IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
DIVISION BENCH
COURT - 1

ITEM No.7

IA/709(AHM)2023 in CP(IB) 487 of 2018

Proceedings under Section 60(5) IBC,2016 r.w Reg 32A and Reg 33(2)(C) IBBI Reg,2016 and Rule 11 of NCLT Rules,2016

IN THE MATTER OF:

Jindal Power Ltd **........Applicant**
V/s
Dushyant Dave Liquidator of Shirpur Power Pvt Ltd **........Respondent**

Order delivered on: 11/09/2023

Coram:

Mr. Shammi Khan, Hon'ble Member(J)
Mr. Kaushalendra Kumar Singh, Hon'ble Member(T)

PRESENT:

For the Applicant :
For the Respondent :

ORDER

The case is fixed for pronouncement of the order. The order is pronounced in the open court, vide separate sheet.

-Sd- -Sd-

KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)

SHAMMI KHAN
MEMBER (JUDICIAL)

BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
BENCH AT AHMEDABAD
COURT NO. 1

IA(IB)/709(AHM)2023
in
CP(IB)/487(AHM)2018

IA(IB)/709(AHM)2023

[*An application under Section 60(5) of the IBC, 2016 r.w. Regulations 32A & 33(2)(C) of the IBBI (L.P.) Regulations, 2016 & Rule 11 of NCLT Rules, 2016*]

Jindal Power Ltd
Having address at:
Plot No. 2, Sector 32
Gurgaon – 122 001 (Haryana)

.... **Applicant**

V/s

Dushyant C. Dave
Liquidator
of Shirpur Power Pvt Ltd
1101 Dalamal Towers, Nariman Point
Mumbai – 400 021

.... **Respondent**

In the matter of:

CP(IB)/487(AHM)2018
[An application under Section 7 of the Insolvency and Bankruptcy Code, 2016]

State Bank of India

......Applicant/Financial Creditor

V/s

Shirpur Power Pvt Ltd

......Respondent/Corporate Debtor

Coram: Shammi Khan, Hon'ble Member (J)
Kaushalendra Kumar Singh, Hon'ble Member (T)

Appearance:

For the Applicant	: Ld. Sr. Adv. Mr. Rashesh Sanjanwala a.w. Ld. Adv. Mr. Monaal J. Davawala
For the Liquidator	: Ld. Adv. Ms. Prachiti Shah
For Income Tax Department	: Ld. Proxy Adv. Ms. Kinjal Trivedi i/b Ld. Adv. Ms. Maithili Mehta

Order Pronounced On 11.09.2023

ORDER

1. This is an application filed by the Applicant viz., Jindal Power Ltd (the successful bidder) under Section 60(5) of the IBC, 2016 r.w. Regulations 32A & 33(2)(C) of the IBBI (Liquidation Process) Regulations, 2016 & Rule 11 of NCLT Rules, 2016 in the context of the sale of the Corporate Debtor through liquidation proceedings seeking various reliefs and concessions for the sale as a going concern in accordance with Regulation 33(2)(C) of the IBBI (Liquidation Process) Regulations, 2016.

2. The Corporate Debtor was admitted under the Corporate Insolvency Resolution Process (CIRP), *vide* order dated 04.03.2020, on the basis of an application filed under Section 7 of the IBC, 2016 by the Financial Creditor viz., State Bank of India.

Subsequently, by an order dated 10.03.2021, a liquidation order was passed by this Adjudicating Authority. During the liquidation proceeding, in the 11th e-auction, the Corporate Debtor was sold on a slump sale basis at a bid amount of Rs 314,38,49,770/- to the Applicant viz., Jindal Power Ltd who was declared as a successful bidder. Thereafter, the Applicant, by its e-mail dated 24.03.2023, had offered to pay an additional amount of Rs 50 crore to acquire the Corporate Debtor on a going concern basis. However, that did not materialize. Following that, the Respondent/Liquidator filed an application, bearing IA No. 523 of 2023 before this Adjudicating Authority to convert the sale of the Corporate Debtor as a going concern under private sale to the Applicant at a price higher than the reserve price of the last failed auction for the sale as a going concern basis in accordance with Regulation 33(2)(C) of the IBBI (Liquidation Process) Regulations, 2016 with an intent of value maximization.

The said application i.e., IA(IB)/523(AHM)2023 has been allowed and disposed of by this Adjudicating Authority *vide* order dated 19.07.2023 whereby the Liquidator was allowed to sell the Corporate Debtor, as proposed, on the basis of the going concern at the value of Rs 433,16,59,509/- which has been considered by the Stakeholders' Consultation Committee (SCC) and is stated to be higher than the last failed reserve price for going concern.

3. The present application seeking various reliefs and concessions has been taken on approval of the Liquidator's proposal in IA(IB)/523(AHM)2023 for allowing the sale on the basis of the going concern at the value higher than the last failed reserve price for going concern. Various reliefs, which are sought, are listed in Para 23 of the application in various clauses starting from (a) to (kkk).

4. We have heard the learned senior counsel, Mr. Rashesh S. Sanjanwala appearing for the Applicant.

For convenience in consideration of the reliefs so sought, the learned senior counsel for the Applicant was asked to group the various prayers under the broad categories. The same has been done as per the chart given below: -

SHIRPUR CHART

S.No	Broad Categorization	References
1.	**Going Concern sale, Acquisition steps and shareholding pattern, appointment of directors, Companies Act, MCA and ROC related aspects for smooth functioning of Corporate Debtor**	**Prayer Reference** a, b, c, d, e, f, g, h, k, v, z, tt, ww, yy, zz, fff, hhh, kkk **Annexure A References** 1, 2, 3, 4, 5, 6, 7, 8, 11, 22, 26, 46, 49, 51, 52, 58, 60, 63
2.	**Compounding, condoning of non - compliances, liabilities, legal proceedings, pending inquiries, investigations, waiver and immunities.**	**Prayer References** f, i, l, m, n, o, q, r, s, t, u, w, x, y, ee, kk, oo, pp, qq, ccc, ggg, jjj **Annexure A References** 6, 9, 12, 13, 14, 15, 17, 18, 19, 20, 21, 23, 24, 25, 31, 37, 41, 42, 43, 55, 59, 62
3.	**Contracts, license, permits and approvals**	**Prayer References** j, ss, uu, vv, xx, aaa, bbb, ddd, eee, iii **Annexure A References** 10, 45, 47, 48, 50, 53, 54, 56, 57, 61

4.	**Tax and corporate debtor's books of accounts, assets**	**Prayer References** p, aa, bb, cc, dd, ff, gg, hh, ii, jj, ll, mm, nn, rr **Annexure A References** 16, 27, 28, 29, 30, 32, 33, 34, 35, 36, 38, 39, 40, 44

It was pleaded that the prayers in Group No. 1, Group No. 2 & Group No. 3 relate to the reliefs which are generally granted by the Adjudicating Authority in the context of going concern sale for the purpose of enabling the successful bidder to take steps for acquisition such as extinguishing of the shareholding of the ex-promoters and allotment of the shares to the successful bidder, appointment of directors, compliances under the Companies Act and the RoC, related aspects for smooth functioning of the Corporate Debtor, extinguishment of unpaid claims relating to the period prior to the acquisition date, immunity from any action by any Government Authorities for non-compliance against the Corporate Debtor during the period prior to the acquisition date, reliefs related to existing contracts, licences, permits etc.

