



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

**I.A. No. 20 of 2024
IN
C.P. No.1166 of 2020**

In the matter of an Application under
Section 30(6) and Section 31 of the
Insolvency and Bankruptcy Code, 2016.

M/S ARCK Resolution Professional LLP,
**(Resolution professional M/S Perfect
Engine Components Private Limited)**

...Applicant/Resolution Professional

In the matter of
**Edelweiss Asset Reconstruction
Company Limited**

... Financial Creditor

V/s.

**Perfect Engine Component Private
Limited**

... Corporate Debtor

Order Dated :05.09.2024

Coram:

Hon'ble Ms. Reeta Kohli Member (Judicial)

Hon'ble Ms. Madhu Sinha Member (Technical)

Appearance:

For the Applicant/RP: Adv. Abhishek Anand (VC)



ORDER

Per: Madhu Sinha Member(Technical)

1. The above captioned Application was filed under Section 30(6) and Section 31, of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the “**Code**”) by the Resolution Professional (hereinafter referred as the “**Applicant**”), seeking approval of the Resolution Plan, submitted by the Resolution Applicant –MAYUR INDUSTRIES PRIVATE LIMITED, which was approved by 100% voting shares of the members of the Committee of Creditors (hereinafter referred to as ‘**COC**’).

2. The facts leading to the Application are as under:
 - a. A Financial Creditor (i.e. Edelwess Asset Reconsturction Company Limited), filed a Company Petition (IB) No. 1166 of 2020 under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "the Code"). The Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor was initiated by an order dated 25.04.2023, and ARCK Resolution Professional LLP (Through its designated partner Mr, Anil Kohli) was appointed as the Interim Resolution Professional and later confirmed as Resolution Professional by the COC in its 1st meeting held on 23.05.2023. A public announcement as per Section 15 of the Code, inviting claims from the creditors of the Corporate Debtor.

 - b. The Applicant published a Public Announcement in Form A in accordance with Section 15 of the Code read with Regulation 6 of the CIRP Regulations, on 27.04.2023, inviting submission of proof of claims from the creditors of the Corporate Debtor, on or before 09.05.2023.

c. The claims received and accepted by the Interim Resolution Professional are as under:

Creditors	Claims Received	Claims Admitted
Edelweiss Asset Reconstruction Company Limited (Secured Financial Creditor)	350,79,95,972	350,79,95,972
Total	350,79,95,972	350,79,95,972

Creditors	Amount Claimed (in INR)	Amount Admitted (in INR)
Shrem Investments Private Limited Financial Creditor (Unsecured Creditor)(Related Party)	15,74,71,651	15,74,71,651
Total	15,74,71,651	15,74,71,651

Creditors	Amount Claimed (in INR)	Amount Admitted (in INR)
Operational Creditor(Workmen Employees)	53,06,349	53,06,349
Total	53,06,349	53,06,349

Creditors	Amount Claimed (in INR)	Amount Admitted (in INR)
Operational Creditor(Vendors for Goods & Services)	93,460,473	93,460,473
Total	93,460,473	93,460,473



Creditors	Amount Claimed (in INR)	Amount Admitted (in INR)
Operational Creditor(Government Authorities/ Statutory Bodies)	57,90,179	57,90,179
Total	57,90,179	57,90,179

3. After receiving the claims, the Committee of Creditors was constituted. The constitution of COC is as under:

Sr. No.	Name of the	Claim Received	Claim admitted	Voting Share (percentage %)
1.	Edelweiss Asset Reconstruction Company Limited	350,79,95,972		100%

4. The Resolution Professional accordingly appointed One Registered Valuer namely (i.e. Future value Advisors India (P) Ltd. and Adroit) for conducting valuation across different asset classes, namely Land & Building Plant & Machinery and Securities and Financial Assets to determine its fair value and Liquidation value, as required under the Regulation 27 of the IBBI(IRP for Corporate Person)Regulations,2016.
5. These Registered Valuers submitted their reports. **The Liquidation and fair value** is stated as under:

Fair Value and Liquidation Value :-

Sr No.	Particulars of Asset	Avg. Fair value	Avg. Liquidation Value
1.	Land & Building	13,72,69,981	10,60,35,985

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2.	Plant & Machinery	4,78,81,000	3,05,94,750
3.	Securities or Financial Assets	6,25,21,279	4,70,01,403
Total		24,76,84,260	18,36,32,137

The Applicant asserts that Form G, inviting Expression of Interest (EOI) from Prospective Resolution Applicants (PRAs), was first published on June 24, 2023, with a deadline of July 14, 2023. The Resolution Professional received Earnest Money Deposits (EMDs) from three PRAs by the deadline. Subsequently, the Committee of Creditors (CoC) decided to issue a corrigendum to extend the deadline for Form G to attract additional PRAs, leading to the receipt of five EMDs. During the 7th CoC meeting, it was discussed that the plan received from the PRA till the last date of submission of Plans (i.e. Consortium Plan M/s Maharashtra auto Stampings Private Limited) was under liquidation value. The CoC resolved to republish Form G, which resulted in receiving five EMDs from PRAs. Namely:

Sr No.	Name of the PRA's	Date of Submission of EoI	EMD Details
1.	Anand Vihar Reality Private Limited	16.11.2023	RTGS-16.11.2023
2.	Mayur Industries Pvt. Ltd.	16.11.2023	DD-16.11.2023
3.	Kanungo Ferromet Private Limited	08.11.2023	RTGS-07.11.2023
4.	United Biotech Pvt. Ltd	17.11.2023	RTGS-17.11.2023
5.	Maharashtra auto Stamping Private Limited (in consortium)	24.07.2023	RTGS-24.07.2023

6. The Applicant further submitted that in 8th meeting of the COC the COC approved the minimum eligibility criteria, Request for Resolution

Plan (**RFRP**) along with evaluation matrix and the Information Memorandum to the PRAs on 22.11.2023.

7. On 08.01.2024, 5 (FIVE) Resolution Plans were received for the Corporate Debtor from the following PRAs ("**Resolution Applicants**" / "**RAs**"):

- i. Mayur Industries Pvt. Ltd..
- ii. Anand Vihar Reality Private Limited
- iii. United Biotech Pvt. Ltd
- iv. Maharashtra auto Stamping Private Limited (in consortium)
- v. Kanungo Ferromet Private Limited

8. **The COC, in its 13th meeting held on 08.03.2024, approved Resolution Plan submitted by Mayur Industries Pvt. Ltd.with a voting share of 100%. Thereafter, the Applicant has issued compliance certificate in Form "H".**

9. **The Salient Features of the Resolution Plan are as under:**

A. Brief Background of the Corporate debtor

- i. Perfect Engine Components Private Limited (PECPL) formerly known as Sarod Engineering Private Limited ("Corporate Debtor" or "CD") was incorporated on 13th January 2005 and is registered at Registrar of Companies, Mumbai. Its registered address is 1101 Viraj Towers, Junction of Andheri Kurla Road, Western Express Highway, Andheri (E) Mumbai- 400069. The corporate debtor was engaged in the business in the manufacturing of engine valves, and valve seat inserts for all types of automotive engines, captive powers,

transport industry, locomotive, and marine engines. The company caters to the automobile and engineering sectors. Its clientele includes Bajaj Auto , Tata Motors, Eicher, Ashok Leyland, Mahindra Rise, and Escorts. Major customers as on date are Bajaj Auto & Tata Motors

- ii. The Corporate Insolvency Resolution Process (“**CIRP**”) of Perfect Engine Component Private Limited has been initiated as per the provisions of the Insolvency and Bankruptcy Code (“**IBC**”) under Section 7. The application was moved before the Hon’ble National Company Law Tribunal, Mumbai Bench (“**NCLT**”) and was admitted vide its order dated 25.04.2023 (“**CIRP Order**”). Pursuant to such order, ARCK Resolution Professionals LLP through its designated partner Mr. Anil Kohli appointed as Interim Resolution Professional.

B. Background of the Resolution Applicant

- i. Mayur Industries Private Limited was incorporated in the year 1994. The company has its operations at multiple locations. The company has six manufacturing plants, one each at Gurgaon, Rudrapur (Uttarakhand), Bhiwadi (Rajasthan), Sanand (Gujarat) and two at Pune (Bhosari & Chakan).The company employs a workforce of 2000 workmen at its above manufacturing facilities.
- ii. The company is engaged in manufacture of automotive components such as Door Trims, Floor carpets, Luggage floor, Air conditioner Ducts and other Interior components and is OE Supplier to almost all major

automobile manufacturers, such as Maruti Suzuki India Ltd., Mahindra & Mahindra, Tata Motors, Ashok Leyland, Honda Cars, and others .

The Resolution Applicant is eligible to act as a Resolution Applicant of the Corporate Debtor and is not ineligible under section 29A of Insolvency and Bankruptcy Code and also satisfies the eligibility criteria as mentioned in clause (h) of sub-section (2) of section 25 of the Code.

10. Summary of Payments under the Resolution Plan

The amounts provided for the stakeholders under the Resolution Plan is as under:

(Amount in Rs. lakh)

Sr. 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	NA	NA	NA	NA
		(b) Other than (a) above:	NA	NA	NA	NA
		(i) who did not vote in favour of the resolution Plan	35,079.96	35,014.96	1651.94	4.71
		(ii) who voted in favour of the resolution plan				
		Total[(a) + (b)]	35,079.96	35,014.96	1651.94	4.71

