



**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, COURT NO. II  
KOLKATA**

**I.A. (IB) (Plan) No. 22/KB/2024**

**And**

**I.A. (IB) No. 138/KB/2024**

**And**

**I.A. (IB) No. 1387/KB/2024**

**In**

**Company Petition (IB) No. 372/KB/2021**

**IN THE MATTER OF:**  
**UCO BANK**

**... Financial Creditor.**

***Versus***

**ROYSONS CERAMICS PRIVATE LIMITED**

**... Corporate Debtor.**

**And**

**IN THE MATTER OF:**

**I.A. (IB) (Plan) No. 22/KB/2024**

***An Application under Section 30(6) read with Section 31 of the Insolvency and Bankruptcy Code, 2016, and under Regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution process for Corporate Persons) Regulations, 2016, for the approval of the Resolution Plan.***

**IN THE MATTER OF:**

**Rajesh Kumar Agrawal**

**... Applicant/ Resolution Professional (RP).**

**And**

**IN THE MATTER OF:**

**I.A. (IB) No. 138/KB/2024**

**An Application under Section 19(2) read with Section 60(5) of the Insolvency and Bankruptcy Code, 2016.**

**IN THE MATTER OF:**

**Rajesh Kumar Agrawal**

**... Applicant/ Resolution Professional (RP).**

***Versus***

**Mr. Shaubhik Ray & Ors.**

**... Respondents.**

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**And**

**IN THE MATTER OF:**

**I.A. (IB) No. 1387/KB/2024**

***An Application under Section 60(5) of the Insolvency and Bankruptcy Code, 2016, read with Regulation 13(1C) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.***

**IN THE MATTER OF:**

**Rajesh Kumar Agrawal**

**... Applicant/ Resolution Professional (RP).**

**Date of Pronouncement: March 27, 2025.**

**CORAM:**

**SMT. BIDISHA BANERJEE, HON'BLE MEMBER (JUDICIAL)**

**SMT. MADHU SINHA, HON'BLE MEMBER (TECHNICAL)**

**APPEARANCES:**

**For UCO Bank: Mr. Santosh Kr. Ray, Adv.**

**Ms. Ashmita Lohia, Adv.**

**Ms. Zeba Khan, Adv.**

**Ms. Muskan Saha, Adv.**

**For SRA: Mr. Suryaneel Das, Adv.**

**For WBSEDCL: Ms. Sanjukta Ray, Adv.**

**Mr. Asit De, Adv.**

**For RP: Mr. Shaunak Mitra, Adv.**

**Ms. Pooja Agrawal, Adv.**

**Mr. Rajesh Kumar Agrawal, RP in Person.**

**ORDER**

***Per Bidisha Banerjee, Member (Judicial):***

1. The Court congregated through a hybrid mode.



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2. Heard the Learned Counsels for the parties herein.

For the convenience of explication, this Order is divided into the following parts: -

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**I.A. (IB) (Plan) No. 22/KB/2024**

3. By way of this application under Section 30(6) read with 31 of the I&B Code, Mr. Rajesh Kumar Agrawal, the Resolution professional (RP) of Roysons Ceramics Private Limited (Corporate Debtor) has prayed for the final sanction and approval of the resolution plan approved by the CoC at its 18<sup>th</sup> meeting convened on 02.12.2024 by way of e-Voting concluded on 03.12.2024.

**A. Prologue:**

4. Ld. Counsel Mr. Shaunak Mitra appearing on behalf of the RP would submit that the corporate debtor is an MSME and the sole Prospective Resolution Applicant Mr. Subhankar Roy being the suspended director of the corporate debtor has submitted his resolution plan on 18.09.2024. The plan was twice revised on 17.10.2024, and 02.12.2024. At the 18<sup>th</sup> meeting of the CoC held on 02.12.2024 and concluded on 03.12.2024, his plan has been approved with 100% voting shares.

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5. Letter of Intent (for brevity “LoI”) has been issued on 04.12.2024, annexed at pages 221-222 to the application to the Successful Resolution Applicant (“SRA” in short) by the RP and it is submitted that the same is unconditionally accepted by the SRA.

**B. Particulars of the Corporate Debtor:**

6. Roysons Ceramics Private Limited is a registered MSME under MSME Act, 2006 and incorporated under the Companies Act, 1956, having registered office at 8/41, Fern Road, Gariahat, Kolkata, West Bengal – 700 019, and the factory is situated at Gourandi Road, Hasanpur, Paschim Burdwan, Asansol – 713315, West Bengal.

**C. Commencement of CIRP:**

7. The Corporate Debtor was admitted into Corporate Insolvency Resolution Process (CIRP) on 09.11.2023, by this Adjudicating Authority and Mr. Rajesh Kumar Agarwal was appointed as Interim Resolution Professional (IRP) and later, on 14.12.2023, the CoC has approved the IRP as Resolution Professional (RP) at their 1<sup>st</sup> CoC meeting convened on 05.12.2023.

**D. Public Announcement:**

8. The IRP made public announcement under Form A in Financial Express (All India) and Aajkal (Kolkata) on 11.11.2023 and

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12.11.2023 for invitation of claims from various creditors. Last date for submission of claim was fixed on 24.11.2023.

**E. Collation of Claims and Constitution of CoC:**

9. Upon receiving and verification of the claim pursuant to the Form A publication, IRP has admitted and collated the claim as under:

**a. Financial Creditor:**

SN	Name of Creditor	Amount of Claim (Rs.)	Amount Admitted (Rs.)	Voting Shares
<b>Secured Financial Creditor</b>				
1.	UCO Bank	32,34,26,807.56	32,33,08,639.81	100%
	<b>Total</b>	<b>32,34,26,807.56</b>	<b>32,33,08,639.81</b>	<b>100%</b>

**b. Operational Creditors (other than Workmen & Employees and government dues):**

SN	Name of Creditor	Amount of Claim (Rs)	Amount Admitted (Rs)
1.	Orient Ceratech Limited	1,19,99,698.00	71,85,137.00

**c. Operational Creditors (Government Dues):**

SN	Name of Creditor	Amount of Claim (Rs)	Amount Admitted (Rs)
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1.	West Bengal State Electricity Distribution Company Limited (WBSEDCL)	3,04,194.56	1,93,236.36
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10. The RP constituted the CoC on 29.11.2023 and the same has been approved by this Adjudicating Authority on 22.12.2023.

**F. Appointment of Registered Valuers:**

11. RP has appointed two Registered Valuers on 21.12.2023 in terms of Regulation 27 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The Registered Valuers accordingly submitted their report with regard to the Fair Value and the Liquidation Value of the Corporate Debtor. It is submitted that the average of the Fair Value and the Liquidation Value of the Corporate Debtor is as under:

a. Fair Value (Average) = Rs. 15,05,73,995.50/-.

b. Liquidation Value (Average) = Rs. 11,14,81,082/-.

**G. CIRP and its Compliances:**

12. In terms of Regulation 36(1) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, RP has submitted the Information Memorandum (IM) to the CoC on 06.02.2024.

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13. At the 3<sup>rd</sup> CoC Meeting held on 30.12.2023, concluded on 05.01.2024, the CoC approved to proceed with the publication of the EoI in Form G and the same was published on 06.01.2024. The last date for submission of Expression of Interest was on 25.01.2024.

14. At the 4<sup>th</sup> CoC Meeting held on 22.01.2024 and adjourned the same on 25.01.2024, the CoC consented to extend the date of submission of the EOI and accordingly, the Revised Form G was published in the newspaper on 29.01.2024. The last date for submission of EoI was fixed on 12.02.2024.

15. At the 6<sup>th</sup> CoC meeting convened on 11.03.2024, three EoIs were received and out them, two were found eligible to participate in the process. The last date of submission of Resolution Plan was fixed on 09.04.2024, but no Resolution Plan was received up to that date. As such, at the 8<sup>th</sup> CoC meeting held on 10.04.2024, the CoC again proceeded with the publication of Form G and the same was published on 19.04.2024 and the last date of submission was fixed on 18.06.2024.

16. It is submitted that on the last date of submission, one resolution plan was received from Mr. Subhankar Roy who is one of the directors of the suspended board and MSME promoter of the corporate debtor. After discussion with the CoC, the CoC requested to enhance the plan value and accordingly, addenda to the plan were submitted by Mr. Roy on 17.10.2024 and 02.12.2024.



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**H. Evaluation and Voting:**

17. At the 18<sup>th</sup> CoC meeting convened on 02.12.2024, where the revised resolution plan from Mr. Subhankar Roy along with its addenda was placed by the RP.

18. After due deliberation and discussions, the plan along with its addenda was put for e-voting on 02.12.2024 at 7:00 PM to 03.12.2024 at 7:00 PM, and the CoC comprising of sole financial creditor being UCO Bank, approved the resolution plan and its addenda submitted by Mr. Subhankar Roy with 100% voting shares. Subsequently, upon instruction by the CoC, the RP has issued a Letter of Intent (LoI) to Mr. Subhankar Roy on 04.12.2024, annexed at pages 221-222 to this application and the same is unconditionally accepted by Mr. Subhankar Roy.

19. Accordingly, Mr. Subhankar Roy has been declared as Successful Resolution Applicant (SRA).

**I. Compliances of the Resolution Plan submitted by the SRA with various provisions under the I&B Code and CIRP Regulations**

20. In terms of Regulation 39(4) of the Insolvency and Bankruptcy Code (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the RP has filed a Compliance Certificate in prescribed form i.e., Form "H".

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21. It is submitted that the Successful Resolution Applicant has met the criteria approved by the CoC having regard to the complexity and scale of operations of the business of the Corporate Debtor in terms of Section 25(h)(2) of the I&B Code.

22. It is submitted that the Successful Resolution Applicant is eligible to submit a resolution plan in terms of Section 29A read with 240A of the I&B Code, as the Corporate Debtor is a registered MSME and accordingly, an affidavit pursuant to Section 30(1) of the Code has also been furnished by the SRA.

23. Learned Counsel for the Resolution Professional would submit the details of various compliances as envisaged within the I&B Code and the CIRP Regulations to which a Resolution Plan has been adhered to.

24. It is further submitted that in terms of Section 30(2) of the I&B Code, 2016, (as amended vide Amendment dated August 16, 2019) the Resolution Plan, submitted by SRA provides the details of various compliances as under:

<b>Section of the Code / Regulation No.</b>	<b>Requirement with respect to Resolution Plan</b>	<b>Clause of Resolution Plan</b>
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?	Complied, subject to exemption provided in terms of Section 240A of the Code, at pages 22 - 24 of the resolution plan approved by the CoC.



