

S.No.1

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH – 1  
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON  
10-08-2023 AT 10:30 AM**

**IA(IBC) 1017/2023 in CP (IB) No. 463/7/HDB/2019**  
u/s. 7 of IBC, 2016

**IN THE MATTER OF:**

Simplex Infrastructures Ltd

**...Financial Creditor**

**VS**

Mahendra Investment Advisors Pvt Ltd

**...Corporate Debtor**

**C O R A M:-**

**DR. VENKATA RAMAKRISHNA BADARINATH NANDULA, HON'BLE MEMBER (JUDICIAL)  
SH. CHARAN SINGH, HON'BLE MEMBER (TECHNICAL)**

**ORDER**

**IA (IBC) 1017/2023**

Orders in IA No. 1017 is pronounced. Recorded vide separate sheets. In the result, this petition is allowed and the resolution plan is approved however, with certain directions as mentioned in the order.

**Sd/-**

**MEMBER (T)**

**Sd/-**

**MEMBER (J)**

**NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH, COURT -1**

**I.A. No. 1017 of 2023**  
in  
C.P. (IB) No.463/7/HBD/2019

Application by the Resolution Professional u/s 30(6) & 31(1) of the IBC 2016 r/w Regulation No. 39(3) & 39(4) of the IBBI (CIRP) Regulations, 2016 r/w Rule 32 and 38(A) of the NCLT, Rules, 2016

**In the matter of:**

M/s. Simplex Infrastructures Limited  
Financial Creditor  
Vs

M/s. Mahendra Investment Advisors Pvt Ltd  
Corporate Debtor

**Filed by:**

M/s. Mahendra Investment Advisors Pvt Ltd  
104/105, 4th Floor, Surya Towers,  
Sardar Patel Road, Secunderabad, 500003, Telangana  
Represented by its Resolution Professional  
Mr. Adinarayana Babji Kota,

.....Applicant/  
Resolution Professional

**Date of order: 10.08.2023**

**Coram:**

Dr. N. Venkata Ramakrishna Badarinath, Hon'ble Member Judicial  
Shri Charan Singh, Hon'ble Member Technical

**Appearance:**

For Applicant: Party in person

**PER: BENCH  
ORDER**

1. **IA No. 1017/2023** is filed by the Resolution Professional under Section 30(6) & 31 of IBC, 2016 r/w regulation 39(4) of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 & Rule 11 of NCLT Rules, 2016, seeking approval of the resolution plan submitted by **M/S ARTI SECURITIES AND SERVICES LIMITED (RESOLUTION APPLICANT)** as duly approved by the Committee of Creditors with 82.97% votes in respect of the Corporate Debtor i.e. **M/s MAHENDRA INVESTMENT ADVISORS PVT LTD.**

2.1 To put precisely, this Tribunal vide order dated 28.04.2021 admitted the Corporate Debtor / M/s Mahendra Investment Advisors Pvt Ltd into Corporate Insolvency Resolution Process (CIRP). Mr. Adinarayana Babji Kota was appointed as Interim Resolution Professional. Consequent to issuance of “Public Announcement” in “The Economic Times” and “Prabhata Velugu” in Hyderabad editions on 05.05.2022, the IRP constituted the Committee of Creditors (COC) on 26.05.2021 and updated the list of creditors on various dates, the latest being 06.05.2023.

2.2 The summary of claims received is given below:

Sl. No.	Nature of Creditor	Number	Amount Admitted
1.	FC-Secured	0	0
2.	FC-Unsecured	59	105,60,45,263.77
3.	FC-Related Party–Unsecured	13	69,29,26,241.62
4.	FC-Related Party–Secured	0	0
5.	OC	2	42,73,83,147.00
6.	Employees	0	0

	<b>TOTAL</b>	<b>74</b>	<b>217,63,54,652.39</b>
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2.3 The IRP was confirmed to act as Resolution Professional (RP) by the CoC in its 1<sup>st</sup> Meeting dated 02.06.2021, who 14 CoC Meetings so far. In the 6<sup>th</sup> CoC Meeting, the undersigned presented the details of avoidance applications filed before this Hon'ble Tribunal, being IA 588/2022 and IA 589/2022. The CoC had detailed discussion on the avoidance applications.