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2	Unsecured Financial Creditors	(a) Creditors not having a right to vote under subsection (2) of section 21	1,574.72	1,574.72	1	0.06
		(b) Other than (a) above:	NA	NA	NA	NA
		(i) who did not vote in favour of the resolution Plan	NA	NA	NA	NA
		(ii) who voted in favour of the resolution plan	NA	NA	NA	NA
		Total[(a) + (b)]	1,574.72	1,574.72	1	0.06
3	Operational Creditors	(a) Related Party of Corporate Debtor	NA	NA	NA	NA
		(b) Other than (a) above:				
		(i)Government	57.90	57.90	0.06	0.10
		(ii)Workmen	NA	NA	NA	NA
		(iii)Employees	53.06	53.06	53.06	100
	(iv) Operational Creditors other than Government Dues*	940.43	934.77	0.93	0.10	

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		Total[(a) + (b)]	1,051.4 0	1,045.7 4	54.06	5.14
4	Other debts and dues	NA	NA	NA	NA	NA
Grand Total			37,706. 08	37,635. 41	1707.00	4.53

**Application for condonation of delay in filing of claim of one Operational Creditor under regulation 13 amounting to Rs. 3,60,426/- is filed before Hon'ble NCLT(i.e. IA No.3583 of 2024 was withdrawn and Disposed off vide order dated 12.07.2024 of this Tribunal)*

Amount provided over time under the Resolution Plan and includes estimated value of non-cash components. It is not NPV.]

The interests of existing shareholders have been altered by the Resolution plan as under:

Sl. No	Category of Share Holder	No. of Shares held before CIRP	No. of Shares held after the CIRP	Voting Share (%) held before CIRP	Voting Share (%) held after CIRP
1	Equity	3,10,000	NIL	100	NIL
2	Preference	NIL	NIL	NIL	NIL

11. Sources of Funds

During the 12th meeting of the Committee of Creditors (CoC), also stated that the “Resolution Applicant seems to be strong considering the size of the business and that the said RA has relevant experience in the same industry. Further the plan value offered is more than the net worth of the RA. Accordingly, the implementation of the Resolution Plan seems to be feasible and viable”.

The Bench has noted that the Resolution Applicant has annexed the Financial Statements for the year 2023, which demonstrate adequate reserves to facilitate the implementation of the Resolution Plan.



Payments proposals of the various stakeholders under the Resolution Plan:

Summary of Payment terms under the Proposed Plan

(Rs. in Crore)

Particulars	Timelines from Effective Date	Instrument used for Payment	Amount in Cr.	Remarks
<u>Total Committed funds by RA,</u>	<u>Within 90 days (Upfront)</u>	Bank Transfer	<u>17.07</u>	<u>The RA will deposit the committed funds in the Designated account of CD as per payment timelines proposed in this plan. All the payments/ dues payable to respective creditors will be paid from the said designated account as per the timelines proposed in this Resolution Plan.</u>
CIRP Cost (as approved/ratified by COC)	Within 30 days	Bank Transfer	-	As per details received from RP, there is no outstanding CIRP cost payable.
Operational Creditors	Within 30 days	Bank Transfer	0.541	As per detailed chart in 3.4.1
Value available for Financial Creditors			16.529	
Dissenting Financial Creditors	-	-	-	Edelweiss Asset Reconstruction Company Limited (EARCL) being only financial creditor, the clause would not apply.
Financial Creditors (secured)	Within 90 days	Bank Transfer	16.519	The complete payment would be made within 90 days
Unsecured Financial Creditor	Within 90 days	Bank Transfer	0.010	The complete payment would be made within 90 days



The Payment mechanism for each class of Creditor(s)/ Stakeholder is tabled below:

(Rs. in Crore)

Sr. No.	Category of Creditor	Admitted Claims	Amount provided in the Plan	Remarks
1	Insolvency Resolution Process Cost	Actual	0.00	Though, as per latest information , there is no CIRP cost pending. Amount payable, if any, would be paid in priority to any other payment within 30 days
2	Workmen and Employees	0.53	0.541	Within 30 Days
3	Operational Creditors for supply of Goods/ Services	9.35		
4	Government /Statutory Authorities	0.58		
5	Dissenting Financial Creditors	-	16.519	The payment is provided for Financial Creditors, who are part of COC and doesn't include any related party, who has provided financial debt to the CD.
6	Secured Financial Creditors	350.80		
7	Unsecured Financial Creditors	15.74	0.010	The payment is towards unsecured financial debt of related party
8	Any Other Operational Creditor	-	-	-
9	Preference Shareholders	-	-	NA



10	Equity Shareholders	-	-	Existing Equity share capital shall be written off fully. No claim has been filed by existing Shareholders.
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a. Insolvency resolution process cost

The unpaid CIRP Costs, if any, in terms of Section 5(13) of the Code or Regulation 31 of CIRP Regulations duly approved by the COC will be paid in full and in priority to any other creditors of the company within 30 days from the Effective Date. Since there is nothing mentioned as unpaid CIRP Cost, hence none has been provided. If and when there is any pendency arising on account of CIRP cost left unpaid, the same shall be paid from the total committed funds provided by the RA. Remaining amounts shall be payable to the stakeholders proportionately.