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Section 30(1)	Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?	Complied at pages 12, 23 – 24 of the plan.
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?  (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?]	Complied. At Chapter VI, VII and VIII of the resolution plan



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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?	Complied. Recorded in the 18 <sup>th</sup> CoC meeting minutes.
Section 31(1)	Whether the Resolution Plan has provisions for its effective implementation plan, according to the CoC?	Complied. Chapter X and XII of the resolution plan.
Regulation 38 (1)	Whether the amount due to the operational creditors under the resolution plan has been given priority in payment over financial creditors?]	Complied. At Chapter VI of the resolution plan.
Regulation 38(1A)	Whether the resolution plan includes a statement as to how it has dealt with the interests of all stakeholders?	Complied. At Chapter VI and VIII of the resolution plan.
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.	Complied. At Chapter XIV of the resolution plan (relevant page 71 of the resolution plan).



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	(ii) If so, whether the Resolution Applicant has submitted the statement giving details of such non-implementation?]	
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?	Complied. Chapter X and XII of the resolution plan.
38(3)	Whether 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 for the same? (e) the resolution applicant has the capability to implement the resolution plan?	Complied. Chapter VI of the resolution plan.
39(2)	Whether the RP has filed applications in respect of	RP submits in the Form H (at point no.



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	transactions observed, found or determined by him?	15) that due to non-cooperation of the board of directors suspended, the transaction audit is not completed. An application under Section 19(2) of the Code is pending for adjudication.
Regulation 39(4)	Provide details of performance security received, as referred to in sub-regulation (4A) of regulation 36B.]	Complied by way of RTGS on 05.12.2024. Proof of Payment of Performance Bank Guarantee is annexed at page 223 of the application.

**J. Financial proposal proposed by the SRA:**

25. The Resolution Applicant has proposed an amount of **Rs. 13,11,01,603.86/-** as full and final settlement towards the dues admitted in respect of all the creditors. Vide an Addendum dated 17.10.2024 to the plan, the resolution applicant has proposed a revised financial proposal which is in tabular form as under:

<b>Particulars</b>	<b>Amount</b>	<b>Timeline from Effective Date</b>
Upfront payment towards CIRP cost	Up to Rs. 60,00,000/- or on actual CIRP cost plus 0.25% of realisable value to creditors if it is more than the liquidation value and is payable to Board.	60 days

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Secured Financial Creditor	Rs. 11,10,00,000/-	Within 7 months from the effective date.
Payment towards Statutory dues	Rs. 1603.86	60 days
Payment towards Operational Creditors (Other than Workmen and Statutory dues)	Rs. 1,00,000/-	60 days
Capex, Working Capital and other Requirements	Rs. 1,40,00,000/-	Within 12 months from the effective date
<b>Total</b>	<b>Rs. 13,11,01,603.86/-</b>	

26. As per Form H, the amounts provided for the stakeholders under the Resolution Plan is as under:

(Amount in Rs. Lakh)

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				

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		(ii) who voted in favour of the resolution plan	3234.27	3233.09	1110.00	34.32
		<b>Total[(a) + (b)]</b>	<b>3234.27</b>	<b>3233.09</b>	<b>1110.00</b>	<b>34.32</b>
2	Unsecured Financial Creditors	(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) who voted in favour of the resolution plan				
		<b>Total[(a) + (b)]</b>				
3	Operational Creditors	(a) Related Party of Corporate Debtor				
		(b) Other than (a) above:				
		(i) Government	3.17	1.93	0.017	0.01
		(ii) Workmen				
		(iii) Employees				
		(iv) Other Operational Creditor(s) dues	119.99	71.85	1.00	0.01
		<b>Total[(a) + (b)]</b>	<b>123.17</b>	<b>73.78</b>	<b>11.017</b>	
4	Other debts and dues					
<b>Grand Total</b>			<b>3357.44</b>	<b>3306.87</b>	<b>1111.01</b>	



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**I.A. (IB) No. 138/KB/2024**

27. By way of this application preferred under Section 19(2) read with Section 60(5) of the I&B Code, RP has sought for necessary directions upon the Respondents i.e., Mr. Saubhik Ray, Mr. Gopal Roy, Mr. Subhankar Roy, V. K. Patawari & Co. and Nishant Sonthalia, to give access immediately of the books of accounts and other statutory records of the company and to provide all the information as sought for in connection with accounts, financial statements including books of accounts and other statutory records of the company.

28. RP submits that on 17.11.2023, RP visited the corporate debtor's factory at Hasanpur, Paschim Burdwan, where one of the suspended directors Mr. Subhankar Roy who is the successful resolution applicant herein, and the factory manager Mr. Sona Sharma was also present.

29. The RP handed over a list of documents to the Respondent No. 1 to 3 for smooth flow of the process. It is further contended that RP issued emails repeatedly to the respondents, but compliance was done, and cooperation was made on behalf of the respondents except sharing some limited documents with no supporting papers and books of accounts.

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30. In Form H, the RP states that due to non-cooperation of the suspended board of directors, the transaction audit has not been completed and thus, no PUFEE transaction could be detected. To that effect, this Section 19(2) application has been preferred by the RP.

31. *Per contra*, Mr. Subhankar Roy (R 3) would contend that the documents which were asked for had been maintained in the computer at the factory premises which was under the possession of the RP since admission of the corporate debtor in CIRP and the same was communicated to the RP too.

32. In counter, RP would contend that during the factory visit, Mr. Subhankar Roy (R 3) was asked for accounting data and books of account. However, Mr. Subhankar Roy (R 3) told the RP that no book of accounts and accounting data were updated and the same is not available at the factory.

**I.A. (IB) No. 1387/KB/2024**

33. This application has been preferred by the RP under Section 60(5) of the I&B Code, seeking a condonation of the delay of 24 days by the West Bengal State Electricity Distribution Company Limited (WBSEDCL) from the date of issuance of RFRP by the RP till the submission of claim and allow the inclusion of WBSEDCL in the list of creditors.

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34. RP would submit that the last of submission of claim was on 24.11.2023 and the 90 days of the CIRP completed on 06.02.2024. The RFRP was issued on 20.02.2024. The WBSEDCL filed their claim as an Operational Creditor under specified CIRP Regulations to the tune of Rs. 3,17,768.87/- on 15.03.2024, after 24 days from the issuance of RFRP.

35. RP would further submit that WBSEDCL supplies electricity to the plant of the corporate debtor at Paschim Burdwan, West Bengal. The plant of the corporate debtor is in operation and the continuing operation of such plant is imperative to run the corporate debtor as going concern in as the said plant is the only source of revenue generation for the corporate debtor. The RP verified the claim based on the information or documents received from the WBSEDCL and categorised the claim as acceptable.

36. At the 10<sup>th</sup> CoC meeting convened on 19.06.2024, the claim of the WBSEDCL was put up before the CoC and it was decided that the RP shall file an application before this Adjudicating Authority for condonation of claim and inclusion of WBSEDCL in the list of creditors.

Accordingly, the application has been preferred.

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**ANALYSIS AND FINDINGS:**

37. Prior considering the resolution plan application, we deem it fit to consider the I.A. (IB) No. 138/KB/2024 and I.A. (IB) No. 1387/KB/2024.

**I.A. (IB) No. 138/KB/2024:**

38. Rival contentions were noted, the records were perused, and considered.

39. We have noted that the Fair value (Average) of the Corporate Debtor is arrived at Rs. 15,05,73,995/- and the Liquidation Value (Average) is Rs. 11,14,81,082/-, while the total Plan value including CIRP Cost and working capital is Rs. 13,11,01,603.86/- against total admitted claim of Rs. 33,06,87,013/- leading to a haircut of **60.35%**.

40. In Form H, the RP states that due to non-cooperation of the suspended board of directors, the transaction audit has not been completed and thus, no PUFEE transactions could have been detected and an application being **I.A. (IB) No. 138/KB/2024** has been preferred under Section 19(2) of the I&B Code by the RP.

41. Under similar circumstances, in the matter of **Power Max (India) Pvt. Ltd.** in I.A. (IB) (Plan) No. 2/KB/2024 in Company Petition No. 104/KB/2022, decided on 17.05.2024 reported in (2024) ibclaw.in 522 NCLT, we held that:

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“73. The Insolvency and Bankruptcy Code, 2016 casts huge responsibilities on the Resolution professional to deal with avoidance transactions under Sections 43, 45, 50 and 66 during the corporate insolvency resolution process of a corporate debtor. In fact, the Code contemplates that it is the Resolution Professional alone who would form an opinion and determine avoidance transactions and take it up with the Adjudicating Authority by way of application for appropriate orders.

74. The members of the committee of creditors who participate in the CIR Process neither can devote their time on a full-time basis nor equipped to form an opinion and determine the avoidance transactions in a corporate debtor undergoing CIRP/ liquidation.

**75. If the Resolution Professional misses to determine the avoidance transactions and fail to file applications before the Adjudicating Authority, then no way diverted or syphoned of funds if any can be got back and made available for distribution and insolvency resolution of the corporate debtor.”**

(Emphasis Added)

42. In view of above, we direct the Respondents to **I.A. (IB) No. 138/KB/2024** to cooperate with the RP by providing all the documents as asked for by the RP within a week’s time and also direct the RP to examine the same and determine (a) preferential transactions under section 43 of the I&B Code; (b) undervalued transactions under section 45 of the I&B Code; (c) extortionate credit

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transactions under section 50 of the I&B Code; and (d) fraudulent transactions under section 66 of the I&B Code.

43. RP shall furnish reports time to time before this Adjudicating Authority in this regard. RP's fees as well as any cost for determination of the PUFÉ transactions shall be treated as "Additional CIRP Cost" to be borne by CoC and SRA equally.

44. Persistent non-cooperation albeit this order shall be visited with penalty.

45. Accordingly, **I.A. (IB) No. 138/KB/2024** is **allowed** and **disposed of**.

**I.A. (IB) No. 1387/KB/2024:**

46. Rival contentions were noted, records perused and considered.

47. As per Regulation 32 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, for brevity "CIRP Regulations" the essential goods and services referred to in section 14(2) of the I&B Code shall mean – **electricity**; water; telecommunication services; and information technology services, to the extent these are not a direct input to the output produced or supplied by the corporate debtor.

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48. We find that WBSEDCL through Form B has filed its claim of Rs. 3,17,768.87/- on 15.03.2024, whereas the RFRP was issued on 20.02.2024. The RP verified the claim based on the information received from the WBSEDCL, out of which a sum of Rs. 1,93,236.36/- has been admitted by the RP and an amount of Rs. 1,10,958.20/- has been treated as CIRP Cost.

49. We find that at the 10<sup>th</sup> CoC meeting convened on 19.06.2024, the claim of WBSEDCL was discussed and deliberated upon. It was decided that the RP shall file an application for condonation of claim and therefore, including the WBSEDCL in the list of Creditors.

