

**IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI
BENCH- I**

**IA No. 83 of 2024 & IA No. 5057 of
2024**

IN

CP(IB) No.474 of 2022

Under Section 30(6) and Section 31 of
the Insolvency and Bankruptcy Code,
2016

IA No. 83 of 2024

In the Application of

Anish Niranjana Nanavaty

RP of SES Energy Services India

Private Limited

...Resolution

Professional/Applicant

AND

IA No. 5057 of 2024

Under Section 60(5) of the Insolvency
& Bankruptcy Code, 2016, read with
Rule 11 Of The National Company
Law Tribunal Rules, 2016

**Ellison Oil Field Services Private
Limited**

...Applicant

Mr. Anish Niranjana Nanavaty & Ors.

...Respondents

In the matter of

**SES Energy Services India Private
Limited**

...Corporate Applicant

Order pronounced on 14.11.2024

Coram:

Hon'ble Member (Judicial) : Sh. Justice Virendrasingh G. Bisht
(Retd.)

Hon'ble Member (Technical) : Sh. Prabhat Kumar

Appearances:

For the Applicant in IA 83/2024 : Mr. Vishnu Shriram, a/w
Ms. Srishti Kapoor,
Advocates i/b Khaitan & Co.

For the Applicant in IA 5057/2024 : Mr. Shyam Kapadia a/w
Adv. Amey Hadwale &
Adv.Geeta Lundwani

For Respondent no.2 in IA
5057/2024 : Mr. Rohit Gupta, Mr. Nikhil
Bhat, & Mr. Darpan Bhatia,
Advocates.

For Respondent no.3 in IA
5057/2024 : Mr. Rohan Rajadhyaksha &
Mr. Abhishek Sharma,
Advocates.

ORDER

Per: Prabhat Kumar, Member (Technical)

Brief Facts:

1. The present Application is moved by Resolution Professional **Mr. Anish Niranjan Nanavaty** (hereinafter referred to as the “Applicant/Resolution Professional”) under Section 30(6) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the “Code”) for seeking approval of the Resolution Plan dated 03.07.2024, submitted by Ocean Capital Market Limited (CIN: U65900OR1996PLC014016) (hereinafter referred to as the “Successful Resolution Applicant/SRA/OCML”), which is approved by 68.95% of the voting share of the members of the Committee of Creditors (hereinafter referred to as “CoC”), under the provisions of Section 31(1) of the Code, for **SES Energy Services India Private Limited** (hereinafter referred to as the “Corporate Applicant”) and for passing order/appropriate direction that this Tribunal may deem fit in the present matter.
2. The Corporate Applicant bearing CIN U74900MH2014FTC255441 is a private company limited by shares registered under the Companies Act, 1956 incorporated on 11.06.2014 having its registered address at Unit No.101, A – Wing Reliable Tech Park, Plot no.31, Thane Belapur Road, Airoli, Navi Mumbai - 400708.
3. The CP(IB) No.474 of 2022 was filed under Section 10 of IBC, 2016 by SES Energy Services India Limited (“Corporate Applicant/Corporate Debtor”) which was admitted into CIRP vide Order dated 25.11.2022 passed by this Bench. Vide the said

order, this bench appointed Ms. Dipti Atul Mehta (Registration No. IBBI/IPA-001/IP-N00134/2017-18/10350) as the interim resolution professional (“IRP” or “Interim Resolution Professional”). Subsequently, the CoC of the Corporate Applicant in their first meeting dated 23.12.2022 approved the appointment of Ms. Mehta as the Resolution Professional of the Corporate Applicant.

4. Thereafter, pursuant to an interlocutory application being IA 1527/2023 filed by Geo Tech International Pvt Ltd on behalf of the CoC, this Tribunal vide order dated 23.08.2023, appointed Mr. Vijaykumar V. Iyer as the resolution professional of the Corporate Applicant in place of Ms. Mehta. Subsequently, Mr. Vijaykumar V. Iyer resigned and hence an application being IA No. 1853 of 2024 was filed before this Tribunal praying for appointment of Applicant as the resolution professional of the Corporate Applicant. The said application was allowed by this Tribunal vide its order dated 23.04.2024 ("Appointment Order") whereby the Applicant was appointed as the resolution professional of the Corporate Applicant.
5. In the 3rd meeting of the CoC held on 20th January 2023 and adjourned to 23rd January 2023, the CoC approved the eligibility criteria for submitting expressions of interest by Prospective Resolution Applicants ("PRAs") for the submission of resolution plans for the Corporate Applicant in terms of Section 25(2)(h) of the IBC. Thereafter, the 1st Erstwhile RP published a detailed invitation for expression of interest ("EOI") and Form G in terms of Regulation 36A of the CIRP Regulations on 24 January 2023 inviting PRAs to submit their expressions of interest ("EOI") for submission of resolution plans for the Corporate Applicant. The 1st

Erstwhile RP published a provisional list of PRAs in terms of Regulation 36A(10) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution for Corporate Persons) Regulations, 2016 ("CIRP Regulations") on 18th February 2023, consisting of 12 applicants. Subsequently, the Applicant published the final list of PRAs on 05 March 2023 in terms of Regulation 36A(12) of the CIRP Regulations ("Final List") comprising of 7 (seven) PRAs.

6. At the 16th Meeting of the CoC convened on 17 January 2024 (and subsequently convened on 5 February 2024 and 16 February 2024), the CoC approved the Request for Resolution Plan ("RFRP") along with the Evaluation Matrix. Subsequently, the 2nd Erstwhile RP issued the RFRP to the PRAs on 1st March 2024.
7. On 4 April 2024, the Applicant received resolution plans from 2 (two) resolution applicants: (a) Ocean Capital Market Limited ("OCML"); and (b) Aakash Exploration Services Limited (together "Resolution Applicants"). The Resolution Plans submitted by the Resolution Applicants were opened by the RP before the members of the CoC in the 19th meeting of the COC held on 5 April 2024. Thereafter, the Resolution Applicants submitted revised resolution plans on 14 May 2024 and 16 May 2024.
8. Thereafter, during the course of the CIRP of the Corporate Applicant, the composition of the CoC underwent a modification inter-alia on account of the inclusion of Superior Energy Services (SPN) BV ("SES SPN") into the CoC of the Corporate Applicant due to SES SPN ceasing to be a related party of the Corporate Applicant pursuant to the acquisition of its holding company by the Mohammed Al Barwani group. Accordingly, on 7 June 2024, AESL submitted a duly signed revised resolution plan for the

Corporate Applicant. Additionally, on the same day, OCML submitted an unsigned draft of its revised resolution plan.

