IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH- I

IA No. 99 of 2025
IN
CP(IB) No. 280 of 2023

Under Section 30 of the Insolvency and Bankruptcy Code, 2016

In the Application of

Ganesh Venkata Siva Rama Krishna Remani

…Resolution Professional/ Applicant

In the matter of

ASREC (India) Limited

…Financial Creditor

Versus

M/s. Barracks Retails India Pvt. Ltd.

…Corporate Debtor

Order Delivered On : 04.11.2025

Coram:

Sh.Prabhat Kumar	Sh.Sushil Mahadeorao Kochey
Member (Technical)	Member (Judicial)

Appearances:

For the Applicant : CS Devarajan Raman a/w Adv. Hasti Bhanushali

ORDER

Brief Background

1. The present Application is filed by **Mr. Ganesh Venkata Siva Rama Krishna Remani,** Resolution Professional ("**Applicant/Resolution Professional**") of **M/s. Barracks Retails India Pvt. Ltd.** ("**Corporate Debtor**") under Section 30(6) of the Insolvency and Bankruptcy Code, 2016 ("**Code**") read with Regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 ("**CIRP Regulations**") for seeking approval of the Resolution Plan dated 08.08.2025, submitted by Aikyam Stressed Assets Fund I ("**Successful Resolution Applicant/SRA**") and for passing order/appropriate direction that this Tribunal may deem fit in the present matter. The Resolution Plan has been approved by 100% of the voting share of the members of the Committee of Creditors ("**CoC**") at the 13th CoC meeting dated 20.08.2025 and 21.08.2025.
2. The CIRP of the Corporate Debtor was initiated vide this Tribunal's order dated 09.01.2024 in Company Petition No. 280 of 2023, and **Mr. Ganesh Venkata Siva Rama Krishna Remani** was appointed as the Interim Resolution Professional ("**IRP**"). At the 1st CoC meeting, held on 27.12.2024, the CoC confirmed the appointment of the IRP as the Resolution Professional ("**RP**") with 100% voting shares. This bench vide order dated 07.05.2025 in IA 1940 of 2025 confirmed the appointment of IRP as RP.
3. As per Regulation 6 of the CIRP Regulations, the Applicant made a public announcement vide Form-A on 12.01.2024 notifying the commencement of CIRP of the Corporate Debtor and inviting the claims of Creditors.
4. Meanwhile, the Suspended Director of the Corporate Debtor filed Company Appeal (AT)(Ins.) No. 139 of 2024 against the order dated

09.01.2024 before the Hon'ble NCLAT, which issued notice and directed not to constitute the Committee of Creditors ("CoC") vide order dated 19.01.2024. The said Company Appeal was dismissed vide Order dated 09.12.2024.

5. The CoC consisted of only one sole secured financial creditor, namely, ASREC (India) Limited. The Applicant conducted 13 meetings of the CoC in his capacity as the RP. Pursuant to the publication of Form G, the RP received EOIs from 6 Prospective Resolution Applicants (PRAs), each having certain deficiencies in its forms. On the last date of submission of Resolution Plans, 2 PRAs sought additional time, hence, the deadline to submit the Resolution Plans was extended to 19.04.2025. As on 19.04.2025, there were three interested parties who have submitted Bid Bond Amount of Rs. 50,00,000/- as well as Resolution Plan.
6. The online challenge mechanism process conducted by the RP failed since none of the PRAs placed any bid amount. Later, all the Resolution Plans were rejected as no PRA showed interest to offer value greater than or equal to the Reserve Price set by the CoC. Hence, a fresh Form G was issued on 02.05.2025.
7. The RP then received EOI from 7 participants (Ghanshyam Rameshwarlal Sarda, Rajendra Dallaram Choudhary, Pawan Agarwal, Orange City Garments LLP, Luna Apparels Pvt. Ltd., Square Four Housing & Infrastructure Development Pvt. Ltd. and Aikyam Stressed Asset Fund I). Out of the 7 EOIs, the RP received Resolution Plans from 4 PRAs along with Bid Bond Amount as per timelines. 2 out of 4 PRAs participated in the Challenge Mechanism Process.
8. In the 13th CoC meeting held on 20.08.2025 and 21.08.2025, the Resolution Plan submitted by Aikyam Stressed Assets Fund – I offering Rs.8,76,00,000/- (Rupees Eight Crores Seventy-Six Lacs only) was approved by 100% voting.
9. The appointed valuers submitted their final valuation report according to which the average fair value and average liquidation value for land

and building were Rs. 11,46,18,750/- and Rs. 8,86,64,000/- and average fair value and average liquidation value for securities and financial assets were Rs. 2,59,896/- each. The average fair value submitted by both the valuers is Rs. 11,48,78,646.00/- and the average liquidation value submitted by both the valuers is Rs. 8,89,23,896.00/-.