Learned senior counsel for the Applicant also submitted that the reliefs as categorized under 'Group No. 4' also include the issue of allowing carry forwarded losses after the takeover as per the provisions of Section 79(2) of the Income Tax Act for which a notice has already been issued to the Department of Income Tax, particularly the Principal Commissioner of Income Tax for giving him a reasonable opportunity to place their say on the matter; and since the Department of Income Tax has been seeking adjournments again and again, the decision thereon may take time.

It is submitted that the successful bidder intends to take control over the Corporate Debtor and start its operation at the earliest so as to save it from further deterioration.

In that context, it was prayed that, at least, the prayers which are categorized under Group No. 1, Group No. 2 & Group No. 3 could be considered by the Adjudicating Authority and the decision thereon could be given so that the successful bidder could proceed ahead taking the appropriate step for control and running of the Corporate Debtor as a going concern at the earliest possible.

He also submitted that the decision as regards to the reliefs and concessions under the category 'Group No. 4' could be taken later on and rather, for that purpose, the Applicant may file an application afresh which can be dealt with and decided in due course of time.

5. In that context, we heard the learned senior counsel for the Applicant in detail on the various reliefs and concessions under the category Group No. 1, Group No. 2 & Group No. 3.

The reliefs and concessions sought by the Applicant under these categories are given in column (2) in the table below. The contents in columns (3) & (4) are the precedents relied upon by the Applicant in support of reliefs/concessions sought. Column (5) therein contains the proposed changes by the learned counsel based on our observations, during the hearing of the matter, onto those reliefs and concessions. The column (5) also contains the remarks that we considered fit on considering the various reliefs and concessions: -

GROUP I: **GOING CONCERN SALE, ACQUISITION STEPS AND SHAREHOLDING PATTERN, APPOINTMENT OF DIRECTORS, COMPANIES ACT, MCA AND ROC RELATED ASPECTS FOR SMOOTH FUNCTIONING OF CORPORATE DEBTOR**				
Sl. No. **(1)**	**Particulars of the reliefs and concessions** **(2)**	**Relevant Provision / Precedents** **(3)**	**Relevant Page No. of the compilation** **(4)**	**Proposed Changes/ Remarks** **(5)**
1.	Direction seeking that the sale of the Corporate Debtor as a going concern may be effected and finalized in the same manner as a Resolution Plan being approved under Section 31 of the Code (including but not limited to the operation of Section 31(1) and Section 32A of the Code) with all attendant benefits, privileges, and exemptions under various laws including but not limited to benefit	1. **M/s K.K.R. India Financial Services Pvt. Ltd. V/s. M/s Kwality Ltd** IA 5208/2021 in IB 1440(ND)/2018 2. **Nitin Jain Liquidator of PSL Ltd. V/s. Lucky Holdings Pvt. Ltd.,** in I.A. 391 of 2021 in C.P. (I.B.) 37 of 2017	**Prayer C @ Pg. 209; allowed @ Pg. 228** **Prayer D(xii) @ Pg. 70; allowed at Pg. 106**	1. Direction seeking that the sale of the Corporate Debtor as a going concern may be affected and finalized in the same manner as a Resolution Plan being approved under Section 31 of the Code (including but not limited to the operation of Section 31(1) and Section 32A of the Code) with all attendant benefits, privileges, and exemptions under various laws.

	of any tax holiday, exemption, deduction, carry forward of losses of any prior years and current year and set-off against the income of any financial year on this sale of Corporate Debtor under the liquidation process.			**Remarks** **The benefits, privileges and exemptions under various laws will be as per approval granted by the competent authorities under such other laws.**
2.	Upon the sale being allowed as a going concern, the Successful Bidder shall pay the additional consideration ("Additional Consideration") within 15 days after the reliefs are allowed by this Hon'ble Tribunal. The transfer of the Corporate Debtor to the Successful Bidder shall be implemented in accordance with the steps below:	Similar prayers relating to acquisition steps have been granted in other matters such as: **M/s K.K.R. India Financial Services Pvt. Ltd. V/s. M/s Kwality Ltd** IA 5208/2021 in IB 1440(ND)/2018 **Punjab National Bank vs. Divine Vidyut Limited** CP (IB) No.891/KB/2018	**Prayer E (c) and (f) @ Pg. 211; allowed at Pg. 228** **Para 3.13; S. No. 2 @ Pg. 36**	**Remarks** **Additional consideration to be paid irrespective of the grants of relief on approval of the sale as per order dated 19.07.2023.**
	i. The Liquidator shall cause the Corporate Debtor to issue fresh equity shares ("New Equity") of the Corporate Debtor in favour of the Successful Bidder / any nominee of the Successful Bidder in the form and manner as may be determined by the Successful Bidder.	**Punjab National Bank vs. Divine Vidyut Limited** CP (IB) No.891/KB/2018	**Para 3.13 (2) (ii) @ Pg. 37**	
	ii. Other than part of the Total Sale Consideration treated as equity infusion by the Successful Bidder, the remaining Total Sale Consideration shall be treated towards loan or subscription to such securities ("New Securities") as may be decided by the Successful Bidder to the Corporate Debtor.			
	iii. After payment of the Additional Consideration all claims/ debt (except those being settled from the Total Sale Consideration provided herein) of the Corporate			**Remarks** **iii. The balance unsettled debts are, otherwise, extinguished and shall be credited to 'capital reserve'. Such amount is not to be**