50. Law is well-settled that CIRP is a time bound mechanism, and the creditor shall submit its claim within the time period as prescribed under Regulation 12(1) of the CIRP Regulations.

51. However, Regulation 13(1B) and (1C) of the said Regulations envisages a reasonable opportunity to the creditors, who fail to submit their claim within Regulation 12(1) time period, may submit their claim before the RP up to seven days before the date of meeting of creditors for voting on the resolution plan or the initiation of liquidation and after verification, RP shall categorize the claim as acceptable or non-acceptable for collation and such creditors may be included in the list of creditors, upon recommendation of CoC and subsequently, consideration by the Adjudicating Authority.

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52. Power supply is an essential service for running a company as going concern, and as the corporate debtor is run as a going concern, and the claim has been filed within the ongoing CIRP prior to the approval of resolution plan by the CoC, the strict adherence to the timelines under Regulation 12(1) would be warranted on the account of “fresh slate” theory as formulated by the Hon’ble Apex Court in **Committee of Creditors of Essar Steel India Limited vs. Satish Kumar Gupta** reported in (2020) 8 SCC 531: MANU/SC/1577/2019. The Hon’ble Apex Court has observed that:

*“A successful resolution Applicant cannot suddenly be faced with "undecided" claims after the resolution plan submitted by him has been accepted as this would amount to a hydra head popping up which would throw into uncertainty amounts payable by a prospective resolution Applicant who successfully take over the business of the corporate debtor. **All claims must be submitted to and decided by the resolution professional so that a prospective resolution Applicant knows exactly what has to be paid in order that it may then take over and run the business of the corporate debtor.** This the successful resolution Applicant does on a fresh slate, as has been pointed out by us hereinabove.*”

(Emphasis Added)

53. However, in an identical circumstance, the Learned Coordinate Bench of NCLT, Hyderabad in the case of **JBF Industries Ltd. v. Mr. Anup Kumar Singh** in I.A. No. 156 of 2019 in C.P. (IB)





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No. 421/7/HDB/2018, reported in (2019) ibclaw.in 618 NCLT, has condoned the delay in submission of claim by observing that:

*“16. [...]. This Application is filed seeking condonation of delay in submitting the claim before the Resolution Professional. I am satisfied with the reasons given for the delay. The CIRP is pending. Therefore, delay can be condoned but it is for the Resolution Professional to decide whether claim to be admitted or not. The only relief Applicant is seeking from the Tribunal to condone the delay in submitting the claim. To meet the ends of justice and further CIRP is still pending and if delay is condoned it will not in any way affect the ongoing CIRP. Therefore, there are grounds to condone the delay and the Resolution Professional to consider the claim submitted by the Applicant according to law.”*

(Emphasis Added)

54. We also note that at the 10<sup>th</sup> CoC meeting convened on 19.06.2024, the claim of the WBSEDCL was placed before the CoC and it is deliberated upon that the RP shall file an application before this Adjudicating Authority for condonation of claim and inclusion of WBSEDCL in the list of creditors. Thus, to meet the end of justice, we deem fit to condone the delay of 24 days as prayed for and direct inclusion of the WBSEDCL in the list of creditors.

55. Accordingly, **I.A. (IB) No. 1387/KB/2024** is **allowed** and **disposed of**.

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56. Now, we would proceed to consider the application seeking approval of the resolution plan.

**I.A. (IB) (Plan) No. 22/KB/2024:**

**On the Conduct of CoC**

57. Upon hearing, the submission made by the Learned Counsel appearing on behalf of the Resolution Professional of Corporate Debtor herein and perusing the record and/or documents placed before this Adjudicating Authority, we would find that **the Resolution Plan dated 18.09.2024 with its Addenda dated 17.10.2024 and 02.12.2024** submitted by **Mr. Subhankar Roy**, annexed at pages 109 – 220 to the application has been approved by the CoC of the Corporate Debtor by **100%** voting share on 03.12.2024 and **Mr. Subhankar Roy**, is declared as the **“Successful Resolution Applicant”**.

58. As per the CoC, the plan meets the requirement of being viable and feasible for the revival of the Corporate Debtor. Preponderantly, all the compliances have been done by the Resolution Applicant for making the plan effective after approval by this Adjudicating Authority.

59. We have already noted that the Fair value (Average) of the Corporate Debtor is arrived at Rs. 15,05,73,995/- and the Liquidation Value (Average) is Rs. 11,14,81,082/-, while the total

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Plan value including CIRP Cost and working capital is **Rs. 13,11,01,603.86/-** against total admitted claim of Rs. 33,06,87,013/- leading to a haircut of **60.35%**.

60. In the course of the hearing, the Learned Counsel for the Resolution Professional would submit that the Resolution Plan complies with all the provisions of the Insolvency and Bankruptcy Code, 2016, read with relevant Regulations of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and does not contravene any of the provisions of law for the time being in force.

61. Upon perusal of the documents on record and/or documents, we are satisfied that the **Resolution Plan dated 18.09.2024 with its Addenda dated 17.10.2024 and 02.12.2024** submitted by **Mr. Subhankar Roy** is in accordance with sections 30 and 31 of the I&B Code, 2016 and also complies with regulations 38 and 39 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

**On the Statutory Obligations for Seeking Approvals from the Authorities:**

62. As far as the question of granting time to comply with the statutory obligations or seeking approvals from authorities is concerned, the Resolution Applicant is directed to do so within one year from the date of this order, as prescribed under section 31(4) of the I&B Code.

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**On the Reliefs, Waivers and Concessions:**

63. We have perused the reliefs, waivers and concessions as sought and as provided in the Resolution Plan. It is evident that some of the reliefs, waivers and concessions sought by the Resolution Applicant come within the ambit of the I&B Code and the Companies Act 2013, while many others fall under the power and jurisdiction of different government authorities/departments.

64. This Adjudicating Authority has the power to grant reliefs, waivers and concessions only concerning the reliefs, waivers and concessions that are directly with the I&B Code and the Companies Act (within the powers of the NCLT). The reliefs, waivers and concessions that pertain to other governmental authorities/departments may be dealt with by the respective competent authorities/forums/offices, Government or Semi-Government of the State or Central Government concerning the respective reliefs, waivers and concession, whenever sought for. The competent authorities including the Appellate authorities may consider granting such reliefs, waivers and concessions keeping in view the spirit of the I&B Code, 2016 and the Companies Act, 2013.

65. It is almost trite and fairly well-settled that the Resolution Plan must be consistent with the extant law. The Resolution Applicant shall make necessary applications to the concerned regulatory or statutory authorities for the renewal of business permits and supply of essential services, if required, and

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all necessary forms along with filing fees etc. and such authority shall also consider the same keeping in mind the objectives of the Code, which is essentially the resolving the insolvency of the Corporate Debtor.

66. In this context, we would rely upon the judgment in ***Embassy Property Developments Pvt. Ltd. vs. State of Karnataka*** reported at **MANU/SC/1661/2019: (2020) 13 SCC 308**, wherein, the Hon'ble Apex Court has laid down that:

“39. If NCLT has been conferred with jurisdiction to decide all types of claims to property, of the corporate debtor, Section 18(f)(vi) would not have made the task of the interim resolution professional in taking control and custody of an asset over which the corporate debtor has ownership rights, subject to the determination of ownership by a court or other authority. In fact an asset owned by a third party, but which is in the possession of the corporate debtor under contractual arrangements, is specifically kept out of the definition of the term "assets" under the Explanation to Section 18. This assumes significance in view of the language used in Sections 18 and 25 in contrast to the language employed in Section 20. Section 18 speaks about the duties of the interim resolution professional and Section 25 speaks about the duties of resolution professional. These two provisions use the word "assets", while Section 20(1) uses the word "property" together with the word "value". Sections 18 and 25 do not use the expression "property". Another important aspect is that Under Section 25(2)(b) of IBC, 2016, the resolution professional is obliged to represent and act on behalf of the corporate debtor with third parties and exercise rights for the benefit of the corporate



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debtor in judicial, quasi-judicial and arbitration proceedings. Section 25(1) and 25(2)(b) reads as follows:

*25. Duties of resolution professional -*

*(1) It shall be the duty of the resolution professional to preserve and protect the assets of the corporate debtor, including the continued business operations of the corporate debtor.*

*(2) For the purposes of Sub-section (1), the resolution professional shall undertake the following actions:*

*(a).....*

*(b) represent and act on behalf of the corporate debtor with third parties, **exercise rights for the benefit of the corporate debtor in judicial, quasi judicial and arbitration proceedings.***

**This shows that wherever the corporate debtor has to exercise rights in judicial, quasi-judicial proceedings, the resolution professional cannot short-circuit the same and bring a claim before NCLT taking advantage of Section 60(5).**

**40. Therefore in the light of the statutory scheme as culled out from various provisions of the IBC, 2016 it is clear that wherever the corporate debtor has to exercise a right that falls outside the purview of the IBC, 2016 especially in the realm of the public law, they cannot, through the resolution professional, take a bypass and go before NCLT for the enforcement of such a right.”**

**(Emphasis Added)**

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67. The reliefs sought for subsisting contracts/agreements can be granted, and no blanket orders can be granted in the absence of the parties to the contracts and agreements.