Interlocutory/ Intervention Applications

10. The applicant has filed PUFE Application IA No. 2427 of 2025 against the suspended Directors of CD on 07.05.2025. The Applicant has another Application IA(I.B.C)/4016/MB/2025 against the suspended Directors for providing the Applicant, false and fabricated leave and license Agreement and alienating the lease rentals of the property during CIRP period. Both of these applications are pending before this bench.

Limitation:

11. The Applicant sought exclusion of 325 days which was allowed by this Tribunal vide order dated 12.02.2025 passed in IA 765/2025 thereby excluding the period from 19.01.2024 till 08.12.2024.
12. Upon belatedly receiving a claim from the Income Tax Department, the Applicant filed IA/3235/2025 seeking condonation of delay from this Tribunal, which was allowed vide Order dated 22.07.2025 and the claim of the Income Tax Department was admitted.
13. The CIRP period expired on 27.05.2025. Hence, IA(I.B.C.)/2662(MB)2025 was filed for seeking extension of 90 days beyond the period of 180 days in the CIRP process of the Corporate Debtor from 28.05.2025 to 27.08.2025. This bench allowed the same thereby extending the CIRP period upto 25.08.2025 vide order dated 16.06.2025. The present application has been filed on 25.08.2025 and is within the period of extended CIRP period.

Salient Features of the Resolution Plan

14. The key features and summary of the final Resolution Plan submitted by the Resolution Applicant and as approved by the COC are as under:

Category	Value of Claims Admitted (in Rs.)	Amount to be paid as per the Resolution Plan (in Rs.)	% Based on admitted claim
Secured Financial Creditors	25,90,86,090	8,75,96,220	33.81%
Unsecured Financial Creditors	NA	NA	NA
Employees	NA	NA	NA
Operational Creditors (including Statutory Creditors)	3,780	3,780	100%
Other Creditors (other than FC and OC)	NA	NA	NA
Total	25,90,89,870	8,76,00,000	33.81%

The amount offered is payable within 60 days as per terms of the resolution plan after it is approved by this Tribunal.

a. **Employee and Workmen Dues**

   There are no employee or workmen dues in the present case.

b. **Operational Creditors**

   The Resolution Applicant proposes to make a payment of Rs.3,780/- (Rupees Three Thousand Seven Hundred and Eighty only) to Operational Creditors of the Corporate Debtor as detailed below:

Category of Creditor	Amount claimed (Rs.)	Amount Admitted (Rs.)	Payment to be made (Rs.)	% offered based on amount admitted
Operational dues	5,05,88,580	3,780	3,780	100%

c. **Secured Financial Creditors**

The Resolution Applicant proposes to make a payment of Rs.8,75,96,220/- (Rupees Eight Crores Seventy Five Lacs Ninety Six Thousand Two Hundred and Twenty Only) to Secured Financial Creditor of the Corporate Debtor as detailed below:

Category of Creditor	Amount claimed (Rs.)	Amount Admitted (Rs.)	Payment to be made (Rs.)	% offered based on amount admitted
Secured Financial Creditors	25,90,86,090	25,90,86,090	8,75,96,220	33.81%

d. **Unsecured Financial Creditors**

There are no Unsecured Financial Creditors in the case of the Corporate Debtor.

e. **Other Creditors**

There are no other Creditors in the case of the Corporate Debtor.

f. **Payment to dissenting Financial Creditor (DFC):**

There are no dissenting financial creditors in the present case.

g. **Management of the affairs of the CD after approval of the Resolution Plan**

An Implementation and Monitoring Committee (IMC) shall be immediately constituted after the approval of the Resolution Plan by this Tribunal. The affairs of the CD shall be managed by IMC to monitor the distribution of the amount as envisaged in the Plan and to cooperate for the successful implementation of the approved Resolution Plan. Committee shall be constituted and shall comprise

(i) one nominee of the Resolution Applicant, (ii) one nominee of the CoC and (iii) the Resolution Professional

h. **Implementation and supervision of the Resolution Plan**

On and from the NCLT approval date, the IMC shall supervise the implementation of the Resolution Plan and shall be required and entitled to do all such acts, deeds, matter and things as may be necessary, desirable or expedient in order to supervise the implementation of the Resolution Plan.

i. **Contravention of the Provisions of the law**

The RP has examined the plan and has given a declaration that to the best of his knowledge the plan conforms to the provisions of law as applicable.

j. **Reliefs and concessions:**

Clause 4.7 of the Resolution Plan provides for the reliefs and concessions sought by the SRA.

