundis issued by the Board of the Corporate Debtor on or prior to the Acquisition Date shall stand revoked, cancelled and shall deemed to be void;***

32.2 In the case of sale as a going concern, the corporate entity continues to operate without dissolution and strives to maintain its business activities as much as possible. This process includes certain actions aimed at mitigating the effect of certain past actions such as cancelling the power of attorney granted by the previous management and revoking various negotiable instruments issued prior to the acquisition. These actions are directly related to operationalising the Corporate Debtor and are, therefore, granted.



33.1 *A direction that the Successful Bidder or Corporate Debtor in future and / or after passing order on this application shall be at liberty to approach this Hon'ble Tribunal to address any difficulties faced with respect to running of this Corporate Debtor as a going concern;*

33.2 It is pertinent to note that the only provision that can grant NCLT jurisdiction to address future matters concerning a corporate debtor is Section 60(5) of the Code provided such matters fall within the fold of the phrase 'arising out of or in relation to the insolvency resolution or liquidation proceedings'. However, the jurisdiction of NCLT delineated in Section 60(5) cannot be excessively broadened to include all and any difficulties encountered in managing the Corporate Debtor as a going concern. Such an overreach is neither necessary nor permissible under the Code. Hence, this relief cannot be granted and is hereby declined.

34.1 *Pass necessary orders that since the entire sale consideration has been received, the Successful Bidder is eligible to get all the rights, title, and interest in the whole and every part of the Corporate Debtor, including but limited to contracts, free from security interest, encumbrance, claim, counterclaim or any demur;*



34.2 The law is well settled that a bidder, who is declared as a successful bidder of going concern sale, can seek access to the Adjudicating Authority and may pray for necessary directors in accordance with and in consonance with the process document in the liquidation proceedings. The relief and concessions sought in deviation of the Process Document or wide terms cannot be granted. Accordingly, the relief is not granted.

35.1 *A direction be issued that the Financial Creditors to remove the name of the Corporate Debtor from the CRILC database.*

35.2 It is observed that the Secured Financial Creditors, by issuing their 'no dues cum security release certificate' formally acknowledged that they have no remaining claims or security interests on the Corporate Debtor's assets. This certificate essentially clears the debtor's record with these creditors. However, staying on the defaulter's list maintained by CIBIL could hinder access to future financing and commercial opportunities, making removal a practical and supportive measure in the revival process. Therefore, we are inclined to grant this relief to help operationalise the business of the Corporate Debtor.

36.1 *A direction be issued to exempt the Corporate Debtor and the Successful Bidder from any payment of registration fees, stamp duties and other local*



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*levies of taxes, and duties with respect to the transfer of the bid amount. The Order passed by this Hon'ble Tribunal be treated as an order under Section 10 of the Maharashtra Stamp Act, 1958 exempting the levying of Stamp Duty on this order and/or any documents/s executed in furtherance thereof.*

36.2 The Applicant is a successful bidder in respect of the sale of the assets of the Corporate Debtor carried out in the liquidation process. The position of an auction purchaser is not entirely different from a purchaser in any other public e-auction process. The only difference is that in the liquidation process, he acquires the assets for the purpose of revival of the business of the corporate debtor, wholly or partly. Though the sale cannot be compared with the Resolution Plan approved under the Code, certain reliefs and concessions that are commensurate and in accordance with the process document are generally granted to the auction purchaser, keeping in view the object and spirit of the Code, for the revival of the corporate debtor. If the acquisition through the liquidation route provided the same level of reliefs and concessions as a resolution plan, the applicants might circumvent the resolution process entirely, choosing the liquidation sale for its simplicity and fewer procedural requirements. This would undermine the Code's structured approach, which prioritizes collective creditor involvement and consensus in restructuring efforts. The



Tribunal is, therefore, cautious to grant only those reliefs that are necessary to enable the corporate debtor's business to operate as a going concern post-sale.

As for as exemption of stamp duty, registration fee, and other local levies of taxes with respect to the transfer of bid amount, we fail to appreciate that there is any connection with the revival of the Corporate Debtor. These are all levied by the authorities under Statutes for collecting revenue and, therefore, no exemption can be granted by this Tribunal. However, the Successful Bidder may approach the concerned authorities for the purpose.