9. On 20 June 2024, the 22nd Meeting of the CoC was convened wherein the Members were inter-alia apprised of the revised resolution plans received from both the Resolution Applicants and were informed that while the plans were compliant with the provisions of the IBC, both the Resolution Applicants had deviated in certain respects from certain provisions of the RFRP.
10. It was decided by a majority of the Members of the CoC that the Resolution Applicants would be requested to submit an affidavit to address the deviations in compliance with the requirements of the RFRP which can be treated as part of the resolution plans with the underlying condition that that the affidavits were being requested for since the only pending aspect before considering the resolution plans for voting, was the compliance with the requirements of the RFRP and no other change, including financial parameters, would be considered. The Applicant communicated the aforementioned decision of the CoC to the Resolution Applicants. The Resolution applicants submitted their resolution plans along with the aforesaid affidavits vide their e-mail dated 3 July 2024.
11. In the 23rd CoC meeting held on 5 July 2024, the resolution plan submitted by OCML was approved by with a majority of 67.79% by way of show of hands. However, in terms of Regulation 25(5)(b) of the CIRP Regulations, the Applicant placed the agenda item for the approval of the resolution plans for e-voting for the benefit of the members who were not present in the 23rd meeting of the CoC or did not cast their vote in the said meeting.

12. The Applicant circulated the minutes of the 23rd meeting of the CoC on 8 July 2024 and informed that the members of the CoC that the voting window shall open at 4:30 PM on 8 July 2024 and shall remain open till 4:30 PM on 9 July 2024 ("Voting Window") for the members who had not cast their vote by way of show of hands in the 23rd meeting of the CoC. However, on the same day, the Applicant was served with 2 (two) interlocutory applications being: (a) IA 3566 of 2024 filed by one of the members of the CoC i.e. Ellison Oil Field Services India Private Limited ("Ellison"); and (b) IA 3568 of 2024, filed by AESL, raising various challenges in relation to the manner in which the CIRP of the Corporate Applicant was conducted by the Applicant and the CoC (together "IAs").
13. The Applicant was given to understand by way of an e-mail dated 9 July 2024 that IA 3566 of 2024 filed by Ellison was mentioned before this Tribunal at which time this Tribunal: (a) directed the matter to be listed for hearing on 10 July 2024; and (b) In the meantime directed the results of e-voting not to be disclosed. The Applicant was further given to understand by way of a separate e-mail dated 9 July 2024 that IA 3568 of 2024 filed by AESL was also listed for hearing on 10 July 2024. On 10 July 2024, IA 3566 of 2024 and IA 3568 of 2024 were taken up for hearing before this Tribunal at which time this Tribunal passed an order directing the respondents to the IAs to file their replies and listed the matter for hearing on 24 July 2024. This Tribunal further directed that the voting results shall not be announced ("10th July Order").
14. Hence, the Applicant could not take any further actions in the CIRP of the Corporate Applicants towards declaring the successful resolution applicant and filing of the requisite application before

this Tribunal, praying for the approval of the resolution plan submitted by the successful resolution applicant. Thereafter, this Tribunal, by way of separate orders dated 21 August 2024 dismissed IA 3566 of 2024 and IA 3568 of 2024, thereby vacating the directions issued in terms of the 10th July order. Accordingly, the Applicant addressed an e-mail dated 21 August 2024 to the CoC announcing the results of the 23rd meeting of the CoC and informed the CoC that pursuant to taking into account the votes cast by the members by way of show of hands and electronic voting, the resolution plan submitted by OCML ("OCML Resolution Plan") and the same was approved by the CoC in terms of Section 30(4) of the IBC with a majority of 68.95%.

15. Subsequently, OCML was issued a "Letter of Intent" dated 21 August 2024 along with a request to submit a performance bank guarantee in terms of Regulation 36B(4A) of the CIRP Regulations read with Part C, Clause 8.1.1 of the RFRP. On 24 August 2024, OCML addressed an e-mail and shared the duly countersigned copy of the Letter of Intent and thereafter, OCML remitted an amount of INR 7.8 Crores (being 10% of the total resolution amount proposed under the OCML Resolution Plan) to the Corporate Applicant as performance security by way of Real Time Gross Settlement.
16. The OCML Resolution Plan promises to make payment of an amount of INR 77.98 Crores comprising of:
 - (a) an amount of approximately INR 39.98 Crores payable towards the discharge of the admitted claims of various stakeholders of the Corporate Applicant, and
 - (b) an amount of INR 38 Crores proposed to be infused into the Corporate Applicant for the purposes of improvement,

sustainability and growth of the business of the Corporate Applicant. It is further noteworthy that with the exception of related parties, the Resolution Plan proposes the payment of entire 100% of the admitted claims of all the stakeholders of the Corporate Applicant.

17. On 28 August 2024, OCML addressed a letter intimating the Applicant that: (i) acquisition of the Corporate Applicant under the OCML Resolution Plan does not breach the *de minimus* threshold prescribed in terms of Section 5 of the Competition Act, 2002 read with the Notification bearing Ref. No. S.O. 1131(E) dated 7 March 2024 issued by the Ministry of Corporate Affairs; and (ii) the implementation of the aforesaid acquisition does not require the prior approval of RBI.

INTERLOCUTORY APPLICATION NO. 5057/2024

18. Ellison Oil Field Services Private Limited (hereinafter referred to as “EOFSPL”), one of the CoC member who casted dissenting vote on the Plan under consideration has filed Interlocutory Application bearing no. 5057/2024 being aggrieved by approval of the resolution plan submitted by the SRA (Respondent No.3 herein) and approved by the CoC herein.
19. It is contended that the RP has landed in grave error and material irregularity while conducting the process in fair and transparent manner and the voting on the resolution plans itself deserves to be struck down on account of illegality and unfairness.
20. It is further submitted that there are material irregularities in approval of Resolution Plan and the conduct of the RP is in violation of the IBC Provisions.
21. Following irregularities have been quoted in the Application:
- a. Resolution Plans were hurriedly put to vote.

- b. Illegal voting on the resolution plans.
- c. Violation of Regulation 25(5) - Non-extension of E voting window.
- d. Unfair Evaluation of Resolution Plans

22. One Akash Exploration Services Limited (AESL), Unsuccessful SRA, filed an application IA 3568 of 2024 before this Tribunal, for declaration that any embargo on the modification/enhancement of financial/ commercial parameters of the resolution plan by the RAs, was legally untenable, in light of the provisions of the Code and Regulation 39(1A)(a) of the CIRP Regulations. This Tribunal passed an order directing the RP to convene a meeting on 05.08.2024, and seek the approval of the members of the CoC on the issue of whether the CoC desires to allow the resolution applicants to make further financial revisions in their resolution plans. The meeting was convened and the CoC declined by majority vote for permitting Resolution Applicants to make revised offer. In view of this, the grievance of EOFSPL that AESL's email dated 05.08.2024, copying the members of the CoC, proposing to substantially increase their financial proposal from the existing plan value of INR 69 crores to INR 88 crores, i.e., by INR 20 crores was not considered by the RP has no basis in light of majority decision of CoC not to allow any further financial revision.