Statutory Compliance:

15. In compliance of Section 30(2) of IBC, 2016, the Resolution Professional has examined the Resolution plan of the Successful Resolution Applicant and confirms that this Resolution Plan:

    a) Provides for payment of Insolvency Resolution Process cost in a manner specified by the Board in the priority to the payment of other debts of the corporate debtor;

    b) Provides for payment of debts of Operational Creditor in such manner as may be specified by the board which shall not be less than

        (i) the amount to be paid to such creditors in the event of liquidation of the Corporate Debtor under Section 53; or

        (ii) the amount that would have been paid to such creditors, if the amount to be distributed under the Resolution Plan had been distributed in accordance with sub-section (1) of Section 53 in the event of liquidation of the corporate debtor.

c) Provides for management of the affairs of the Corporate Debtor after approval of Resolution Plan;
d) The implementation and supervision of Resolution Plan;
e) Does not prima facie contravene any of the provisions of the law for time being in force,
f) Confirms to such other requirements as may be specified by the Board.
g) As per the Affidavit, the Resolution Applicant is not covered under Section 29A.

16. In compliance of Regulation 38 of CIRP Regulations, the Resolution Professional confirms that the Resolution plan provides that
    a) The amount due to the Operational Creditors under Resolution Plan shall be given priority in payment over Financial Creditors.
    b) It has dealt with the interest of all Stakeholders including Financial Creditors and Operational Creditors of the Corporate Debtor.
    c) A statement that neither the Resolution Applicants nor any related parties have failed to implement nor have contributed to the failure of implementation of any other Resolution Plan approved by the Adjudicating Authority in the past.
    d) The terms of the plan and its implementation schedule.
    e) The management and control of the business of the Corporate Debtor during its term.
    f) Adequate means of Supervising its implementation.
    g) The Resolution Plan Demonstrates that it addresses
        i. The cause of the Default
        ii. It is feasible and viable
        iii. Provision for effective implementation
        iv. Provisions for approvals required and the time lines for the same.
        v. Capability to Implement the Resolution Plan

17. The Resolution Professional has submitted Form-H under Regulation 39(4) of the CIRP Regulations to certify that the Resolution Plan as approved by the CoC meets all the requirements of the IBC and its Regulations. The Resolution Applicant has submitted an affidavit pursuant to section 30(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. The relevant parts of the revised Form H are reproduced below:

Form H

2. The details of the CIRP are as under:

Sr. No.	*Particulars*	*Description*
1	*Name of the CD*	*Barracks Retail India Pvt Limited*
2	*Date of Initiation of CIRP*	*09.01.2024*
3	*Date of Appointment of IRP*	*09.01.2024*
4	*Date of Publication of Public Announcement*	*12.01.2024*
5	*Date of Constitution of COC*	*20.12.2024*
6	*Date of First Meeting of COC*	*27.12.2024*
7	*Date of Appointment of RP*	*31.12.2024*
8	*Date of Appointment of Registered Valuers*	*07.03.2024/08.03.2024*
9	*Date of Issue of Invitation for EOI*	*20.02.2025/ 02.05.2025*
10	*Date of Final List of Eligible Prospective Resolution Applicants*	*16.03.2025/ 16.06.2025*
11	*Date of Invitation of Resolution Plan*	*16.03.2025 / 21.06.2025*
12	*Last Date of Submission of Resolution Plan*	*15.04.2025 / 21.07.2025*
13	*Date of submission of Resolution Plan to the RP*	*21.07.2025*
14	*Date of placing the Resolution Plan before the CoC*	*12.08.2025*
15	*Date of Approval of Resolution Plan by COC*	*21.08.2025*
16	*Date of Filing of Resolution Plan with Adjudicating Authority*	*25.08.2025*
17	*Date of Expiry of 180 days of CIRP*	*28.05.2025*
18	*Date of each order extending/excluding the period of CIRP on request filed by RP*	
	Exclusion of Time Period	*12.02.2025*
	Extending of Time period by 90 days	*16.06.2025*
19	*Date of Expiry of Extended Period of CIRP*	*25.08.2025*
20	*Fair Value*	*11,48,78,646*
21	*Liquidation value*	*8,89,23,896*
22	*Number of Meetings of COC held*	*13 (Thirteen)*