37.1 In respect of Property

- a) *A direction be issued that upon completion of sale of the corporate debtor under liquidation as a going concern, all the assets of the Corporate Debtor shall vest with the Successful Bidder and the Successful Bidder be allowed to deal with the assets in a manner as deemed fit as absolute owner thereof;*
- b) *A direction be issued that from the date of payment of the entire Sale Consideration, the Successful Bidder gets all the rights, title and interest in the whole and every part of the Corporate Debtor;*
- c) *A direction be issued that all the Corporate Debtor documents/property papers taken as a charge by the lender shall be returned to the Corporate Debtor pursuant to the NCLT order on the instant*



*Application. Also pursuant to the order on the instant Application all charges outstanding in the Registrar of Companies shall stand cancelled and/or fully discharged and will be deemed to be duly satisfied;*

*d) A direction be issued to the Liquidator and all concerned authorities to cooperate with and provide all necessary support and assistance to the Successful Bidder, including but not limited to perfecting/amending/modifying/ creating the land records in relation to all parcels of land, the immovable properties and assets, belonging to the Corporate Debtor in favour of the Corporate Debtor within (10) days from Date of Order of the Hon'ble Tribunal;*

*e) Since the Corporate Debtor is a company which stands on the MIDC property, a direction be issued to MIDC for entering the name of the Successful Bidder in their records, allowing change of business use for the land and for permitting the Successful Bidder to continue using the land for any purpose it so desires;*

*f) A direction be issued that from the date of Order of the Hon'ble Tribunal, all claims by any person (including lessors, MIDC, municipal, societies, association of persons and revenue authorities) against any assets, owned by or given on lease to the Corporate Debtor, including immovable property and any liabilities or obligations owed or payable by the Corporate Debtor in respect of such assets to any actual or potential creditors of the Corporate Debtor, including contractual liabilities, liability to the Government (including but not limited to property taxes) whether direct or indirect, whether admitted or not, due or contingent, asserted or un-asserted, crystallized or un-crystallized, known or unknown, secured or unsecured, disputed or undisputed, in relation to any period prior to the date of Order*



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*of the Hon'ble Tribunal, whether admitted by the Liquidator or not in full or part, shall stand permanently extinguished and/or fully discharged and no such claim, liability etc. shall be recoverable in any form or manner whatsoever from the Corporate Debtor / Successful Bidder or their successors or assignees and the payment of sale consideration by the Successful Bidder is a full and final settlement towards such claims, liabilities etc.*

37.2 This Tribunal cannot entertain requests for rights beyond what the Corporate Debtor actually holds in the assets. Specifically, the bidder seeks absolute ownership of the property leased by the Maharashtra Industrial Development Corporation (MIDC), despite the Corporate Debtor holding only leasehold rights. This request not only exceeds the bidder's rightful claim but is an attempt to secure rights that were never held by the Corporate Debtor.

37.3 With respect to other liabilities related to immovable properties, such as transfer fees imposed by MIDC as the lessor, property taxes levied by the revenue authorities, etc., the situation for the Successful Bidder remains unchanged. The transfer of property title or release of existing charges on the ROC records cannot take place without following the required process.

37.4 As regards other reliefs in this Section, the Tribunal notes that broad or vague requests, particularly those that lack statutory support, cannot be



granted. Reliefs must be specific, legally justified, and should have a direct nexus with the revival of the corporate debtor. On account of the above, the reliefs sought in respect of the property are not even worth consideration and are liable to be rejected.

