



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

ATTENDANCE CUM ORDER SHEET OF THE HEARING
HELD ON **31.07.2025** THROUGH VIDEO CONFERENCE

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

IN THE MATTER OF : Rakesh P Sheth
Vs
Sabari Realtors Pvt Ltd

MAIN PETITION NUMBER : IBA/471/2019

(IA/MA) APPLICATION NUMBERS

IA(IBC)/1205(CHE)/2021; IA(IBC)/250(CHE)/2022; IA(IBC)/252(CHE)/2022
IA(IBC)/732(CHE)2022; IA(IBC)/381(CHE)/2025 in IA(IBC)/732(CHE)2022
IA(IBC)/399(CHE)/2025

ORDER

1. IA(IBC)/1205(CHE)/2021

Present: None for the parties.

Vide separate order pronounced in open court, IA(IBC)/1205(CHE)/2021 is disposed of.

2. IA(IBC)/250(CHE)/2022

3. IA(IBC)/252(CHE)/2022

4. IA(IBC)/732(CHE)2022

5. IA(IBC)/381(CHE)/2025 in IA(IBC)/732(CHE)2022

6. IA(IBC)/399(CHE)/2025

Present: Proxy Counsel for the Applicant / RP.

Vide common Order pronounced in open Court, IA(IBC)/250(CHE)/2022 seeking approval of resolution plan is allowed and disposed of.

IA(IBC)/252(CHE)/2022 is disposed of.

IA(IBC)/732(CHE)2022; IA(IBC)/381(CHE)/2025 and IA(IBC)/399(CHE)/2025 are dismissed.

-sd-
[VENKATARAMAN SUBRAMANIAM]
MEMBER (TECHNICAL)

MS

Date: 31.07.2025

-sd-
[SANJIV JAIN]
MEMBER (JUDICIAL)



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

IA(IBC)/250(CHE)/2022 in IBA/471/2019

(filed under Section 30(6) of the Insolvency and Bankruptcy Code, 2016 R/W regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.)

In the matter of **Sabari Realtors Private Limited**

S. Amarendran

Resolution Professional,
Sabari Realtors Private Limited
AVS Villa, Hig 428, Marutham Nagar,
TNHB Phase – 3, Shollinganallur,
Chennai – 600 119

... Applicant / Resolution Professional

Along with

IA(IBC)/252(CHE)/2022 in IBA/471/2019

{filed under Rule 11 of NCLT Rules, 2016}

S. Amarendran

Resolution Professional,
Sabari Realtors Private Limited
AVS Villa, Hig 428, Marutham Nagar,
TNHB Phase – 3, Shollinganallur,
Chennai – 600 119

... Applicant / Resolution Professional

Along with

IA(IBC)/732(CHE)/2022 in IBA/471/2019

(filed under Section 60(5) of the Insolvency and Bankruptcy Code, 2016)

HDFC Limited

Regional Office
2nd Floor, ITC Centre
No.760, Anna Salai,
Chennai – 600 002



... Applicant / Secured Creditor

-Vs-

1. **S. Amarendran**
Resolution Professional,
Sabari Realtors Private Limited
AVS Villa, Hig 428, Marutham Nagar,
TNHB Phase – 3, Shollinganallur,
Chennai – 600 119
2. **S. Lakshmi Subramanian,**
Authorised Representative for
Home Buyers and Class of Financial Creditors,
Sabari Realtors (P) Ltd.
S-2, RSR Plaza, 50-51, Arcot Road,
Saligramam, Chennai-600 093.

... Respondents

Along with

IA(IBC)/381(CHE)/2025 in IBA/471/2019

(filed under Section 60(5) of the Insolvency and Bankruptcy Code, 2016)

HDFC Limited
Regional Office
2nd Floor, ITC Centre
No.760, Anna Salai,
Chennai – 600 002

... Applicant / Secured Creditor

-Vs-

1. **S. Amarendran**
Resolution Professional,
Sabari Realtors Private Limited
AVS Villa, Hig 428, Marutham Nagar,
TNHB Phase – 3, Shollinganallur,
Chennai – 600 119
2. **Sumit Kumar Khanna,**
Block No.9, Flat No.2,
Brady's Apartment



Sorab Bharucha Road,
Colaba, Mumbai – 400 005

3. **S. Lakshmi Subramanian,**
Authorised Representative for
Home Buyers and Class of Financial Creditors,
Sabari Realtors (P) Ltd.
S-2, RSR Plaza, 50-51, Arcot Road,
Saligramam, Chennai-600 093.

... Respondents

Along with

IA(IBC)/399(CHE)/2025 in IBA/471/2019

(filed under Section 60(5) of the Insolvency and Bankruptcy Code, 2016)

Usha K Jolly Charitable Trust
Represented by its Trustee
Mr. Dilip Bajaj,
No.23, Bund Garden Road,
Pune – 411 011

... Applicant

-Vs-

1. **S. Amarendran**
Resolution Professional,
Sabari Realtors Private Limited
AVS Villa, Hig 428, Marutham Nagar,
TNHB Phase – 3, Shollinganallur,
Chennai – 600 119
2. **Mr. Sumit Kumar Khanna,**
Block No.9, Flat No.2,
Brady's Apartment
Sorab Bharucha Road,
Colaba, Mumbai – 400 005
3. **T. Kumaresan**
No.15, Fourth Main Road,
Indira Nagar, Adayar



Chennai – 600 020

4. **Gayathri Kumaresan**
No.15, Fourth Main Road,
Indira Nagar, Adayar
Chennai – 600 020
5. **Madhusudhana Siva Prasad Panda,**
19-5-7, Varma Street,
Muttim Chetty Palam, Tenali,
Guntur District, Andhra Pradesh.
6. **Sabari Serenitys Ekambara & Margosa**
Apartment Buyers Association,
represented by its President.
Mr. M. Rajendran,
Flat No. 104, Acacia Block 1, Sabari Serenity, Siruseri
Thiruporur Taluk, Kancheepuram District
Tamilnadu, 603103,

... Respondents

Counsel appearing for the Parties

<i>For Resolution Professional</i>	:	<i>Kaushik N Sharma, Advocate</i>
<i>For Resolution Applicant</i>	:	<i>B. Ramana Kumar, Advocate</i> <i>Sumit Khanna, Resolution Applicant</i>
<i>For Landowners</i>	:	<i>Rahul Balaji, Advocate</i>
<i>For Authorized Representative</i>	:	<i>S. Lakshmisubramanian, AR in person</i>
<i>For Objectors</i>	:	<i>Rajasekar, Advocate</i> <i>For Usha K Jolly Charitable Trust</i>
		<i>Ramakrishnan Viraraghavan, Senior Advocate</i> <i>Ravishankar Vallatharasu, Advocate</i> <i>For HDFC Bank</i>

CORAM:

SANJIV JAIN, MEMBER (JUDICIAL)

VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)



Order Pronounced on 31st July, 2025

COMMON ORDER

(Hearing conducted through physical mode)

IA(IBC)/250(CHE)/2022 is an application filed by the Resolution Professional in respect of the Corporate Debtor, viz., Sabari Realtors Private Limited under Section 30(6) of the Insolvency and Bankruptcy Code, 2016 r/w Regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 seeking relief as follow;

- a. Approve the Resolution Plan which has been voted by the Committee of Creditors as stated herein above.*
- b. To pass any further orders as this Tribunal may be pleased to*

2. **IA(IBC)/252(CHE)/2022** is an application filed by the Resolution Professional in respect of the Corporate Debtor, viz., Sabari Realtors Private Limited under Rule 11 of NCLT Rules, 2016, seeking relief as follow;

- a. Condone the delay of 15 days in filing the application for approval of the Resolution Plan from 13.02.2022 to 28.02.2022.*
- b. To pass any such further or other orders as this Tribunal may deem fit and thus render justice.*

3. In the application **IA(IBC)/252(CHE)/2022**, it is stated that by an order dated 26.11.2021 this Tribunal had extended the CIRP period of the Corporate Debtor by 90 days from 26.11.2021. The order was



received on 29.11.2021 so 90 days period would come to an end on 28.02.2022. IA(IBC)/250(CHE)/2022 for approval of the Resolution Plan was filed before this Tribunal on 28.02.2022. It is submitted that as per Regulation 39(4) of the IBBI (CIRP) Regulations, 2016, the Resolution Plan approved by the CoC has to be placed before the Adjudicating Authority before the expiry of 15 days of CIRP Period. Hence the present application has been filed.

3.1. We have perused the application.

3.2 Regulation 39(4) of the IBBI (CIRP) Regulations, 2016 states that the RP shall **endeavour** to submit the Resolution Plan approved by the CoC to the Adjudicating Authority at least 15 days before the maximum period for the completion of CIRP under section 12 of IBC, 2016. The term “endeavour” makes Regulation 39(4) of the IBBI (CIRP) Regulations, 2016 as ‘directory’. Not filing the Resolution Plan 15 days before the completion of CIRP before the Adjudicating Authority would not amount to violation. Condonation of delay will arise only if the Resolution Plan is filed after the expiry of the CIRP period.

3.3. In the present case, the Resolution Plan approval application has been filed before this Tribunal on the last date of CIRP Period i.e. 28.02.2022. Hence there is no delay which is required to be condoned.

3.4. In terms of the above observations, the Application IA(IBC)/252(CHE)/2022 is disposed of.



4. **IA(IBC)/732(CHE)/2022** is an Application filed by HDFC Limited under Section 60(5) of the Insolvency and Bankruptcy Code, 2016, seeking relief as follow;

- a. To reject the Resolution Plan approved by the CoC; and.*
- b. To pass such further or other orders as this Tribunal deems fit and proper in the circumstances of the case and thus render justice.*

5. **IA(IBC)/381(CHE)/2025** is an Application filed by HDFC Limited under Section 60(5) of the Insolvency and Bankruptcy Code, 2016, seeking relief as follow;

- a. To set aside the second addendum dated 27.01.2025 to the Original Resolution Plan.*
- b. Declare the 33rd CoC meeting and any resolutions passed therein, including the approval of the second addendum, as invalid;*
- c. Pass such other and further orders as this Tribunal may deem fit and proper in the facts and circumstances of the present case.*

6. **IA(IBC)/399(CHE)/2025** is an Application filed by Usha K. Jolly Charitable Trust under Section 60(5) of the Insolvency and Bankruptcy Code, 2016, seeking relief as follow;

- a. To set aside the second addendum to the Resolution Plan dated 27.01.2025.*
- b. Such further order or orders and/or direction or directions be given as to this Tribunal may deem fit and proper.*



7. CORPORATE INSOLVENCY RESOLUTION PROCESS OF SABARI REALTORS PRIVATE LIMITED

- 7.1. On an Application filed under Section '7' of the IBC, 2016, by the Financial Creditor, the CIRP in respect of the Corporate Debtor was initiated by this Tribunal vide an order dated 30.09.2019. Mr. Swarnamani Ramasamy was appointed as the IRP.
- 7.2. This Tribunal subsequently replaced Mr. Swarnamai Ramasamy with Mrs. Geetha Sridhar as the Resolution Professional in respect of the Corporate Debtor by an order dated 13.01.2020 passed in MA/1339/2019 and thereafter replaced Mrs. Geetha Sridhar with the Applicant herein viz. Mr. S. Amarendran vide an order dated 15.06.2020 in IA/343/2020.
- 7.3. The RP constituted the Committee of Creditors with the following members;

S. No.	NAME OF CREDITORS	VOTING SHARE (%)
1	HDFC Limited	3.38%
2	Mr. R. Rakesh Seth	0.20%
3	Mr. S. Lakshmisubramaniam (Authorized Representative – Financial Creditors in a Class / Home Buyers)	96.42%

- 7.4. As per Regulation 27 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations 2016, the



Resolution Professional appointed two IBBI Registered valuers on 24.06.2020 (for Land & Building) and 29.07.2021 (for Securities and Financial Assets) for the Valuation of assets of the Corporate Debtor

- 7.5. The applicant has filed Form - H along with the Application which shows that a total of 16 CoC meetings were conducted in relation to the Corporate Debtor. As per Form- H, fair value of the Corporate Debtor is Rs. (– 49,47,41,420/-) (Negative of Rupees Forty-nine crores, forty-seven lakhs, forty-one thousand, four hundred and twenty only) and the liquidation value is Rs.1,07,954/- (Rupees One Lakh Seven Thousand Nine Hundred and Fifty-Four Only).
- 7.6. It is submitted that as per Regulation 35(a) of IBBI Regulations, 2016, the Applicant has found that there is no undervalued transaction (Under Section 45 of IBC 2016) Extortionate transaction (Under Section 50 of IBC,2016) and Fraudulent transaction (Under Section 66 of IBC 2016) with respect to the Corporate Debtor. It is submitted that the Resolution Professional had preferred two applications under Section 43 of IBC, 2016 as preferential transactions against:



- (i) *HDFC being the Financial Creditor for a sum of Rs.1,09,77,726/- in IA/901/2020 which was disposed of by this Tribunal vide order dated 14.12.2023.*
- (ii) *Erstwhile Promoter of the Corporate Debtor for a sum of Rs.5,10,00,626/- in IA/945/2021 which was withdrawn with liberty vide order dated 21.03.2024.*

7.7. It is submitted that, upon issuance of Form - G on 04.12.2021, an Expression of Interest was submitted by Mr. Sumit Khanna on 20.12.2021. The request for Resolution Plan along with Information Memorandum, Evaluation Matrix was issued to the PRA on 24.12.2021.

7.8. It is submitted that Mr. Sumit Khanna had made a request by way of e-mail dated 28.01.2022 seeking extension of time for submission of Resolution Plan. It is submitted that the Resolution Professional with a short notice called for a CoC meeting on 01.02.2022 and sought the approval of CoC for the submission of Resolution Plan by the PRA.

7.9. It is submitted that the PRA submitted Resolution Plan on 07.02.2022. Upon verification of the Resolution Plan, the Resolution Professional suggested certain amendments to be made to comply with the provisions of IBC, 2016. Thereafter, the Resolution Plan submitted by the PRA after compliance with the provisions of IBC 2016 was placed before the CoC for its approval on 17.02.2022.



7.10. It is submitted that in compliance with the provisions of IBC, the Applicant verified the eligibility of SRA in terms of Section 29A of IBC and also obtained requisite undertaking affidavit from the Resolution Applicant.

7.11. It is submitted that in the 16th meeting of CoC held on 17.02.2022, the Resolution Plan was approved with **96.62%** of CoC voting in favour. It is further submitted that in the e-voting of Class of Financial Creditors (homebuyers) (who constitute 96.42% of voting share) held from 18.02.2022 to 20.02.2022, the Resolution Plan was approved by 57% of the Homebuyers and 36.45% of Homebuyers voted against the Resolution Plan. Based on these results the AR (Mr S Lakshmisubramanian) for Home Buyers exercised 96.42% vote in favour of the Resolution Plan in accordance with Section 25A(3A) of IBC.

7.12. It is submitted that under these circumstances, IA(IBC)/250(CHE)/2022 has been filed seeking approval of the Resolution Plan.

8. EVENTS TRANSPIRED POST APPROVAL OF THE RESOLUTION PLAN BY THE CoC.



- 8.1. After the Resolution Plan was approved by the CoC, the RP filed IA(IBC)/250(CHE)/2022 seeking approval of the Resolution Plan by this Tribunal.
- 8.2. When the matter was taken up for hearing, following Applications were filed by a group of Homebuyers objecting to the Resolution Plan;
- (i) IA/840(CHE)/2022;
 - (ii) Ivn.P/4(CHE)/2022;
- 8.3 The above applications were filed by the Association namely M/s. Sabari Serenity's Ekambara & Margosa Apartment Buyers Association which was formed under the provisions of Tamilnadu Societies Registration Act by the homebuyers of two towers viz., "EKAMBARA" and "MARGOSA".
- 8.4. One of the main objections raised by the group of homebuyers was that the RP while reconstituting the CoC on 21.12.2021, released the Final List of Creditors, which manifests the fact that the RP included the "Land Owners" with a voting percentage of 57.35% as an Unsecured Financial Creditor. Further, the RP categorized the status of the Land owners as "Related Parties" as on 21.12.2021.



- 8.5. It is submitted that the action of the RP in permitting a Related Party to participate in the COC with voting rights is hit by the Proviso to Section 21(2) of 1 & B Code, 2016.
- 8.6. The applications IA/239/2022, IA/240/2022, IA/277/2022, IA/298/2022 and IA/317/2022 were filed by Home Buyers before this Tribunal seeking to declare that the constitution of CoC by including the Land owners i.e. 2nd to 4th Respondent as Financial Creditors is illegal and void ab-initio.
- 8.7. It is submitted that while the Applications mentioned above were pending adjudication, the Resolution Professional surreptitiously overturned his earlier decision of categorising the status of Landowners from "Related Parties" to "Non-related parties". It is stated that the said action exemplified the malice of the Resolution Professional who has been acting in connivance with the Landowners to bull-doze the legitimate rights of the Homebuyers for vested interest.
- 8.8. It is submitted that the updated list of creditors as on 28.02.2022, reflected the status of the Land Owners / 2nd to 4th Respondent herein as "Non-Related Parties".



8.9. On the objections raised by a group of home buyers, extensive hearings took place before this Tribunal. Considering the factual matrix as above and the submissions made by the objectors and at the behest of the parties who sought a way out by mediation and conciliation and also in order to find a viable solution to the stated problem, the Special Bench of this Tribunal appointed Mr. A. L. Somayaji, Senior Advocate as the Mediator vide its order dated 19.10.2022, as follows;

“.....In the course of submission all the above said applications under IBA/471/2019, this Tribunal observed that the viability of the Project depends on completion of construction of the building to enable the Home Buyers to occupy the premises. A suggestion was given that the Counsels in their respective matters will hold a meeting along with respective parties to resolve the issue amicably. Accordingly, with the guidance of Ld. Senior Counsel Mr. Somayaji assisted by the Ld. Counsel Mr. Rahul Balaji on behalf of Land Owners, the Ld. Counsels M Ramana Kumar for the SRA along with Ld. RP Mr. Armendran and Mr. B Dhanaraj for Home Buyers Association and others if any, will examine the feasibility of the issue without further disputes and inform developments/ outcome before this Bench in the next date of hearing to be held on 11.11.2022

8.10. The Mediator filed his interim report before this Tribunal on 27.03.2023. In the interim report, it was stated that some sort of consensus was arrived at between the parties. Thereafter, time was given to arrive at a final settlement.



The parties, thereafter had several extensive mediation meetings and, on many occasions, the mediator informed that there was light at the end of the tunnel

8.11. Finally, on 10.08.2023, the Mediator filed his final report before this Tribunal. The report is extracted hereunder;

1. *That the Tribunal by its Common Order dated 19.10.2022 made in Inton. Appln / 4 (CHE) 2022 and connected applications appointed the Mediator, to resolve the issues between the stakeholders of the Corporate Debtor.*
2. *Accordingly, the Mediator conducted a total of eight meetings on different dates with the Home Buyers, the Home Buyers Counsels, the Land Owners, the Land Owners' Counsels, the Resolution Applicant, the Resolution Applicant's representative, the Resolution Professional, the Authorized Representative of the Home Buyers appointed by the Hon'ble Tribunal and the Counsel for the Resolution Professional, in order to resolve the issues and to bring to a logical conclusion the Resolution Plan submitted by the Resolution Applicant.*
3. *The Association of homebuyers indicated that they represent 98 of the 144 apartments in the 2 towers, viz., Margosa and Ekambra. There are other homebuyers of other towers who are not part of the Association and number about 50.*
4. *That the 8th Meeting was convened, for recording the settlement of disputes amongst the parties and place the same before the Tribunal. The Home Buyers, the Resolution Applicant (Hereinafter referred to as "RA) and the Resolution Professional of the Corporate Debtor along with*



their representatives had discussed the final agreed settlement terms, and the President of the Homebuyers Association wanted to place the same before the Members of the Association for Approval.

