



**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH (COURT- I) CHENNAI**

ATTENDANCE CUM ORDER SHEET OF THE HEARING
HELD ON **09.05.2024** THROUGH VIDEO CONFERENCING

PRESENT: HON'BLE SHRI. SANJIV JAIN, MEMBER (JUDICIAL)
HON'BLE SHRI. VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

IN THE MATTER OF : IDBI Bank Ltd
Vs
Auromatrix Hotels Pvt Ltd

MAIN PETITION NUMBER : IBA/726/2020

(IA/MA) APPLICATION NUMBERS
IA/1557(CHE)/2022

ORDER

Present: Ld. Counsel Shri. Tulesh Balaje for RP.

Vide separate order announced in Open Court, the resolution plan is approved. The petition IBA/726/2020 and the application are **disposed of**.

Files be consigned to records.

Sd/-

(VENKATARAMAN SUBRAMANIAM)
MEMBER (TECHNICAL)

MG

Sd/-

(SANJIV JAIN)
MEMBER (JUDICIAL)



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

IA/1557/CHE/2022 in IBA/726/2020

(Filed under Sec. 30(6) of the Insolvency & Bankruptcy Code, 2016 read with Regulation 39(4) of the IBBI (Insolvency Resolution for Corporate Persons) Regulations, 2016

IN THE MATTER OF:

THARUVAI RAMACHANDRAN RAVICHANDRAN
RESOLUTION PROFESSIONAL,
AUROMATRIX HOTELS PRIVATE LIMITED
G-3, BLOCK-2, SHIVANI APARTMENTS,
40, EAST COAST ROAD,
THIRUVANMIYUR, CHENNAI – 600 041

... Applicant

Present:

For RP: *Srinath Sridevan, Senior Advocate*
S. Sathiyarayanan, Advocate

CORAM:

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

Order Pronounced on 9th May 2024

ORDER

(Heard Through VC)

I. FACTUAL MATRIX OF THE CASE:

IA/1557/CHE/2022 is an Application moved by the Resolution Professional of the Corporate Debtor viz. **AUROMATRIX HOTELS PRIVATE LIMITED** under Section 30(6) of the Insolvency and



Bankruptcy Code, 2016 (in short 'IBC, 2016') read with Regulation 39(4) of the IBBI (Insolvency Resolution for Corporate Persons) Regulations, 2016 seeking approval of the Resolution Plan submitted by the successful Resolution Applicant viz., **Mr. Kumaran Sitaraman** with the following reliefs:

- a) *Approve the modified Resolution Plan as submitted by the Mr.Kumaran Sitaraman and duly approved by the Committee of Creditors in its 8th meeting (adjourned) dated 02.08.2022 in terms of Section 31(1) of the Code.*
- b) *Consequent to the approval of the Resolution Plan declare that the order of moratorium dated 26.11.2021 shall cease to effect in terms of Section 31(1) (3) (a) of the Code.*
- c) *Direct the equity shares of the Corporate Debtor be made zero and allow the Resolution Applicant two directors on the Board of the CD to run the day to day operation of the CD pertaining to execution of the Plan alone.*
- d) *Direct the Government Bodies/ Statutory Bodies/ Financial Creditors/ Operational Creditors and/or any other stakeholder to accept the payments provided as payable to them in terms of the Resolution Plan, on approval/ sanction of the Resolution Plan by this Hon'ble Adjudicating Authority.*
- e) *Directing the Resolution Plan approved/ sanctioned by this Hon'ble Adjudicating Authority is binding on the Corporate Debtor, its employees, members/shareholders, creditors, guarantors and other stakeholders involved in the Resolution Plan.*
- f) *Direct that from the Plan approval date, all enquiries, investigations and proceedings, whether civil or criminal suits, claims, disputes, proceedings in connection with the Corporate Debtors or affairs of the Corporate Debtor, pending or threatened,*



present or future in relation to any period prior to the Plan approval date, or arising on account of implementation of this Resolution Plan shall stand withdrawn and dismissed.

- g) Direct that the payments contemplated in the Resolution Plan shall be the Corporate Debtor's full and final performance and satisfaction of all its claims. No other payment or settlement of any kind shall be made to any other person in respect of the claims filed under the Resolution process against the Corporate Debtor; and*
- h) Pass such order or further reliefs as this Hon'ble Adjudicating Authority may deem fit and proper in facts and circumstances of present case.*

II. CORPORATE INSOLVENCY RESOLUTION PROCESS - IN BRIEF

2. In an Application filed under Section 7 of IBC, 2016 by the Financial Creditor viz. IDBI Bank, this Adjudicating Authority vide order dated 26.11.2021 passed in IBA/726/2020 and initiated Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor (CD) viz. Auromatrix Hotels Private Limited, by appointing one Mr. Tharuvai Ramachandran Ravichandran as the Interim Resolution Professional (IRP).

3. It is submitted that the IRP caused the Public Announcement in Form-A published in "The Indian Express" and "Dinamani" on 29.11.2021 and invited the creditors to submit their claims before the



IRP on or before 10.12.2021. Thereafter, on the basis of the claims submitted by the claimants, the IRP constituted the Committee of Creditors (CoC) and their voting share is as follows:

| S. No | FINANCIAL CREDITORS | AMOUNT ADMITTED (IN RS.) | VOTING SHARE % |
|-------|--|--------------------------|----------------|
| 1 | IDBI Bank Limited | 21,46,62,067 | 24.33 |
| 2 | Edelweiss Asset Reconstruction Company Limited | 66,76,72,092 | 75.67 |
| | Total | 88,23,34,159 | 100 |

4. It is averred in the application that the first meeting of CoC was held on 23.12.2021 and the Committee of Creditors confirmed the appointment of IRP as RP in the matter on 23.12.2021. In all 9 meetings of the CoC have taken place.