23. The allegation that there is connivance, to provide undue advantage to the RA OCML on part of CoC members has no substance as each of CoC member has liberty to exercise their vote in particular manner and such decision of CoC member cannot be made justiciable.

24. EOFSPL has further contended that all CoC members were allowed to e-vote even though some of them had already their vote at the meeting, which is in contravention of Regulation 25(5). Admittedly, the Resolution Plans were put to vote at the meeting of CoC on 04.07.2024 and the same was voted upon by majority of Members at the meeting itself. Further, the e-voting lines were kept open thereafter to allow CoC members to vote on the resolution plan. It is case of the applicant that the RP allowed all CoC members to cast their vote on electronic platform while regulation 25(5)(b) authorizes the RP to seek a vote of the members who did not vote at the meeting on the matters listed for voting. We find that even though the CoC members who had already casted their vote on the plan in the meeting held on 04.07.2024, the votes casted by such members again on e-voting platform were not taken into consideration by the RP for declaration of outcome of the voting. Accordingly, we do not find that any contravention of Regulation 25(5) has been committed.
25. EOFSPL has further alleged that e-voting window was not extended despite their request even though the proviso to regulation 25(5)(b) specifically mandates for such extension. We do not find any substance in this contention as EOFSPL had already voted on the Resolution plan in the meeting itself and was not entitled to participate in the e-voting in terms of regulation 25(5)(b) as it had already exercised its vote at the meeting itself.
26. As regards unfair evaluation of the Resolution plan, we note that EOFSPL being one of the CoC member was aware of the evaluation matrix and the scores assigned to each of resolution plan in terms of such evaluation matrix had never raised this issue prior to voting on the plan and even during the period of stay on

declaration of result of the voting on plan. Further, it is not case of the Applicant that it has raised doubts on the evaluation process at any stage prior to this application in the CoC meeting or had taken up this matter with the RP. Accordingly, the objection relating to irregularity in the evaluation process at this stage does not seem to be bona-fide more particularly when CoC appears to be divided in two parts and each group of the CoC supporting one Resolution Applicant. In view of this, we do not find any merit in this contention.

27. Accordingly IA 5057/2024 is dismissed.

Salient Features of the Resolution Plan

A. Payment and treatment of claims

28. The Resolution Applicant proposes to make a total payment of an amount not exceeding INR 77,98,83,471/- (“Total Resolution Amount”) for the resolution of the Corporate Applicant in terms of the provisions of IBC. The Total Resolution Amount shall comprise the following:

- (a) An amount of INR 1,00,000 (“Equity Amount”) shall be infused into the Corporate Applicant by the Resolution Applicant to subscribe to 100% of the equity shares of the Corporate Applicant;
- (b) The Resolution Applicant will infuse an amount of INR 39,48,83,471/- inclusive of Equity Amount by way of equity/quasi-equity instruments and/or debts/quasi-debts or a combination thereof or through any source as may be determined by the Resolution Applicant (“Creditor Payment Amount”); and

(c) The Resolution Applicant shall pay INR 50,00,000 towards the assignment of debt owed to related parties of the Corporate Applicant to a special purpose vehicle as the wholly owned subsidiary of the Resolution Applicant for the purposes of implementation of the Resolution Plan (“SPV”).

(d) The Resolution Applicant shall infuse funds for the purposes of improvement, sustainability and growth of business operations to the tune of INR 38,00,00,000.

29. The payments and treatment of claims under the Successful Resolution Plan towards different categories of stakeholders of the Corporate Applicant, as extracted from the Successful Resolution Plan is set out hereinbelow:

Stakeholders/Subject matter	Proposal
Insolvency resolution process costs (“CIRP Costs”)	As per the Resolution Applicant’s assessment, the CIRP Costs till the date of approval of this Resolution Plan by this Hon’ble Tribunal (“NCLT Approval Date”) shall be paid in full. However, in the event of unpaid CIRP Costs, then in accordance with the provisions of IBC, the unpaid CIRP Costs will be paid in priority, over payments to any other creditors within the timelines prescribed under the scheme of the IBC.
Treatment of Operational Creditors	<p>I. Treatment of dues of employees and workmen</p> <ul style="list-style-type: none"> • The Resolution Applicant proposes to pay a total consideration of INR 4,48,529 i.e., amount equivalent to 100% of the admitted claims towards repayment and settlement of Admitted Employees and Workmen Debt (“Employees and Workmen Payment”) within 90 (ninety) business days from the NCLT Approval Date. • In the event there are any outstanding contributions due and payable by the Corporate Debtor towards provident fund, gratuity contributions and insurance policy as on the “Effective Date” (i.e. : (i) the date on which payments proposed in the Resolution Plan is deposited in a designated account for the purposes of distribution; or (ii) the date on which equity shares are issued into the SPV, whichever is earlier), the Resolution Applicant shall

	<p>make payment towards such outstanding contributions in full.</p> <ul style="list-style-type: none"> From the Effective Date, all stock options or warrants or rights to equity shares, if any, granted to the Workmen and Employees shall stand extinguished. <p>II. Treatment of Operational Creditors (other than Workmen And Employees, Statutory And Government Authorities And Related Party) (“Other OCs”)</p> <p>The Resolution Applicant proposes to pay a total consideration INR 39,30,62,856 i.e. amount equivalent to 100% of the admitted claims or the minimum liquidation amount payable to such OCs in terms of Section 30(2) of the IBC, whichever is higher, on a proportionate basis, within 90 (ninety) business days from the NCLT Approval Date.</p> <p>III. Treatment of Statutory Dues</p> <ul style="list-style-type: none"> The Resolution Applicant proposes to pay a total consideration of INR 13,72,086 towards the admitted claims of statutory and governmental authorities, within 90 (ninety) business days from the NCLT Approval Date. While the admitted claim of the statutory and governmental authorities as on the date of submission of resolution plans was INR 5,494, the Resolution Applicant has considered the claim of Employees Provident Fund Organisation amounting to INR 13,66,592, which was under verification at the time of submission of resolution plan, as an “admitted claim” and proposed to make payment accordingly. Hence, the Resolution Applicant considered an amount of INR 13,72,086 as the admitted claim of statutory and government authorities and has proposed to discharge 100% of such admitted claim. <p>In view of the foregoing, the Resolution Plan proposes to make payment of an aggregate amount of INR 39,48,83,471 towards the settlement of 100% of the admitted claims of the operational creditors of the Corporate Debtor (other than related parties).</p>
Financial Creditors (other than related parties)	There are no admitted claims of any financial creditors (other than related parties). Accordingly,