5. *Subsequently, the Homebuyers insisted for payment to the Phase 1 Apartment owners Association a one-time fee of Rs.1,00,00,000/- (Rupees One Crore only) by the SRA towards the use of all existing infrastructure facilities such as roads, pathways, storm water drains, water recycling plant, Sewerage treatment plant etc. which will be available for use by future occupants of Part 2 of the project land and insisted on retaining other such clauses to which the SRA and the Landowner did not agree.*
6. *In view of the stand taken by the Home buyers, consensus could not be reached amongst the parties to the dispute and hence, the Mediation failed. Therefore, the present Report has been filed stating that the settlement could not be reached in the Mediation.*
7. *In the above background, the Mediator placed the Final Report for the consideration of the Hon'ble Tribunal.*

8.12. The final report of the mediator posited the fact that in view of the stand taken by the Homebuyers, consensus could not be reached among the parties to the dispute and the Mediation failed.

8.13. Be that as it may, in the meantime, the issue as to whether the Landowners under a Development Agreement can be



considered as a Financial Creditor under Section 5(8) of IBC, 2016 fell for consideration before the Hon'ble NCLAT in the matter of **Ashoka Hi-Tech Builders Pvt. Ltd. v Sanjay Kundra & Anr** in *Company Appeal (AT) (Insolvency) No. 46 of 2023*; wherein it was held that “since there was no disbursement for the time value of money by the Landowners, within the meaning of Section 5(8) of the IBC, they cannot be considered as Financial Creditor”.

8.15. Thereafter, on 12.01.2024, the Special Bench of this Tribunal passed the following order;

Ld. Counsel Shri. B. Dhanaraj stated that in view of the stalemate in the issue he will put across certain suggestion after holding a meeting of the home buyers association as to whether they will be inclined to take up the project in a process akin to Reverse Insolvency, as in the case of Flat Buyer's Association Winter Hills 77, Gurgaon vs Umang Realtech Private Limited, Company Appeal (AT) (INS)No. 926 of 2019 (NCLAT).

Ld. Counsel Mr. Dhanaraj undertakes to file Affidavit to the above wherein the home buyers will suggest modalities for resolving the issue. A meeting with the Home Buyers Association will be held and it will include all stakeholders. It was suggested that the earlier term of arrangement will also be reviewed so that all parties are fairly benefitted by such scheme of arrangement. This time it is informed that all home buyers will have to take a lead to resolve the issue.



We accede to the request of the home buyers as suggested above. RP to enable a proper meeting of all stakeholders. At request of the parties, list the matter on 22.03.2024.

8.16 Pursuant to the above said order, Ld. Counsel Shri B. Dhanaraj filed his Affidavit vide SR No. 148 before this Tribunal and the same was recorded in the order dated 18.04.2024 passed by the Special Bench of this Tribunal. Further, on the said date, the Special Bench comprising of Hon'ble President and Shri Sameer Kakar, Member (Technical) opined that it would be appropriate to hear all the matters by a Regular bench at Chennai. Accordingly, a direction was issued to the Registry to list the matter before Hon'ble President for getting appropriate orders for listing the matter before the Regular Bench.

8.17. Thereafter, all the matters pertaining to the Corporate Debtor were listed before this Bench on 15.07.2024 and fresh hearing on all the applications commenced. After hearing the parties, this Tribunal on 23.10.2024 passed the following order;

In IA/250(CHE)/2022, while approving resolution plan by the class of home buyers, approx. 56% only voted in favour of the plan and remaining opposed the plan.

Ld. Counsel for home buyers, during the proceedings informed the Tribunal that sizeable home



buyers opposed the plan as the SRA proposed to charge additional construction cost for completion of the two blocks despite he getting huge profit by way of constructing and selling the remaining blocks as huge land bank is still available for development.

Let SRA / RP explain by way of Memo as to how the following factors have been considered in the resolution plan:

- 1) How much developmental rights is still available for future construction?*
- 2) Brief statement of Economics (Revenue vs Expenditure) for the future construction.*
- 3) Whether as per revised norms any additional FSI is available and whether that has been factored in the working?*
- 4) Whether cross subsidization to the existing home buyers is possible? If so the details.*

Let the memo be filed before the next date of hearing.

List all the applications for hearing on 12.11.2024 at 2.30 pm.

8.18. Pursuant to the aforesaid order, the Resolution Applicant filed the memo before this Tribunal clarifying the above referred questions. On 11.12.2024, this Tribunal passed the following order;

Heard.

The project involves about 9 acres of land where the Corporate Debtor had conceived to construct 13 residential towers and one commercial tower.



The Corporate Debtor completed the 5 towers which have been occupied by the Flat owners and the same are not the part of the CIRP.

There are two partially constructed towers which accommodate 144 flats. We are informed that the structural work of these towers is complete and only internal works are to be carried out.

Ld. Counsel Shri. A.R. Ramanathan representing the Association of home buyers of these two towers accompanied by Shri. Ganesh Baliga, President of the Association, on instructions submit that the Flat Buyers are willing to complete the balance construction / work of their own without paying or taking any money from anyone including the SRA.

It is stated that certain approvals are required from the Authorities for starting the work again. According to the SRA, there will be an approximate expenditure of Rs. 2.75 Crores for taking approvals in respect of remaining three towers.

Shri. Sumit Khanna appearing for the SRA submits that he is willing to incur initial expenses for taking the approvals subject to reimbursement by the Association of two towers on actual expenses basis and production of bills/invoices. The President representing the Association submits that Association will pay/reimburse the amount within two months from the date of production of bills/invoices.

It is suggested that the aforesaid two towers be taken out of the plan and be completed independently, however the sale deed or other formalities will be done by the RP/Monitoring Committee on actual expense basis.



SRA proposes to construct a third tower for 52 allottees in the other towers to be constructed, where it is stated that 31 sale deeds have been registered. The proposed flats in the third tower are 72. It is offered by the SRA that option will be given to the allottees of third tower to complete the construction of their own and sell the balance inventories.

In respect of remaining land to be developed, SRA has proposed construction of some villas, as per the plan and the land owners will be settled from this project.

As regards payment to HDFC, the dissenting Creditor, SRA submits that in the plan, he has proposed Rs. 50 Lakhs or the liquidation value.

Shri. Rahul Balaji appearing for the Land Owners submit that there are three land owners in respect of entire 9 acres of land. Only two land owners. had given power of attorney to the Corporate Debtor permitting the mortgage of the Corporate Debtor's share of 73% to the LIC Housing Finance Ltd.

Thereafter, no further authorization was given and the mortgage in favour of HDFC is without the authority of the land owners. The said fact has also been endorsed by the RP.

Ld. Counsel Shri. Rahul Balaji further submits that even if the land owners are excluded from the CoC, but on the basis of the submissions as above, the flat buyers of two tower would constitute more than 65% and as per IBBI Regulations, if the Home Buyers as a class, have more than 51%, the same will constitute to 91% voting which is more than 66% which is requisite for approval of the resolution plan. Shri. Rahul Balaji submits that considering the above, the land owners



have no objection if they may be excluded from the CoC for voting on the resolution plan.

As regards remaining common services in respect of three towers, Ld. Counsels for the parties (SRA and Home Buyers) submit that they will share the actual expenses proportionately.

List the applications for further hearing on 16.12.2024.

Let the affidavits be placed before the RP by the Association of the Home Buyers and Land owners for reconstitution of the CoC.

8.19. Thereafter on 16.12.2024, this Tribunal passed a detailed order, which is as follows;

Ld. Counsel appearing for the Flat Buyers of two Towers submits that the flat buyers have given the affidavits to the RP.

Ld. Counsel for the Land Owners submits that Land Owners have also given the affidavit to the RP.

Ld. Counsel appearing for the RP who is also present in person submits that pursuant to the affidavits received, RP has reconstituted the CoC. RP has also e-filed the List of Creditors / Reconstitution of the CoC. Registry is directed to accept the hard copy.

As regards the third tower, RP submits that he discussed the issue with the remaining Flat Buyers. Most of the flat buyers want refund, but in the plan submitted by the SRA, refund has not been offered.

RP submits that as per the plan, SRA will bear the CIRP cost and proportionate expenditure on the



statutory compliances as to the approvals etc. and pay Rs.50 Lakhs / liquidation value to HDFC Bank, the dissenting creditor. He submits that the SRA will have the rights to develop the balance land by constructing villas having about 84% rights.

RP submits that RP is contemplating to call a meeting of the Land Owner / SRA and the remaining allottees other than the allottees of two towers in a weeks time to discuss the issue in respect of proposed Tower No.3.

Addendum is stated to be e-filed. Registry is directed to accept the hard copy.

Let the affidavits and the outcome of the meeting be placed before the CoC for decision in this matter.

List the applications on 08.01.2025 for further hearing.

8.20. Pursuant to the aforesaid order, the Applicant / RP filed an Affidavit before this Tribunal 03.01.2025, interalia stating that the Applicant / RP conducted meetings on 17.12.2024 and 30.12.2024 for the Home Buyers other than the allottees of two Towers, i.e., Margosa and Ekambara, along with the Land Owners, to discuss settlement of their claims with the Successful Resolution Applicant. It is stated that earlier the Land Owners had claims admitted for Rs.87.70 Crores which were 57.36% of CoC voting share, and based on the Affidavits received from the Home Buyers dated 13.12.2024 and the Land Owners



dated 14.12.2024, CoC was reconstituted by removing the Land Owners and the reconstituted CoC as on 15.12.2024 is as follows:

Category	Admitted	Allowed	Voting %	Disallowed
Secured FC	20,65,84,048	5,16,22,274	7.92%	15,49,61,774
Unsecured FC	30,20,283	30,20,283	0.46%	
FC in class	1,76,60,48,525	59,71,90,419	91.62%	1,02,25,67,637
Total	1,97,56,52,856	65,18,32,976	100%	1,17,75,29,411
Ops Creditor	97159032	19276878		77882154
PF	189290	189290		
Total	2,07,30,01,178	67,12,99,144		1,25,54,11,565

8.21. It is submitted that the Resolution Professional also conducted two CoC meetings on 20.12.2024 (31st Meeting) and 28.12.2024 (32nd Meeting) wherein the Addendum from the Successful Resolution Applicant was placed before the CoC for its decision. However, the CoC voted to **reject** the Addendum with **99.54%** of votes in respect of the Resolution Plan dated 16.02.2022.

8.22. The aforesaid fact was brought to the notice of this Tribunal on 08.01.2025 and this Tribunal passed the following order;

Affidavit filed by the RP vide S.R. No. 97 dated 06.01.2025 annexing the copy of the minutes of the Homebuyers meeting, CoC meetings, revised addendum from the SRA and e-voting results against the Resolution Plan.



We have heard Ld. Counsels for the parties at length including the SRA. The Flat buyers have raised apprehensions for which the SRA is willing to give clarity by giving additional addendum/affidavit.

Let another CoC meeting be conducted to explore all the possibilities/eventualities and to discuss the pros & cons and thereafter an informed decision be taken.

List all the applications on 07.02.2025 for hearing.

8.23. The Applicant / RP thereafter, issued a notice on 14.01.2025 for calling the 33rd CoC meeting for 25.01.2025. In the said meeting the 2nd Addendum to the Resolution Plan was placed before the CoC for approval. Based on the meetings with Financial Creditors in a class, certain changes were incorporated and the finalized version of the Second Addendum dated 27.01.2025, was placed for e-voting on 29.01.2025 and 30.01.2025. **The Resolution Applicant had submitted that the 2nd Addendum should be read and voted in conjunction to the approved Resolution Plan.**

8.24. The 2nd Addendum dated 27.01.2025 submitted by the Resolution Applicant was **approved** by the CoC with **91.62%** voting in favour. The said fact was brought to the knowledge of this Tribunal and on 07.02.2025 this Tribunal observed as follows;



Affidavit filed by the RP giving a tabulation of CIRP process.

It is stated that the Landowners claims were earlier admitted for Rs.87.70 crores which had 57.36% of CoC voting share. Based on the Affidavit received from the Homebuyers dated 13.12.2024 and Landowners dated 14.12.2024, the CoC was reconstituted excluding the Landowners on 15.12.2024, which is reproduced as below: -

Category	Admitted	Allowed	Voting %	Disallowed
<i>Secured FC – HDFC</i>	20,65,84,048	5,16,22,274	7.92%	15,49,61,774
<i>Unsecured FC – Rakesh P Seth</i>	30,20,283	30,20,283	0.46%	
<i>FC in Class Homebuyers Represented by AR</i>	1,76,60,48,525	59,71,90,419	91.62%	1,02,25,67,637
Total	1,97,56,52,856	65,18,32,976	100%	1,17,75,29,411
<i>Ops Creditor</i>	9,71,59,032	1,92,76,878		7,78,82,154
<i>PF</i>	1,89,290	1,89,290		
Total	2,07,30,01,178	67,12,99,144		1,25,54,11,565

It is stated that this Tribunal vide Order dated 08.01.2025 had directed the RP to conduct another CoC, since the CoC had rejected the first Addendum dated 27.12.2024 in the meeting held on 28.12.2024.

It is stated that pursuant to the Order dated 08.01.2025, notice dated 14.01.2025 was given for calling the CoC meeting on 25.01.2025 with the following Agendas.

- i. To confirm the Minutes of Thirty second CoC Meeting held on December 28, 2024.*
- ii. Update on status of Resolution plan submitted to NCLT Chennai and seek approval of Addendum to Plan received on December 14, 2024.*



- iii. *Update on CIRP, financial positions and all pending legal proceedings including those instituted by RP and those initiated against RP by CoC members*

It is stated that items were placed for voting / approval which are reproduced as under:-

- iv. *To approve addendum to Resolution Plan submitted by RA.*
- v. *To approve resolution for Liquidation of Corporate Debtor.*
- vi. *To approve estimate for Liquidation costs to be shared by CoC in ratio of voting share.*
- vii. *To ratify and approve CIRP costs incurred, and payments made by RP till date.*

It is stated that based on the Meetings with the Creditors, certain changes are incorporated and final version of 2nd Addendum dated 27.01.2025 was placed for evoting on 29.01.2025 and 30.01.2025 having the following key elements.

I. The Project shall be split into three parts on Approval Date.

a. Part-I comprising.

- i. *Five completed towers: Acacia, Asoka, Neem, Palash, Peepul*
- ii. *Two under construction towers: Ekambara and Margosa.*

b. Part-II of Project Land shall comprise of balance land (apart from Part 1 and 3) wherein the SRA shall undertake



fresh residential/commercial development of 1,00,000 to 3,00,000 sq.ft. saleable area.

c. Part-III of Project Land shall comprise of land space for one more tower, hereinafter referred to as New Tower, to accommodate balance Allottees ("Allottees of New Tower") other than those who are Allottees in the towers as mentioned in Part-I and whose claim has been admitted. Allottees will get their unit in accordance with options in plan as also their proportionate UDS (Option 1-refund, Option 2-Construction on their own. Option 3- to be constructed by SRA at Rs.4000/- per sq.ft along with additional cost).

II. The Registration of pending sale deeds shall be commenced within 15 days of HDFC claim settlement subject to compliance of TN state government registration department regulation pursuant to approval of Approved Resolution Plan by Hon'ble NCLT.

III. Registration with TNRERA:

a. Association of homebuyers of Ekambara and Margosa, namely Sabari Serenity's Ekambara & Margosa Apartment Buyer Association, shall be the body responsible for completion of the two unfinished towers namely Ekambara and Margosa in Part I of Project Land and compliance with various responsibilities and compliances under TNRERA and other regulatory bodies as owner/promoter of the project for Part I. The SRA/ Corporate Debtor shall facilitate registration of Part 1 with TNRERA.

b. The SRA / Corporate Debtor shall be responsible to comply with TNRERA for Part 2 of Project Land only.

c. If the Allottees of New Tower select Option 2 or 3 of Clause 8 of this 2nd Addendum, representatives of such homebuyers (ie. an association of homebuyers of New Tower in Part III) shall be the body responsible for completion of Part III of Project Land and compliance with various responsibilities and compliances under TNRERA and other regulatory bodies as owner/ promoter of the project for Part



III The SRA/ Corporate Debtor shall facilitate registration of Part III with TNRERA.

IV. The entire unpaid CIRP costs will be paid by the SRA (estimated Rs. 1.2 crs) as stated in the Resolution Plan.

V. As per the Second Addendum a sum of Rs 25 lakhs or liquidation value whichever is higher was proposed to be given to HDFC Ltd, if they vote in favour of the plan. However, HDFC Ltd. thereby being entitled to, has voted against the Plan and remained as a dissenting financial creditor.

VI. Proposal for Allottees of Ekambara and Margosa.

a. Allottees shall complete construction of their respective towers at their own cost and take possession of their respective units.

b. Admitted claims of Allottees of these towers shall have been settled in full and in finality upon renewal of approvals for restart of development for Part-1 by Resolution Applicant.

c. It is to be noted that the timeline for completing the construction of Ekambara and Margosa to be confirmed by Home buyer Association.

VII. Options proposed for Allottees being reallocated units/ beneficial interest in New Tower.

a. Refund to Allottees.

b. Construction of New Tower by allottee.

c. Construction of New Tower through SRA.

It is stated that the 2nd Addendum was approved by 91.62% in the e-voting on 30.01.2025 as tabulated below: -

S. No.	NAME OF CREDITOR	VOTING SHARE (%)	VOTING FOR RESOLUTION PLAN
1	HDFC Limited	7.92	Dissented
2	Rakesh P. Seth	0.46	Abstained (did not vote)



3	<i>S. Lakshmisubramaniam, Authorized Representative – Financial Creditors in a Class)</i>	91.62	<i>Voted in favour of the Plan</i>
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The RP has placed the results of e-voting at page 126 to 129 of the Affidavit including the Form-H compliance Certificate at page 130 to 142 along with the minutes of the meeting at page 51-60.

In the Affidavit, summary of plan has also been given at page 12 to 49.

Ld. Counsel Mr. Rahul Vivek appearing for the two Towers Homebuyers Association submits that they have no objection if the plan be approved.

However, Ld. Counsel Mr. S.Rajasekar appearing for the Trust(s), holding 9 Flats in Tower–3 expressed some constraints. He submitted that he has filed two Applications which are yet to be listed.

Mr. Rahul Balaji appearing for the Landowners submits that as per the discussions on the previous dates, the Landowners are not the part of the CoC and have no objection if the plan be approved.

Ld. Senior Counsel Mr. Ramakrishan Viraraghavan appearing for the HDFC Ltd. raised objections on the Plan. He submits that HDFC Ltd. has already filed an Application and in the new Application to be filed by the HDFC Bank, it is reiterating the objections. He submits that since the Landowners have been excluded from the CoC, his objection as to the inclusion of Landowners in the CoC has already been taken care of in the Addendum.

Arguments on the plan partly heard.