b. Payment to Operational Creditors

As per the Information Memorandum and Financial Statements for the Year 2023, it seems Liquidation Value of the encumbered assets may not be sufficient to cover the debt of Financial Creditors of the Company in full. In that scenario, the Liquidation Value due to the Operational Creditors or the other creditors or stakeholders, government dues, taxes etc. and other creditors and stakeholders would be **NIL** and therefore they may not be entitled to receive any payment on that account. However, the Resolution Applicant in order to take care of the interest of all stakeholders proposes to bring in a payment to Operational Creditors. The payment mechanism of respective category are as follows

Category	Composition	Admitted Claims (INR)	% proposed to be paid against	Amount Payable (INR)

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			admitted claim	
OC-1	Workmen and Employees	5,306,349	100%	5,306,349
OC-2	Vendors for Goods and Services	93,460,473	0.1%	93,460
OC-3	Government Authorities/Statutory Bodies	5,790,179	0.1%	5,790
	Total	104,557,001	-	54,05,600

The payments will be made within 30 days. Post acceptance of these payments, no OC (irrespective of class or category) shall have any right whatsoever for its past dues against the Corporate Debtor. All proceedings shall automatically stand abated from the Effective Date.

The claims remaining unverified/unadmitted till the date of submission of plan shall be deemed to have been rejected by the RP and no payments would accrue against them.

Any amount otherwise payable to any Operational Creditor from above, but not paid due to any reason (including non-submission of relevant documents, etc.), shall be kept in a separate bank account (to be claimed within next 2 years). The total amount allocated above for the payments to OC's shall be coordinated by the Resolution Professional in proportion to the total claims so made, or as per applicable provisions, if a different treatment is prescribed.

The Resolution Applicant, through an affidavit, has affirmed that the dues owed to the workmen for a period of twenty-four months and to the employees for a period of twelve months, in compliance with Section 30(2)(b) of the Insolvency and Bankruptcy Code, 2016, amount to a total of ₹53,06,349. The Applicant further undertakes that these payments are either provided for or will be made over and above the provisions set out in the Resolution Plan, in compliance with the order of the Hon'ble



National Company Law Appellate Tribunal (NCLAT). in the Case of M/s Jet Airways India Ltd.; upheld by the *Hon 'ble Supreme Court in Civil Appeal No 407 of 2023 with Civil Appeal Nos 465-469 of 2023*

- (i) The workmen and employees are entitled to receive the amount of provident fund and gratuity in full since they are not part of the liquidation estate under Section 36(4)(b)(iii).
- (ii) The workmen are entitled to receive their dues from the Corporate Debtor for period of 24 months as per provision of Section 53(l)(b) at least to minimum liquidation value envisaged under Section 30(2)(b) read with Section 53(1).

The same is not applicable since there are no dues of EPFO

15. Financial Creditors

The RA proposes to make the total payment of Rs. 17.07 crores against dues of Financial Creditors. RA would deposit the same, as and when due (as per proposed payment terms) in the designated bank account of CD within specified timelines.

As per the proviso to Section 21(2) of the Code, “*a related party shall not have any right of representation, participation or voting in a meeting of the committee of creditors.*” Accordingly, it is pertinent to note here that related parties having a financial debt doesn't get any right of participation or voting in the COC meeting. Thus, the question of dissent or assent upon a plan wouldn't arise.

In term of IBC, a Resolution Plan is amongst other things, required to pay liquidation value due to the Dissenting Financial Creditors and provide that such payment is made before any recoveries are made to the Financial Creditors, who have voted in favour of the Resolution Plan.

The Dissenting Financial Creditors will be entitled to receive an amount as they would have received in the event of Liquidation, in

priority to the creditors voting in favour of the Resolution Plan within 45 days from Effective Date.

As the COC comprises of only one eligible Financial creditor, the situation of having a dissenting financial creditor would not arise.

The Resolution Professional will disclose the liquidation value to the monitoring committee to fix the amount of liquidation value due and payable to the dissenting Financial Creditors. The amount is proposed to be paid within 45 days of Effective Date in priority to the creditors voting in favour of the Resolution Plan

The Financial Creditors other than Dissenting Financial Creditors i.e. who have voted in favour of the Resolution Plan will get paid within a period of 90 days from the Effective Date. Based on above the payments proposed for Financial Creditors shall be as follows

Name of Financial Creditor	Amount Admitted	Proposed in the plan	Remarks	Quantum and timelines
Edelweiss Asset Reconstruction Company Limited	3,507,995,972	165,194,400	Secured	Within 90 days
Shrem Investments Private Limited	157,471,651	100,000	Unsecured related party	Within 90 days

The Liquidation Value due to the Dissenting Financial Creditors if any will be discussed with the Monitoring Committee and to be paid within 45 days of Effective Date in priority to the creditors voting in favour of the Resolution Plan.