5. It is submitted that the RP appointed two Registered Valuers on 29.01.2022.

III. BUSINESS OF THE CORPORATE DEBTOR

6. Auromatrix Hotels Private Limited (AHPL) is into the business of owning, operating and managing hotels and resorts. It has developed and managed hotels and resorts across the country & currently it owns & manages two resorts under the brand name Sparsa



Resorts in Thiruvannamalai and Kanyakumari. The company also manages third-party properties in Madurai, Kodaikanal, Yercaud, Chennai, Bengaluru, Chandigarh & Ahmedabad under the brand names Aloft, Sparsa & Hotel. It is stated that the Corporate Debtor is a **MSME (having Udyam Reg.No.UDYAM -TN-02-0123911).**

IV. ABOUT THE RESOLUTION APPLICANT

7. The Resolution Applicant is engaged in the hotels, resorts, hospitality, tourism, and leisure and travel sector throughout his career and has actively managed the hotels and resorts over the last 40years.

8. It is stated that Kumaran Sitaraman has almost 40 years of Hospitality experience in India and worldwide. It is stated that he has managed 37 hotels in the United States and he has expertise in acquisition and turnaround of hotels, contributing to the expansion of the hotel group. Subsequent to his tenure in USA, Kumaran Sitaraman established Westinn Hospitality in 1990 in India as a hospitality firm providing technical, management and marketing consultancy for various hospitality groups in India. Soon, Westinn



evolved into a reputed firm with expertise in design, development and management of hotels & resorts.

9. It is stated that in 2002, Kumaran Sitaraman signed up with Sterling Resorts and turned around the operations of all the 14 Sterling resort properties. The properties were sustaining losses for over 10 years. After taking over operations, he established operational efficiencies and posted operated profits within 1 year. During this period, an open offer to the public was made by Kumaran Sitaraman, since Sterling was a BSE listed Company, to acquire that Company.

10. It is stated that in 2006, Kumaran Sitaraman formed Urban edge Hotels Pvt. Ltd. (an SPV with Citi Property Investors-Private Equity) to introduce and launch the Aloft hotel brand under the 4-star business segment in India. Aloft is one of the brands of Marriott International (erstwhile owned by Starwood Hotels & Resorts). Aloft hotels were designed, developed and operated pan India. All the 5 Aloft hotels were completed within estimated timelines and opened for guests between 2010 and 2013.



V. EXPRESSION OF INTEREST (EOI)

11. It is stated that COC in its 2nd COC meeting held on 20.1.2022 decided to issue Form-G which was published in “Times of India” and “Makkal Kural” on 26.01.2022. The last date of receipt of Expression of Interest (EOI) was 14.02.2022. 4 (Four) EOI’s were received. COC decided in its meeting held on 16.02.2022 to extend the date of submission of EOI’s to 09.03.2022 and addendum to Form G was published on 17.02.2022 in the same newspapers.

12. It is stated that pursuant to the publication of the Addendum to EOI, 5 (Five) Resolution Plans were received by the RP and the same were opened in the 6th COC meeting held on 09.03.2022. During the 6th COC meeting it was decided to extend the CIRP period of the Corporate Debtor by 90 days, accordingly IA(IBC)/585(CHE)/2022 was filed and the same was approved by this Tribunal on 21.06.2022, and thus the CIR period was extended up to 23.08.2022.

13. It is further stated that the RP verified the eligibility of the 5 Resolution Applicants u/s 29A of the Code and post such verification, the Resolution Plans were placed before the COC for their



consideration on 09.05.2022. COC thereafter negotiated with all the Resolution Applicants (RAs) and all of them were allowed to submit their revised/modified Resolution Plans. 3 out of the 5 RAs submitted revised Resolution Plans.

14. It is stated that some clarifications and additional documents were sought by the COC from the RAs, marking was carried on the Evaluation Matrix and post the same, the final plans of all the RAs were put to e-voting. The results of the e-voting are provide on page 42 to 45 of the application and are as below:-

| SL. NO. | NAME OF RESOLUTION APPLICANT | VOTE % IN FAVOUR | VOTE % AGAINST |
|---------|--|------------------|----------------|
| 1 | Poppys Hotel Private Limited | 24.33 | 75.67 |
| 2 | Mr. Kumaran Sitaraman (Suspended Director) | 100 | 0 |
| 3 | Shimona Hotels Private Limited and PARI | 0 | 100 |
| 4 | DERIT Infrastructure P. Ltd. | 0 | 100 |
| 5 | Kundan Care Products P. Ltd. | 0 | 100 |

15. It is stated that the e-voting results were thereafter discussed in the 9th COC meeting held on 17.08.2022 wherein the RP informed the COC that Resolution Plan submitted by Mr. Kumaran Sitaraman (Suspended Director-Successful Resolution Applicant / SRA) has been approved as per the voting results with 100% majority.



VI. SALIENT FEATURES OF THE RESOLUTION PLAN

16. It is averred in para 19 of the application that the modified Resolution Plan submitted by Mr.Kumaran Sitaraman, Director of the Auromatrix Hotels P Ltd (CD) contains the following salient features:

- a) The entire CIRP cost would be paid by the Resolution Applicant out of the source proposed and would be paid in priority to other payments to the creditors, in accordance with the code.
- b) Sale of Hotel at Kanya Kumari (KK unit) to an identified Buyer of IMAP for a consideration of Rs. 22.0 Crore
- c) Phoenix ARC would acquire the loans for Rs. 7.0 Crores from Edelweiss Asset Construction Reconstruction Company Ltd (EARC) for consideration of all securities of Auromatrix Hotels Private Limited available with EARC excluding Hotel at Kanyakumari (KK unit). CoC considered and discussed at length, the modified resolution plan along with the clarifications (enclosed vide Annexure 1) submitted by the Director of the CD. CoC also noted that the buyer of the KK Unit has been identified by IMAP.
- d) The CoC approved Resolution Plan envisages the following payment to various stakeholder as full and final settlement
 - i. Payment to statutory creditors will be Rs. 0.30 Lakhs, which will be 100% of the claim amount submitted by the statutory creditors.
 - ii. Operational Creditors other than statutory creditors would be paid Rs.25 Lakhs, which will be 23.09% of the claim submitted by such creditors.