List the Plan / Addendum and the Applications for further hearing on 21.02.2025.



8.25. When the matter was listed for hearing before this Tribunal on 21.02.2025, the Counsel for the Landowners informed that their applications as to the objection to the Resolution Plan do not survive in view of the reconstituted CoC and the approval of the 2nd Addendum to the Resolution Plan. Recording the submissions IA(IBC)/840(CHE)/2022; Inv.P(IBC)/4(CHE)/2022; IA(IBC)/1158(CHE)/2022; IA(IBC)/435(CHE)/2022; IA(IBC)/436(CHE)/2022 filed by the Landowners were disposed of / dismissed by this Tribunal vide common order dated 21.02.2025.

8.26. On 11.03.2025, when this application was listed for hearing, this Tribunal passed the following order;

IA/381/2025 has been filed by HDFC Bank for setting aside the 2nd addendum dated 27.01.2025 to the original resolution plan and to declare 33rd CoC meeting and any resolution passed therein including approval of the 2nd addendum as invalid.

IA/399/2025 has been filed by Usha K Jolly Charitable Trust for setting aside the 2nd addendum to the resolution plan dated 27.01.2025.

Reply filed by the RP to both the applications i.e. IA/381/2025 and IA/399/2025.

Brief synopsis along with response also filed by the RP vide Sr. No. 987 dated 10.03.2025 in IA/250/2022.



Arguments on behalf of the RP, SRA and HDFC Bank partly heard.

List all the applications for further arguments on 19.03.2025. (physical hearing at 02.30 pm)

8.27. After hearing the arguments of the parties at length, the matter was reserved for orders on 30.04.2025. On verification from the DMS portal, it is found that only one application, IA(IBC)/399(CHE)/2025 was filed by the Usha K Jolly Charitable Trust.

9. OBJECTIONS TO THE RESOLUTION PLAN

9.1. The HDFC Ltd and Usha K Jolly Charitable Trust have filed their objections to the Resolution Plan and also to the 2nd Addendum. The following are the IA's filed by the objectors:

- (i) IA(IBC)/732(CHE)/2022
- (ii) IA(IBC)/381(CHE)/2025; and
- (iii) IA(IBC)/399(CHE)/2025

9.2. In **IA(IBC)/732(CHE)/2025**, the HDFC Ltd. had raised objection to the inclusion of the landowners as Financial Creditors (Home Buyers). From the facts as narrated in the preceding paragraphs, it is seen that the Landowners were excluded from the CoC and the CoC has been



reconstituted with the Home Buyers in a class. Further, on 07.02.2025, the Learned Counsel for HDFC Ltd. submitted as follows;

Ld. Senior Counsel Mr. Ramakrishan Viraraghavan appearing for the HDFC Bank raised objections on the Plan. He submits that HDFC Bank has already filed an Application and in the new Application to be filed by the HDFC Bank, it is reiterating the objections. He submits that since the Landowners have been excluded from the CoC, his objection as to the inclusion of Landowners in the CoC has already been taken care of in the Addendum.

Thus, from the submissions made above, the objections as to the inclusion of Landowners in the CoC have already been taken care of in the Addendum. Hence, we proceed on to the objection raised by the HDFC Ltd. in the Addendum to the Resolution Plan in IA(IBC)/381(CHE)/2025.

9.3. **In IA(IBC)/381(CHE)/2025**, it is submitted that the payout to HDFC Ltd. was unilaterally reduced from INR 2.58 crores in the original Resolution Plan to INR 0.50 crores in the February 16, 2022 and further to INR 0.25 crores in the latest addendum, without any justification or prior consultation. This reduction discriminates the interest of HDFC Limited by prioritizing the interests of homebuyers over the secured financial creditors and violates Section



30(2)(b) of the IBC, which mandates for equitable treatment to the creditors.

9.4. It is submitted that, while homebuyers of the completed and under-construction towers (Acacia, Asoka, Neem, Palash, Peepul, Ekambara, and Margosa) have been considered as financial creditors, the homebuyers of the New Tower have been excluded from the resolution process by the SRA without properly analysing their claims. These affected homebuyers have already challenged the validity of the addendum and its impact on their rights, raising serious concerns about the preferential treatment within the CoC.

9.5. It is submitted that Section 12(1) of the IBC, 2016 mandates that the CIRP be completed within 180 days from the date of initiation, with a permissible one-time extension of 90 days. However, continuous submission of amendments and addendums beyond this period have caused undue delays and disrupted the regulatory framework of CIRP, undermining the objective of a time-bound insolvency resolution. Furthermore, no extension of time was sought granted by the adjudicating authority. Therefore, the addendum cannot be sustained as beyond the time limit provided under IBC.



- 9.6. It is submitted that the 32nd CoC meeting rejected the first addendum, yet the 33rd CoC meeting was convened without any legal basis to approve another revised addendum. This meeting and the revised addendum approved therein are illegal, as it contravene the CIRP regulations and the provisions of the IBC, 2016.
- 9.7. It is submitted that the RP had informed that HDFC Ltd. is entitled only to the liquidation value, yet the valuation process and basis for calculation were never disclosed. The lack of transparency in determining the liquidation value raises serious concerns regarding fairness and due process. The liquidation value appears to have been arrived at taking into account only the value of the development rights. It is submitted that, the land and the mortgages over the land are not the properties of the corporate debtor. HDFC Ltd's interests over the land and on the mortgages, cannot be affected using the liquidation value of the development rights. Reliance was placed upon the Judgment of the Hon'ble Supreme Court in the matter of **Victory Iron Works Ltd vs. Jitendra Lohia; 2023 SCC OnLine SC 260** and in the matter of **Jaypee Kensington Boulevard Apartments Welfare Association; (2022) 1 SCC 401**.



- 9.8. It is submitted that the classification of landowners as financial creditors and their inclusion in the CoC voting process were challenged by HDFC Ltd. and the homebuyers of the third tower, and this issue remained pending adjudication before the Tribunal. The approval of the second addendum while these legal challenges were unresolved is procedurally flawed and contrary to the principles of natural justice, IBC, Rules and Regulations thereunder.
- 9.9. It is submitted that the Resolution Plan had already undergone multiple revisions before it was submitted to the Tribunal, and allowing continuous amendments post-submission disrupt the sanctity of the CIRP framework and create unnecessary delays. The Tribunal should not have permitted the filing of addendums while applications seeking rejection of the plan were still pending, as such this action violates the principles of natural justice and fair procedure.
- 9.10. It is submitted that under IBC, 2016, there is no provision allowing amendments to a resolution plan once it has been submitted for approval. The submission of repeated addendums to the original plan is a violation of the IBC



and *ultra vires*, and should therefore be declared null and void. It is submitted that there can be an addendum to a resolution plan only if this is provided in the memorandum inviting interest, as per Regulations 39 (1A) IBBI (Insolvency Resolution Process for Corporate Persons) Regulation, 2016. In the present case, the RP has not pointed out any provision in the memorandum inviting interest in the present case which permits modification of the resolution plan. Therefore, there cannot be any addendum to this resolution plan and furthermore, under Regulation 39(1A), there cannot be more than one modification. Therefore, there cannot be a second addendum. This is contrary to IBBI Regulations. It is submitted that, the resolution plan cannot be withdrawn or modified after submission to the adjudicating authority. In this regard, reliance was placed upon the Judgment of the Hon'ble NCLAT in the matter of **Kalinga Allied Industries India Private Ltd Vs. Committee of Creditors; Company Appeal (AT)(Ins) No.689 of 2021**

- 9.11. It is submitted that the original resolution plan itself has not been approved in accordance with law since the COC was improperly constituted at the time of approval. Further, IA/732/2022 filed by HDFC Limited, to reject the



original resolution plan on this and various other grounds is still pending for consideration. When the original resolution plan is not sustainable in law, the addendum to the resolution plan cannot survive. It is submitted that upon plain reading of the resolution shows that the reconstituted COC only approved the second addendum and it did not approve the entire revised resolution plan. This is contrary to law. In this regard, reliance was placed upon the Judgment of the Hon'ble Supreme Court in the matter of **MK Rajagopalan vs. Dr Periasamy Gounder; (2024) 1 SCC 42** and the decisions of Hon'ble NCLAT in the matter of **Dauphin Cables vs. Praveen Bhansal; Company Appeal (AT) Insolvency No. 971, 972 & 973 of 2023**

- 9.12. It is submitted that the addendum to the Resolution Plan deserves to be set aside on the grounds raised IA/732/2022 which grounds are reiterated and made part of this application. It is submitted that HDFC Limited holds mortgages over the lands belonging to the landowners. The lands and the mortgages are not the assets belonging to the Corporate Debtor. Therefore, the addendum to the resolution plan cannot affect HDFC Limited's interests over the mortgage or over the lands.



9.13. It is submitted that only the development rights over the land are the properties of the Corporate Debtor and only the development rights have been valued as liquidation value. The addendum cannot use the liquidation value of the development rights to set aside HDFC Limited 's rights over the land and the mortgage.

9.14. **IA(IBC)/399(CHE)/2025** has been filed by Usha K. Jolly Charitable Trust. The Trust was allotted 13 flats at 'Sabari Serenity' vide allotment letter dated 12.02.2015 viz. Flat Nos. 202, 203, 204, 301, 302, 303, 304, 402, 403 in tower Karpura, Flat No. 803 in tower Gulmohar, Flat No. 808 in tower Ekambara, Flat No. 608 in Tower Margosa, Flat No. 608 in tower Banyan in the Residential cum Commercial Property in Siruseri Village as against a total consideration for the flats and the UDS in land fixed at Rs.5,14,41,377/- (Rupees Five Crores Fourteen Lakhs Forty-one Thousand Three Hundred and Seventy-Seven only). It is stated that a letter of release of lien of the aforesaid apartments and UDS by HDFC Ltd. was also obtained on 18.12.2014 by paying a substantial sum of Rs.97 lakhs to them. Thereafter, Builders Agreement and necessary Sale Deeds for the undivided share of land for all the 13 flats were executed in favour of the Trust vide Doc. Nos.2435 of 2015 and 2436 of 2015 in the office of SRO, Thiruporur.



9.15. It is submitted that as per the Sale Deed dated 20.02.2015 registered as Doc. No. 2436 of 2015 in the office of SRO, Thiruporur, a total extent of 5862.38 Sq. Ft. comprised in Survey Nos.29/1, 27/1, 26/2, 29/1, 27/3, 26/1, 27/2, 28, 25/1A and 25/1B situated in Siruseri Village, Chengalpattu Taluk, Kancheepuram District, measuring a total extent of 344842 Sq. ft. or thereabouts and bounded on the NORTH by S. No. 220, EAST by S.Nos.24, 29/2 and 36, WEST by S. Nos. 39 and 220 and Road, and SOUTH by S.Nos. 30, 29/2, 36, 37, and 39 was conveyed in favour of the Trust.

9.16. It is submitted that the trust was allotted Flat No. 608 in Tower Margosa with a UDS of 348.96 sq. ft. and Flat No. 808 in Tower Ekambara with a UDS of 348.96 sq. ft. Excluding the said two apartments which are in the process of completion, the trust holds the following undivided share in the entire extent of the property in respect to the new unconstructed towers:

S. No.	APT. NO.	TOWER	UDS (IN SQ. FT.)
1	202	Karpura	481.55
2	203	Karpura	481.55
3	204	Karpura	481.55
4	301	Karpura	481.55
5	302	Karpura	481.55
6	303	Karpura	481.55
7	304	Karpura	481.55
8	402	Karpura	481.55



9	403	Karpura	481.55
10	803	Gulmohur	481.55
11	608	Banyan	348.96
Total			5164.46

9.17. It is submitted that out of 13 apartments, 2 apartments were allotted at Ekambara and Margosa where 70% works were completed and 11 Apartments were allotted to the new tower which is not even constructed. In 2017 and 2018, due to financial distress, the Corporate Debtor transferred the development rights of the Property to M/s. Pioneer Homes through a Memorandum of Understanding (MoU) dated 02.06.2018. Subsequently, M/s. Pioneer Homes took over the project and demanded outstanding payments from the homebuyers, many of whom complied. Although the Information Memorandum indicates that the said MoU has been cancelled, but no such intimation was provided to the homebuyers. It is stated that in a case filed before the Tamil Nadu Real Estate Regulatory Authority (TNRERA), it was held that M/s. Pioneer Homes is also liable to complete construction and hand over possession of flats to the homebuyers. The Tamil Nadu Real Estate Appellate Tribunal (TNREAT) also found that Pioneer Homes have taken over the management of the Corporate Debtor. It is stated that, the said orders have attained finality.



9.18. It is submitted that pursuant to filing of Petition IBA/471/2019 by Mr. Rakesh P. Sheth, this Tribunal, by Order dated 30.09.2019, admitted the petition and initiated the CIRP. The homebuyers submitted their claims and were categorized as unsecured financial creditors. The Trust also submitted its claims as well as proof of claims in Form CA in the month of February 2020 and the same were accepted. The Landowners also filed claims, which were admitted as allottees of flats in the Development Property. It is stated that, the admission of their claims as Financial Creditors is legally untenable, as their claims arise from alleged loss of profits under the Development Agreement, rather than from any financial debt as defined under Section 5(8) of IBC, 2016.

9.19. It is submitted that by Order dated 15.06.2020 in I.A. No. 343/IB/2020 this Tribunal appointed the Resolution Professional (RP). Despite multiple objections, the RP proceeded with the illegal constitution of the Committee of Creditors (CoC), granting the Landowners a voting percentage of 57.35%, thereby prejudicing the interests of homebuyers.

9.20. It is submitted that in the 16th CoC meeting held on 17.02.2022, the RP accepted the Resolution Plan submitted by Mr. Sumit Kumar Khanna without rectifying the illegal



constitution of CoC. The said Plan imposes unreasonable financial burdens on homebuyers, violating the Real Estate (Regulation and Development) Act, 2016 ("RERA Act").

9.21. It is submitted that the Successful Resolution Applicant then submitted an addendum to the Resolution Plan dated 27.12.2024 and later submitted 2nd addendum to the resolution plan dated 27.01.2025. The RP and SRA have failed to consider the interest of the allottees of the unconstructed towers and have given three options in the addendum:

Completion of New Tower

- i. *Allottees of New Tower, shall collectively decide and choose amongst the following options and communicate their decision in writing to SRA not later than 45 days from approval of the Approved Resolution Plan by Adjudicating Authority. Allottees of New Tower with admitted claims of more than 50% voting share from amongst these Allottees of New Tower should agree to an option and such option shall be binding on Allottees of New Tower. If no decision is taken by Allottees of New Tower or it is not communicated to the SRA within 45 days from approval of Approved Resolution Plan, then the default selected option shall be Option 1 and the same shall be applicable and binding on all Allottees of New Tower.*

ii. Option 1: Refund to Allottees

Allottees of New Tower in Part 3 of the Project Land may sell/transfer their Undivided Share (UDS) in Project Land to the SRA/Corporate Debtor against a consideration of INR 1,000/sq.ft. of UDS of sellable area. The SRA/



Corporate Debtor shall pay 50% of the consideration within 45 days from Effective Date and balance consideration within 12 months from Effective Date. Upon communication of selection of Option 1 in writing to the SRA/Corporate Debtor, the SRA/ Corporate Debtor shall be free to deal with the New Tower / associated land of Part 3 as deemed fit and may choose to merge it with Part 2 of Project Land or complete construction of New Tower for sale to other potential buyers and no share of revenue from this is payable to Landowners.

iii. Option 2: Construction of New Tower by Allottees

- a) Allottees of New Tower, through their association (whether constituted or to be constituted) shall complete construction of their respective towers at their own cost and take possession of their respective units. Admitted claims of Allottees of New Tower shall have been settled in full and in finality upon receipt of approvals/sanction plan for Part 3 by SRA/ Corporate Debtor.*
- b) The Allottees are required to reimburse cost as per invoices raised and applicable taxes for the Part 3 Approval Cost in full within 2 months of demand for reimbursement after receipt of such approvals. The SRA/Corporate Debtor shall, on best effort basis and in a legally compliant manner, see that the invoicing to association of Allottees of New Tower be in a tax efficient manner and to extent possible reimbursable/ directly payable by association of Allottees of New Tower to the relevant authority/vendor/service provider.*
- c) If the Part 3 Approval Cost is reimbursed in full within 2 months of demand, the SRA/ Corporate Debtor shall forego its economic interest in any unsold unit/ area in New Tower for collective benefit of the Allottees of New Tower.*
- d) If costs of common areas, services and amenities is incurred by Allottees of New Tower and its beneficiary is Part 2, then SRA/Corporate Debtor shall reimburse its share of*



cost. If costs of common areas, services and amenities is incurred by SRA/Corporate Debtor and its beneficiary is Allottees of New Tower, share of cost to SRA/ Corporate Debtor. The Allottees of New Tower agree that the SRA/ Corporate Debtor shall have right to restrict access to and usage of such common areas/ amenities/services to such Allottees of New Tower who do not reimburse such costs to the SRA/ Corporate Debtor within 2 months of date of demand for reimbursement by the Corporate Debtor.

- e) Allottees of New Tower are required to reimburse only Part 3 Approval Cost, common areas/services/ amenities (if applicable), and any direct expense (towards lawyers/ legal documentation etc.) incurred by SRA/ Corporate Debtor for registration of sale deed.
- f) Allottees of New Tower may collectively or through association of Allottees of New Tower deal with any defaulting Allottee of New Tower in the manner they deem fit including cancellation/resale of such unit in the larger interest of the Allottees of New Tower and shall remain responsible for the same.

iv. Option 3: Construction of New Tower through SRA

Allottees of New Tower in Part 3 of the Project Land may seek SRA's Assistance for completion of New Tower in Part 3 of the Project Land and shall pay to the SRA/ Corporate Debtor towards construction cost and management fee @ INR 4000/sq.ft. saleable area and also provide their share of costs towards common areas, services and amenities as per mechanism provided in sub clauses d, e, and f of clause 6.1.2.v.3.Option 2 of the Approved Resolution Plan. SRA/Corporate Debtor shall forego its economic interest in any unsold unit/ area in New Tower to subsidize cost of construction of New Tower for collective benefit of the Allottees of New Tower upon reimbursement of Part 3 Approval Cost. The SRA shall not be required to provide any other support including arrangement of funds for construction of New Tower, and the timely completion



of New Tower shall be dependent upon Allottees of New Tower paying dues on a timely basis."

9.22. It is submitted that the options provided to the allottees of the unconstructed tower by the SRA in the 2nd addendum is only self-serving and the same is not acceptable by the Applicant. The Applicant was allotted 13 Apartments with consolidated super built-up area of 16,689 sq.ft. and undivided share of land of 5,862.38 sq.ft of which 11 apartments lie in the new tower. In accordance with the allotment, the applicant was allotted an apartment at the rate of Rs. 2,700/- per square feet (excluding other Charges).

9.23. It is submitted that in the **Option 1** provided by the SRA in the 2nd addendum to the resolution plan, the SRA has offered to refund at the rate of Rs. 1000/- per square feet of UDS, which is atrocious. The applicant was allotted 13 apartments for a total sale consideration of Rs.5,14,41,377/- therefore for 11 apartments the sale consideration was around 4 Crores in the year 2015 itself. Now under this refund scheme provided under option 1 by the SRA the applicant will be put to huge loss as the total refund amount will not even be 1/10th of the original consideration.