	the Resolution Applicant proposes NIL payment to Financial Creditors (other than related parties).
Related Parties	An amount of INR 69,60,94,927 has been admitted as claims owed to related parties of the Corporate Debtor comprising of: (a) an amount of INR 54,71,34,762, being the admitted claim of related party financial creditors; and (b) an amount of INR 14,89,60,165, being the admitted claim of related party operational creditors (“Related Party Dues”). The Resolution Applicant proposes to assign this debt in favour of the SPV for a consideration of INR 50,00,000.
Other creditors	There are no admitted claims of any other creditor apart from the category of creditors mentioned hereinabove (“Other Creditors”). Accordingly, the Resolution Applicant proposes to make Nil payment towards the claims of Other Creditors.
Creditors whose claims have not been submitted/rejected/are under verification.	All such claims pertaining to the period prior to the commencement of CIRP shall be extinguished/settled at NIL value.
Contingent liabilities	The claims submitted by creditors whose claims are classified as contingent liabilities shall be discharged at NIL value.
Existing shareholders	The Corporate Debtor will extinguish the existing equity share capital (including any right to subscribe to, or be allocated equity shares, employee stock options, pre-emptive subscription rights or convertible instruments held by any person) by way of a capital reduction without payment of any price to the shareholders of the Corporate Debtor.
Third party guarantees	If any corporate guarantee or indemnity of letter of comfort or undertaking in respect of any third party liability, then such liability stands revoked and extinguished pursuant to the order of this Hon’ble Tribunal approving the Successful Resolution Plan.

B. Implementation Schedule

30. The Successful Resolution Plan provides for the term of the Resolution Plan and as per the implementation schedule:

Steps	Activity	Indicative Timeline
1	Setting up of a special purpose vehicle as the wholly owned subsidiary of the Resolution Applicant for the purposes of implementation of the Resolution Plan (“SPV”).	Post approval of Plan by CoC and Prior to T
2	NCLT Approval Date	T
3	Monitoring Committee comes into force	T
4	Intimation to the creditors, existing shareholders, IBBI, ROC and various other statutory authorities (as applicable) by the	T + 7 days

	Resolution Professional under guidance/ supervision of the Monitoring Committee	
<u>IMPLEMENTATION OF RESOLUTION PLAN</u>		
5	Capital Reduction of the existing equity and shareholders of Corporate Debtor.	T + 15 days
6	Issuance of new equity shares by the Corporate Debtor for an amount of INR 1,00,000 which will be subscribed to in entirety by the SPV.	T + 30 days
7	Assignment of Related Party Dues to the SPV	Between T +30 to T +90 days
8	Resolution Applicant and/ or the SPV to transfer the Proposed payout amount as per the Resolution Plan in a 'Control Account' i.e., bank account maintained & controlled by the Monitoring Committee	Between T +30 to T +90 days
9	Board Reconstitution: (a) Automatic Vacation of Office by the existing directors (b) Automatic appointment of directors nominated by the Resolution Applicant	Post proposed payout amount is deposited in Control Account.
10	Appointment of key managerial employees of the Corporate Debtor as determined by the Resolution Applicant	Post proposed payout amount is deposited in Control Account.
<u>PAYMENTS AS PER RESOLUTION PLAN</u>		
11	Settlement of Creditor Payment Amount and Related Party Payment Amount	T + 90 days

C. Approvals required for implementation of the Resolution Plan:

31. Clause 12.2 of Part F of the Resolution Plan submitted by OCML contains enabling provisions for obtaining the approval of Competition Commission of India (“CCI”) and the Reserve Bank of India (“RBI”), if required, for the implementation of the Successful Resolution Plan. Consequently, pursuant to the approval of the Successful Resolution Plan by the CoC, the Applicant addressed an e-mail dated 27 August 2024 requesting OCML to provide the Applicant with the following information/confirmations with regards to the approvals required to be obtained for the implementation of the Resolution Plan.

(a) Confirmation on whether the acquisition of the Corporate Debtor under the resolution plan submitted by OCML

(“Proposed Transaction”) breaches the *de minimus* threshold prescribed in terms of Section 5 of the Competition Act, 2002 (“CCI Act”) read with the Notification bearing Ref. No. S.O. 1131(E) dated 7 March 2024 issued by the Ministry of Corporate Affairs;

(b) Confirmation (along with necessary supporting documents) that in the event of *de minimus* threshold is being breached, OCML has intimated the CCI of the Proposed Transaction in terms of Section 6 of the Competition Act, 2002; and

(c) Confirmation if the approval of the Reserve Bank of India is required for undertaking the Proposed Transaction and if yes, whether OCML has commenced taking necessary measures to ensure all the necessary approvals from RBI has been obtained for the purposes of implementation of the Resolution Plan.

32. In response to the aforesaid e-mail, OCML addressed a letter dated 28 August 2024 intimating the Applicant that: (i) the Proposed Transaction does not breach the *de minimus* threshold prescribed in terms of Section 5 of the CCI read with the Notification bearing Ref. No. S.O. 1131(E) dated 7 March 2024 issued by the Ministry of Corporate Affairs; and (ii) the implementation of the Proposed Transaction does not require the prior approval of RBI.

D. Reliefs and concessions

33. The Successful Resolution Applicant has sought certain reliefs and concessions as more particularly detailed under Clause 14 of Part G of the Successful Resolution Plan. However, it has been clarified in the Successful Resolution Plan that the grant of reliefs/concessions/waivers sought in the Successful Resolution

Plan shall not be construed as conditionalities to the implementation of the Successful Resolution Plan.

E. Management of the affairs of the Corporate Debtor post NCLT Approval Date and supervision of implementation of the Resolution Plan.

34. The Successful Resolution Plan envisages the constitution of a Monitoring Committee for the purposes of : (a) managing the day to day affairs of the Corporate Applicant between NCLT Approval Date and Effective Date (i.e. : (i) the date on which payments proposed in the Successful Resolution Plan is deposited in a designated account for the purposes of distribution; or (ii) the date on which equity shares are issued into the SPV, whichever is earlier); and (b) supervising the implementation of the Successful Resolution Plan and ensuring that the Successful Resolution Plan is implemented in accordance with its terms, the Resolution Plan.
35. The Monitoring Committee shall comprise of 1 (one) representative of the Successful Resolution Applicant, 1 (one) representative of the CoC and the resolution professional or any other person appointed by the Resolution Applicant, acting as the interim manager.
36. The Monitoring Committee shall *inter-alia* have the following roles and responsibilities vis-à-vis managing the affairs of the Corporate Applicant between NCLT Approval Date and Effective Date:
- (a) Supervising the day to day affairs and management of the affairs of the Corporate Applicant till the Effective Date;
 - (b) To manage cashflows of the Corporate Applicants and identify and nominate person(s) as the signatory(ies) of the Corporate

Applicants to manage and operate all bank accounts of the Corporate Applicant;

(c) Control and manage the Corporate Applicant from the NCLT Approval Date till the Effective Date.

