



IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH
(Exercising powers of Adjudicating Authority under
The Insolvency and Bankruptcy Code, 2016)
(through web-based video conferencing)

I.A No. 398/2023
in
CP (IB) No.36/BB/2022
U/s. 31(1) of the IBC, 2016

IN THE MATTER OF:

Ms. Shirley Mathew,
Resolution Professional of
Soubhagya Laxmi Sugars Limited.
Having Office at: No.31,
Wheeler Road Extension,
St. Thomas town,
Bangalore 560 084.

... Applicant

In the matter of:

Shri Arihant Credit Souhard Sahakari Limited

... Financial Creditor

Versus

M/s Soubhagya Laxmi Sugars Limited

... Corporate Debtor

Order delivered on: 01/10/2024


Coram: Hon'ble Shri. K. Biswal, Member (Judicial)
Hon'ble Shri. Manoj Kumar Dubey, Member (Technical)

PRESENT:

For the RP : Ms. Maithreyi Bhat
Resolution Professional : Ms. Shirley Mathew


**ORDER****Per: Manoj Kumar Dubey, Member (Technical)**

1. This Application is filed by Ms. Shirley Mathew (hereinafter referred to as 'Applicant/Resolution Professional') under section 30 (6) read with section 31 read with section 60(5)(c) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 read with Rule 11 of the National Company Law Tribunal Rules, 2016, seeking approval of the Resolution Plan as approved by the CoC Members.
2. Brief facts of the case are given hereunder:
 - (a) The main Company Petition bearing CP(IB) No. 36/BB/2022 filed by Financial Creditor i.e M/s Arihant Credit Souhard Sahakari Limited u/s 7 of the Code for initiation of Corporate Insolvency Resolution Process (CIRP) against M/s Soubhagya Laxmi Sugars Limited was admitted by this Adjudicating Authority, vide order dated 07.04.2022, and Mr. Kondishetty Kumar Dushyantha was appointed as the Interim Resolution Professional and he was directed to take necessary actions in accordance with relevant provisions of the Code and Regulations made thereunder.
 - (b) It is stated that IRP made a public announcement on 23.04.2022 in the prescribed form about the commencement of CIRP against Corporate Debtor in accordance with the provisions of Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The IRP constituted the Committee of Creditors based on the claims received and admitted as of 13.05.2022.
 - (c) The 2nd CoC held on 07.07.2022 appointed the Applicant herein as the RP. And I.A No. 279 of 2022 was filed and this Tribunal has confirmed the appointment of the Applicant as the RP vide order dated 03.08.2022. Further, the RP reconstituted the CoC which was taken on record in IA No. 501 of 2022 vide order dated 28.11.2022.
 - (d) Further, I.A No. 531 of 2022 was allowed by this Tribunal on 12.12.2022 for extension of CIRP by 90 days from 03.10.2022 upto 31.12.2022. Subsequently, an exclusion of 70 days from 04.10.2022



to 12.12.2022 was allowed vide order dated 13.03.2023 in IA No: 165/2023; and further extension of 60 days was allowed in IA No. 166 of 2023 vide order dated 13.03.2023, resulting in extension upto 10.05.2023. Further, by way of the resolution passed the CoC in its 10th meeting held on 13.03.2023 approved the extension of the CIRP for an additional period of 30 days from 10.05.2023 till 09.06.2023. Tribunal vide order dated 05.06.2023 allowed IA No. 340 of 2023 extending the CIRP of the Corporate Debtor till 09.06.2023, on the basis of the contention that Resolution Plan was likely to be finalised soon; and also relying on the judgment of Hon'ble Apex Court in the matter of Committee of Creditors of *Essar Steel India Ltd. vs. Satish Kumar Gupta and Ors.* wherein it was held that the outer limit of 330 days prescribed in the Code may be extended in exceptional circumstances.

- (e) It is submitted that 4th meeting of the CoC that was held on 27.10.2022, the CoC approved publication of Form G for invitation of Expression of Interest for Resolution Plan as well as the eligibility criteria. Accordingly, the approved Form G was published in Times of India and Vijayavani on 04.11.2022 and 05.11.2022. Considering that no response was received on the publication of EoI on the said dates, the invitation of EoI was published again in the Form G in The Times of India on 21.11.2022 with the revised eligibility criteria approved in the 5th CoC meeting held on 17.11.2022 and 11 EoIs were received by the RP.
- (f) Further, during the 5th CoC meeting held on 17.11.2022, the Evaluation Matrix was unanimously approved by the CoC. During this meeting of the CoC members approved to make changes to the Draft Request for Resolution Plan. Thereafter the RFRP was circulated to the prospective resolution applicants. Further during the 6th Meeting of the CoC which was held on 13.12.2022, the RP informed the CoC members that the audited financial statements of the corporate debtor from the Financial Years 2019-20, 2020-21 and 2021-22 and also the accounts as on the CIRP commencement date i.e 07.04.2022 have not been received from the erstwhile management. In this regard, the CoC



approved the appointment and remuneration of M/s NM Raiji & Co. as the statutory auditors of the Corporate Debtor to audit the accounts for FY 2019-20, FY 2020-21 & FY 2021-22.

- (g) Moreover, the 7th meeting of the CoC was held on 16.02.2023, in which Item A-6 was put to vote to open the resolution plans from the PRAs. Moreover, RP informed the CoC that the last date for submission of resolution plan from the PRAs was 31.01.2023 and till date, the RP had not received any resolution plan from any of the PRAs but instead received requests from 2 PRAs seeking extension of time to submit their respective resolution plans. The RP further appraised the CoC of receipt of a resolution plan from one Radiant Equity Management Private Limited jointly with Mr. Nagarajan Seyyadurai along with the EMD of Rs. 10 Crore which has been received into the designated bank account of the corporate debtor. However, it was later confirmed to the RP by Mr. Nagarajan Seyyadurai that he had not submitted any resolution plan. Thus, the RP informed the CoC that since Mr. Seyyadurai has confirmed that he has not submitted any resolution plan and that Radiant Equity Management Private Limited was not a part of final list of PRAs, the said resolution plan cannot be opened. The CoC members in their commercial wisdom also agreed for not opening the said resolution plan and decided to return the EMD that was received into account of the Corporate Debtor. Thereafter, the RP informed the CoC that since there are no plans from the PRAs appearing in final list and as per the provisions of the Code, the liquidation process in respect of the Corporate Debtor may be initiated. However, in views of the CoC members, it was decided to consider the requests received from the PRAs for extension of date to submit the resolution plan and accordingly the CoC members approved the extension of date for submission of the resolution plan by another 7 days. The said resolution was approved by the CoC with members holding 96.06%.
- (h) It was submitted that in the 8th meeting of the CoC RP informed the CoC that one resolution plan was received on 24.02.2023 from Mr. Syed Fahad, who was a part of the final list of PRAs. RP further

submits that Mr. Syed Fahad has submitted the resolution plan with Radiant Equity Management Private Limited. The RP informed the CoC that the EMD of Rs. 10 Crore was also received into the account of the corporate debtor along with the joint resolution plan received from Mr. Syed Fahad and Radiant Equity Management Private Limited.

