



**NATIONAL COMPANY LAW TRIBUNAL  
CHANDIGARH BENCH (COURT-II), CHANDIGARH**

**IA(I.B.C)/2572(CH)2023**

**In**

**CP(IB) No.144/CHD/PB/2021**

**(Admitted)**

*(An Application under sub-section (6) of section 30 of the Insolvency and Bankruptcy Code, 2016, read with Regulation 39 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016)*

**In the matter of IA(I.B.C)/2572(CH)2023,**

**JALESH KUMAR GROVER,**  
RESOLUTION PROFESSIONAL,  
Delcray Cables Private Limited,  
**Reg. No.: IBBI/IPA-001/IP-P00200/2017-2018/10390**

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**...Resolution Professional/Applicant**

**In the matter of CP(IB) No.144/CHD/PB/2021**

*(An Application under section 7 of the Insolvency & Bankruptcy Code, 2016)*

**IN THE MATTER OF:**

**PUNJAB NATIONAL BANK**

**... Financial Creditor/Petitioner**

**Versus**

**DELCRAY CABLES PRIVATE LIMITED**

**...Corporate Debtor**



**Order delivered on: 21.04.2026**

**CORAM: MR. K. BISWAL, MEMBER (JUDICIAL)  
MR. KAUSHALENDRA KUMAR SINGH, MEMBER (TECHNICAL)**

**Present:-**

**For the Applicant/RP** : Ms. Swati Saluja, Advocate along with Mr. Jalesh Kumar Grover, Resolution Professional

**ORDER**

1. The present Application has been filed on 10.10.2023 by Mr. Jalesh Kumar Grover, Resolution Professional (hereinafter referred to as the **“RP”**), under sub-section (6) of section 30 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the **“Code”** or **“IBC”**), read with Regulation 39 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, seeking approval of the Resolution Plan of **Mr. Rohit Bindlish** (hereinafter referred to as the **“Successful Resolution Applicant”** or **“SRA”**), in respect of **Delcroy Cables Private Limited** (hereinafter referred to as the **“Corporate Debtor”**), which has been approved with a 100% voting share of the Committee of Creditors (hereinafter referred to as the **“CoC”**) in the 8th COC meeting dated 04.10.2023.

2. The averments made by the Applicant/RP in the present Application and as presented by the Ld. Counsel for the RP are summarized as follows:



(i) The Corporate Debtor is a company registered under the provisions of the Erstwhile Companies Act, 1956 and incorporated on 10.06.1993, having its Registered Office at 29, S.B.S. Colony, Rajpura Distt., Patiala, Punjab - 147001. It is an MSME registered on 25.02.2017. It was engaged in the manufacturing of HDPE Plastic drums and DPE Plastic Jerry Cans and containers, etc. The Corporate Debtor has remained nonoperational since 2019. Its factory premises is located at D-18, Focal Point Rajpura Distt., Patiala, Punjab.

(ii) An Application under Section 7 of the Code for the initiation of the Corporate Insolvency Resolution Process (“CIRP”) of the Corporate Debtor was filed by the Financial Creditor, Punjab National Bank, bearing CP(IB)No.144/CHD/PB/2021 and the same was admitted *vide* Order dated 13.01.2023. Mr. Jalesh Kumar Grover was appointed as Interim Resolution Professional (“IRP”) and was later confirmed to act as RP for the Corporate Debtor.

(iii) The Constitution of the CoC and the voting share of the respective Members have been as under:

<b>S. No</b>	<b>Name of Creditor</b>	<b>Amount Claimed (Rs.)</b>	<b>Amount Admitted (Rs.)</b>	<b>Voting Share (%)</b>
1.	Punjab National Bank	12,05,99,966	12,05,99,966	100%

(iv) As against the total claim received at Rs. 13,18,50,040/-, the IRP admitted the claim to the extent of Rs. 13,13,03,353/-.

(v) Pursuant to the publication of Form G for inviting Expression of Interest (EOI) twice on 11.03.2023 and 14.06.2023 in the course of the CIRP, two Resolution Plans were received from eligible Prospective



Resolution Applicants, namely from **SPSS Infrastructure Private Limited (Corporate Entity)** and **Mr. Rohit Bindlish (Individual)**. The Members of the CoC, in consultation with the Applicant-RP opted to analyze the Resolution Plans submitted by both of these Prospective Resolution Applicants in order to explore the competitive proposal amongst the PRAs. After negotiations, both the Resolution Applicants were asked to revise their Resolution Plan and following that, Resolution Plans were submitted by enhancing the bid amount. However, during the second round of negotiation, it was informed by Ms. Seema, the authorized representative of SPSS Infrastructure Private Limited, that they do not wish to raise their bid further. The other Resolution Applicant namely **Mr. Rohit Bindlish**, enhanced the plan amount to Rs 1.60 Cr, and finally, his Resolution Plan was approved by CoC with 100% in its 8<sup>th</sup> Meeting on 04.10.2023.