1B. (i) Whether Application for approval of Resolution Plan filed within 180 days of CIRP initiation - NO
(ii) Number of days beyond 180 days taken for filing application for resolution plan 89 days
(iii) Reasons for delay - There were no Successful Resolution Applicants identified within 180 days and revised Form G had to be issued

3. The details and documents related to the successful resolution applicant are as under:

Sl.No.	*Particulars*	*Description*
1.	*Name of Successful Resolution Applicant (SRA)*	*Aikyam Stressed Assets Fund I*
2.	*Nature of Business of SRA*	*Special Situations Fund*
3.	*Relationship status of SRA with CD, if any*	*NIL*
4.	*Whether SRA is eligible to submit plan u/s 240A of IBC in case of MSME CD*	*NA*
5.	*Due Diligence Certificate of the RP u/s 29A of IBC for the SRA (pls attach copy of certificate)*	*Attached*

4. The details of CIRP, and resolution plan are as under:

<table>
<tr><th>S.no.</th><th>Particulars</th><th>Description</th></tr>
<tr><td>1.</td><td>Whether Corporate Debtor is an MSME, if so, Date of obtaining MSME registration (pls attach copy of registration certificate)</td><td>30.03.2017 (Application for Udhyam Number is available. However, no migration was done)</td></tr>
<tr><td>2.</td><td>Business of the CD</td><td>Manufacturing of Wearing Apparel</td></tr>
<tr><td>3.</td><td>Total admitted claims (Amount in Rs.)
<table>
<tr><th>S. No.</th><th>Description</th><th>Principal</th><th>Interest Penalty, if any</th><th>Total</th></tr>
<tr><td></td><td>Corporate Guarantee Claims</td><td></td><td></td><td></td></tr>
<tr><td></td><td>Other than Corporate Guarantee Claims</td><td>16,22,01,196</td><td>9,68,88,674</td><td>25,90,89,870</td></tr>
</table></td><td>25,90,89,870</td></tr>
<tr><td>4.</td><td>Resolution Plan Value (including insolvency resolution process cost, infusion of funds etc)</td><td>8,76,00,000/- (Plan Attached)</td></tr>
<tr><td>5.</td><td>Voting percentage (%) of CoC in favour of Resolution Plan</td><td>100% (Minutes approving the plan attached)</td></tr>
</table>

5.Details of implementation of resolution plan:

Sl.No.	***Particulars***	***Description***
1.	*Amount of Performance Guarantee furnished by SRA (in Rs.) and its validity (attach document).*	*10% Bank Statement attached as it was a cash deposit)*

2.	*Source of funds (in brief)*	*Refer Clause 2.3.6 of the Resolution Plan.* *The SRA is a fund and they have draw down amount from which they have made the payment.*
3.	*Capital restructuring and management of CD post approval of resolution plan (in brief including shareholding proposed to be transferred in favour of SRA)*	*Existing Share Capital is deemed to be reduced with NIL Payment to existing shareholders. Fresh Issuance of Share Capital is envisaged* *Refer Clause 5.8.4 of the Resolution Plan* *Monitoring Committee is constituted which shall oversee implementation of the Resolution Plan. Monitoring Committee consists of representative of SRA, representative of CoC and Resolution Professional. The role of the committee is till the implementation of the terms of the Resolution Plan* *Refer clause 8 of the Resolution Plan*
4.	*Term and implementation of plan (in brief)*	*Plan is proposed to be implemented within 60 days including payment of CIRP costs, payment to operational creditors and Secured Financial Creditor. Refer Clause 6 of the Resolution Plan.*
5.	*Details of monitoring committee (in brief)*	*Monitoring Committee is constituted which shall oversee implementation of the Resolution Plan. Monitoring Committee consists of representative of SRA, representative of CoC and Resolution Professional. The role of the committee is till the implementation of the terms of the Resolution Plan*

		Refer Clause 8.1.2 of the Resolution Plan
6.	*Effective date of resolution plan implementation*	*Within 60 days from Approval Date*

6. The list of financial creditors of the CD 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.	*ASREC (India) Ltd*	*100%*	*Voted for*

7A. Realisable amount:

Sl.no.	***Particulars***	***Description***
1.	*Total Realisable amount under the plan*	*8,76,00,000+ Cash Balance, if any*
2.	*Fair Value*	*11,48,78,646*
3.	*Liquidation Value*	*8,89,23,896*
4.	*Percentage (%) of realisable amount to Fair Value*	*76.25%*
5.	*Percentage (%) of realisable amount to Principal amount*	*98.5%*
6.	*Percentage (%) of realisable amount to Total admitted claims*	*54%*
7.	*Percentage (%) of realisable amount to Liquidation Value*	*33.81%*
8.	*Percentage (%) of realisable amount to Other than admitted Corporate Guarantee claims*	*33.81%*

