

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

**IA No. 02 of 2025**

**IN**

**CP(IBPP) No. 02 of 2023**

Under Section 54K of the Insolvency and Bankruptcy Code, 2016 r/w Regulation 49 of the Insolvency and Bankruptcy Board of India (Pre-Packaged Insolvency Resolution Process) Regulations, 2021

**IA No. 02 of 2025**

**In the Application of**

**Manish Jaju**

**...Resolution**

**Professional/Applicant**

**In the matter of**

**Garodia Chemicals Limited**

**...Corporate**

**Debtor/Applicant**

**Order Delivered on : 24.02.2025**

***Coram:***

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

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

***Appearances:***

For the Applicant : Mr. Shyam Kapadia, Advocate

**ORDER**

1. The present Application is moved by Resolution Professional **Mr. Manish Jaju** (“**Applicant**”) under Section 54K of the Insolvency and Bankruptcy Code, 2016 (“**Code**”) r/w Regulation 49 of the Insolvency and Bankruptcy Board of India (Pre-Packaged Insolvency Resolution Process) Regulations, 2021 (“**PPIRP Regulations**”) for seeking approval of the Base Resolution Plan in respect of Garodia Chemicals Limited (“**Corporate Debtor**”) and for passing order/appropriate direction that this Tribunal may deem fit in the present matter.

**Brief Background**

2. The Corporate Debtor was incorporated to carry on the business of commerce trading and distribution of chemicals but has not been in operation for the last few years.
3. The Corporate Debtor’s Petition for initiation of Pre-Packaged Insolvency Resolution Process (“**PPIRP**”) was earlier rejected by this Tribunal vide Order dated 08.11.2023. However, the Petitioner appealed the rejection order wherein the Hon’ble NCLAT allowed the appeal and set aside the Order dated 08.11.2023 stating that admission of the Application was refused contrary to the scheme of IBC. The present Petition was then admitted on 16.04.2024 and Mr. Manish Motilal Jaju was appointed as the Resolution Professional.
4. The Resolution Professional made a Public Announcement on 23.04.2024 in Form 9 as required under Section 54E of the Code and Regulation 19 of the PPIRP Regulations and intimated the same to every creditor listed in Form P-2 along with Information Utilities.
5. The Committee of Creditor of the Corporate Debtor consists of sole unsecured Financial Creditor, i.e. M/s. WZ Enterprises Private Limited.

6. At the 1<sup>st</sup> CoC meeting held on 07.05.2024, the Applicant could not approve the Base Resolution Plan submitted by the Corporate debtor with the Resolution Applicant, Mr. Ravindra Salunkhe due to non-receipt of valuation report from the registered valuer from both the valuers.
7. At the 2<sup>nd</sup> CoC meeting held on 11.07.2024, the CoC approved the Base Resolution Plan submitted by the Corporate Debtor along with the Resolution Applicant, Mr. Ravindra Salunkhe with 100% voting share.
8. It is submitted that pursuant to approval of the Base Resolution Plan by the CoC, the Resolution Professional issued a Letter of Intent dated 11.07.2024 to the Resolution Applicant and the Resolution Applicant duly submitted their acceptance on 11.07.2024.

#### **Salient Features of the Base Resolution Plan**

9. The key features and summary of the Base Resolution Plan submitted by the Corporate Debtor along with the Resolution Applicant, Mr. Ravindra Salunkhe and as approved by the COC are as under:

##### **9.1. Reasons for losses**

The Part II of the Base Resolution Plan provides a *Brief Background*, wherein it is stated that the Corporate Debtor availed loan in several tranches to bear the expenses incurred for meeting its statutory obligations and compliances. Since the Company is not generating any revenue, it is not able to repay the loan including the interest thereon.