- (i) RP submits that pursuant to Regulation 27 of the IBBI (Insolvency Resolution Process of Corporate Persons) 2016, on 22.06.2022, the erstwhile IRP had appointed registered valuers. As per the valuation report submitted the average of Liquidation value of the assets of the Corporate debtor is Rs. 289.49 crores and the average Fair Market Value of the same is Rs. 321.66 crores. The valuation is as under.


Sl No	Name of the Valuer	Asset Recovered	Fair Value (in crores)	Liquidation Value (in crores)
1	R A Srinivasa	Plant and Machinery	220.83	198.11
2	P C Achaya	Plant and Machinery	228.97	209.51
Avg			224.90	203.81
3	Anand Kumar C	Land and Building	50.19	45.17
4	V L N Murthy	Land and Building	47.36	39.29
Avg			48.77	42.23
5	K Shriramarao	Securities and Financial Assets	44.62	44.58
6	M.V. Sudarshan (third Valuer)	Securities and Financial Assets	51.35	42.32
Avg			47.99	43.45
Total			321.66	289.49

- (j) It is submitted that the CoC members had various rounds of negotiations with the RA and based on these, on 03.06.2023, the RA submitted a revised Resolution Plan on 05.06.2023. Thereafter, the 11th Meeting of the CoC was convened on 07.06.2023 wherein revised resolution plan dated 05.06.2023 was unanimously approved by members holding 77.76% of the total voting share having voted in favour of the said Resolution, members holding 22.24% of the total voting share having voted against the said resolution and no members have abstained from voting. The said CoC meeting has been attached along with the petition.
- (k) Further, as per the Resolution Plan submitted, the total payout towards settlement of CIRP costs and claims of creditors is as below:

Sl.no	Payment Distribution Heads	Rs in Crores
a.	CIRP Cost	1.00
b.	Financial Creditors (Secured)	203.15
c.	Financial Creditors (unsecured)	2.26
d.	Operational Creditors	0.00
e.	Work men / Employee claims	0.00
f.	Statutory dues	8.00
	Total	214.41

- (l) The Resolution plan further proposes for a Working Capital and Expansion of the Project of the Corporate Debtor to the tune of Rs. 20 crores and additional infusion of funds for setting up of 120 KLPD Ethanol Project to the tune of Rs. 120 to 150 crores and capacity expansion, in addition to the pay-out to the creditors and statutory authorities. The total amount after the inclusion of the above is as follows:

	Total CIRP Cost	Secured Financial Creditors	Unsecured Financial Creditors	Operational Creditors	Statutory Dues	Equity Share holders	Total
Payment of CIRP cost	1,00,00,000	0	0	0	0	0	1,00,00,000



Payment to Creditors	0	203,15,00,000	2,26,00,000	0	8,00,00,000	0	213,41,00,000
Towards Working Capital and Expansion of the Project	0	0	0	0	0	0	20,00,00,000
Towards setting up of Ethanol Project	0	0	0	0	0	0	120,00,00,000
Total	1,00,00,000	203,15,00,000	2,26,00,000	0	8,00,00,000	0	354,41,00,000

(m) It is submitted that in accordance with Section 30(1) of the Code the successful resolution applicants, Mr. Syed Fahad and Mr. Jithendra Kanunga, authorised signatory on behalf of Radiant Equity Management Private Limited, have submitted separate affidavits, declaring that they are eligible under Section 29A of the Code to submit the Resolution Plan. The same has been attached as Annexure AE and AF to the petition.

(n) Resolution Professional proposed that the estimated CIRP cost would INR 1.00 Crores that the Insolvency Resolution Process Cost under Section 5(13) read with Regulation 31, 33 and 34 of IBBI (CIRP) Regulations constitutes IRP fee and RP fee and supply of essential goods and services etc. The actual amount of Insolvency Resolution Process Cost may vary at the expiry of the CIRP period. Unpaid actual Insolvency resolution process cost ratified by CoC would be informed by the Resolution Professional to the Resolution Applicant.

(o) As per the Information Memorandum provided by the Resolution Professional, a debt of INR **579.94** Crores is owed to the Financial Creditors from the Corporate Debtor. The details as per Information Memorandum are as follows.

S.N.	Secured Financial Creditor	Admitted Claims (Principle plus	Pay Out Proposed under the Plan
-------------	-----------------------------------	--	--



		Interest) (INR) in Crores	(INR) in Crores
1	The Karnataka State Co-operative Apex Bank Limited	182.62	58.06
2	Alchemist Asset Reconstruction Company Limited	128.96	67.00
3	Vijayapura DCC Bank Limited	56.91	18.09
4	The North Kanara DCC Bank Limited	51.16	16.26
5	South Canara DCC Bank Limited	44.15	14.04
6	Tumkur DCC Bank Limited	44.33	14.09
7	Shri Arihant Credit Souhard Sahakari Limited	42.24	13.43
8	Shri Beereshwar Souhard Credit Sahakari Limited	6.87	2.18
	UNSECURED		
9	Union Bank of India (Formerly known as Corporation Bank)	22.66	2.26
	TOTAL	579.94	205.41


As per the information shared by the Resolution Professional, it is assumed that the Admitted Secured Financial Debt is fully covered and there are no additional claims filed by the Secured Financial Creditors which are not included in the Admitted Secured Financial Debt above. It is deemed that the secured financial creditors would relinquish their security held by them upon release of final instalment of payments as proposed in this Plan. All the secured financial creditors will be paid as proposed in Resolution Plan. During the period of implementation, the secured financial creditors will not exercise any right for the recovery of the loan against the Corporate Debtor unless defaulted by the Resolution applicant. The Resolution Applicant proposes to pay INR 179.40 Crores to all Financial Creditors because as per assessment the current value of the security may not yield more than the value proposed. Further, it is proposed to pay the above mentioned financial creditors, in proportion to their voting rights within a period of 90 days.

- (p) It is submitted that as per the Information Memorandum, no claims have been made by Operational Creditors therefore there are NIL operational Creditors. Further, no claims have been made by any workmen and employees therefore there are NIL Employees and Workmen Dues.
- (q) According to the Information Memorandum the following four claims have been made by Operational Creditors (Statutory Authorities) amounting to Rs. 203.33 Crores.

