

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH – I**

IA 606/2021 in CP (IB) 1839/MB/2019

Under Section 30(6) of the Insolvency and Bankruptcy
Code, 2016 r/w Rule 39(4) of NCLT Rules, 2016.

Mr. Ritesh R. Mahajan

Resolution Professional of Care Stationers & Agencies
Private Limited

...Applicant/Resolution Professional

Versus

Committee of Creditors (COC)

..... Respondent No. 1

**Tara Financial Services Private Limited (Resolution
Applicant)**

.....Respondent No. 2

In the matter of

TJSB Sahakari Bank Ltd

... Financial Creditor

Versus

Care Stationers & Agencies Private Limited

...Corporate Debtor

Order Delivered on 10.02.2023

Coram:

Hon'ble Member (Judicial) : Justice P.N. Deshmukh (Retd.)

Hon'ble Member (Technical) : Mr. Shyam Babu Gautam

Appearances:

For the Applicant : Mr. Rohit Gupta, Advocate a/w Mr.
Agam H. Maloo, Advocate i/b CS
Yashika Chhatana.

For the Resolution Applicant : Mr. Prakhar Tandon, Advocate.

ORDER

Per Coram:

1. The present Interlocutory Application is filed by Mr. Ritesh Mahajan ("**the Applicant/Resolution Professional**"), seeking approval of resolution plan of the Corporate Debtor under Section 30(6) of the Insolvency Bankruptcy Code, 2016 (hereinafter referred to as "**the Code**") read with Rule 39(4) of the IBBI Rules, 2016.
2. Care Stationers & Agencies Private Limited ("**the Corporate Debtor**") is a Private Limited company incorporated under the provisions of the Companies Act, 1956 and it is engaged in the business of stationery.
3. This Bench was pleased to initiate the Corporate Insolvency Resolution Process ("**CIRP**") of the Corporate Debtor vide order dated 13.12.2019 and Mr. Ritesh R. Mahajan, Applicant was appointed as Interim Resolution Professional of the Corporate Debtor. The copy of certified copy of the order dated 13.12.2019 is attached as Annexure No.1 to the Application.
4. Pursuant to Regulation 6 of the IBBI Regulations, a Public Announcement in the prescribed Form A was published on 18.12.2019 in Financial Express (English Language) and Loksatta (Marathi Language), Pune editions and additionally, it was published on the designated website of the IBBI.
5. Thereafter, Committee of Creditors ("**CoC**") in its first CoC Meeting held on 07.01.2020 resolved to confirm the appointment of Mr. Ritesh R Mahajan from Interim Resolution Professional to Resolution Professional of Corporate Debtor. The confirmation of appointment of IRP as RP was intimated to the NCLT bench on 15.01.2020. The copy

of the intimation letter for confirmation of appointment of IRP as RP is annexed as Annexure No. 2 to the Application.

6. Thereafter, the Information Memorandum was prepared as per available data and the same was circulated to COC members on 04.02.2020 after obtaining the confidentially undertaking from the authorized representatives of the CoC.
7. According to Regulation 27 of the CIRP Regulations, 2016, four registered valuers (two each for 'Land and Building' class and 'Securities and Financial Assets' class) were appointed to determine the fair value and the liquidation value of the Corporate Debtor on 29.01.2020.
8. The Invitation of Expression of Interest in Form G was approved by the COC in its Second CoC Meeting held on 15.02.2020.
9. The Applicant then published the Invitation of Expression of Interest in Form G on 18.02.2020 in Financial Express (English) and Loksatta (Marathi) newspapers. The Copy of Invitation of Expression of Interest in Form G dated 18.02.2020 has been attached as Annexure No. 3 to the Application.
10. The last date of submission of Expression of Interest expired on 15.03.2020. Pursuant to the same, the Resolution Professional received Two Expressions of Interest (EOIs). The first EOI was received on 03.03.2020 from KLJ Resources and Second EOI was received on 05.03.2020 from Harsha Vardhan Reddy. Whereas both the applicants failed to provide the undertaking and other relevant documents as per Regulation 36A of IBBI Regulations. Hence, their EOI were not considered.
11. Thereafter, on 11.03.2020, the World Health Organization (WHO) declared COVID-19 a globe pandemic, as the novel corona virus

continued to spread rapidly worldwide. On 24.03.2020, the Government of India ordered a nationwide lockdown to control the spread of Corona virus outbreak in India.