##### **9.2. Executive Summary of Base Resolution Plan**

The Part IV of the Base Resolution Plan provides an *Executive Summary Of The Resolution Plan* as extracted below :

**IV EXECUTIVE SUMMARY OF THE RESOLUTION PLAN**

<b>S. No.</b>	<b>Particulars</b>	<b>Key terms / Amounts</b>																					
1	<i>Amount of payment to Creditors</i>	<p><i>The sole Operational Creditor of the Corporate Debtor, namely M/s Makarand M. Joshi &amp; Co. shall be paid IN FULL amounting to Rs. 1,33,000/- (Rupees One Lakhs Thirty Thousand Only) within 30 days from Effective date and shall be paid in priority over Financial Creditors.</i></p> <p><i>The Financial Creditors of the Company would be paid a total amount of Rs. 25,00,000/- (Rupees Twenty Five Lakhs Only) towards their entire outstanding (accrued or to be accrued) as full and final settlement.</i></p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 20px;"> <thead> <tr> <th style="width: 10%;"><i>Sr. No.</i></th> <th style="width: 60%;"><i>Name of Financial Creditors</i></th> <th style="width: 30%;"><i>Full and final settlement amount</i></th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">1</td> <td><i>Mr. Mahesh Gordhandas Garodia</i></td> <td style="text-align: right;"><i>12,50,000/-</i></td> </tr> <tr> <td style="text-align: center;">2</td> <td><i>Mr. Nishant M. Garodia</i></td> <td style="text-align: right;"><i>12,50,000/-</i></td> </tr> <tr> <td style="text-align: center;">3</td> <td><i>M/s Garodia Sons Pvt. Ltd.</i></td> <td style="text-align: center;"><i>Nil (This will be settled without making any payment)</i></td> </tr> <tr> <td></td> <td style="text-align: center;"><i>Total</i></td> <td style="text-align: right;"><i>25,00,000/-</i></td> </tr> <tr> <td colspan="3" style="text-align: center;"><i>Creditor after effective date</i></td> </tr> <tr> <td style="text-align: center;">4</td> <td><i>M/s WZ Enterprises</i></td> <td style="text-align: center;"><i>WZ Enterprises</i></td> </tr> </tbody> </table>	<i>Sr. No.</i>	<i>Name of Financial Creditors</i>	<i>Full and final settlement amount</i>	1	<i>Mr. Mahesh Gordhandas Garodia</i>	<i>12,50,000/-</i>	2	<i>Mr. Nishant M. Garodia</i>	<i>12,50,000/-</i>	3	<i>M/s Garodia Sons Pvt. Ltd.</i>	<i>Nil (This will be settled without making any payment)</i>		<i>Total</i>	<i>25,00,000/-</i>	<i>Creditor after effective date</i>			4	<i>M/s WZ Enterprises</i>	<i>WZ Enterprises</i>
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			<i>Private Limited</i>	<i>Private Limited shall continue to stand as creditor in the books of Corporate Debtor after Approval of Base Resolution Plan.</i>
		<i>The above payment shall be made within such time as given in Point X(g) of this Plan.</i>		
2	<i>Balance repayment obligation to creditors (other than 1 above)</i>	<i>Operational Creditor is being paid with 100% payout.</i>  <i>All the dues of the Financial Creditors are being settled as provided in Point 1 of the table.</i>		
3	<i>Proposed instruments for repayment</i>	<i>Since, the amount is paid in cash, there are no securities which are being issued for repayment</i>		
4	<i>Interest rate/coupon and frequency of payment</i>	<i>Since no securities are being issued therefore no interest will be paid to the creditors</i>		
5	<i>Repayment schedule</i>	<i>Since no securities are being issued therefore no specific repayment schedule is provided. For utmost clarity, the creditors are being paid provided in Point 1 of the table.</i>		
6	<i>Amount of fresh equity proposed to be infused</i>	<i>The Investor plans to infuse Rs. 50,00,000 (Rupees Fifty Lacs only) towards subscription of 50,00,000 Equity Shares of Re. 1 each.</i>		
7	<i>Corporate Guarantee or additional collateral/security</i>	<i>The Investor has deposited title documents of Land Admeasuring 0.79 Sq Mtrs situated at Survey</i>		