37. Additionally, the Monitoring Committee shall *inter-alia* have the following roles and responsibilities vis-à-vis supervising the implementation of the Successful Resolution Plan in accordance with its terms:

(a) Supervising the implementation of the Successful Resolution Plan and ensuring that the Resolution Plan is implemented as approved without any deviations;

(b) Ensuring the timely disbursement of funds to the stakeholders, as per the payment terms set out in the Successful Resolution Plan;

(c) Facilitating approvals, to the extent required for the implementation of the Successful Resolution Plan; of the Corporate Applicant;

(d) Bringing to the notice of this Tribunal, any deviations/violations of the Successful Resolution Plan by any person; and

(e) Providing regular updates to this Tribunal as and when required.

38. The Monitoring Committee shall be in force and effect until the Effective Date or earlier upon payout of the amounts proposed to be paid under the Successful Resolution Plan to all the stakeholders of the Corporate Applicant. On such date, the Monitoring Committee shall facilitate the peaceful transfer of possession of the premises/officers of the Corporate Applicant, all passwords, bank account details, cheque books, statutory registers,

minute books, communications and other documents pertaining to the Corporate Applicant and its business to the Successful Resolution Applicant. Thereafter, the Monitoring Committee shall stand disbanded and the Successful Resolution Applicant shall control and manage the Corporate Applicant.

F. Eligibility under Section 29A of the IBC

39. The Applicant submits that the Successful Resolution Applicant is found to be eligible to submit a resolution plan in terms of Section 29A of IBC and has submitted an affidavit to this effect, along with the Successful Resolution Plan, in the format laid down in the RFRP.

G. Compliance with the provisions of IBC and CIRP Regulations

40. The Applicant submits that the Successful Resolution Plan meets the requirements of Section 30(2) of the IBC and is in accordance with Regulation 38 and 39 of the CIRP Regulations. In this regard, a compliance certificate in Form H of Schedule to the CIRP Regulations, as per Regulation 39(4), is placed on record for consideration of this Hon'ble Tribunal.

41. It is submitted that the present Application is seeking approval of the Successful Resolution Plan for the insolvency resolution and revival of the Corporate Applicant. It is respectfully submitted that the Successful Resolution Plan complies with the provisions and requirements of IBC and CIRP Regulations.

42. The Applicant has ensured compliance with the provisions of the IBC and the CIRP Regulations in running this CIRP, with the aim of achieving resolution for the Corporate Applicant. In this regard, it is submitted that the Applicant shall ensure compliance with

Regulation 39(5) and 39(5A) of the CIRP Regulations upon approval of the Successful Resolution Plan by this Tribunal.

Statutory Compliance

43. In compliance of Section 30(2) of IBC, 2016, the Resolution Professional has examined the Resolution plan of the Successful Resolution Applicant and confirms that this Resolution Plan:
- a) Provides for payment of Insolvency Resolution Process cost in a manner specified by the Board in the priority to the payment of other debts of the corporate Applicant;
 - b) Provides for payment of debts of Operational Creditor in such manner as may be specified by the board which shall not be less than
 - (i) the amount to be paid to such creditors in the event of liquidation of the Corporate Applicant under Section 53; or
 - (ii) the amount that would have been paid to such creditors, if the amount to be distributed under the Resolution Plan had been distribute in accordance with sub-section (1) of Section 53 in the event of liquidation of the corporate Applicant.
 - c) Provides for management of the affairs of the Corporate Applicant after approval of Resolution Plan;
 - d) The implementation and supervision of Resolution Plan;
 - e) Does not prima facie contravene any of the provisions of the law for time being in force,
 - f) Confirms to such other requirements as may be specified by the Board.

g) As per the Affidavit, the Resolution Applicant is not covered under 29A.

44. In compliance of Regulation 38 of CIRP Regulations, the Resolution Professional confirms that the Resolution plan provides that

a) The amount due to the Operational Creditors under Resolution Plan shall be given priority in payment over Financial Creditors.

b) It has dealt with the interest of all Stakeholders including Financial Creditors and Operational Creditors of the Corporate Applicant.

c) A statement that neither the Resolution Applicants nor any related parties have failed to implement nor have contributed to the failure of implementation of any other Resolution Plan approved by the Adjudicating Authority in the past.

d) The terms of the plan and its implementation schedule.

e) The management and control of the business of the Corporate Applicant during its term.

f) Adequate means of Supervising its implementation.

g) The Resolution Plan Demonstrate that it addresses

i.The cause of the Default

ii.It is feasible and viable

iii.Provision for effective implementation

iv.Provisions for approvals required and the time lines for the same.

v.Capability to Implement the Resolution Plan

45. The Resolution Professional has submitted Form-H under Regulation 39(4) of the CIRP Regulations to certify that the

Resolution Plan as approved by the CoC meets all the requirements of the IBC and its Regulations, the relevant parts of which are reproduced below:

**FORM H
COMPLIANCE CERTIFICATE**

) Under Regulation 39) 4 (of the Insolvency and Bankruptcy Board of India) Insolvency
Resolution Process for Corporate Persons (Regulations, 2016

1. I, Mr. Anish Niranjana Nanavaty an insolvency professional enrolled with ICSI Institute of Insolvency Professionals and registered with the Board with registration number IBBI/IPA-002/IP-N00272/2017-2018/10830, am the resolution professional for the corporate insolvency resolution process) CIRP (of SES Energy Services India Private Limited (SESIPL).
2. The details of the CIRP are as under :

Sl. No.	Particulars	Description
1	Name of the CD	SES Energy Services India Private Limited (“ Corporate Debtor ”)
2	Date of Initiation of CIRP	25 November 2022
3	Date of Appointment of IRP	25 November 2022
4	Date of Publication of Public Announcement	26 November 2022
5	Date of Constitution of CoC	17 December 2022
6	Date of First Meeting of CoC	23 December 2022
7	Date of Appointment of RP	23 December 2022
	a) Date on which Ms. Dipti Mehta (IBBI Registration Number - IBBI/IPA-002/IP-N00134/2017-18/10350), the IRP, was appointed as the RP	23 December 2022
	b) Date on which Ms. Dipti Mehta was replaced and Mr. Vijay Kumar V Iyer (IBBI Registration Number - IBBI/IPA-001/IP-P00261/2017-2018/10490) was appointed as the RP	23 August 2023 (Date of order) 8 September 2023 (Date of receipt of order)
	c) Date on which Mr. Vijay Kumar V Iyer was replaced and the undersigned was appointed as the RP	23 April 2024 (Date of order) 2 May 2024 (Date of receipt of order)
8	Date of Appointment of Registered Valuers	9 January 2023
9	Date of Issue of Invitation for EoI	24 January 2023
10	Date of Final List of Eligible Prospective Resolution Applicants	5 March 2023
11	Date of Invitation of Resolution Plan	1 March 2024
12	Last Date of Submission of Resolution Plan	4 April 2024* <i>*Subsequently, the last date for submission was extended and Resolution Applicants were allowed to submit revised resolution plans on 7 June 2024 and 4 July 2024.</i>
13	Date of Approval of Resolution Plan by CoC	21 August 2024* <i>*The Resolution Plan submitted by Ocean Capital Market Limited (“Successful”</i>