(vi) The RP has filed this Application on 10.10.2023 seeking approval of the Resolution Plan. The prescribed period of 180 days of the CIRP had ended as on 11.07.2023 and thereafter, the period had been extended *vide* Order dated 26.07.2023 and the extended period of the CIRP ended as of 09.10.2023.

(vii) On the basis of the Valuation Reports, the average fair value and average liquidation value of the Corporate Debtor have been arrived at Rs. 1.72 Cr and Rs. 1.47 Cr, respectively.



(viii) The Resolution Plan value amounts to Rs. 1.60 Cr (Inclusive of regulatory fees payable to IBBI (Rs. 35,517/-) & CIRP Cost (Rs. 17.93 Lakhs)), and the SRA has proposed to pay the total amount to the Stakeholders within 120 days from the NCLT approval date.

(ix) The Resolution Plan provides for the payment towards the CIRP cost at Rs. 17.93 Lakh and Rs. 1,41,71,412/- to the various Stakeholders as given in the Table below:

<b>Particulars</b>	<b>Amount Claimed</b>	<b>Amount Admitted</b>	<b>Realizable amount under the plan</b>	<b>Amount realizable in plan to the admitted claim in (%)</b>
<b>Financial Creditors</b>				
<b>(i) Secured Financial Creditors</b>				
(a) Creditors not having a right to vote under subsection (2) of section 21	-	-	-	-
(b) Other than (a) above:	-	-	-	-
- (i) who did not vote in favour of the Resolution Plan	-	-	-	-
- (ii) <b>who voted in favour of the Resolution Plan (PNB)</b>	12,05,99,966	12,05,99,966	1,30,47,634	<b>10.81%</b>
<b>(ii) Unsecured Financial Creditors</b> - Creditors not having a right to vote under subsection (2) of section 21				
- Dissenting	-	-	-	-
- Assenting	-	-	-	-



<b>Operational Creditors</b>				
<b>(i) Government</b>				
-Employee State Insurance Corporation (ESIC)	1,01,805	1,01,805	-	-
<b>- Excise &amp; Taxation Department includes the following:</b>	52,95,499	52,88,786	4,16,027	7.86%
(a) PVAT (Secured)	38,51,230	38,51,230	4,16,027	
(b) CST	8,96,544	8,96,544	-	
(c) GST dues	5,47,725	5,41,012	-	
-Director General of Foreign Trade (DGFT)	22,86,508	22,86,508	-	-
-Punjab State Power Corporation Limited (PSPCL)	3,43,703	3,43,703	-	-
-Regional PF Commissioner, Chandigarh	24,88,639*	19,48,665	7,07,751	28.44%
- ITO (TDS), Patiala	7,33,920	7,33,920	-	-
<b>Total of Govt. Dues</b>	<b>1,12,50,073</b>	<b>1,07,03,387</b>	<b>11,23,778</b>	
<b>(ii) Workmen</b>				
- PF Dues	-	-	-	-
- Other Dues				
<b>(iii) Employees</b>				
- PF Dues	-	-	-	-
- Other Dues				
<b>(iv) Other Operational creditors</b>				
	-	-	-	-
<b>Total</b>	<b>13,18,50,040</b>	<b>13,13,03,353</b>	<b>1,41,71,412</b>	<b>10.75%</b>

\*As per Addendum to the modified Resolution Plan dated 28.07.2023, the amount claimed by the Regional PF Commissioner, Chandigarh, has been revised to Rs. 25,10,500.

(x) The RP has examined the Resolution Plan and required compliances thereon. For ready reference, the compliance examined by the RP is reproduced in the Table below:



<b>Section of the Code/Regulation No.</b>	<b>Requirement with respect to the Resolution Plan</b>	<b>Compliance (Yes/No)</b>	<b>Relevant clause/Page No. of Resolution Plan</b>
Section 25(2)(h)	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	Page No. 301 of the main Application (APPENDIX I: Evaluation Criteria)
Section 29A	The Resolution Applicant is eligible to submit a resolution plan as per the final list of Resolution Professionals or the Order, if any, of the Adjudicating Authority.	Yes	Affidavit submitted by SRA on Page nos. 188 to 200 of the main Application.  Further, the SRA fulfills the eligibility criteria; the same is mentioned at Page No. 186 attached as Annexure A-15 of the main Application.
Section 30(1)	The Resolution Applicant has submitted an affidavit stating that it is eligible as per Code	Yes	Page no. 186 of the main Application.
Section 30(2)	The Resolution Plan—  (a) Provides for the payment of Insolvency Resolution Process Cost  (b) Provides for the payment to the operational creditors  (c) Provides for the payment to the Financial Creditors who did not vote in favour of the resolution plan  (d) Provides for the management of the affairs of the corporate debtor?  (e) Provides for the implementation and supervision of the Resolution Plan  (f) Contravenes any of the provisions of the law for the time being in force	Yes  Yes  Yes  Yes  No	Annexure No. A-16 (relevant pages 224 & 225 of the main Application)  Page No. 257 of main Application under Addendum to resolution plan, which is attached as Annexure A-16  Annexure No. A-16 (Relevant page no. 230) of the main Application.  Annexure No. A-16 (Relevant page no. 232) of the main Application  Annexure No. A-16 (Relevant page nos. 232, 233 & 235) of the main Application  Annexure No. A-16 (Relevant page no. 236 of the main Application)
Section 30(4)	The Resolution Plan		



	(a) is feasible and viable, according to the CoC	Yes	Annexure No. A18 at Page No. 331 of the main Application.
	(b) has been approved by the CoC with 66% voting share	Yes	Page No. 175 of the main Application.
Section 31(1)	The Resolution Plan has provisions for its effective implementation plan, according to the CoC	Yes	Page No. 178 of the main Application
Regulation 38(1)	The amount due to the operational creditors under the resolution plan has been given priority in payment over financial creditors	Yes	Annexure No. A-16 (Relevant page nos. 230 & 236) of the main Application
Regulation 38(1A)	The Resolution Plan includes a statement as to how it has dealt with the interest of all stakeholders	Yes	Annexure No. A-16 (Relevant page no. 231) of the main Application
Regulation 38(1B)	Neither the Resolution Applicant nor any of its related parties has failed to implement or contributed to the failure of implementation of any resolution plan approved under the Code. If applicable, the Resolution Applicant has submitted a statement giving details of any such non-implementation	No	Annexure No. A-16 (Relevant page no. 231) of the main Application.
Regulation 38(2)	The Resolution Plan provides: (a) the term of the plan and its implementation schedule (b) for the management and control of the business of the corporate debtor during its term (c) adequate means for supervising its implementation	Yes	Annexure No. A-16 (Relevant page nos. 231, 232 & 233) of the main Application.
Regulation 38(3)	The Resolution Plan demonstrates that— (a) it 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 of the same (e) the resolution applicant has the capability to implement the resolution plan	Yes	Annexure No. A-16 (Relevant page nos. 234 & 235) of the main Application.



Regulation 39(2)	Whether the RP has filed an Application in respect of transactions observed, found, or determined by him?	Yes	Yes RP has filed Application in respect of Preferential Transaction (Section 43) and Fraudulent Transaction (Section - 66). Both matters are pending before the Adjudicating Authorities.
Regulation 39(4)	Provide details of performance security received as referred to in sub-regulation (4A) of Regulation 36B	Yes	The SRA has deposited the amount of the Performance Bank Guarantee (PBG) amounting to Rs. 0.16 Crore (10% of the initial Resolution Plan Amount, i.e., 1.60 Cr) in terms of the approved PBG in the new CIRP account of CD opened by the Resolution Professional.  Proof of the amount deposited towards PBG is already placed on record by the Resolution Professional by a separate application.

3. During the course of hearing, an Application bearing **IA(I.B.C.)2849/(CH)2023**, was filed by the RP to place on record the revised Form H and the Performance Bank Guarantee submitted by SRA, Mr. Rohit Bindlish, and the same was taken on record and disposed of *vide* Order dated 10.07.2024. Thereafter, *vide* Order dated 05.09.2024, the Resolution Professional was directed to substantiate the EPFO claims provided in the Resolution Plan and to place on record the details thereof. It was also brought to the notice of this Adjudicating Authority that one asset, namely a car received from the erstwhile management, had not been taken into consideration at the time of approval of the Resolution Plan. Accordingly, the Resolution Professional was directed to place the said issue before the Committee of Creditors along with the EPFO claims. In compliance thereof, an Application bearing **IA(I.B.C.)/1388(CH)2025** was filed to place on record a further revised Form H, wherein the ascertained EPFO dues as well as the aforesaid asset were duly incorporated. It is further noted that the belated claim of Mercedes-Benz Financial Services India Pvt. Ltd. amounting to Rs.



64.7 lakh in respect of the said vehicle was received and verified by the Resolution Professional, and Addendum II dated 09.10.2024 to the modified Resolution Plan dated 28.07.2023 provides for payment of Rs. 7,99,575/- towards the said claim in proportion to the secured Financial Creditors.