- iii. The secured creditor - Edelweiss Asset Reconstruction Company Limited would be paid Rs. 31 Crores.
- iv. The unsecured Financial Creditor - IDBI Bank will be paid Rs. 50 Lakhs

e) Term of the Plan and its implementation schedule of the COC approved resolution plan will be as follows: The term of this Resolution Plan is up to 3 months ("Term") from the Date of receipt of the last Tranche, within which the payments shall be made to the financial creditors and the operational creditors, and all other creditors as contemplated herein. Upon completion of Term, the Monitoring Committee shall issue a certificate of due implementation and thereafter the Monitoring Committee shall stand discharged.

f) The various timelines as per the plans are provided below:

| S.No | ACTIVITY | ESTIMATED TIME LINE |
|------|---|--|
| 1 | Submission of proposed Resolution Plan by the Resolution | July 22,2022 |
| 2 | Approval Date | X (tentative plan approval date of NCLT) |
| 3 | Effective date | X + 30 Days |
| 4 | Formation of monitoring Committee | X + 2 Days |
| 5 | Fund Infusion | On or before Effective Date |
| 6 | Payment of CIRP Costs | On or before Effective Date |
| 7 | Payment of certain upfront amounts to various stakeholders as contemplated under the plan | On or before Effective Date |
| 8 | Capital Reduction | Within 30 days of Effective Date |
| 9 | Extinguishment of existing shareholders' Shareholding | Within 30 days of Effective Date |
| 10 | Issue of fresh equity shares to the RA | Within 30 days of Effective Date |
| 11 | Closing Date | Within 30 days of Effective Date |

Note: "Effective Date" means the date falling within 30 days from Approval date



VII. MONITORING AND SUPERVISION:

17. The Resolution Plan provided for the appointment of Mr. T. R. Ravichandran, the Resolution Professional in this case, to supervise the implementation of the Resolution Plan.

18. The Financial outlay and Sources of Funds in the Resolution Plan are as under:-

a. FINANCIAL OUTLAY

| PARTICULARS | AMOUNT RS. CRORE |
|---|------------------|
| Payment towards CIRP cost | 0.25 |
| Payment claims and dues towards statutory dues | 0.003 |
| Payment to various creditors other than statutory creditors | 0.25 |
| Payment towards claims of secured financial creditor – EARC | 31.00 |
| Payment towards claims of unsecured financial creditor-IDBI | 0.50 |
| Total (payment on or before the Effective Date) | 32.00 |

b. SOURCES OF FUNDS

| PARTICULARS | AMOUNT RS. CRORE |
|--|------------------|
| Equity Infusion | 3.00 |
| Sale Consideration for KK Resort | 22.00 |
| Loan from Phoenix ARC who will be assigned Term Loan 1 and Term Loan 2 by EARC in lieu of security of CD's assets except KK Unit | 7.00 |
| Total | 32.00 |

19. The resolution plan for the CD has been submitted by Mr. Kumaran Sitaraman, who is suspended director of the CD. Additional



Affidavit was filed in the matter by the RP, which is dated 23.12.2022.

Under the said affidavit, RP has filed **MSME Certificate** of the CD, the same is dated 04/05/2022. The suspended director of the CD is seeking relief from applicability of S. 29A of the IBC, 2016 invoking provisions of Section 240A of the IBC, 2016. The additional affidavit is taken on record.

20. Mr. Kumaran Sitaraman has filed declaration u/s 29A of the code which is dated 04.03.2022, addressed to the RP. The same is filed along with this application at page number 126 to 127.

21. The successful RA has given a performance bank guarantee to the RP from Tamil Nadu Mercantile Bank Ltd. which is dated 22.08.2022 for a sum of Rs. 5 Crores, the same is valid till 22.08.2024 and the claim period upto 22.11.2024.

22. Phoenix ARC Private Limited has issued a letter dated 06.05.2022 to Mr. Kumaran Sitaraman whereby it has conveyed its sanction for Rs. 10 Crores acquisition facility by way of assignment of



loan from EARC. The said letter is attached at page number 116 & 117 of the application.

23. Mr. S. Gnanathiraviam, has issued a letter dated 20.07.2022 to the suspended director of the CD whereby he has agreed to acquire the KK Resort for a consideration of Rs.22.00 Crores, the said letter is attached at page 139 of the application. The said person has agreed to pay a sum of Rs. 22 Crores within a period of 25 days of approval of the Resolution Plan by NCLT.

VIII. RESTRUCTURING OF CAPITAL:

24. The Restructuring of Capital as envisaged in the Resolution Plan is as follows:

A. CURRENT STRUCTURE:

As on 31.03.2021, AHPL has an authorized share capital of INR 16.00 Crores divided into 1.6 Crores Equity Shares. The issued, subscribed and paid-up equity share capital of INR 14,72,70,000 divided into 1,47,27,000 Equity Shares (face value INR 10 each).

B. RESTRUCTURED CAPITAL STRUCTURE:

As part of the Resolution Plan, the entire share capital of AHPL shall be restructured, such that the resultant shareholding of AHPL shall be as under:



| S.No. | CATEGORY OF SHAREHOLDER | FACE VALUE | NO OF SHARES | PERCENTAGE |
|-------|--|--------------|-------------------|------------|
| 1 | Resolution Applicant (together with its nominees)- issued as consideration for the first Tranche of infusion by the Resolution Applicant | INR 1/- each | Up to 3,00,00,000 | 100.00% |
| | Total | | Up to 3,00,00,000 | 100.00% |

The aforesaid restructuring shall take place in the following manner, in the sequence set out below:

- a) On the date of the first Tranche of Equity Infusion, AHPL shall undertake a capital reduction and cancellation of the entire existing equity share capital held by the existing shareholders of AHPL i.e. 1,47,27,000 Equity Shares shall stand cancelled/ extinguished without requirement of writing of the words "and reduced" in the corporate name and style of AHPL.
- b) The cancellation of shares and capital reduction:
 - i. shall be applicable to the existing promoters promoter group/ affiliates/ shareholders and associates of AHPL;
 - ii. shall not require the consent of any of the creditors of AHPL or approval of the shareholders of AHPL as the Resolution Plan upon being approved by the NCLT shall be binding on AHPL and its stakeholders (including its creditors and shareholders).
- c) Simultaneous to the cancellation of the existing Promoter shareholding, Capital reduction and infusion of funds by the



Resolution Applicant (RA), AHPL shall issue upto 3,00,00,000 Equity Shares of INR 1/- each to the RA.

