



IN THE NATIONAL COMPANY LAW TRIBUNAL

NEW DELHI BENCH (COURT – II)

I.A. 03 OF 2024

IN

C.P.(IB) – 2607(PB)/2019

IN THE MATTER OF:

M/S AMBRANE INDIA PRIVATE LIMITED

...Financial Creditor

Versus

M/S MP PROMOTERS PRIVATE LIMITED

...Corporate Debtor

AND IN THE MATTER OF:

Durga Das Agrawal

Resolution Professional of
MP Promoters Private Limited
Office Address: KBL Agarwal & Co.,
413, Vikasdeep Building,
Laxmi Nagar, New Delhi- 110092

...Applicant

Order Delivered on: 25.10.2024

UNDER SECTION: 30(6) of IBC, 2016

CORAM:

SH. ASHOK KUMAR BHARDWAJ, HON'BLE MEMBER (J)

SH. SUBRATA KUMAR DASH, HON'BLE MEMBER (T)

PRESENT:

For the RP : Adv. Shivam Gautam



ORDER

The present I.A. No. 03 of 2024 has been preferred by Mr. Durga Das Agarwal, Resolution Professional qua MP Promoters Pvt. Ltd. (hereinafter referred to as the '**Applicant/RP**') under Section 30(6) of IBC, 2016, seeking the following reliefs:

- a. *Pass an order for approval of the Resolution Plan submitted by the Successful Resolution Applicant for the CIRP of the Corporate Debtor as referred under section 31 of the Code;*
- b. *Declare that upon approval of the Resolution Plan by this Hon'ble Adjudicating Authority, the provisions of the Resolution Plan shall be binding on the Corporate Debtor, its creditors, guarantors, members, employees and other stakeholders involved in the resolution plan in accordance with Section 31 (1) of the Code, and shall be given effect to and implemented pursuant to the order of this Hon'ble Adjudicating Authority;*
- c. *Discharge the Resolution Professional & pass such order(s) as may be deemed fit and proper in the facts and circumstances of the instant case.*
- d. *Pass the directions for constitution of monitoring committee and allow the Applicant to consequently, upon successful implementation of the resolution plan to file a final implementation report and seek discharge.*
- e. *Pass an order to allow successful resolution applicant to change the directors by filing necessary application with ROC after the successful implementation of Resolution Plan and*
- f. *Pass such other orders as this Hon'ble Adjudicating Authority may deem fit and proper in the interest of justice.*



2. Preliminary

2.1. To put the facts concisely, the underlying main petition C.P.(IB)-03/(PB)/2019 was filed by Ambrane India Private Limited (hereinafter referred to as the “**Financial Creditor**”) against MP Promoters Pvt. Ltd. (hereinafter referred to as the “**Corporate Debtor**”) under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the “**Code**”) which was admitted vide Order dated 06.04.2022, of the Principal Bench of this Adjudicating Authority. Consequently, the Corporate Insolvency Resolution Process (hereinafter referred to as “**CIRP**”) in respect of the Corporate Debtor was initiated and Mr. Durga Das Agrawal was appointed as the Interim Resolution Professional (IRP).

2.2. Subsequently, the Committee of Creditors (CoC) resolved to appoint the IRP as Resolution Professional (RP) in the 1st CoC meeting convened on 16.05.2022 and the same was confirmed by this Adjudicating Authority.

3. Collation of claims by RP

3.1. It is stated by the Applicant that in terms of Regulation 6(1) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the Applicant made a Public Announcement in Form-A on 13.04.2022 to invite claims from creditors of the Corporate Debtor. The Applicant further stated that after due verification of the claims received, the list of creditors was prepared.



3.2. It is further stated by the Applicant that after collating the claims, a Committee of Creditors (CoC) was constituted in terms of Section 21(1) of the Code. Thus, the final list of claim by the Applicant is reproduced herein below:

Sl.No	Name of the Financial Creditor	Amount Claimed	Amount Admitted	Voting%
1.	Ambrane India Private Limited	1,53,48,297 /-	1,53,48,297 /-	100%

3.3. The RP has got the assets of the Corporate Debtor valued under the relevant rules and the Fair Value and Liquidation Value are as under:

Sl. No.	Name of valuer	Fair Value	Liquidation Value	Average	
				Fair Value	Liquidation Value
A.	Securities & Financial Assets (SFA)				
1.	Mr. Devinder Arora	2,46,70,561	1,48,10,793	2,50,84,316	1,53,06,243
2.	Mr. Manoj Kumar	2,54,98,070	1,58,01,693		
	Total			2,50,84,316	1,53,06,243

3.4. The details of the meetings of CoC as stated in the Application reads as follows:



Particulars	Date of CoC Meeting	Main Agenda of discussion	Important decisions ratified
1st CoC Meeting	16.05.2022	1. To take note on the list of claimed received by IRP & COC Constitution	1. COC has Ratify the expenses incurred by the IRP; 2. Appoint the IRP as RP and ratified its fees.
2nd CoC Meeting	24.08.2022	1. To take note of the steps taken by the RP. 2.To take note of the Appeal filed by the Suspended Board of Directors. 3.To take note of Application filed under section 19(2) of IBC, 2016. 4.Consider the Appointment of Registered Valuer and preparation of IM & publication of expression of interest.	1. COC ratified the expenses incurred by the RP; 2. COC ratified the appointment of Legal Counsel.
3rd CoC Meeting	03.10.2022	1. To take note on the step taken by the RP; 2.To take note of the Appeal filed by the Suspended Board of Directors and its status; 3.To take note on Application filed under Section 19(2) of IBC, 2016 and its status	1. Extension of CIRP period for 90 days; 2. Appointment of Accountant; 3. Appointment of Registered Valuer; 4. Formation of opinion under section 43,45,50& 66 of IBC, 2016; 5. COC ratified by the expenses incurred by the RP.