	<i>being offered by the Investor pursuant to section 54K (13) of the Code.</i>	<i>No.213/1, Sasane, Murbad, District Thane with the Resolution Professional. The Market value of the property is Rs. Rs. 61,06,100/- as arrived on the basis of valuation report dated 7<sup>th</sup> February 2023.</i>
8	<i>Details of management personnel of the Investor with a brief description of experience in the relevant industry/business</i>	<i>As detailed Below in point V</i>
9	<i>Details of prior experience of the Investor in managing similar business</i>	<i>As detailed Below in point V</i>
10	<i>Credit Rating of the Investor</i>	<i>Since the Investor is an individual, CIBIL Report representing credit history and records of running credit transaction of Investor is appended as <b>Exhibit C</b></i>
11	<i>Brief of proposed business plan for the Company:</i>	<p><i>At the outset, with payment of the Operational Creditor of the Company in FULL and with full and final settlement of the Financial Creditors of the Company.</i></p> <p><i>Thereafter the Investor shall propose to carry out the list of business activities as set out in point VI.</i></p> <p><i>Financial projections of the proposed activities are appended in <b>Exhibit D</b></i></p>

### 9.3. Source of Funds

The Part XI of the Base Resolution Plan provides for *Source of Funds* as extracted below:

<i>Description of Source of Funds</i>
<i>Pre- packaged Insolvency Resolution Process Costs</i>
<i>By Resolution Applicant</i>

***Recovery to Financial Creditors and claims being paid to operational creditors***

*By Capital infusion by the Resolution applicant*

**9.4. Term, Implementation Schedule and Monitoring of the Resolution Plan**

9.4.1. The Resolution plan envisages duration of 30 days for Operational Creditor and 75 days for the Financial Creditors for payment of settled dues of creditors as per the terms of Resolution Plan and fund infusion in the corporate Debtor within 30 days. Further a cushion of 30 days has been sought to rectify any inadvertent delay. Thus, the term of Resolution plan may be considered as 105 days from the effective date.

9.4.2. The implementation of the Resolution Plan shall be supervised by Monitoring Committee, consisting of the Resolution Professional and the Investor, Mr. Ravindra Salunkhe, from the date of approval of the Resolution Plan till successful completion of the Resolution Plan.

**9.5. Treatment of various stakeholders**

The Part XIII of the Base Resolution Plan provides for *Treatment of Various Stakeholders* as extracted below :

**XIII TREATMENT OF VARIOUS STAKEHOLDERS**

*A. Pre-Packaged Insolvency Resolution Process Costs*

*The Outstanding Pre- Packaged Insolvency Resolution Process Costs borne by the Resolution Professional shall be paid on actual as approved by the Member of the CoC and NCLT for the period up to effective date in priority over payments to all Creditors within 15 days of effective date. Pre- Packaged Insolvency Resolution*

*Process Costs, to the extent that it remains outstanding, shall be paid by the Resolution Applicant.*

*B. Financial Creditors*

*The Resolution Applicant is proposing to pay the Financial Creditors the amounts stated under point IV (1), which is higher than the recoveries that the Financial Creditors are likely to make in case of liquidation.*

*C. Operational Creditor*

*The Resolution Applicant is proposing to pay the Operational Creditor the amounts stated under point IV (1).*

*D. Shareholders*

*The Investor specified that for every 13 (Thirteen) existing shares held by the public Shareholders, they will be entitled to 1 (one) share in GCL post the reconstitution of share capital. Any fraction entitlement of equity shares resulting from such reduction and Investment shall be rounded off to the nearest whole integer.*

**Statutory Compliance**

10. In compliance of Section 54K(3) r/w Section 30(2) of IBC, 2016, the Resolution Professional confirms that this Resolution Plan:

- a) Provides for payment of Insolvency Resolution Process cost in a manner specified by the Board in the priority to the payment of other debts of the corporate debtor;
- b) Provides for payment of debts of Operational Creditor in such manner as may be specified by the board which shall not be less than
  - (i) the amount to be paid to such creditors in the event of liquidation of the Corporate Debtor under Section 53; or
  - (ii) the amount that would have been paid to such creditors, if the amount to be distributed under the Resolution Plan



had been distribute in accordance with sub-section (1) of Section 53 in the event of liquidation of the corporate debtor.