- d) In case such restructuring requires amendment of the Memorandum of Association of AHPL consequent to increase in authorized share capital of AHPL, such increase and amendment shall take place as part of the Resolution Plan.

IX. DETAILS ON MANAGEMENT/IMPLEMENTATION AND RELIEFS AS PER THE RESOLUTION PLAN -SALIENT FEATURES:

25. The Resolution Plan also provides for -
- a) Management of Company after resolution in Chapter XI
 - b) Term of the Resolution Plan in Chapter VII to IX and
 - c) Implementation and supervision of the Resolution Plan in Chapter X.

X. MANAGEMENT OF THE CORPORATE DEBTOR

26. The details of the Management of the Corporate Debtor is envisaged in Chapter XI of the Resolution Plan and it provides that the Resolution Applicant together with its Nominees shall hold 100% shareholding in the restructured share capital of AHPL, as elaborated in Chapter IX (Restructuring of Capital). After the infusion, the Resolution Applicant shall be in control and management of affairs of



AHPL and the business of AHPL shall be carried on by the new management as appointed by the Resolution Applicant. AHPL shall continue its operations by operating hospitals from the Effective Date, the company shall be managed by a Reconstituted management/ Board comprising of Directors nominated by the Resolution Applicant.

XI. IMPLEMENTATION AND SUPERVISION

27. The term of this Resolution Plan is up to 3 months ("Term") from the Date of receipt of the last Tranche, within which the payments shall be made to the financial creditors and the operational creditors and all other creditors as contemplated herein. Upon completion of Term, the Monitoring Committee shall issue a certificate of due implementation and thereafter the Monitoring Committee shall stand discharged.

28. IMPLEMENTATION AND MONITORING COMMITTEE

- i. Upon the NCLT approval, The Committee of Creditors shall constitute the monitoring committee, which may comprise one representative of the Resolution Applicant, one representative of the COC and a qualified Insolvency Resolution Professional (which may or may not be the RP) to be appointed by COC and Resolution Applicant, which shall monitor the implementation of the plan after the Approval Date and until the infusion of the final tranche by the Resolution Applicant.



ii. Responsibilities of the monitoring committee:

- a) Monitoring the implementation of this Resolution Plan, till the receipt of the final tranche;
- b) Obtain all original documents, and also all other agreements, deeds, contracts, correspondences, communications, letters or any other document, pertaining to any division of the corporate debtor or pertaining to the Company as a whole, transferred by the erstwhile members of the Boards of Directors of the Company and/ or by the existing promoters or the Resolution Professional in a peaceful and unconditional manner.
- c) Provide regular updates to the financial creditors, until the financial creditors receive the amounts payable to them pursuant to this Resolution Plan:
- d) Ensure that all assets of the Company remain vested in the Company, on an as is basis, free from all encumbrances and/or without any encroachments (including but not limited to occupancy or possession by the erstwhile director's or promoter/s or their men/agents/servants) upon implementation of the Plan, unless as otherwise specified in this Resolution Plan Provided that the Monitoring Committee shall have only the limited role of monitoring compliance with the financial proposal of the Resolution Plan and shall have no control or management over the Corporate Debtor or its assets
- e) The fee payable to qualified insolvency professional who shall be chairman of monitoring committee ad representative of the CoC shall be decided and borne by the CD.



29. It is submitted that the Resolution Plan has been approved by all the CoC members with requisite majority of 66% or more by the CoC i.e.100%. Further, the Resolution Professional has certified the Form-H in accordance with the CIRP Regulations 39(4) and the same is annexed at Page Nos. 120 to 125 of the application typeset.

XII. MANDATORY COMPLIANCE UNDER IBC CODE AND REGULATIONS

30. From the averments made in the Application as well as in Form-H as filed by the Resolution Professional in relation to the procedural aspects, it is seen that the same seems to have been duly complied with for which the Resolution Professional has issued a Certificate and it is not necessary for this Authority to go into the same. However, this Authority is duty bound to examine the Resolution Plan within the contours of Section 30(2) of the IBC, 2016. A comparison *vis-à-vis* with the Mandatory compliance under the IBC and the Compliance made under the Resolution Plan is captured hereunder;



| MANDATORY COMPLIANCE UNDER IBC CODE AND REGULATIONS | COMPLIANCE UNDER RESOLUTION PLAN |
|--|--|
| <u>S.25(2)(h)</u> - Resolution Applicant meets the criteria approved by the CoC regard to the Complexity and scale of Operations of business of the CD | Clause 5.3 of the Resolution Plan |
| <u>S. 30(1)</u> - Resolution Applicant to submit an affidavit stating that he is eligible under Sec.29A of the Code, 2016 | The Affidavit of the Resolution Applicant (RA) is filed at Page Nos. 126 to 127 of the application typeset wherein it was stated that he / she is eligible under Section 29A of IBC, 2016 to submit a Resolution Plan |
| <u>S. 30(2)(a)</u> - Payment of Insolvency and Resolution cost in the manner specified by the Board | Chapter VIII para 8.6 at Pages 33 of the Resolution Plan |
| <u>S. 30(2)(b)</u> - Payment of debts of Operational Creditors in such manner as may be specified by the Board, which shall not be less than the amount to be paid to the Operational Creditors in the event of a liquidation of the Corporate Debtor under Sec. 53 | Chapter VIII para 8.11 & 8.12 at Page No.39 of the Resolution Plan |
| <u>Reg. 38(1)</u> - Resolution Plan identifies specific source of funds that will be used to pay the (a) Insolvency Resolution Process cost? (b) Liquidation value due to Operational Creditors? (c) Liquidation value due to dissenting financial creditors | Chapter VIII of the Resolution Plan |
| <u>Reg. 38(1A)</u> - Resolution Plan shall include a statement as to how it has dealt with the interest of all the stakeholders, including financial creditors and operational creditors of the Corporate Debtor | Chapter VIII para 8.6 at Pages 33 of the Resolution Plan. |
| <u>Reg.38(1B)</u> - A resolution plan shall | |