4th CoC Meeting	06.01.2023	<ol style="list-style-type: none">1. To take note on the step taken by the RP;2.To take note of the Appeal filed by the Suspended Board of Directors and its status;3.To take note on Application filed under section 19(2) of IBC, 2016 and its status;4. To consider preparation of IM and publication of expression of interest	<ol style="list-style-type: none">1.Consider and ratified the extension of CIRP period for 60 days;2.Ratified by the Appointment of Forensic Auditor;3.Ratified the Appointment of registered valuer;4.Ratified by the expenses incurred by the RP.
5th CoC Meeting	06.03.2023	<ol style="list-style-type: none">1. To take note on the step taken by the RP;2.To take note of the Appeal filed by the Suspended Board of Directors and its status.3.To take note on Application filed under section 19(2) of IBC, 2016 and its status;4. To take note on the status of Forensic Audit Report;5. To consider the preparation of Financial Statement as at 31.03.2022 and audit thereof.	<ol style="list-style-type: none">1. To consider filing of application under Rule 11; of NCLT Rules, 2016 for extension of CIRP;2. To consider various documents of the process i.e RFRP, Eligibility Criteria, Evaluation Matrix etc.;3. To ratify the expenses incurred by the RP;4. To discuss about the contribution to be made by the COC member fund the bank account of the Corporate Debtor;5. To consider and discuss filing an application under the provisions of Section 33 of IBC, 2016.



6th CoC Meeting	03.06.2023	<p>1.To take note of the steps taken by Resolution Professional since commencement of CIRP;</p> <p>2. To take note of the Appeal filed by Mr. Mukesh Kumar, the suspended Director of CD before Hon'ble NCLAT.</p> <p>3.To take note of the extension allowed under Rule 11 of NCLT Rules for CIRP for 90 days;</p> <p>4.To take note of Forensic Report and filing of the applications u/s 43,45,50 and 66 along with avoidance transactions application;</p> <p>5. To take note of the pending matters/cases before various forums/courts.</p>	<p>1. To consider filing of Application under Rule 11 of the NCLT Rules, 2016 for further Extension of the CIRP period of 60 days from 07.06.2023 to 05.08.2023;</p> <p>2. To open/unsealed the Resolution Plan received from Prospective Resolution Applicant;</p> <p>3. To ratify the expenses incurred by the RP.</p> <p>4.To discuss about the contribution to be made by the COC member to deposit fund in the Bank Account of CIRP.</p> <p>5. To Appoint legal consultant for legal vetting of Resolution Plan and Due Diligence under Section 29A of Insolvency and Bankruptcy Code, 2016 of the Prospective Resolution Applicant.</p>
7th CoC Meeting	04.07.2023	<p>1.To take note of the steps taken by Resolution Professional since commencement of CIRP.</p> <p>2. To take note of the Appeal filed by Mr. Mukesh Kumar, the suspended Director of CD before Hon'ble NCLAT.</p> <p>3.To take note of the extension application filed under Rule 11 of NCLT Rules for CIRP for</p>	<p>1. To consider the resolution plan received from the Resolution Applicant.</p> <p>2. To ratify the expenses incurred by the RP.</p> <p>3. To discuss about the contribution to be made by the COC member to deposit fund in the Bank Account of CIRP</p>



		<p>60 days.</p> <p>4. To take note of Forensic Report and filing of the applications u/s 43,45,50 and 66 along with avoidance transaction applications.</p> <p>5.To take note of the pending matters/cases before various forums/courts.</p>	
8th CoC Meeting	22.07.2023	<p>1.To take note of the steps taken by Resolution Professional since commencement of CIRP.</p> <p>2.To take note of the Appeal filed by Mr. Mukesh Kumar,the suspended Director of CD before Hon'ble NCLAT.</p> <p>3. To take note of Forensic Report and filing of the applications u/s 43,45,50 and 66 along with avoidance transactions application.</p> <p>4.To take note of valuation of Assets viz Land & Building, Plant & Machinery and Securities and Financial Assets.</p> <p>5.To take note of the preparation and finalization of Financial Statements as at 31.03.2022 and audit thereof.</p> <p>6.To take note of the pending matters/cases before various</p>	<p>1. To ratify the expenses incurred by the RP.</p> <p>2.To discuss about the contribution to be made by the COC member to deposit fund in the Bank Account of CIRP.</p>