S.No	Name	Claim admitted (in Rs.)	Amount proposed to be paid (in Rs.)
1	Income Tax Officer (TDS) Ward-1 Belgaum	24,42,110	96,084.21
2	Central Excise, Customs & GST	44,11,683	1,73,576.57
3	The Assistant Commissioner of Income Tax	245,20,06,496	7,67,97,711.45
4	Deputy Commissioner of Customs - EPCG Monitoring Cell	7,45,36,695	29,32,627.767
	Total	253,33,96,984	8,00,00,000


It is submitted that the Resolution Applicant shall be paying a sum of Rs. 8,00,00,000/- (Rupees Eight Crores only) in full and final settlement of the @ 3.16% of their entire liability of the Statutory dues and the said amount will be paid in priority before payment to financial creditors.

- (r) It is submitted that the Resolution Applicant proposes to take over corporate debtor and restructure total admitted claims of the Corporate Debtor. Out of the total Resolution Plan Amount Rs. 214.41 Crores will be paid to the Creditors, Statutory Dues and CIRP Cost of Corporate Debtor. The Resolution Applicant plans to carry out complete overhauling and refurbishment of the existing machinery before it restarts the Sugar, Distillery and Power Plant (hereinafter referred to as the "business"). The intent of the Resolution Applicant is to ensure that the company does not make further losses and operations are restarted at the earliest possible. The total Resolution Plan value is Rs. 354.41 Crores out of which Rs. 205.41 Crores will be utilized for repayment of Creditors, Rs. 8 Crores will be utilized for



repayment of statutory dues and Rs. 20 Crores will be utilized for Repairs and Maintenance, working capital, financial costs, Statutory approvals and pre-operative expenses.

- (s) It is submitted that upon the NCLT Approval Date, an Implementation and Monitoring Committee comprising of 5 (Five) persons of which 1 (one) is Insolvency Professional, 2(Two) representative of the Resolution Applicant and 2 (Two) Representative appointed by the Financial Creditors having highest share in the COC will be constituted without any further action required from the Corporate Debtor or the Resolution Applicant. The Resolution Applicant and the Financial Creditor reserve the right to change their appointees to the Monitoring Committee, if required, for better management of the assets. The monitoring committee shall be functional from the Approval date till the date on which entire plan is implemented or 24 months whichever is earlier.
- (t) Further, the Board of Directors of the SRA will undertake the management of the Unit taken over from the CD; and are responsible for ensuring that the Unit meets its statutory obligations. The Existing board members of Corporate Debtor will not be continued and the Board will be run by the new team which may include Executive, Non-executive director who are expert authority in the Industry, as may be appointed by the Resolution Applicant. Moreover, the Resolution Professional shall handover entire control including all records, information, and peaceful possession to the new Corporate Debtor management. Further, the Corporate Debtor shall continue as a going concern and operate in its normal course of business upon implementation of the Resolution Plan.
- (u) It is submitted that in accordance with Section 30(2)(e)of the Code the Resolution Plan does not contravene any of the provisions of the law for the time being in force. It is submitted that the requirement to pay the operational creditors in priority over the financial creditors in accordance with Regulation 38(1)(a) of the Code does not arise, as there are no Operational Creditors other than statutory authorities and further, those Financial creditors who do not vote in favour of the



resolution plan, shall be paid such amounts, which shall not be less than the amount to be paid to such creditors in accordance with subsection (1) of Section 53 in the event of a liquidation of the Corporate Debtor and shall be paid in priority over financial creditors who voted in favour of the plan. The plan deals with the interest of the stakeholders, including financial creditors and operational creditors of the corporate debtor in accordance with Regulation 38(1A) (a) of the CIRP Regulations.

- (v) It is submitted by the SRA in the Resolution Plan that neither the Resolution Applicant nor any of its related parties have 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 in accordance with Regulation 38 (1B) of the CIRP Regulations.
- (w) It is submitted that the Resolution Plan provides that the term of the plan shall be 24 months from date of receipt of order from this Tribunal and further the Resolution Plan provides for the implementation schedule in accordance with Regulation 38(2)(a) of the CIRP Regulations.
- (x) The Resolution Plan provides for the management and control of the business of the corporate debtor during its term in accordance with Regulation 38(2)(b) of the CIRP Regulations. Further, the Resolution Plan provides for adequate means for supervising its implementation through appointing of an insolvency professional as a monitoring professional and the composition of the MCIRP in accordance with Regulation 38(2)(c) of the CIRP Regulations.
- (y) It is submitted that the Resolution Plan, in accordance with Regulation 38(3) of the CIRP Regulations, demonstrates that it (a) addresses the cause of default; (b) it is feasible and viable; (c) it has provisions for its effective implementation; (d) it has provisions for approvals required and the timeline for the same; and (e) the resolution applicant has the capability to implement the Resolution Plan.



(z) It is submitted that the COC has passed a favourable resolution with 77.76% of the voting share approving the resolution plan in the 11th meeting of the COC and as such, hence the requirements of Section 30(4) have been complied with.

(aa) It is submitted that the period of completion of the CIRP of the Corporate Debtor has not expired and as such the present Application is filed within time. Further, all requirements under the Code and CIRP Regulations have been duly complied with, and that the Resolution Plan may be approved in accordance with law. Moreover, in accordance with Regulation 36B (4A) of the CIRP Regulations, the Resolution Applicant, vide compliance memo filed on 10.07.2024 has furnished the performance security dated 06.06.2024 of Rs. 18,74,00,000/-. Further, the Bank Guarantee shall be valid up to 6 months and the claim or demand to be made under this Guarantee on or before 06.12.2024.

3. Heard learned Counsel for the RP and carefully perused the pleadings on record.
4. On 07.09.2023 the Tribunal directed the the applicant to file the Performance Bank Guarantee as per Regulations 36(4)(a); source of fund; affidavit regarding avoidance transaction IAs pending; affidavit regarding pending litigations. The same is compiled vide diary dated 06.10.2023 and 13.12.2023 wherein it is submitted that, as per Regulation 39(2) of the IBBI CIRP Regulations, the Resolution Plan proposes that any amounts realised on account of the orders of this Tribunal in respect of any applications filed under Section 43, 44 and 66 of the Code shall be paid to the Financial Creditors of the Corporate. Further, RP submits that that there are no records of any legal proceedings that have been instituted by or against the corporate debtor. Moreover, vide affidavit dated 11.12.2023 filed vide diary no: 6260 dated 13.12.2023, the applicant has explained the source of fund for the Resolution Plan amount of Rs. 187.4 Crores towards payment to Creditors, Rs 1 Crore towards CIRP Cost and Rs. 20 Crores towards Working Capital, with the total amounting to Rs. 208.4 Crores, as under:

Radiant Equity Management Pvt Ltd	Net worth	INR 71.75 Crores
Syed Fahad of Greenergy Wind Corporation Pvt Ltd	Net worth	INR 77.37 Cores
EMD Paid		INR 10 Crores
Performance Guarantee provided		INR 18.75 Crores
Borrowed Funds		INR 30.53 Crores
Total		INR 208.4 Crores

Along with the above, the copy of Audited Balance sheet as on 31.03.2023 of M/s. Greenergy Wind Corporation Private Limited and Radiant Equity Management Private Limited was submitted. Further, it was stated that the SRA undertakes to unequivocally, irrevocably and unconditionally to make available funds required under the Resolution Plan and funds required for realization and implementation of the Resolution Plan. Also, the Applicant has attached performance guarantee dated 06.12.2023 for the amount of Rs. 18,74,00,000/-.