The Resolution Professional to make entire financial commitment within 90 days from the effective date and would accordingly be out of pocket by the entire Resolution plan value by putting the entire amount in the designated bank Account. We propose that the distribution methodology undertaken by the RP/COC is as per the provision of law and all the creditors/stakeholders be paid their net

dues against their deliverables (including issuing No Dues Certificate, release letter etc., This includes all the process/procedures for the acquisition of the CD (including but not limited to release of all charges)

c. Any Other Creditors or Contingent Liabilities

Any claims not received by cut-off date shall be extinguished and will not be payable and shall stand to be extinguished and **NIL** amount be paid against it. No interest on any claim (both financial and operational) as on CIRP Commencement Date shall be paid by the RA. However, Additional claims from any creditor(s) (which were not part of the Information Memorandum, verified/admitted subsequently by the RP including related to any statutory departments like EPFO, GST etc., if any till Effective date) shall not be taken into consideration and shall deemed to be extinguished.

13. Implementation Schedule:

Implementation of the Resolution Plan shall commence from the NCLT Approval Date. Subject to Clause 3.9 The Resolution Plan is effective for a term of 90 days. The Resolution Applicant will undertake the following steps to implement the Resolution Plan in the indicative timeline provided below:

Activity	Reference	Days	Term of Plan
Receipt of Letter of Intent from the CoC and constitution of Caretaker Committee	-	R	
Issuance of Performance Security – Performance Security will be provided within 3 days of issuance of LOI	pt15 of RFRP	R+3	15% of payment proposed
Approval from Adjudicating Authority	-	T	0

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Physical possession of the assets of the Corporate debtor from the RP	3.8.2	T	0
Infusion of Equity Capital	3.10.3	T+7	7
First Meeting of Monitoring Committee	3.8.2	T+7	7
Appointment of Board of Directors	3.8.4	T+15	15
Finalisation and signing of Deeds, Definitive Agreements etc.	3.8.10	T+30	30
Payment for CIRP Process Cost	3.3.1	T+30	30
Payment to Operational Creditor	3.4.1	T+30	30
Payment to Dissenting Financial Creditors	3.5.4	T+45	45
Release of Performance Bank Guarantee	3.5.9	T+90	90
Payment to Financial Creditors voted in favour of Resolution Plan	3.5.6	T+90	90
Financial Creditors to release Encumbrances (including making filings with ROC/ sub-registrar of assurances and other governmental agencies for recording such release), execute re-conveyance deeds, issuance of no-dues certificates and redeliver documents in relation to the Resolution Plan and Handover of Documents of the assets of the Corporate debtor	3.5.8 & 3.10.11	T+91	91

The RA would infuse funds in the designated bank account as per the terms of this resolution plan. The amounts shall be distributed as per the terms of this Resolution Plan. The bank will be operated by the erstwhile RP, as per the directions of the MC.



14. Earnest Money Deposit

The Resolution Applicant has submitted Earnest Money Deposit I of INR Rs.10,00,000/- and Earnest Money Deposit II of INR 50,00,000 (Indian Rupees Fifty Lakhs Only) along with this Resolution Plan.

15. Monitoring Committee

The Monitoring Committee shall comprise of 5 (Five) members comprising of the following:

- a) 1 (One) Nominee/Representative of the Financial Creditor
- b) 3 (Three) Nominee/Representative of the Resolution Applicant (i.e. one representing the new Shareholders, one of the Directors and one Advisor/Monitoring Agency) and
- c) The Erstwhile Resolution Professional.

The Monitoring Committee shall be constituted within 7 (Seven) Business Days of NCLT Approval Date and pending constitution of the Monitoring Committee, the Resolution Professional shall be authorised to exercise all his powers and shall observe all its duties in accordance with the Code.

16. Avoidance Transactions

As per the requirements of Regulation 38(2) (d) of the CIRP Regulations, avoidance transactions application filed by the Resolution Professional, if any, under Chapter III or fraudulent or wrongful trading under Chapter VI of Part II of the Code, will be pursued after the approval of the resolution plan to its logical end by the Chairman of monitoring Committee and the proceeds shall be distributed to the Secured Financial Creditors in the manner approved by the COC while approving this Resolution plan.

The Resolution Applicant states in Affidavit and Resolution Plan that the Resolution Plan specifying disbursement of amounts recoverable from PUFEE transaction to Creditors:

Clause 3.9.8 of the Resolution Plan at Page no. 26 (Page No. 409 of IA. No. 20 of 2024) states as under: “3.9.8: *The IM doesn't have any*



information about any avoidance proceedings. The RA would seek a complete immunity from any proceedings or effects of any avoidance proceedings initiated by erstwhile RP during the CIRP process or any time later. The success of the plan is independent of the results of these proceedings. Any future monetary inflows resulting from these proceedings, if any, will be directly allocated to the members of the Committee of Creditors (COC). Any expenses incurred in relation to these proceedings will not be the responsibility of the RA or the monitoring committee. Owing to the lack of pertinent information, the RA will not partake in these proceedings”.