		forums/courts. 7.To consider the resolution plan received from the Resolution Applicant.	
9th CoC Meeting	04.08.2023	<p>1.To take note of the steps taken by Resolution Professional since commencement of CIRP.</p> <p>2.To take note of the Appeal filed by Mr. Mukesh Kumar, the suspended Director of CD before Hon'ble NCLAT.</p> <p>3. To take note of Forensic Report and filing of the applications u/s 43,45,50 and 66 along with avoidance transactions application.</p> <p>4.To take note of valuation of Assets viz Land & Building, Plant & Machinery and Securities and Financial Assets.</p> <p>5.To take note of the preparation and finalization of Financial Statements as at 31.03.2022 and audit thereof.</p> <p>6.To take note of the pending matters/cases before various forums/courts.</p> <p>7.To consider the resolution plan received from the Resolution Applicant.</p>	<p>1.To approve the Resolution Plan submitted by Bliss Equity Private Limited (Resolution Applicant).</p> <p>2.To approve the Liquidation of the Corporate Debtor under the provisions of Section 33 of Insolvency and Bankruptcy Code, 2016.</p> <p>OTHER AGENDA ON THE COC RECOMMENDATION</p> <p>Item no. 19A: To Seek Extension Of CIRP Period For Further 90 Days From The Hon'ble Adjudicating Authority.</p> <p>Item no. 19B: To Republish the Expression of Interest in Form G.</p>
10th CoC	30.09.2023	1.To take note of the steps	1.To ratify the expenses



Meeting		<p>taken by Resolution Professional since commencement of CIRP.</p> <p>2.To take note of the Appeal filed by Mr. Mukesh Kumar, the suspended Director of CD before Hon'ble NCLAT and thereafter to Hon'ble Supreme Court.</p> <p>3.To take note of Forensic Report and application filed u/s 43,45 and 66 along with Forensic Report.</p> <p>4.To take note of the pending matters/cases before various forums/courts.</p> <p>5. To take note on republication of FORM G and Final List of Prospective Resolution Applicants.</p> <p>6. To discuss the matter pending before the Hon'ble Tis Hazari Court.</p>	<p>incurred by the RP.</p> <p>2.To discuss about the contribution to be made by the COC member to deposit fund in the Bank Account of CIRP.</p>
11th CoC Meeting	<p>Originally called on 21.10.2023 , However deferred to 27.10.2023</p>	<p>1.To take note of the steps taken by Resolution Professional since commencement of CIRP.</p> <p>2.To take note of the Appeal filed by Mr. Mukesh Kumar, the suspended Director of CD before Hon'ble NCLAT and thereafter to Hon'ble Supreme Court.</p> <p>3. To take note on the Letter sent to Sub Registrar in</p>	<p>1.To ratify the expenses incurred by the RP.</p> <p>2.To discuss about the contribution to be made by the COC member to deposit fund in the Bank Account of CIRP.</p> <p>3. To discuss and approve the Settlement Proposal received from the Suspended Board of Directors of the</p>



		<p>relation to the Properties of Ethnic Realtors Private Limited.</p> <p>4.To take note of Forensic Report and application filed u/s 43,45 and 66 along with Forensic Report.</p> <p>5.To take note of the details of the inventories sought from the Suspended Board of Directors.</p> <p>6.To take note of the pending matters/cases before various forums/courts.</p> <p>7. To take note of the documents received with respect to the Corporate Guarantee given by the Corporate Debtor.</p> <p>8. To open the Resolution Plan received pursuant to the republication of FORM G.</p>	<p>Corporate Debtor.</p> <p>4.To approve the resolution for seeking exclusion of CIRP Period before the Hon'ble NCLT.</p> <p>5.To approve the Appointment of Consultant for Vetting of Resolution Plan and Due Diligence under Section 29A of IBC, 2016</p>
12th CoC Meeting	12.12.2023	<p>1.To take note of the steps taken by Resolution Professional since commencement of CIRP.</p> <p>2. To take note of Forensic Report and application filed u/s 43,45 and 66 along with Forensic Report.</p> <p>3.To take note of the pending matters/cases before various forums/courts.</p> <p>4.To take note on the claim</p>	<p>1. To approve the Resolution Plan submitted by Bliss Equity Private Limited (PRA).</p> <p>2.To approve the Resolution Plan submitted by Mr. Varun Chopra (PRA).</p> <p>3. To approve the Liquidation of the Corporate Debtor under the provisions of Section 33 of Insolvency and</p>



		filed by Mr. Nitin Rekhan. 5.To consider the resolution plans received from the Resolution Applicants in presence of respective Resolution Applicant.	Bankruptcy Code, 2016.
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4. Evaluation and voting

4.1. The Applicant further stated that in compliance of Regulation 36A(1) of CIRP Regulations, 2016, 'Form-G' was published by the Applicant on 15.03.2023 and republished on 26.08.2023, thereby inviting Prospective Resolution Applicants (PRAs) to submit their Expression of Interest (EOI). The Applicant submits that subsequently, the applicant received six EOIS from the following PRAs:

Sl.No.	Prospective Resolution Applicants
1.	Aspect Global Ventures Private Limited
2.	Bliss Equity Private Limited
3.	Galactico Corporate Service Limited
4.	Mr. Komal Madan
5.	Mr. Parmeet Lamba
6.	Mr. Varun Chopra

4.2. Subsequently, it is submitted that out of the 6 PRAs, two PRAs has submitted their Resolution Plan viz Mr. Varun Chopra & Bliss Equity Private

Limited which were opened before the Committee of Creditors and in presence
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of concerned Prospective Resolution Applicants in the 11th Meeting of the Committee of Creditors held on 27.10.2023.