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		<p><i>Resolution Plan”) was approved by a majority of 67.79% by way of show of hands in the 23rd meeting of the CoC. Subsequently, the agenda item for approval of resolution plans was put up for approval by way of e-voting for those members of the CoC who did not / could not vote in the meeting by way of show of hands.</i></p> <p><i>However, before the announcement of results of e-voting, the Hon’ble National Company Law Tribunal, Mumbai Bench (“NCLT”) directed orally on 9 July 2024 and by way of an order dated 10 July 2024 passed in interlocutory applications being IA 3566/2024 and 3568/2024 (collectively “Interlocutory Applications”) that the resolution professional shall not announce the voting results (“10th July Order”).</i></p> <p><i>The 10th July Order was vacated by way of a final order dated 21 August 2024 in terms of which the Interlocutory Applications were dismissed by the NCLT. Consequently, the voting results were announced on 21 August 2024 in terms of which the Successful Resolution Plan was approved by the CoC by a voting share of 68.95%.</i></p>
14	Date of Filing of Resolution Plan with Adjudicating Authority	3 September 2024
15	Date of Expiry of 180 days of CIRP	24 May 2023
16	Date of Orders extending the period of CIRP	<ul style="list-style-type: none"> • Extension of the CIRP period by 90 (ninety) days in terms of Section 12(2) of the IBC vide order dated 18 May 2023 passed by the Adjudicating Authority in IA 2032/2023. Consequent to such extension, the CIRP period of the Corporate Debtor was extended until 22 August 2023. • Extension of the CIRP period of the Corporate Debtor by 60 (sixty) days vide order dated 29 August 2023 in IA 3882, read with order dated 21 March 2024 passed by the Adjudicating Authority in IA 1236/2024 (read with the order dated 29 August 2023 passed by the Adjudicating Authority rectifying certain clerical errors). Consequent to such extension, the CIRP period of the Corporate Debtor was extended till 22 October 2023. • Extension of CIRP period of the Corporate Debtor by 3 (three) months vide order dated 1 December 2023 passed by the Adjudicating Authority in IA 5489/2023 read with order dated 21 March 2024 passed by the Adjudicating Authority in IA 1236/2024 (whereby the Adjudicating Authority rectified certain clerical errors). Consequent to such extension,

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		<p>the CIRP period of the Corporate Debtor was extended till 22 January 2024.</p> <ul style="list-style-type: none"> • Extension of CIRP period by 90 (ninety) days vide order dated 29 February 2023 passed by the Adjudicating Authority in IA 760/2024. Consequent to such extension, the CIRP period of the Corporate Debtor was extended till 22 April 2024. • Extension of CIRP period by 90 (ninety) days vide order dated 26 June 2024 in IA 3270/2024. Consequent to such extension, the CIRP period of the Corporate Debtor was extended till 20 July 2024.
17	Date of Expiry of Extended Period of CIRP	The CIRP of the Corporate Debtor expired on 20 July 2024. The resolution professional has filed an application bearing Filing No. 2709138/0789/2024 before this Hon'ble Tribunal inter-alia praying for : (a) exclusion of the time period during which the order of the Adjudicating Authority dated 10 July 2024 restraining the resolution professional from announcing the results of the CoC meeting where the resolution plans were put up for vote, has been in force (i.e. the period between 10 July 2024 and 21 August 2024), from the computation of the CIRP Period; and (b) additionally, grant a further extension of the CIRP period of the Corporate Debtor by a period of 20 (twenty) days. The said application is presently sub-judice before this Hon'ble Tribunal. If the application is allowed by the Adjudicating Authority, the CIRP period of the Corporate Debtor would stand extended till 10 September 2024.
18	Fair Value	INR 88.32 crores
19	Liquidation value	INR 52.59 crores
20	Number of Meetings of CoC held	26 (at the time of submission of this Form)

3. I have examined the Resolution Plan received from Resolution Applicant - Ocean Capital Market Limited) "OCML" (and approved by Committee of Creditors) "CoC" (of the Corporate Debtor .

4. I hereby certify that-

(a) The said Resolution Plan complies with all the provisions of the Insolvency and Bankruptcy Code 2016) Code () "Code" (, the Insolvency and Bankruptcy Board of India) Insolvency Resolution Process for Corporate Persons (Regulations, 2016) "CIRP Regulations" (and does not contravene any of the provisions of the law for the time being in force .

(b) The Resolution Applicant, OCML has submitted an affidavit pursuant to Section 30) 1 (of the Code confirming its eligibility under section 29A of the Code to submit resolution plan . The contents of the said affidavit are in order .

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- (c) The said Resolution Plan has been approved by the CoC in accordance with the provisions of the Code and the CIRP Regulations made thereunder . The Resolution Plan has been approved by 68.95 % of voting share of the committee of creditors after considering its feasibility and viability and other requirements specified by the CIRP Regulations .
- (d) The voting was held in the meeting of the CoC in the 23rd meeting of the CoC on 4 July 2024 by way of show of hands. Additionally, I sought vote of members of the CoC who were not present in the meeting or did not vote in the meeting, by electronic voting system which was kept open at least for 24 hours as per the regulation 26 .
5. The Corporate Debtor does not have any financial creditors other than related parties. Accordingly, the CoC of the Corporate Debtor is constituted in terms of Regulation 16 of the CIRP Regulations. Accordingly, the list of operational creditors of the Corporate Debtor being members of the CoC and distribution of voting share among them is as under :