**On the Extinguishment of Claims:**

68. Concerning the waivers with regard to the extinguishment of claims which arose prior to the initiation of the CIR Process and which have not been claimed are granted in terms of the law laid down by the Hon'ble Apex Court in **Ghanashyam Mishra and Sons Private Limited vs. Edelweiss Asset Reconstruction Company Limited** reported in **MANU/SC/0273/2021: (2021)9SCC657: [2021]13SCR737** that “once a resolution plan is duly approved by the Adjudicating Authority Under Sub-section (1) of Section 31, the claims as provided in the resolution plan shall stand frozen and will be binding on the Corporate Debtor and its employees, members, creditors, including the Central Government, any State Government or any local authority, guarantors and other stakeholders. On the date of approval of resolution plan by the Adjudicating Authority, all such claims, which are not a part of resolution plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim, which is not part of the resolution plan.” (Emphasis Added)

69. Further, the relevant part of the **Ghanashyam Mishra judgment (supra)** in this regard is given below:

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*“61. All these details are required to be contained in the information memorandum so that the resolution applicant is aware, as to what are the liabilities, that he may have to face and provide for a plan, which apart from satisfying a part of such liabilities would also ensure, that the Corporate Debtor is revived and made a running establishment. The legislative intent of making the resolution plan binding on all the stakeholders after it gets the seal of approval from the Adjudicating Authority upon its satisfaction, that the resolution plan approved by CoC meets the requirement as referred to in Sub-section (2) of Section 30 is, that after the approval of the resolution plan, no surprise claims should be flung on the successful resolution applicant. The dominant purpose is, that he should start with fresh slate on the basis of the resolution plan approved.”*

*“62. This aspect has been aptly explained by this Court in the case of Committee of Creditors of Essar Steel India Limited through Authorised Signatory (supra).”*

*“107. For the same reason, the impugned NCLAT judgment [Standard Chartered Bank v. Satish Kumar Gupta] in holding that claims that may exist apart from those decided on merits by the resolution professional and by the Adjudicating Authority/Appellate Tribunal can now be decided by an appropriate forum in terms of Section 60(6) of the Code, also militates against the rationale of Section 31 of the Code. A successful resolution applicant cannot suddenly be faced with "undecided"*





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*claims after the resolution plan submitted by him has been accepted as this would amount to a hydra head popping up which would throw into uncertainty amounts payable by a prospective resolution applicant who would successfully take over the business of the corporate debtor. All claims must be submitted to and decided by the resolution professional so that a prospective resolution applicant knows exactly what has to be paid in order that it may then take over and run the business of the corporate debtor. This the successful resolution applicant does on a fresh slate, as has been pointed out by us hereinabove. For these reasons, NCLAT judgment must also be set aside on this count.*

**(Emphasis Added)**

70. In this regard, we would also rely upon the judgement of the Hon'ble High Court of Rajasthan in the matter of **EMC v. State of Rajasthan, Civil Writ Petition No. 6048/2020 with 6204/2020** reported in **(2023) ibclaw.in 42 HC**, wherein it has been inter-alia held that:

*“Law is well-settled that with the finalization of insolvency resolution plan and the approval thereof by the NCLT, all dues of creditors, Corporate, Statutory and others stand extinguished and no demand can be raised for the period prior to the specified date.”*

**(Emphasis Added)**

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71. Thus, on the date of approval of the resolution plan by the Adjudicating Authority, all such claims, that are not a part of the resolution plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim, which is not part of the resolution plan. The Hon'ble Supreme Court of India further laid down that all the dues including the statutory dues owed to the Central Govt, any State Govt 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 before the date on which the Adjudicating Authority grants its approval under Section 31 of the I&B Code could be continued.

**On Guarantors:**

72. Concerning the waivers sought in relation to guarantors, the Hon'ble Apex Court held in **Lalit Kumar Jain v. Union of India** reported in **MANU/SC/0352/2021: (2021) 9 SCC 321: (2021) ibclaw.in 61 SC** that the sanction of a resolution plan and finality imparted to it by Section 31 does not per se operate as a discharge of the guarantor's liability. As to the nature and extent of the liability, much would depend on the terms of the guarantee itself.

**(Emphasis Added)**

73. Further, we would rely upon the judgment rendered by the NCLAT in **Roshan Lal Mittal v. Rishabh Jain** reported in **(2023) ibclaw.in 803 NCLAT** that:

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*“The Resolution Plan does not absolve the personal guarantors from their guarantee. The law well settled by the Hon’ble Supreme Court in the matter of “Lalit Kumar Jain vs. Union of India & Ors. – (2021) 9 SCC 321), that by approval of resolution plan the guarantees are not ipso facto discharged.”*

**(Emphasis Added)**

74. We have further noted that the resolution applicant vide Addendum dated 02.12.2024 to the Resolution Plan dated 18.09.2024, has clarified that *“All the personal and corporate guarantee will not be released and shall remain with financial creditors and this clause of addendum shall supersedes all previous addendums to the Resolution Plan or any such clauses as may have been stated in the Resolution Plan itself.”*

75. Hence, we would infer that all the guarantees whether personal or corporate in nature, will not be redeemed by the virtue of the approval of this resolution plan. Thus, if there are any guarantors of the corporate debtor, the creditor(s) will invoke those guarantees and an appropriate action against them, as per law, be taken.

**On Inquiries, Litigations, Investigations, and Proceedings:**

76. For the reliefs and waivers sought for all inquiries, litigations, investigations, and proceedings shall be granted strictly as per section 32A of the I&B Code, 2016 and the provisions of the law as may be applicable.

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77. In this context, we would infer that upon the approval of the Resolution Plan, the Corporate Debtor avails the limbs of new management to revive its business. Thus, all the past liabilities of the Corporate Debtor including criminal liability prior to the initiation of the CIR Process shall stand effaced and the new management will step into the shoes of the company with a fresh or clean slate. Hence, the old management shall be liable to face all the offences committed prior to the commencement of the CIR Process. At this juncture, we would rely upon the judgment rendered by the Hon'ble Apex Court in ***Ajay Kumar Radheyshyam Goenka vs. Tourism Finance Corporation of India Ltd.*** reported in **MANU/SC/0244/2023: (2023) 10 SCC 545** that:

*“67. Thus, Section 32A broadly leads to:*

*a. **Extinguishment of the criminal liability of the corporate debtor, if the control of the corporate debtor goes in the hands of the new management which is different from the original old management.***

*b. The prosecution in relation to "every person who was a "designated partner" as defined in Clause (j) of Section 2 of the Limited Liability Partnership Act 2008 (6 of 2009), or an "officer who is in default", as defined in Clause (60) of Section 2 of the Companies Act. 2013 (18 of 2013), or was in any manner in charge of, or responsible to the corporate debtor for the conduct of its business or associated with the corporate debtor in any manner and who was directly or indirectly involved in the commission of such offence" shall be proceeded and the law will take it's own course. Only the corporate*

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*debtor (with new management) as held in Para 42 of P. Mohanraj will be safeguarded.*

*c. If the old management takes over the corporate debtor (for MSME Section 29A does not apply (see 240A), hence for MSME old management can takeover) the corporate debtor itself is also not safeguarded from prosecution Under Section 138 or any other offences.”*

**(Emphasis Added)**

78. Further, the **Hon’ble High Court of Madras in *Vasan Healthcare Pvt. Ltd. vs. The Deputy Director of Income Tax (Investigation), Unit 3(2)*** reported in **MANU/TN/0243/2024: (2024) ibclaw.in 80 HC**, (hereinafter referred to as ‘***Vasan Healthcare Pvt. Ltd. P***’) has held that:

*“9. In the above judgement, the Apex Court after dealing with the provision in detail, came to a categoric conclusion that insofar as the criminal prosecution is concerned, the criminal liability of the corporate debtor viz., company gets completely wiped off and the new management is allowed to take over the company on a clean slate. However, the Apex Court also made it clear that the persons who are involved in the day today affairs of the company and were incharge and responsible for running of the company, will be liable to face all the **offence committed prior to the commencement of the Corporate Insolvency Resolution Process. There is no escape for those persons from criminal liability even though the corporate debtor is given a clean slate and is handed over to the new Management.**”*

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10. Useful reference can also be made to the judgement of **the Calcutta High Court in [Tantia Constructions Limited Vs. Krishna Hi-Tech Infrastructure P Ltd] in CRP No. 172 of 2022.** The relevant portions in the order are extracted hereunder :-

4. For the **application of Section 32A of IBC, 2016** and in light of the present matter, it is pertinent to determine the following two issues, i.e.,

**i. Whether the offence as complained in the impugned criminal proceedings has been alleged to be committed before the initiation of corporate insolvency resolution process or during such process?**

**ii. Whether the resolution plan has resulted in change in the management or corporate debtor in consonance with the provisions of Section 32A(1) of IBC, 2016?**

5. With respect to Issue No. 1, it is pertinent to note that the corporate insolvency resolution process as against the Petitioner/Corporate Debtor was initiated on 13.03.2019 when the application was accepted and the Order of Moratorium under Section 14 of the IBC, 2016 was imposed by NCLT, Kolkata in the aforementioned case. The complaint that commenced the impugned criminal proceedings was filed on 22.07.2019 before the concerned court by the opposite party. Whereby, said alleged offence so complained, took place before or during the corporate insolvency resolution process and is covered under the ambit of Section 32A of IBC, 2016.

6. With respect to Issue No. 2, it is observed that the petitioner has not made specific submission in this regard. However, it is the submission of the opposite party that the **impugned**

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***complaint case does not concern itself with the new directors that were appointed after takeover by the Resolution Applicant in line with the Resolution Plan so approved by NCLT dated 24.02.2022. It is their submission that they are primarily aggrieved by the actions of petitioner when it was in control of erstwhile Directors.***

11. The above judgement clearly lays down the law on the subject. The moment the Corporate Insolvency Resolution Process is initiated against the corporate debtor and the application is accepted by the NCLT, the moratorium comes into operation. **Once the resolution plan is accepted by the NCLT and orders are passed and the Corporate debtor gets into hands of the new management, all the past liabilities including the criminal liability of the Corporate debtor gets wiped off and the new Management takes over the company with clean slate.”**

**(Emphasis Added)**

79. Further, the Hon’ble Madras High Court in ***M/s. Vasan Healthcare Pvt Ltd v. M/s. India Infoline Finance Ltd***, CrI O.P. No. 1772 of 2024, reported in (2024) ibclaw.in 700 HC, (hereinafter referred to as ‘***Vasan Healthcare Pvt. Ltd. IP***) has observed that:

***“13. As a result of the above discussion and the law laid in Ajay Kumar Radheshyam Goenka case, it is clear that the corporate debtor cannot be prosecuted for the prior liability after the approval of the Resolution Plan. At the same time, it is to be bear in mind the protection under Section 32-A of Insolvency & Bankruptcy Code, 2016 is restricted only to the Corporate debtor and not to its Directors who were in-charge of the affairs of the***

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**Company when the offence committed** or the signatory  
of the cheque.”

**(Emphasis Added)**

80. Very recently, the Hon’ble Delhi High Court in ***Bhushan Power & Steel Limited v. Union of India*** in **W.P. (CRL) 1261/2024**, judgment dated 30.01.2025, has laid down that:

“6.1 A plain reading of the above provision would reveal that there is no dispute over the legal position that once a resolution plan has been approved by the adjudicating authority under Section 31 of IBC and the conditions specified in Section 32A of the IBC are fulfilled, the Corporate Debtor shall not be prosecuted for an offence committed prior to the commencement of the CIRP.

6.2 However, **Section 32A of IBC also clarifies that any erstwhile officer of the Corporate Debtor who was in any manner in charge of, or responsible to the Corporate Debtor for the conduct of its business or associated with the Corporate Debtor in any manner or who was directly or indirectly involved in the commission of such offence prior to the commencement of CIRP as per the complaint filed by the investigating authority, shall continue to be prosecuted and punished for such an offence committed by the Corporate Debtor, notwithstanding that the Corporate Debtor’s liability has ceased.**

xxx

xxx

xxx

7.1 Further, in view of the mandate under sub-section (1) of Section 32A of the IBC, the Petitioner Company, having undergone a successful resolution process under Section 31 of the IBC, shall not be prosecuted for the offences committed prior to the commencement of the CIRP.”