4.3. It is further submitted that in the 9th meeting of COC held on 04.08.2023 it was resolved to extend the CIRP period by 90 days. Accordingly, I.A. No. 4374/2023 was moved by the applicant before this Tribunal for the aforesaid extension, and the same was allowed vide order dated 21.08.2023.

4.4. The Applicant has further stated that with the approval of the Committee of Creditors, the applicant appointed an independent legal consultant namely Mr. Rajeev Lochan for conducting a legal vetting of Resolution Plan so that the Resolution Plan submitted by the Prospective Resolution Applicants are complied in accordance with the provisions of Insolvency and Bankruptcy Code, 2016.

4.5. After due discussions and deliberations, in the 12th meeting of Committee of Creditors which was held on 12.12.2023, the agenda for approval of Resolution Plan was placed and after detailed discussion, the Resolution Plans submitted by the Resolution Applicant i.e. Mr. Varun Chopra was unanimously approved with 100% voting share by the CoC. The voting result of the successful Resolution Applicant is extracted below:

“ITEM 12: TO CONSIDER FOR APPROVAL OF THE RESOLUTION PLAN

SUBMITTED BY MR. VARUN CHOPRA (PRA).



The Certificate of Resolution Professional and legal vetting report of Independent Consultant on the Resolution Plan was placed before the Member of Committee of Creditors. After final review of Resolution Plan, discussions, negotiation with Mr. Varun Chopra and deliberations, and comparing evaluation matrix in agenda item no 10 in detail, the plan was put for voting for

approval of members in terms of the Section 30 read with Regulation 39 of the CIRP Regulations 2016.

Proposed Resolution

To consider and if found fit, to pass with or without modification (s) the following Resolution:

“RESOLVED THAT in pursuant to Section 30(3) of the Insolvency and Bankruptcy Code 2016 read with Regulation 39(2)& (3) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the consent of the members of the COC be and is hereby accorded to approve the Final Resolution Plan submitted by Mr. Varun Chopra”

RESOLVED FURTHER THAT in terms of Sub Section 4 of Section 30 of Insolvency and Bankruptcy Code, 2016 the committee of creditors has considered the feasibility and viability of the Resolution Plan submitted by the Resolution Applicant.

“RESOLVED FURTHER THAT pursuant to the provisions of Section 30(6) and other applicable provisions of the Insolvency and Bankruptcy Code, 2016 and Rules and Regulations framed there under, the Resolution Professional be and is hereby authorized to submit the Resolution Plan as approved by the Committee of Creditors to the Hon’ble Adjudicating



Authority and to do all such acts, deeds and things as may be required or considered necessary or incidental thereto.”

The aforesaid resolution was put to vote and the results of the same was as under:

VOTE IN FAVOR: 100%

VOTE AGAINST: 0%

The COC with 100 % of majority passed this present resolution.”

5. Details of Resolution Plan

5.1. The brief outlines of the Resolution Plan as mentioned by the Applicant are extracted herein below for ease of reference:

The Financial Outlay as proposed under the Resolution Plan is as follows:.

a) Financial Creditors (Unsecured):-

The total claim filed by the Financial Creditor i.e. Ambrane India Private Limited in respect of the Corporate Debtor is to the tune of Rs. 1,53,48,297/- which has been admitted in full by the Applicant/ Resolution Professional. The Resolution Applicant proposes a sum of Rs. 1,74,54,981 /- to the Financial Creditors to be paid in 2 equated installment with a difference of 30 days in each installment starting from 30th day from the effective date.

b) Operational Creditors (Employees/Workmen)



As per the Information Memorandum and List of Creditors of the Corporate Debtor, no claim was received from the Operational Creditors (Employees/Workmen) therefore, the amount proposed by the Resolution Applicant is NIL.

c) Operational Creditor (including statutory dues)

As per the Information Memorandum and List of Creditors of the Corporate Debtor, no claim was received from any statutory authority, therefore, the amount proposed by the Resolution Applicant is NIL.

5.2. Term of the Resolution Plan

The term of the Resolution Plan will be 60 days from the approval of the Resolution Plan by this Adjudicating Authority and the implementation of the plan will commence from the date when the Adjudicating Authority approves the Resolution Plan.

5.3. The amounts provided for the stakeholders under the Resolution Plan as outlined in Form H is as under:

(Amount in Rs. Lakh)

Sl. No.	Category of shareholder	Sub - Category of shareholder	Amount Claimed	Amount Admitted	Amount provided under the plan	Amount provided to the amount claimed
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	Secured Financial Creditor	a) Creditors not having a right to vote under	Nil	Nil	Nil	Nil



		sub-section (2) of Section 21				
		b) Other than (a) above	Nil	Nil	Nil	Nil
		(i)who did not vote in favour of the Resolution Plan	Nil	Nil	Nil	Nil
		(ii) who voted in favour of the Resolution Plan	Nil	Nil	Nil	Nil
Total[(a)+(b)]			Nil	Nil	Nil	Nil
2	Unsecured Financial Creditor	a)Creditors not having a right to vote under sub-section (2) of Section 21	1,53,48,297	1,53,48,297	1,74,54,981	1,74,54, 981
		b) Other than (a) above				
		(i)who did not vote in favour of the Resolution Plan	Nil	Nil	Nil	Nil
		(ii) who voted in favour of the Resolution Plan	Nil	Nil	Nil	Nil
Total [(a)+(b)]			1,53,48,297	1,53,48,297	1,74,54,981	1,74,54, 981