| | |
|---|---|
| include a statement giving details if the resolution applicant or any of its related parties has failed to implement or contributed to the failure of implementation of any other resolution plan approved by the Adjudicating Authority at any time in the past. | Chapter VI para 6.16 at Page No. 48 of the Resolution Plan. |
| S. 30(2)(c) - Management of the affairs of the Corporate Debtor after approval of the Resolution Plan | Chapter XI at Page Nos.52 to 53 of the Resolution Plan |
| S. 30(2)(d) - Implementation and Supervision of the Resolution Plan and Reg. 38(2) - Resolution Plan shall provide: a) term of plan and its implementation schedule b) management and control of the business of the Corporate Debtor during its term; c) it has provisions for effective implementation d) it has provisions for approval required and the timeline for the same; and e) the Resolution applicant has the capability to implement the Resolution Plan. | Chapter X at Page Nos.48 to 51 of the Resolution Plan Chapter X Para 10.1 at Page 48 of the Resolution Plan Chapter X Para 10.4 at Page Nos 50-51 of the Resolution Plan Chapter X Para 10.4 at Page Nos 50-51 of the Resolution Plan Chapter X & XII at Pages 48 to 54 of the Resolution Plan Chapter III & VI Para 6.13 at Page 17 & 28 of the Resolution Plan |



| <p><u>Reg. 38(3)</u> - Resolution Plan shall demonstrate:</p> <p>a) it address the cause of default</p> <p>b) it is feasible and viable</p> <p>c) it has provisions for effective implementation</p> <p>d) it has provisions for approval required and the timeline for the same</p> <p>e) the resolution applicant has the capability to implement the resolution plan</p> | <p>Chapter V, Para 5.1 at page Nos.23-24 of the Resolution Plan</p> <p>Chapter VI para 6.10 at Page No. 28 of the Resolution Plan</p> <p>Chapter VI & X para 6.11 at page 28 and pages 48 to 51 of the Resolution Plan</p> <p>Chapter X & XII at Pages 48 to 54 of the Resolution Plan</p> <p>Chapter III & VI Para 6.13 at Page 17 & 28 of the Resolution Plan</p> | | | | | | | | | | | | | | | | |
|--|---|-------------|------------------|------------|-------------|----|-----------------------|-------|---|----|-------------------|-------|---|--|--------------|-------------|----------|
| <p><u>S. 30(2)(e)</u> - Does not contravene any of the provisions of the law for the time being in force</p> | <p>Chapter VI para 6.8 at Page No.28 to 51 of the Resolution Plan</p> | | | | | | | | | | | | | | | | |
| <p><u>S. 30(4)</u> - Committee of Creditors approve the Resolution Plan by not less than 66% of voting share of Financial Creditors, after considering its feasibility, viability and such other requirement as specified by the Board</p> | <p>The CoC, in its 9th meeting has approved the Resolution Plan in the following voting pattern;</p> <table><tr><th>S.No</th><th>Name of Creditor</th><th>Assent (%)</th><th>Dissent (%)</th></tr><tr><td>1.</td><td>Edelweiss ARC Limited</td><td>75.67</td><td>-</td></tr><tr><td>2.</td><td>IDBI Bank Limited</td><td>24.33</td><td>-</td></tr><tr><td></td><td>TOTAL</td><td>100%</td><td>-</td></tr></table> | S.No | Name of Creditor | Assent (%) | Dissent (%) | 1. | Edelweiss ARC Limited | 75.67 | - | 2. | IDBI Bank Limited | 24.33 | - | | TOTAL | 100% | - |
| S.No | Name of Creditor | Assent (%) | Dissent (%) | | | | | | | | | | | | | | |
| 1. | Edelweiss ARC Limited | 75.67 | - | | | | | | | | | | | | | | |
| 2. | IDBI Bank Limited | 24.33 | - | | | | | | | | | | | | | | |
| | TOTAL | 100% | - | | | | | | | | | | | | | | |



XIII. ANALYSIS AND FINDINGS OF THIS TRIBUNAL

31. The Applicant has filed Form – H in accordance with the IBBI (Corporate Insolvency Resolution Process for Corporate Persons) Regulations, 2016 along with this Application and the same is placed at Page Nos. 120 to 125 of the Application typeset. Further, it can be seen from FORM-H that the Resolution plan that has come for approval before this adjudicating authority is much higher than the liquidation value. The fair value and liquidation value as per the Form-H filed is extracted hereunder:-

| | | |
|----|-------------------|------------------|
| 1. | FAIR VALUE | Rs. 36.36 Crores |
| 2. | LIQUIDATION VALUE | Rs. 27.25 Crores |

32. The present Resolution Plan submitted by the Resolution Applicant is for a value of **Rs.32,00,00,000/- (Rupees Thirty Two Crores Only)**

33. It is seen from Form - H that the following application filed by the Applicant under Section 43 & 66 of IBC, 2016 were pending adjudication before this Tribunal;



- (i) *IA/882(CHE)/2022 – RP of Auromatrix Hotels Private Limited -Vs- Kumaran Sitaraman & 2 others*
- (ii) *IA/883 (CHE)/2022 – RP of Auromatrix Hotels Private Limited -Vs- Kumaran Sitaraman & 5 others*