- c) Provides for management of the affairs of the Corporate Debtor after approval of Resolution Plan;
- d) The implementation and supervision of Resolution Plan;
- e) Does not prima facie contravene any of the provisions of the law for time being in force,
- f) Confirms to such other requirements as may be specified by the Board.
- g) As per the Affidavit, the Resolution Applicant is not covered under 29A.

11. In compliance of Regulation 45 of PPIRP Regulations, the Resolution Professional confirms that the Resolution Plan includes -

- a) An affidavit that Resolution Applicant is eligible to submit a Resolution Plan for resolution of the Corporate Debtor under the Code;
- b) 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 Resolution Plan approved by the Adjudicating Authority at any time in the past; and
- c) An undertaking that every information and records provided in connection with or in the Resolution Plan is true and correct and discovery of false information and record at any time will render the Resolution Applicant ineligible to participate in any resolution process under the Code.
- d) A statement as to how it has dealt with the interests of all stakeholders, including financial creditors and operational creditors, of the corporate debtor.
- e) The amount due to the Operational Creditors under Resolution Plan shall be given priority in payment over Financial Creditors.

- f) The amount due to the Financial Creditors, who have a right to vote under sub-section (2) of section 21 and did not vote in favour of the Resolution Plan, shall be paid in priority over Financial Creditors who voted in favour of the Plan.
- a) The Resolution Plan provides for-
- (i) the term of the plan and its implementation schedule;
  - (ii) the management and control of the business of the corporate debtor during its term; and
  - (iii) adequate means for supervising its implementation.
- b) The resolution plan demonstrates that –
- (i) it addresses the cause of default;
  - (ii) it is feasible and viable;
  - (iii) it has provisions for its effective implementation;
  - (iv) it has provisions for approvals required and the timeline for the same; and
  - (v) the resolution applicant has the capability to implement the resolution plan.
12. The Resolution Professional has submitted **Form-P12** under Regulation 49(1) of the PPIRP Regulations to certify that the Resolution Plan as approved by the CoC meets all the requirements of the Code and its Regulations, the relevant parts of which are reproduced below :

***FORM P12***

***COMPLIANCE CERTIFICATE***

*(Under regulation 49 (1) of the Insolvency and Bankruptcy Board of India (Pre-packaged Insolvency Resolution Process) Regulations, 2021]*

*I, Manish Motilal Jaju, am the resolution professional for the pre-packaged insolvency resolution process (PPIRP) of Garodia Chemicals Limited.*

*2. The details of the pre-packaged insolvency resolution process*

<i><b>Sl. No.</b></i>	<i><b>Particulars</b></i>	<i><b>Description</b></i>
<i><b>I</b></i>	<i><b>II</b></i>	<i><b>III</b></i>
1	<i>Name of the corporate debtor</i>	<b>Garodia Chemicals Limited</b>
2	<i>Date of commencement of PPIRP</i>	<i>April 16, 2024</i>
3	<i>Date of appointment of resolution professional</i>	<i>April 16, 2024 (Certified copy of order received on April 22, 2024)</i>
4	<i>Date of publication of public announcement</i>	<i>April 23, 2024</i>
5	<i>Date of constitution of committee of creditors</i>	<i>April 23, 2024</i>
6	<i>Date of first meeting of committee of creditors</i>	<i>May 07, 2024</i>
7	<i>Date of second meeting of committee of creditors</i>	<i>July 11, 2024</i>
8	<i>Date of appointment of registered valuers</i>	<i>April 25, 2024</i>
9	<i>Date of submission of base resolution plan</i>	<i>April 24, 2024</i>
10	<i>Date of invitation of resolution plans from third party resolution applicant, if applicable</i>	<b>NA</b>
11	<i>Date of inviting corporate debtor to improve its resolution plan, if applicable</i>	<b>NA</b>
12	<i>Date of issue of invitation for resolution plan (if applicable)</i>	<b>NA</b>
13	<i>Last date of submission of resolution plan</i>	<b>NA</b>
14	<i>Date of approval of resolution plan by committee of creditors</i>	<i>July 11, 2024</i>