3	Operational creditors	(a) Related Party of Corporate debtor	Nil	Nil	Nil	Nil
		(b) Other than (a) above:	Nil	Nil	Nil	Nil
		(i) Government	Nil	Nil	Nil	Nil
		(ii) Operational Creditors (Other than workmen and Employees and Government Dues)	Nil	Nil	Nil	Nil
Total [(a)+(b)]			Nil	Nil	Nil	Nil
4	Other debts and dues		Nil	Nil	Nil	Nil
Grand Total			1,53,48,29	1,53,48,29	1,74,54,981	1,74,54,981

6. The details of compliances made under relevant sections of IBC, 2016 and IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 as stated in the Form-H are extracted below:

The compliances of the Resolution Plan is as under:

Section of the Code / Regulation No.	Requirement with respect to Resolution Plan	Clause of Resolution Plan	Compliance (Yes / No)
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25(2)(h)	Whether the Resolution Applicant meets the criteria approved by the CoC having regard to the complexity and scale of operations of business of the CD?	Net worth certificates of SRA	Yes
Section 29A	Whether the Resolution Applicant is eligible to submit a resolution plan as per the final list of Resolution Professional or Order, if any, of the Adjudicating Authority?	Yes, Affidavit under Section 29A was given by SRA	Yes
Section 30(1)	Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?	Yes, Affidavit is annexed with Resolution Plan application	Yes
Section 30(2)	Whether the Resolution Plan- (a) provides for the payment of insolvency resolution process costs? (b) provides for the payment to the operational creditors? (c) provides for the payment to the financial creditors who did not vote in favour of the resolution plan? (d) provides for the management of the affairs of the corporate debtor? (e) provides for the implementation and supervision of the resolution plan? (f) contravenes any of the provisions of the law for the time being in force?]	Chapter VI of the Resolution Plan	Yes



Section 30(4)	Whether the Resolution Plan (a) is feasible and viable, according to the CoC? (b) has been approved by the CoC with 66% voting share?	Chapter V of Resolution Plan and the Resolution of COC for approval of Resolution with 100% is annexed with Application	Yes
Section 31(1)	Whether the Resolution Plan has provisions for its effective implementation plan, according to the CoC?	Chapter X of Resolution Plan	Yes
Regulation 38 (1)	Whether the amount due to the operational creditors under the resolution plan has been given priority in payment over financial creditors?	Chapter VI of Resolution Plan	Yes
Regulation 38(1A)	Whether the resolution plan includes a statement as to how it has dealt with the interests of all stakeholders?	Chapter VI of Resolution Plan	Yes
Regulation 38(1B)	(i) Whether the Resolution Applicant or any of its related parties has failed to implement or contributed to the failure of implementation of any resolution plan approved under the Code. (ii) If so, whether the Resolution Applicant has submitted the statement giving details of such non implementation?]	Chapter VI of Resolution Plan	No
Regulation 38(2)	Whether the Resolution Plan provides: (a) the term of the plan and its implementation schedule? (b) for the management and control of the business of the corporate debtor during its term? (c) adequate means for supervising its implementation?	Chapter X & XII of Resolution Plan, Chapter XI of Resolution Plan. Chapter X of Resolution Plan	Yes



Regulation 38(3)	Whether the resolution plan demonstrates that – (a) it addresses the cause of default? (b) it is feasible and viable? (c) it has provisions for its effective implementation? (d) it has provisions for approvals required and the timeline for the same? (e) the resolution applicant has the capability to implement the resolution plan?	Chapter V of Resolution Plan. Chapter X of Resolution Plan. Chapter XII of Resolution Plan Chapter VI of Resolution Plan	Yes
Regulation 39(2)	Whether the RP has filed applications in respect of transactions observed, found or determined by him?	Chapter XIV of Resolution Plan	Yes
Regulation 39(4)	Provide details of performance security received, as referred to in sub-regulation (4A) of regulation 36B.]		Yes

6.2. The Applicant submits that the successful resolution applicant has submitted an affidavit dated 08.09.2023 in regard to the eligibility under section 29A of the Code, as required by Regulation 39(1)(a) of the CIRP Regulations. An undertaking has also been submitted by the successful Resolution Applicant, as mandated in terms of Regulation 39(1)(c) of the CIRP Regulations. Further, the Applicant/ RP has also submitted an affidavit dated 23.03.2024 stating that based on the aforesaid affidavit submitted by the SRA as well as on the basis of due diligence conducted by the Applicant/ RP, the SRA has been found to be eligible to submit the Resolution Plan.