2.4 It is averred that owing to unavoidable circumstances, this Tribunal excluded 353 days (286+67) from the CIRP period. Further, granted extensions of CIRP of 258 days (90+90+18 days spent on pursuing the IA+60). The revised end date of CIRP, pursuant to the above, is 29.06.2023.

2.5 It is averred that the Applicant appointed two Registered Valuers on 02.06.2022 for valuing the asset class, "Securities or Financial Assets", since the CD did not have any other asset class. The delay in appointment of valuers is condoned by this Tribunal. The fair value and liquidation value is as under:

<b>Particulars</b>	<b>As per Mr. Arrepu Venkata Raju Rs.</b>	<b>As per Mr. N. Satyanarayana Rs.</b>	<b>Average Rs.</b>
Fair Value	16,00,08,251	18,75,90,654	17,37,99,453

Liquidation Value	14,65,46,165	13,89,02,353	14,27,24,259
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The liquidation value arrived at by both the valuers is not significantly different and further, no CoC member requested for appointment of a third valuer so no third valuer is appointed by the RP.

- 2.6 It is averred that pursuant to publication of Form-G in “The Economic Times” in English and “Andhra Prabha” in Telugu on 08.08.2022, 10 EOIs were received. Out of 10, three parties submitted Expression of Interest (EOI). Out of the same, one party was found by the RP to be not fulfilling the eligibility criteria and was excluded from the provisional list of prospective resolution applicants (PRA). The provisional and final list of PRAS contained M/s Arti Securities & Services Ltd and M/s Attractive Capital Services Pvt Ltd.
- 2.7 It is also stated that the CoC constituted a Negotiation Committee as a sub-committee to negotiate with the Resolution Applicants (RA) on behalf of the CoC while retaining the authority to make final decision on the Resolution Plans.
- 2.8 After negotiations and amendment to plans in tune with negotiations, the final resolution plan submitted by the Resolution Applicants were deliberated in the 14<sup>th</sup> CoC meeting held on 31.05.2023 and decided to

put the two resolution Plans i.e. M/s Arti Securities & Services Ltd and reas M/s Attractive Capital Services Pvt Ltd for e-voting from 01.06.2023 to 05.06.2023. **M/s Arti Securities & Services Limited** was approved by the CoC in the 14<sup>th</sup> COC meeting held on by 100% of the CoC members voting in favour of the Resolution Plan.

- 2.9 The RP evaluated both the Resolution Plans as per the evaluation matrix approved by the CoC and presented the evaluation report to the CoC. As a result of the e-voting held, the Resolution Plan of **M/s Arti Securities & Services Ltd** (Successful Resolution Applicant or SRA) was approved with a voting share of **82.97%** and the CoC rejected the Resolution Plan of M/s Attractive Capital Services Pvt Ltd.
- 2.10 Pursuant thereto, Letter of Intent was issued to the SRA on 05.06.2023 which has been accepted by the SRA and Performance Security in the form of Bank Guarantee was obtained on 14.06.2023 for Rs.67.50 Lakh, valid up to 15.06.2027 with a claim period up to 15.06.2028.
- 2.11 The Applicant further prayed the Tribunal to condone the violation of Regulation 36A(4A) of IBBI (CIRP) Regulations by the Resolution Professional and the COC for modifying the resolution plan more than once. The Applicant further sought for condonation of violation of Regulation 39(4) of IBBI (CIRP) Regulations by the Resolution

Professional for the delay in filing the present application with less than 15 days remaining from the remaining CIRP period.