12. Due to the nationwide lockdown in the wake of COVID-19 and more specifically in Pune, the number of positive cases were alarming and the district went past Mumbai to become the state's worst affected urban centre in terms of total number of COVID-19 cases. This resulted in delay in the work and certain tasks were not carried out within the CIRP timelines.
13. Due to the above mentioned circumstances, the first EOI was not successful to garner any positive applications. Pursuant to that, Mrs. Rashmi Pillai, suspended director of the Corporate Debtor demanded extension for submission of Resolution Plan. Hence, the Applicant, with the permission of COC Members, republished Invitation for Expression of Interest in Form G on 14.09.2020 in Financial Express (English Language) and Navrashtra (Marathi Language), Pune editions in order to receive appropriate EOI's, which further delayed the Corporate Insolvency Resolution Process of the Corporate Debtor. The copy of Invitation of Expression of Interest in Form G dated 14.09.2020 has been attached as Annexure No. 4 to the Application.
14. Pursuant to the same, Mrs. Rashmi Pillai sent her Expression of Interest on 25.09.2020 and also Tara Financial Services Private Limited sent the Expression of Interest via email on 26.09.2020. Thereafter, the Applicant sent the Eligibility Criteria to both the Prospective Resolution Applicants and requested them to submit the relevant documents.
15. The draft of Request for Resolution Plan (RFRP), along with the Evaluation Matrix and modified Information Memorandum (IM) was then approved in the Fifth COC Meeting held on 28.09.2020. The final

RFRP, IM and Evaluation Matrix were sent to the Prospective Resolution Applicants on 06.10.2020, after obtaining the undertaking and the relevant documents from them via email. Pursuant to the same, the Final List of Prospective Resolution Applicants was sent to COC members on 06.10.2020 via e-mail. The copy of the Information Memorandum, RFRP and Evaluation Matrix is annexed as Annexure No. 5 to the Application.

16. It was observed by the RP that the valuations submitted by the two different set of Valuers were significantly different hence, as per the provisions of Regulation 35 (1)(b), the third Registered Valuer for Land and Building class was appointed by the Applicant on 29.10.2020, after consultation with CoC. On 11.11.2020, the third Registered Valuer submitted his Valuation Report to the Applicant and the same was discussed with the CoC members.
17. The Applicant has submitted the summary of the Valuation Reports provided by the Registered Valuers:

Sr. No.	Name of the Registered Valuers	Class of Valuation	Fair Value	Liquidation Value
1.	Abhishek Joshi	Land and Building	8,00,00,000/-	6,00,00,000/-
	Anushkumar Shivaraman	Securities and Financial Assets	8,69,421/-	8,69,421/-
	TOTAL		8,08,69,421/-	6,08,69,421/-
2.	Puneet Tyagi	Land and Building	5,21,00,000/-	4,17,00,000/-

	Debashish Das	Securities and Financial Assets	4,69,417/-	4,69,417/-
	TOTAL		5,25,69,417/-	4,21,69,417/-
3.	Er. Naga Malik Macheroutu	Land and Building	5,86,60,000/-	4,40,000,000 /-
	Mr. Ashish Mandowara	Securities and Financial Assets	4,69,417/-	4,69,417/-
	TOTAL		5,91,29,417/-	4,44,69,417/-
	Average of Closest Estimate of Value Computed (2 and 3)		5,58,49,417/-	4,33,19,417/-

18. The Applicant received Resolution Plan from Tara Financial Services Private Limited in a sealed envelope on 06.11.2020 at 05:10 pm.
19. Tara Financial Services Private Limited submitted the Performance Security amounting to Rs.50,00,000/- (Rupees Fifty Lakh Only) via RTGS mode in the CIRP account of the Corporate Debtor. The copy of the evidence of the payment of Performance Security is attached as Annexure No.6 to the Application.
20. Mrs. Rashmi Pillai, Suspended Director vide her e-mail dated 05.11.2020 requested the Applicant and CoC members to allow the extension of 20 days for submitting the Resolution Plan. The CoC member initially vide its reply via e-mail dated 06.11.2020 categorically rejected her request for said extension. Whereas, in the Sixth meeting of CoC held on 12.11.2020, CoC was of the opinion that if Mrs. Rashmi Pillai proves her Bonafide, then CoC may consider her request. Mrs. Rashmi Pillai, then promised to deposit Rs.50 Lakh on or before

20.11.2020 along with a concrete resolution plan. The CoC reiterated its stand that they are considering the present plan and may consider her request subject to her depositing the amount on 20.11.2020. Mrs. Rashmi Pillai was given ample opportunities for the submission of Resolution Plan which ultimately lead to delay in the Corporate Insolvency Resolution Process.