5. On 22.11.2023, this Tribunal directed the applicant to file a memo clarifying as to how the total Resolution Plan value of Rs. 328 Crores has been arrived at, since in Form H filed dated 13.06.2023 only Rs. 188 Crores is mentioned. The compliance to the above was filed vide diary No. 6259 dated 13.12.2023 along with fresh Form-H wherein it is stated as under:

“it is submitted that as stated in para nos. 25 to 46 (page no. 18 to 20 of IA No. 398/2023, Volume I), as per the Resolution Plan the total pay-out towards settlement of CIRP costs and claims of creditors shall be Rs. 188.40 crores. Further, the Resolution Plan proposes a working capital and expansion of project of the Corporate Debtor for a sum of Rs. 20 crores and additional infusion of funds for setting up an Ethanol Project to the tune of

Rs. 120 crores. I state that the working capital and the infusion of funds for setting up the Ethanol Project is in addition to the payment towards settlement of CIRP cost and pay-out to creditors. As such, as explained in the table under para no. 26, the commercial bid after inclusion of the additional funds and capital would amount to Rs. 328.40 crores. It is submitted that this is also mentioned in the Resolution Plan under clause 2.6 (handwritten page no. 643 of Volume III in IA No. 398/2023). It is further submitted that in the Form H (Annexure AH, page no. 695, Volume IV in IA No. 398/2023) in the table under clause 7, the Applicant has mentioned the payments made to the creditors under the Resolution Plan as Rs. 1,46,41,00,000/-. Further, as stated in the explanation below the table, in addition to this amount, the Resolution Plan also proposes to pay the dissenting financial creditor an amount of Rs. 67,00,00,000/-, being the liquidation value as per Clause 5.2.1 of the Resolution Plan. As such, the total pay-out to the creditors shall be Rs. 213,41,00,000/- (after including payment to the dissenting financial creditor). The Resolution Plan also proposes a payment of Rs. 1,00,00,000/- towards CIRP costs which brings the total to Rs. 214,41,00,000/- (Rs. 214.41 crores).

Considering the above, the total amount of the Resolution Plan is as under:

Amounts proposed to be paid to		Amount (Rs. in Crores)
A	Assenting Secured Financial Creditors	136.15
B	Unsecured Financial Creditors	
	Union Bank of India (erstwhile Corporation Bank)	2.26
C	Payment towards Government Dues (Income Tax)	8.00
	Sub- Total	146.41
D	Dissenting Financial Creditor (liquidation value)	
	Alchemist Asset Reconstruction Company Limited	67.00
E	Total payment to creditors (A+B+C+D)	213.41
E	CIRP costs	1.00



	Total Payout to stakeholders	214.41
F	Working Capital and expansion of the project	20.00
G	Towards setting up Ethanol Project	120.00
	Amount under the Resolution Plan (A+B+C+D+E+F+G)	354.41

6. On 20.12.2023 the following observation were made by this Tribunal
- “ It is stated by the Ld. Counsel for the Applicant/RP that in response to the Order dated 07.12.2023, they have filed a memo vide diary No. 6259 dated 13.12.2023, in which variations in the amounts given in the Form-H has been explained. However, it is noticed from above memo that the total amount of the Resolution Plan is mentioned as 354.41 Crores, whereas the clarification was asked why the earlier Form-H shows only Rs. 188 Crores and the total Resolution Plan value of Rs. 328 Crores was mentioned in the earlier Form-H.*
 - The Ld. Counsel for the Applicant is directed to explain the reasons for variations shown in the recent Form-H on 13.12.2023 when compared to the Form-H earlier along with reasons for variations by showing the comparisons in a tabular form*
 - Further, it is also noticed that at Page nos. 8 & 9 regarding Section 30(2) of IBC, 2016 against (f) it is written as Yes. Therefore, an opportunity is granted to clarify the same.”*
7. In compliance to the above direction the Applicant filed diary no. 131 dated 05.01.2024 along with revised Form H submitted the clarification in Tabular form and the same is given below:

Amounts proposed under Resolution Plan assuming 100% voting in favour of Plan	(Rs. in Crore)	(Rs. in Crore)	Document
A. Secured Financial Creditors		177.14	
B. Unsecured Financial Creditors		2.26	
C.Payment towards			



Got. Dues (Income Tax)		8.00	
D. CIRP costs		1.00	
e. Working Capital		20.00	
f. Towards setting up Ethanol Project		120.00	
TOTAL		328.40	as per the Resolution Plan
Amount to be paid to Dissenting Financial Creditor- Alchemist ARC:			
(i) Amount proposed in the Resolution Plan assuming there would assent to resolution plan	40.99		
(ii) Liquidation value to be paid proportionately	67.00		As per Form H dated 11.12.2023
Add: Difference (ii)-(i)		26.01	
Total Resolution Plan value		354.41	As per Form H dated 11.12.2023

It is submitted that the difference in the value of the total resolution plan is only due to the inclusion of proportionate liquidation value payable to the dissenting financial creditor, M/s. Alchemist Asset Reconstruction Company, for whom the revised provision was Rs. 67 Crores; as against Rs. 40.97 Crore proposed in the Resolution Plan/Original Form H; thus resulting in an increase by Rs. 26.01 Cr; for this creditor; with consequential increase in the overall amount provided under the plan to Rs. 214.41 Crores.

8. The Corporate debtor herein, namely, M/s Soubhagya Laxmi Sugars Limited was incorporated on 31.12.2008 under the provisions of the Companies Act, 1956. CIRP proceedings were initiated against the Corporate Debtor by this Adjudicating Authority, vide order dated 07.04.2022 passed in CP (IB) No. 36/BB/2022. The present application is filed for approval of the Resolution Plan submitted by Mr. Syed Fahad jointly with Radiant Equity Management Private Limited. The approval has been sought under the provisions of Section 31(1) of the Code.
9. Vide Order dated 15.02.2024, this Tribunal on perusal of records noticed that the following documents had to be filed:

a. CA certificate showing the latest Net worth of both the SRAs.



b. It is seen that Clause 4 & 5.7 of Resolution Plan provides for settlement of claims, wherein, under the head 'Financial Creditors (Secured)' the amount proposed is shown as Rs.177.14 Cr. However, in the amended Form-H filed vide diary No. 131 dated 05.01.2024 is shown as Rs.203 Cr. Therefore, the Applicant is directed to file the Amended Resolution Plan along with COC's approval.

c. It is noticed that vide diary No. 6259 dated 13.12.2023, the total resolution plan value is stated as Rs.354.41Cr. However, in the Resolution plan attached along with the petition it is stated as Rs.328 Cr. Since the change in the Resolution Plan value caused amendment in the plan, it has to be clarified whether the CoC has approved the amendment of Resolution Plan, and file a copy thereof.

d. Applicant is also directed to comply with Regulation 38(3)(d) of the IBBI (CIRP) Regulations, 2016 in a tabular format showing the "Provision for Approvals required and the timeline for the same".

e. It is seen that the Audited financials of Radiant Equity (one of the SRA) filed vide diary no. 6260 is unsigned. Therefore, the same has to be filed again with proper signatures.