	Debtor (such other claims/debt being referred to as "Balance Unsettled Debt"), shall be converted into equity shares of the Corporate Debtor ("Converted Share Capital") without any further action or deed required from the Corporate Debtor.			**converted into equity shares capital of the Corporate Debtor.**
	iv. The entire existing issued equity share capital of the Corporate Debtor (except for the New Equity and New Securities issued to the Successful Bidder or its nominee) together with the equity shares that are issued pursuant to conversion of any convertible instruments (whether pledged or not) held by shareholders of the Corporate Debtor, together with Converted Share Capital, shall stand entirely cancelled and extinguished ("Capital Reduction") for NIL consideration without any further act, deed, approval from any creditor, shareholder or regulatory authorities. The RoC to take on record the extinguishment of existing share capital upon the Acquisition Date, without further compliances. The Liquidator shall make necessary entries of such extinguishment in the Register of Members of the Corporate Debtor as maintained under the provisions of the Companies Act. The Corporate Debtor shall record reduction in the equity share capital of the Corporate Debtor by way of cancellation and the amount of such cancelled equity share capital pursuant to capital	**M/s K.K.R. India Financial Services Pvt. Ltd. V/s. M/s Kwality Ltd** IA 5208/2021 in IB 1440(ND)/2018	**Prayer E(c) @ Pg. 211**	iv. The entire existing issued equity share capital of the Corporate Debtor (except for the New Equity and New Securities issued to the Successful Bidder or its nominee) together with the equity shares that are issued pursuant to conversion of any convertible instruments (whether pledged or not) held by shareholders of the Corporate Debtor, **together with Converted Share Capital**, shall stand entirely cancelled and extinguished ("Capital Reduction") for NIL consideration without any further act, deed, approval from any creditor, shareholder or regulatory authorities. The RoC to take on record the extinguishment of existing share capital upon the Acquisition Date. The Liquidator shall make necessary entries of such extinguishment in the Register of Members of the Corporate Debtor as maintained under the provisions of the Companies Act. The Corporate Debtor shall record reduction in the equity share capital of the Corporate Debtor by way of cancellation and the amount of such cancelled equity share capital pursuant to capital reduction shall be credited to "capital reserve" in accordance with the applicable Indian Accounting Standards.

	reduction shall be credited to "capital reserve" in accordance with the applicable Indian Accounting Standards.			**Remarks** **'Together with Converted Share Capital' to be deleted.**
	v. The Memorandum of Association of the Corporate Debtor shall automatically, without any further act or deed, be amended to increase the authorised share capital of the Corporate Debtor to INR 450 Cr.	**M/s K.K.R. India Financial Services Pvt. Ltd. V/s. M/s Kwality Ltd** IA 5208/2021 in IB 1440(ND)/2018	**See Prayer E(a) @ Pg. 210**	v. The Memorandum of Association of the Corporate Debtor shall be amended to increase the authorized share capital of the Corporate Debtor to an amount required to give effect to the steps above.
	vi. All actions as set out above shall be deemed to take effect simultaneously. The Successful Bidder may consent on behalf of all persons concerned, to any minor or operational modifications or amendments of the provisions of this paragraph or to any conditions which the NCLT and/or any other authorities under law may deem fit to approve of or impose or which may otherwise be considered necessary or desirable for settling any question or doubt or difficulty that may arise in carrying out the provisions of this paragraph and do all acts, deeds and things as may be necessary, desirable or expedient for giving effect to the terms hereof.	**M/s K.K.R. India Financial Services Pvt. Ltd. V/s. M/s Kwality Ltd** IA 5208/2021 in IB 1440(ND)/2018	**See Prayer E(e) @ Pg. 212**	
	vii. To the extent any secretarial filings, corporate actions and compliances and/or any other actions, filings, intimations, etc. are required to be made in connection with implementation of these steps before the date when control of the Corporate Debtor is handed over to the Successful Bidder, the Liquidator, shall be deemed to be fully authorized to act on	**M/s K.K.R. India Financial Services Pvt. Ltd. V/s. M/s Kwality Ltd** IA 5208/2021 in IB 1440(ND)/2018	**See Prayer E(f) @ Pg. 212**	

	behalf of the Corporate Debtor and to undertake all such actions. Without prejudice to the foregoing, the Successful Bidder may, if required and from time to time, seek necessary directions from the NCLT in connection with actions to be undertaken or filings to be made with the ROC and/or any other statutory or regulatory authority in connection with matters contemplated herein. For the avoidance of doubt, it is clarified that filings to be made with the jurisdictional Registrar of Companies in relation to the transfer of the Corporate Debtor as a going concern, as required, shall be completed after the Acquisition Date			
	viii. Any consideration payable to the shareholders of the Corporate Debtor including any due, towards any unpaid dividend, share application money, etc. shall stand extinguished.	**Punjab National Bank vs. Divine Vidyut Limited** CP (IB) No.891/KB/2018	**Para 3.13 S. No. 2 (iii) @ Pg. 37**	
	ix. The approval by the Adjudicating Authority shall constitute adequate and final approval for all actions and purposes of the sale including extinguishment of all existing share capital and securities of the Corporate Debtor and issuance of fresh equity shares, preference shares or any other security/investment as per the provisions of the Companies Act, 2013.	**Punjab National Bank vs. Divine Vidyut Limited** CP (IB) No.891/KB/2018	**Para 3.13 S. No. 2 (iv) @ Pg. 37**	
	x. In accordance with Section 238 of the Code, this sale shall override requirements under any other laws and therefore any action undertaken pursuant	**State Bank of India vs. Ess Dee Aluminium Limited** C.P. (IB) No. 1284/KB/2019	**Para 26 S. No. 11 @ Pg. 14**	<u>**Remarks**</u> **x. Necessary approval will have to be sought from the concerned authorities under such other law who will**

	to the sale as a going concern by the Successful Bidder will not require compliance with requirements under any other laws.			**consider it keeping in view the intent and the spirit of the IBC.**
3.	Direction seeking that the date of issuance of sale certificate shall be deemed to be the date of acquisition ("Acquisition Date") of the Corporate Debtor by the Successful Bidder or its nominees on a going concern basis.	**Punjab National Bank vs. Divine Vidyut Limited** CP (IB) No.891/KB/2018	**Para 3.13; S. No. 1 @ Pg. 36**	
4.	Direction seeking that the procedural requirements as provided under Section 42, Section 62(1)(c) and Section 66 of Companies Act, 2013 and the provisions of the Company (Procedure for Reduction of Share Capital) Rules, 2016 may be dispensed with and waived off.	**Punjab National Bank vs. Divine Vidyut Limited** CP (IB) No.891/KB/2018	**Para 3.13; S. No. 2(i) @ Pg. 36**	
5.	Direct that the requirement of adding the term "and reduced" in the name of the Corporate Debtor may be dispensed with in an event of capital reduction.	**Nitin Jain Liquidator of PSL Ltd. Vs. Lucky Holdings Pvt. Ltd.** CP (IB) 37 (AHM) 2017	**Para 40 (7)(e) @ Pg. 110**	
6.	Direct that in an event of default having occurred on part of the Corporate Debtor under any financing documents entered into by the Corporate Debtor on its behalf or on behalf of its subsidiaries (if any), joint ventures or associates to secure or guarantee any of its or their liabilities, prior to the Acquisition Date, shall be waived in its entirety and all liabilities of the Corporate Debtor under the existing financial documents and in relation thereto, shall stand converted into equity	**State Bank of India vs. Ess Dee Aluminium Limited** C.P. (IB) No. 1284/KB/2019	**Para 26; S. No. 3 @ Pg. 11**	**Remarks** **Default prior to the acquisition date shall be waived in its entirety but the unpaid liability of the Corporate Debtor shall not get converted into equity share of the Corporate Debtor, rather the same would stand extinguished and shall be credited to 'capital reserve' in accordance with applicable Indian Accounting Standards.**