3 Contours of Resolution Plan: -

- (A) The Successful Resolution Applicant i.e M/s Arti Securities & Services (SRA) was incorporated on 01.12.1988 having its registered office at Noida, Uttar Pradesh. It is an NBFC registered with RBI since 26.02.1998. The SRA has 34 years of experience in business of investment, securities trading and financial, technical and Industrial Consultancy.
- (B) The CD has no secured Financial Creditors. However, the CoC comprised of following unsecured financial creditors who has 100% voting share in the CoC.

Sl. No.	Name of the Creditor	Voting Share in %	Voting for Resolution Plan (Voted for/Dissented/Abstained)
1.	Smit Capital Services Pvt Ltd	35.15%	Voted for
2.	Simplex Infrastructures Ltd	14.43%	Voted for
3.	Gati Infrastructure Pvt Ltd	11.93%	Voted for
4.	Gati Infrastructure Sada Mangder Power Pvt Ltd	10.27%	Voted for
5.	SEW Infrastructure Ltd	8.53%	Dissented
6.	Brijwasi Securities Pvt Ltd	3.31%	Voted for
7.	Nitin Developers Pvt Ltd	1.46%	Voted for
8.	Poojit Commercial Pvt Ltd	1.29%	Abstained
9.	Patangi Trade & Investment Pvt Ltd (Formerly Woda Agro Pvt Ltd)	0.97%	Dissented
10.	Seksaria Industries Pvt Ltd	0.81%	Voted for
11.	Cheerful Commercial Pvt Ltd	0.69%	Voted for
12.	Ladymoon Towers Pvt Ltd	0.65%	Dissented
13.	JHM Developers Pvt Ltd	0.64%	Abstained
14.	Orasman Credit Pvt Ltd	0.64%	Voted for

15.	Mahabir Caterer Pvt Ltd	0.62%	Voted for
16.	Apex (India) Ltd	0.61%	Abstained
17.	Sidhishree Commodities Pvt Ltd	0.59%	Voted for
18.	Tirupati Vancom Pvt Ltd	0.52%	Voted for
19.	Meghna Saree Emporium Pvt Ltd	0.45%	Voted for
20.	Vardhaman Axles & Wheels Pvt Ltd	0.44%	Voted for
21.	Juhi Finalease Pvt Ltd	0.37%	Abstained
22.	Bluesky Dealmark Pvt Ltd	0.36%	Voted for
23.	Bhagwati Capital Markets Pvt Ltd	0.34%	Abstained
24.	Subhdata Vinijya Pvt Ltd	0.33%	Abstained
25.	Deepjyoti Vyapaar Pvt Ltd	0.32%	Abstained
26.	DKJ Vyapar Pvt Ltd	0.32%	Abstained
27.	Trisys Communications Pvt Ltd	0.30%	Voted for
28.	Rashraj Card Board Box Pvt Ltd	0.28%	Abstained
29.	Parasrampur Projects Ltd	0.28%	Abstained
30.	Sri Hanuman Mansion Pvt Ltd	0.28%	Dissented
31.	Payal Emporiums Pvt Ltd	0.27%	Abstained
32.	Anadya Properties Pvt Ltd	0.27%	Abstained
33.	Intex India Trading Company Pvt Ltd	0.26%	Abstained
34.	Natraj Tradevin Pvt Ltd	0.26%	Voted for
35.	Jnouveau Fashions Pvt Ltd	0.25%	Voted for
36.	Janmbhumi Properties Pvt Ltd	0.25%	Abstained
37.	Praneha Promoters Pvt Ltd	0.23%	Abstained
38.	Prospect Tie-up Pvt Ltd	0.23%	Abstained
39.	Ankit Commotrade Pvt Ltd	0.22%	Abstained
40.	Bhupati Dealcom Pvt Ltd	0.21%	Voted for
41.	Coxis Finance & Investment Pvt Ltd	0.19%	Voted for
42.	Oracle Finvest & Consultants Pvt Ltd	0.09%	Voted for
43.	Volga Commerce Pvt Ltd	0.09%	Abstained
	<b>Total</b>	<b>100.00%</b>	