10. In compliance to the direction the RP submitted a Memo vide diary no: 1658 and 3259 dated 13.03.2024 and 06.06.2024 by producing the Net Worth Certificate of Mr. Syed Fahad and the M/s. Radiant Equity Management Private Limited as on 31.03.2023 along with the signed audited financials of Radiant Equity Management Private Limited. It is submitted that the RP has conducted the 14th COC meeting dated 27.05.2024 to comply with the NCLT Order dated 15.02.2024. Accordingly, the agenda for the meeting was discussed and the revised plan dated 17.05.2024 was submitted before the COC for approval. The revised plan was approved with 100% voting. Moreover, the SRAs letter dated 01.03.2024, has undertaken and agree to comply with Section 30(2)(b) read with sub-section (1) of section 53 of the Code and accordingly pay additional Rs. 26.01 Crores in respect of the value due Financial Creditor(s) who do not vote in favour of resolution plan. And this letter was to be treated as addendum to the COC approved resolution Plan dated 05.06.2023. Further, in the another letter dated same day i.e., 01.03.2024, the SRAs have provided the necessary timeline in compliance to Regulation 38(3)(d) of IBBI (CIRP) Regulations, 2016. The Revised Resolution plan and Amended Form –H are produced as Annexure A & F to the Memo.

11. The details of the creditors, the distribution of voting share among them and the position of voting for the Resolution Plan is as under (Para 5 of Form H) :-

Sl. No.	Name of Creditor	Voting Share (%)	Voting for Resolution Plan (Voted for / Dissented / Abstained)
1.	The Karnataka State Co-Operative Apex Bank Limited	31.49	Voted for
2.	Alchemist Asset Reconstruction Company Limited	22.24	Voted for
3.	Vijayapura DCC Bank Limited	9.81	Voted for
4.	The Kanara DCC Bank Limited	8.82	Voted for
5.	South Canara DCC Bank Limited	7.62	Voted for
6.	Tumkur DCC Bank Limited	7.64	Voted for
7.	Shri Beereshwar Souhard Credit Sahakari Limited	1.18	Voted for
8.	Shri Arihant Credit Souhard Sahakari Limited	7.28	Voted for
9.	Union Bank of India	3.91	Voted for

12. The details of stakeholders and the amounts provided for them under the Resolution Plan given in Para No. 7 of revised Form H vide diary No. 3259 06.06.2024; which is given below:

(Amount in Rupees)

Sl. No.	Category of Stakeholder*	Sub-Category of Stakeholder	Amount Claimed	Amount Admitted	Amount Provided under the Plan#	Amount Provided to the Amount Claimed (%)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	Secured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	-	-	-	-
		(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	557,76,24,963	557,28,20,092	203,15,00,000	36.42%



Sl. No.	Category of Stakeholder*	Sub-Category of Stakeholder	Amount Claimed	Amount Admitted	Amount Provided under the Plan#	Amount Provided to the Amount Claimed (%)
		Total[(a) + (b)]	557,76,24,963	557,28,20,092	203,15,00,000	36.42
2	Unsecured 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	22,66,76,668	22,66,76,668	2,26,00,000	10%
		Total[(a) + (b)]	22,66,76,668	22,66,76,668	2,26,00,000	10%
3	Operational Creditors	(a) Related Party of Corporate Debtor	-	-	-	-
		(b) Other than (a) above:				
		(i) Government	253,33,96,984	253,33,96,984	8,00,00,000	3.16%
		(ii) Workmen	-	-	-	-
		(iii) Employees	-	-	-	-
		(iv) Operational creditors other than (i), (ii) & (iii)	-	-	-	-
		Total[(a) + (b)]	253,33,96,984	253,33,96,984	8,00,00,000	3.16%
4	Other debts and dues	-	-	-	-	
Grand Total#			833,76,98,615	833,28,93,744	213,41,00,000	25.60%



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

Amounts proposed to be paid to		Amount (Rs. in Crores)
A	Assenting Secured Financial Creditors	203.15
B	Unsecured Financial Creditors	
	Union Bank of India (erstwhile Corporation Bank)	2.26
C	Payment towards Government Dues (Income Tax)	8.00
D	Total payment to creditors (A+B+C+D)	213.41
E	CIRP costs	1.00
	Total Payout to stakeholders	214.41
F	Working Capital and expansion of the project	20.00
G	Towards setting up Ethanol Project	120.00
	Amount under the Resolution Plan (D+E+F+G)	354.41

13.The compliance of the Resolution Plan has been given in Para No. 9 of Form H are as follows:-

Section of the Code / Regulation No .	Requirement with respect to Resolution Plan	Clause of Resolution Plan	Compliance (Yes / No)
Section 25(2)(h)	Whether the Resolution Applicant meets the criteria approved by the CoC having regard to the complexity and scale of operations of business of the CD?	-	Yes
Section 29A	Whether the Resolution Applicant is eligible to submit resolution plan as per final list of Resolution Professional or Order, if any, of the Adjudicating Authority?	-	Yes
Section 30(1)	Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?	-	Yes



Section of the Code / Regulation No.	Requirement with respect to Resolution Plan	Clause of Resolution Plan	Compliance (Yes / No)
Section 30(2)	Whether the Resolution Plan-		
	(a) provides for the payment of insolvency resolution process costs?	Clause 5.1, pg no. 28	Yes
	(b) provides for the payment to the operational creditors?	Clause 5.4, pg no. 30, 31	Yes
	(c) provides for the payment to the financial creditors who did not vote in favour of the resolution plan?	Clause 5.2.1, pg no. 29	Yes
	(d) provides for the management of the affairs of the corporate debtor?	Clause 6.1, pg no. 33	Yes
	(e) provides for the implementation and supervision of the resolution plan?	Clause 6.1, pg no. 33	Yes
	(f) contravenes any of the provisions of the law for the time being in force?	Clause 4.1.7, pg no. 27	No
Section 30(4)	Whether the Resolution Plan		
	(a) is feasible and viable, according to the CoC?	Clause No. 4.1.10, Pg no. 27	Yes
	(b) has been approved by the CoC with 66% voting share?	Resolution Plan has been approved by ---100 % voting shares	Yes
Section 31(1)	Whether the Resolution Plan has provisions for its effective implementation plan, according to the CoC?	Chapter 6, Pg no. 33	Yes
Regulation 38 (1)	Whether the amount due to the operational creditors under the resolution plan has been given priority in payment over financial creditors?	Clause 5.4, pg no. 30	Yes
Regulation 38(1A)	Whether the resolution plan includes a statement as to how it has dealt with the interests of all stakeholders?	Chapter 5, pg no. 32	Yes
Regulation 38(1B)	(i) Whether the Resolution Applicant or any of its related parties has failed to implement or contributed	Clause 4.1.13.- pg no. 28	(i) No (ii) Not