21. The Resolution Plan submitted by the Resolution Applicant was also discussed in the Sixth and Seventh CoC Meeting.
22. Henceforth, Pune being the hotspot of COVID19, was under strict lockdown, hence, the Resolution Applicant was constrained to delay its due diligence at the premises of the Corporate Debtor.
23. Similarly, the Registered Valuers also faced a lot of difficulties in travelling and visiting the premises of the Corporate Debtor for carrying out the valuation due to lockdown and containment zone issues, which ultimately delayed the whole process of CIRP.
24. Resolution Applicant presented its Resolution Plan before the COC members in the Sixth COC Meeting held on 12.11.2020. The COC members noticed that the area considered by the Resolution Applicant is different from the actual area.
25. Thereafter, the Applicant, CoC and Resolution Applicant decided to carry out a joint measurement of the Land and Building of the Corporate Debtor by appointing One Architect each of the Resolution Applicant and CoC members. Resolution Applicant and Applicant along with his team was present at the premises of the Corporate Debtor for carrying out the joint measurement of the area of Corporate Debtor on 05.01.2021.

26. Thereafter, an internal report of the joint measurement was submitted to the CoC members by the Architect of CoC members. The CoC members shared the said report with the Applicant and Tara Financial Services Private Limited.
27. Pursuant to the same, Resolution Applicant requested the CoC to allow him to submit the revised Resolution Plan. The CoC agreed to the same.
28. Meanwhile, the Eighth meeting of CoC members was held on 18.02.2021 to obtain approval of the CoC members in order to file an application before the NCLT bench for exclusion of COVID -19 lockdown period from CIRP Period and extension of CIRP Period by 90 days. The said application is pending before the Bench as on date. The copy of minutes from First to Eighth CoC meetings has been attached as Annexure No.7 to the Application.
29. The Revised Resolution Plan was submitted by the Tara Financial Services Private Limited with the Applicant on 18.02.2021. The copy of the Resolution Plan submitted by Resolution Applicant has been attached as Annexure No. 8 to the Application.
30. The Applicant then placed the Revised Resolution Plan before the CoC members in their Ninth COC Meeting held on 22.02.2021. The CoC members after being satisfied that the Resolution Plan is feasible and viable, approved the Resolution Plan with 100% voting. A copy of the minutes of Ninth COC Meeting dated 22.02.2021 and the ballot paper has been attached as Annexure No. 9 to the Application.
31. The RP has attached the Compliance Certificate in Form H of the Regulation 39(4) of the IBBI Regulations, 2016. A copy of the Compliance Certificate in Form H has been attached as Annexure No. 10 to the Application. The same has been reproduced hereunder:

COMPLIANCE CERTIFICATE

(Under Regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016

I, Mr. Ritesh R. Mahajan, an insolvency professional enrolled with ICSI Institute of Insolvency Professionals and registered with the Board with registration number IBBI/IPA-002/IP-N00048/2017-18/10132, am the resolution professional for the corporate insolvency resolution process (CIRP) of CARE STATIONERS & AGENCIES PRIVATE LIMITED (CD).

2. The details of the CIRP are as under:

Sl. No.	Particulars	Description
1	Name of the CD	CARE STATIONERS & AGENCIES PRIVATE LIMITED
2	Date of Initiation of CIRP	13.12.2019
3	Date of Appointment of IRP	13.12.2019
4	Date of Publication of Public Announcement	18.12.2019
5	Date of Constitution of CoC	31.12.2019
6	Date of First Meeting of CoC	07.01.2020
7	Date of Appointment of RP	07.01.2020
8	Date of Appointment of Registered Valuers	29.01.2020
9	Date of Issue of Invitation for EoI	18.02.2020 14.09.2020
10	Date of Final List of Eligible Prospective Resolution Applicants	06.10.2020
11	Date of Invitation of Resolution Plan	06.10.2020
12	Last Date of Submission of Resolution Plan	06.11.2020
13	Date of Approval of Resolution Plan by CoC	22.02.2021
14	Date of Filing of Resolution Plan with Adjudicating Authority	Yet to be filed

15	Date of Expiry of 180 days of CIRP	17.01.2021
16	Date of Order extending the period of CIRP	Order Awaited
17	Date of Expiry of Extended Period of CIRP	Order Awaited
18	Fair Value	5,58,49,417/-
19	Liquidation Value	4,33,19,417/-
20	Number of Meetings of CoC held	Nine (9)

3. I have examined the Resolution Plan received from Resolution Applicant (M/s TaraFinancial Services Private Limited) and approved by Committee of Creditors (CoC) of CARE STATIONERS & AGENCIES PRIVATE LIMITED.