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**(Emphasis Added)**

81. For the sake of convenience, the reliefs, concessions, and approvals sought in the Resolution Plan dated 18.09.2024 at Chapter XIII (pages 60-67 of the plan), are catered to as below and the orders thereon are indicated against each as under:

<b>Cl.</b>	<b>Reliefs, Concessions, and Approvals sought for</b>	<b>Our Inference with the Relevant Provisions and/or Case laws</b>	<b>Our Orders thereon</b>
<b>Reliefs and Concessions for the implementation of the Resolution Plan.</b>			
<b>1.</b>	<i>Waiver from the levy of stamp duty and fees by the stamp authorities and Ministry of Corporate Affairs, applicable in relation to this Revised Resolution Plan and its implementation.</i>	This Tribunal is not the appropriate authority to consider the waiver from the levy of stamp duty and fees by the concerned authorities. The resolution applicant is directed to approach the concerned authority in this regard.	<b>Not Allowed.</b>
<b>2.</b>	<i>The Company and the Resolution Applicant shall be granted an exemption from all taxes, levies, fees, transfer</i>	Whatever the immunity provided in <b>Ghanashyam</b>	<b>Allowed</b> in accordance with law.

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	<i>charges, transfer premiums, and surcharges that arise from or relate to implementation of the Revised Resolution Plan, since payment of these amounts may make the Revised Resolution Plan unviable.</i>	<b>Mishra (Supra)</b> , shall be applicable.	
<b>3.</b>	<i>Once the Revised Resolution Plan is accepted it shall bestow unfettered rights and obligations on incoming promoters i.e., SR on any claims that Corporate Debtor may have against any third party including but not limited to any authority due to any past event(s), whether force-majeure or otherwise irrespective of whether such claims have been submitted for encashment to the respective party. The Financial creditors shall have no continuing right against the applicant/incoming promoters on and after successful execution of the steps envisaged under the Revised Resolution Plan.</i>	Whatever the immunity provided in <b>Ghanashyam Mishra (Supra)</b> , shall be applicable.	<b>Allowed</b> in accordance with law.
<b>4.</b>	<i>Any approvals that may be required from Governmental Authorities (including tax authorities) in connection with the implementation of the Revised Resolution Plan including on account of change in ownership control of the Company shall be deemed to have been granted on the NCLT Approval Date.</i>	As per Section 37(l) of the CIRP Regulations, a resolution plan may provide for <u>the measures required for implementing the same by</u>	<b>Allowed</b> in accordance with law.



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		<p><u>obtaining necessary approval from the Central and State Governments and other authorities.</u></p> <p>Thus, in terms of the CIRP Regulations, we hereby grant the liberty to move any application before the concerned/ appropriate authorities, if required, in connection with the successful implementation of this Resolution Plan.</p>	
<b>5.</b>	<p><i>Subject to Section 32 A of the Code, all inquiries, investigations and proceedings. whether civil, suits, claims, disputes, proceedings in connection with the Company or affairs of the Company, including proceedings before the Debt Recovery Tribunal. Magistrate's Court. High Court</i></p>	<p>Whatever immunity can be granted strictly under Section 32A of the I&amp;B Code and the law laid down in <b>Ajay Kumar Radheyshya m Goenka</b></p>	<p><b>Allowed</b>, in accordance with law and Section 32A read with the judgment cited herein.</p>

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	<p><i>and consumer courts, pending, if any or threatened, present or future in relation to any period prior to the NCLT Approval Date, or arising on account of implementation of this Revised Resolution Plan shall stand withdrawn and dismissed and all liabilities and obligations therefore, whether or not set out in the balance sheets of the Company or the profit and loss account statements of the Company will be deemed to have been written off fully, and permanently extinguished and no adverse orders passed in the said matters should apply to the Company or the Resolution Applicant. Subject to the provisions contained in Section 32A of the Code, upon approval of this Revised Resolution, Plan, all new inquiries, investigations, notices, suits, claims, disputes, litigations, arbitrations or other judicial, regulatory or administrative proceedings will be deemed to be barred and will not be initiated or admitted against the Company in relation to any period prior to the NCLT Approval Date.</i></p>	<p><b>(Supra), Tantia Constructions Limited (Supra), Vasan Healthcare Pvt. Ltd. I (Supra), Vasan Healthcare Pvt. Ltd. II (Supra)</b> and in <b>Bhushan Power (Supra)</b>, shall be allowed; nothing more and nothing less.</p>	
<p><b>6.</b></p>	<p><i>Roysons Ceramics Private Limited and the Resolution Applicant shall be granted an exemption from all taxes, levies, fees, transfer charges, transfer premiums, and</i></p>	<p>Whatever the immunity provided in <b>Ghanashyam Mishra</b></p>	<p><b>Allowed</b> in accordance with law.</p>



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	<p><i>surcharges and any other dues of any authorities that relates to period prior to the Effective Date. For financial sustainability and also keeping in view the fact that the CD requires major revamping, the Resolution Applicant shall be free to appoint its own resources including manpower, labour, workforce and shall not be bound by any Government authority to appoint any of the old employee workmen or follow requirement of employing from particular state or region. Resolution Applicant and its technical team will follow their own well-designed model of employment which will include contractual/fix term/ probation/ regular or deputation or on consultant basis.</i></p>	<p><b>(Supra)</b>, shall be applicable.</p>	
<p><b>7.</b></p>	<p><i>The jurisdictional Registrar of Companies to take on record and implement the Plan. upon approval of the Plan by NCLT, without any further compliances and re-instate all the approvals and waive all the financial or other penalties/ interest/prosecution of all type and nature.</i></p>	<p>In terms of Section 31(4) of the I&amp;B Code, the resolution applicant shall, pursuant to the approval of the resolution plan, obtain the necessary approval required under any existing law within a</p>	<p><b>Allowed</b> in accordance with law and subject to compliance .</p>

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		<p><u>period of one year</u> from the date of approval of the resolution plan by the Adjudicating Authority or within such period as provided for in such law, whichever is later.</p>	
<b>8.</b>	<i>All Designated Authorized Dealer Category Banks to grant any approval or dispensation as may be required for actions contemplated under the Plan in accordance with its terms and conditions.</i>	Whatever the immunity provided in <b>Ghanashyam Mishra (Supra)</b> , shall be applicable.	<b>Allowed</b> in accordance with law.
<b>9.</b>	<i>Waiver of any income-tax and Minimum Alternate Tax (MAT) liability or consequences (including interest, fine, penalty, etc.) on Roysons Ceramics Private Limited Resolution Applicant and its shareholders on account of various steps as proposed in the Revised Resolution Plan, including but not limited to liabilities if any under Section 41 (1), Section 56, Section 43. Section 43 B. Section 28. Section 115JB and Section 79 Of the Income-tax Act, 1961, including, without limitation waiver of MAT and income tax implication arising due to write</i>	The Proviso under Section 79 of the Income Tax Act, 1961 says that <i>nothing contained in this section shall apply to a company where a change in the shareholding takes place in a previous year pursuant to a resolution plan approved under the</i>	<b>Not Allowed.</b>



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<p><i>back/write off of liabilities in the books of accounts of Roysons Ceramics Private Limited without any impact on brought forward tax and book loss/depreciation, pursuant to this Revised Resolution Plan.</i></p>	<p><u>Insolvency and Bankruptcy Code, 2016, after affording a reasonable opportunity of being heard to the jurisdictional Principal Commissioner or Commissioner.</u></p> <p>Further Section 80-IB of the IT Act, 1961 enshrines the provisions of the deduction in respect of profits and gains from certain industrial undertakings other than infrastructure development undertakings.</p> <p>Further, Section 115JB of the Act, 1961 provides a Special provision for payment of tax</p>	
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		by certain companies.  Thus, in terms of the above, we are of the view that this relief is for the concerned Income Tax Department to consider upon detailed deliberation of the provisions of the IT Act, and such is not this Adjudicating Authority to consider. Hence, we direct to approach the concerned authorities upon necessary compliances.	
<b>10</b>	<i>The Central Board of Direct Taxes to: (i) not void or take any other actions with respect to the transactions contemplated under this Plan under Section 281 of the IT Act.</i>	This Tribunal is not the appropriate authority to consider this reliefs. Hence, we direct to approach the concerned authorities upon	<b>Not Allowed.</b>



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		necessary compliances.	
<b>11</b>	<i>Upon approval of the Revised Resolution Plan by the NCLT, all non-compliances, breaches and defaults of Roysons Ceramics Private Limited for the period prior to the Effective Date (including but not limited to those relating to tax), shall be deemed to be waived by the concerned Governmental Authorities. Immunity shall be deemed to have been granted to Roysons Ceramics Private Limited from all proceedings and penalties under Applicable Laws for any non-compliance for the period prior to the Effective Date and no interest/penal implications shall arise due to such non-compliance/default/breach prior to the Effective Date. His includes, without limitation, waiver/extinguishment of any penalties/Interests on account of staggered payment of statutory liabilities of the workmen employees of Roysons Ceramics Private Limited in accordance with the terms of this Revised Resolution Plan.</i>	Whatever the immunity provided in <b>Ghanashyam Mishra (Supra)</b> , shall be applicable.	<b>Allowed</b> in accordance with law.
<b>12</b>	<i>Waiver/ extinguishment of any tax liability (including but not limited to income tax and MAT) and duty (including interest, fine, penalty, etc.) and legal liability pertaining for the</i>	Whatever the immunity provided in <b>Ghanashyam Mishra</b>	<b>Allowed</b> in accordance with law.