Section of the Code / Regulation No.	Requirement with respect to Resolution Plan	Clause of Resolution Plan	Compliance (Yes / No)
	to the failure of implementation of any resolution plan approved under the Code. (ii) If so, whether the Resolution Applicant has submitted the statement giving details of such non-implementation?		applicable
Regulation 38(2)	Whether the Resolution Plan provides: (a) the term of the plan and its implementation schedule?	Clause 6.1, pg no. 33	Yes
	(b) for the management and control of the business of the corporate debtor during its term?		Yes
	(c) adequate means for supervising its implementation?		Yes
38(3)	Whether the resolution plan demonstrates that –	Clause Nos. 3.1.3, Pg no. 17, Clause No. 4.1.10, Pg no. 27, Chapter 6, Pg no. 33, Compliance Checklist- Pg no. 4, Clause No. 4.1.12, Pg no. 28	Yes
	(a) it addresses the cause of default?		
	(b) it is feasible and viable?		
	(c) it has provisions for its effective implementation?		Yes
	(d) it has provisions for approvals required and the timeline for the same?		Yes
(e) the resolution applicant has the capability to implement the resolution plan?	Yes		
39(2)	Whether the RP has filed applications in respect of transactions observed, found or determined by him?		Yes, the applications u/. 43 and 66 of IBC have been filed on 06.07.2023 which are pending adjudication by this Hon'ble



Section of the Code / Regulation No.	Requirement with respect to Resolution Plan	Clause of Resolution Plan	Compliance (Yes / No)
			Tribunal. These are IA No. 767/2023, 768/2023 and 778/2023.
Regulation 39(4)	Provide details of performance security received, as referred to in sub-regulation (4A) of regulation 36B.		The RAs have submitted a performance bank guarantee dated 06.12.2023 for a sum of Rs. 18.74 Crores. Copy enclosed

14.It is submitted by the Resolution Professional that the COC in its 14th meeting held on 27.05.2024 has approved the Resolution Plan with 100% voting share and the conditions provided for Section 30 (4) of the Code are satisfied.

15.It is pertinent to note that on 31/07/2024 this Tribunal had deserved the IA 398/2023, seeking the following clarifications:

- a) In clause 5.6 under means of finance, has mentioned its own source, internal accrual and Borrowing. Further, no details of proposed borrowings, hence RP is directed to file complete explanation of Source of Funds.
- b) Net worth certificate of Shri Sayed Fahad (SRA). Also, an affidavit giving the complete list of the cases with Company Petition no. etc where Shri Sayed Fahad or Green Wind Corporation Pvt Ltd are the SRA.



- c) Due Diligence Report under Regulation 36A (8) covering all aspects of Regulation 38 of IBBI (IRP for Corporate persons) Regulations, 2016 and Section 25(2)(h) of the Code.
- d) In the memo filed vide diary no.6259 dated 13.12.2023 and the subsequent memo filed vide diary no.3259 dated 06.06.2024, the total Resolution Plan has been explained to be worth Rs.354.41 crore, out of which Rs.214.41 crore is for the payment for the stakeholders. However, an amount of Rs.20 crore for working capital and Rs.120 crore for setting up Ethanol Project is also mentioned for which no source have been explained. The RP is directed to give the explanation of source of this amount of total Rs.140 crore with the necessary documents evidencing the availability of this amount

16. In pursuant to the above directions Memo was filed vide Diary No 5299 dated 10/09/2024, wherein the following was clarified:

- a) As regards to clarification at para (a): Credit facility letter dated 20/08/2024 by HDFC bank for borrowed funds is attached.
- b) As regards to clarification at para (b): It is stated that the net worth certificate of Shri Syed Fahad is filed vide Diary No 3259 dated 06/06/2024. The following has been stated under the affidavit where Shri Sayed Fahad and Green Wind Corporation Pvt Ltd are the SRA;

Name of the Corporate Debtor	Resolution Applicant	Proposed Investment
India Brewery & Distillery Pvt Ltd CP(IB) 147/2018	M/s Greenergy Wind Corporation Pvt Ltd	Total Payment under the Resolution Plan in INR 6.5 Crore which is entirely brought in by M/s Greenergy Pvt Ltd Resolution Plan was approved on 15/02/2024
Arun Shelter Pvt Ltd CP(IB) 305/2019	S.M Kamal Pasha in Consortium with Shri Syed Fahad	Total Payment under the Resolution Plan in INR 53 Crores



		The Resolution Plan was approved on 04/11/2022 and has been successfully implemented.
SA Rawther Spices (P) Ltd CP(IB) 159/2019	S.M Kamal Pasha in Consortium with Shri Syed Fahad	Resolution plan is pending for approval and Resolution plan amount in INR 28.50 Crores.

c) As regards to clarification at para (c): Due Diligence Report conducted by one CA Devarakonda Ravi Shankar has been submitted in Diary No 5299 dated 10/09/2024.

d) As regards to clarification at para (d): Further, it is clarified that the Resolution Applicant proposes to take over Corporate Debtor as a going concern and proposed to set up an ethanol project. The Applicant and its consortium member have the requisite capability to for setting up ethanol project. Financial support for setting up ethanol project will be obtained under the GoI “Scheme for extending financial assistance to sugar mills for encashment and augmentation of ethanol production capacity.”

a) At this juncture it is necessary to refer to sec 30(2). The Provisions of Section 30(2) of the I&B Code, 2016 are as follows:

“The resolution professional shall examine each Resolution Plan received by him to confirm that each Resolution Plan –

- (a) *provides for the payment of insolvency resolution process costs in a manner specified by the Board in priority to the 3 [payment] of other debts of the corporate debtor;*
- (b) *provides for the payment of debts of operational creditors 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 a 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 distributed in accordance with the order of priority in sub-section (1) of section 53,*

whichever is higher, and provides for the 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, which shall not be less than the amount to be paid to such creditors in accordance with sub-section (1) of section 53 in the event of a liquidation of the corporate debtor.

Explanation 1. — For removal of doubts, it is hereby clarified that a distribution in accordance with the provisions of this clause shall be fair and equitable to such creditors.