4. The revised Resolution Plan value amounts to Rs. 1.90 Crore (Inclusive of CIRP cost of Rs. 22.90 Lakhs and regulatory fees payable to IBBI amounting to Rs. 40,000/-). The revised Resolution Plan reflects an enhancement of Rs. 25 Lakhs towards the claims of Mercedes-Benz Financial Services India Pvt. Ltd., Punjab National Bank, and PF Department. Further, the revised Resolution Plan records the average Fair Value at Rs. 2.12 Crore and the Liquidation Value at Rs. 1.81 Crore. It further provides for payment of CIRP cost of Rs. 22.90 Lakhs and Rs. 1,67,06,930/- to various stakeholders (within 120 days from the date of approval by this Adjudicating Authority) as detailed in the table below:

<b>Particulars</b>	<b>Amount Claimed</b>	<b>Amount Admitted</b>	<b>Realizable amount under the plan</b>	<b>Amount realizable in plan to the admitted claim in (%)</b>
<b>Financial Creditors</b>				
<b>(i) Secured Financial Creditors</b>				
<b>(a) Mercedes-Benz Financial Services India Pvt. Ltd.</b> - The Claim was added during the Pendency for approval of the Resolution Plan by way of addendum II dated 09.10.2024 & as such, the creditor could not have participated in the voting while Plan was considered by Sole CoC member.	67,42,643	67,42,643	7,99,576	<b>11.86%.</b>
<b>(b) PNB</b> - voted in favour of the Resolution Plan	12,05,99,966	12,05,99,966	1,43,00,583	<b>11.86%.</b>



<b>(ii) Unsecured Financial Creditors</b> - Creditors not having a right to vote under subsection (2) of section 21 - Dissenting - Assenting	-	-	-	-
<b>Operational Creditors</b>				
<b>(i) Government</b>				
-Employee State Insurance Corporation (ESIC)	1,01,805	1,01,805	-	-
<b>- Excise &amp; Taxation Department includes the following:</b>	52,95,499	52,88,786	4,57,345	8.64%
(a) PVAT (Secured)	38,51,230	38,51,230	4,57,345	
(b) CST	8,96,544	8,96,544	-	
(c) GST dues	5,47,725	5,41,012	-	
-Director General of Foreign Trade (DGFT)	22,86,508	22,86,508	-	-
-Punjab State Power Corporation Limited (PSPCL)	3,43,703	3,43,703	-	-
-Regional PF Commissioner, Chandigarh	35,25,798	11,50,982	11,50,982	32.64%
- ITO (TDS), Patiala	7,33,920	7,33,920	-	-
<b>(ii) Workmen</b>				
- PF Dues	-	-	-	-
- Other Dues				
<b>(iii) Employees</b>				
- PF Dues	-	-	-	-
- Other Dues				
<b>(iv) Other Operational creditors</b>	-	-	-	-
<b>Total</b>	<b>13,96,29,842</b>	<b>13,72,48,313</b>	<b>1,67,06,930</b>	<b>11.97%</b>

5. Furthermore, in compliance with the Order dated 27.10.2025, the SRA filed an Affidavit *vide* Diary No. 03306/7 undertaking that, over and above



the amount of Rs. 11,50,982/- provided in the Resolution Plan towards EPFO dues, any additional liability arising on that account shall be paid to the EPFO Department. The same has been reproduced below:

*“4. That I hereby confirm and undertake that in the event any additional statutory dues whether presently identified or that may arise in the future, are found to be payable to the EPFO, over and above the amount already provided for in the addendum to the Resolution Plan submitted by the SRA, such dues shall be duly borne and discharged by the SRA in accordance with the applicable laws.”*

It is also noted that the Resolution Plan did not provide for ESIC dues amounting to Rs. 1,01,805/-, which had been admitted by the Resolution Professional; however, it has been submitted, on instructions that the SRA has agreed to pay the said amount over and above the Resolution Plan value, as affirmed by the Resolution Professional through Affidavit *vide* Diary No. 03306/8. The same has been reproduced below:

*“4. That in compliance to the direction given by the Hon'ble National Company Law Tribunal ("Hon'ble NCLT") vide its order dated 18.11.2025. I Rohit Bindlish, hereby proposes to pay Rs. 1,01,805/-/- (Rupees One Lakh One Thousand Eight Hundred Five only) towards the Statutory dues of ESIC, over and above the amount already proposed and provided in the addendum to the Resolution Plan submitted by the SRA.”Rohit*

6. We have heard the submissions made by the Learned Counsel for the RP and have carefully pursued all the pleadings placed on the records. It is noted that the CoC approved the Resolution Plan of Mr. Rohit Bindlish by 100% of the votes, and as such, it is not necessary for us to go into details of the commercial wisdom of the CoC. We proceed to examine the plan in light of provisions contained in sections 30(2) and 31 of the Code r.w. Regulation 38 of the IBBI (CIRP of the Corporate Person) Regulations, 2016. The



Resolution Professional has placed on record the compliance certificate in Form H. As per the revised Resolution Plan, it shows that the fair value of the assets of the Corporate Debtor is Rs. 2,12,87,303/- whereas, the liquidation value of the Corporate Debtor is Rs.1,81,39,344/-. The Resolution Plan value as proposed by the successful Resolution Applicant is Rs.1,90,00,000/-.