9.24. It is submitted that in the **Option 2** provided by the SRA in the 2nd addendum to the resolution plan, the allottees of the new tower can construct the tower through the Association at their cost and take possession of their respective units. It is stated that there is no association with reference to the new tower as on date and this option provided by the SRA is not at all viable. Moreover, the applicant being a trust has already invested a substantial sum in the project and the project has been at a standstill for almost a decade. Being a major allottee investing again to construct through the association is senseless and is not viable to the applicant.

9.25. It is submitted that in the **Option 3** provided by the SRA in the 2nd addendum to the resolution plan, the SRA will construct and hand over the new tower at the construction cost and management fee of Rs. 4,000/-Per sq. ft. It is stated that the growing rate of new constructed apartments in that area is very low. Considering the fact that the Applicant trust has already invested a substantial amount in the project, it is senseless to again pay a sum of Rs. 4000/- per sq.ft.

9.26. It is submitted that the SRA and the RP have not considered the interest of the allottees of the new tower in the 2nd Addendum to the resolution plan. Especially



considering the fact that the applicant is a trust and trust cannot be put to loss. The 2nd Addendum to the resolution plan was circulated by the RP in the 33rd CoC and the same was approved by the CoC vide e-voting. The creditors voted in favour of the resolution plan mostly with reference to the ongoing two Towers, Ekambara and Margosa and the allottees of the new unconstructed tower have only few votes. Since 2nd addendum to the resolution plan is not in the interest of the allottees of the new unconstructed tower and the applicant, the same is liable to set aside.

10. REPLY TO THE OBJECTIONS BY RP & SRA

10.1. It is submitted that HDFC Ltd., the dissenting financial creditor, has filed the application seeking to set aside the 2nd Addendum to the Resolution plan dated 27.01.2025 on the ground that its payout was reduced from ₹2.58 crores to ₹0.25 crores without justification however in the present case the HDFC has been the dissenting financial creditor in the Resolution plan as well as the addendum and therefore the payout would depend on the outcome of the CIRP.

10.2. It is submitted that the Homebuyers were aware of the original plan submitted on 16.02.2022, and subsequently



when the Resolution plan along with the addendum was placed on 27.01.2025, the homebuyers approved the plan. It is stated that, the argument is flawed pertaining to the amendment of the Resolution plan as it is a trite law that a Resolution plan can be amended once, which is allowed under Section 30(4) of the Insolvency and Bankruptcy Code (IBC) and the present second addendum is of clarificatory nature and does not introduce any new elements to the Resolution Plan. The COC approved the Second Addendum dated 27.01.2025, after thorough explanations and consideration of concerns. The main point of dispute is that HDFC, as a financial creditor, is demanding the entire sum on which the charge was created, which may not be feasible in the current situation. The application should not be entertained as the sum has been fixed according to Section 53(1) IBC, 2016. A creditor's inclusion in the Committee of Creditors doesn't affect prior decisions. This is mandated under Regulation 12(3) of the IBBI Regulations, 2016.

- 10.3. In relation to the objection raised by Usha K. Jolly Charitable Trust, it is submitted that the Usha K. Jolly Charitable Trust, a homebuyer and member of the CoC, has filed an application seeking to set aside the 2nd Addendum to the Resolution plan dated 27.01.2025. The



Trust claims entitlement to 11 apartments, apart from the two allotted apartments in Margosa and Ekambra, and holds Undivided Share (UDS) for the same.

10.4. It is submitted that the Trust's primary contention revolves around the newly constructed tower, as per the approved Resolution plan, and objections to the refund scheme. Notably, the Trust remained inactive since the inception of CIRP until the RP and the Authorized Representative (AR) reached out for discussions. Even during the approval of the Second Addendum dated 27.01.2025, the Said Trust did not participate in the e-voting. The Trust's delayed objections, raised three years after the Resolution Plan submission, focus on not receiving an amount equalizing to its contribution to the Corporate Debtor. In support of the contention, the following judgments were relied upon by the RP.

(i) **M/s. DMI Finance Pvt. Ltd. V/s. M/s. Abloom Infotech Pvt. Ltd** dated 01.08.2023 in CP (IB) 2115/ND/2019.

(ii) **M/s. Srei Infrastructure Finance Ltd vs. Worlds Window Infrastructure & Logistics Pvt Ltd.,** (IB)-943(PB)/2020 IA 5392/2023, IA -3914/2023, IA3389/2023, IA -3979/2023



(iii) **The Committee of Creditors of Essar Steel India Limited vs. Satish Kumar Gupta & Ors.,** *Civil Appeal No. 8766-67 of 2019, vid its judgement dated 15.11.2019*

(iv) **Ravi Shankar Vedam Versus Udhyaman Investments Private Limited and Others** *decided by NCLT, Chennai vide order dated 09-07-2019*

(v) **Essar Steel India ltd. V. Satish Kumar Gupta & Ors** (2020) 8 SCC 531

10.5. **The SRA has filed his reply** to the objections. It is stated that the HDFC Limited was proposed to be paid higher of Rs. 25 Lakhs or liquidation value payable to a dissenting Secured Financial Creditor, on voting in favour of the 2nd Addendum. In terms of Section 30(2) of the Code, the dissenting FCs have to be paid an amount not less than their share of the liquidation value, which in the present case is being complied with since the only asset of the Corporate Debtor is the development rights over the land, while the project land is owned by the separate landowners. Even otherwise, in terms of Section 30(2) of the Code, SRA is bound to pay the minimum liquidation value to the HDFC Limited.

10.6. It is submitted that the 2nd Addendum dated 27.01.2025 and the Resolution Plan have been approved by the newly



constituted Committee of Creditors. As per Regulation 12(3) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, any new inclusion in the Committee of Creditors does not affect the validity of prior decisions and the same has been upheld by the Hon'ble NCLAT in series of judgements in the case(s) of **Jatinder Pal Builders Private Limited vs. Mr. Sandeep Goel**, CA(AT)(INS)613&614 of 2024 and **DBS Bank India Pvt. Ltd.vs. Rakesh Kumar Jain & Anr.** CA(AT)(INS)540 of 2021. It is submitted that the HDFC Ltd. has no locus to file the present Application and the same is liable to be dismissed *in limini* on this ground alone.

- 10.7. It is submitted that the approved Resolution Plan of the Successful Resolution Applicant also proposes that the charge of HDFC Ltd. upon the Project Land and assets of the Corporate Debtor shall be extinguished once the proposed payment is made to HDFC Ltd. in terms of the Resolution Plan. It is stated that it is not bad in law and cannot be challenged by the HDFC Ltd. herein. It is stated that admittedly, HDFC Ltd. had granted Loan to the Corporate Debtor and for the purpose of securing the said Loan, the Corporate Debtor had created a mortgage of the Project Land, receivables of Corporate Debtor, and another vacant land parcel located in Madurai in favour of



HDFC Limited. It is stated that the said charge on the Project Land was created on the basis of the Power of Attorney given by the Landowners to the Corporate Debtor for the purpose of mortgaging the Land, however, the Power of Attorney was only to create a mortgage in favour of LIC Housing Finance Limited and not in favour of HDFC Limited. It is stated that the HDFC Ltd. asserts its status as a secured financial creditor of the Corporate Debtor and such status has also been confirmed by the Resolution Professional and the entire insolvency proceedings have been undertaken on this basis. Now, once HDFC Ltd. is regarded as a secured financial creditor of the Corporate Debtor i.e. having a security interest against the Corporate Debtor, it is perfectly permissible for the SRA to extinguish such security interest under Regulation 37 of the CIRP Regulations. It is submitted that HDFC Limited cannot be allowed to blow hot and cold by maintaining that it is secured creditor and yet object to the extinguishment of such security interest which is otherwise in accordance with law.

- 10.8. It is submitted that HDFC Ltd. does not have any Personal Guarantee from the Landowners of the Project Land, as per the knowledge of the Resolution Applicant, and hence the only recourse available to HDFC Ltd. is to recover its



dues from the CIR Process of the Corporate Debtor. It is submitted that once the dues of HDFC Ltd. are settled by way of the proposed payments under the Resolution Plan, no purpose would be served by extending the charge on the Project Land, since, no recourse can be taken by HDFC Ltd. under any other laws, for the purpose of recovering its remaining debt. Furthermore, since no guarantee(s) have been executed in favour of HDFC Ltd. by the Landowners, the HDFC Ltd. cannot ask for continuation of the charge even post settlement of all its dues under the Resolution Plan of the Successful Resolution Applicant.

10.9 It is submitted that, the HDFC Ltd. has alleged that initially the Resolution Plan was approved by the Committee of Creditors which was illegally constituted, however, at this stage, it would be relevant to point out that the 2nd Addendum dated 27.01.2025, was read and voted on by the CoC in conjunction to the Resolution Plan dated 17.02.2022. It is reiterated that the 2nd Addendum has been duly approved by the newly constituted Committee of Creditors and as such the CoC was always aware of the changes that have been incorporated.

10.10. It is submitted that the 2nd Addendum given by the SRA was placed before the CoC for approval in the 33rd CoC



meeting held on 25.01.2025, and based on the meetings with the Financial Creditors in a class, certain changes were incorporated and the finalized version of the 2nd Addendum dated 27.01.2025 was placed for e-voting on 29.01.2025 to 30.01.2025, and the same was approved by 91.62% voting share on 30.01.2025, which is in a way more than 50% of the total voting share. Even otherwise, new inclusion in the Committee of Creditors does not affect the validity of prior decisions.

- 10.11. It is submitted that since, the CoC rejected the first Addendum dated 27.12.2024 in the CoC meeting held on 28.12.2024, this Tribunal vide its order dated 08.01.2025, after perusing the affidavit filed by the SRA and considering the submissions made by the SRA expressing its wiliness to give clarity by giving additional addendum / affidavit, directed the CoC to convene another meeting to explore and discuss the possibilities and thereafter take an informed decision. It is stated that, pursuant to the order dated 08.01.2025, a fresh notice dated 14.01.2025 was given for calling CoC for incorporating of 2nd Addendum and the said Addendum was approved by way of 91.62% voting share on 30.01.2025. It is stated that, it is not the case that the SRA has been incorporating changes by concealing any facts or with any underlying motive,



rather, all changes have been incorporated in conformity with the CoC decisions and on the directions of this Tribunal and hence, the 2nd Addendum does not suffer from any legal infirmity.

- 10.12. It is submitted that the Resolution Plan, along with the 2nd Addendum dated 27.01.2025, was found to be fully compliant with the provisions of the Code and therefore, was approved by the CoC with the required majority after exercising its commercial wisdom. As per settled law, as outlined in Section 30(2) of the Code, interference with the CoC's decision is not permissible. It is submitted that, the HDFC Limited is now raising commercial concerns at a later stage, even after the Resolution Plan was already approved by the CoC and reserved for orders before this Tribunal with an attempt to interfere risks stifling the already extended CIR Process of the Corporate Debtor. It is stated that, in terms of settled law, it is open to the resolution applicant to strike different bargains between the creditors belonging to different classes. The same has been upheld by the Hon'ble Supreme Court in the case of **Committee of Creditors of Essar Steel Limited v. Satish Kumar Gupta** (2020) (8) SCC 531.



10.13. It is submitted that, the commercial considerations are beyond the scope of judicial review by the Adjudicating Authority and are determined by the CoC in its commercial wisdom. The CoC's decision is considered paramount under the IBC, and courts have consistently upheld the same. The Hon'ble Supreme Court in the matters of **K. Sashidhar v. Indian Overseas Bank** (2019) 12 SCC 150 and **Jaypee Kensington Boulevard Apartments Welfare Association v. NBCC (India) Ltd.** (2021) 5 SCC 624, has ruled that equitable considerations cannot override the commercial wisdom of the CoC, and as long as the Resolution Plan meets the mandatory requirements of the Code and is commercially acceptable to the CoC, it cannot be modified, even if it seems inequitable to certain stakeholders. A similar view has been upheld by the Hon'ble Supreme Court in the case of **Maharashtra Seamless Limited v. Padmanabhan Venkatesh and Ors.** - (2020) 11 SCC 467.

11. DISPOSITIVE REASONING OF THIS TRIBUNAL

11.1. We have heard the submissions made by Learned Counsel for the Resolution Professional and the Learned Counsel for the Homebuyers and also the Objectors.



11.2. It is seen that, this Tribunal considering the factual matrix of the present case and the submissions made by the objectors and at the behest of the parties who sought a way out by mediation and conciliation and also in order to find a viable solution to the stated problem, appointed Mr. A. L. Somayaji, Senior Advocate as the Mediator vide its order dated 19.10.2022. Even though initially the Mediator filed his interim report before this Tribunal on 27.03.2023, stating that some sort of consensus was arrived at between the parties, however finally on 10.08.2023, the Mediator filed his final report before this Tribunal stating that in view of the stand taken by the Homebuyers, consensus could not be reached among the parties to the dispute and hence the Mediation failed. Under these circumstances, this Tribunal was required to adjudicate the present Application for approval of Resolution Plan on its merits.

11.3. While things stand thus, it is seen that the RP had inducted 3 Land owners as Unsecured Financial Creditors (in a class) and also treated the said Land Owners as “Home Buyers”. While the said issue as to inclusion of land owners as “Home Buyer” was vehemently opposed by the Home Buyers and arguments were advanced against their inclusion, the same issue fell for consideration before the Hon’ble NCLAT in the matter of



Ashoka Hi-Tech Builders Pvt. Ltd. v Sanjay Kundra & Anr in *Company Appeal (AT) (Insolvency) No. 46 of 2023*; wherein it was held that “since there was no disbursement for the time value of money by the Landowners, within the meaning of Section 5(8) of the IBC, they cannot be considered as Financial Creditor”.

- 11.4. Thereafter, on 15.12.2024, the RP reconstituted the CoC by removing the Land Owners. The Resolution Professional conducted two CoC meetings on 20.12.2024 (31st Meeting) and 28.12.2024 (32nd Meeting) wherein the first Addendum from the Successful Resolution Applicant was placed before the CoC for its decision. However, the CoC voted to **reject** the first Addendum with **99.54%** vote share.
- 11.5. The RP brought to the attention of this Tribunal that the CoC has voted to **reject** the Addendum with **99.54%** of votes against it. Under such circumstances, this Tribunal on 08.01.2025 by taking into consideration the paramount interest of the homebuyers, ordered for a CoC meeting to be convened to explore all the possibilities / eventualities and to discuss the pros & cons and thereafter to take an informed decision.
- 11.6. It is seen that, based upon the directions of this Tribunal, the RP, issued a notice on 14.01.2025 calling for the 33rd



CoC meeting to be convened on 25.01.2025. In the said meeting the 2nd Addendum to the Resolution Plan was placed before the CoC for approval. Based on the meetings with Financial Creditors in a class, certain changes were incorporated and the finalized version of the Second Addendum dated 27.01.2025, was placed for e-voting on 29.01.2025 and 30.01.2025. The 2nd Addendum dated 27.01.2025 submitted by the Resolution Applicant was **approved** by the CoC with **91.62%** voting in its favour.

11.7. The RP brought to the attention of this Tribunal that the 2nd Addendum dated 27.01.2025 submitted by the Resolution Applicant was **approved** by the CoC with **91.62%** voting in its favour.

11.8. After the 2nd Addendum was approved by the CoC, the HDFC Limited and by Usha K. Jolly Charitable Trust have raised certain objections to the Resolution Plan as already alluded *supra*, which can be summed up on the following counts;

- a. The landowners are not financial creditors and if the landowners are excluded from the COC, then the resolution plan does not have the requisite majority for approval.
- b. The land belongs to the landowners. It is not a property of the corporate debtor. The resolution



plan cannot extinguish a mortgage created by the landowners on their own property in favour of HDFC.

- c. Resolution plan was rejected by the reconstituted COC. The next step is only liquidation
- d. There cannot be any addendum, much less a second addendum to the resolution plan,
- e. Reconstituted COC only approved the second addendum. It did not approve the entire revised Resolution Plan

11.9. Before we advert to the rival contentions raised by the objectors, it is pertinent to note that the interest of the homebuyers is of paramount importance and hence their interest has to be safeguarded at any cost. In the case of **Chitra Sharma and Ors v. Union of India and Ors.** (2018) 18 SCC 575, Hon'ble Supreme Court has highlighted the need for protection of homebuyers. Further, in the case of **Amish Jaysukhlal Sanghrajka v. Akshar Shanti Realtors (P.) Ltd**, the Hon'ble Supreme Court reiterated a similar view, that the homebuyers' rights shall not be violated.

11.10. The home buyers are the affected persons in these situations wherein they would be left without a remedy once the process under IBC starts, as the moratorium



under Section 14 of IBC, 2016 comes into force. The liquidation proceedings will be the last resort for the homebuyers, as their hard-earned investments are in it to secure a home for themselves. The Hon'ble Supreme Court in the matter of **M/s. Shantistar Builders v. Narayan Khimalal Totame**, (1990) 1 SCC 520 has held that a home for the family is a basic human yearning and it is a part of the right to life, which is a fundamental right guaranteed under Article 21 of the Constitution of India.

- 11.11. In relation to the series of objections raised by the objector, it is seen that the HDFC Ltd. was proposed to be paid a sum of Rs. 25 Lakhs or liquidation value payable to a dissenting Secured Financial Creditor. In case, the Secured Financial Creditor, HDFC Limited does not vote in favour of the resolution plan and becomes a dissenting Financial Creditor, a payment equivalent to liquidation value will be payable to the secured Financial Creditor upon realization of proceeds from any new sale by the Corporate Debtor in priority over any treatment proposed to other Financial Creditors who vote in favour of resolution plan. It is thus noted that in terms of Section 30(2) of the Code, the dissenting Financial Creditors are to be paid an amount not less than their share of the liquidation value. In the present case, as per Form – H, the Liquidation value



arrived at is Rs.1,07,954/-. The contention of the HDFC Limited is that it has mortgage rights over the lands and hence it is required to be paid more. Such a contention raised by the HDFC Limited is unsustainable in law and is wholly misplaced for the reasons as stated *infra*.

- 11.12. It is to be noted that the HDFC Limited had granted Loan to the Corporate Debtor and not to the landowners. In order to secure the said Loan, the Corporate Debtor had created a mortgage of the Project Land, and receivables of Corporate Debtor, in favour of HDFC Limited. The said charge on Project Land was created on the basis of the Power of Attorney given by the Landowners to the Corporate Debtor for the purpose of mortgaging the Land. Ultimately, even though the land belongs to the landowners, the said property was mortgaged to the HDFC Limited on account of loan obtained by the Corporate Debtor. Hence, HDFC Limited only based upon the said mortgage of land, has been classified as Secured Creditor in respect of the Corporate Debtor.
- 11.13. If for a moment the contention of HDFC Limited that it has mortgage rights over the lands belonging to the landlords and hence it is required to be paid more, is taken into consideration, then it cannot be classified as 'secured



creditors' in respect of the Corporate Debtor, and can be classified only as 'secured creditors' of landowners.

11.14. Even though HDFC Limited has created a security interest over the lands belonging to the landowners by registering a Memorandum of Deposit of Title Deeds, once the landowners have entered into a Joint Development Agreement with the Corporate Debtor, the characteristics of the nature of land changes and transcends into a development right with proportionate ratio of units to be shared amount the landowners and developers.