Explanation 2. — For the purpose of this clause, it is hereby declared that on and from the date of commencement of the Insolvency and Bankruptcy Code (Amendment) Act, 2019, the provisions of this clause shall also apply to the corporate insolvency resolution process of a corporate debtor-

- (i) where a Resolution Plan has not been approved or rejected by the Adjudicating Authority;
 - (ii) where an appeal has been preferred under section 61 or section 62 or such an appeal is not time barred under any provision of law for the time being in force; or
 - (iii) where a legal proceeding has been initiated in any court against the decision of the Adjudicating Authority in respect of a Resolution Plan;
- (c) provides for the management of the affairs of the Corporate debtor after approval of the Resolution Plan;
- (d) The implementation and supervision of the Resolution Plan;
- (e) does not contravene any of the provisions of the law for the time being in force
- (f) Conforms to such other requirements as may be specified by the Board.”
- b) The compliance of Section 30(2) of the Code is given in Para No.09 of Form-H. The same is being further examined as under:
- a. **Section 30(2)(a):** The Resolution Plan in Point 5.1 provides for the payment of Insolvency resolution process costs. The Resolution Plan has considered insolvency resolution process costs at an estimated amount of Rs.1,00,00,000 (Rupees One Crore only) which includes pending payment to Interim Resolution Professional (IRP) and/or Resolution Professional (RP) and all amount of expenses incurred by IRP and/or Resolution Professional (RP) and all amount of expenses incurred by IRP and/or RP, to the extent duly ratified or approved by the Committee of Creditors (COC) and shall be paid in priority to all other debts by the resolution applicant after the approval of Resolution Plan by Adjudicating Authority (AA). The said payment



along with payment of such fee to IBBI as may be required under the Code, shall be made within 30 days from the Approval date or Effective date whichever is later. If the actual amount of CIRP Cost is more than the amount provided by the Resolution Professional, then the RA shall infuse more funds. If the expenses incurred for CIRP Cost is less than the amount proposed the same shall be retained with corporate debtor and will be utilised for working capital purposes and other strategic purposes depending on the viability of running the business.

- b. **Section 30(2)(b):** The Resolution Plan in Point 5.4 provides for the payment to the operational creditors.
- c. **Section 30 (2)(c):** Resolution Plan Point 6.1 deals with the management and control during the term of resolution plan, board of Directors of the RA will undertake the management of the Unit taken over from the CD; so as to make the strategic and operational decisions of the company and will be responsible for ensuring that the Unit meets its statutory obligations. The Resolution Applicant shall constitute the board of directors of the Corporate Debtor and appoint key managerial personnel, which may include independent professionals.
- d. **Section 30(2)(d):** The Resolution Plan Point 6 deals with implementation and supervision of the Resolution Plan. On the NCLT Approval Date, an Implementation and Monitoring Committee comprising of 5 (Five) persons of which 1 (one) being Insolvency Professional, 2(Two) representative of the Resolution Applicant and 2 (Two) Representative appointed by the Financial Creditors having highest share in the COC will be constituted without any further action required from the Corporate Debtor or the Resolution Applicant. The Resolution Applicant and the Financial Creditor reserve the right to change their appointees to the Monitoring Committee, if required, for better management of the assets. The Monitoring Committee shall be functional from the Approval date till the date on which entire plan is implemented or



24 months whichever is earlier. Monitoring Committee shall be in place till the entire charge is paid and satisfied.

- e. **Section 30 (2)(e)** : The Resolution Plan point 4.1.7 declares that the Resolution Plan does not contravene any of the provisions of the Law for the time being in force.
- f. **Section 30 (2)(f)**: The Insolvency and Bankruptcy Board of India has notified the requirements under Regulation 38 of Insolvency and Bankruptcy Board of India (Insolvency resolution process for corporate persons) Regulations, 2016. It is submitted that Resolution Plan (Point 4.1.8) complied with all the regulation provided under the Code. The compliance thereof is stated in subsequent paragraphs.
1. **Regulation 38 (1)**: As per Regulation 38 (1)(a) of the insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the amount due to the operational creditors under the resolution plan has been given priority in payment over financial creditors. It is submitted by the Applicant that No operational Creditors except statutory dues have filed their claims, there will be no payment to operational Creditors except statutory dues, and therefore the Operational Creditors (Statutory Dues) shall be paid in priority over financial creditors. Further, as per Regulations 38(1)(b) the amount payable under a resolution plan, since no claim have been received from the operational creditors (except the statutory dues) of the Corporate Debtor, the same is considered as NIL. Hence, the requirement to make payment in priority to Operational Creditors does not arise, as there are no Operational Creditors other than the statutory authorities who have filed their claims with the Resolution Professional. The Resolution Applicant shall be paying a sum of Rs. 8,00,00,000/- (Rupees Eight Crores only) in full and final settlement of the @ 3.93% of their entire liability of the Statutory dues and the said amount will be paid in priority before payment to financial creditors.



2. **Regulation 38 (1A):** It is submitted that the Resolution Applicant has considered the interest of all the stakeholders and accordingly has proposed to make payment in the following manner to the stakeholders.

Stakeholders	Claims Admitted (in Rs. Crore)	Proposed pay out (in Rs. Crores)	Percent age of Payout	Remarks
CIRP Costs		1.00	100%	The Resolution Applicant undertakes to pay 100% of the CIRP Cost assumed at INR 1.00 Crore and such fee as may be required to be paid to IBBI. If the expenses incurred for CIRP Cost is less than the amount proposed the same shall be retained with corporate debtor for working capital purposes.
Secured Financial Creditors	557.28	203.15	36.45%	The amount proposed includes the amount payable towards contingent claims, if any. Payments terms as per the Resolution Plan detailed above.
Unsecured Financial Creditors	22.66	2.26	10%	In case any further claims are admitted, the percentage of payment will be reduced proportionately.
Operational Creditor (Workmen/ Employee dues)	0	0	0%	Since no claims have been submitted, the same is considered as NIL
Operational Creditors (Except Workmen & Employees Dues and Statutory Dues)	0	0	0%	Since no claims have been submitted, the same is considered as NIL

Additional ors Government & Statutory dues.)	253.33	8.00	3.16%	In case any further claims are admitted, the percentage of payment will be reduced proportionately.
Shareholders	As given in the Resolution Plan above.			
Total	833.29	214.41		

3. **Regulation 38(1B):** As mandated under Regulation 38 (1B) of the CIRP Regulations, the Resolution Applicant confirms that neither the Resolution Applicant nor any of its related parties have 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.
4. **Regulation 38(3)(a):** The Resolution Applicant submits, the Corporate Debtor had multi prong challenges from underutilization of plant, due to non availability of raw material & Draught in the region, which was caused due to non payment of cane dues to the farmers, which led to huge working capital deficit and huge cash flow imbalance which once again caused the debt to spiral beyond control. Further the Corporate Debtor intended to expand its business by increasing the capacity to 7500 Tonnage, however the said project was unable to be implemented within timelines. The chain of events led to the accumulation of losses and default in the repayment of debts thereby causing an erosion in the networth. This sequence of events caused the default which forced the Financial Creditor to move to NCLT and ultimately moving into CIRP. It is submitted that once RA becomes the successful bidder, the unit will be restarted immediately. Payment of Cane growing farmers in the normal course, which comprises 50% of COGS, will motivate the cane growers to supply cane to the Corporate Debtor, who will in turn restart the sugar unit with the availability of the raw material and further infusion of funds for working capital purposes. Once

the utilization of the factory is up by 60% the revenue generated in the Corporate Debtor with the renewed investment plans, will revive the Corporate Debtor completely.