4. I hereby certify that-

(i) the said Resolution Plan complies with all the provisions of the Insolvency and Bankruptcy Code 2016 (Code), the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP Regulations) and does not contravene any of the provisions of the law for the timebeing in force.

(ii) the Resolution Applicant (M/s Tara Financial Services Private Limited) has submitted an affidavit pursuant to section30(1) of the Code confirming its eligibility under section 29A of the Code to submit resolution plan. The contents of the said affidavit are in order.

(iii) the said Resolution Plan has been approved by the CoC in accordance with the provisions of the Code andthe CIRP Regulations made thereunder. The Resolution Plan has been approved by 100% of voting share of financial creditors after considering itsfeasibility and viability and other requirements specified by the CIRP Regulations.

(iv) The voting was held in the meeting of the CoC on 22.02.2021where all the members of theCoC were present.

5. The list of financial creditors of the CD [CARE STATIONERS & AGENCIES PRIVATE LIMITED] being members of the CoC and distribution of voting share among them is as under:

Sl. No.	Name of Creditor	Voting Share (%)	Voting for Resolution Plan (Voted for / Dissented / Abstained)
1.	TJSB Sahakari Bank Limited	100%	Voted For

6. The Resolution Plan includes a statement under regulation 38(1A) of the CIRP Regulations as to how it has dealt with the interests of all stakeholders in compliance with the Code and regulations made thereunder.

7.The amounts provided for the stakeholders under the Resolution Plan is as under:
(Amount in Rs. lakh)

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Sr. No.	CATEGORY OF STAKEHOLDER*	Sub-Category of Stakeholder	Amount Claimed	Amount Admitted	Amount Provided under the Plan#	Amount Provided to the Amount Claimed (%)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	Secured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	NA	NA	NA	NA
		(b) Other than (a) above:				
		(i) who did not vote in favour of the resolution Plan	NA	NA	NA	NA
		(ii) who voted in favour of the resolution plan	Rs. 5,31,38,398 /-	Rs. 5,31,38,398 /-	Rs. 4,35,00,258 /-	81.87%
		Total[(a) + (b)]	Rs. 5,31,38,398 /-	Rs. 5,31,38,398 /-	Rs. 4,35,00,258 /-	81.87%
2	Unsecured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	NA	NA	Rs. 100/-	--
		(b) Other than (a) above:				

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		(i) who did not vote in favour of the resolution Plan	NA	NA	NA	NA
		(ii) who voted in favour of the resolution plan	NA	NA	NA	NA
		Total[(a) + (b)]	NA	NA	Rs. 100/-	--
3	Operational Creditors	(a) Related Party of Corporate Debtor	NA	NA	NA	NA
		(b) Other than (a) above:				
		(i) Unsecured	Rs. 94,26,468/-	Rs. 77,66,423/-	Rs. 77,665/-	1%
		(ii) Disputed (Contingent) Statutory Dues	NA	NA	Rs. 1,664/-	1%
		(iii) Employee State Insurance Corporation	Rs. 2,43,072/-	Rs. 2,43,072/-		100%
		(iv) Employees Provident Fund Organization	Rs. 12,241/-	--	Rs. 2,43,072/-	100%
		Total[(a) + (b)]	Rs. 96,81,781/-	Rs. 80,09,495/-	Rs. 3,34,642/-	--
4	Other debts and dues	NA	NA	NA	NA	NA

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Grand Total		Rs.6,28,20,179/-	Rs.6,11,47,893/-	Rs.4,38,35,000/-	--
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8. The interests of existing shareholders have been altered by the Resolution plan as under:

Sr. No	Category of Share Holder	No. of Shares held before CIRP	No. of Shares held after the CIRP	Voting Share (%) held before CIRP	Voting Share (%) held after CIRP
1	Equity	2,50,000	Nil	100%	Nil
2	Preference	NA	NA	NA	NA