(C) SRA to infuse Rs.675 Lakh (6.75 Crore) over a period of 4 years, in the form of Equity Capital/Preference Capital/Debt. The amounts provided for the stakeholders under the Resolution Plan is as under:

(Amount in Rs. lakh)						
Sl. No.	Category of Stakeholder*	Sub-Category of Stakeholder	Amount Claimed	Amount Admitted	Amount Provide d under the Plan#	Amount Provided to the Amount Claimed (%)



(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	Secured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	0	0	0	0
		(b) Other than (a) above:  (i) who did not vote in favour of the resolution Plan  (ii) who voted in favour of the resolution plan				
		Total[(a) + (b)]	0	0	0	0
2	Unsecured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	8001.22	6929.26	147.49	1.84%
		(b) Other than (a) above:  (i) who did not vote in favour of the resolution Plan  Note: Amount provided under the Resolution Plan is the liquidation value which is now calculated  (ii) who voted in favour of the resolution plan (including those abstained)	1315.40	1100.90	85.82	6.52%
			29675.48	9459.55	356.64	1.20%

		Total[(a) + (b)]	38992.10	17489.71	589.95	1.51%
3	Operational Creditors	(a) Related Party of Corporate Debtor				
		(b) Other than (a) above:				
		(i) Government (ii) Workmen (iii) Employees (iv) Corporate Guarantee Claim	4273.47	4273.47	20.00	0.47%
		(v) Advocates	0.36	0.36	0.05	13.88%
		Total[(a) + (b)]	4273.83	4273.83	20.05	0.47%
4	Other debts and dues					
Grand Total			43265.93	21763.54	610.00	1.41%

\*If there are sub-categories in a category, please add rows for each sub-category.

# Amount provided over time under the Resolution Plan and includes estimated value of non-cash components. It is not NPV.]

**Note: CIRP costs to the tune of Rs.65 Lakh provided for in the Resolution Plan, in addition to the above table, which would make the Resolution Plan value Rs.675 Lakh.**

(D) The timelines of payment are given below:

Rs. In Lakh				
Category	Admitted claims	Upfront payment	Deferred payment	Total amount proposed as per Plan
Unsecured FC	10560.45	86.21	356.25	442.46
Related party FC	6929.26	28.74	118.75	147.49
Operational Creditors	4273.83	20.05	0	20.05
Total	21763.54	135.00	475.00	610.00

CIRP cost	60.59 (unpaid)	65.00	0	65.00
Total Plan value		200.00	475.00	675.00

(E) MONITORING COMMITTEE:-

A Monitoring Committee comprising of one representative from the Resolution Applicant, one representative nominated by the Financial Creditor (M/s Smit Capital Services Pvt Ltd), and the Resolution Professional shall be constituted for monitoring the implementation of the Resolution Plan from the effective date.

(F) COMPLIANCE OF MANDATORY CONTENTS OF RESOLUTION PLAN UNDER THE CODE AND CIRP REGULATIONS:-

The Applicant has conducted a thorough compliance check of the Resolution Plan in terms of the Code as well as Regulations 38 & 39 of the Insolvency and Bankruptcy Board of India (Corporate Insolvency Resolution Process) Regulations, 2016 (herein after referred to as Regulation) and the Resolution Applicant declares that the resolution plan is not in contravention or violation of any provisions of the applicable law. The Resolution Professional has submitted his Form-H under Regulation 39 (4). It is submitted that Resolution Applicant has filed an Affidavit declaring that they are eligible to submit the plan under Section 29A of the Code and that the

contents of the said affidavit are in order. The fair value and Liquidation value as submitted in Form-H is Rs. 17,37,99,453/- and Rs. 14,27,24,259/- respectively.