34. The above IA's IA/882(CHE)/2022 & IA/883 (CHE)/2022 has been dismissed by this Tribunal vide order dated 26.04.2024.

XIV. RELEVANT JUDICIAL PRONOUNCEMENTS OF THE HON'BLE SUPREME COURT :

35. In so far as the approval of the Resolution Plan is concerned, this Authority is not sitting on an appeal against the decision of the Committee of Creditors and this Authority is duty bound to follow the much-celebrated Judgment of the Hon'ble Supreme Court in the matter of **K. Sashidhar –Vs– Indian Overseas Bank (2019) 12 SCC 150**, wherein in para 19 and 62 it is held as follows;

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

62.In the present case, however, we are concerned with the provisions of I&B Code dealing with the resolution process. The dispensation provided in the I&B Code is entirely



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

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

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

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



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

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



58. Indubitably, the inquiry in such an appeal would be limited to the power exercisable by the resolution professional under Section 30(2) of the I&B Code or, at best, by the adjudicating authority (NCLT) under Section 31(2) read with Section 31(1) of the I&B Code. No other inquiry would be permissible. Further, the jurisdiction bestowed upon the appellate authority (NCLAT) is also expressly circumscribed. It can examine the challenge only in relation to the grounds specified in Section 61(3) of the I&B Code, which is limited to matters “other than” enquiry into the autonomy or commercial wisdom of the dissenting financial creditors. Thus, the prescribed authorities (NCLT/NCLAT) have been endowed with limited jurisdiction as specified in the I&B Code and not to act as a court of equity or exercise plenary powers.”

(emphasis supplied)

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

“73. There is no doubt whatsoever that the ultimate discretion of what to pay and how much to pay each class or sub-class of creditors is with the Committee of Creditors, but, the decision of such Committee must reflect the fact that it has taken into account maximising the value of the assets of the corporate debtor and the fact that it has adequately balanced the interests of all stakeholders including operational creditors. This being the case, judicial review of the Adjudicating Authority that the resolution plan as approved by the Committee of Creditors has met the requirements referred to in Section 30(2) would include judicial review that is mentioned in Section 30(2)(e), as the provisions of the Code are also provisions of law for the time being in force. Thus, while the Adjudicating Authority cannot interfere on merits with the commercial decision taken by the Committee of Creditors, the limited judicial review available is to see that the Committee of Creditors has taken into account the



fact that the corporate debtor needs to keep going as a going concern during the insolvency resolution process; that it needs to maximise the value of its assets; and that the interests of all stakeholders including operational creditors has been taken care of. If the Adjudicating Authority finds, on a given set of facts, that the aforesaid parameters have not been kept in view, it may send a resolution plan back to the Committee of Creditors to re-submit such plan after satisfying the aforesaid parameters. The reasons given by the Committee of Creditors while approving a resolution plan may thus be looked at by the Adjudicating Authority only from this point of view, and once it is satisfied that the Committee of Creditors has paid attention to these key features, it must then pass the resolution plan, other things being equal."

(emphasis supplied)

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

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



of voting share in the Committee of Creditors, stands in its favour.

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

77.1. Such limitations on judicial review have been duly underscored by this Court in the decisions above-referred, where it has been laid down in explicit terms that the powers of the Adjudicating Authority dealing with the resolution plan do not extend to examine the correctness or otherwise of the commercial wisdom exercised by the CoC. The limited judicial review available to Adjudicating Authority lies within the four corners of Section 30(2) of the Code, which would essentially be to examine that the resolution plan does not contravene any of the provisions of law for the time being in force, it conforms to such other requirements as may be specified by the Board, and it provides for: (a) payment of insolvency resolution process costs in priority; (b) payment of debts of operational creditors; (c) payment of debts of dissenting financial creditors; (d) for management of affairs of corporate debtor after approval of the resolution plan; and (e) implementation and supervision of the resolution plan.

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



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

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

40. Thus, from the catena of judgments rendered by the Hon'ble Supreme Court on the scope of approval of the Resolution Plan, it is



amply clear that only limited judicial review is available for the Adjudicating Authority under Section 30(2) and Section 31 of IBC, 2016 and this Adjudicating Authority cannot venture into the commercial aspects of the decisions taken by the Committee of Creditors.

41. On hearing the submissions made by the Ld. Counsel for the Resolution Professional, and perusing the record, we find that the Resolution Plan has been approved with 100 % voting share. As per the CoC, the plan meets the requirement of being viable and feasible for the revival of the Corporate Debtor. By and large, all the compliances have been done by the RP and the Resolution Applicant for making the plan effective after approval by this Bench. On perusal of the documents on record, we are also satisfied that the Resolution Plan is in accordance with sections 30 and 31 of the IBC and also complies with regulations 38 and 39 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

42. The Resolution Plan in question is hereby **APPROVED** by this Adjudicating Authority. The Resolution Plan shall form part of this Order. The Resolution Plan is binding on the Corporate Debtor and



other stakeholders involved so that the revival of the Debtor Company shall come into force with immediate effect. The Moratorium imposed under section 14 shall cease to have effect from the date of this Order.