	shares of the Corporate Debtor and be simultaneously subjected to Capital Reduction as specified in Prayer 2 above;			
7.	Direction seeking that no approval/ consent shall be necessary from any person or persons under any agreement, the constitution documents of the Corporate Debtor, or any applicable law in relation to any of the above acts and for all actions and purposes including (a) cancellation of the existing share capital of the Corporate Debtor in terms of Section 66 and other provisions of the Companies Act, 2013, and other applicable laws and (b) for issuance of new equity shares in terms of the Companies Act, 2013, and other applicable laws.	**Punjab National Bank vs. Divine Vidyut Limited** CP (IB) No.891/KB/2018	**Para 3.13; S. No. 2 (i) @ Pg No. 36 and 37**	**<u>Remarks</u>** **No further approval under Section 66 of the Companies Act, 2013 required but necessary formalities for seeking approval of the RoC/concerned authorities will have to be done. The RoC and such other concerned authorities shall consider it keeping in view the intent and spirit of the IBC.**
8.	Direction seeking that the Liquidator shall reconstitute the Board of Directors of the Corporate Debtor by removing the erstwhile Board of Directors as existing on the Acquisition Date. Mr. Kamal Kumar Agarwal, (DIN - 02311006), Mr. Sunil Kumar Agarwala (DIN - 09316978), Mr. Sultan Ahmad Mansoori, (DIN - 09667910) and Ms. Pooja (DIN 10065672) being the persons nominated by the Successful Bidder shall stand appointed as directors of the Corporate Debtor on the Acquisition Date. Until the new Board is appointed, Liquidator shall be vested with the powers of the board of directors as prescribed under the Companies Act, 2013 and shall perform all the acts and deed as required by the	**Punjab National Bank vs. Divine Vidyut Limited** CP (IB) No.891/KB/2018 **State Bank of India vs. Ess Dee Aluminium Limited** C.P. (IB) No. 1284/KB/2019 **M/s K.K.R. India Financial Services Pvt. Ltd. V/s. M/s Kwality Ltd** IA 5208/2021 in IB 1440(ND)/2018	**Para 3.13; S. No. 3 @ Pg No. 38** **Para 26; S. No. 34 @ Pg. 20** **Prayer L @ Pg. 216**	

	Successful Bidder for smooth operations of the Corporate Debtor. Direction be issued to the Registrar of Companies to undertake all such necessary actions including which are necessary to appoint the individuals nominated by the Successful Bidder as directors of the Corporate Debtor, in order to enable the Corporate Debtor to file relevant returns as required by and under the applicable law.			
9.	Directions be issued to the banks to change the operating signatories of the bank account of the Corporate Debtor on or after the Acquisition Date for smooth transition of the Corporate Debtor to the Successful Bidder.	**Punjab National Bank vs. Divine Vidyut Limited** CP (IB) No.891/KB/2018	**Para 3.13; S. No. 14 @ Pg No. 49**	
10.	Direct the Registrar of Companies that the status of the Corporate Debtor in its records should be updated and reflect as 'active' from the status of 'liquidation' and the registered address of the Corporate Debtor be changed to Tamnar, District – Raigarh, Chhattisgarh - 496107.	**Punjab National Bank vs. Divine Vidyut Limited** CP (IB) No.891/KB/2018	**Para 3.13; S. No. 4 (ii) @ Pg No. 38**	
11.	Direct that the Corporate Debtor shall be allowed to participate in auction sale/ tenders/ offers/ proposals of all departments/ authorities/ public sector undertakings for a period of 3 (Three) years from the Acquisition Date without having to submit the details on the past revenue, past performance, profitability records, net worth etc.	**State Bank of India vs. Ess Dee Aluminium Limited** C.P. (IB) No. 1284/KB/2019	**Para 27; S. No. 12 @ Pg. 29**	**Remarks** **Not granted as such. Nevertheless, the concerned authorities may allow it, within their discretion, keeping in view the intent and spirit of the IBC.**

12.	Pass a direction that encumbrances over assets of the Corporate Debtor shall stand satisfied and MCA/ROC and any other relevant authority to record the satisfaction of all charges against the Corporate Debtor on Acquisition Date, in accordance with the orders passed by this Hon'ble Tribunal without waiting for any corresponding satisfaction letters from the respective lender(s) and the final order passed by this Hon'ble Tribunal shall be a sufficient proof for satisfaction of charges in the records of MCA, ROC or any other statutory or regulatory authorities; That the charges registered with the concerned ROC or any other authority or charges created by the operation of law etc. of the Corporate Debtor shall stand satisfied and vacated from the Acquisition Date.	**State Bank of India vs. Ess Dee Aluminium Limited** C.P. (IB) No. 1284/KB/2019 **Nitin Jain Liquidator of PSL Ltd. Vs. Lucky Holdings Pvt. Ltd.** CP (IB) 37 (AHM) 2017	**Para 26; S. No. 50 @ Pg. 25** **Para 7 (f) @ Pg. 110**	
13.	Direct that the Successful Bidder may sell or dispose any single unit or units for the sustainability of business.			<u>**Remarks**</u> **No such direction can be given. The various reliefs and concessions are allowed to run the Corporate Debtor as a going concern.**
14.	Direct the Liquidator to file an application for closure of Liquidation Process under Regulation 45 of the Liquidation Process Regulations within 45 days from the Acquisition Date. Pursuant to an order by this Hon'ble Tribunal on such an application, the total and absolute control of the corporate debtor should vest with the Successful Bidder.	**State Bank of India vs. Ess Dee Aluminium Limited** C.P. (IB) No. 1284/KB/2019	**Para 27; S. No. 10 @ Pg. 28**	<u>**Remarks**</u> **No such direction is required to be given. The Liquidator, in any way, would discharge his function as per the applicable regulations.**

15.	Direct that the Successful Bidder shall be at the liberty to approach this Hon'ble Tribunal to address any difficulties faced by it with respect to implementation of the activities for acquiring the Corporate Debtor as going concern.	**State Bank of India vs. Ess Dee Aluminium Limited** C.P. (IB) No. 1284/KB/2019	**Para 26; S. No. 53 @ Pg. 26**	
16.	Pass a direction that the Successful Bidder shall be granted a reasonable time from the Acquisition Date to comply with the statutory obligations without suffering any adverse implications including any revocation of licenses or levy of penalties or any other fees or costs.			
17.	Direct and grant liberty to the Successful Bidder to amend, alter, modify, delete, rescind and/or substitute any prayer(s) made hereinabove and pass any further order(s) and/or direction(s) as this Hon'ble Tribunal may deem fit and proper.			
18.	Direct that an order of this Hon'ble Tribunal allowing the reliefs sought herein shall be deemed to be adequate compliance with all relevant provisions of any applicable law that would otherwise have become applicable in relation to the compliances/steps that comprise any part of the Application.			**Remarks** **The necessary approval, if required, will have to be taken by completing the formalities under such other law. The concerned authorities, however, will consider it keeping in view the intent and spirit of the IBC.**

GROUP II:

COMPOUNDING, CONDONING OF NON – COMPLIANCES, LIABILITIES, LEGAL PROCEEDINGS, PENDING INQUIRIES, INVESTIGATIONS, WAIVER AND IMMUNITIES.