Therefore, this bench directs the Secured Financial Creditor (i.e. **Edelweiss Asset Reconstruction Company Limited**) to ensure effective pursuance of the IA bearing number IA 1642 of 2024, IA 3794 of 2023, IA 2372 of 2023 and 2985 of 2024 mentioned at page no 26 of the Affidavit

17. The compliance of the Resolution Plan is as under:

Section of the Code / Regulation No.	Requirement with respect to Resolution Plan	Clause of Resolution Plan	Compliance (Yes / No)
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?	Submitted as AnnexureA-24	YES
Section 30(1)	Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?	APPENDIX 10	YES
Section 30(2)	Whether the Resolution Plan- (a) provides for the payment of insolvency resolution process costs? (b) provides for the payment to the operational creditors?	Pt 3.3, Pg 18 Pt 3.4.2, Pg 20 Pt 3.5.5, Pg 21	YES

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	(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?]	Pt 3.7, Pg 22 Pt 3.8, Pg 24 Pt 3.9.7, Pg 26	
Section 30(4)	Whether the Resolution Plan (a) is feasible and viable, according to the CoC? (b) has been approved by the CoC with 66% voting share?	Minutes & E-voting result of 12 th CoC Meeting	YES
Section 31(1)	Whether the Resolution Plan has provisions for its effective implementation plan, according to the CoC?	Pt 3.8, Pg 24	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?]	Pt 3.4.2, Pg 20	YES
Regulation 38(1A)	Whether the resolution plan includes a statement as to how it has dealt with the interests of all stakeholders?	Pt 3.9, Pg 25 & Pt 3.2, Pg 16	YES
Regulation 38(1B)	(i) Whether the Resolution Applicant or any of its related parties has failed to implement or contributed to the failure of implementation of any resolution plan approved under the Code. (ii) If so, whether the Resolution Applicant has submitted the statement giving details of such non-implementation?]	Pt 3.9.2, Pg 26	NO NA
Regulation 38(2)	Whether 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?	Pt 3.9.3, Pg 25 Pt 3.7, Pg 22 Pt 3.8, Pg 24	YES
38(3)	Whether the resolution plan demonstrates that –	Pt 3.9.5, Pg 26 Pt 3.7.9, Pg 24 & Pg 38	YES





	(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 for the same? (e) the resolution applicant has the capability to implement the resolution plan?	Pt 3.8.5, Pg 25 Pg 14, Pg 33 Pg 38	
39(2)	Whether the RP has filed applications in respect of transactions observed, found or determined by him?	Pt 9.9, Pg 29	YES
Regulation 39(4)	Provide details of performance security received, as referred to in sub-regulation (4A) of regulation 36B.]		YES

Observation and Findings:

17. On perusal of the Resolution Plan, we find that the Resolution Plan provides for the following

- i.** As per IBC Code 30(2)(a) – A Resolution Plan provides for the payment of insolvency resolution process costs in a manner specified by the Board in priority to the payment of other debts of the corporate debtor.
- ii.** As per Section 30(2)(b), the Respondent has agreed to pay Operational Creditors an amount which shall not be less than liquidation value or the amount that would have been paid to such creditors if the amount to be distributed under the Resolution Plan is distributed in accordance with priority under Section 53(1), whichever is higher.
- iii.** The Resolution Applicant has also agreed that dissenting financial creditors shall be paid not less than the value they would have been paid in the event of liquidation of the Corporate Debtor.

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- iv.** The plan provides for the management of the affairs of the Corporate Debtor after approval of the Resolution Plan. Section 30(2)(d).
- v.** The Resolution Plan does not contravene any of the provisions of the law for the time being in force - Resolution Plan provides for the implementation and supervision of the resolution plan as per Section 30(2) (e)
- vi.** The Resolution Applicant has given a declaration that the Resolution Plan does not contravene any provisions of the law for the time being in force as per Section 30(2)(f).
- vii.** The resolution applicant or any of its related parties has not 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. viii. The Resolution Plan is in compliance of the Regulation 38 of the Regulations in terms of Section 30(2)(f) as under:
- a.** The amount due to the operational creditors under a resolution plan shall be given priority in payment over financial creditors. Regulation 38(1).
- b.** The Resolution Plan has all the adequate means of supervising of the implementation of the Plan as required under Regulation 38(2) (c), of the IBBI, Insolvency resolution process for corporate persons, Regulation 2016.
- c.** Provides for the payment of CIRP Costs in priority to the repayment of any other debts of the Company (Regulation 38(1)(a)).
- d.** Provides for the manner of implementation and supervision of the Resolution Plan and adequate means for implementation and supervision of the Resolution Plan.