11.15. Further, it is to be noted that the Valuation process was done by the IBBI Registered Valuer in accordance with Regulation 35 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and the valuation has been arrived at by taking into consideration the development rights of the Corporate Debtor over the land, which is the only assets of the Corporate Debtor. While this being the factual position, the mortgage assets of the landowners by the HDFC Limited cannot be construed as the third party assets and as such the Judgments relied on by the HDFC Limited in the case of **Victory Iron Works Ltd vs. Jitendra Lohia; 2023 SCC OnLine SC 260** and in the matter of **Jaypee Kensington**



Boulevard Apartments Welfare Association; (2022) 1 SCC 401, are wholly misplaced and cannot be made applicable to facts of the present case. Hence, the argument of the HDFC Limited that they are still holding the mortgage rights over the land belonging to the landowners has no legal legs to stand and is accordingly overruled.

11.16. Now coming to the issue of 2nd Addendum, it is seen from the facts as adumbrated *supra*, this Tribunal on 08.01.2025 by taking into consideration the paramount interest of the homebuyers, had ordered for a CoC meeting to be convened to explore all the possibilities / eventualities and to discuss the pros & cons and thereafter to take an informed decision. Both the objectors had not raised any objection to the order of this Tribunal dated 08.01.2025 and have not filed any appeal against the said order. Under such circumstances, the order became absolute and binding.

11.17. Be that as it may, it is seen from the order dated 08.01.2025 that in the first addendum given by the RA, the Homebuyers had certain apprehensions regarding the Resolution Plan and the SRA was willing to give a clarification by way of additional addendum / affidavit. Hence, the purported second addendum submitted by the



RA, should not be construed as a fresh proposal given by the RA, but rather a clarification on the earlier proposal. After the SRA giving a clarification by way of Addendum dated 27.01.2025, the said Addendum was put to vote by the CoC by way of e-voting on 29th and 30th January 2025 and the same was approved with **91.62%** votes in favour.

- 11.18. In the 33rd CoC meeting, the following Resolution was considered by the CoC.

“CoC has considered the Addendum submitted by Mr. Sumit Khanna dated January 27,2025 to Resolution Plan dated 07 February 2022, restated on 16 February 2022, based on discussions occurred before the Honorable NCLT, Chennai on January 08, 2025.

Resolved that CoC approves this addendum to Resolution Plan as per Section30(3) and Section 30(4) of the IBC Code in this CoC meeting and authorizes the RP to submit this addendum to Adjudicating Authority (NCLT Chennai) for approval along with the Resolution Plan already submitted under IA/(IBC)/ 250(CHE) of 2022”

- 11.19. It is seen from the above Resolution, the CoC has considered the Addendum submitted by Mr. Sumit Khanna dated 27.01.2025 to the Resolution Plan dated 07.02.2022 restated on 16.02.2022, based upon the order of this Tribunal dated 08.01.2025 and then resolved to approve the addendum.



11.20. In the second addendum given by the RA, it is seen that SRA has stated that **“This Addendum should be read and voted on in conjunction to the Approved Resolution Plan.”** The Resolution Plan has already been approved by the CoC on 16.02.2022 and the second addendum to the Resolution Plan is approved by the CoC on 30.01.2025. At this juncture, we find it apt to refer to the Judgment of the Hon’ble NCLAT in the matter **Ocean Capital Market Ltd. v. Uday Narayan Mitra Former RP and Ors., in Company Appeal (AT) (Insolvency) No.514 of 2023** wherein the Hon’ble NCLAT has held that in order to meet the ends of justice, the Successful Resolution Applicant may be permitted to prepare an Addendum to the Resolution Plan, which Addendum be placed before the CoC for voting by the Resolution Professional and after decision of the CoC, in event, the CoC decides to approve the Addendum, the Addendum as well as the Resolution Plan be submitted before the Adjudicating Authority for fresh consideration.

11.21. Further, as per the decision of the Hon’ble NCLAT in the matter of **Ocean Capital Market (supra)** only the Addendum alone can be placed before the CoC for its approval and the said Addendum as well the Resolution



Plan be submitted before the Adjudicating Authority for fresh consideration. Thus, the stand of the objector that there cannot be any addendum to the Resolution Plan much less the second addendum and also the fact that the reconstituted CoC only approved the second addendum and it did not approve the entire revised Resolution Plan cannot be countenanced as a valid and tenable objection and hence the said objection is overruled.

- 11.22. Next coming to the aspect of the approval of the original Resolution Plan dated 16.02.2022, it is seen that the CoC which approved the said Resolution Plan was comprising of the certain Landowners in the category of “Home Buyer”. In the second addendum given by the SRA, it is categorically stated that “This Addendum should be read and voted on in conjunction to the Approved Resolution Plan.” The Resolution passed in the 33rd CoC meeting is extracted hereunder;

Resolved that CoC approves this addendum to Resolution Plan as per Section 30(3) and Section 30(4) of the IBC Code in this CoC meeting and authorizes the RP to submit this addendum to Adjudicating Authority (NCLT Chennai) for approval along with the Resolution Plan already submitted under IA/(IBC)/250(CHE) of 2022”



11.23. The newly constituted CoC, which excludes the Landowners and comprises only of the Homebuyers, has passed a Resolution approving the addendum and to submit the addendum for approval along with the Resolution plan already submitted. It is clear from the above Resolution, that the CoC while approving the second Addendum to the Resolution Plan has made its tacit approval to the original Resolution Plan and has directed the RP to submit the addendum to the Adjudicating Authority for approval along with the Resolution Plan already submitted in IA(IBC)/250(CHE)/2022. The Judgment relied on by the HDFC Limited in the case of **MK Rajagopalan vs. Dr Periasamy Gounder; (2024) 1 SCC 42** cannot be made applicable to the present case, in view of the fact that in the said case the Resolution Plan was approved and certain modifications were suggested to the CoC and thereafter the revised Resolution plan along with modifications was not placed before the CoC and was directly placed before the Adjudicating Authority for approval. However, in the present case, the Resolution Plan in its original form was approved on 16.02.2022 and the Addendum to the Resolution Plan also was approved on 30.01.2025. Further, the Judgment relied upon by the HDFC Limited in the case of **Dauphin Cables vs. Praveen**



Bhansal; *Company Appeal (AT) Insolvency No. 971, 972 & 973 of 2023* has no applicability whatsoever with the facts of the present case. Hence, the objection raised by the objector is not sustainable and hence it stands overruled.

- 11.24. Another objection raised by the HDFC Limited is that as per Regulation 39 (1A) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulation, 2016, there cannot be more than one modification to the Resolution Plan. In this context, it is required to be noted that the Regulations 39(1A) curtails only the power of the Resolution Professional to seek modification of the Resolution Plan not more than once. However, in the present case, the 2nd Addendum was placed before the CoC based upon the directions of this Tribunal dated 08.01.2025, which has not been challenged by the objectors before any appellate forum. As already alluded *supra* considering the fact that the interest of the homebuyers is of paramount importance and liquidation proceedings will totally take away their hard-earned investments, this Tribunal took strenuous steps in order to make the Resolution Plan viable for the home buyers, which impelled us to issue directions vide order dated 08.01.2025. In any case, Regulation 39(1A) of the IBBI (Insolvency Resolution Process for Corporate Persons)



Regulation, 2016 operates only against the Resolution Professional and not against any of the orders passed by this Tribunal. Thus, the Judgment relied on by the HDFC Limited in the matter of **Kalinga Allied Industries India Private Ltd Vs. Committee of Creditors; Company Appeal (AT)(Ins) No.689 of 2021** is highly misplaced and has no applicability whatsoever to the facts of the present case.

- 11.25. In so far as the objections raised by the **Usha K Jolly Charitable Trust** are concerned, it was submitted that the SRA and the RP have not considered the interest of the allottees of the new tower in the 2nd Addendum to the resolution plan, especially considering the fact that the applicant is a trust and trust cannot be put into loss. It is their contention that the SRA has given three options to the new allottees (i) Option 1 – Refund at Rs.1000/- per sq. ft. (ii) Option 2 – construction on their own and (iii) Option 3 – construction by the Resolution Applicant (RA) at Rs.4,000/- sq. ft. It is stated that this objector is not satisfied with all the three options given by the RA.
- 11.26. In this regard, it is to be noted that the objector who has been allotted 13 flats in the Corporate Debtor, cannot raise any objections against the collective commercial decision taken by the CoC approving the resolution plan of the RA.



It is settled law that once the CoC has approved the resolution plan by requisite majority and the same is in consonance with applicable provisions of law, the same cannot be a subject matter of judicial review and modification. The objector being a dissatisfied Homebuyer is in a hopelessly minority position, and it has no option but to 'sail along' or 'drag along' with the overwhelming majority which has accepted the resolution plan in terms of the legal precepts articulated in the **Jaypee Kensington Boulevard Apartments Welfare Association and Ors. vs NBCC (India) and Ors. (2022) 1 SCC 401**

11.27. For the reasons aforesaid, IA(IBC)/732(CHE)/2022; IA(IBC)/381(CHE)/2025 and IA(IBC)/399(CHE)/2025 stand **dismissed**.

12. ABOUT THE RESOLUTION PLAN

12.1. This Tribunal vide an order dated 30.09.2019 initiated the Corporate Insolvency Resolution Process in respect of the Corporate Debtor and appointed Mr. Swarnamani Ramaswamy as the Interim Resolution Professional. He was replaced by Ms. Geeta Sridhar vide order dated 13.01.2020. Thereafter, Mr. S. Amarendran, the Applicant herein was appointed as the Resolution Professional for



the Corporate Debtor (“Resolution Professional”) by the Committee of Creditors of the Corporate Debtor which was approved by this Tribunal vide order dated 15.06.2020.

12.2. The Claims received and admitted by the RP are as follows;

CATEGORY	NO. OF CLAIMS	AMOUNT CLAIMED	CLAIMS ADMITTED	AMOUNT ADMITTED	NOTE
Secured FC	1	20,65,84,048/-	1	5,16,22,274/-	HDFC Limited
Financial Creditors in a class	117	176,60,48,525/-	112	59,71,90,419/-	Buyers of incomplete residential units
Unsecured FC	1	30,20,283/-	1	30,20,283/-	
Operational Creditors (Employee & Statutory)	1	1,89,290/-	1	1,89,290/-	Employees Provident Fund Organisation
Operational Creditors (other than workmen and employees and Statutory)	2	9,71,59,032/-	2	1,92,76,878/-	
Total	122	2,07,30,01,178/-	117	67,12,99,144/-	

12.3. Description of Real Estate project of Corporate Debtor

- Project Name: **“Sabari Serenity”** situated at Siruseri Main Raid, Siruseri Village, Thalambar, Post, Chennai, Tamil Nadu, 600130



- Land Area: 382,804.5 sq. ft.
- Total No. of Residential Towers: 13 Towers spread into 864 units; Out of these, 5 towers with 396 units are complete and possession has been taken by allottees; civil structure of 2 more towers is complete
- Total No. of Commercial Tower: 1
- Development agreement dated 03.07.2009 was entered into between the Corporate Debtor and Land owners for Development of Project. In addition to it, supplementary agreements dated 01.04.2010 and 21.10.2011 were entered into between the parties to demarcate the flats allotted to Land owners and the Corporate Debtor

12.4. **The Resolution Plan provides for following for revival and settlement of Financial Creditors in a Class:**

- The Project Land shall be splitted into and developed in three parts:

i. Part 1 comprising

- a. five completed towers namely Acacia, Asoka, Neem, Palash and Peepul and
- b. two under construction towers namely Ekambara and Margosa The two under construction towers shall be completed by Allottees of Ekambara and Margosa, through their association namely Sabari Serenity's Ekambara & Margosa Apartment Buyer Association, at their own cost.



ii. Part 2 shall comprise of balance land (apart from Part 1 and 3) wherein the Resolution Applicant shall undertake fresh residential/ commercial development of 100,000 to 300,000 sq. ft. saleable area, or such area legally permissible.

iii. Part 3 shall comprise of land space for one more tower, hereinafter referred to as New Tower, to accommodate balance Allottees (“Allottees of New Tower”) other than those who are Allottees in the towers as mentioned in Part 1 and whose claims have been admitted.

These allottees shall get their units and also their proportionate UDS as per following options:

- **Option 1:** Refund to Allottees – SRA shall pay INR 1000/sq.ft of UDS in two instalments of 50% each payable with 45 days from Effective Date and within 12 months from Effective Date.
- **Option 2:** Construction of New Tower by Allottees - Allottees of New Tower, through their association (whether constituted or to be constituted) shall complete construction of their respective towers at their own cost
- **Option 3:** Construction of New Tower through Resolution Applicant - Allottees of New Tower may seek SRA’s assistance for completion of New Tower and shall pay INR 4000/sq.ft. saleable area towards construction cost and management fee and also provide their share of costs towards common areas, services and amenities.



The development agreement with the Land owners shall be superseded as per terms of the Resolution Plan read along with Addendum to ensure the following:

- Split of the Project Land into Part 1, Part 2 and Part 3
- Revised revenue sharing arrangement.
- The SRA shall obtain requisite approvals/ sanction plan and allottees of incomplete Part 1 and 3 units shall reimburse such costs within 2 months of demand for reimbursement. Upon reimbursement of approval costs in full within 2 months of demand, the SRA shall forego its economic interest in unsold units/ area in Part 1 and 3 for collective benefit of the allottees of such incomplete part.
- The Allottees of a tower shall first pay outstanding/ residual amounts payable as per original allotment which shall be revalidated by the Corporate Debtor/ Resolution Applicant based on proof of payments (net of tax, delay interest/ charge if any) in the bank accounts of the Corporate Debtor by the respective Allottees ("Proof of Payment by Allottee(s)"). In case of any difference between the amount admitted and the Proof of Payment by Allottee for the same, such difference shall be recoverable along with applicable taxes from such Allottee. Thereafter any additional amounts required for completion of construction shall be payable by Allottees in proportion to allocated area/ beneficial interest in area in the tower.

12.5. **Registration with TNRERA:**



- Association of homebuyers of Ekambara and Margosa, namely Sabari Serenity's Ekambara & Margosa Apartment Buyer Association, shall be the body responsible for completion of the two unfinished towers namely Ekambara and Margosa in Part 1 of Project Land and compliance with various responsibilities and compliances under TNRERA and other regulatory bodies as owner/ promoter of the project for Part 1.
- The SRA/ Corporate Debtor shall be responsible to comply with TNRERA for Part 2 of Project Land only.
- If the Allottees of New Tower select Option 2 or 3, representatives of such homebuyers (i.e. an association of homebuyers of New Tower in Part 3) shall be the body responsible for completion of Part 3 of Project Land and compliance with various responsibilities and compliances under TNRERA and other regulatory bodies as owner/ promoter of the project for Part 3.
- UDS of Allottees: Each Allottee of Ekambara and Margosa will get their unit as also their proportionate UDS. Allottees of New Tower, under Option 2 or 3, shall accordingly get their unit as also their proportionate UDS.
- All Allottees in Part 1, Part 2 and Part 3 will continue to have access to all pathways in the Project Land for unrestricted ingress / egress as well as access to areas that are common for all project



towers. In case, the SRA/ Corporate Debtor builds something for exclusive use of Part 2, included an exclusive club house or any other common facility envisaged for Part 2, access to such facility shall not be available to Allottees of Part 1 and 3.

12.6. Construction timelines

Completion of Margosa and Ekambara in Part 1 of Project Land	Timelines to be confirmed by homebuyer association namely Sabari Serenity's Ekambara & Margosa Apartment Buyer Association
Completion of New Tower in Part 3 of Project Land	<p>Option 1: Timelines to be same as that for Part 2 of Project Land.</p> <p>Option 2: Timelines to be confirmed by association of allottees of New Tower.</p> <p>Option 3: 42 months plus a buffer of twelve months from Effective Date in case the Allottees of New Tower choose Option 3 (i.e. Allottees of New Tower opt to request SRA to complete construction and also pay on time) and pay on a timely basis. However, the Resolution Applicant shall not be directly or indirectly responsible for these timelines in case there is a delay/ default by any Allottee of New Tower in adhering to payment plan</p>
Construction of development on Part 2 of Project Land	60 months plus a buffer of twelve months from Effective Date

12.7. **Proposal for Creditors and unpaid CIRP Costs**

- **Unpaid CIRP cost:** Unpaid CIRP cost, as approved by CoC during the CIRP period shall be paid in full in priority over the creditors of the Corporate Debtor.



- **Operational Creditors- Employees & Workmen & Government Dues:** All admitted and verified claims, shall be paid in full, subject to a maximum amount of INR 1,89,290/- (Rupees One Lakh Eight Nine Thousand Two Hundred and Ninety Only) or on a pro rata basis up to INR 1,89,290/- (Rupees One Lakh Eight Nine Thousand Two Hundred and Ninety Only) if the admitted and verified claims exceed this amount, in priority over other the assenting Financial creditors of the Corporate Debtor within 180 days from the Effective Date by Resolution Applicant.
- **Operational Creditors (Other than Employees & Workmen and Statutory dues):** All admitted and verified claims shall be extinguished by making NIL payment towards such claims on the Approval Date. All other liabilities towards operational creditors other than Employees & Workmen whether claimed, unclaimed, crystallized or not crystallized, matured or un-matured, contingent or payable in future, shall be extinguished and shall be paid zero and shall be treated as paid on Approval Date.
- **Financial Creditors:** If secured financial creditor, HDFC Limited, approves the Resolution Plan, then SRA shall pay higher of INR 25 lakhs (Rupees Twenty-Five Lakhs) or liquidation value payable to a dissenting Secured Financial Creditor within 12 months from Effective Date. In case the secured financial creditor, HDFC Limited, does not vote in favour of this resolution plan and becomes a dissenting financial creditor, a payment equivalent to



the liquidation value will be payable to the secured financial creditor upon realisation of proceeds from any new sale by the Corporate Debtor in priority over any treatment proposed to other financial creditors who vote in favour of resolution plan.

- **Related Parties** whether Financial Creditors, Operational Creditors or Other Creditors: Nothing shall be payable to related parties and all their claims under any category shall be deemed to be satisfied and treated as paid on Approval Date. If any of the related parties are part of Financial Creditors (class of Allottees), then their allotments shall stand cancelled on the Approval Date and no amount shall be refunded to any such related party.
- In respect of any allottee/ person who has filed claim with Resolution Professional and in whose favour a decree/ award/ judgment/ arbitration award has been passed, a total sum of INR 1,00,000/- (Rupees One Lakh Only) shall be kept aside as a corpus ("Corpus"). From this Corpus an amount shall be paid in proportion to the liability of the Corporate Debtor towards such individual allottee/ person as full and final performance and satisfaction of such liability / claim / debt whether or not such claim / debt / liability including contingent liabilities is reduced to judgment, fixed, equitable, matured, un-matured, disputed, undisputed, secured, unsecured, contingent, crystallized, admitted, rejected, under verification, recognized in the financial statements or not, and any allotment of a unit to such allottee/ person shall stand cancelled on the Approval Date.



- **Support required for proposed revival plan:** The revival plan of the Corporate Debtor is dependent on the support from all stakeholders of the Corporate Debtor including the Financial Creditors, Allottees, lessors, and all statutory authorities.