15	<i>Date of filing of resolution plan with Adjudicating Authority</i>	<i>July 15, 2024</i>
16	<i>Date of expiry of one hundred and twenty days of PPIRP</i>	<b><i>August 20, 2024</i></b>
17	<i>Fair value</i>	<i>Rs. 29,462</i>
18	<i>Liquidation value</i>	<i>Rs. 29,462</i>
19	<i>Number of meetings of committee held</i>	<i>2</i>

3. *I have examined the resolution plan received from corporate debtor jointly with the Investor Mr. Ravindra Salunkhe and approved by the committee of Garodia Chemicals Limited.*

4. *I hereby certify that-*

- a. *the said resolution plan complies with all the provisions of the Insolvency and Bankruptcy Code 2016 (Code), the Insolvency and Bankruptcy Board of India (Pre-packaged Insolvency Resolution Process) Regulations, 2021 and does not contravene any of the provisions of the law for the time being in force.*
- b. *the corporate debtor along with the Investor has submitted an affidavit pursuant to section 30(1) of the Code confirming its eligibility under section 29A of the Code to submit resolution plan. The contents of the said affidavit are in order.*
- c. *the said resolution plan has been approved by the committee in accordance with the provisions of the Code and the Regulations made thereunder. The resolution plan has been approved by 100% of voting share of financial creditors after considering its feasibility and viability and other requirements specified by the PPIRP Regulations.*
- d. *the voting was held in the meeting of the committee on July 11, 2024 where all the members of the committee were present.*

7. The amounts provided for the stakeholders under the resolution plan

(Amount in Rs. lakh)

<i>Sl. No.</i>	<i>Category of stakeholder *</i>	<i>Sub-category of stakeholder</i>	<i>Amount of claim</i>	<i>Amount admitted</i>	<i>Amount provided under the plan#</i>	<i>Amount provided to the amount claimed (%)</i>
<i>I</i>	<i>II</i>	<i>III</i>	<i>IV</i>	<i>V</i>	<i>VI</i>	<i>VII</i>
1	Secured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21				
		(b) Other than (a) above - (i) who did not vote in favour of the resolution plan (ii) who voted in favour of the resolution plan				
		Total[(a) + (b)]				
2	Unsecured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	4,30,88,067	4,30,88,067	25,00,000	5.80%

		<p><i>(b) Other than (a) above -</i></p> <p><i>(i) who did not vote in favour of the resolution plan</i></p> <p><i>(ii) who voted in favour of the resolution plan</i></p>	22,95,698	19,60,237	Nil	
		<i>Total[(a) + (b)]</i>				
3	Operational Creditors	<p><i>(a) Related Party of Corporate Debtor</i></p> <p><i>(b) Other than (a) above -</i></p> <p><i>(i) Government</i></p> <p><i>(ii) Workmen</i></p> <p><i>(iii) Employees</i></p> <p><i>(iv) other</i></p>	1,33,950	1,33,950	1,33,950	100%
		<i>Total[(a) + (b)]</i>				
4	Other debts and dues					
<i>Grand Total</i>			4,55,17,715/-	4,51,82,254/-	26,33,950	5.79%

**Submissions made against violation of the SEBI Takeover Code**

13. It is submitted that by way of an amendment in the Regulation 3(2) of the Takeover Code, a proviso has been inserted, which reads as follows:

*“Provided further that, acquisition pursuant to a resolution plan approved under section 31 of the Insolvency and Bankruptcy Code, 2016 [No. 31 of 2016] shall be exempt from the obligation under the proviso to the sub-regulation (2) of regulation 3”*

14. Therefore, the Base Resolution Plan, being formulated in accordance with the IBC framework, cannot be deemed to contravene the Takeover Code. Thus, clearly an exception is provided with respect to the Takeover Code with respect to a Resolution Plan. It is submitted that there is no difference in a Resolution Plan under Chapter III vs Chapter IIIA of the Code. Thus, the benefit of the said Proviso cannot be denied under the Pre-Packaged Insolvency Regime. This ensures uniform application of the Takeover Code exemption across all Resolution Plans under the Code, irrespective of whether they are formulated under the standard CIRP or the PPIRP regime.
  
15. The Applicant places reliance on the following judgments in support of his contention:
  - 15.1. Judgment dated 18.02.1983 passed by the Hon’ble Supreme Court of India in the matter of *Ashok Service Centre & Anr. versus State of Orissa [(1983) 2 SCC 82]*
  
  - 15.2. Judgment dated 20.08.2024 passed by the Hon’ble National Company Law Appellate Tribunal, at New Delhi in the matter of *Nikhil Jain versus Anil Goel [2024 SCC OnLine NCLAT 1011]*. Pertinently, the same was upheld by the Hon’ble Supreme Court of India vide Order dated 14.11.2024 passed in Civil Appeal No. 12149 of 2024.

### **Findings**

16. We have heard the submissions of the Applicant and perused the records.
17. This Tribunal had earlier rejected the Petition for initiation of PPIRP against this Corporate Debtor vide Order dated 08.11.2023 on the ground that it was an attempt to circumvent the Takeover Regulations of SEBI by bringing M/s. WZ Enterprises Private Limited in control in place of existing promoter group led by Mr. Mahesh Gordhandas Garodia. This Tribunal was of the opinion that the Base Resolution Plan has been devised as a mechanism to transfer control to Mr. Ravindra Subhash Salunkhe of a listed entity which would have otherwise attracted the rigor of the SEBI Takeover Code in respect of acquisition of shareholding in a listed entity beyond the specified threshold limit.
18. The Hon'ble NCLAT, while allowing the appeal against the above-mentioned Order dated 08.11.2023 observed that *when an exemption has been granted to the Resolution Plan approved under Section 31 of the IBC, the question whether resolution under Chapter III -A is also covered by proviso, was a question, which was required to be considered.*
19. The Company is registered as an MSME vide UDYAM Registration Certificate dated 29.07.2020 bearing Registration No. UDYAM-MH-19-0002293 and the business of the company is stated to be manufacturing of chemical and chemical products. On perusal of the audited Financial Statements for the year ending 31.03.2022 wherein the corresponding figures for the immediately preceding Financial Year ending on 31.03.2021 are also given, we note that company does not have any fixed assets, operating revenue as well as any expenditure pertaining to manufacturing or production activities for the year ending 31.03.2021 and it continued to be so till 17.08.2023 as



is revealed from the provisional Financial Statement as on 17.08.2023 placed on record. Further, this Bench required the Applicant to place on record the Audited Financial Statements for the year ended 31.03.2022, and the Applicant has placed on record the FS for the year ended 31.03.2021 and 31.03.2022, wherein the amount of the Fixed Assets as on 31.03.2020 and 31.03.2021 are stated to be Nil. Further, these FS reflect the Revenue from Operations for the year ended 31.03.2020 and 31.03.2021 to be Nil. In other words, the Corporate Debtor has no business activity since 1.4.2019 till 17.08.2023 as well as Nil investment in the Fixed Assets during this period. This is confirmed from the note 2A of the notes to account forming part of Financial Statements for the financial year ended 31.03.2022, stating as follows-