38.1. In Respect of Renewal of Licenses

a) *A direction be issued that all subsisting consents, licenses, approvals, rights, entitlements, benefits and privileges whether under law, contract, lease or license, granted in favour of the Corporate Debtor or to which the Corporate Debtor is entitled shall, notwithstanding any provision to the contrary in their terms and irrespective of the commencement of the liquidation proceedings under the Code, in relation to the Corporate Debtor be deemed to continue without disruption, for the benefit of the Successful Bidder and all additional licenses, registrations and consents required by the Successful Bidder be made available immediately from the Date of the Acquisition;*

b) *A direction be issued that the Corporate Debtor/Successful Bidder shall have a right to review and terminate any contract that was entered into prior to the date of the Liquidation Order;*

The contractual terms are binding on the parties involved, and the Tribunal, even with the intent to facilitate the revival of the Corporate Debtor, cannot overstep its jurisdiction to tinker with these terms to favour or to the disadvantage of any party, especially without allowing all parties to be heard.



c) *A direction be issued that the Successful Bidder shall be allowed to be given all licenses, consents, approvals, benefits, rights, entitlements and privileges such as but not limited to the manufacturing license, factory license issued by Directorate Industrial Safety & Health, Maharashtra State of the Corporate Debtor;*

d) *The sale of the Corporate Debtor shall be binding on all utility providers and all the utility providers shall continue to supply the utilities to the Successful Bidder, as may be required for the operations of the Successful Bidder;*

38.2 Before considering the abovementioned relief(s), it would be appropriate to notice the scheme of the Code as regards obtaining licences, approvals, clearances etc.

Section 31(4) of the Code provides as under:

*(4) The resolution applicant shall, pursuant to the resolution plan approved under sub-section (1), obtain the necessary approval required under any law for the time being in force within a period of one year from the date of approval of the resolution plan by the Adjudicating Authority under sub-section (1) or within such period as provided for in such law, whichever is later:*

*Provided that where the resolution plan contains a provision for combination, as referred to in section 5 of the Competition Act, 2002, the resolution applicant shall obtain the approval of the Competition Commission of India under that Act prior to the approval of such resolution plan by the committee of creditors.*



38.3 A plain reading of the above provision in the Code emphasises the need to obtain approvals required under the applicable laws even after a resolution plan is sanctioned under Section 31 of the Code. Thus, the scheme of the Code is not to dispense with the approvals and licenses required under the various laws but insists the same to be obtained within a timeframe. That being so even for a Resolution Plan, we do not see any reason to dispense the license, approvals, etc. in the present case for the mere reason that the object of acquisition is the revival of the Corporate Debtor.

38.4 Further, the explanation to Section 14(1) of the Code reads thus:

*“14. Moratorium,-*

*.....*

*Explanation.-For the purposes of this sub-section, it is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a licence, permit, registration, quota, concession, clearance or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license, permit, registration, quota, concession, clearances or a similar grant or right during the moratorium period;*

As per the above explanation, the licenses, permits, registrations, quotas, concessions, clearances, or a similar grant or right given by the



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Central Government, State Government, local authority, sectoral regulator, or any other authority constituted under any other law for the time being in force and contracts where the counterparty supplies essential/critical goods and services to the Corporate Debtor are to be kept unaffected during moratorium imposed under Section 14 and there is no provision in the Code for its continuation after the CIRP.

38.5 On account of the above, we do not see any justification to extend unilaterally the benefit of contract, license etc. to the Successful Bidder when the parties are bound by its terms. The terms of a contract, in our considered view, cannot be unilaterally changed, except through legislative intervention, to strike the appropriate balance between contractual freedom on the one hand and corporate rescue on the other. We, therefore, are not inclined to grant the aforesaid reliefs.

39.1 From CBDT, CBIC, MCA and All Other Government Authorities

*a) A direction be issued to the Registrar of Companies (ROC)/ Ministry of Corporate Affairs (MCA) to change the status of the Corporate Debtor as "Active" from the status of "Liquidation." Waiver of all late fees, penalties, charges, fines, etc., for non-compliance with company laws, rules, and regulations till the date of appointment of new directors as decided by the Successful Bidder;*

*b) A direction be issued that from the Effective Date, the Board of Directors of the Corporate Debtor be re-constituted and the individuals proposed by the Successful Bidder be permitted to act as the Directors of the*



*Corporate Debtor duly appointed under the provisions of the Companies Act, 2013 and direct the Registrar of Companies, to do all such acts, deeds and things that are necessary to appoint the said individuals as directors of the Corporate Debtor and the existing board of directors of the Corporate Debtor shall be removed. It is undertaken that the individuals proposed to act as Directors of the Corporate debtor shall not be disqualified in terms of Section 29A of the Code.*