13. SOURCE OF FUND

13.1. The Resolution Applicant has stated that the Resolution Plan amount shall be funded from

- Cash balances with Corporate Debtor
- Equity infusion by Resolution Applicant
- Amounts realized from new sale by Corporate Debtor
- Additional equity / debt raised from Resolution Applicant or external party/lender

13.2. The Resolution applicant has produced the cash inflows and outflows and the same are extracted herebelow:



Financial Summary – Updated

	Per Resolution Plan	Current Estimates
Outflows	INR Crore	INR Crore
Pay out of CIRP cost	0.36	1.50 [#]
Pay out of workmen & employees claim	0.02	0.02
Pay out of HDFC claim	0.50	[*]
Pre-construction/ approval expenses (incl. RERA fee)	1.00	1.00
Construction cost - Part 2 of Project Land	60.00	65.00
Other operating expenses	4.50	4.50
Revenue share with Landowner	18.00	19.63
Interest cost	6.45	6.45
Tax	5.01	5.47
	95.84	103.58
Inflows	INR Crore	INR Crore
New sale of units - Part 2 of Project Land	110.00	120.00 ¹
Upfront equity infusion	0.01	0.01
	110.01	120.01
Surplus/ (Deficit)	14.16	16.42

Notes:

[#] Estimated CIRP cost

^{*} Payout will be capped at liquidation value payable to HDFC

¹ Sale value taken net of marketing & brokerage expenses estimated at INR 500/sqft

14. IMPLEMENTATION, MANAGEMENT AND SUPERVISION OF THE RESOLUTION PLAN

14.1. The indicative implementation schedule for this Resolution Plan is set out below:

ACTIVITY	INDICATIVE TIMELINE
Date of Approval of the Plan by the Hon'ble NCLT	X
Appointment of Monitoring Agency	X+3
Effective Date	Y
Equity Infusion and Capital Reduction	Y + 30
Payment of 20% of CIRP costs plus cost of insurance cover	Y + 30
Payment of Pending (80% of) CIRP costs	Y + 179
Payment of Operational Creditors (Workmen and Employee)	Y + 180



Construction of Part 1 of Project land subject to Allottees choosing Option 1	Y+ 1260 plus buffer of 360 days [<i>Applicable only if Allottees choose Option 2 and pay per schedule</i>]
Construction on Part 2 of Project land	Y + 1800

14.2. It is stated in Clause 2.1 and 2.2 of Part – II of the Resolution Plan that the Resolution Applicant shall, after the Effective Date, obtain the necessary approval required under any law for the time being in force within a period of one year after the Effective Date or within such period as provided for in such law. Further, the Resolution Applicant proposes to use all efforts as may be commercially reasonable to start implementation of this Resolution Plan from the Effective Date in accordance with the other terms contained in the Resolution Plan

14.3. Within 30 days of the Effective Date, the Nominated SPV shall:

- a. Purchase the shares from the existing shareholders at a nominal value of Re. 1;
- b. Subscribe to equity shares of the Corporate Debtor (“Upfront Equity Infusion”) such that it will hold 100% (Hundred per cent) of the share capital of the Corporate Debtor and acquire control of the Corporate Debtor as a going concern in accordance



with Applicable Law. The steps involved in the Acquisition are as follows:

(i) *Requisite amendments shall be made to the articles of association in relation to the transactions contemplated in the Resolution Plan.*

(ii) *The Resolution Applicant/Nominated SPV/Affiliate shall fund the upfront equity infusion of INR 1,00,000/- (Rupees One Lakh Only), and the Corporate Debtor shall issue equity/ preference shares and/ or any other appropriate capital instruments for upfront equity infusion (as may be determined by the Resolution Applicant) to Nominated SPV.*

(iii) *The existing pre-CIRP shareholding (including equity shares, the preference shares capital of the corporate debtor on the insolvency commencement date) of the promoters / promoter group and all other existing shareholders in the Corporate Debtor shall be transferred in favour of the Nominated SPV at a nominal value of Re. 1 without any tax liability and fresh shares shall be allotted to the Nominated SPV pursuant to Upfront Equity Infusion in the Corporate Debtor ("Share Capital");*

(iv) *Pursuant to the above, the Resolution Applicant's Nominated SPV shall hold 100% of the shareholding in the Corporate Debtor.*

(v) *The Resolution Applicant is at liberty to change the mode and manner of source of funding including the*



instruments through which the funds are required to be raised either in Nominated SPV or Corporate Debtor.

(vi) The above steps shall take place simultaneously

- 14.4. With effect from the Approval Date, the monitoring of implementation of the Resolution Plan shall inter alia be done by Monitoring Agency which shall be constituted within 3 days from Approval Date.
- 14.5. The Monitoring Agency shall comprise: (i) an Insolvency Professional (preferably the current Resolution Profession of the Corporate Debtor subject to his consent) who shall be the Chairman of the Monitoring Agency; (ii) 2 representatives of the Resolution Applicant, as Members; (iii) 2 Authorised Representative of the Allottees, as Members (to be nominated by CoC of the Corporate Debtor prior to Approval Date); and
- 14.6. The term of Monitoring Agency shall be for a period till the settlement of all creditors' claims in accordance with this Resolution Plan i.e. the term of the Resolution Plan. The Resolution Applicant shall pay a monthly fix fee to the Monitoring Agent during the period of implementation of the Resolution Plan at a mutually agreed amount.



- 14.7. The Monitoring Agency shall also monitor the implementation of the Resolution Plan and in case of any observations/suggestions by the Monitoring Agency, it shall communicate the same to the Board of Directors of the Corporate Debtor for appropriate steps/action.
- 14.8. The Monitoring Agency shall monitor project completion and possession hand over for fit-outs to the Allottees as per the schedule as discussed above.
- 14.9. The members of the Monitoring Agency shall monitor that timely payment is received in the Designated Escrow Account from the Allottees and accordingly being released towards dues against approved bills of the contractors for timely completion of the project.
- 14.10. All the expenses incurred by the Monitoring Agency shall be met out of the accruals of the project.
- 14.11. During the transition period, the Monitoring Agent shall under the supervision of the Monitoring Agency, work with the Resolution Applicant for the implementation of the Resolution Plan. The mechanism for supervision of the payment to be made under the Resolution Plan shall be monitored by the Monitoring Agency.



14.12. It is proposed that upon the Resolution Applicant's Nominated SPV acquiring control over the Corporate Debtor, the existing board will be replaced by new board of directors constituted by the Resolution Applicant.

14.13. An amount of Rs. 10,00,000/- (Rupees Ten Lacs Only) at the time of submission of EoI has already been deposited by the Resolution Applicant which is more than the PBG required to be deposited. The Resolution Applicant shall provide PBG of Rs.0.55 lakhs in form of a demand draft upon receipt of which Rs. 10,00,000/- (Rupees Ten Lacs Only) deposited along with EoI shall be returned to the Resolution Applicant.

15. TABULATION OF VARIOUS COMPLIANCES REQUIRED UNDER THE PROVISIONS OF IBC, 2016

15.1. The Applicant has submitted the details of various compliances as envisaged within the provisions of IBC, 2016 and CIRP Regulations, which require a Resolution Plan to adhere to, which are reproduced hereunder:

CLAUSE OF S.30(2)	REQUIREMENT	HOW DEALT WITH IN THE PLAN
(a)	Plan must provide for payment of CIRP cost in priority to repayment of other debts of CD in the manner specified by the Board.	Clause 6.1.1 of Part – I of the Resolution Plan.
(b)	Plan must provide for repayment of debts of OCs in such manner as may be specified by the Board which shall not be less than	Clause 6.1.2 of Part – I of



	the amount payable to them in the event of liquidation u/s 53; or Plan must provide for repayment of debts of OCs in such manner as may be specified by the Board which shall be not less than amount that would have been paid to such creditors, if the amount to be 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 (iii) provides for payment of debts of financial creditors who do not vote in favour of the resolution plan, in such manner as may be specified by the Board.	the Resolution Plan
(c)	Management of the affairs of the Corporate Debtor after approval of the Resolution Plan.	Clause 3 of Part – II of the Resolution Plan.
(d)	Implementation and Supervision.	Clause 3 of Part – II of the Resolution Plan.
(e)	Plan does not contravene any of the provisions of the law for the time being in force.	Form H Certificate by the Applicant
(f)	Confirms to such other requirements as may be specified by the Board.	Form H Certificate by the Applicant

16. MANDATORY CONTENTS OF THE RESOLUTION PLAN IN TERMS OF REGULATION 38 OF THE CIRP REGULATIONS:-

<i>Reference to relevant Regulation</i>	<i>Requirement</i>	<i>How dealt with in the Resolution Plan</i>
38(1)	The amount due to the Operational Creditors under a Resolution Plan shall be given priority in payment over Financial Creditor.	Clause 6.1.2 of Part – I of the Resolution Plan



<i>Reference to relevant Regulation</i>	<i>Requirement</i>	<i>How dealt with in the Resolution Plan</i>
38(1A)	A Resolution Plan shall include a statements as to how it has dealt with the interest of all stakeholders, including Financial Creditors and Operational Creditors of the Corporate Debtor	Clause VIII of Part I of the Resolution Plan
38(1B)	A Resolution Plan shall include a statement giving details if the resolution Applicant or any of its related parties has failed to implement or contributed to the failure of implementation of any other resolution plan approved by the Adjudicating Authority at any time in the past.	Clause 8 of Part – II of the Resolution Plan
38(2)	A Resolution Plan shall provide (a) the term of the plan and its implementation schedule	Clause 2 of Part – II of the Resolution Plan
	(b) the management and control of the business of the Corporate Debtor during its terms; and	Clause 3 of Part – II of the Resolution Plan
	(c) adequate means for supervising its implementation	Clause 3 of Part – II of the Resolution Plan
38(3)	A Resolution Plan shall demonstrate that (a) It addressed the cause of default;	Clause 4.13 of the Resolution Plan
	(b) It is feasible and viable;	Clause 9 of Part – II of the Resolution Plan
	(c) it has provisions for its effective implementation;	Clause 7 of the Resolution Plan
	(d) it has provisions for approvals required and the timeline for the same; and	Clause 7 of the Resolution Plan
	(e) the Resolution Applicant has the capability to implement the Resolution Plan	Clause 1 of Part – I of the Resolution Plan



17. The successful Resolution Applicant has stated in the Clause 6 of Part – II of the Resolution Plan that along with the Plan, an affidavit has been submitted by the Resolution Applicant stating that it is eligible to submit the Plan under Section 29A of the Code; and as on the date of this Plan and on the basis of the records of the Resolution Applicant, the Resolution Applicant is eligible under Section 29A of the Code to submit the Plan.

18. ANALYSIS AND FINDINGS OF THIS TRIBUNAL

18.1. It is seen from Form – H that the Liquidation value of the Corporate Debtor is arrived at Rs.1.07 Lakhs and the corresponding Fair value is arrived at Rs.(-) 49.47 Crores.

18.2. Further, it is seen from Form – H, that the RP had filed an Application under Section 43 of IBC, 2016 and the said application was been allowed by this Tribunal vide order on 14.12.2023. Clause 6.2.49 of the Resolution Plan which deals with the proceeds of the PUF transactions, is extracted hereunder;

“6.2.49. We understand that the Resolution Professional has filed / in process of filing various applications with the Hon’ble NCLT for avoidance and reversal of identified transaction under Section 43, 44, 45, 49, 50 and 66 of the Code. **Any cash recovery from alleged parties in these transactions (over and above the amount payable as per the terms of this Resolution Plan) under any application, if adjudicated in favour by the Hon’ble NCLT, shall be shared equally amongst Corporate Debtor/ Resolution Applicant being one part and the Land owners collectively being second part.** In case any unit forming



the part of any such application is cancelled then such unit shall become the property of Resolution Applicant and can be sold to any person, without any refund / consideration payable to any person. The Resolution Professional is requested to continue with such litigation, in case the same is not decided before the Approval Date, in his capacity as Monitoring Agent on the Monitoring Agency.”

18.3. Thus, as per the above clause 6.2.49 in the Resolution Plan, the proceeds of the PUFEE Transaction application shall be shared equally amongst the Corporate Debtor / Resolution Applicant and the Land owners collectively.

18.4. It is seen that most of the timelines prescribed by the Resolution Applicant have been given effect to after the “Effective Date”. The term “Effective Date” is defined in the Resolution Plan as *“means the date of fulfilment of Necessary Measures Needed for Implementation of the Resolution Plan upon approval of this Resolution Plan by the Hon’ble NCLT”*. In this regard, it is significant to refer to Section 31(4) of IBC, 2016 which states as follows;

Sec. 31(4) The resolution applicant shall, pursuant to the resolution plan approved under sub-section (1), obtain the necessary approval required under any law for the time being in force within a period of one year from the date of approval of the resolution plan by the Adjudicating Authority under sub-section (1) or within such period as provided for in such law, whichever is later:

18.5. **Thus, in terms of Section 31(4) of IBC, 2016 the Resolution Applicant shall be granted a maximum period of one year from the date of approval of the Resolution Plan by this**



Tribunal to obtain the necessary approval, which shall be construed as “Effective Date”.

18.6. In so far as the approval of the Resolution Plan is concerned, this Authority is convinced on the decision of the Committee of Creditors, following the much-celebrated Judgment of the Hon’ble Supreme Court in the matter of **K. Sashidhar –Vs– Indian Overseas Bank** (2019) 12 SCC 150, wherein in para 19 and 62 it is held as under;

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

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



the financial creditors taken collectively or for that matter their individual opinion, as the case may be, on this count.”

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

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

18.8. The Hon’ble Supreme Court in the matter of **K. Sashidhar v. Indian Overseas Bank and Ors.** (2019) 12 SCC 150 has lucidly delineated the scope and interference of the Adjudicating Authority in the process of approval of the Resolution Plan and held as under;

“55. Whereas, the discretion of the adjudicating authority (NCLT) is circumscribed by Section 31 limited to scrutiny of the resolution plan “as approved” by the requisite per cent of voting share of financial creditors. Even in that enquiry, the grounds on which the adjudicating authority can reject the resolution plan is in reference to matters specified in Section 30(2), when the resolution plan does not conform to the stated requirements. Reverting to Section 30(2), the enquiry to be done is in respect of whether the resolution plan provides: (i) the payment of insolvency resolution process costs in a specified manner in priority to the repayment of other debts of the corporate debtor, (ii) the repayment of the debts of operational creditors in prescribed manner, (iii) the management of the affairs of the corporate debtor, (iv) the implementation and supervision of the resolution plan, (v) does not contravene any of the provisions of



the law for the time being in force, (vi) conforms to such other requirements as may be specified by the Board. The Board referred to is established under Section 188 of the I&B Code. The powers and functions of the Board have been delineated in Section 196 of the I&B Code. None of the specified functions of the Board, directly or indirectly, pertain to regulating the manner in which the financial creditors ought to or ought not to exercise their commercial wisdom during the voting on the resolution plan under Section 30(4) of the I&B Code. The subjective satisfaction of the financial creditors at the time of voting is bound to be a mixed baggage of variety of factors. To wit, the feasibility and viability of the proposed resolution plan and including their perceptions about the general capability of the resolution applicant to translate the projected plan into a reality. The resolution applicant may have given projections backed by normative data but still in the opinion of the dissenting financial creditors, it would not be free from being speculative. These aspects are completely within the domain of the financial creditors who are called upon to vote on the resolution plan under Section 30(4) of the I&B Code.

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

(emphasis supplied)

18.9. Also, the Hon’ble Supreme Court in the matter of **Committee of Creditors of Essar Steel India Limited v. Satish Kumar**



Gupta and Ors. (2020) 8 SCC 531 after referring to the decision in **K. Sashidhar (supra)** has held as follows;

“73. There is no doubt whatsoever that the ultimate discretion of what to pay and how much to pay each class or sub-class of creditors is with the Committee of Creditors, but, the decision of such Committee must reflect the fact that it has taken into account maximising the value of the assets of the corporate debtor and the fact that it has adequately balanced the interests of all stakeholders including operational creditors. This being the case, judicial review of the Adjudicating Authority that the resolution plan as approved by the Committee of Creditors has met the requirements referred to in Section 30(2) would include judicial review that is mentioned in Section 30(2)(e), as the provisions of the Code are also provisions of law for the time being in force. Thus, while the Adjudicating Authority cannot interfere on merits with the commercial decision taken by the Committee of Creditors, the limited judicial review available is to see that the Committee of Creditors has taken into account the fact that the corporate debtor needs to keep going as a going concern during the insolvency resolution process; that it needs to maximise the value of its assets; and that the interests of all stakeholders including operational creditors has been taken care of. If the Adjudicating Authority finds, on a given set of facts, that the aforesaid parameters have not been kept in view, it may send a resolution plan back to the Committee of Creditors to re-submit such plan after satisfying the aforesaid parameters. The reasons given by the Committee of Creditors while approving a resolution plan may thus be looked at by the Adjudicating Authority only from this point of view, and once it is satisfied that the Committee of Creditors has paid attention to these key features, it must then pass the resolution plan, other things being equal.”

(emphasis supplied)

18.10. The Hon’ble Supreme Court in its recent decision in **Jaypee Kensington Boulevard Apartments Welfare Association &**



Ors. v. NBCC (India) Ltd. & Ors. in *Civil Appeal no. 3395 of 2020* dated 24.03.2021 has held as follows;

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

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

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



management of affairs of corporate debtor after approval of the resolution plan; and (e) implementation and supervision of the resolution plan.

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

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

78. To put in a nutshell, the Adjudicating Authority has limited jurisdiction in the matter of approval of a resolution plan, which is well defined and circumscribed by Sections 30(2) and 31 of the Code read with the parameters delineated by this Court in the decisions above referred. The jurisdiction of the Appellate Authority is also circumscribed by the limited grounds of appeal provided in Section 61 of the Code. In the adjudicatory process



concerning a resolution plan under IBC, there is no scope for interference with the commercial aspects of the decision of the CoC; and there is no scope for substituting any commercial term of the resolution plan approved by the CoC. Within its limited jurisdiction, if the Adjudicating Authority or the Appellate Authority, as the case may be, would find any shortcoming in the resolution plan vis-à-vis the specified parameters, it would only send the resolution plan back to the Committee of Creditors, for re-submission after satisfying the parameters delineated by Code and exposted by this Court.

18.11. Thus, from the catena of judgments rendered by the Hon'ble Supreme Court on the scope of approval of the Resolution Plan, it is amply clear that only limited judicial review is available for the Adjudicating Authority under Section 30(2) and Section 31 of IBC, 2016 and this Adjudicating Authority cannot venture into the commercial aspects of the decisions taken by the Committee of Creditors.

18.12. On hearing the submissions made by the Ld. Counsel for the Resolution Professional, and perusing the record, we find that the Resolution Plan has been approved with **91.62%** voting share. As per the CoC, the plan meets the requirement of being viable and feasible for the revival of the Corporate Debtor. By and large, all the compliances have been done by the RP and the Resolution Applicant for making the plan effective after approval by this Bench. On perusal of the documents on record, we are also satisfied that the Resolution Plan is in accordance with sections 30 and 31 of the IBC and also



complies with regulations 38 and 39 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016,

18.13. The Resolution Plan along with Second Addendum is hereby **Approved** by this Adjudicating Authority, subject to the observations made in this order. The Resolution Plan along with the Second Addendum approved by the CoC, shall form part of this Order. The Resolution Plan shall be binding on the Corporate Debtor and other stakeholders.