Sl. No. (1)	**Particulars of the reliefs and concessions** (2)	**Relevant Provision / Precedents** (3)	**Relevant Page No. of the compilation** (4)	**Proposed Changes/ Remarks** (5)
1.	Direct that in an event of default having occurred on part of the Corporate Debtor under any financing documents entered into by the Corporate Debtor on its behalf or on behalf of its subsidiaries (if any), joint ventures or associates to secure or guarantee any of its or their liabilities, prior to the Acquisition Date, shall be waived in its entirety and all liabilities of the Corporate Debtor under the existing financial documents and in relation thereto, shall stand extinguished on the acquisition date.	**State Bank of India vs. Ess Dee Aluminium Limited** C.P. (IB) No. 1284/KB/2019	**Para 26; S. No. 3 @ Pg. 11**	<u>**Remarks**</u> **Default prior to the acquisition date shall be waived in its entirety. The unpaid liabilities of the Corporate Debtor shall not get converted into equity share of the Corporate Debtor. Rather the same would stand extinguished and credited to 'capital reserve' of the Corporate Debtor.**
2.	Direct that no Financial Creditor or Operational Creditor or any other creditors can make any claim/ institute any proceedings against Corporate Debtor with respect to any claims related to period prior to the Acquisition Date. Direct that all financing documents shall be deemed to have been terminated and the security created under such financing documents stands released and the secured creditors shall be directed to return all the title deeds and documents to the	**Punjab National Bank vs. Divine Vidyut Limited** CP (IB) No.891/KB/2018 **M/s K.K.R. India Financial Services Pvt. Ltd. V/s. M/s Kwality Ltd** IA 5208/2021 in IB 1440(ND)/2018	**Para 3.13; S. No. 5(ii) @ Pg. 39, 6(ii), (iii) and (iv) @ Pg No. 41 and 42** **Prayer DD @ Pg. 221**	<u>**Remarks**</u> **Documents to be returned preferably within 10 days or, if not, then within a reasonable period thereafter.**

	Successful Bidder within ten days after the Acquisition Date. Payment of Additional Consideration by the Successful Bidder and transfer of possession of Corporate Debtor to the Successful Bidder shall happen simultaneously and the lenders shall forthwith release all securities encumbrance(s), hypothecation, mortgage or any other form of claim on any asset / property / investment, etc. of the Corporate Debtor, held by them within ten days from the Acquisition Date.	 **M/s K.K.R. India Financial Services Pvt. Ltd. V/s. M/s Kwality Ltd** IA 5208/2021 in IB 1440(ND)/2018	 **Prayer CC @ Pg. 221**	 **<u>Remarks</u>** **Upon payment of Additional Consideration by the Successful Bidder the lenders shall forthwith release all securities encumbrance(s), hypothecation, mortgage or any other form of claim on any asset / property / investment, etc. of the Corporate Debtor, held by them preferably within ten days from such payment or, if not, then within a reasonable period thereafter. It is clarified that it would not include anything said herein alive in respect of a guarantor, if any.**
3.	Direct that no action shall be taken by any government authorities for non-compliance against the Corporate Debtor under any applicable law(s) or contract or agreement prior to the Acquisition Date and all such actions shall stand abated. Direct that neither the Successful Bidder, nor the Corporate Debtor or their respective directors, officers and employee appointed on and as of the Acquisition Date shall be liable for any violations, liabilities, penalties or fines with respect to or pursuant to the Corporate Debtor not having requisite licenses and approvals required to operate its business as per applicable law, or any non-compliances of applicable law by the Corporate Debtor. Direct that any non-compliance shall be deemed to be extinguished and/or regularized automatically without	**Punjab National Bank vs. Divine Vidyut Limited** CP (IB) No.891/KB/2018 **State Bank of India vs. Ess Dee Aluminium Limited** C.P. (IB) No. 1284/KB/2019 **Punjab National Bank vs. Divine Vidyut Limited** CP (IB) No.891/KB/2018	**Para 3.13; S. No. 7(iii) @ Pg. No. 43** **Para 27; S. No. 13 @ Pg. 29** **Para 3.13; S. No. 7(iii) @ Pg. No. 43**	

	imposition of any additional obligation on the Corporate Debtor/Successful Bidder.			
4.	Direct that all the liabilities of the Corporate Debtor in relation to its employees, workmen, engaged either in full time employment or contractual, including but not limited to the dues with respect to salary and wages, employees state insurance, provident fund, gratuity, etc., shall stand extinguished on the Acquisition Date and the Successful Bidder and/ or its nominees / Corporate Debtor shall not be burdened with any such liabilities of the Corporate Debtor.	**Punjab National Bank vs. Divine Vidyut Limited** CP (IB) No.891/KB/2018	**Para 3.13; S. No. 5 (iv) @ Pg No. 40**	
5.	Direct that all claims including receivables of the Corporate Debtor against third parties and its related parties, shall remain outstanding, due, and recoverable in accordance with their respective terms. The Corporate Debtor / Successful Bidder shall have full right to recover/ proceed against any party whose account is recoverable in the books of the Corporate Debtor as on the Acquisition Date. In case of recoveries of any such amounts or any amounts which have been previously written off, the Corporate Debtor shall be the sole beneficiary of such amounts.	**Punjab National Bank vs. Divine Vidyut Limited** CP (IB) No.891/KB/2018	**Para 3.13; S. No. 6 (i) @ Pg No. 40 & 41**	Direct that all claims, as per the Balance Sheet, including receivables of the Corporate Debtor against third parties and its related parties, shall remain outstanding, due, and recoverable in accordance with their respective terms. The Corporate Debtor / Successful Bidder shall have full right to recover/ proceed against any party whose account is recoverable in the books of the Corporate Debtor as on the Acquisition Date. In case of recoveries of any such amounts or any amounts which have been previously written off, the Corporate Debtor shall be the sole beneficiary of such amounts.
6.	Direct that all liabilities or debt whether crystalized, or un-crystalized, contingent, monetary or non-monetary, filed or not filed, admitted or not admitted by the Liquidator, disputed or undisputed or	**Punjab National Bank vs. Divine Vidyut Limited** CP (IB) No.891/KB/2018	**Para 3.13; S. No. 5 (i) @ Pg No. 39**	