4. In the above backdrop we heard Shri Adinarayana Babji Kota, Learned Resolution Professional in person. He submits that the Resolution Plan meets the requirement of Section 30 (2) of the Code, as under:-
- (a) Rs.65 Lakh is allocated towards CIRP cost, as against the unpaid CIRP costs of Rs. 60.59 lakhs (out of the total CIRP cost incurred is Rs.63.82 Lakhs) to be paid in priority to all other payments.
  - (b) Provides payment of Rs.20.05 Lakhs under the Resolution Plan for the operational creditors on priority in terms of Section 30 (2)(b).
  - (c) Dissenting FCs shall be paid not less than their liquidation value. The Liquidation Value of the CD is Rs.14,27,24,259/-. After deducting incurred CIRP costs to the tune of Rs.63,81,686/-, the liquidation value available to FC (including related FC) is Rs.13,63,42,573/-. Total admitted claims of FC including related party are Rs.174,89,71,505.39. Therefore, the liquidation value payable to four dissenting FC works out to Rs.85,82,194.48 as against their admitted claims of Rs.11,00,90,438.23. Since the liquidation value of Rs.85.82 Lakh is less than the upfront amount proposed to FCs of Rs.86.21 Lakh, there is no

need for the SRA to increase the upfront amount and the remaining upfront of Rs. 0.39 Lakh after payment of liquidation value to dissenting FC, would be distributed amongst the assenting FC.

5. It is further stated that there are no secured FCs and no claims received from Governmental Authorities. The judgment of the Hon'ble Supreme Court in *State Tax Officer Vs Rainbow Papers Ltd* is not applicable to the present case since the said judgment was rendered in the context of unamended provisions of Regulation 12(1) of the IBBI (CIRP) Regulations as per which the creditor was required to submit "proof of claim". Since no claims were received from the Government Authorities, the said judgment is not applicable. Further it is stated that the Corporate Debtor is not having workmen or employees. As such there are no employee or workmen claims and no EPFO or ESI claims.
6. The Resolution Plan is in compliance of Regulation 38 of the Regulations in the following manner:
  - (a) The Plan provides for payment of settlement amount to operational creditor on priority (Page- 23 Clause 8(iii)).
  - (b) Declaration by the Resolution Applicant that the Resolution Plan has considered the interest of all the stakeholders of the Corporate Debtor, keeping in view the objectives of the Code (Regulation 38 (1A). {Page- 18 (table 5-B (point.1))}

- (c) Declaration by the Resolution Applicant that neither the Resolution Applicant nor any of its related party has either failed or contributed to the failure of the implementation of any other approved Resolution Plan. (Regulation 38 (1B)) {Page- 18 (table 5-B (point.3) of Resolution Plan }.
7. The Resolution Professional submitted that the Successful Resolution Applicant undertakes to pursue IA Nos. 588/2022 and IA No. 589/2022 which are avoidance application and any proceeds accruing out of these avoidance applications would be distributed among the Financial Creditors in proportion to their admitted claim deducting the costs of pursuing the litigation and in case there is no recovery, the costs of pursuing the litigation are charged off against the operational revenue of the Corporate Debtor.
8. This Tribunal on 26.06.2023 directed the Resolution Professional (RP) to provide a brief synopsis of the Resolution Plan and value of the plan as compared to the Liquidation Value of the CD. Complying the directions, the RP filed memo dated 01.07.2023 clarifying that the CD had assets in the asset category or Securities or Financial Assets only. The Liquidation Value of the CD, as calculated by two independent valuers is Rs.1427.24 Lakh whereas the Resolution Plan value is Rs.675

Lakh. The Ld. Resolution Professional by placing reliance on the Hon'ble Supreme Court, in re: *Maharashtra Seamless Steel Ltd Vs Padmanabhan Venkatesh & Ors*, wherein the Hon'ble Apex Court has held that the approved resolution plan can provide for payment of amounts lower than the liquidation value of the CD. Further, the Hon'ble Supreme Court observed that: “*No provision in the Code or Regulations has been brought to our notice under which the bid of any Resolution Applicant has to match the liquidation value arrived at in the manner provided in Clause 35 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016*”.