18.14. The Resolution Applicant has sought for reliefs and concessions under the Resolution Plan and the same are dealt with hereunder;

SL. No	RELIEF AND/OR CONCESSIONS AND APPROVAL SOUGHT BY RESOLUTION APPLICANT	ORDERS THEREON
1.	Licenses/Approvals/Contractual Rights and Benefits The Resolution Applicant has also considered that by virtue of the order of the NCLT approving this Resolution Plan and since the Resolution Applicant would acquire the Corporate Debtor on a 'going concern' basis, all leases/ sub-leases, consents, licenses, approvals, rights, entitlements, benefits and privileges whether under law, contract, lease or license or any registration, granted in favour of the Corporate Debtor or to which the Corporate Debtor is entitled or accustomed to shall, notwithstanding any provision to the contrary in their terms and notwithstanding that they may have already lapsed or expired due to any non-compliance or efflux of time, be deemed to continue without disruption for the benefit of the Corporate Debtor and the Resolution Applicant for a period of 60 months from the Effective Date or until the period mentioned in such Business Licenses, whichever is later;	Granted for period of 12 months from the date of plan approval as per Section 31(4) of IBC, 2016
1.1	For the avoidance of doubt, it is hereby clarified that all leases, consents, licenses, approvals, rights, entitlements, benefits and privileges whether under law, contract, lease or license, granted in favour of the Corporate Debtor or to which the Corporate Debtor is entitled to, which were in place on the date of shut down of construction work or necessary for continuity implementation of Resolution Plan at the project shall be deemed to continue without	Granted for



	disruption for the benefit of the Corporate Debtor for a period of 60 months from the Effective Date or till the completion of the Project or until renewed by the relevant authorities, whichever is later as per the Resolution Plan. Without any liabilities for non-compliance during the time specified above, the Resolution Applicant undertakes to expeditiously identify such expired consents, licenses, approvals, rights, entitlements, benefits and privileges whether under law, contract, lease or license, granted in favour of the Corporate Debtor or to which the Corporate Debtor is entitled to and evaluate the steps required to address the same and take steps to remedy the same to the extent practically possible	period of 12 months from the date of plan approval as per Section 31(4) of IBC, 2016
1.2	The period of non-operation i.e. from shutdown date of construction work to Effective Date, shall not be counted upon i.e. any approval, grant, license etc. shall be treated to be in effect as the same was in effect on the shutdown date and shall remain valid for their residual tenure as on the shutdown date of construction work;	Granted
1.3	All relevant Governmental Authorities shall grant relief from payment of stamp duty, registration charges and applicable fees (including fees payable to the jurisdictional registrar of companies) as also any lease charges, fee, costs or charges as may be payable to Tamil Nadu Real Estate Regulatory Authority (TNRERA) for change in ownership/ control, revision of the project completion timelines, etc. for the (i) successful implementation of the Plan (including for increase in authorised share capital, any capital reduction, issuance or transfer of shares or debentures, provision of loan and related security interest and release of security interest, as contemplated in this Plan); and (ii) all other related documents that may be executed by the Resolution Applicant and / or the Corporate Debtor in respect of the transactions contemplated under the Plan;	This is for the appropriate authorities to consider, keeping in view of the clean slate principles enshrined under IBC, 2016
1.4	The Registrar of Companies, Chennai to take on record and implement the Plan, upon approval of the Plan by the NCLT, without any further compliances	Granted
1.5	All Governmental Authorities to waive the Non-Compliances of the Corporate Debtor prior to the Insolvency Commencement Date (including Non-Compliances under Companies Act, 2013, Employees' Provident Fund & Miscellaneous Provisions Act, 1952 and other Applicable Laws, and Non-Compliances in relation to non-payment of any outstanding charges and dues by the Corporate Debtor (including stamp duty, registration fee and property Taxes));	Granted in view of the clean slate principles enshrined under IBC, 2016
1.6	Since the Resolution Applicant has been provided with limited information in relation to the Business Permits and their current status, it is probable that certain of the Business Permits of the Corporate Debtor have lapsed, expired, suspended, cancelled, revoked or terminated or the Corporate Debtor Group has Non-Compliances in relation thereto. Accordingly, all Governmental Authorities to provide reasonable time period, if required, in order for the Resolution Applicant to assess the status of these Business Permits and ensure that the Corporate Debtor is compliant with the	Granted for period of 12 months from the date of plan approval as per Section 31(4) of IBC,



	terms of such Business Permits and Applicable Law without initiating any investigations, actions or proceedings or imposing any costs in relation to such Non-Compliances and permit the Resolution Applicant to continue to operate the businesses of the Corporate Debtor;	2016 Necessary approvals to be obtained by the SRA.
1.7	All Governmental Authorities to grant any relief, concession or dispensation as may be required for implementation of the transactions contemplated under the Plan in accordance with its terms and conditions, and to waive the Non-Compliances of the Corporate Debtor;	This is for the appropriate authorities to consider
1.8	Notwithstanding anything contained in this Plan, this Plan and the amounts and payments contemplated and set out in this Plan have been arrived at on the basis of the (i) information provided in the Information Memorandum, (ii) information as provided by the Resolution Professional. In the event of any modification of such information, the Resolution Applicant shall have the option to withdraw the Resolution Plan and its implementation thereon. It is clarified that the rights of the Resolution Applicant, set forth in this Chapter are without prejudice or detriment to any rights, remedies or powers that the Resolution Applicant may have in under applicable laws, under any document or on equity. In the event that any of the assumptions set out in this Plan are breached, the Resolution Applicant and the members of the erstwhile Committee of Creditors (represented through their authorised representative), as applicable, shall mutually discuss and agree on a suitable redressal method;	On approval by Adjudicating Authority the plan attains finality
1.9	Regulation 37(l) of the CIRP Regulations provides that a resolution plan may provide for the measures required for implementing it, including but not limited to obtaining necessary approvals from the Central and State Governments and other authorities. Accordingly, the Resolution Applicant requires all Governmental Authorities to grant any relief, concession or dispensation as envisaged in the Resolution Plan for its implementation. In this regard, upon the NCLT approving the Plan, the Resolution Applicant will pursuant to the NCLT's order, make necessary applications to the relevant Governmental Authorities to seek such waivers and reliefs, as appropriate. In particular, and without limiting the foregoing, the Resolution Applicant requires the measures as stated in Part I and from the other relevant Governmental Authorities, which the Resolution Applicant believe are required for implementing this Plan;	This is for the appropriate authorities to consider, keeping in view of the clean slate principles enshrined under IBC, 2016
1.10	The Resolution Applicant and Corporate Debtor shall not be liable for any payments against any contingent liability whether mentioned in the Information Memorandum or not included in the Information Memorandum but not limited to liabilities on account of bank guarantees given to customers or any other entity, Income Tax, GST, Sales Tax, VAT, Excise Duty, Custom Duty and any other duty, Tax, Cess, levies etc. due to Centre, State, Statutory or Local Bodies other than as proposed in this Resolution Plan;	Granted



1.11	The Corporate Debtor, Resolution Applicant and their Board of Directors (appointed after Effective Date) shall not be liable for any breach or non-compliance of the terms and conditions of the Layout Plan, concession agreement, Lease Deeds, Assured Return, Buy back arrangements and the Maintenance Agreements any action taken pursuant to bouncing of cheques issued by the earlier management/promoter of the Corporate Debtor and such other clearances/approvals, etc., by the Corporate Debtor, for a period until the Effective Date and any penalty/claim for any such breach or non-compliance shall stand waived and extinguished on and from the Effective Date and accordingly all such payments shall be deemed to be settled in terms of this Resolution Plan by virtue of settlement of dues of the operational Creditors or creditors in class, as the case may be.	Granted
1.12	On Approval Date, all actions stated in this Resolution Plan shall be deemed to be approved by all stakeholders. Accordingly, any action or implementation of this Resolution Plan shall not be a ground for termination of any lease/ sub-lease, Clearances or the like that has been granted to the Corporate Debtor or for which the Corporate Debtor has made an application for renewal or grant	Granted
1.13	The approval of this Plan by the NCLT shall be deemed to have waived all the procedural requirements in terms of Section 66, Section 42, Section 62 (1), Section 71 of the Companies Act, 2013, and relevant rules made thereunder, in relation to reduction of share capital of the Corporate Debtor	Granted, subject to the provisions of the Companies Act, 2013 and other applicable laws
1.14	On Approval Date, any claims by any person whether submitted to Resolution Professional or not, admitted by Resolution Professional or not, due or contingent, asserted or un-asserted, crystallised or uncrystallised, known or unknown, secured or unsecured, disputed or undisputed or pending adjudication in any forum, present or future against the Corporate Debtor accrued as on the insolvency commencement date against the Corporate Debtor, whether arising under the subsisting lease/ sub-lease, consents, licenses, approvals, rights, entitlements, benefits and privileges whether under law, contract, lease or license, granted in favour of the Corporate Debtor or any contractual arrangements entered into by the Corporate Debtor, shall notwithstanding any provision to the contrary in their terms, stand extinguished without any recourse;	Granted in terms of the judgment of the Hon'ble Supreme Court in <i>Ghanashyam Mishra and Sons v. Edelweiss Asset Reconstruction Company Limited.</i>
1.15	The submission of this Resolution Plan shall not in any manner prejudice or affect the ability of the Resolution Applicant/Nominated SPV to be a Resolution Applicant under the Code in respect of any other person or in respect of any other corporate insolvency resolution process under the Code;	This is not in the form or a relief / concession



2.	Chennai Metropolitan Development Authority (CMDA)	
2.1	CMDA/ DTCP/ other concerned Authority as the case may be shall grant/renew necessary sanctions/ licences etc.as required for implementation of the Resolution Plan;	This is for the appropriate authorities to consider, keeping in view of the object of IBC, 2016 and interest of homebuyers.
2.2	That on the Approval Date all dues towards land to be paid to CMDA/ DTCP by the Corporate Debtor and other claims including lease premium, annual lease rent, transfer charges, unearned increase, principal amount, enhancement, unearned amount, or amount of any other nature shall stand settled, extinguished and satisfied as per the terms of the Resolution Plan. Any other charges including interest/penalty on premium/principal amount, lease rent and charges and premium, renewal and revalidation of building plans/layout plan/ zonal plan; extension charges etc. shall be extinguished on the Approval Date.	Granted
2.3	CMDA/ DTCP shall give a construction period of 60 months plus a grace period of 12 months from the Effective Date	This is for the appropriate authorities to consider, keeping in view of the object of IBC, 2016 and interest of homebuyers.
2.4	CMDA/ DTCP to take on record the change in constitution/shareholding of the Corporate Debtor as per the Resolution Plan and shall not to treat change of shareholding as an event of default;	Granted
2.5	CMDA/ DTCP not to charge any duty/fees/cost/interest/cess etc. for taking on record such change in constitution/shareholding of the Corporate Debtor in terms of the Resolution Plan	This is for the appropriate authorities to consider
2.6	Time period to complete the project to remain valid till the implementation of the Resolution Plan.	This is for the appropriate authorities to consider
2.7	CMDA/ DTCP shall provide Unit Wise Occupation Certificate (OC)/Completion Certificate (CC), after due inspection and after following such procedures as necessary for obtaining the OC/CC.	This is for the appropriate authorities to consider
2.8	CMDA/ DTCP shall grant part Occupation Certificate/Completion Certificate to the Corporate Debtor for the project in various phases.	This is for the appropriate authorities to consider



3.	Tamil Nadu Real Estate Regulatory Authority (TNRERA)	
3.1	The Resolution Applicant undertakes to register the project with TNRERA in terms of the provisions of the Real Estate (Regulation & Development) Act, 2016.	Ordered
3.2	TNRERA to extend cooperation in registering the project upon approval of the Resolution plan by the NCLT	Ordered
3.3	Till the time the registration of the project is completed by TNRERA construction work is allowed to continue, including advertisement etc. without any hindrance or obstruction.	This is for the appropriate authorities to consider
3.4	All orders passed by TNRERA against the Corporate Debtor till Approval Date shall stand nullified, extinguished and fully satisfied in terms of the Resolution Plan.	Granted in terms of the judgment of the Hon'ble Supreme Court in <i>Ghanashyam Mishra and Sons v. Edelweiss Asset Reconstruction Company Limited.</i>
3.5	To grant relief from payment of any fee, charge, levy etc. due to change in ownership or revisions of the project completion timeline etc.	This is for the appropriate authorities to consider
4.	Allottees	
4.1	The cost of GST/ taxes, Stamp duty, lease rental CMDA, Registration Charges, Common Area Maintenance charges, any land compensation charges demanded by any government authority, other development charges etc., will be paid by Allottees as and when it arises/accrues.	Ordered as provided in resolution plan
4.2	The Allottees shall withdraw any existing claims filed in any court of law and all orders/decrees passed by any court of law shall stand nullified and all Allottees shall be dealt with in accordance with this Resolution Plan. However, the Corporate Debtor should not be subject to any claims of subrogation or have any of its assets attached or frozen or garnished or any of them being subject to restraint or restriction of any manner, in each case including whether provisionally or otherwise.	Granted



5	Liability for Past acts or Omissions	
5.1	<p>All Claims against the Corporate Debtor from any Party as on the Approval Date will stand extinguished subject to however the Resolution Applicant fulfilling its financial obligations undertaken under this Resolution Plan. In this context it is further clarified that Claims admitted/verified by the Resolution Professional shall stand settled and extinguished as per the Resolution Plan.</p> <p>Claims that were either not filed or not admitted or rejected during the CIRP in terms of the provisions of the Code shall stand extinguished;</p> <p>Any Claim that may arise post the Approval Date including Claims under applicable Law, contract, judicial/quasi-judicial proceedings, disputed or undisputed, crystallized or otherwise which relate to the period on or prior to the Insolvency Commencement Date shall always be subject to the payment proposed to be made under this Resolution Plan and shall pose no additional liability (whether financial, contractual, performance or otherwise) on the Resolution Applicant.</p> <p>Any claims made under any guarantees issued by the Corporate Debtor on behalf of any third party(ies) shall also stand extinguished as a part of this Resolution Plan and the beneficiaries of such guarantees shall be expected to recover the monies with respect to un-invoked guarantees from the principal borrower and for any shortfall, they shall not have any recourse against the Corporate Debtor and/or the Resolution Applicant.</p>	<p>Granted in terms of the judgment of the Hon'ble Supreme Court in <i>Ghanashyam Mishra and Sons v. Edelweiss Asset Reconstruction Company Limited.</i></p>
5.2	<p>All outstanding negotiable instruments issued by the Corporate Debtor including demand promissory notes, post-dated cheques, bills of exchange, letters of credit etc. shall stand terminated and the Liability of the Corporate Debtor under such instruments shall stand extinguished other than those issued by Resolution Professional during the CIRP process and disclosed to Resolution Applicant</p>	<p>Granted</p>
5.3	<p>All powers of attorney executed by or on behalf of the Corporate Debtor on or prior to the Approval Date shall stand revoked and cancelled except when expressly continued by the new management as appointed by Resolution Applicant after the Approval Date</p>	<p>Granted</p>
5.4	<p>The Resolution Applicant, and its directors, officers and employees shall have immunity from any actions and penalties (of any nature) under any laws for any non-compliance of laws in relation to the Corporate Debtor or by the Corporate Debtor, as well as with the terms of any agreement or arrangement entered into by the Corporate Debtor, which was existing as on the Effective Date and such Immunity shall continue for a period of 12 months from, the Effective Date. Without any liability for the non-compliance during the time specified above, the Resolution Applicant shall undertake to cause the Corporate Debtor to expeditiously identify such non-compliances, evaluate the steps required to address such non-compliances and take steps to remedy such non-compliance to the extent practically possible. The Resolution Applicant and the</p>	<p>Granted</p>



	Corporate Debtor shall be entitled to apply to and approach the Hon'ble NCLT for relief for continued implementation of the approved Resolution Plan before or after any coercive action is taken against the Corporate Debtor or the Resolution Applicant.	
5.5	The Corporate Debtor shall be entitled to terminate or modify any contract(s) (including contracts with parties that were related parties of the Corporate Debtor prior to the Insolvency Commencement Date) if in view of Resolution Applicant, they either impose onerous conditions or may render the revival of the Corporate Debtor and implementation of the Plan 37 impracticable or unviable or hinder the restructuring for the Corporate Debtor and its Affiliates;	Granted, subject to the provisions of the Contract Act, 1872 and other applicable laws
5.6	With regard to all other unevolved bank guarantees / letters of credit, it is expressly stated that the Resolution Applicant shall neither be liable to honour such bank guarantee / letters of credit nor shall it be obliged to renew the bank guarantee / letters of credit or provide any assistance to the respective creditors to contest or defend any claims that are raised by the beneficiary. The satisfaction or payment by the respective creditors upon receipt of any claims in connection with the aforementioned bank guarantees / letters of credit shall not be construed as a default on part of the Corporate Debtor and, any modifications required in the bank guarantee / letter of credit documents to reflect such arrangement shall be made by the respective creditors.	Granted
5.7	All agreements / arrangements between the Corporate Debtor and the persons currently classified as shareholders or promoter or promoter group, persons acting in concert with promoters, holding companies, subsidiary companies, associate companies, group companies and / or their respective affiliates / associates and Related Party, shall stand terminated at the instance of the Resolution Applicant, with no Liability to the Resolution Applicant or the Corporate Debtor (including but not limited to with regard to any previous breaches), which shall not impair the value or control/ownership of assets of the Corporate Debtor. However, it is clarified that all claims of the Corporate Debtor against such related parties (and all liabilities of such related parties towards the Corporate Debtor) shall remain outstanding, due and payable in accordance with their terms, including any that may arise from the implementation of this Resolution Plan and shall be vested in the Corporate Debtor and/or its successors for the benefit of the Resolution Applicant only	Granted
5.8	Notwithstanding the terms of the relevant agreements, the NCLT shall direct that prior approval of the counterparties shall not be required to be obtained for change in control / constitution of the Corporate Debtor 38 pursuant to the terms of this Plan and such counterparties: (i) shall waive all objections / liabilities of the Corporate Debtor arising out of the initiation of corporate insolvency resolution / bankruptcy proceedings involving the Corporate Debtor, appointment of the Resolution Professional and in respect of the implementation of this Plan; (ii) shall waive the right to suspend	Granted, subject to the provisions of the Companies Act, 2013 and other applicable laws



	these agreements due to any previous delays / failures by the Corporate Debtor to make payments under such agreements; and (iii) shall not modify prejudicial to the Corporate Debtor or terminate the relevant agreements or take any adverse actions against the Corporate Debtor.	
6.	Relevant Tax Authorities	
6.1	The Corporate Debtor and the Resolution Applicant shall not be liable for any taxes and shall be granted an exemption from all Taxes, levies, fees, transfer charges, transfer premiums, and surcharges that arise from or relate to implementation of the Resolution plan, since payment of these amounts may make the Resolution plan unviable. Any reference to Taxes shall include any transfer premiums or charges, change of ownership/ Control charges payable in connection with the implementation of this Resolution Plan and the consequent change in ownership and Control of the Corporate Debtor	This is for the appropriate authorities to consider
6.2	Further the Central Board of Direct Taxes / relevant Tax authorities and its enforcing officers and / or agencies (including but not limited to the Assessing Officer, Commissioner of Income Tax, Commissioner of Income Tax (Appeals) and Income Tax Appellate Tribunal) to: (i) not void or take any other actions with respect to the transactions contemplated under this Plan under Section 281 of the IT Act; (ii) exempt the Resolution Applicant or its Nominated SPV from any liability pursuant to Sections 56 and 170 of the IT Act; and (iii) not levy any Tax (including minimum alternate Tax) arising as a result of giving effect to, or otherwise in relation to, the Plan, in the hands of the Corporate Debtor, the Resolution Applicant or its nominee. The Central Board of Excise and Customs to not void or take any other actions with respect to the transactions contemplated under this Plan under Section 81 of the Central Goods and Service Tax Act, 2017 and not impose any successor liability on the Resolution Applicant or its Nominated SPV, or the Corporate Debtor	This is for the CBDT and other appropriate authorities to consider keeping in view the object of IBC, 2016
6.3	The Central Board of Direct Taxes / relevant Tax authorities to not subject income or gain or profits, if any, arising as a result of giving effect to the Plan to Tax including minimum alternate Tax in the hands of Corporate Debtor	This is for the CBDT and other appropriate authorities to consider keeping in view the object of IBC, 2016
6.4	The CBDT/DOR shall grant the following exemptions / waivers: (i) from applicability of Section 56 (2)(x) and Section 281 of the Income Tax Act, 1961 including obtaining no-objection certificate from income tax authorities in respect of all the pending proceedings and dues (including interest and penalty) of the Corporate Debtor/Shareholder(s) arising for periods up to the Approval Date (including such proceedings and dues for periods prior to the Approval Date that may crystallize subsequent to the Approval Date) and (ii) from all Tax Liabilities (including interest and penalty) and	This is for the CBDT and other appropriate authorities to consider keeping in view the object of IBC, 2016