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	<i>period prior to the Effective Date such as any kind of existing and or future litigation/assessment/scrutiny/ contingency.</i>	<b>(Supra)</b> , shall be applicable.	
<b>13</b>	<i>The licenses, business permits, government/departmental incentives, approvals etc. in relation to business and operations, which were possessed by the Corporate Debtor to conduct the business and operations shall deem in continuation without any extra cost/charges/fees/compliance s on the date of final approval of NCLT as it were prior to the NCLT Approval Date. The concerned authorities shall not restrict or impose any condition on renewal/continuance of the licenses, business permits, government/departmental incentives, approvals etc. on ground of change of control/management or any act/omission of the Corporate Debtor pertaining to period prior to the NCLT Approval Date. The concerned authorities shall provide all required support in renewal/continuance of the licenses, business permits. government/departmental incentives, approvals etc.</i>	This is for the relevant and/or appropriate authority to consider keeping in view the objective of the I&B Code, and not for this Tribunal to consider.	<b>Not Allowed.</b>
<b>14</b>	<i>In case any of the Business Permits, licenses of the Corporate Debtor are lapsed. expired. suspended. cancelled,</i>	This is for the relevant and/or appropriate	<b>Not Allowed.</b>



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	<p><i>revoked or terminated or the Corporate Debtor has non-Compliances in relation thereto on the NCLT Approval Date. Accordingly, all Governmental Authorities to provide reasonable time period after the NCLT Approval Date in order for the Resolution Applicant to assess the status of these business permits/licenses and ensure that the Corporate Debtor is compliant with the terms of such business permits/licenses and Applicable Law without initiating any investigations, actions or proceedings in relation to such Non-Compliances and permit the Resolution Applicant to continue to operate and financially revive the business of the Corporate Debtor. The concerned authorities shall not restrict or impose any condition as regards these business permits/licenses on ground of any act/omission of the Corporate Debtor pertaining to period prior to the NCLT Approval Date or change of control/management.</i></p>	<p>authority to consider keeping in view the objective of the I&amp;B Code, and not for this Tribunal to consider.</p>	
<p><b>15</b> .</p>	<p><i>All subsidies, grants, incentives, etc. possessed and enjoyed by the Corporate Debtor on the Insolvency Commencement Date, shall continue to be enjoyed</i></p>	<p>This is for the relevant and/or appropriate authority to consider</p>	<p><b>Not Allowed.</b></p>

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	<i>pursuant to the approval of this Revised Resolution Plan. The concerned authorities shall not restrict or impose any condition on renewal/continuance of the subsidies, grants, incentives, etc. on ground of change of control/management or any act/omission of the Corporate Debtor pertaining to period prior to the NCLT Approval Date.</i>	keeping in view the objective of the I&B Code, and not for this Tribunal to consider.	
<b>16</b>	<i>All properties of the Corporate Debtor required to be taken into custody in accordance with Section 18 of the Code and which is lying in the possession of the Promoters or the Related Parties of the Promoters, if any, shall be immediately vacated, released and transferred in fit proper condition to the Corporate Debtor.</i>	Whatever the immunity provided in <b>Ghanashyam Mishra (Supra)</b> , shall be applicable.	<b>Allowed</b> in accordance with law.
<b>17</b>	<i>From the Effective Date, all inquiries, investigations and proceedings. whether civil or criminal, suits, claims, disputes, proceedings in connection with Roysons Ceramics Private Limited or affairs of Roysons Ceramics Private Limited (including those initiated by Governmental Authorities) and that that of the guarantors, pending or threatened, present or future in relation to any period prior to the Effective Date, or arising on account of implementation of this Revised Resolution Plan</i>	Whatever immunity can be granted strictly under Section 32A of the I&B Code and the law laid down in <b>Ajay Kumar Radheyshya m Goenka (Supra)</b> , <b>Tantia Constructions Limited (Supra)</b> , <b>Vasan</b>	<b>Allowed</b> , in accordance with law and Section 32A read with the judgment cited herein.



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	<p><i>shall stand withdrawn and dismissed and all liabilities and obligations therefore, whether or not set out in the balance sheets of Roysons Ceramics Private Limited of the profit and loss account statements of Roysons Ceramics Private Limited will be deemed to have been written off fully, and permanently extinguished and no adverse orders passed in the said matters should apply to Roysons Ceramics Private Limited or the Resolution Applicant. Upon approval of this Revised Resolution Plan, all new inquiries, investigations, notices, suits, claims, disputes, litigations, arbitrations or other judicial, regulatory or administrative proceedings will be deemed to be barred and will not be initiated or admitted against Roysons Ceramics Private Limited and/or its new management in relation to any period prior to the Effective Date.</i></p>	<p><b>Healthcare Pvt. Ltd. I (Supra), Vasan Healthcare Pvt. Ltd. II (Supra) and in Bhushan Power (Supra),</b> shall be allowed; nothing more and nothing less.</p>	
<p><b>18</b></p>	<p><i>Neither the Resolution Applicant nor Roysons Ceramics Private Limited, nor their respective directors, officers and employees appointed as on or after the Effective Date shall be liable for any violations, liabilities, and penalties, interests on</i></p>	<p>Whatever immunity can be granted strictly under Section 32A of the I&amp;B Code and the law laid down in <b>Ajay Kumar</b></p>	<p><b>Allowed,</b> in accordance with law and Section 32A read with the judgment</p>



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	<i>statutory payments and/or fines with respect to or pursuant to any order of any Governmental Authority or on account of non-compliance of Applicable Laws by Roysons Ceramics Private Limited or due to Roysons Ceramics Private Limited not having in place requisite approvals and licenses to undertake its business as per Applicable Law.</i>	<b>Radheyshya m Goenka (Supra), Tantia Constructions Limited (Supra), Vasan Healthcare Pvt. Ltd. I (Supra), Vasan Healthcare Pvt. Ltd. II (Supra)</b> and in <b>Bhushan Power (Supra)</b> , shall be allowed; nothing more and nothing less.	cited herein.
<b>19</b>	<i>The grant of set off and carry forward benefits under the Income Tax Act, 1961 shall not be affected by any acts/omissions done by the Corporate Debtor prior to the NCLT Approval Date.</i>	Whatever the immunity provided in <b>Ghanashyam Mishra (Supra)</b> , shall be applicable.	<b>Allowed</b> in accordance with law.
<b>20</b>	<i>The lease in terms of properties of Roysons Ceramics Private Limited, if any business permits licenses/or any statutory order (s) which were possessed by the Corporate Debtor to conduct the business and hold properties shall deem in continuation without any extra cost/charges/fees/compliance</i>	This is for the relevant and/or appropriate authority to consider keeping in view the objective of the I&B Code, and not for	<b>Not Allowed.</b>



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	<p><i>s on the date of final approval of NCLT as it were prior to the Insolvency Commencement Date by All or any one of the applicable statutory / Governmental Authority (s) (including but not limited to RERA) any other private public entity for the time being in force for ensuring the economic viability and financial sustainability's of the business of Corporate Debtor.</i></p>	<p>this Tribunal to consider.</p>	
<p><b>21</b> .</p>	<p><i>The Resolution Applicant seeks grant of a relief, considering the necessity of further occupation/lease rights/usage of the leased property(s)(if any) in the interest of going concern resolution of the Corporate Debtor, that all concerned lessors who have provided lease to the Corporate Debtor (if any) and under which the corporate Debtor has continued possession occupation (whether lease expired or not) prior to Insolvency Commencement Date shall be directed to provide all necessary support and cooperation as regards extinguishment of dues relating to period prior to the Effective Date and novation re-grant of lease to the resolution applicant as regards the leased property at reasonable terms.</i></p>	<p>Whatever the immunity provided in <b>Ghanashyam Mishra (Supra)</b>, shall be applicable. Beyond that the resolution application can approach the appropriate authority for considering the same keeping in view the objective of the I&amp;B Code.</p>	<p><b>Allowed</b> in accordance with law.</p>



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<b>22</b> .	<i>The Corporate Debtor (post approval of the Revised Resolution Plan) shall continue to occupy, use and possess any asset, over which the Corporate Debtor has been exercising occupation, usage, possession or leasing rights. If Any, for the purpose of its business operations before the Insolvency Commencement Date whether under the ownership of Corporate Debtor or not, in the interest of going concern takeover of the Corporate Debtor by the Resolution Applicant.</i>	Whatever the immunity provided in <b>Ghanashyam Mishra (Supra)</b> , shall be applicable. Beyond that the resolution application can approach the appropriate authority for considering the same keeping in view the objective of the I&B Code.	<b>Allowed</b> in accordance with law.
<b>23</b> .	<i>Pursuant to settlements and payments under this Revised Resolution Plan, no government authority or contractual parties (private/government) shall terminate or impose any additional condition on the Corporate Debtor on the grounds of change in management control of the corporate Debtor, act/omission pertaining to period prior to the Insolvency Commencement Date; or under a belief that the corporate debtor is a company having undergone insolvency/financial defaults.</i>	Whatever the immunity provided in <b>Ghanashyam Mishra (Supra)</b> , shall be applicable. Beyond that the resolution application can approach the appropriate authority for considering the same keeping in view the objective of the I&B Code.	<b>Allowed</b> in accordance with law.



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<b>24</b> .	<i>Pursuant to payments under this Revised Resolution Plan, as regards each and every asset of the Corporate Debtor and any other rights under lease/license, if any, the resolution applicant shall have exclusive and absolute rights as to those assets, notwithstanding anything contained under any agreement executed by the Corporate Debtor with any person whosoever, and the resolution applicant shall be free to renegotiate and novate such agreements.</i>	Whatever the immunity provided in <b>Ghanashyam Mishra (Supra)</b> , shall be applicable. Beyond that the resolution application can approach the appropriate authority for considering the same keeping in view the objective of the I&B Code.	<b>Allowed</b> in accordance with law.
<b>25</b> .	<i>Since the Resolution Applicant has been provided with limited information in relation to the Business Permits. Service Licenses and their current status, it is probable that some of the Business Permits, licenses of the Corporate Debtor may have lapsed. expired, suspended, cancelled, revoked or terminated or the Corporate Debtor has non-Compliances in relation thereto. Accordingly, all Governmental Authorities to provide reasonable time period after the Effective Date in order for the Resolution Applicant to assess the Status of these Business Permits and ensure that the Corporate Debtor is</i>	We note that the resolution applicant himself is the suspended board of director of the corporate debtor and as the corporate debtor is a registered MSME, the resolution applicant being suspended director got relaxation under Section 240A of the	<b>Not Allowed.</b>



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	<p><i>compliant with the terms Of such Business Permits and Applicable Law without initiating any investigations, actions or proceedings in relation to such Non-Compliances and permit the Resolution Applicant to continue to operate and financially revive the business of the Corporate Debtor.</i></p>	<p>I&amp;B Code to submit his plan and thereafter, the CoC approved his plan by 100% voting shares. Thus, having been provided with limited information in relation to the Business Permits, cannot be justifiable.</p> <p>The resolution applicant can approach the relevant and/or appropriate authority to consider the reliefs.</p>	
<b>26</b>	<p><i>Resolution Applicant shall not be impacted and will be kept indemnified financially or otherwise against any of the negative impact/observation findings of Forensic Audit, if any. Further neither the Corporate Debtor nor any member of the new promoter group shall be made party to any of the legal cases arising out of such forensic audit.</i></p>	<p>Whatever immunity can be granted strictly under Section 32A of the I&amp;B Code and the law laid down in <b>Ajay Kumar Radheyshya m Goenka (Supra)</b>,</p>	<p><b>Allowed</b>, in accordance with law and Section 32A read with the judgment cited herein.</p>



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		<b>Tantia Constructions Limited (Supra), Vasan Healthcare Pvt. Ltd. I (Supra), Vasan Healthcare Pvt. Ltd. II (Supra) and in Bhushan Power (Supra),</b> shall be allowed; nothing more and nothing less.	
<b>27</b>	<i>No action will be taken against the any dues non-compliance penalty, interest related to the period before the effective date, by any authority under PF Act, FSI, electricity department. Fire department. Pollution Department. Labour Law or any other department/authority not mentioned here.</i>	Whatever immunity can be granted strictly under Section 32A of the I&B Code and the law laid down in <b>Ajay Kumar Radheyshya m Goenka (Supra), Tantia Constructions Limited (Supra), Vasan Healthcare Pvt. Ltd. I (Supra), Vasan</b>	<b>Allowed,</b> in accordance with law and Section 32A read with the judgment cited herein.