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

Section of the Code / Regulation No.	Requirement with respect to Resolution Plan	Clause of Resolution Plan	Compliance (Yes / No)
25(2)(h)	Whether the Resolution Applicant meets the criteria approved by the CoC having regard to the complexity and scale of operations of business of the CD?		Yes
Section 29A	Whether the Resolution Applicant is eligible to submit resolution plan as per final list of Resolution Professional or Order, if any, of the Adjudicating Authority?	Annexure F	Yes
Section 30(1)	Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?	Annexure F	Yes
Section 30(2)	Whether the Resolution Plan- (a) provides for the payment of insolvency resolution process costs? (b) provides for the payment to the operational creditors? (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?	Part B Part E NA Part P Part Q	Yes Yes NA Yes Yes No
Section 30(4)	Whether the Resolution Plan	--	Yes

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	(a) is feasible and viable, according to the CoC? (b) has been approved by the CoC with 66% voting share?	--	Yes
Section 31(1)	Whether the Resolution Plan has provisions for its effective implementation plan, according to the CoC?	--	Yes
Regulation 35A	Where the resolution professional made a determination if the corporate debtor has been subjected to any transaction of the nature covered under sections 43, 45, 50 or 66, before the one hundred and fifteenth day of the insolvency commencement date, under intimation to the Board?	--	Yes
Regulation 38(1)	Whether the amount due to the operational creditors under the resolution plan has been given priority in payment over financial creditors?	--	Yes
Regulation 38(1A)	Whether the resolution plan includes a statement as to how it has dealt with the interests of all stakeholders?	--	Yes
Regulation 38(1B)	(i) Whether the Resolution Applicant or any of its related parties has failed to implement or contributed to the failure of implementation of any resolution plan approved under the Code. (ii) If so, whether the Resolution Applicant has submitted the statement giving details of such non-implementation?		No NA
Regulation 38(2)	Whether the Resolution Plan provides: (a) the term of the plan and its implementation schedule? (b) for the management and control of the business of the corporate debtor during its term? (c) adequate means for supervising its implementation?	Part O Part P Part Q	Yes Yes Yes
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?	-- -- Part O -- Annexure A	Yes Yes Yes Yes Yes
39(2)	Whether the RP has filed applications in respect of transactions observed, found or determined by him?	--	NA
Regulation 39(4)	Provide details of performance security received, as referred to in sub-regulation (4A) of regulation 36B.	--	Yes. Rs. 50 Lacs towards

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			Performance Security has been received from the Resolution Applicant.
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10. The CIRP has been conducted as per the timeline indicated as under:

Section of the Code / Regulation No.	Description of Activity	Latest Timeline under regulation 40A	Actual Date
Section 16(1)	Commencement of CIRP and Appointment of IRP	T	13.12.2019
Regulation 6(1)	Publication of Public Announcement	T+3	16.12.2019
Section 15(1)(c) / Regulation 12 (1)	Submission of Claims	T+14	27.12.2019
Regulation 13(1)	Verification of Claims	T+21	03.01.2020
Section 26(6A) / Regulation 15A	Application for Appointment of Authorised Representative, if necessary	T+23	05.01.2020
Regulation 17(1)	Filing of Report Certifying Constitution of CoC	T+23	05.01.2020
Section 22(1) and regulation 17(2)	First Meeting of the CoC	T+30	12.01.2020
Regulation 35A	Determination of fraudulent and other transactions	T+115	06.04.2020
Regulation 27	Appointment of two Registered Valuers	T+47	29.01.2020
Regulation 36 (1)	Submission of Information Memorandum to CoC	T+54]	05.02.2020
Regulation 36A	Invitation of EoI	T+75	26.02.2020
	Publication of Form G	T+75	26.02.2020
	Provisional List of Resolution Applicants	T+100	22.03.2020
	Final List of Resolution Applicants	T+115	06.04.2020
Regulation 36B	Issue of Request for Resolution Plan, which includes Evaluation Matrix and Information Memorandum to Resolution Applicants	T+105	27.03.2020
Section 30(6) / Regulation 39(4)	Submission of CoC approved Resolution Plan	T+165	26.05.2020
Section 31(1)	Approval of Resolution Plan	T=180	10.06.2020

11. The time frame proposed for obtaining relevant approvals is as under:

Sl. No.	Nature of Approval	Name of applicable Law	Name of Authority who will grant Approval	When to be obtained
1	NA	NA	NA	NA
2	NA	NA	NA	NA
3	NA	NA	NA	NA

12. The Resolution Plan is not subject to any contingency.

13. Following are the deviations / non-compliances of the provisions of the Insolvency and Bankruptcy Code, 2016, regulations made or circulars issued thereunder (If any deviation/ non-compliances were observed, please state the details and reasons for the same):

Sr. No.	Deviation/Non-compliance observed	Section of the Code / Regulation No. / Circular No.	Reasons	Whether rectified or not
1	Application for Extension of CIRP Period not filed within 180 days	Section 12 of IBC, 2016	COVID-19 lockdown	Yes. The Application has been filed with the Hon'ble NCLT Bench

14. The Resolution Plan is being filed before the expiry of the period of CIRP provided in section 12 of the Code and whereas, an application for exclusion and extension of CIRP has been preferred and order on the same is awaited.