*“Going Concern*

*The accumulated Loss of the Company has eroded the Net Worth of the Company completely. The Company’s current liabilities exceeded its current assets. These conditions indicate the existence of a material uncertainty that may cast significant doubt about the Company’s ability to continue as a going concern. Earlier, In the view of the management the Company was making sincere efforts for the revival of the Business & the management was confident to recover the losses through improved profitability in foreseeable future. However, due to various circumstances the management has decided to cease the business of the company. Due to this the books of accounts are not prepared as per Going Concern assumption. The Company has no long-term assets to be designated as held for sale upon discontinuation of operations and/or subject to impairment tests. All assets and liabilities on 31<sup>st</sup> March, 2022 are current and at fair value.”*

20. The certificate under the MSME Act was obtained on 29.07.2020 which falls under the Financial Year 2020-2021. Since the company was not having any revenue from operations as well as any fixed assets in the nature of plant & machinery or any equipment at least since 01.04.2019, the registration under the MSME Act was obtained stating Nil amounts under the column. Further, the Corporate Debtor had no manufacturing/ production related expenses, including the purchase of any kind of inventory from 1.4.2019. Section 2(e) of the MSME Act, 2006 defines “enterprises” to mean “*an industrial undertaking or a business concern or any other establishment, by whatever name called, engaged in the manufacture or production of goods, in any manner, pertaining to any industry specified in the First Schedule to the Industries (Development and Regulation) Act, 1951 (55 of 1951) or engaged in providing or rendering of any service or services;*” **It is undisputed fact that certificates under the MSME Act has been issued to the Corporate Debtor and the same is valid as on date of approval of the Resolution Plan.** Since the Corporate Debtor is holding a Certificate of Registration issued under the MSME Act, this Tribunal does not have power to engage itself into adjudication as to whether the Corporate Debtor is an MSME in the facts of the case, accordingly, we do not consider it appropriate to examine whether the Corporate Debtor was eligible for registration under the MSME Act, 2002. Accordingly, we proceed to examine the present application on the basis of proposition that Corporate Debtor is a registered MSME enterprise. The concerned authorities should be at liberty to look into this aspect.
21. This Tribunal had sought certain clarifications from the Applicant vide order dated 04.02.2025 with respect to the Annexures to the Resolution Plan which were not on record, the inconsistency in the Term of the Resolution Plan. On 18.02.2025, the Applicant, vide Additional Affidavit dated 17.02.2025, clarified that the Term of the

Resolution Plan mentioned at Paragraph 10 of Page 8 of the Application shall not be taken into consideration and placed on record the Annexures to the Base Resolution Plan.

22. Thereafter, on perusal of the Resolution Plan, we find that the Resolution Professional has filed Compliance Certificate in Form-P12 along with the Resolution Plan. On perusal, the same is found to be in order. The Resolution Plan has been approved by the CoC by majority of 100% votes.
23. The Resolution Applicant has also assumed that the IBC is a complete code and NCLT is empowered to grant a single window clearance for all actions contemplated under this Resolution Plan, which shall be granted upon the approval of the Resolution Plan by the NCLT. However, this cannot be allowed as it shall be subject to adherence of procedure and compliances of relevant laws.
24. In *K Sashidhar v. Indian Overseas Bank & Others* (in Civil Appeal No.10673/2018 decided on 05.02.2019) the Hon'ble Apex Court held that if the CoC had approved the Resolution Plan by requisite percent of voting share, then as per section 30(6) of the Code, it is imperative for the Resolution Professional to submit the same to the Adjudicating Authority (NCLT). On receipt of such a proposal, the Adjudicating Authority is required to satisfy itself that the Resolution Plan as approved by CoC meets the requirements specified in Section 30(2). The Hon'ble Apex Court further observed that the role of the NCLT is 'no more and no less'. The Hon'ble Apex Court further held that the discretion of the Adjudicating Authority is circumscribed by Section 31 and is limited to scrutiny of the Resolution Plan "as approved" by the requisite percent of voting share of financial creditors. Even in that enquiry, the grounds on which the Adjudicating Authority can reject the Resolution Plan is in reference

to matters specified in Section 30(2) when the Resolution Plan does not conform to the stated requirements.