7. In order to obtain the approval of the Adjudicating Authority, the Resolution Plan should adhere to the following requirements as per section 30(2) of the Code and Regulation 38 of the CIRP Regulations thereunder:

(i) The Resolution Plan should provide for the payment of Corporate Insolvency Resolution Process costs in priority to the repayment of other debts of the Corporate Debtor.

[Section 30(2)(a)]

(ii) The repayment of the debts of Operational Creditors should not be less than the amount to be paid to such creditors in the event of liquidation of the corporate debtor under section 53 of the Code or the amount that would have been paid to the said creditors if the amount to be distributed under the resolution plan had been distributed in accordance with section 53(1) of the Code.

Moreover, the payment to the Operational Creditor is to be made in priority over the Financial Creditor;

Further, the repayment of the debts of dissenting Financial Creditors should not be less than the amount that would have been paid to such creditors in the event of liquidation of the corporate debtor under



section 53 of the Code, and the payment to said dissenting Financial Creditor is to be made in priority to the consenting financial creditors.

[Section 30(2)(b) read with CIRP Regulation 38(1)(a) & 38(1)(b)];

(iii) Provides for the management of the affairs of the Corporate Debtor after approval of the Resolution Plan.

[Section 30(2)(c) read with CIRP Regulation 38(2)(b)];

(iv) The implementation and supervision of the Resolution Plan.

[Section 30(2)(d) read with CIRP Regulation 38(2)(c)]

(v) The Resolution Plan does not contravene any of the provisions of the law for the time being in force.

[Section 30(2)(e)];

(vi) The Resolution Plan conforms to such other requirements as may be specified by the Board.


[Section 30(2)(f)]

Such other requirements of the Resolution Plan as detailed in IBBI (Resolution Process for Corporate Person) Regulations, 2016 which are not covered above, are as follows:

(a) The Resolution Plan should include a statement as to how it has dealt with the interest of all stakeholders, including financial creditors and operational creditors of the corporate debtor.

[CIRP Regulation 38 (1A)]

(b) The Resolution Plan should include a statement giving details as to whether the Resolution Applicant or any of its related



parties has at any time failed to implement or caused the failure of implementation of any other Resolution Plan which was approved by the Adjudicating Authority.

[CIRP Regulation 38 (1B)]

(c) The Resolution Plan should contain the term of the plan and its implementation schedule.

[CIRP Regulation 38(2)(a)]

(d) The Resolution Plan should also demonstrate that it addresses the cause of default, is feasible and viable, has provisions for its effective implementation, and has provisions for approval required and a timeline for the same. Further, the resolution applicant has the capability to implement the Resolution Plan.

[CIRP Regulation 38(3)]

8. In view of the provisions of the Code as summarized hereinabove in Para. 7, the Resolution Plan is examined as follows:

(i) The Resolution Plan provides for payment of CIRP cost at Rs.22.90 Lakh. In the context, it has been submitted that during the process, the CIRP cost has been borne by and large by the Resolution Applicant. The Resolution Plan also provides that any CIRP cost incurred over and above the said amount till the date of approval of the Resolution Plan shall be paid fully within 60 days from the effective date. Thus, the provisions of Section 30(2)(a) are complied with.

(ii) There is only one CoC member, namely Punjab National Bank,



being the secured Financial Creditor, having a 100% voting share, which has voted in favor of the Resolution Plan with 100% voting power. It is noted that a belated claim of Mercedes-Benz Financial Services India Pvt. Ltd., amounting to Rs. 64.70 lakh, was included *vide* Addendum II dated 09.10.2024 during the pendency of approval of the Resolution Plan before this Adjudicating Authority, and the Resolution Applicant has proposed payment of Rs. 7,99,575/- towards the said claim in proportion to the secured Financial Creditors. Inasmuch as the sole Financial Creditor has voted in favor of the Resolution Plan, there are no dissenting Financial Creditors.