15. Provide details of section 66 or avoidance application filed / pending.

Sr. No.	Type of Transaction	Date of Filing with Adjudicating Authority	Date of Order of the Adjudicating Authority	Brief of the Order
1	Preferential transactions under section 43	NA	NA	NA
2	Undervalued transactions under section 45	NA	NA	NA

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3	Extortionate credit transactions under section 50	NA	NA	NA
4	Fraudulent transactions under section 66	NA	NA	NA

15A. The committee has approved a plan providing for contribution under regulation 39B as under:

- Estimated liquidation cost: Rs.12,00,000/- (Rs.50,000/- per month for a period of 24 months)
- Estimated liquid assets available: Rs. Nil
- Contributions required to be made: Rs. 12,00,000/- (Rs.50,000/- per month for a period of 24 months)
- Financial creditor wise contribution is as under:

Sl. No.	Name of financial creditor	Amount to be contributed (Rs.)
1	TJSB Sahakari Bank Limited	Rs. 12,00,000/- (Rs.50,000/- per month for a period of 24 months)
Total		Rs. 12,00,000/- (Rs.50,000/- per month for a period of 24 months)

15B. The committee has recommended under regulation 39C as under:

- Sale of corporate debtor as a going concern: No
- Sale of business of corporate debtor as a going concern: No

15C. The committee has fixed, in consultation with the resolution professional, the fee payable to the liquidator during the liquidation period under regulation 39D. The fee payable to the Liquidator is Rs. 12,00,000/- (Rs.50,000/- per month for a period of 24 months).

16. I, Mr. Ritesh R. Mahajan hereby certify that the contents of this certificate are true and correct to the best of my knowledge and belief, and nothing material has been concealed therefrom.

Name of the Resolution Professional: Mr. Ritesh R. Mahajan

IP Registration No: IBBI/IPA-002/IP-N00048/2017-18/10132

Address as registered with the Board: B-203, Devgiri, Ganeshmala Sinhgad Road,
Pune, Maharashtra, 411030

Email id as registered with the Board: riteshmahajan@gmail.com

32. The applicant has submitted that the Resolution Plan submitted by Tara Financial Services Private Limited was discussed and approved by the

CoC in their 9th COC Meeting held on 22.02.2021. The detailed provisions contained in the Resolution Plan are reproduced hereunder:

I. Brief detail of the Resolution Plan:

Sr. No.	Particulars of Claim	Type of Claim	Admitted Amount (INR)	Amount provided in Resolution Plan (INR)	Terms of Payment
1	CIRP Cost	At actual	40,00,000 (Approximately)	40,00,000	30 days As per Part C of Chapter IV
2	Secured Financial Creditors	Secured	5,31,38,398	4,35,00,258	30 days
3	Unsecured Financial Creditors	Unsecured	-----	100	30 days
4	Operational Creditors	Unsecured	77,66,423	77,665	30 days
5	Disputed (Contingent) Statutory Dues	Unsecured	-----	1,664	30 days
6	Employee State Insurance Corporation (ESIC)	Unsecured	2,43,072	2,43,072	30 days