- 6.3. It is further stated that the Resolution Plan which has been submitted by Resolution Applicant complies with the Section 32A of the Code regarding the liability of prior offences and pending litigation in the present case. Further there will be change in management as new directors will be appointed who will be accountable for the affairs of the company.
- 6.4. With respect to Provident Fund Dues, it has been categorically mentioned by the Applicant/ RP that he has not received any claim with respect to Provident Fund dues. As no PF liability on the date of initiation of CIRP was placed before the Resolution Professional, no further direction in this regard is called for. On this issue, we refer to the decision of Hon'ble NCLAT in the matter of **Employees Provident Fund Organization Vs. Rajat Mukherjee Liquidator of Enviiro Bulk Handling System Private Limited in Comp App.(AT) (Ins) No. 804 of 2024 in IA No. 2868 of 2024 dated 10.05.2024** where in is **has been held :**

*“When the entire claim which was filed under 7A and 7Q was paid to the appellant, we fail to see any error in the order of the Adjudicating Authority in rejecting the application. It has been noticed by the Adjudicating Authority that claim under Section 14B was assessed by an order dated 16.6.2021 passed after initiation of CIRP proceedings. Adjudicating Authority has noted the judgment of this Tribunal in **Regional Provident Fund Commissioner, Vatwa, Employees Provident Fund Organisation vs. Manish Kumar Bhagat in Company Appeal (AT) (Ins) No. 808 of 2022** which has rightly*



been relied upon for not accepting the claim which was subsequent to the initiation of CIRP.”

[Emphasis supplied]

6.5. With respect to PUFÉ Transactions pertaining to the Corporate Debtor, the Applicant /RP has provided details of the IAs filed by him under Section 43,45 and 66 of the Code. In regard to treatment for the PUFÉ applications, it is stated in the resolution Plan that the Resolution Applicant will continue to prosecute the application after approval of the Resolution Plan and the proceeds, if any, from such proceedings shall vest with the Corporate debtor/ Resolution Applicant.

7. Compliance with Section 30(2) of the Code:

Clauses of Sec 30(2)	Requirement	How dealt with in the Plan
(a)	Provides for the payment of Insolvency Resolution Process Cost.	Yes, Chapter VI of the Resolution Plan, It is mentioned that the entire CIRP cost shall be paid in priority to any other creditors of CD. Further RA proposes the unpaid CIRPcost, as on the date of resolution plan in priority to any other creditor within a period of 30 days of the effective date. It is provided that CIRP cost shall be paid in full. The plan provides for the payment of the entire CIRP cost within 30 days from the effective date before making payment to any other creditors.
(b)	provides for the payment of the debts of operational creditors in such manner as may be specified	Yes, Chapter VI of the Resolution Plan. There are no operational creditors. The Resolution plan adequately



	<p>by the Board which shall not be less than:</p> <p>(i) the amount to be paid to such creditors in the event of a liquidation of the corporate debtor under section 53; or</p> <p>(ii) the amount that would have been paid to such creditors, if the amount to be distributed under the resolution plan had been distributed under the resolution plan had been distributed in accordance with the order of priority in sub-section (1) of section 53; Whichever is higher, and</p> <p>provides for the payment of the debts of financial creditors, who do not vote in favour of the resolution plan, in such a manner as may be specified by the board, which shall not be less than the amount to be paid to such creditors in accordance with the sub-section (1) of section 53 in the event of a liquidation of the corporate debtor.</p>	<p>deals with the interest of all stakeholders.</p> <p>There has been reference/statement in terms of Section 30(2)(b) of the IB Code and Regulation 38(1)(a) of the CIRP Regulations.</p>
(c)	Management of the affairs of the Corporate Debtor after approval of the Resolution Plan.	Yes, Chapter VI of the Resolution Plan
(d)	Implementation and Supervision of Resolution Plan.	Yes, CHAPTER XII- Indicative Timeline For Implementation
(e)	Plan does not contravene any of the provisions of the law for the time being in force.	Yes
(f)	Conforms to such other requirements as may be specified by the Board.	Yes, Chapter VI of the Resolution Plan

8. Details of Resolution Plan



The Resolution Plan Provides for payment as per the table appended hereinafter:

S.No	Payment Plan	Proposed Amount in %	Amount proposed to be paid in INR	Terms of payment
1.	CIRP Cost	100% of unpaid CIRP Cost	RP proposed CIRP Cost of Rs.38,79,649. However, RP has not informed about the unpaid cost, if any	Within 30 days from the Effective date.
2.	Payment to FC (unsecured) to Ambrane India Private Limited	Amount of claim Admitted by the Financial Creditor along with interest 9% on the admitted amount till 30.09.2023	Rs. 1,74,54,941/-	To be paid in 2 Equated installment with a difference of 30 days in each installment starting from 30th day from the effective date
3.	To meet the working capital requirement to be infused upfront by the RA.		Rs.1,00,000 /-	
4.	Towards the other unforeseen contingent liability arising in future or during implementation of plan.		Rs.1,00,000 /-	
TOTAL			Rs.2,13,34,590/-	



9. Scheme of Restructuring.

The resolution Plan states that the restructuring shall take place in the following manner:

- a) *On the date of Upfront Equity Infusion, the entire existing shareholding of the CD shall stand transferred in the favor of the Resolution Applicant or its nominees at a value of INR10.*
- b) *Entire share capital of CD will stand transferred to the Resolution Applicant or its nominees at a value of INR 10/-. It is classified that deposit of the consideration for purchase of shares and issuance of cheques to the existing shareholder is sufficient for transfer of shares in favor of the RA irrespective of whether the shareholders encash the said cheque or not and handover/transfer share or not the said amount of Rs. 10, will be deposited before the NCLT in DD or in any manner as directed by the NCLT.*
- c) *There shall be no stamp duty etc. on the issuance of the fresh shares in lieu of the shares cancelled of the erstwhile shareholders.*
- d) *The Books of Accounts will be re-casted on the Effective Date giving effect to this Resolution Plan.*
- e) *Simultaneous to the transfer of the existing shareholding, and infusion of funds by the Resolution Applicant, CD shall issue 10,000 Equity Shares (fully paid up of face value INR 10/- each) aggregating to INR 1,00,000/- Thereafter the funds will be infused in the CD by way of unsecured loans from the RA.*
- f) *In case such restructuring requires increase in authorized share capital of the CD and consequent amendment of the Memorandum of Association of the CD, such increase and amendment shall take place as part of the Resolution Plan. The authorized share capital of the CD shall be without any further act, instrument or deed by the CD and without any liability for payment of any fees or stamp duty in respect of such increase.*

9.2. Sources of Funds:

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It is stated that the entire contribution from the Resolution Applicant shall be funded via own sources to make the payments to creditors as proposed in this Resolution Plan which is demonstrated on internal Page No. 59 of the Resolution Plan. The Successful Resolution Applicant has submitted EMD/ Performance Bank Guarantee. The Net worth of “Successful Resolution Applicant” as on 06.05.2023 is Rs. 19,08,65,007 /- to satisfy the sources of funds for smooth implementation of the Plan when approved by this Adjudicating Authority.

9.3. The Resolution Plan shall be implemented in the following manner as per the indicative timelines which is as follows:

Sl No.	Activity	Estimated Timelines
1.	Submission of proposed Resolution Plan by the Resolution Applicant	20.10.2023
2.	Date of Approval of Resolution Plan by Adjudicating Authority	T (effective Date)
3.	Formation of monitoring committee	T+10
4.	Extinguishment of promoters shareholding	T+15
5.	Transfer of Share Capital in favour of resolution Applicant	Within T + 20 days
6.	Issue of fresh Equity Shares to the RA	Within T + 25 days
7.	Payment of CIRP Cost	Within T + 30 days
8.	1st tranch fund infusion (50% of Rs. 1,74,57,941/-	Within T + 30 days
9.	2nd tranch fund infusion (Remaining	Within T+60 days



	50% of Rs. 1,74,57,941/-	
10.	Cut off date	T+60

10. The details of the management and control of the corporate debtor as provided in the Resolution Plan is:

- a. It is stated that in order to ensure that the Resolution Plan is implemented, an appropriate monitoring committee shall be appointed within 10 business Days of the Effective Date.
- b. The Resolution Applicant shall constitute the monitoring committee, which shall comprise of (1) the Resolution Applicant and (2) one person designated from the sole Financial Creditor of the COC and (3) the existing Resolution Professional, who will monitor the implementation of the plan after the Effective Date for the tenure of the Resolution Plan.
- c. The monitoring committee, so appointed, shall have inter alia the following responsibilities: Monitoring the implementation of this Resolution Plan and will also issue a certificate for the successful completion of the Resolution Plan after the plan being implemented

10.2. It is proposed that the Management and control of the Corporate Debtor shall vest with the new management as appointed by the Resolution Applicant. The Resolution Applicant proposes to appoint new directors on the Board who will be accountable for day to day affairs and management of the Corporate Debtor



11. As can be seen from the Clause-7 of the certificate given by the RP on prescribed form viz. Form-H, the SRA has proposed to pay the full amount as admitted by the RP to the different stakeholders.

12. The evidence of receipt of performance security of Rs. 21,33,459.00 (i.e. 10% of total resolution plan value) along with an earnest money deposit (EMD) of Rs. 2,00,000 /-deposited by the SRA as required under regulation 36B (4A) is also placed on record as Annexure A-15 of the application. The RP has issued the Letter of Intent to the Successful Resolution Applicant on 16.12.2023.

13. In the Resolution plan, the Resolution Applicant has sought certain reliefs and concessions which fall under the jurisdiction of different Government Authorities, and/or are subject to the provisions of different laws for the time being in force. In this connection, it is made clear that the amount payable by the SRA in terms of the plan to different creditors, stakeholders, and to keep the Corporate Debtor as a going concern is not a subject matter of any condition, assumptions, relief/concessions and/or qualification. It also needs to be underlined that the provisions of Section 31(4) of IBC, 2016 mandates the Resolution Applicant to 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 Section 31 of the IBC, 2016 in terms of the provisions of Section 14 of the Code even during the period of CIRP, no default in payment of current dues is a



precondition for continuation of the License, Permit, Registration and similar rights. Thus, even during the moratorium period, the facilities mentioned above are made available to the CD only when there is no default in payment of the current dues, on approval of the resolution plan, the SRA/CD cannot be put on a better footing by exempting it from paying its legitimate dues under the law.

13.2. Furthermore, the Code provides for consideration of the claims, by the IRP/RP in terms of the provisions of Section 18(b) and Section 25(b) read with the relevant regulations.