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		<b>Healthcare Pvt. Ltd. II (Supra) and in Bhushan Power (Supra),</b> shall be allowed; nothing more and nothing less.	
<b>28</b>	<i>Resolution Applicant and the corporate debtor shall not be impacted and will be kept indemnified financially or otherwise against any action/proceedings taken or initiated by any governmental authority in relation to acts committed/omitted prior to the effective date.</i>	Whatever immunity can be granted strictly under Section 32A of the I&B Code and the law laid down in <b>Ajay Kumar Radheyshya m Goenka (Supra), Tantia Constructions Limited (Supra), Vasan Healthcare Pvt. Ltd. I (Supra), Vasan Healthcare Pvt. Ltd. II (Supra) and in Bhushan Power (Supra),</b> shall be allowed; nothing more	<b>Allowed,</b> in accordance with law and Section 32A read with the judgment cited herein.



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		and nothing less.	
<b>29</b>	<i>Satisfaction of charge created or modified by the Corporate Debtor: The existing charge will be Modified by the financial creditor after the upfront payment made to the Financial Creditor as proposed in the Plan. The Modification of Charge shall be filed by the Financial Creditor on issuance of letter on the balance amount proposed. Upon payments as proposed under the Revised Resolution Plan the security interest created by the corporate debtor over its assets under this plan shall automatically stands satisfied and the concerned creditors shall provide the no objection certificate for satisfaction of charge created over the assets of the corporate debtor on the MCA Portal.</i>	Whatever the immunity provided in <b>Ghanashyam Mishra (Supra)</b> , shall be applicable. Beyond that the resolution application can approach the appropriate authority for considering the same keeping in view the objective of the I&B Code.	<b>Not Allowed.</b>
<b>30</b>	<i>Amendment (if any) of the constitutional documents of the corporate debtor upon approval of the Revised Resolution Plan the resolution applicant shall have the authority to make any amendment in the constitutional documents as and when ever required.</i>	Whatever the immunity provided in <b>Ghanashyam Mishra (Supra)</b> , shall be applicable. Beyond that the resolution application can approach the appropriate authority for	<b>Not Allowed.</b>



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		considering the same keeping in view the objective of the I&B Code.	
<b>31</b>	<i>Upon approval of the Revised Resolution Plan the resolution applicant may change in portfolio of goods or services, produced or rendered or change in the technology used by the by the corporate debtor if required at any point of time.</i>	Whatever the immunity provided in <b>Ghanashyam Mishra (Supra)</b> , shall be applicable. Beyond that the resolution application can approach the appropriate authority for considering the same keeping in view the objective of the I&B Code.	<b>Allowed</b> in accordance with law.
<b>32</b>	<i>Upon approval of the Revised Resolution Plan the Central and State Governments and other authorities shall provide the necessary approvals required if any for any compliances, licenses, taxes, RTO clearances, registration and renewal / transfer etc. of vehicles/assets of the corporate debtor for the effective implementation/execution of the Revised Resolution Plan. The Financial Creditor/ COC shall arrange to provide the</i>	Whatever the immunity provided in <b>Ghanashyam Mishra (Supra)</b> , shall be applicable. Beyond that the resolution application can approach the appropriate authority for considering the same	<b>Allowed</b> in accordance with law.



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<p><i>physical possession of all the assets properties of the corporate debtor including building and land etc. as per the sale deed provided by the resolution applicant. The Financial creditor will also provide physical possession and access to all the other Collateral Security to the Resolution Applicant. The Resolution Applicant is also permitted to sale any of the non-productive assets including the collateral security given for the loan and the value of the sale of such asset will be adjusted with the dues of the financial creditor as per this plan and surplus if any can be used for shoring up the working capital of the CD. Also, if the Resolution Applicant is able to arrange additional funds for releasing the Collateral Securities/any other non-productive asset or is able to arrange a buyer for the Collateral Securities/any other non-productive asset, then the financial creditor will release such asset to either the Resolution Applicant or the buyer. The sale value of such asset will be adjusted with the dues as per the plan and surplus amount if any will be available with the CD for its operational requirements. The financial creditor will extend all</i></p>	<p>keeping in view the objective of the I&amp;B Code.</p>	
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	<i>support necessary for this purpose.</i>		
<b>33</b>	<i>The Corporate Debtor and the Resolution Applicant shall be entitled to modify contracts which: (i) are entered into with parties prior to the Insolvency Commencement Date, and (ii) impose onerous conditions hindering the resolution process/turnaround process, day-to-day operations for the Corporate Debtor.</i>	No blanket orders can be granted in the absence of the parties to the contracts and agreements/contract.	<b>Not Allowed.</b>
<b>34</b>	<i>Post-acquisition of CD, the new management within 12 months shall appoint new Auditors. Change should therefore be of Registered Office and other Statutory Compliances. The RA should therefore be allowed 12 months' time from the effective date to comply all statutory approval and requirements including but not limited to filing of Balance Sheet, without any charges, penalties, interest, etc.</i>	The Provision of Section 31 of the I&B Code, and, whatever the immunity provided in <b>Ghanashyam Mishra (Supra)</b> , shall be applicable.	<b>Allowed</b> in accordance with law.
<b>35</b>	<i>In case if any Title Deeds are with any other individual or entity other than the Financial Creditors, then RP should ensure that the same is peacefully handed over to the Corporate Debtor on or before the closing date.</i>	Whatever the immunity provided in <b>Ghanashyam Mishra (Supra)</b> , shall be applicable. Beyond that the resolution application can approach the appropriate	<b>Not Allowed.</b>



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		authority for considering the same keeping in view the objective of the I&B Code.	
<b>36</b>	<i>Allow filing return of income and/or revised return of income, for the Assessment Years prior to the Effective Date.</i>	Resolution Applicant is directed to approach the concerned authority to consider keeping the objective of the I&B Code.	<b>Not Allowed.</b>
<b>37</b>	<i>The Corporate Debtor and Resolution Applicant shall be entitled to the benefit of carry forward notwithstanding any default of the Corporate Debtor to file tax returns within the due date and in accordance with the provisions of the Income Tax Act, 1961.</i>	Resolution Applicant is directed to approach the concerned authority to consider keeping the objective of the I&B Code.	<b>Not Allowed.</b>
<b>38</b>	<i>All lease Rent agreements whether old/new or non-renewed shall automatically be renewed from the date of order and all properties for which registration is pending or otherwise, will be completed, based on the Certified copy of the order approving Revised Resolution Plan and the same shall be a direction on such statutory authorities to do the needful.</i>	Resolution Applicant is directed to approach the concerned authority to consider keeping the objective of the I&B Code.	<b>Not Allowed.</b>

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<b>39</b>	<i>Upon approval of this Revised Resolution Plan by NCLT, the rights of any person (whether exercisable now or in the future), either directly or indirectly, and whether contingent or not, to call for the allotment, issue, sale or transfer of shares of the CD or whether through any exchange or otherwise, shall stand unconditionally and irrevocably extinguished.</i>	Resolution Applicant is directed to approach the concerned authority to consider keeping the objective of the I&B Code.	<b>Not Allowed.</b>
<b>40</b>	<i>If Corporate Debtor applies for credit rating grading with any agency bank financial institutions etc. past performance (during the closure period for around 3 years) should not be considered for fiscal fillip.</i>	Resolution Applicant is directed to approach the concerned authority to consider keeping the objective of the I&B Code.	<b>Not Allowed.</b>
<b>41</b>	<i>All Departments and authorities, including but not limited to Government Semi-Government PSUs/Non-Government Research &amp; Development Centres/Subsidiaries/Division / Zones Workshop/ Sheds or any other entities not mentioned here, shall allow the Corporate Debtor to submit their offers/Proposal/tenders etc. for the period of 3 (three) years from the date of NCLT order, without insisting for the details on past revenue, profitability records, net worth</i>	Resolution Applicant is directed to approach the concerned authority to consider keeping the objective of the I&B Code.	<b>Not Allowed.</b>



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	<i>and supply and performance records or any other credentials, as Resolution Applicant will be starting the business for the Products of the Corporate Debtor afresh as there had been discontinuity in the business for past few years.</i>		
<b>42</b>	<i>That the Corporate Debtor or Resolution Applicant shall not be required to refund any benefit (subsidy incentive or any monetary benefits already availed by the Corporate Debtor or pay any interest, penalty, late fees, liquidated damages on account of failure of the Corporate Debtor to comply with the terms and conditions for grant of such incentive/subsidy/benefit or due to change in management arising due to implementation of the Plan. Any Litigation/Proceeding shall be instituted against the Corporate Debtor or Resolution Applicant on this account and any pending Litigation Proceedings shall stand quashed/withdrawn without any Liability on the Corporate Debtor/Resolution Applicant and the relevant authority including any district industrial centre / state government/central government or any implementing authority</i>	Whatever immunity can be granted strictly under Section 32A of the I&B Code and the law laid down in <b>Ajay Kumar Radheyshya m Goenka (Supra), Tantia Constructions Limited (Supra), Vasan Healthcare Pvt. Ltd. I (Supra), Vasan Healthcare Pvt. Ltd. II (Supra)</b> and in <b>Bhushan Power (Supra)</b> , shall be applicable; nothing more and nothing less.	<b>Not Allowed.</b>



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	<i>appointed under any law for the time being in force shall act in accordance with the aforesaid directions.</i>		
<b>43</b>	<i>That any corporate guarantee issued by the Corporate Debtor in favour of or on behalf of any of its subsidiaries, associates, group companies or any third party are hereby relinquished.</i>	Following the rationale held in <b>Lalit Kumar Jain (Supra)</b> and <b>Roshan Lal Mittal (Supra)</b> , all the guarantees either personal or corporate in nature, will not be redeemed by the virtue of the approval of this resolution plan. The creditor(s) will invoke those guarantees and an appropriate action against them, as per law, be taken.	<b>Not Allowed.</b>
<b>44</b>	<i>That all personal guarantees provided by any and all members of the Promoter or promoter Group of the Corporate Debtor or their Promoters or any person associated with the promoter group of the Corporate Debtor, shall release by the Financial Creditors on full and final settlement as proposed in the</i>	Following the rationale held in <b>Lalit Kumar Jain (Supra)</b> and <b>Roshan Lal Mittal (Supra)</b> , all the guarantees either personal or corporate in	<b>Not Allowed.</b>