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- e. The Resolution Applicant confirms that to the best of the knowledge of the Resolution Applicant, the Resolution Plan is not in contravention of the provisions of Applicable Law and is in compliance with the Code and the CIRP Regulations.
 - f. The Resolution Applicant confirms that the Resolution Applicant and its connected persons are not disqualified from submitting a resolution plan under Section 29A of the Code and other provisions of the Code and any other Applicable Law.
 - g. The plan provides for the management and control of the business of the Corporate Debtor during its term.
 - h. All the above factors demonstrate that the plan address as the cause of default and the Resolution Applicant has the capacity to implement the Resolution Plan.
 - i. That the Resolution Applicant or any of its related parties has never 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. This is in compliance of Regulation 38(1)(b) of the Regulations.
 - j. The interests of all stakeholders (including Financial Creditors, Operational Creditors and other creditors, guarantors, members, employees and other stakeholders of the Company, keeping in view the objectives of the Code (Regulation 38(1A)).

18. The Resolution Plan has been approved in the 7th COC meeting held on 05.08.2023 with 100% voting in accordance with the provisions of the Code.



19. Regarding the issue of the source of funds, this Bench places reliance on the judgment of the Hon'ble Supreme Court in the case of **Vallal RCK v. M/s Siva Industries and Holdings Limited and Others**, Civil Appeal Nos. 1811-1812 of 2022, wherein it was held that

*“This Court has consistently held that the commercial wisdom of the CoC has been given paramount status without any judicial intervention for ensuring completion of the stated processes within the timelines prescribed by the IBC. It has been held that there is an intrinsic assumption, that financial creditors are fully informed about the viability of the corporate debtor and feasibility of the proposed resolution plan. They act on the basis of thorough examination of the proposed resolution plan and assessment made by their team of experts. A reference in this respect could be made to the judgments of this Court in the cases of **K. Sashidhar v. Indian Overseas Bank and Others**, **Committee of Creditors of Essar Steel India Limited through Authorised Signatory v. Satish Kumar Gupta and Others**³, **Maharashtra Seamless Limited v. Padmanabhan Venkatesh and Others**⁴, **Kalpraj Dharamshi and Another v. Kotak Investment Advisors Limited and Another**⁵, and **Jaypee Kensington Boulevard Apartments Welfare Association and Others v. NBCC(India) Limited and Others**⁶*

20. In **K. Sashidhar v. Indian Overseas Bank & Others: 2019 SCC Online SC 257 (2019) 12 SCC 150** the Hon'ble Apex Court held that

“if the CoC had approved the Resolution Plan by requisite percent of voting share, then as per section 30(6) of the Code, it is imperative for the Resolution Professional to submit the same to the Adjudicating Authority (NCLT). On receipt of such a proposal, the Adjudicating Authority is required to satisfy itself that

the Resolution Plan as approved by CoC meets the requirements specified in Section 30(2). The Hon'ble Court observed that the role of the NCLT is 'no more and no less'. The Hon'ble Court further held that the discretion of the Adjudicating Authority is circumscribed by Section 31 and is limited to scrutiny of the Resolution Plan "as approved" by the requisite percent of voting share of financial creditors. Even in that enquiry, the grounds on which the Adjudicating Authority can reject the Resolution Plan is in reference to matters specified in Section 30(2) when the Resolution Plan does not conform to the stated requirements".

21. In *India Resurgence Arc Private Limited vs. Amit Metaliks Limited and Ors. (2021)* the Hon'ble Apex Court held that

"the process of consideration and approval of resolution plan is essentially within the commercial wisdom of Committee of Creditors (CoC). The scope of judicial review remains limited under Section 30(2) of the Insolvency and Bankruptcy Code (IBC), 2016 by which the court would examine that the resolution plan does not contravene any statutory provisions and it conforms to such other requirements as may be specified by the Board. The court held that the process of judicial review cannot be stretched if all the above-mentioned requirements have been duly complied with and that dissenting financial creditor, expressing dissent over the value of security interest held by it, cannot seek to challenge an approved Resolution Plan. Lastly, it was held that Section 30 of the IBC, 2016 only amplified the considerations for the CoC while exercising its commercial wisdom so as to take an informed decision in regard to the viability and feasibility of resolution plan, with fairness of distribution amongst similarly situated creditors; and that the business decision taken in exercise of the commercial wisdom of CoC does not call for

interference unless creditors belonging to a class being similarly situated are denied fair and equitable treatment.

22. The Hon'ble Apex Court at para 42 in **Committee of Creditors of Essar Steel India Limited Vs. Satish Kumar Gupta & Ors.: (2019) SCC Online**, has clearly laid down that the Adjudicating Authority would not have power to modify the Resolution Plan which the CoC in their commercial wisdom have approved.