	otherwise including but not limited to those pertaining to statutory dues, penalties and the dues set out in Appendix A shall be deemed as having been fully discharged and permanently settled in accordance with the provisions of the Code and the Corporate Debtor / the Successful Bidder shall not be liable for the same.			
7.	Direct that all inquiries, investigations, assessments, notices, suits, claims, disputes, litigations, arbitration, or other judicial, quasi-judicial, regulatory or administrative proceedings initiated against the Corporate Debtor by the Central Bureau of Investigation, Enforcement Directorate, Adjudicating Authority under FEMA or any other government authority or in any arbitration, judicial, regulatory or administrative proceedings pertaining to any period prior to the Acquisition Date or arising on account of the acquisition, shall be deemed to be withdrawn or dismissed without any cost and/or causing injury financially or otherwise to the Corporate Debtor or Successful Bidder and/ or its nominees and interim order(s) if any, passed during such proceedings be deemed to be immediately vacated. Further direct that no liability shall arise out of all, or any notices issued by or pending proceedings before any judicial, quasi - judicial, administrative, tax or any regulatory body or local authority against the Corporate Debtor whatsoever to the Corporate Debtor or the Successful Bidder on or after the Acquisition Date.	**Punjab National Bank vs. Divine Vidyut Limited** CP (IB) No.891/KB/2018 **Nitin Jain Liquidator of PSL Ltd. Vs. Lucky Holdings Pvt. Ltd.** CP (IB) 37 (AHM) 2017	**Para 3.13; S. No. 7 (i) & (iv) @ Pg No. 42 & 43** **Para 40(7)(m) @ Pg No. 114**	

8.	Direct that all liabilities or obligations of the Corporate Debtor, in relation to: (A) any investigation, inquiry or show-cause, whether civil or criminal, whether issued or pending; (B) any non-compliance of provisions of any laws, rules, regulations, directions, notifications, circulars, guidelines, policies, licences, approvals, consents or permissions prior to the Acquisition Date ; (C) change of control, transfer charges, unearned increase, compensation, or any other such liability whatsoever; (D) any leasehold rights or freehold rights to movable or immovable properties in the possession of the Corporate Debtor; (E) any contracts, agreements or commitments made by the Corporate Debtor, shall be written off in full and shall stand permanently extinguished.	**Punjab National Bank vs. Divine Vidyut Limited**	**Para 3.13; S. No. 7 (ii) & (iii) @ Pg No. 42 & 43**	
9.	Direct that any Non-Compliance(s) of the Corporate Debtor under the Companies Act, 1956, Companies Act, 2013, Environmental Laws, non-compliance pertaining to fuel supply agreement, any non-compliances pertaining to electricity departments and/or, notifications, circulars, rules and regulations enacted/notified thereunder prior to the Acquisition Date shall stand regularized and compounded without imposition of any penalty, fees, etc.	**Punjab National Bank vs. Divine Vidyut Limited** CP (IB) No.891/KB/2018	**Para 3.13; S. No. 12 (i) @ Pg No. 47**	**<u>Remarks</u>** **The Corporate Debtor will have to approach the concerned authorities, who in turn, will consider the request for regularization / compounding under the relevant laws keeping in view the intent and spirit of the IBC.**
10.	Direct that the Successful Bidder/Corporate Debtor shall not be liable for a. any actions/ responsibilities of the Corporate Debtor or its erstwhile board of directors or for any criminal litigations pending against the erstwhile	**Punjab National Bank vs. Divine Vidyut Limited** CP (IB) No.891/KB/2018	**Para 3.13; S. No. 13 @ Pg. 48 and Para 3.13; S. No. 7(ii) @ Pg No. 42**	

	promoters or former members of the management of the Corporate Debtor as per provisions of Section 32A of the code. b. in terms of Section 29A of IBC for default of the Corporate Debtor or any of its subsidiaries or affiliates on or before the Acquisition Date.	**OFB Tech Private Limited vs. M/s. Gujarat Foil Ltd.** CP(IB)116/7/NCLT/AHM/2017	**Para 11 S. No. 13 @ Page 169**	
11.	Direct that property tax, lease rent dues or claims payable by the Corporate Debtor prior to the Acquisition Date shall be waived off and stand settled permanently.	**State Bank of India vs. Ess Dee Aluminium Limited** C.P. (IB) No. 1284/KB/2019	**Para 26; S. No. 20 @ Pg. 16**	
12.	Pass a direction that all notifications with regards to defaults filed with Credit Information Bureau (India) Limited, any information utility, RBI or any other regulatory authority for and on account of Corporate Debtor shall be withdrawn by the respective Financial Creditors and any invocation or enforcement action already undertaken before Debt Recovery Tribunal against the Corporate Debtor and any of its assets, at any time prior to the Acquisition Date, shall stand automatically revoked and cancelled and deemed null and void and Financial Creditors shall take requisite action to ensure that all such pending matters before the Debt Recovery Tribunal shall stand withdrawn. Further, on and from the Acquisition Date, all accounts of the Corporate Debtor shall stand regularized and their asset classification shall be "standard" for the purposes of all Applicable Laws.	**State Bank of India vs. Ess Dee Aluminium Limited** C.P. (IB) No. 1284/KB/2019 **Punjab National Bank vs. Divine Vidyut Limited** CP (IB) No.891/KB/2018	**Para 26; S. No. 22 @ Pg. 17** **Para 3.13; S. No. 10 (ii) @ Pg. 46**	

13.	Pass a direction to rating agencies including but not limited to CRISIL, CIBIL. etc., to delete all negative ratings for the Corporate Debtor and not consider it as a defaulter from the Acquisition Date.	**Punjab National Bank vs. Divine Vidyut Limited** CP (IB) No.891/KB/2018	**Para 3.13; S. No. 10 (iv) @ Pg. 46**	
14.	Direct that compliances under the applicable laws for all the statutory appointments of the Corporate Debtor including but not limited to the appointment of statutory auditors, company secretary, etc., will be complied by the Successful Bidder within a period of 12 (twelve) months from the Acquisition Date in terms of Section 31(4) of the code and the non-compliance within the period shall be deemed to be waived off/ condoned without imposition of any penalty, fees, etc.	**Punjab National Bank vs. Divine Vidyut Limited** CP (IB) No.891/KB/2018	**Para 3.13; S. No. 4 (v) @ Pg No. 39**	**<u>Remarks</u>** **The Corporate Debtor will have to approach the concerned authorities, who in turn, will consider the request keeping in view the intent and spirit of the IBC.**
15.	The Corporate Debtor and/or the Successful Bidder, if required, shall retain the right to initiate appropriate legal proceedings (including Tax Proceedings) or enforcing any right available to the Corporate Debtor and/or Successful Bidder or under applicable laws			**<u>Remarks</u>** **Not necessary to grant any such relief.**
16.	Without prejudice to the rights of creditors of the Corporate Debtor (irrespective whether their claims have been admitted or not admitted) to exercise or enforce any rights or remedies in relation to any guarantee or security interest granted or created by a third party (including ex-promoters) in relation to the debt of the Corporate Debtor, no right of subrogation shall be available to such third parties (including ex-promoters) or any other person claiming through them, against the	**State Bank of India vs. Ess Dee Aluminium Limited** C.P. (IB) No. 1284/KB/2019	**Para 26; S. No. 7 @ Pg. 27 & 28**	