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	<i>Revised Resolution Plan by the Resolution Applicant. However, the same shall not result in any liability towards the Corporate Debtor or the Resolution Applicant. Also, no taxes (like GST etc.) to be levied on the personal and corporate guarantors for extending guarantees for the amount under resolution plan and the same is to be waived off.</i>	nature, will not be redeemed by the virtue of the approval of this resolution plan. The creditor(s) will invoke those guarantees and an appropriate action against them, as per law, be taken.	
<b>45</b> .	<i>Actions taken by the CoC/Financial Creditor it's individual member insolvency professional against the promoters <b>including the LoC Notice</b> and also against the personal guarantees corporate guarantees extended by the promoter group of the Corporate Debtor all legal suits, Proceedings, certificate proceedings and/or quasi legal proceedings that have been initiated against the Corporate Debtor of the promoter group of the Corporate Debtor, which may have an adverse impact on the Corporate Debtor of any nature whatsoever, stand quashed.</i>	Following the rationale held in <b>Lalit Kumar Jain (Supra)</b> and <b>Roshan Lal Mittal (Supra)</b> , all the guarantees either personal or corporate in nature, will not be redeemed by the virtue of the approval of this resolution plan. The creditor(s) will invoke those guarantees and an appropriate action against them, as per law, be taken.	<b>Not Allowed.</b>

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<b>46</b> .	<i>The Residual Debt (Debt which remains unpaid after full and final Settlement) of the Creditor including Financial. Operational and Other Creditors will/may be converted into Equity Shares and thereafter through the process of Capital Reduction, all the shares allotted pursuant to the conversion of the Residual Debt shall stand cancelled. No specific approval, permission is required from any appropriate authority pursuant to such reduction and cancellation.</i>	Whatever the immunity provided in <b>Ghanashyam Mishra (Supra)</b> , shall be applicable. Beyond that the resolution application can approach the appropriate authority for considering the same keeping in view the objective of the I&B Code.	<b>Not Allowed.</b>
<b>47</b> .	<i>The discharge of the Financial Creditors, Operational Creditors. Other Creditors. Contingent Liabilities, Other Liabilities, any and all other claims or demands made by, or Liabilities or obligations, owed or payable to, (including any demand for any losses or damages, principal, interest, compound interest, penal interest, liquidated damages, and other charges already accrued accruing in connection with an third party claims), any actual or potential Liability of the Corporate Debtor towards any Person, whether admitted or not, due or contingent, asserted or unasserted, crystallised or uncrystallised,</i>	Whatever the immunity provided in <b>Ghanashyam Mishra (Supra)</b> , shall be applicable. Beyond that the resolution application can approach the appropriate authority for considering the same keeping in view the objective of the I&B Code.	<b>Not Allowed.</b>



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<p><i>known or set out in the balance sheets and/or profit and loss account statements of the Corporate Debtor and or the Creditors List in relation to any period prior to the Effective Date or arising on account of the acquisition of management and control of the Corporate Debtor by the Resolution Applicant will be written off in full and shall be deemed to be permanently extinguished by virtue of the order of the Adjudicating Authority approving this Revised Resolution Plan and the Corporate Debtor and/or the Resolution Applicant shall, at no point of time, he directly or indirectly have any obligation, Liability or duty in relation thereto.</i></p>		
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**Conclusion:**

82. As far as the question of granting time to comply with the statutory obligations or seeking approvals from authorities is concerned, the Resolution Applicant is directed to do so within one year from the date of this order, as prescribed under section 31(4) of the I&B Code.

83. In case of non-compliance with this order or withdrawal of the Resolution Plan, the payments already made by the Resolution Applicant shall be liable for forfeiture.

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84. In so far as the approval of **the Resolution Plan dated 18.09.2024 with its Addenda dated 17.10.2024 and 02.12.2024** submitted by **Mr. Subhankar Roy (Successful Resolution Applicant)**, is concerned, this Adjudicating Authority is bound by the judgement of the Hon'ble Supreme Court of India in **K. Sashidhar vs. Indian Overseas Bank and Ors.** reported in **(2019) 12 SCC 150: MANU/SC/0189/2019**, wherein it is held that:

*“35. [...] Reverting to Section 30(2), the enquiry to be done is in respect of whether the resolution plan provides: **(i) the payment of insolvency resolution process costs in a specified manner in priority to the repayment of other debts of the corporate debtor, (ii) the repayment of the debts of operational creditors in prescribed manner, (iii) the management of the affairs of the corporate debtor, (iv) the implementation and supervision of the resolution plan, (v) does not contravene any of the provisions of the law for the time being in force, (vi) conforms to such other requirements as may be specified by the Board.** [...]. To wit, the feasibility and viability of the proposed resolution plan and including their perceptions about the general capability of the resolution applicant to translate the projected plan into a reality. The resolution applicant may have given projections backed by normative data but still in the opinion of the dissenting financial creditors, it would not be free from being speculative. These aspects are completely within the domain of the financial creditors who are called upon to vote on the resolution plan Under Section 30(4) of the I & B Code.”*

**(Emphasis Added)**





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85. Further, the Hon'ble Apex Court in **Jaypee Kensington Boulevard Apartments Welfare Association and Ors. vs. NBCC (India) Ltd. and Ors.** reported in (2022) 1 SCC 401: MANU/SC/0206/2021 at Para 216, has laid down that:

**“The Adjudicating Authority has limited jurisdiction in the matter of approval of a resolution plan, which is well-defined and circumscribed by Sections 30(2) and 31 of the Code. In the adjudicatory process concerning a resolution plan under IBC, there is no scope for interference with the commercial aspects of the decision of the CoC; and there is no scope for substituting any commercial term of the resolution plan approved by Committee of Creditors. ... .”**

**(Emphasis Added)**

86. Further, in **Committee of Creditors of Essar Steel India Limited vs. Satish Kumar Gupta** reported at (2020) 8 SCC 531: MANU/SC/1577/2019, the Hon'ble Apex Court has propounded that:

**“38. This Regulation fleshes out Section 30(4) of the Code, making it clear that ultimately it is the commercial wisdom of the Committee of Creditors which operates to approve what is deemed by a majority of such creditors to be the best resolution plan, which is finally accepted after negotiation of its terms by such Committee with prospective resolution applicants.”**

**(Emphasis Added)**

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87. In the case at hand, we would note that **the Resolution Plan dated 18.09.2024 with its Addenda dated 17.10.2024 and 02.12.2024** submitted by **Mr. Subhankar Roy (Successful Resolution Applicant)**, has been approved by the Committee of Creditors of the Corporate Debtor by **100%** voting share.

88. We have further noted that the Letter of Intent was issued on 01.11.2023, which has been unconditionally accepted by the SRA. Accordingly, **Mr. Subhankar Roy** is unanimously declared as a **“Successful Resolution Applicant”**. Hence, given the aforesaid decisions of the Hon’ble Apex Court as well as in light of the overall facts and circumstances of the present case, this Adjudicating Authority has not interfered with the viability of the Commercial Wisdom as exercised by the Committee of Creditors of the Corporate Debtor.

89. In the light of the enumerations and observations made in this Order supra, we hereby **APPROVE** and **FINALLY SANCTION** **the Resolution Plan dated 18.09.2024 with its Addenda dated 17.10.2024 and 02.12.2024** submitted by **Mr. Subhankar Roy (Successful Resolution Applicant)**.

90. The Resolution Plan shall form part of this Order and shall be read along with this order for implementation. The Resolution Plan thus approved shall be binding on the Corporate Debtor and all other stakeholders involved in terms of Section 31 of the I&B Code, so that the revival of the Corporate Debtor Company shall come into force with immediate effect without any delay.

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91. The Moratorium imposed under section 14 of the Code by virtue of the order initiating the CIR Process, shall cease to have effect from the date of this order.

92. The Resolution Professional shall submit the records collected during the commencement of the proceedings to the Insolvency & Bankruptcy Board of India for their record and also return them to the Resolution Applicant or New Promoters.

93. Liberty is hereby granted for moving any application, if required, in connection with the successful implementation of this Resolution Plan.

94. A copy of this Order is to be submitted to the Registrar of Companies (RoC) to whom the company is registered, by the Resolution Professional.

95. We are not discharging the Resolution Professional as he will comply with the direction of us given in I.A. (IB) No. 138/KB/2024 to determine PUFEE transactions of the corporate debtor upon cooperation of the suspended board and the respondents to I.A. (IB) No. 138/KB/2024.

96. The Resolution Professional is further directed to hand over all records, premises/ factories/ documents to the Resolution Applicant to finalise the further line of action required for starting the operation. The Resolution Applicant shall have access to all the records/ premises/ factories/ documents through the Resolution

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, COURT NO. II  
KOLKATA**

I.A. (IB) (Plan) No. 22/KB/2024;

I.A. (IB) No. 138/KB/2024;

I.A. (IB) No. 1387/KB/2024;

In

Company petition (IB) No. 372/KB/2021

Professional to finalise the further line of action required for starting the operation.

97. The **Registry of this Adjudicating Authority** is directed to send e-mail copies of the order forthwith to all the parties and their Learned Counsels for information and for taking necessary steps.

98. In terms of the view above, the interlocutory application being **I.A. (IB) (Plan) No. 22/KB/2024** shall stand **disposed of** accordingly.

**TO SUMMARIZE:**

99. **I.A. (IB) No. 138/KB/2024** is **allowed and disposed of**. Direction is given to the Respondents to cooperate the RP by providing all the documents as asked for by the RP within a week's time and the RP shall examine the same and determine PUFEE transactions and furnish a report time to time before this Adjudicating Authority.

100. **I.A. (IB) No. 1387/KB/2024** is **allowed and disposed of**.

101. **I.A. (IB) (Plan) No. 22/KB/2024** (Application for the approval of Resolution Plan) is **allowed and disposed of**.

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, COURT NO. II  
KOLKATA**

I.A. (IB) (Plan) No. 22/KB/2024;

I.A. (IB) No. 138/KB/2024;

I.A. (IB) No. 1387/KB/2024;

In

Company petition (IB) No. 372/KB/2021

102. Main company petition be listed on 24/04/2025, for progress report.

103. Certified copy of the orders, if applied for with the Registry, be supplied to the parties upon compliance with all requisite formalities.

**Madhu Sinha  
Member (Technical)**

**Bidisha Banerjee  
Member (Judicial)**

**This Order is signed on 27th Day of March 2025.**

Bose, R. K. [LRA]/ Arunav. P [LRA]