Since Corporate debtor is a closed concern, no claims have been received from Workmen/Employees, hence, no amount has been proposed for the same. Further, as against the total admitted dues of Operational Creditor (other than workmen, gratuity, and PF dues) at Rs. 99,05,704/-, the Resolution Plan provides for payment of an amount of Rs. 16,08,326/-, which is 16.24% of their admitted claim. As provided under Section 30(2)(b) of the Code, the repayment of debts of an Operational Creditor should not be less than the amount to be paid to such Creditor under Section 53 of the Code or the amount that would have been paid to such Creditor if the amount distributed under the Resolution Plan had been distributed in accordance with Section 53(1) of the Code.

In the present case, the liquidation value of the Corporate Debtor is Rs.1,81,39,344/-, whereas the Resolution Plan value is



Rs.1,90,00,000/- against the total admitted claim of Rs.13,72,48,313/-, including a debt of Rs.12 Crore admitted in favor of the Secured Financial Creditor (Punjab National Bank) alone. Even if this Liquidation Value or the plan value were to be distributed strictly in accordance with the priority set out under Section 53 of the Code, the entire amount would be fully absorbed by the higher-priority stakeholders, particularly the Secured Financial Creditors, leaving no residual amount for the Operational Creditors. Despite this, the Resolution Plan provides for payment to the Operational Creditors (other than workmen dues, PF and gratuity), though the amount is quite nominal at Rs. 16,08,326/-, which is 16.24% of their admitted claim.

Thus, as regards the payment of the Operational Creditor, the Resolution Plan is compliant with the provisions of Section 30(2)(b) read with Regulations 38(1)(a) and 38(1)(b) of the CIRP Regulations.

(iii) The plant of the Corporate Debtor is a closed unit. The Resolution Plan provides for the reconstitution of the Board on its approval by the Adjudicating Authority. Upon approval of the Resolution Plan, the Resolution Applicant proposes to reconstitute the Board of Directors in accordance with the provisions of the Companies Act. The existing Board shall stand suspended, and all erstwhile directors shall cease to hold office from the Effective Date, without prejudice to their liability for past acts. The reconstituted Board, including Mr. Rohit Bindlish as one of its members, shall be appointed



within 60 days from the effective date, and the Corporate Debtor shall thereafter be managed by the newly constituted Board and as such, the provisions of Section 30(2)(c) of the Code r/w CIRP Regulation 38(2)(b) of the CIRP Regulations have been complied with.

(iv) The Implementation and Supervision of the Resolution Plan is entrusted to the Monitoring Committee. It also provides that within 10 business days of the effective date, a three members Committee (“Monitoring Committee”) shall be constituted of; 1 (one) Representative of Secured Financial Creditors and 1 (one) Representative of the Resolution Applicant and 1 (one) Resolution/Insolvency Professional. Thus, we find that adequate provisions have been made for the Implementation and Supervision of the Resolution Plan after its approval. As such, the provisions of Section 30(2)(d) r/w Regulation 38(2)(c) are complied with.

(v) The RP has submitted that the plan does not contravene any provisions of law. We also noted that the plan does not contravene any provisions of the law for the time being in force. Thereby, the provisions of Section 30(2)(e) have been complied with.

(vi) The Resolution Plan also confirms to other IBBI Regulations as given hereunder:


(a) The Resolution Plan adequately deals with the interest of all stakeholders, including Financial Creditors and Operational Creditors of the Corporate Debtor. Thereby, the plan is in compliance with CIRP Regulation 38(1A) of the CIRP Regulations.

(b) It is submitted that neither the Resolution Applicant nor any of its related parties has at any time failed to implement or contributed to the failure of the implementation of any other Resolution Plan which was approved by the Adjudicating Authority. Thereby, the plan is in compliance with CIRP Regulation 38(1B) of the CIRP Regulations.

(c) The Resolution Applicant proposes to implement this Resolution Plan within a period of 120 Days from the Effective Date (date of Approval of the Resolution Plan by the Adjudicating Authority). The term of the plan and its implementation schedule have been provided in Section IV clause VI of the Resolution Plan, which is as follows:

<b>S. No.</b>	<b>Action</b>	<b>Timeline</b>
1.	Approval of Resolution Plan by NCLT	X
2.	Registration/Removal of existing directors, appointment of new directors to the board of corporate debtor	X+60 days
3.	Extinguishment of all existing shares and issue of fresh shares in favor of new board of directors	X+60 days
4.	Payment of pending CIRP cost	X+60 days
5.	Upfront payment to Secured financial creditors	X+60 days
6.	Deferred Payment to Secured financial creditors	X+120 days

(X = Effective date, i.e., date of approval of Resolution Plan by Adjudicating Authority.)