9. Further, in order to buttress his case, the Ld. Resolution Professional relied on the following decisions:

- The commercial wisdom of the CoC is upheld by the Hon'ble Supreme Court in various cases like *K. Shashidhar Vs Indian Overseas Bank, Committee of Creditors of Essar Steels Vs Satish Kumar Gupta, Jaypee Kensington Boulevard Apartments Welfare Association & Ors Vs NBCC (India) Ltd.*
- In *K. Shashidhar Vs Indian Overseas Bank*, the Hon'ble Supreme Court held at para 58 that: “*Thus, the prescribed authorities (NCLT/NCLAT) have been endowed with limited jurisdiction as*

*specified in the I & B Code and not to act as court of equity or exercise plenary powers”*

- The Hon’ble Supreme Court, in *Pratap Technocrats (P) Ltd & Ors Vs Monitoring Committee of Reliance Infratel Ltd*, observed at para 39 of the order, after referring to various previous decisions that: *“These decisions have laid down that the jurisdiction of the Adjudicating Authority and the Appellate Authority cannot extend into entering upon merits of a business decision made by a requisite majority of the CoC in its commercial wisdom. Nor is there a residual equity based jurisdiction in the Adjudicating Authority or the Appellate Authority to interfere in this decision, so long as it is otherwise in conformity with the provisions of the IBC and the Regulations under the enactment”*. Further, at Para 41 of the same judgment, the Hon’ble Supreme Court held that: *“It needs no emphasis that neither the Adjudicating Authority nor the Appellate Authority have an unchartered jurisdiction in equity. The jurisdiction arises within and as a product of a statutory framework”*

10. The Ld. Resolution Professional further submitted that the members having 82.97% of voting share of the Committee of Creditors have exercised their commercial wisdom and approved the present Resolution Plan and that only 6.60% members abstained. The Ld. Resolution Professional submitted that all members of the CoC are



Companies which are run through Board approval process. Therefore, the individual members, through their Board of Directors, have deliberated on the Resolution Plan and came to the conclusion that the Resolution Plan can be approved. Therefore, it can be concluded that the members of CoC have independently deliberated and concluded on the Resolution Plan and the majority (82.97%) approved the plan whereas dissent was negligible (10.40%). It is further stated that no member has approached this Tribunal aggrieved by the approval of the Resolution Plan.

11. The Ld. RP further placing reliance on Hon'ble Supreme Court of India in re Maharashtra Seamless Steel Ltd Vs Padmanabhan Venkatesh & ORs, submitted that the approved resolution plan can provide for payment of amounts lower than the liquidation value of the Corporate Debtor.
12. ***In K. Sashidhar v. Indian Overseas Bank & Others (in Civil Appeal No. 10673/2018) the Hon'ble Apex Court*** held that, "if the CoC had approved the Resolution Plan by requisite percent of voting share, then as per Section 30 (6) of the Code, it is imperative for the Resolution Professional to submit the same to the Adjudicating Authority. On receipt of such proposal, the Adjudicating Authority (NCLT) is

required to satisfy itself that the resolution plan as approved by CoC meets the requirements specified in Section 30(2). No more and no less”.

13. The Hon’ble Supreme Court has further held at para 35 of the above judgement that *the discretion of the adjudicating authority (NCLT) is circumscribed by Section 31 limited to scrutiny of the resolution plan “as approved” by the requisite percent of voting share of financial creditors. Even in that enquiry, the grounds on which the adjudicating authority can reject the resolution plan is in reference to matters specified in Section 30(2), when the resolution plan does not conform to the stated requirements.*
14. The Hon’ble Supreme Court in **Committee of Creditors of Essar Steel India Limited Vs. Satish Kumar Gupta & Ors**, held that *“the limited judicial review available to AA has to be within the four corners of section 30(2) of the Code. Such review can in no circumstance trespass upon a business decision of the majority of the CoC. As such the Adjudicating Authority would not have power to modify the Resolution Plan which the CoC in their commercial wisdom have approved”*.