13.3. The Code also provides for preparation of an Information Memorandum in terms of the provisions of Regulation 36(2) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, which contains, inter alia, a list of creditors along with the amounts claimed by them. Regulation 36(1) of the regulations (ibid), provides for submission of the said Information Memorandum to each member of the COC. Regulation 36A provides for invitation for expression of interest and Regulation 36B provides for a request for a Resolution Plan. It is with reference to the Information Memorandum and Evaluation Matrix that the RP issues a Request for Resolution Plan. The Request for Resolution Plan details each step in the process and the manner and purposes of interaction between the Resolution Professional and the Prospective Resolution Applicant. The Resolution Plan submitted after consideration of the IM, EM and the RFRP is then examined by the Committee of Creditors. Even then, it needs to satisfy the requirements of



Regulations 37 and 38 of the extant regulations and only then it can be approved by the COC in terms of the provisions of Regulation 39 of the aforementioned regulations. After such approval, the Plan effectively becomes a contract entered into between CD represented through RP, SRA, the creditors of the CD, and other stakeholders and is binding on all of them. Section 31(1) of IBC, 2016, thus, takes care of most of the reliefs/concessions/waivers which are required by the Resolution Applicant. Furthermore, Section 32A of the Code provides for cessation of the liability for offences committed by the CD prior to initiation of the CIRP subject to the conditions laid down in the said section.

13.4. In this context a reference is made to the decision of Hon'ble NCLAT in Worldfa Exports Pvt. Ltd Vs. Vivek Raheja and Anr. [Company Appeal (AT) (Insolvency) No. 827 of 2024 & I.A. No. 2994 of 2024] dated 30.04.2024 wherein a challenge was laid against the following observation of the NCLT:

“16. However, the resolution plan shall not be construed as waiver to any statutory obligations/liabilities arising out of the approved resolution plan and the same shall be dealt in accordance with the appropriate authorities concerned as per relevant laws. We are of the considered view that if any waiver is sought in the resolution plan, the same shall be subject to approval by the concerned authorities. The same view has been held by the Hon'ble Supreme Court in Ghanshyam Mishra and Sons Private Limited vs. Edelweiss Asset Reconstruction Company Limited and Embassy Property Development case (supra).”

The Hon'ble NCLAT, however, dismissed the Appeal with the following observation:

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“Adjudicating Authority has already referred to the Judgment of the Hon’ble Supreme Court in the matter of ‘Ghanshyam Mishra & Sons Private Limited’ Vs. ‘Edelweiss Asset Reconstruction Company Limited’, in Civil Appeal No. 8129 of 2019, which clearly laid down that all claims which have not been dealt in the Resolution Plan does not survive after the approval of Resolution Plan.

6. Insofar as statutory waivers and concessions, Adjudicating Authority has rightly observed that SRA to file appropriate necessary application before the necessary Forum/Authority in order to avail the relief and the concession.

7. The Resolution Plan having been approved it is always open for the Applicant to make an appropriate application before the Statutory Authority for grant of such relief as permissible after approval of the Resolution Plan.

8. It goes without saying that all past liabilities which are not dealt with in the Resolution Plan stand extinguished by view of the Judgment of the Hon’ble Supreme Court in ‘Ghanshyam Mishra & Sons Private Limited’ (Supra) which is a well settled law.”

14. In sum and substance, the SRA/CD would be entitled to no other relief/concession/waiver from this Adjudicating Authority except those available to it, as per the provisions of Section 31(1) and 32A of IBC, 2016. The SRA is, however, at liberty to approach the relevant authorities, who would consider these claims as per the provisions of the relevant law, in an expeditious manner.

15. In the sequel to the above, we are inclined to approve the Resolution Plan as approved/recommended by the CoC as placed by the Applicant before



this Adjudicating Authority. We, therefore, allow the present Application and approve the COC-approved Resolution Plan as placed before us by the Applicant/RP with the following directions: -

- (i) The approved Resolution Plan shall become effective from the date of passing of this Order and shall be implemented strictly as per the term of the plan and implementation schedule given in the Plan;
 - (ii) The SRA/CD would be entitled to no other reliefs/ concessions/waivers except those are available/ permissible to it as per the provisions of Section 31(1) and 32A of IBC, 2016. The SRA is at liberty to approach the relevant authorities who would consider these claims as per the provisions of the relevant law in an expeditious manner.
 - (iii) The Monitoring Committee as provided in the Resolution Plan shall be set up by the Applicant/RP within 07 days of passing of this Order, which in turn, shall take all necessary steps for time bound implementation of the Resolution Plan as per approval.
 - (iv) The order of the moratorium in respect to the corporate debtor passed by this Adjudicating Authority under Section 14 of the IBC, 2016 shall cease to have effect from the date of passing of this Order; and
 - (v) The Resolution Professional shall forward all the records relating to the conduct of the CIRP and the Resolution Plan to the IBBI for its record and database.
16. The Court Officer and Resolution Professional (RP) shall forthwith make available/send a copy of this Order to the CoC and the Successful Resolution Applicant (SRA) for immediate necessary compliance.



17. A copy of this order shall also be sent by the Court Officer and Applicant to the IBBI for their records.

-sd-
(SUBRATA KUMAR DASH)
MEMBER (T)

-sd-
(ASHOK KUMAR BHARDWAJ)
MEMBER (J)