25. In view of the discussions and the law thus settled, the instant Resolution Plan meets the requirements of Section 54K r/w Section 30(2) of the Code and Regulations 44, 45 and 49 of the PPIRP Regulations. The Resolution Plan is not in contravention of any of the provisions of Section 29A of the Code and is in accordance with law. The same needs to be approved. Hence, ordered.
26. The Resolution Plan annexed to the Application is hereby **approved**. It shall become effective from this date and shall form part of this order with the following directions:
- i. It shall be binding on the Corporate Debtor, its employees, members, creditors, including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force is due, guarantors and other stakeholders involved in the Resolution Plan so that revival of the Debtor Company shall come into force with immediate effect.
  - ii. The approval of the Resolution Plan shall not be construed as waiver of any statutory obligations/liabilities of the Corporate Debtor and shall be dealt by the appropriate Authorities in accordance with law. Any waiver sought in the Resolution Plan, shall be subject to approval by the Authorities concerned in light of the Judgment of Supreme Court in *Ghanshyam Mishra and Sons Private Limited v/s. Edelweiss Asset Reconstruction Company Limited*, the relevant paragraphs of which are extracted herein below:

*“95. (i) Once a resolution plan is duly approved by the adjudicating authority under sub-section (1) of Section 31, the*

*claims as provided in the resolution plan shall stand frozen and will be binding on the corporate debtor and its employees, members, creditors, including the Central Government, any State Government or any local authority, guarantors and other stakeholders. On the date of approval of resolution plan by the adjudicating authority, all such claims, which are not a part of the resolution plan shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim, which is not part of the resolution plan;*

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

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

- iii. The Memorandum of Association (MoA) and Articles of Association (AoA) shall accordingly be amended and filed with the Registrar of Companies (RoC), Mumbai, Maharashtra for information and record. The Resolution Applicant, for effective implementation of the Plan, shall obtain all necessary approvals, under any law for the time being in force, within such period as may be prescribed.
- iv. The Applicant shall forward all records relating to the conduct of the CIRP and the Resolution Plan to the IBBI along with copy of this Order for information.

- v. The Applicant shall forthwith send a certified copy of this Order to the CoC and the Resolution Applicant, respectively for necessary compliance.
- vi. Liberty is hereby granted for moving appropriate application if required in connection with implementation of this Resolution Plan.
- vii. A copy of this Order shall be filed by the Resolution Professional with the Registrar of Companies, Mumbai.
- viii. The Resolution Professional shall stand discharged from his duties with effect from the date of this Order, save and except those duties that are enjoined upon him for implementation of the approved Resolution Plan.
- ix. The Resolution Professional is further directed to hand over all records, premises/ factories/documents available with it to the Resolution Applicant to finalise the further line of action required for starting of the operation. The Resolution Applicant shall have access to all the records and premises through the Resolution Professional to finalise the further course of action required for starting of operations of the Corporate Debtor.
- x. The Resolution Applicant, for effective implementation of the Plan, shall obtain all necessary approvals, under any law for the time being in force, within such period and subject to following of procedure as may be prescribed. It is clarified that the authorities shall not withhold the approval/consent/extension for the reason of insolvency of the Corporate Debtor or extinguishment of their dues upto approval of Resolution Plan in terms of the approved Plan. Any relief or concession as sought on the Plan shall be subject to the provisions of the relevant Act.

- xi. The moratorium under Section 54E of the Code shall cease to have effect from this date.
- xii. IA No. 02/2025 and the main Company Petition, i.e., CP (IBPP) No. 02/2023 shall stand **disposed of** accordingly.
- xiii. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

Sd/-

**Prabhat Kumar**  
Member (Technical)

/SP/

Sd/-

**Justice V.G. Bisht**  
Member (Judicial)