15. The Hon'ble Supreme Court of India, in the recent ruling in re **Vallal RCK vs M/s Siva Industries and Holdings Limited & Ors**, has held as under:-

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

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

*“95. ....However, we do take this opportunity to offer a note of caution for NCLT and NCLAT, functioning as the adjudicatory authority and appellate authority under the IBC respectively, from judicially interfering in the framework envisaged under the IBC. As we have noted earlier in the judgment, the IBC was introduced in order to overhaul the insolvency and bankruptcy regime in India. As such, it is a carefully considered and well thought out piece of legislation which sought to shed away the practices of the past. The legislature has also been working hard to ensure that the efficacy of this legislation*

*remains robust by constantly amending it based on its experience. Consequently, the need for judicial intervention or innovation from NCLT and NCLAT should be kept at its bare minimum and should not disturb the foundational principles of the IBC.....”*

16. Therefore, the resolution plan, when tested on the touch stone of the aforesaid facts and the rulings, we are of the view that the instant resolution plan satisfies the requirements of Section 30 (2) of the Code and Regulations 37, 38, 38 (1A) and 39 (4) of the Regulations. We also found that the Resolution Applicant is eligible to submit the Resolution Plan under Section 29A of the Code.
17. We therefore, hereby approve the Resolution Plan submitted by **M/s Arti Securities & Services Ltd**, along with annexure, schedules forming part of the Resolution Plan annexed to the Application and order as under:
  - (i) The Resolution Plan along with annexures and schedules forming part of the plan shall be binding on the Corporate Debtor, its employees, members, creditors, including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force is due, guarantors and other stakeholders involved in the Resolution Plan.

- (ii) All crystallized liabilities and unclaimed liabilities of the Corporate Debtor as on the date of this order shall stand extinguished on the approval of this Resolution Plan.
- (iii) The approval of the Resolution Plan shall not be construed as waiver of any statutory obligations/ liabilities of the Corporate Debtor and shall be dealt with by the appropriate Authorities in accordance with law. Any waiver sought in the Resolution Plan, shall be subject to approval by the Authorities concerned as held by Hon'ble Supreme Court in the matter of *Ghanashyam Mishra And Sons Private Limited Versus Edelweiss Asset Reconstruction Company Limited* in CIVIL APPEAL NO.8129 OF 2019 dated 13.04.2021.
- (iv) It is hereby ordered that the Performance Bank Guarantee of Rs. Rs.67.50 lakhs furnished by the Resolution Applicant shall remain as performance Bank Guarantee till the amount proposed to be paid to the creditors under this plan is fully paid off and the plan is fully implemented.
- (v) The Memorandum of Association (MoA) and Articles of Association (AoA) shall accordingly be amended and filed with the Registrar of Companies (RoC) Hyderabad for information and record. The Resolution Applicant, for effective implementation of the Plan, shall obtain all necessary approvals, under any law for the time being in force, within such period as may be prescribed.
- (vi) Henceforth, no creditors of the erstwhile Corporate Debtor can claim anything other than the liabilities referred to supra.

- (vii) The moratorium under Section 14 of the Code shall cease to have effect from this date.
- (viii) We hereby condone the violations of the proviso to Regulation 36A(4A) and 39 (4) of IBBI (CIRP) Regulations, by the Resolution Professional.
- (viii). The Applicant shall forward all records relating to the conduct of the CIRP and the Resolution Plan to the IBBI along with copy of this order for information.
- (ix). The Applicant shall forthwith send a copy of this order to the CoC and the Resolution Applicant.
- (x). The Registry is directed to furnish free copy to the parties as per Rule 50 of the NCLT Rules, 2016.
- (xi) The Registry is directed to communicate this order to the Registrar of Companies, Hyderabad for updating the master data and also forward a copy to IBBI.
- (xii). Accordingly, IA 1017 /2023 is accordingly allowed and stands disposed of.

SD/-

(Charan Singh)  
MEMBER (TECHNICAL)

SD/-

(DR. N.Venkata Ramakrishna Badarinath)  
MEMBER (JUDICIAL)

*Binnu*