*d) That the successful bidder shall be allotted 1,00,000 Equity Shares of Rs. 10 each of the corporate debtor pursuant to the NCLT order and such shares will be issued on face value and such allotment shall be deemed to have been made in accordance with the law. Further that all the procedural requirements in terms of Section 42 and Section 62(1)(c) and requirement of obtaining a Valuation Report on the issuance of new equity shares under section 247 of Companies Act, 2013 be waived;*

*e) A direction be issued that the Corporate Debtor shall undertake capital reduction and cancel the entire existing equity share capital held by the promoter group and the public (except shares allotted pursuant to paragraph 4 above), i.e. Paid-up Capital of Rs.15,00,00,000/. Accordingly, pursuant to the NCLT order approving this Application, the entire existing share capital of the Corporate Debtor shall stand cancelled immediately without payment of any amount to the shareholders and without requirement of writing the words “and reduced”. Further that all the procedural requirements in terms of Section 66 and the NCLT (Procedure for Reduction of Share Capital) Rules, 2016 be waived;*

39.2 There are limitations in providing general reliefs and concessions as orders are to be passed after considering the specific fact situations.



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However, there are certain reliefs that have a direct nexus with the revival of the corporate debtor thereby giving legitimate jurisdiction to NCLT to grant such reliefs. Accordingly, the procedural requirements required under the Companies Act, 2013 or any other law for the time being in force for reduction and cancellation of whole or part of the equity share capital and reconstitution of the Board of Directors are allowed subject to the filing of necessary forms with the concerned authorities.

*c) A direction be issued to MCA/ROC to record all encumbrances over assets of the Corporate Debtor to stand satisfied and direction to record the satisfaction of all charges against the Corporate Debtor, in accordance with and within a period of one month of the Order passed by this Hon'ble Tribunal in the instant Application;*

Registration of charges with the Registrar of Companies (ROC) is a critical compliance requirement under the Companies Act, 2013 intended for maintaining transparency in the creation or modification of charges over a company's assets. The need for dispensing this procedural requirement has not been stated in the application particularly when the secured financial creditors have already provided no dues cum security release letter. Hence, this relief is not granted.

*f) The Corporate Debtor would be merged into the successful bidder. The Appointed Date of the merger shall be the date of the NCLT order approving the Application for Liquidation. As on the appointed date*



*of the merger, the Corporate Debtor would be a wholly owned subsidiary of the successful bidder and consequently, no shares of the successful bidder would be issued on the merger of the Corporate Debtor. As a consequence of the merger, the Equity Shares of the Corporate Debtor would stand cancelled. All the assets, rights and liabilities of the Corporate Debtor shall vest with the Successful Bidder. The Successful Bidder will record assets, liabilities and reserves at the balances appearing in the Standalone Financials of the Corporate Debtor as on the appointed date. The difference, if any pursuant to the cancellation of shares or otherwise shall be credited to retained earnings;*

As stated in the foregoing paragraphs, the revival of the corporate debtor as a going concern sale is not comparable with the Resolution Plan approved under Part II of the Code, and the various measures permitted to be considered for the resolution plan would not, by implication extend to the sale in liquidation through any of the modes allowed in Part III of the Code. Further, no provision in the Code or Regulations has been brought to our notice enabling merger in the liquidation process. Thus, we are of the view that in case a successful bidder for the corporate debtor intends to merge it with another entity, compliance with the Companies Act, 2013, and any other relevant laws is necessary and no dispensation can be made in the liquidation proceedings under the Code.



*g) A direction be issued that any veto rights or any other preferential rights associated with existing shareholders of the Corporate Debtor shall also stand extinguished / cancelled;*

We have enabled the extinguishment of the existing shareholding of the Corporate Debtor and hence the relief has become infructuous. If not, the acquirer has to take the necessary steps to modify the rights in accordance with the law.

*h) A direction be issued that the Income Tax login which is currently inactive for this Corporate Debtor becomes active;*

The Applicants have failed to provide any reasoning or justification for their request and hence we deem it unnecessary to consider the said relief.