Sl. No.	Name of Creditor	Voting Share )%(	Voting for Resolution Plan)Voted for / Dissented / Abstained(
1.	Balance Point Control Services (BPCS) B.V.	45.60%	Voted for
2.	Ellison Oil Field Services Private Limited	29.62%	Dissented
3.	Citoc Ventures Private Limited	18.65%	Voted for
4.	Oil Field Warehouse and Services Private Limited	3.54%	Voted for
5.	SPM Oil & Gas Inc.	1.02%	Voted for
6.	VP PLC - Airpac Rentals	0.72%	Abstained
7.	Triofab India Private Limited	0.48%	Abstained
8.	Shree Ganesh Fuel Centre	0.10%	Dissented
9.	Harvinder Singh	0.09%	Abstained
10.	Suresh Electric Solution	0.06%	Voted for
11.	Syno Pumps (I) Pvt Ltd	0.05%	Voted for
12.	Hotel Kailash International	0.05%	Abstained
13.	Pankaj Kumar	0.02%	Voted for
14.	Thar Hospital and Multispeciality Centre	0.01%	Voted for
15.	The Commissioner, Central Goods & Service Tax and Central Excise, Bolpur CGST commisionerate	0.001%	Abstained

6. The Resolution Plan includes a statement under regulation 38) 1A (of the CIRP Regulations as to how it has dealt with the interests of all stakeholders in compliance with the Code and regulations made thereunder .
- 6A. Minutes of the committee meeting relating to discussion and decisions about resolution plan are attached with this certificate.
7. The amounts provided for the stakeholders under the Resolution Plan is as under :

Sl. No.	Category of Stakeholder	Sub-Category of Stakeholder	Amount Claimed	Amount Admitted	Amount Provided under the Plan#	Amount Provided to the Amount Claimed (%)	Amount Provided to the Amount Admitted (%)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	
I	Secured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	Nil	Nil	Nil	Nil	Nil

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Sl. No.	Category of Stakeholder	Sub-Category of Stakeholder	Amount Claimed	Amount Admitted	Amount Provided under the Plan#	Amount Provided to the Amount Claimed (%)	Amount Provided to the Amount Admitted (%)
		(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	Nil	Nil	Nil	Nil	Nil
		Total[(a) + (b)]	Nil	Nil	Nil	Nil	Nil
2	Unsecured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	54,71,34,762	54,71,34,762	39,30,030*	0.72%	0.72%
		(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	Nil	Nil	Nil	Nil	Nil

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Sl. No.	Category of Stakeholder	Sub-Category of Stakeholder	Amount Claimed	Amount Admitted	Amount Provided under the Plan#	Amount Provided to the Amount Claimed (%)	Amount Provided to the Amount Admitted (%)	
		Total[(a) + (b)]	54,71,34,762	54,71,34,762	39,30,030	0.72%	0.72%	
3	Operational Creditors	(a) Related Party of Corporate Debtor	14,73,55,253	14,89,60,165	10,69,970*	0.73%	0.72%	
					<i>*Computed on the basis of a pro-rated distribution of the amount of INR 50,00,000 provided in the Resolution Plan as payment towards discharge of all "Related Party claims" by way of consideration for assignment of such Related Party Claims to the SPV.</i>			
		(b) Other than (a) above:	1,38,43,83,107	39,35,16,879	39,48,83,471	28.52%	100%	
		(i) Government	42,48,09,101	5,494	13,72,086	0.32%	100%*	
			<i>*For the purposes of making payment towards the claims of statutory and government authorities, the Resolution Applicant has considered the claim of Employees Provident Fund Organisation amounting to INR 13,66,592, which was under verification at the relevant time, as an "admitted claim" and proposed to make payment accordingly. Hence, the Resolution Applicant considered an amount of INR 13,72,086 as the admitted claim of statutory and government authorities and has proposed to discharge 100% of such admitted claim.</i>					
		(ii) Workmen	Nil	Nil	Nil	Nil	Nil	
		(iii) Employees	948,296	448,529	448,529	47.30%	100%	
		(iv) Other Operational Creditors	95,86,25,710	39,30,62,856	39,30,62,856	41.00%	100%	
		Total[(a) + (b)]	1,53,17,38,360	54,24,77,044	39,59,53,441	25.85%	72.99%	
4	Other debts and dues		Nil	Nil	Nil	Nil	Nil	
Grand Total			2,07,88,73,122	1,08,96,11,806	39,98,83,471	19.24%	36.70%	

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

8. The interests of existing shareholders have been altered by the Resolution plan as under :

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Sl. No	Category of Share Holder	No. of Shares held before CIRP	No. of Shares held after the CIRP	Voting Share)%(held before CIRP	Voting Share)%(held after CIRP
1	Equity	15,35,926	0	100%	0%
2	Preference	-	-	-	-
3					

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

Section of the Code / Regulation No.	Requirement with respect to Resolution Plan	Clause of Resolution Plan	Compliance)Yes / No(
25)2)h(	Whether the Resolution Applicant meets the criteria approved by the CoC having regard to the complexity and scale of operations of business of the CD?	<ul style="list-style-type: none"> Net-worth statement provided as Annexure 5 of the Resolution Plan. Part B of the Resolution Plan. 	Yes
Section 29A	Whether the Resolution Applicant is eligible to submit resolution plan as per final list of Resolution Professional or Order, if any, of the Adjudicating Authority?	<ul style="list-style-type: none"> The Resolution Applicant has been found to eligible to submit a resolution plan in terms of Section 29A of the IBC and has submitted an Affidavit to this effect in the form and manner set out in the Request for Resolution Plan. Further, the Resolution Applicant has made a declaration in Clause 2(f) that it is eligible to submit a resolution plan in terms of Section 29A of the IBC. Additionally, the Resolution Applicant appears in the Final List of Prospective Resolution Applicants prepared by the resolution professional in terms of Regulation 36A(12) of CIRP Regulations. 	Yes
Section 30)1(	Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?	The Resolution Applicant has provided an Undertaking in the format prescribed in the Request For Resolution Plan dated 1 March 2024 confirming its eligibility to submit a Resolution Plan under Section 29A of the IBC.	Yes
Section 30)2(	Whether the Resolution Plan-		
	(a) provides for the payment of insolvency resolution process costs?	<ul style="list-style-type: none"> Part A, Clause 2.A.(b)(i); and Part C, Clause 7. 	Yes
	(b) provides for the payment to the operational creditors?	<ul style="list-style-type: none"> Part A, Clause 2.A (e); Part D, Clause 8.3.2(d); Part D, Clause 8.3.3(c); and Part D, Clause 8.4.(i). 	Yes
	(c) provides for the payment to the financial creditors who did not vote in favour of the resolution plan?	In terms of Section 30(2) of the IBC, a resolution plan is required to make payment of the minimum liquidation value payable to “financial creditors” forming part of the CoC who did not	NA