	Tax proceedings arising in respect of periods up to the Approval Date, including such Liabilities/ proceedings for periods up to the Insolvency Commencement Date that may crystallize subsequent to the Approval Date in respect of on-going or potential Income - tax litigations at all levels;	
6.5	The CBDT/DOR will treat the transaction under the Resolution Plan as bonafidely undertaken with a view to revive the existing Business/ Corporate Debtor and shall treat the Resolution Plan, approved by Hon'ble NCLT as duly compliant with the provisions of the Income Tax Act, 1961 and thus any step followed as part of the revival/ restructuring under this Resolution Plan shall be provided any specific exemption from tax, if arising on account of the steps followed in the transaction. The Income-Tax authorities shall waive any Taxes, including Minimum Alternate Tax or under "Income arising under the head Income from Other Sources", arising from or in connection with the implementation of the Resolution Plan. The Corporate Debtor shall be permitted to carry forward its unabsorbed tax losses and unabsorbed depreciation notwithstanding a change in the shareholding of the Corporate Debtor as provided under Section 79 of the Income Tax Act, The Central Board of Excise and Customs ("CBEC")/DOR to not void or take any other actions with respect to the transactions contemplated under Section 81 of the Central Goods and Service Tax Act, 2017 and not impose any successor liability on the Resolution Applicant and the Corporate Debtor. Further CBEC/DOR shall waive the Corporate Debtor and Resolution Application from all Tax Liabilities (including interest and penalty) and Tax proceedings arising in respect of periods up to the Approval Date, including such Liabilities/ proceedings for periods up to the Approval Date that may crystallize subsequent to the Approval Date in respect of any on-going or potential Tax litigations at all levels	This is for the CBDT and other appropriate authorities to consider keeping in view the object of IBC, 2016
6.6	All the dues including taxes/ cess/ interest / penalty and other liabilities outstanding towards GST/ VAT/ Service Tax/ Sales Tax, Income Tax, RoC any other statutory authority, existing as on Approval Date, shall stand extinguished. No liability shall arise on the Resolution Applicant for the period prior to the Approval Date	Granted
6.7	The Corporate Debtor shall not be disallowed any previous deductions before the Approval Date on the grounds of non-payment or non-deduction of TDS which has already been allowed in previous returns;	This is for the CBDT and other appropriate authorities to consider keeping in view the object of IBC, 2016
6.8	The Resolution Applicant and/or the Corporate Debtor, as the case may be, shall be entitled to all the assets including all benefits with respect to input tax, credit of Various Taxes including but not limited to service tax, sales tax, goods and service tax or cess by whatever name known, available as balance in financial statements as of the Approval Date	This is for the CBDT and other appropriate authorities to consider keeping in view the object



		of IBC, 2016
6.9	Any liability relating to a period prior to the Approval Date, arising out of or relating to any such benefit/asset accruing or to be accrued to the Corporate Debtor, will be treated as an Operational Creditor and no additional payment shall be made or be payable with respect to such liability by the Corporate Debtor and/or the Resolution Applicant; and	This is for the CBDT and other appropriate authorities to consider keeping in view the object of IBC, 2016
6.10	All Claims (whether contingent or crystallized, known or unknown, filed or not filed) of Governmental Authorities in relation to all Taxes which the Corporate Debtor was or may be liable to pay (including with respect to financial years under assessment), all deductions and all withholding Taxes on any payment, as required under Applicable Law and pertaining to the period prior to the Approval Date shall stand extinguished on the Approval Date. Furthermore, and without prejudice to the other generality of the foregoing, any assessment, re-assessment, revision or other proceedings under the provisions of the applicable Laws relating to Taxes would be deemed to be barred in relation to any period prior to the Approval Date, by virtue of the order of the Hon'ble NCLT approving this Resolution Plan.	Granted
6.11	The requirement of obtaining a no objection certificate under section 281 of the Income-Tax Act, 1961 and provisions of taking over its predecessor's Tax liability under section 170 of the Income Tax Act shall not be applicable. Further, the transaction shall not be treated as void under section 281 of the Income Tax Act, 1961 for any claims in respect of Tax or any other sum payable by the Corporate Debtor or any shareholder of the Corporate Debtor. Similarly, any requirements to obtain waivers from any tax authorities including in terms of Section 79 and Section 115B and any other provision of the Income Tax Act, 191 is deemed to have been granted on Approval Date.	This is for the CBDT and other appropriate authorities to consider keeping in view the object of IBC, 2016
6.12	That the Hon'ble NCLT be pleased to give or issue necessary direction, instructions to the CBDT, Central board of Indirect Taxes and Customs and State GST authorities to exempt income/gain/profits, if any, arising as a result of giving effect to the Resolution plan and from being subjected to Income Tax in the hands of the Corporate Debtor or the Resolution Applicant under the provisions of value added tax, customs, octroi, excise duty, service tax, goods & services Tax, Income-Tax Act including but not limited to any income tax and Minimum Alternate Tax (MAT) liability arising on capital reduction in Corporate Debtor, consolidation of share capital of Corporate Debtor, write off/ write down of current amounts due to employees, vendors, Other Creditors, Operational Creditors, Financial Creditors, value of assets, value of inventories etc. Without any impact on brought forward tax and book loss/ depreciation; and waive all liabilities whether crystallized or not in respect of Taxes (including interest and penalty) arising in respect of periods up to the Approval Date	This is for the CBDT and other appropriate authorities to consider keeping in view the object of IBC, 2016
6.13	Waiver of any withholding tax, income-tax and MAT liability or	



	<p>consequences (including interest, fine penalty, etc) on Corporate Debtor, Resolution Applicant and its shareholders on account of various steps as proposed in the Resolution plan, including but not limited to liabilities if any under Section 28, Section 41, Section 56, Section 43, Section 28, Section 115JB, Section 79, Section 45, Section 269SS, Section 269T and Section 271E of the Income-Tax Act, 1961, Including, without limitation:</p> <p>Waiver of MAT and income tax implication arising due to hiving-off of surplus/obsolete assets, sold by the Resolution Applicant.</p> <p>Waiver of MAT and income tax implication arising due to write back/write off of liabilities in the books of accounts of Corporate Debtor without any impact on brought forward tax and book loss/depreciation, pursuant to this Resolution Plan.</p> <p>Waiver of MAT and income tax implications arising due to the revaluation of assets of the Corporate Debtor to their realisable value, pursuant to this Resolution Plan.</p>	This is for the CBDT and other appropriate authorities to consider keeping in view the object of IBC, 2016
6.14	Any liability/claim pertaining to period prior to Approval Date on account of non-payment of tax/ interest/ penalty by Corporate Debtor, shall stand reduced to NIL on the Approval Date and the Resolution Applicant and/or Corporate Debtor shall not be under any obligation to pay any tax/demand in relation to the same.	Granted
6.15	All assets (including properties, whether freehold, leasehold or license basis) of the Corporate Debtor to be vested, free and clear of all Encumbrances and disputes	Granted
6.16	To accept the new time period for completion of the construction of the Project, as contemplated under the Resolution Plan	This is for the CBDT and other appropriate authorities to consider keeping in view the object of IBC, 2016
7.	Inquiries, Investigations etc.	
7.1	On Approval Date, all ongoing investigations and proceedings as mentioned in the Information Memorandum or otherwise, 'whether civil or criminal, notices, of action, suits,' claims, disputes, litigation, arbitration or judicial, regulatory or administrative proceedings against or in relation to, or in connection with the Corporate Debtor or the affairs of the Corporate Debtor, pending or threatened, present or future (including without any limitation, any investigation, action, proceeding, prosecution, whether civil or criminal, by the CBI, ED or any other regulatory or enforcement agency), in relation to any Period prior to the completion date or arising on account of the acquisition of the control by the Resolution Applicant over the Corporate Debtor pursuant to this Resolution Plan shall stand withdrawn or dismissed and all liabilities or 'obligations in relation thereto, whether or not set out in the Balance Sheets and Profit or Loss Account of the Corporate Debtor, will be deemed to have been written off in full without any tax liability on the Corporate Debtor and permanently extinguished and the Corporate Debtor and the	Granted in terms of the judgment of the Hon'ble Supreme Court in <i>Ghanashyam Mishra and Sons v. Edelweiss Asset Reconstruction Company Limited.</i>



	Resolution Applicant shall at no point of time be directly or indirectly, held responsible or liable in relation thereto notwithstanding any adverse order that may be passed in respect of the same by any authority prior or after the Completion Date.	
7.2	In case of any action by any governmental authority, enforcement directorate, serious fraud investigation office, ministry of corporate affairs, taxation authorities (direct or indirect taxes), central or state or local authorities or any other Governmental Authority against any acts or omission of Corporate Debtor or existing shareholder and/or director of Corporate Debtor (Prior to the Approval Date), shall not have any bearing on the ownership/ possession/ rights of Resolution Applicant on the Corporate Debtor and its assets, including but not limited to the Project and/or Project Land, after the Approval Date	Granted
7.3	On Approval Date, all new inquiries, investigations, whether civil or criminal, notices, suits, claims, disputes, litigation,' arbitration or other judicial, regulatory or administrative proceedings will be deemed to be barred and will not be initiated or admitted against the CD in relation to any. prior period to the acquisition of control by the Resolution Applicant over the Corporate Debtor or on account of acquisition control by the Resolution Applicant over the Corporate Debtor pursuant to this Resolution Plan. In any event the Resolution Applicant, the Corporate Debtor or the reconstituted Board of Directors shall not be responsible for any non- compliance relating to the period prior to the Approval Date.	Granted
7.4	No consequence of liability arising out of any criminal act done by the Corporate Debtor and/or its management shall fall upon the Resolution Applicant or any employees, directors, representatives of Resolution Applicant and the Corporate Debtor	Granted
7.5	Neither shall the Resolution Applicant nor the Corporate Debtor nor their respective directors, officers, consultants, and employees to be appointed after the Approval Date be liable for any violations, liabilities, penalties or fines with respect to or pursuant to the Corporate Debtor not having in place the requisite licenses and approvals required to undertake its business as per Applicable Laws and the Resolution Applicant seeks a time period of 12 months from the Effective Date, to ensure renewal of such consents/licenses and approvals	Granted from the approval date
7.6	On Approval Date, all pending litigations and contingent liabilities and any and all claims against the Corporate Debtor in relation to any of those litigations shall stand automatically revoked, released, cancelled, withdrawn, dismissed and reduced to NIL and shall be deemed null and void (as the case may be) and all financial obligations in relation to all such litigations shall be considered to be permanently settled, discharged, and extinguished in full with effect from the Approval Date. Furthermore, any and all stay / restraint / claim / restriction on creating any encumbrance or interest of any third party on the Corporate Debtor or the Project or the Project Land	Granted



	or any assets of the Corporate Debtor shall be deemed to be cancelled, waived and nullified and no such right or restriction shall be construed as continuing on and from the Approval Date.	
7.7	On Approval Date, the Resolution Applicant shall be the true, legal and beneficial owner of the Corporate Debtor and the Project (including Project Land) and shall have peaceful and quite enjoyment of the Project Land without any hindrance of exercise of its rights from any third party including but not limited to any litigations against the Corporate Debtor and its subsidiaries (including its step-down subsidiaries)	Granted
7.8	On Approval Date, the Resolution Applicant shall have a clean title towards the Corporate and its subsidiaries (including its step-down subsidiaries) and the Project and Project Land.	Granted
7.9	On Approval Date, subject to the terms of this Resolution Plan, the Resolution Applicant shall have the absolute right to deal in the Corporate Debtor and its subsidiaries (including its step-down subsidiaries) and in the Project and / or Project Land as it may deem appropriate in its sole discretion, including but not limited to, sale, lease, dispose off, alienate the Project / Project Land / its built-up area, etc.	Granted
7.10	On Approval Date, any Fraud Investigation Office (including Serious Fraud Investigation Office (SFIO) and Enforcement Directorate (ED) and any other Central/ State Government agency) ("investigation") that have been initiated or are threatened to be initiated against the Corporate Debtor for actions/omissions of the Corporate Debtor and / or its stakeholders that relate to the period at any time till the Approval Date shall stand automatically revoked, released, cancelled, withdrawn, dismissed and reduced to NIL and shall be deemed null and void (as the case may be) and all financial obligations in relation to such Investigation shall be permanently settled, discharged, and extinguished in full with effect from the Approval Date.	Will not affect the Resolution Applicant
7.11	On Approval Date, necessary directions would deemed to have been issued by the Hon'ble NCLT to relevant authorities in relation to approval of the Plan and to take necessary actions expediently in relation to making necessary updation in the records w.r.t. Project, Project Land and its saleable area and such relevant authority shall issue necessary certificate/ approval letter in relation to the above.	This is for the appropriate authorities to consider
7.12	On Approval Date, all Non-Compliances, breaches and defaults of the Corporate Debtor for the period prior to the Approval Date (including but not limited to those relating to acquisition of land/licences) and if any non-compliances, breaches and defaults, shall be deemed to be waived by the concerned Governmental Authorities. Immunity shall be deemed to have been granted to the Corporate Debtor from all proceedings and penalties under all Applicable Laws for any Non-Compliance for the period prior to the Approval Date and no interest/penal implications shall arise due to such Non-Compliance /default /breach prior to the Plan on Approval	Granted



	Date.	
8.	No Legal Action by any Creditor/Stakeholder	
8.1	Any legal action of any kind/nature pending the occurrence of the Approval Date, no creditor/ stakeholder shall be entitled to institute or continue any suits or proceedings including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or authority against the Corporate Debtor or take any action to foreclose, recover or enforce any security interest created by the Corporate Debtor and/or any other person(s) or entities with respect to the Claims in respect of its property or otherwise including but not limited to the Litigation cases as mentioned in the Data Room;	Granted
8.2	All existing Security Interests with respect to the Claims in respect of the assets of the Company and/or otherwise shall stand cancelled and discharged;	Granted
8.3	Any event of default having occurred on part of the Corporate Debtor under any of the financing documents entered into by the Corporate Debtor on its own behalf or on behalf of subsidiaries (if any), joint ventures or associates to secure or guarantee any of their liabilities, prior to the Approval Date, shall be waived in entirety and all rights under the existing finance documents in relation thereto shall stand extinguished.	Granted
9	Subject to applicable regulations and bye laws, the Resolution Applicant shall be allowed to undertake redesigning of the Project Site, based on its own viability assessments.	Granted as per resolution plan
10	Subject to applicable regulations and bye laws, any additional FAR (any basis)/ Ground coverage relating to the Project Site permitted under the master plan shall vest with the Corporate Debtor and no further payments shall be payable to authority for such additional FAR/ Ground coverage or height coverage	Appropriate authorities to consider
11	That the reconstitution and reduction of share capital set out in the resolution is approved and implemented pursuant to the provisions of the Code, specifically, Regulation 37 of the CIRP Regulations read with Section 31 of the Code. The compliance with the provisions of the Resolution Plan and the merger as proposed in this Resolution Plan shall be deemed to be in accordance with and constitute compliance with any and all provisions of Law that would have otherwise applied to a similar merger or reduction of capital under the Companies Act, 2013 the Income Tax Act, 1961 and/or under rules / circulars / regulations issued thereunder.	Granted, subject to the provisions of the Companies Act, 2013 and other applicable laws
12	Debit balance of retained earnings (i.e. Profit & Loss account) as on Approval Date is lost or unrepresented by available assets of Corporate Debtor. Resolution Applicant proposed to adjust the debit balance of retained earnings against the credit balance of securities Premium Account of Corporate Debtor if any. It is clarified that on account of above transactions of capital reduction, true and fair financial position shall be reflected in the financial statements of the Corporate Debtor.	This is for the appropriate authorities to consider
13	The moratorium provisions under the Code including but not limited	



	to Section 14 of the Code shall mutatis mutandis apply for the period from the Approval Date till the Effective Date. Without prejudice to the generality of the foregoing, the Corporate Debtor shall be provided un-interrupted supply of essential services and goods during the period from the Approval Date till the Effective Date by all relevant Stakeholders.	Not Granted. This is for the appropriate authorities to consider
14	The relevant Govt. Authorities to issue structural stability certificate No. C/OC/CC etc., in terms of the applicable laws for the structure already completed as on the Approval Date if not already provided.	This is for the appropriate authorities to consider

18.15. As far as the question of granting time to comply with the statutory obligations / seeking sanctions from governmental authorities is concerned, the Successful Resolution Applicant is directed to do the same within one year as prescribed under section 31(4) of the Code.

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

18.17. The Resolution Applicant is directed to make payment of the entire Resolution Plan amount within the time period stipulated under the Resolution Plan, failing which the entire amount paid by the Resolution Applicant (*including the Performance Guarantee*) as on the said date would stand automatically forfeited, without any recourse to this Tribunal.



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

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

18.20. A copy of this Order be sent to the concerned Office of the Registrar of Companies.

18.21. The application IA(IBC)/252/CHE/2022 filed for condonation of delay in filing the IA(IBC)/250/CHE/2022 for approval of Resolution Plan stands **disposed of** in terms of para 3 *supra*.

18.22. The applications IA(IBC)/732(CHE)/2022; IA(IBC)/381(CHE)/2025 and IA(IBC)/399(CHE)/2025 stand **dismissed** in terms of para 11 *supra*.

18.23. The application IA(IBC)/250(CHE)/2022 filed for approval of the Resolution Plan is **allowed and disposed of** in terms of para 12 to 18 *supra*.

18.24. The Chairman of the Monitoring committee is directed to submit **quarterly report** to this Tribunal.



18.25 The *Registry* is directed to send e-mail copies of the order forthwith to all the parties and their Counsels for information and for taking necessary steps.

Files be consigned to the record.

-Sd-

VENKATARAMAN SUBRAMANIAM
MEMBER (TECHNICAL)

-Sd-

SANJIV JAIN
MEMBER (JUDICIAL)