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

23. This Bench noted that the Resolution Plan value is under liquidation value this Bench relies on the Hon'ble Supreme Court in the matter of **Committee of Creditors of Essar Steel India Limited Vs. Satish Kumar Gupta & Ors.: (2019) SCC Online**, and in the matter of **Maharashtra Seamless Limited vs Padmanabhan Venkatesh and Ors** held that:

“there is no provision in the Regulations or Code which provides that the bid of any Resolution Applicant has to match the liquidation value. It further articulated that the object behind prescribing such a valuation process is to assist the CoC to take decisions on a resolution plan properly. Once, a resolution plan is approved by the CoC, the statutory mandate on the Adjudicating Authority under Section 31(1) of the Code is just to test the Resolution Plan with reference to provisions of Section 30(2) of the Code.”




24. The Hon'ble Supreme Court in ***Ghanashyam Mishra and Sons (P) Ltd. v. Edelweiss Asset Reconstruction Co. Ltd.*** has clearly established that the once a Resolution Plan is approved by the Adjudicating Authority (AA), the same, irrespective of whether or not they participated in the CIRP, binds all creditors and any claims not forming part of the approved Resolution Plan shall stand extinguished.

“with respect to any statutory dues owed/claims raised in relation to the period prior to the 2019 Amendment, the resolution plan shall still be binding on the statutory creditors concerned, and the statutory dues owed to them, which were not included in the resolution plan, and such claims shall stand extinguished.”

25. Regarding to the Relief and Concessions the Resolution Applicant will approach all the consent Authorities for reliefs and concessions, if any hindrance faced by the Resolution Applicant from any Authority at latter stage, the Resolution Applicant may approach the Tribunal after the sanction of the Plan. The carry forward loses if any are permitted under Section 79 of the Income Tax Act 1961. The law has been well settled by the Hon'ble Supreme Court in the case of ***Ghanashyam Mishra and Sons Private Limited Vs. Edelweiss Asset Reconstruction Company Limited and Ors.*** in the following words:

I. *“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 plan would go haywire and the plan would be unworkable.*

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- II. *87. We have no hesitation to 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...*
- III. *In view of the above we hold that the Resolution Applicant cannot be saddled with any previous claim against the Corporate Debtor prior to initiation of its CIRP..."*
- IV. *Consequently, all the dues including the statutory dues owed to the Central Government, any State Government or any local authority, if not part of the resolution plan, shall stand extinguished and no proceedings in respect of such dues for the period prior to the date on which the adjudicating authority grants its approval under Section 31 could be continued."*

26. In view of the above cited case law, the legislature has given paramount importance to the commercial wisdom of committee of creditors (CoC) and the scope of judicial review by the Adjudicating Authority (AA) is limited to the extent of scrutiny provided under section 31 of Code and the direction of the Appellate Authority is limited to the extent provided under sub-section (3) of section 61 of the Code.

27. In view of the discussions, this Bench is of the considered view that the instant Resolution Plan meets the requirements of Section 30(2)

of the Code and Regulations 37, 38, 38(1A) and 39(4) of the Regulations. The Resolution Plan is not in contravention of any of the provisions of Section 29A of the Code and is in accordance with law. The Resolution Plan is feasible and viable and has been duly approved by the CoC in their Commercial Wisdom and under the requisite proceedings of 'Code'. The Resolution Plan balances the interest of all the stakeholders and thus it deserves to be approved as follows:

- a) The Interlocutory Application No. 20 of 2024 is **allowed**. The Resolution Plan submitted by **MAYUR INDUSTRIES PRIVATE LIMITED**, is hereby approved. **It shall become effective from this date and shall form part of this order**. It shall be binding on the Corporate Debtor, its employees, members, creditors, including the Central Government, any State Government or any local authority to whom a debt in respect of payment of dues arising under any law for the time being in force is due.
- b) The Memorandum of Association (MoA) Articles of Association (AoA) shall accordingly be amended and filed with the Registrar of Companies (ROC), concerned for information and record. The Resolution Applicant, for effective implementation of the Plan, shall obtain all necessary approvals, under any law for the time being in force, within such period as may be prescribed.
- c) The moratorium under Section 14 of the Code shall cease to have effect from this date.
- d) The Monitoring Committee shall supervise the implementation of the Resolution Plan and shall file status of its implementation before this Authority from time to time, preferably every quarter.
- e) The Applicant shall forward all records relating to the conduct of the CIRP and the Resolution Plan to the IBBI along with copy of this Order for information.

- f)** The Applicant shall forthwith send a copy of this Order to the CoC and the Resolution Applicant for necessary compliance.
- g)** The Resolution Professional shall submit the records collected during the commencement of the proceedings to the Insolvency & Bankruptcy Board of India for their record.
- h)** The Resolution Professional shall stand discharged from his duties with effect from the date of this Order, save and except those duties that are enjoined upon him for implementation of the approved Resolution Plan.
- i)** The Registry is directed to send copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
- j)** The Interlocutory Application **No. 20 of 2024** is accordingly **Allowed.**

Sd/-

Madhu Sinha
Member (Technical)
/priyanka/

Sd/-

Reeta Kohli
Member (Judicial)