5. **Regulation 38(3)(b):** The business projections and the underlying financial assumptions have been explained in this Plan and are evident that the Resolution Applicant envisages turning around the business and make it commercially viable. Infusion of additional capital and experience of the new management will support the cane farmers and ensure smooth supply of raw material and full utilization of the capacity and inturn revive the ailing business. The Plan also states the process of its implementation and management to make it feasible and viable
6. **Regulation 38(3)(c):** Upon the NCLT Approval Date, an Implementation and Monitoring Committee comprising of 5 (Five) persons of which 1 (one) is Insolvency Professional, 2(Two) representative of the Resolution Applicant and 2 (Two) Representative appointed by the Financial Creditors having highest share in the COC will be constituted without any further action required from the Corporate Debtor or the Resolution Applicant. the Role of Monitoring Committee is to open and operate an Escrow Bank Account in the name of the Corporate Debtor, to monitor the payments as per the Resolution Plan to all Creditors, to ensure that the NOC and closure/satisfaction of charges are duly completed by the Secured Financial Creditor and such other creditors, wherever required by the Resolution Applicant, to monitor the entire payment process as per the terms of the Resolution Plan.
7. **Regulations 38(3)(d):** The time-line for approvals is as follows:


S. No	Nature of Approval	Name of applicable law	Name of authority who will grant Approval	When to be obtained
1	All the Procedural requirement	Companies Act, 2013	Registrar of Companies	Within 90 days or within such other timeline as may be required in the respective acts/authorities,



				whichever is later.
2	Filing of Income Tax Returns and payment of taxes	Income Tax Act, 1961	Central Board of Direct Taxes	Intimation shall be given to the respective authorities within
3	Filing of GST Returns and Payment of taxes	Goods and Services Tax Act, 2017	Department of Commercial Taxes	90 days. The returns will be filed as and when the due date arises.
4	Licenses	Import and Export	Directorate General of Foreign Trade, Bengaluru.	Intimation shall be given to the respective
5	Licenses		Deputy Director of Boilers	authorities within 90 days. The said
6	Consent for Operation	Water Act	KSPCB	licenses shall be
7	Molasses license	Factories Act	Excise Commissioner	renewed within 1
8	Crushing license	Karnataka Sugar (Regulation of Production) Order 1975.	Commerce & Industries Department	year as when the renewal is due.


8. **Regulation 38 (3) (e):** Regulation deals with the capability of the Resolution Applicant to implement the resolution plan. It is submitted that the resolution Applicant herein is an Industrialist with investment across various segments including Real Estates, Spinning Mills, Highway Road Contracts, Mines among others. The RA has enough experience in hand to understand the requirements of the Corporate Debtor and turnaround the Corporate Debtor into a profitable venture. Further, the applicant has submitted the financials of both the Resolution applicants along with the Net Worth certificate as on 31.03.2023. Moreover, the Plant entail additional infusion of funds for setting of 120 KLPD Ethanol Project to the tune of Rs. 120-150 Crore and capacity expansion, in addition to the pay-out to the creditors and statutory authorities. The Applicant and its consortium member have the requisite financial capability to infuse funds for operations as well as upgradation of technology, capacity etc. as per the Plan or as and when required.

c) It is observed that in Para 4 of Form H, the resolution professional has certified that the said Resolution Plan complies with all the provisions of the Insolvency and Bankruptcy Code 2016 (Code), the



Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP Regulations) and does not contravene any of the provisions of the law for the time being in force. Also, the resolution applicants Mr. Syed Fahad and Radiant Equity Management Private Limited has submitted affidavit pursuant to section 30(1) of the Code confirming its eligibility under Section 29A of the Code to submit Resolution Plan. It is further certified that the Resolution Plan has been approved by the COC in accordance with the provisions of the Code and the CIRP Regulations made thereunder. The Revised Resolution Plan has been approved by 100% of voting share of creditors after considering its feasibility and viability and other requirements specified by the CIRP Regulations.

- d) Moreover, in accordance with regulation 36B(4A), the resolution applicant has furnished the Corporate Guarantee of Rs. 18,74,00,000/- by way of a Performance Guarantee; which shall remain in force up to 06.12.2024. The said Bank Guarantee is attached to diary dated 10.07.2024.
- e) It is noted from the plan that the Corporate Debtor shall continue as a going concern.
- f) In respect of reliefs and concessions at Point 8 of the Plan, it is observed that the relief and concessions claimed by the Resolution Applicant by with the approval of the plan, are to be allowed only in accordance with Law, it is clarified that it is not possible for us to issue any blanket direction except to say that the Resolution Applicant may take necessary steps in accordance with Law in respect of the said claims of reliefs and concessions and the public authorities / government authorities / Taxation department would duly consider the said requests / applications of the Resolution Applicant and take appropriate decision in accordance with Law.
- g) In the circumstance and for the aforesaid reasons, the instant IA bearing **I.A. No.398 of 2023 is allowed** and accordingly, the Resolution Plan dated 17.05.2024 ('Resolution Plan') (Annexure AD) submitted by Mr. Syed Fahad jointly with M/s Radiant Equity Management Private Limited is hereby approved. The Resolution Plan



so approved shall be binding on the Corporate Debtor and 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 such as authorities to whom statutory dues are owed, guarantors and other stakeholders involved in the Resolution Plan. Under the provisions of section 31(3) of the Code, we also direct as under:

- a. The moratorium imposed vide order dated 07.04.2022 in the main CP shall cease to have effect from the date of communication of this order.
- b. The resolution professional shall forward all records relating to the conduct of the CIRP and the Resolution Plan to the Board to be recorded on its database.

Further, the Resolution Professional is directed to handover the management, control and all the assets, documents/records in physical and/or digital form to the Resolution Applicant immediately and the resolution professional will cease to be resolution professional.

22. The approved Resolution Plan shall be effective from date of passing of this Order.

Sd/-

(MANOJ KUMAR DUBEY)
MEMBER (TECHNICAL)

Sd/-

(K. BISWAL)
MEMBER (JUDICIAL)