The Resolution Applicant has proposed that any amount recovered from avoidance transactions shall be distributed in the manner specified under Section 53 of the Code. Thereby, Regulation 38(2A) of the CIRP Regulations has been complied with.

(d) The primary reason for default has been identified as financial stress arising from non-recovery of receivables and non-enhancement of credit limits by the lenders. The Resolution Applicant proposes to improve business operations through the induction of an experienced management team with the requisite professional expertise and network. It is further proposed to adopt a calibrated approach towards leveraging the Corporate Debtor, limited to operational requirements and without adversely affecting its liquidity and cash flows, keeping in view the prevailing market conditions. Thus, the Resolution Plan addresses the cause of default, is feasible and viable, has provisions for its effective implementation, contains provisions for approval required, and has a timeline for the same.

Further, the Resolution Applicant has the capability to implement the Resolution Plan. Thus, Regulation 38(3) of the CIRP Regulations has been complied with.

9. It is noted that the Resolution Applicant, Mr. Rohit Bindlish, is a businessman having more than nine years of experience in business operations and holds a B.Tech in Computer Science. He runs a sanitary



products business under the name Guruji Tiles and Sanitary Stores, established in 2014, with an established customer base, including projects such as Apex Bulcon and Ashirwad Homes, and is also engaged in the builder business. The Resolution Applicant has a reported net worth of Rs. 5.62 Crores and is stated to be financially capable of implementing the Resolution Plan from their own sources, including induction of capital expenditure and working capital for revival of the Corporate Debtor. The objective of the Resolution Applicant is to expand existing business operations, generate employment, and revive the Corporate Debtor. The experience of the Resolution Applicant in the sector, coupled with the expansion strategy envisaged in the Resolution Plan, indicates that the Resolution Plan is feasible and viable.

10. The Relief and Concessions are sought by the Resolution Applicant in Section IV of the Resolution Plan. The Resolution Applicant is seeking certain reliefs and concessions, which are in the nature of prayer and not a condition precedent for the implementation of the Resolution Plan. The relief and concession so sought by the SRA are summarised here as under:

- (i) Upon receipt of payments in terms of the Resolution Plan, the Financial Creditors shall release their security interests and withdraw all recovery proceedings or suits pending against the Corporate Debtor in relation to pre-CIRP claims. No further liability shall remain payable by the Corporate Debtor or the Resolution Applicant except as provided in the Resolution Plan. The Resolution Applicant shall also have the option to prepay the dues of Financial Creditors without



additional levies, and, upon satisfaction of the obligations under the Plan, the Financial Creditors shall issue necessary No Objection Certificates. All assets of the Corporate Debtor shall thereafter vest exclusively with the Corporate Debtor under the new management.

(ii) Reliefs have been sought from the Income Tax Department, including exemption from tax implications arising out of waiver or remission of liabilities, waiver of past tax demands, interest, and penalties; closure of pending proceedings and assessments for the period prior to the effective date; permission to carry forward and set off accumulated losses and unabsorbed depreciation; exemption under Section 79 of the Income Tax Act in case of change in shareholding pursuant to the Resolution Plan; and extinguishment of all income tax liabilities relating to the period prior to the CIRP commencement date.

(iii) Reliefs have also been sought from the Central Board of Indirect Taxes and Customs and other indirect tax authorities for waiver and extinguishment of all indirect tax dues, including interest and penalties; closure of all pending proceedings, investigations, notices, and assessments relating to the period prior to the effective date; protection from prosecution for past non-compliances; and permission to carry forward and utilize accumulated input tax credit and other tax benefits available to the Corporate Debtor.

(iv) The Resolution Applicant has further sought a waiver from the Reserve Bank of India and other regulatory authorities in respect of



any past noncompliances under FEMA, the RBI Act, and related regulations for the period prior to the effective date.

(v) Under the Companies Act, 2013, the Resolution Applicant has sought approval for the write-off of the existing equity share capital; waiver of penalties, late fees, and liabilities arising from past non-compliances; dispensation with requirements relating to reconstruction of past records and holding of past annual general meetings; and directions to the Registrar of Companies to take the Resolution Plan on record without insisting on further compliances.

(vi) Certain reliefs have also been sought from the State Government and other authorities, including permission to change the name of the Corporate Debtor, eligibility for incentives available to sick industrial units, waiver of penalties and charges relating to stamp duty, registration or transfer of leasehold rights, extinguishment of unclaimed dues of Government authorities up to the effective date, and grant of reasonable time to regularise past statutory non-compliances and business permits.