XV. RELIEF / CONCESSIONS :

43. The Resolution Applicant in Chapter XIII of the Resolution Plan has sought for a total of 23 Reliefs and concessions from this Adjudicating Authority so as to implement the Resolution Plan. These are ordered as follows;

| SL. No. | RELIEF / CONCESSIONS SOUGHT FOR | ORDERS THEREON |
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| 1 | Waiver from the levy of stamp duty and fees by the stamp authorities and Ministry of Corporate Affairs, applicable in relation to this Resolution Plan and its implementation, including issuance and transfer of new Equity Shares, Merger, Capital Reduction. AHPL and the Resolution Applicant shall be entitled to modify contracts which (i) are entered into with parties which prior to the insolvency commencement date were related parties of AHPL and (ii) Impose onerous conditions hindering the resolution process for AHPL. | This is for the appropriate authorities to consider, keeping in view of the clean slate principle envisaged under IBC, 2016. |
| 2 | The RBI to confirm that, on and from the Closing Date, all accounts of the Corporate Debtor shall stand regularized and their asset classification shall be standard for the purposes of all RBI applicable laws; | This is for the appropriate authorities to consider, keeping in view of the clean slate principle envisaged under IBC, 2016. |
| 3 | The RA has been informed by RP that the Forensic and Preferential transaction audit is under process | Since the PUF Transaction application was dismissed |



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| | and hence RA has not been shared any report pertaining to the same. Subsequently and in the event any preferential transaction is established in the report, the RA shall continue at its own cost the cases with appropriate authority to restore back those preferential transaction (if any) into the CD account. | by this Tribunal vide order dated 26.04.2024, this relief has become infructuous. |
| 4 | AHPL and the Resolution Applicant shall be granted an exemption from all taxes, levies, fees, transfer charges, transfer premiums, and surcharges that arise from or relate to implementation of the Resolution Plan, since payment of these amounts may make the Resolution Plan unviable. | During Implementation, no exemption can be granted |
| 5 | The jurisdictional Registrar of Companies to take on record and implement the Plan, upon approval of the Plan by NCLT, without any further compliances and re-instate all the approvals and waive all the financial or other penalties/ interest / prosecution of all type and nature; | Granted |
| 6 | All Designated Authorised Dealer Category / Banks to grant any approval or dispensation as may be required for actions contemplated under the Plan in accordance with its terms and conditions | Granted |
| 7 | Waiver of any income-tax and Minimum Alternate Tax (MAT) liability or consequences (including interest, fine, penalty, etc) on AHPL, Resolution Applicant and its shareholders on account of various steps as proposed in the Resolution Plan, including but not limited to liabilities if any under Section 41 (1), Section 56, Section 43, Section 43 B, Section 28, Section 115JB and Section 79 of the Income-tax Act, 1961, including, without limitation waiver of MAT and income tax implication arising due to write back/write off of liabilities in the books of accounts of AHPL without any impact on brought forward tax and book loss / depreciation, pursuant to this Resolution Plan. | This is for the CBDT,CBIC and other appropriate authorities to consider keeping in view the object of IBC, 2016 |



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| 8 | The Central Board of Direct Taxes to: (i) not void or take any other actions with respect to the transactions contemplated under this Plan under Section 281 of the IT Act. | This is for the CBDT,CBIC and other appropriate authorities to consider keeping in view the object of IBC, 2016 |
| 9 | Any approvals that may be required from Governmental Authorities (including tax authorities) in connection with the implementation of the Resolution Plan including on account of change in ownership / control of AHPL shall be deemed to have been granted on the Approval Date. | During Implementation, no exemption can be granted. |
| 10 | <p>Upon approval of the Resolution Plan by the NCLT, all non-compliances, breaches and defaults of AHPL for the period prior to the Approval Date (including but not limited to those relating to tax), shall be deemed to be waived by the concerned Governmental Authorities. Immunity shall be deemed to have been granted to AHPL from all proceedings and penalties under all Applicable Laws for any non-compliance for the period prior to the Approval Date and no interest/penal implications shall arise due to such non-compliance /default / breach prior to the Approval Date. This includes, without limitation, waiver/extinguishment of any penalties / interests on account of staggered payment of statutory liabilities of the workmen/ employees of AHPL in accordance with the terms of this Resolution Plan.</p> <p>Waiver/extinguishment of any tax (including but not limited to income-tax and MAT) and duty (including interest, fine, penalty, etc.) and legal liability pertaining for the period prior to the Approval Date such as any kind of existing and /or future litigation / assessment / scrutiny /contingency.</p> | Ordered |
| 11 | All creditors of the Corporate Debtor shall have to withdraw all legal proceedings commenced against the Corporate Debtor in relation to Claims, including all criminal proceedings, proceedings under Section 138 of the Negotiable Instruments Act, 1881 and proceedings under SARFAESI and | Granted in terms of the judgment of the Hon'ble Supreme Court in <i>Ghanashyam Mishra and Sons v. Edelweiss Asset Reconstruction Company</i> |



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| | RDDBFI, within 30 (thirty) days of the Effective Date for revival of the corporate debtor and for economic stability of the business of the Corporate Debtor. | Limited. <i>2021 SCC Online SC 313</i> |
| 12 | From the Approval Date, all inquiries, investigations and proceedings, whether civil or criminal, suits, claims, disputes, proceedings in connection with AHPL or affairs of AHPL (including those initiated by Governmental Authorities), pending or threatened, present or future in relation to any period prior to the Approval Date, or arising on account of implementation of this Resolution Plan shall stand withdrawn and dismissed and all liabilities and obligations therefore, whether or not set out in the balance sheets of AHPL or the profit and loss account statements of AHPL will be deemed to have been written off fully, and permanently extinguished and no adverse orders passed in the said matters should apply to AHPL or the Resolution Applicant. Upon approval of this Resolution Plan, 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 AHPL and/ or its new management in relation to any period prior to the Approval Date. | Not Granted as Successful Resolution Applicant was a promoter |
| 13 | Except to the extent of payments to be made to the Operational and Other creditors under paragraph 3 and 4 of Chapter VIII (Financial Proposal) above, the Resolution Applicant and AHPL shall have no liability towards any Operational Creditors and other creditors with respect to any claims (as defined under the Code) relating in any manner to the period prior to the Approval Date. Any such liability shall be deemed to be owed and due as of the Insolvency Commencement Date, the liquidation value of which is NIL and therefore no amount is payable in relation thereto. All such liabilities shall immediately, irrevocably and unconditionally stand fully and finally discharged and settled with there being no further claims | Granted in terms of the judgment of the Hon'ble Supreme Court in <i>Ghanashyam Mishra and Sons v. Edelweiss Asset Reconstruction Company Limited.</i> <i>2021 SCC Online SC 313</i> |