7	Employees Provident Fund Organisation	Unsecured	-----	12,241	30 days
	Total		6,51,47,893	4,78,35,000	

- II. The Resolution Plan provides for payment of insolvency resolution process costs in priority to the payment of other debts of the Corporate Debtor. CIRP Cost incurred till date amounts to Rs.40,00,000/- (Rupees Forty Lakh Only), hence the resolution applicant, herein, undertakes to pay the complete Insolvency Resolution Process Costs amounting to Rs. 40,00,000/- (Rupees Forty Lakh Only) or any further cost in this respect within 30 days of the approval of the Resolution Plan by the NCLT.
- III. The Secured Financial Creditor will assign the entire receivable from the Corporate Debtor to Resolution Applicant for a total consideration of **Rs.4,35,00,258/- (Rupees Four Crore Thirty Five Lakh Two Hundred and Fifty Eight Only)**. The payment to secured financial creditor will be made within 30 days of the approval of the Resolution Plan by the NCLT.
- IV. The Unsecured Financial Creditor will assign the entire receivable from the Corporate Debtor to the Resolution Applicant for a consideration of **Rs.100/- (Rupees One Hundred Only)**. The payment to unsecured financial creditors shall be made within 30 days of the approval of the Resolution Plan by the NCLT.
- V. The Operational Creditors will assign the entire receivable from the Corporate Debtor to the Resolution Applicant for a consideration of **Rs.77,665/- (Rupees Seventy Seven Thousand**

Six Hundred and Sixty Five Only). The payment to operational creditors shall be made within 30 days of the approval of the Resolution Plan by the NCLT.

- VI. Disputed (Contingent) Statutory Dues against the Corporate Debtor will be paid an amount of **Rs.1,664/- (Rupees One Thousand Six Hundred and Sixty Four Only)** within 30 days of the of the Resolution Plan by the NCLT.
- VII. The Resolution Applicant shall pay **Rs.2,43,072/- (Rupees Two Lakh Forty Three Thousand and Seventy Two Only)** of the total admitted claim for Statutory Dues of Provident Fund within 30 days of the approval of the Resolution Plan by the NCLT.
- VIII. The Resolution Applicant would pay **Rs.12,241/- (Rupees Twelve Thousand Two Hundred and Forty One Only)** of the total demand raised by EPFO within 30 days of the approval of the Resolution Plan by the NCLT.
- IX. The Resolution Plan provides for the management of the affairs of the Corporate Debtor after approval of the Resolution Plan.
- X. Further, the existing team of Resolution Applicant shall commence all activities required for running of the business for maximization of future returns. Furthermore, the existing technical team of the Resolution Applicant shall be involved for smooth running, as well as restarting of the commercial operations of the Corporate Debtor.
- XI. Further, Resolution Applicant shall do necessary compliance with MCA and other concerned and applicable authorities as per Applicable laws. The Resolution Plan contains the provisions for the effective implementation and supervision of the Resolution Plan.

- XII. Subject to approval of Committee of Creditors and Adjudicating Authority, the Core Committee shall supervise implementation and execution of Resolution Plan. The Resolution Applicant shall submit a progress report in the format suggested by the CoC to apprise them about the supervision of the implementation of the Resolution Plan.
- XIII. The Resolution Plan mentions that a Monitoring Committee will be formed to monitor the implementation of the Resolution Plan. The composition of the Monitoring Committee will be the Resolution Professional, Mr. Ritesh Mahajan, Mr. Makarand Godse, Authorised Representative of TJSB Sahakari Bank Ltd and Mr. Bhushan Kankaria, Representative of Tara Financial Services Private Limited.
- XIV. The Resolution Plan caters to the interest of all stakeholders including but not limited to the financial creditors and operational creditors of the Corporate Debtor.

GROUND FOR PRAYING APPROVAL OF RESOLUTION PLAN:

1. Approval of the Resolution Plan by 100% voting of the COC:

The Resolution Plan has been approved by the CoC Members by 100% voting in the Ninth CoC meeting held on 22.02.2021.

2. Feasibility and Viability of the Resolution Plan:

The Resolution Plan provided by the Tara Financial Services Private Limited is feasible and viable. The CoC has discussed the provisions of the Resolution Plan with Tara Financial Services Private Limited on the aspect of its feasibility and viability. The CoC has approved the said plan after satisfying itself that it is feasible and viable.

3. Payments to all the stakeholders will be made within 30 days of the approval of the Resolution Plan by this Bench:

The Resolution Plan provided by the Tara Financial Services Private Limited mentions that the payments to all the stakeholders of the Corporate Debtor will be made within 30 days of the approval of the Resolution Plan by this Bench.

4. Payments to the Operational Creditors is not less than the amount to be paid to the operational creditors in the event of a liquidation of the Corporate Debtor:

The Resolution Plan provides for the payment of the debts of operational creditors, in a manner as has been prescribed by the Board, which is not less than the amount to be paid to such creditors in the event of liquidation of the Corporate Debtor under Section 53 of IBC, 2016 or the amount that would have been paid to such creditors, if the amount to be distributed under the resolution plan had been distributed in accordance with the order of priority in Section 53(1) of IBC, 2016.