(vii) It has also been prayed that upon approval of the Resolution Plan, all claims, liabilities, guarantees, litigations, investigations, and proceedings relating to the period prior to the effective date, whether known or unknown, crystallised or contingent, shall stand extinguished, and no fresh proceedings shall be initiated in respect of such matters. The Resolution Applicant shall be liable only for those



obligations specifically undertaken in the Resolution Plan, and all other liabilities of the Corporate Debtor shall stand discharged.

(viii) The Resolution Applicant has further sought liberty to amend the constitutional documents of the Corporate Debtor, undertake operational restructuring including manpower rationalisation, and implement other measures necessary for the revival of the Corporate Debtor.

(ix) Any receipts or recoveries made after acquisition, other than those arising from avoidance applications, shall belong exclusively to the Resolution Applicant, while recoveries from avoidance transactions shall be dealt with in accordance with the provisions of the Code.

10.1 We have considered the prayers so made as regards to Relief and Concession. As regards the unpaid liabilities after approval of the Resolution Plan and the claims which were not filed before the RP during the CIRP or which have not been provided for in the Resolution Plan, the same would stand extinguished. In this regard, reference may be made to the law laid down by the Hon'ble Supreme Court in ***Ghanshyam Mishra and Sons Private Limited vs. Edelweiss Asset Reconstruction Company Limited and Ors. Reported in MANU/SC/0273/2021*** which reads as follows:

*86. ".....The legislative intent behind this is to freeze all the claims so that the resolution applicant starts on a clean slate and is not flung with any surprise claims. If that is permitted, the very calculations on the basis of which the resolution applicant submits its plans, would go haywire and the plan would be unworkable.*



87. *We have no hesitation to say that the word "other stakeholders" would squarely cover the Central Government, any State Government or any local authorities. The legislature, noticing that on account of obvious omission, certain tax authorities were not abiding by the mandate of I&B Code and continuing with the proceedings, has brought out the 2019 amendment so as to cure the said mischief....."*

10.2 After the Corporate Debtor is taken over by the new management, no inquiry, investigation, litigation, etc. will be made against it in relation to the period prior to the CIRP.

10.3 As regards allowing carryforward losses, it is to be noted that following the process of the CIRP and on extinguishment of the unpaid liabilities, the financial accounts are to be recasted by providing suitable accounting entries whereby the extinguished liabilities, together with the extinguished share capital of the previous management, would get converted into the Capital/General Reserve, and as such, the accumulated losses, if any, will have to be first of all set off against such a Reserve. For the balance amount, if any, the SRA can approach the Income Tax Authorities.

10.4 As regards other reliefs and concessions sought by the resolution applicant, we direct the said successful resolution applicant to approach the concerned statutory authorities for those concessions, and those authorities will consider the same as per the provisions of law under the relevant Acts, keeping in view the intent and object of the IBC.

10.5 The relief, which is not specifically provided, should not be treated as being allowed. Even if no relief or concessions are granted by the authorities concerned, then also SRA is bound to implement the Resolution Plan



effectively without taking shelter of refusal by authorities concerned by non-implementation of the plan. Nevertheless, the SRA will also have liberty to file an appropriate Application, if so required for seeking any specific relief which is not granted hereinabove and/or denied by the concerned authority.

11. The proviso to sub-section (1) of Section 31 of the Code, 2016 states that before passing any Order for approval of the Resolution Plan, the Adjudicating Authority should also be satisfied that the Resolution Plan has provisions for its effective implementation. In view of the discussions and findings as made hereinabove, we are satisfied that the Resolution Plan in question meets the requirements as referred to in Sub-Section (2) of Section 30 of the IBC and the Resolution Plan also contains the provisions for its effective implementation, and as a result, we hereby approve the Resolution Plan submitted by **Mr. Rohit Bindlish** for the Corporate Debtor with the following directions:

- (i) The Resolution Plan shall be binding on the Corporate Debtor; its employees, members, and creditors, including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force is due, guarantors and other Stakeholders involved in the Resolution Plan.
- (ii) The approved 'Resolution Plan' shall become effective from the date of this Order.



(iii) The Order of moratorium dated 13.01.2023 passed by this Adjudicating Authority under section 14 of the Code shall cease to have effect from the date of this Order.

(iv) The Resolution Professional shall forthwith send a copy of this Order to the participants and the Resolution Applicant(s).

(v) The Resolution Professional shall forward all records relating to the conduct of the Corporate Insolvency Resolution Process and Resolution Plan to the Insolvency and Bankruptcy Board of India to be recorded in its database.

12. As a result, the Application bearing **IA(IBC)2572(CH)/2023** in **CP(IB)No.144/CHD/PB/2021 stands allowed.**

**Sd/-**  
**Kaushalendra Kumar Singh**  
**Member (Technical)**  
Gitesh

**Sd/-**  
**Khetrabasi Biswal**  
**Member (Judicial)**