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		vote in favour of the resolution plan approved by the CoC with the requisite majority. In the instant case, the CoC does not constitute of any financial creditors. Accordingly, this provision is not applicable.	
	(d) provides for the management of the affairs of the corporate debtor?	<ul style="list-style-type: none"> • Part B, Clause 5.5 ; and • Part F. 	Yes
	(e) provides for the implementation and supervision of the resolution plan?	<ul style="list-style-type: none"> • Part B, Clause 5.5; and • Part F, Clause 10(d)(1). 	Yes
	(f) contravenes any of the provisions of the law for the time being in force?	-	No.
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?	Part B, Clause 5	Yes
Section 31)1(	Whether the Resolution Plan has provisions for its effective implementation plan, according to the CoC?	<ul style="list-style-type: none"> • Part E; and • Part F. 	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?]	Part D, Clauses 8.3 and 8.4	Yes
Regulation 38)1A(	Whether the resolution plan includes a statement as to how it has dealt with the interests of all stakeholders?	<ul style="list-style-type: none"> • Part D, Clause 8; and • Part D, Clause 8.13.” 	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?]	Part A, Clause 2. (B)(e).	Yes
Regulation 38)2(	Whether the Resolution Plan provides:		
	)a(the term of the plan and its implementation schedule?	Part E, Clause 9.	Yes
	)b(for the management and control of the business of the corporate debtor during its term?	<ul style="list-style-type: none"> • Part B, Clause 5.5; • Part F, Clause 10(d)(1); and • Generally, Part F of the Resolution Plan. 	Yes
	)c(adequate means for supervising its implementation?	<ul style="list-style-type: none"> • Part B, Clause 5.5; • Part D, Clause 8.1.2; and • Part F, Clause 10(c). 	Yes
38)3(	Whether the resolution plan demonstrates that –		
	)a(it addresses the cause of default?	Part B, Clause 4.4.	Yes
	)b(it is feasible and viable?	Part B, Clause 5.	Yes

	)c(it has provisions for its effective implementation?	<ul style="list-style-type: none"> • Part E; and • Part F. 	Yes
	)d(it has provisions for approvals required and the timeline for the same?	<ul style="list-style-type: none"> • Part F, Clause 12; and • Annexure 24. 	Yes
	)e(the resolution applicant has the capability to implement the resolution plan?	<ul style="list-style-type: none"> • Part C, Clause 6.2; and • Annexure 5. 	Yes
39)2(	Whether the RP has filed applications in respect of transactions observed, found or determined by him?	<ul style="list-style-type: none"> • Part D, Clause 8.11.1; and • Part F, Clause 10(g)(13). 	Yes
Regulation 39(4)	Provide details of performance security received, as referred to in sub-regulation (4A) of regulation 36B.]	<ul style="list-style-type: none"> • Part E, Clause 9.1; and • Clause 1(j) of Annexure 23. 	Yes

46. On perusal of the Resolution Plan, we find that the Resolution Plan provides for the following:

- a) Payment of CIRP Cost as specified u/s 30(2)(a) of the Code.
- b) Repayment of Debts of Operational Creditors as specified u/s 30(2)(b) of the Code.
- c) For management of the affairs of the Corporate Applicant, after the approval of Resolution Plan, as specified U/s 30(2)(c) of the Code.
- d) The implementation and supervision of Resolution Plan by the RP and the CoC as specified u/s 30(2)(d) of the Code.

47. The RP has complied with the requirement of the Code in terms of Section 30(2)(a) to 30(2)(f) and Regulations 38(1), 38(1)(a), 38(2)(a), 38(2)(b), 38(2)(c) & 38(3) of the Regulations.

48. The RP has filed Compliance Certificate in Form-H along with the Plan. On perusal the same is found to be in order. The Resolution Plan has been approved by the CoC by majority of 68.95%.

49. The Applicant Resolution Professional had filed an application bearing IA 3270/2024 before this bench seeking extension of time by 90 days under Section 60(5) of the Code, 2016 r/w Rule

11 of the NCLT Rules, 2016. The same was allowed by this bench vide order dated 26.06.2024.

50. In *K Sashidhar v. Indian Overseas Bank & Others* (in Civil Appeal No.10673/2018 decided on 05.02.2019) 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 (NCLT). On receipt of such a proposal, the Adjudicating Authority is required to satisfy itself that the Resolution Plan as approved by CoC meets the requirements specified in Section 30(2). The Hon'ble Apex Court further observed that the role of the NCLT is 'no more and no less'. The Hon'ble Apex Court further held that the discretion of the Adjudicating Authority is circumscribed by Section 31 and is 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.
51. In view of the discussions and the law thus settled, the instant Resolution Plan meets the requirements of Section 30(2) of the Code and Regulations 37, 38, 38 (1A) and 39 (4) of the Regulations. The Resolution Plan is not in contravention of any of the provisions of Section 29A of the Code and is in accordance with law. The same needs to be approved. Hence, ordered.
52. The Resolution Plan is hereby **approved**. It shall become effective from this date and shall form part of this order with the following directions:

- i. It shall be binding on the Corporate Applicant, 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. The approval of the Resolution Plan shall not be construed as waiver of any statutory obligations/liabilities of the Corporate Applicant and shall be dealt by the appropriate Authorities in accordance with law. Any waiver sought in the Resolution Plan, shall be subject to approval by the Authorities concerned in light of the Judgment of Supreme Court in *Ghanshyam Mishra and Sons Private Limited v/s. Edelweiss Asset Reconstruction Company Limited*, the relevant paragraphs of which are extracted herein below:

“95. (i) Once a resolution plan is duly approved by the adjudicating authority under sub-section (1) of Section 31, the claims as provided in the resolution plan shall stand frozen and will be binding on the corporate Applicant and its employees, members, creditors, including the Central Government, any State Government or any local authority, guarantors and other stakeholders. On the date of approval of resolution plan by the adjudicating authority, all such claims, which are not a part of the resolution plan shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim, which is not part of the resolution plan;

(ii) 2019 Amendment to Section 31 of the I&B Code is clarificatory and declaratory in nature and therefore will be effective from the date on which the Code has come into effect;

(iii) consequently, all the dues including the statutory dues owed to the Central Government, any State Government or any local authority, if not part of the resolution plan, shall stand extinguished and no proceedings in respect of such dues for the period prior to the date on which the adjudicating authority grants its approval under Section 31 could be continued.”

- iii. The Memorandum of Association (MoA) and Articles of Association (AoA) shall accordingly be amended and filed with the Registrar of Companies (RoC), Mumbai, Maharashtra 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.
- iv. The moratorium under Section 14 of the Code shall cease to have effect from this date.
- v. The Applicant shall supervise the implementation of the Resolution Plan and file status of its implementation before this Authority from time to time, preferably every quarter.
- vi. 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.
- vii. The Applicant shall forthwith send a certified copy of this Order to the CoC and the Resolution Applicant, respectively for necessary compliance.

Sd/-

Prabhat Kumar
Member (Technical)

MK

Sd/-

Justice V.G. Bisht
Member (Judicial)