*i) A direction be issued that any tax liability including but not limited to the income tax, minimum alternate tax, and indirect tax on such recasting the financial statements shall be deemed to be fully and permanently extinguished and the Corporate Debtor/ the Successful Bidder shall neither be directly nor indirectly held liable for the same;*

The past liabilities including the tax liability of the Corporate Debtor have already been dealt with in paragraphs 28 & 31, so there is no need to revisit them.



*j) A direction be issued to the Liquidator that all the compliances for the period up to the Date of Order of the Hon'ble Tribunal including filing of necessary documents and returns with the Registrar of Companies, Income Tax Authorities any other Government Authorities also the filings with respect to the Companies Act, 2013, Intellectual Property Laws, Income Tax Act, 1961 be completed;*

*k) A direction be issued to the Liquidator that all intellectual properties of the Corporate Debtor including but not limited to trademarks, patents, design, copyright etc. that were existing as on insolvency commencement date are also inevitable to run the Corporate Debtor as a going concern, shall be transferred to the Successful Bidder;*

*l) A direction be issued to the Liquidator that all the licenses, approvals and IPRs including trademarks, patents, designs, copyrights etc. which were registered in the name of the Corporate Debtor as on the Insolvency Commencement date but expired during the Corporate Insolvency Resolution Process be renewed by the Liquidator since the Corporate Debtor has been sold as going concern to the Successful Bidder;*

*m) The Successful Bidder shall be allowed to use all the patents, trademarks and other intangible assets of the Corporate Debtor, post order on the instant Application;*

The reliefs mentioned above have already been dealt with in the previous sections.

*n) The Successful Bidder/Corporate Debtor shall be allowed to participate in auction sale/tenders/offers/proposals of all departments/authorities/public sector undertakings fora period of 3 (three) years from*



*the Acquisition Date without having to submit the details on the past revenue, past performance, profitability records, net worth, etc.;*

This relief, by no stretch of the imagination be considered as 'arising out of or in relation to the insolvency resolution or liquidation proceedings of the corporate debtor' and no preferential treatment with respect to the business of the Corporate Debtor can be granted just because the Corporate Debtor had undergone insolvency as per the provisions of the Code. Consequently, this relief is rejected.

*o) A direction be issued that from this NCLT Order Date, all inquiries, investigations and proceedings, whether civil or criminal, suits, claims, disputes, proceedings in connection with the Corporate Debtor or affairs of the Corporate Debtor, including proceedings before Debt Recovery Tribunal and consumer courts or any other court, pending or threatened, present or future in relation to any period prior to the NCLT order date, or arising on account of implementation of this Plan shall stand withdrawn and dismissed and all liabilities and obligations therefore, whether or not set out in the balance sheets of the Corporate Debtor or the profit and loss account statements of the Corporate Debtor will be deemed to have been written off fully, and permanently extinguished and no adverse orders passed in the said matters should apply to the Corporate Debtor or to the Successful Bidder. Upon approval of this auction sale, all new inquiries, investigations, notices, suits, claims, disputes, litigations, arbitrations or other judicial, regulatory or administrative proceedings will be deemed to be barred and will not be initiated or admitted against the Corporate Debtor/ Successful Bidder in relation to any period to the NCLT order date;*



*p) The relevant Governmental Authorities shall not initiate any investigations/actions or proceedings in relation to any non-compliance with Applicable Law by the company during the period prior to the NCLT Order Date. Neither shall the Successful Bidder, nor the Corporate Debtor nor their respective directors, officers and employees appointed on and as of NCLT Order Date be liable for any violation, liabilities, penalties or fines with respect to or pursuant to not having in place the requisite licenses, permissions and approvals required to undertake its business as per Applicable Law, or any non-compliances of Applicable Law by the company. Further, the relevant Governmental Authorities will provide a reasonable period of time after the NCLT order date, for the Successful Bidder to assess the status of any non-compliances under the Applicable Laws including and to procure that the company regularizes such compliances under the Applicable Law existing prior to the NCLT order date;*