	Successful Bidder / Corporate Debtor or any of the assets of the Corporate Debtor, in case of invocation of payment by such third parties under their existing guarantees/ contractual comforts/collateral and all such subrogation rights shall stand permanently waived/ extinguished on the Acquisition Date. It is clarified that the Successful Bidder shall have unfettered and unencumbered right on all the assets, investments and rights owned by the Corporate Debtor. And there shall be no claim either directly or through subrogation rights or in any other manner, against any of the assets, rights, investments, etc. of the Corporate Debtor and the Successful Bidder shall have absolute ownership and control on all such assets, lands, licences, approvals, investments, etc. owned and controlled by the Corporate Debtor.			
17.	Pass a direction that any decree passed by any court or tribunal in relation to the liabilities of the Corporate Debtor pertaining to the period prior to the Acquisition Date shall not be enforced against the Corporate Debtor / the Successful Bidder on or after the Acquisition Date.	**State Bank of India vs. Ess Dee Aluminium Limited** C.P. (IB) No. 1284/KB/2019	**Para 26; S. No. 28 @ Pg. 18**	
18.	Pass a direction that any proceedings pending against the Corporate Debtor (other than against the erstwhile promoters or former members of the management of the Corporate Debtor) prior to/as on Acquisition Date with respect to its liabilities / inquiries / investigations / assessment / claims / disputes / litigations, etc. shall not have any bearing against the assets sold in the process. The said assets are	**Punjab National Bank vs. Divine Vidyut Limited** CP (IB) No.891/KB/2018	**Para 3.13; S. No. 7(i) @ Pg No. 42**	

	free from any financial or legal implications arising out of any pending proceedings before relevant authorities, if any. Further non-compliance of provisions of any laws, rules, regulations, directions, notifications, circulars, etc. on the Corporate Debtor under various acts and regulations shall stand extinguished.			
19.	Pass a direction that any claim that may arise post the Acquisition Date including claims under applicable laws, contracts, judicial / quasi-judicial proceedings, whether disputed or undisputed, crystallized or otherwise which relate to the period on or prior to the Acquisition Date shall pose no additional liability (whether financial, contractual, performance or otherwise) on the Successful Bidder or Corporate Debtor and that proceedings initiated against the Corporate Debtor for recovery of monies by the claimants including those who did not file their claims with the Liquidator shall stand dismissed and extinguished. Pass a direction that any liability in respect of claims made under any guarantees issued by the Corporate Debtor on behalf of any third parties, invoked or un-invoked, shall stand converted into equity shares of the Corporate Debtor and be simultaneously subjected to Capital Reduction (as specified in Prayer 2 above) on the Acquisition Date 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	**Punjab National Bank vs. Divine Vidyut Limited** CP (IB) No.891/KB/2018	**Para 3.13; S. No. 7(i) @ Pg No. 42 and** **Para 3.13; S. No. 5 (iii) @ Pg No. 40 and** **Para 3.13 S. No. 5(i) @ Pg. 39**	Pass a direction that any liability in respect of claims made under any guarantees issued by the Corporate Debtor on behalf of any third parties, invoked or un-invoked, shall stand extinguished on the Acquisition Date 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 Successful Bidder.

	the Corporate Debtor and/or the Successful Bidder.			
20.	Direct that any bond, surety, guarantee, power of attorney, undertaking issued by the Corporate Debtor to any person, either in India or outside India before the Acquisition Date whether monetary or non- monetary, statutory, crystallized or not crystallized, claimed or not claimed, admitted or not admitted, disputed or undisputed, confirmed or contingent or due or overdue or future due, decrees obtained for satisfaction of debt and all such obligations of the Corporate Debtor shall stand extinguished, discharged, cancelled and permanently revoked without any recourse to the Corporate Debtor or the Successful Bidder.	**State Bank of India vs. Ess Dee Aluminium Limited** C.P. (IB) No. 1284/KB/2019	**Para 26; S. No. 27 @ Pg. 18**	
21.	Direct that any bond, surety, guarantee, power of attorney, undertaking, security issued by any third person on or behalf of the Corporate Debtor to secure obligations at any time prior to the Acquisition Date shall not be enforceable against the Corporate Debtor/ Successful Bidder and no such guarantor or person(s) shall have any right of subrogation or recourse against the Corporate Debtor or the Successful Bidder.	**State Bank of India vs. Ess Dee Aluminium Limited** C.P. (IB) No. 1284/KB/2019	**Para 26; S. No. 27 @ Pg. 18**	
22.	Pass a direction granting exemption to the Corporate Debtor/the Successful Bidder from payment of registration fee/stamp duty and other local levies, taxes, transfer charges, transfer premiums, surcharge, cess, duties etc. with respect to payment of Total Sale Consideration or any other transaction required to be undertaken			<u>**Remarks**</u> **No such direction can be given. But the Corporate Debtor/successful bidder can approach the concerned authorities who in their own discretion and under the relevant law may consider the request keeping in view**

	pursuant to the sale of the Corporate Debtor as a going concern and taxes thereon, as payment of these amounts may make this acquisition unviable. Any reference to Taxes shall include any transfer premiums or charges, change of ownership/ Control charges, including Stamp Duty if any, payable in connection with the acquisition and the consequent change in ownership and Control of the Corporate Debtor.			**the intent and spirit of the IBC.**

GROUP III:

CONTRACTS, LICENSE, PERMITS AND APPROVALS

Sl. No. **(1)**	**Particulars of the reliefs and concessions** **(2)**	**Relevant Provision / Precedents** **(3)**	**Relevant Page No. of the compilation** **(4)**	**Proposed Changes/ Remarks** **(5)**
1.	Direct that the Successful Bidder shall have the right to terminate any existing employment contract after the Acquisition Date without incurring any additional liability for termination of such employment contracts.	**State Bank of India vs. Ess Dee Aluminium Limited** C.P. (IB) No. 1284/KB/2019	**Para 26; S. No. 49 @ Pg. 25**	
2.	Pass a direction that upon approval of the reliefs sought herein by this Hon'ble Tribunal, all Brands, Intellectual Property Rights (IPR's), Trademarks etc. registered in the name of the Corporate Debtor shall remain vested with the Corporate Debtor/Successful Bidder.	**Nitin Jain Liquidator of PSL Ltd. Vs. Lucky Holdings Pvt. Ltd.** CP (IB) 37 (AHM) 2017	**Para 40 (5) @ Pg. 107**	
3.	Pass a direction to the relevant regulatory authorities that any new licenses, registrations and consents that are required for the operations of	**Shri Prerna Krishna vs. Konark Power Projects Ltd.** CP(IB) No. 314/7/HDB/2018	**Para VIII; S. No. xvii @ Pg. 153**	**<u>Remarks</u>** **Preferably within 3 months and, if not, then within a reasonable time thereafter.**

	the Corporate Debtor shall be granted within a period of 3 months from the Acquisition Date.			
4.	Direct the transmission utility to maintain connectivity arrangement and to enter into any short term/medium term/long term power transmission agreement as the project may require from time to time.	**State Bank of India vs. Ess Dee Aluminium Limited** C.P. (IB) No. 1284/KB/2019	**Para 27; S. No. 29 @ Pg. 19**	**<u>Remarks</u>** **No such direction can be given. Rather the Corporate Debtor/successful bidder will have to approach the concerned authorities.**
5.	Direct the Liquidator and other relevant authorities including Tehsildar to cooperate with, and provide all necessary support and assistance to the Successful Bidder, including but not limited to perfecting/amending/modifying/creating the land records in relation to all parcels of land, the immovable properties and assets, belonging to the Corporate Debtor in favour of the Corporate Debtor within 15 days from Acquisition Date.	**Shri Prerna Krishna vs. Konark Power Projects Ltd**. CP (IB) No. 314/7/HDB/2018	**Para VIII; S. No. xxii @ Pg. 155**	**<u>Remarks</u>** **Preferably within 15 days and, if not, then within a reasonable time thereafter.**
6.	Direct that all existing contracts and arrangements, if any, with the Existing Promoters/Directors and Related Parties of the Corporate Debtor shall stand terminated on and from the Acquisition Date.	**M.S. Viswanathan v. Pixtronic Global Technologies Pvt. Ltd.** CP/699/IB/2017	**Para 16 S. No. 12 @Pg 180**	
7.	Direct that the Successful Bidder has a right to review and terminate any contract that was entered into by the Corporate Debtor prior to the Acquisition Date without incurring any penalty, charges, fees, fines, liabilities, damages in relation thereto. Save and except the contracts and arrangements which shall be terminated by the Successful Bidder, all other contracts and arrangements shall remain in existence on the same	**State Bank of India vs. Ess Dee Aluminium Limited** C.P. (IB) No. 1284/KB/2019	**Para 26; S. No. 8 @ Pg. 13**	

	terms and conditions without prior period liability.			
8.	Direct that the sale of the assets of the Corporate Debtor shall be binding on all stakeholders including the utility providers and all such utility providers shall continue to supply the utilities/resume to supply the utilities as may be required for the operations of the Corporate Debtor.	**State Bank of India vs. Ess Dee Aluminium Limited** C.P. (IB) No. 1284/KB/2019	**Para 26; S. No. 29 @ Pg. 19**	
9.	Direct that the Corporate Debtor/Successful Bidder shall be deemed to be eligible to receive all consents, licenses, exemptions, approvals, rights, entitlements, extensions, waivers, benefits and privileges (including but not limited to the approvals mentioned in Appendix B), approval of change in ownership etc., whether under law, contract, lease or license, which includes but are not limited to permission for change of land use by the concerned Central, State or Local Government and/or Regulatory Authorities as may be required by the Corporate Debtor. Further, all consents, licenses, permissions, approvals, rights, entitlements, benefits and privileges whether under law, contract, lease or licenses required by the Corporate Debtor (including but not limited to the approvals mentioned in Appendix B), which have expired or terminated and have not been renewed shall be deemed to be renewed or revived and in the interim period, the Successful Bidder shall be allowed to operate the plant of the Corporate Debtor.	**Shri Prerna Krishna vs. Konark Power Projects Ltd** CP(IB) No. 314/7/HDB/2018 **Nitin Jain Liquidator of PSL Ltd. Vs. Lucky Holdings Pvt. Ltd.** CP (IB) 37 (AHM) 2017 **State Bank of India vs. Ess Dee Aluminium Limited** C.P. (IB) No. 1284/KB/2019	**Para VIII; S. No. xvii @ Pg. 153** **Para 40 (5) @ Pg. 107** **Para 26; S. No. 32 @ Pg. 20**	**<u>Remarks</u>** **No such direction can be given. Rather for renewal/exemption etc., as stated, the Corporate Debtor/successful bidder will have to approach the concerned authorities/persons and the authorities shall consider the request keeping in view the intent and spirit of the IBC.**
10.	Direct the respective government authorities that the approvals related to the Corporate Debtor that have been			

	granted in the name of the Successful Bidder pursuant to its earlier applications after emerging as Successful Bidder in the sale of the Corporate Debtor on a slump sale basis (as provided in Appendix C) shall be transferred in the name of the Corporate Debtor from the date of the order of this Hon'ble Tribunal allowing the reliefs sought herein.			

6. After having considered the prayers of the Applicant, we grant the reliefs and concessions as mentioned in column (2) of the Table hereinabove, subject to the proposed changes and our *'remarks'* as given in column 5 of the Table. It is clarified that certain reliefs/concessions require the approval/consent of the concerned authorities under other laws and as such the Corporate Debtor/successful bidder will have to approach them who will consider it under such other laws keeping in view the intent and spirit of the IBC.

7. It is also clarified that the unpaid liabilities/existing share capital of the Corporate Debtor, which are to be extinguished as per the relief and concessions granted hereinabove, are to be credited into the "Capital Reserve" in accordance with applicable Indian Accounting Standards; and the accumulated losses, if any, as per the balance sheet prior to the date of acquisition will have to be adjusted/set off as against such "capital reserve". The balance amount of losses, if any, can only be considered for carry forward as per provisions of Section 79(2) of the Income Tax Act, provided a reasonable opportunity is given to the Principal Commissioner of Income Tax.

8. The Applicant shall be at liberty to move a fresh application as regards to the reliefs and concessions listed under the category Group No. 4 including that on as regards carry forward losses subject to the observations made hereinabove in para 7 of this order.

9. With this, **IA(IB)/709(AHM)2023** is **allowed** to that extent only and **disposed of**.

–Sd–
KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)

–Sd–
SHAMMI KHAN
MEMBER (JUDICIAL)

Abhishek Bhadauria / Stenographer