5. Payment of insolvency resolution process costs in priority over other payments:

The Resolution Plan provides for the payment of insolvency resolution process costs in priority to the payment of other debts of the Corporate Debtor.

33. On perusal of the Resolution Plan, it is observed that the Resolution Plan provides for the following:

- a) Payment of CIRP Cost as specified u/s 30(2)(a) of the Code.
- b) Repayment of Debts of Operational Creditors as specified u/s 30(2)(b) of the Code.

- c) For management of the affairs of the Corporate Debtor, after the approval of Resolution Plan, as specified U/s 30(2)(c) of the Code.
- d) The implementation and supervision of Resolution Plan by the RP and the CoC as specified u/s 30(2)(d) of the Code.
34. The RP has complied with the requirement of the Code in terms of Section 30(2)(a) to 30(2)(f) and Regulations 38(1), 38(1)(a), 38(2)(a), 38(2)(b), 38(2)(c) & 38(3) of the Regulations.
35. The RP has filed Compliance Certificate in Form-H along with the Plan. On perusal the same is found to be in order. The Resolution Plan has been approved by 100% voting by the CoC in the 9th meeting held on 22.02.2021.
36. In *K Sashidhar v. Indian Overseas Bank & Others* (in Civil Appeal No.10673/2018 decided on 05.02.2019) the Hon'ble Apex Court held that,
- “21.
- ...if the CoC had approved the Resolution Plan by requisite percent of voting share, then as per section 30(6) of the I&B Code, it is imperative for the Resolution Professional to submit the same to the Adjudicating Authority (NCLT). On receipt of such a proposal, the Adjudicating Authority is required to satisfy itself that the resolution plan as approved by CoC meets the requirements specified in Section 30(2). No more and no less.”*

The Hon'ble Court further held that the discretion of the Adjudicating Authority is circumscribed by Section 31 and is limited to scrutiny of the Resolution Plan “as approved” by the requisite percent of voting share of financial creditors. Even in that enquiry, the grounds on which the Adjudicating Authority can reject the Resolution Plan is in reference to

matters specified in Section 30(2) when the Resolution Plan does not conform to the stated requirements.

37. In *CoC of Essar Steel* (Civil Appeal No. 8766-67 of 2019 decided on 15.11.2019) the Hon'ble Apex Court clearly laid down that the Adjudicating Authority would not have power to modify the Resolution Plan which the CoC in their commercial wisdom have approved. In para 42 Hon'ble Court observed as under:

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

38. In view of the discussions and the law thus settled, the instant Resolution Plan meets the requirements of Section 30(2) of the Code and Regulations 37, 38, 38 (1A) and 39 (4) of the Regulations. The Resolution Plan is not in contravention of any of the provisions of Section 29A of the Code and is in accordance with law. The same needs to be approved. Hence ordered.

ORDER

The Application IA No. 606 of 2021 in CP 1839 of 2019 be and the same is allowed. The Resolution Plan annexed to the Application is hereby approved. It shall become effective from this date and shall form part of this order.

- i. It shall be binding on the Corporate Debtor, its employees, members, creditors, including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force is due, guarantors and other stakeholders involved in the Resolution Plan.
- ii. Further in terms of the Judgment of Hon'ble Supreme Court in the matter of *Ghanshyam Mishra and Sons Private Limited v/s Edelweiss Asset Reconstruction Company Limited*, on the date of approval of the 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 a part of the Resolution Plan.
- iii. The Memorandum of Association (MoA) and Articles of Association (AoA) shall accordingly be amended and filed with the Registrar of Companies (RoC), Mumbai, Maharashtra for information and record. The Resolution Applicant, for effective implementation of the Plan, shall obtain all necessary approvals, under any law for the time being in force, within such period as may be prescribed.
- iv. The moratorium under Section 14 of the Code shall cease to have effect from this date.
- v. The Applicant shall supervise the implementation of the Resolution Plan and file status of its implementation before this Authority from time to time, preferably every quarter.
- vi. The Applicant shall forward all records relating to the conduct of the CIRP and the Resolution Plan to the IBBI along with copy of this Order for information.

- vii. The Applicant shall forthwith send a certified copy of this Order to the CoC and the Resolution Applicant, respectively for necessary compliance.

Sd/-

SHYAM BABU GAUTAM

Member (Technical)

10.02.2023

DSB

Sd/-

JUSTICE P. N. DESHMUKH

Member (Judicial)