*q) The relevant Governmental Authority/MIDC shall waive the requirement of obtaining approval for change in ownership/constitution/management of the Corporate Debtor and shall continue to grant state and other incentives;*

*r) Waiver from the requirement of obtaining a No Objection Certificate under Section 281 of the Income Tax Act, 1961 by the Sellers and provisions of taking over predecessor's tax liability under Section 170 of the Income-tax Act, 1961 shall not be applicable. Further, the transaction shall not be treated as void under Section 281 of the Income-tax Act, 1961 for any claims in respect of tax or any other sum payable by the Sellers;*



s) *The Electricity Board to grant a new connection of electricity without any demand towards repayment of the dues relating to the period prior to the date of the order of this Hon'ble Tribunal.*

The reliefs mentioned above (sub-para 'o' to 's') have already been dealt with in the previous sections.

#### *40.1 In respect of Accounting*

a) *A direction be issued and the Successful Bidder/Liquidator be empowered to issue directions to the banks to change the operating signatories of bank accounts of the Corporate Debtor, other than the Liquidation Bank Account held by the Liquidator, for a smooth transition of the Corporate Debtor to the successful bidder.*

b) *A direction be issued to the Liquidator to, immediately, (i) write back all the liabilities of the Corporate Debtor, including creditors, term loans, working capital loans, tax liabilities, other statutory liabilities, etc. which are not payable and reflect the total liabilities at the amount of the consideration (as reduced by the amount of insolvency resolution process costs and the liquidation costs) determined in the auction; and (ii) the assets which are not recoverable (debtors, inventories and loans and advances, etc.) should be written down to their realizable value; in the financial statements (Profit and Loss Account and the Balance Sheet) of the Corporate Debtor for the period from till the Acquisition Date. The said financial statements should be prepared and filed by the Liquidator with the relevant regulators such as Registrar of Companies, Income Tax Authorities, etc.; make the accounting entries in the books of account to give effect to the transactions entered into and executed for the purpose of sale of the Corporate Debtor as going concern;*



c) *A direction be issued that all claims of the Corporate Debtor against third parties and related parties shall remain recoverable and the Corporate Debtor shall have the right to proceed against those parties, whose account is recoverable in the books of the Corporate Debtor as on date of Order of the Hon'ble Tribunal and in case of recoveries of any such amounts or any amounts which have been previously written off, the Corporate Debtor shall be the sole beneficiary of such amounts;*

d) *The Corporate Debtor status shall be reinstated and normalized by the financial creditors pursuant to the NCLT order and necessary cooperation be provided by the lenders for the same;*

e) *The credit rating agencies and credit information bureaus like CRISIL, CIBIL etc. must be directed to all negative ratings for the Corporate Debtor and not consider them as defaulters;*

f) *Since the process of "Acquisition of the Corporate Debtor under liquidation as a Going Concern" is a significant event, the Corporate Debtor shall be allowed to treat all the unpaid liabilities in the books after settlement u/s 53 of IBC to be as Capital in Nature. Consecutively, the entire write offs to be considered as a Capital Reserve pursuant to the order of this Hon'ble Tribunal on the instant Application;*

All the above reliefs have already been dealt with and rejected for the reasons stated in the foregoing part of the order and the same be considered as not granted.

41. As a result of the above detailed discussions, we partly allow the Applications by granting the reliefs to the extent mentioned in



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paragraphs 28, 29, 32, 35, 39(a), (b), (d), (e) and (p) of this order. All other reliefs, concessions, or prayers shall be deemed to have been rejected. However, the Successful Bidder shall be at liberty to approach the concerned authorities for the reliefs not granted by this Tribunal hereinbefore.

42. As regards the confirmation of sale, we are of the view that there is no requirement under the Code or Liquidation Regulations to confirm the e-auction sale or endorse the sale process undertaken by the Liquidator. Therefore, this Tribunal is merely recording the sale of the Corporate Debtor's assets as a going concern.
43. The Interlocutory Applications No.1626 of 2024 and No. 3067 of 2024 are disposed of in the above terms.

Sd/-  
Anil Raj Chellan  
Member (Technical)

Sd/-  
Kuldip Kumar Kareer  
Member (Judicial)