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| | whatsoever, and all forms of security created or suffered to exist, or rights to create such a security, to secure any obligations towards Operational Creditors and other creditors shall immediately, irrevocably and unconditionally stand released and discharged, and the Operational Creditors and other creditors shall waive all rights to invoke or enforce the same. | |
| 14 | Neither the Resolution Applicant nor AHPL, nor their respective directors, officers and employees appointed as on or after the Approval Date shall be liable for any violations, liabilities, penalties, interests on statutory payments and/ or fines with respect to or pursuant to any order of any Governmental Authority or on account of non-compliance of Applicable Laws by AHPL or due to AHPL not having in place requisite approvals and licenses to undertake its business as per Applicable Law pertaining to the period prior to the Approval Date. | Not Granted as Successful Resolution Applicant was a promoter |
| 15 | The business permits/ licences/or any statutory order (s) which were possessed by the Corporate Debtor to conduct the business shall deem in continuation on the date of final approval of NCLT as it were prior to the Insolvency Commencement Date by All or any one of the applicable statutory / Governmental Authority (s) for the time being in force for ensuring the economic viability and financial sustainability of the business of Corporate Debtor; | This is for the appropriate authorities to consider, keeping in view of the clean slate principle envisaged under IBC, 2016. |
| 16 | Since the Resolution Applicant has been provided with limited information in relation to the Business Permits, Service Licences and their current status, it is probable that some of the Business Permits, licences of the Corporate Debtor may have lapsed, expired, suspended, cancelled, revoked or terminated or the Corporate Debtor has Non-Compliances in relation thereto. Accordingly, all Governmental Authorities to provide reasonable time period after the Approval Date in order for the Resolution Applicant to | Granted, in terms of the Provisions of Section 31(4) of IBC, 2016 |



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| | assess the status of these Business Permits and ensure that the Corporate Debtor is compliant with the terms of such Business Permits and Applicable Law without initiating any investigations, actions or proceedings in relation to such Non-Compliances and permit the Resolution Applicant to continue to operate and financially revive the business of the Corporate Debtor | |
| 17 | Resolution Applicant shall not be impacted and will be kept indemnified financially or otherwise against any of the negative impact / observation / findings of Forensic Audit. Further neither the Corporate Debtor nor any member of the new promoter group shall be made party to any of the legal cases arising out of such forensic audit. | Not Granted |
| 18 | No action will be taken against the any dues non-compliance penalty, interest related to the period before the Approval date, by any authority under PF Act, ESI, Factory Act, electricity department, Fire department, Pollution Department, Labour Law or any other department not mentioned here. | Granted in terms of the judgment of the Hon'ble Supreme Court in <i>Ghanashyam Mishra and Sons v. Edelweiss Asset Reconstruction Company Limited.</i> 2021 SCC Online SC 313 |
| 19 | All Departments and Authorities, including but not limited to Government/ Semi Government / PSUs/ Non-Government/ Research & Development Centres / Subsidiaries / Division/ Zones/ Workshop/ Sheds or any other entities not mentioned here, shall allow the Corporate Debtor to submit their offers / Proposal / tenders etc., for the period of ten years from the date of NCLT order, without insisting for the details on past revenue, profitability records, net worth and supply and performance records or any other credentials. | Not Granted |
| 20 | Indemnification- Resolution Applicant and the CD shall not be impacted and will be kept indemnified financially or otherwise against any of the negative impact / observation / findings of Forensic Audit. Further neither the Corporate Debtor nor any member of the new promoter group shall be made party to any of the legal cases arising out of such forensic audit. | Not Granted |



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| 21 | Direction to the relevant collector/department of stamps for waiver from the levy of stamp duty applicable in relation to this Resolution Plan and its implementation, including on issuance of new Equity Shares to the Resolution Applicant. | This is for the appropriate authorities to consider, keeping in view of the clean slate principle envisaged under IBC, 2016. |
| 22 | Direction to Tax Authorities to grant an exemption from all Government taxes, State Government taxes, Central government taxes, District taxes authorities/ Revenue authorities, levies, fees, transfer charges, transfer premiums, and surcharges that arise from or relate to implementation of the Resolution Plan, since payment of these amounts may make the Resolution Plan unviable. This would include waiver of MAT and income tax implication arising due to write back/write off of liabilities in the books of accounts of AHPL, without any impact on brought forward tax and book loss / depreciation, pursuant to this Resolution Plan. | This is for the appropriate authorities to consider, keeping in view of the clean slate principle envisaged under IBC, 2016. |
| 23 | Direction to the relevant Governmental Authority to grant exemption to the Resolution Applicant, AHPL and their respective directors, officers and employees appointed as on or after the Approval Date for/ from any violations, liabilities, penalties, interests on statutory payments and/ or fines with respect to or pursuant to any order of the Governmental Authority or on account of non-compliance of Applicable Laws by AHPL or due to AHPL not having in place requisite approvals and licenses to undertake its business as per Applicable Law pertaining to the period prior to the Approval Date . | This is for the appropriate authorities to consider, keeping in view of the clean slate principle envisaged under IBC, 2016. |

44. 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.

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

46. The Resolution Professional shall submit the records collected during the commencement of the proceedings to the Insolvency & Bankruptcy Board of India for their record and also return to the Resolution Applicant or New Promoters. The Resolution Professional is further directed to hand over all records, premises / factories / documents to the Resolution Applicant to finalize the further line of action required for starting the operation of the Corporate Debtor under the control of the Resolution Applicant

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



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

49. A copy of this Order is to be submitted to the Office of the Registrar of Companies, Chennai.

50. The Resolution Professional shall stand discharged from his duties with effect from the date of this Order.

51. IA(IBC)/1557/CHE/2022 shall stand **disposed of** accordingly.

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

-Sd-

VENKATARAMAN SUBRAMANIAM
MEMBER (TECHNICAL)

-Sd-

SANJIV JAIN
MEMBER (JUDICIAL)

Sriram Ananth.V