7B. Details of Realisable amount:

S.No.	***Category of Stakeholder***	***Sub-category of Stakeholder***	***Amount claimed***	***Amount Admitted***	***Amount provided under the Resolution plan***	***Amount provided to the amount admitted %***	***Payment Schedule***
1	*Secured Financial Creditors*	*(a)Creditors not having a right to vote under sub-section (2) of section 21*	*0*	*0*	*0*	*0%*	
		(b) Dissenting	*0*	*0*	*0*	*0%*	

		(c) Assenting	*25,90,86,090*	*25,90,86,090*	*8,75,96,220*	*33.81%*	*Within 60 days*
2	*Unsecured Financial Creditors*	*(a)Creditors not having a right to vote under sub-section (2) of section 21*	*0*	*0*	*0*	*0%*	
		(b) Dissenting	*0*	*0*	*0*	*0%*	
		(c) Assenting	*0*	*0*	*0*	*0%*	
3	*Operational Creditors*	*(i) Government dues*	*5,05,88,580*	*3,780*	*3,780*	*100%*	*Within 60 days*
		(ii)Workmen-PF Dues-Other dues	*0*	*0*	*0*	*0%*	
		(iii)Employees-PF Dues- Other dues	*0*	*0*	*0*	*0%*	
		(iv)Other Operational Creditors	*0*	*0*	*0*	*0%*	
4	*Other Debts and dues*	*(v)Other Debts and Dues*	*0*	*0*	*0*	*0%*	
5	*Shareholders*	*(vi)Shareholders*	*0*	*0*	*0*	*0%*	
	Grand Total		*30,96,74,670*	*25,90,89,870*	*8,76,00,000*	*33.81%*	

<u>Findings and Analysis:</u>

18. On perusal of the Resolution Plan, we find 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.

19. 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 CIRP Regulations.
20. The RP has filed Compliance Certificate in Form-H along with the Resolution Plan. On perusal, the same is found to be in order. The Resolution Plan has been approved by the CoC by majority of 100%.
21. Vide order dated 01.10.2025, this bench sought certain clarifications with respect to the claim of the Income Tax Department. The Resolution Professional has filed an Additional Affidavit dated 04.10.2025 clarifying as follows :

    "..3) During the hearing held on 01.10.2025 the Hon'ble Tribunal enquired about a small amount of Rs. 3780/- admitted against the claim of income tax department of Rs.5,05,88,580/-. The applicant stated that the amount of claim not collated pertain to the assessment proceedings post the commencement of CIRP."

22. In Clause 4.7 of the Resolution Plan, the SRA has sought certain waivers/ reliefs/concessions. The stated effect of the Resolution Plan and reliefs & concessions as prayed for shall be available in accordance with the principle laid down by Hon'ble Supreme Court in case of ***Ghanshyam Mishra and Sons Private Limited v/s. Edelweiss Asset Reconstruction Company Limited {(2021) 13 S.C.R 737}*** & ***Municipal Corporation of Greater Mumbai vs. Abhilash Lal and Ors. (2019) ibclaaw.in 480 NCLAT.*** Further, it is clarified and ordered that -
    a. Any increase in the authorized capital shall be subject to payment of prescribed fee, if any applicable, and filing of prescribed forms with the Registrar of Companies.
    b. The Income Tax Department shall be at liberty to examine the tax implications arising from the proposals contained in the plan, in terms of Section 2(24), Section 28 and Section 56 of the Income Tax Act, 1961 read with GAAR provisions thereunder.
    c. The Applicant shall file necessary forms and pay prescribed fees,

if any, in terms of provisions of the Companies Act, 2013 in relation to reduction in capital and issuance of fresh capital, however, the Registrar of Companies shall waive the additional fees, if any, payable on such filing.

d. The SRA may approach prescribed authorities for waiver/reduction in fees, charges, stamp duty, and registration fees, if any arising from actions contemplated under the Resolution Plan and such request shall be subject to the relevant law/statute and adherence to the procedure prescribed thereunder.

e. The SRA may file appropriate application, if required, for renewal of all Business Permits, rights, entitlements, benefits, subsidies and privileges whether under applicable Law, contract, lease or license granted in favour of the Corporate Applicant or to which the Corporate Applicant is entitled to or accustomed to, which have expired on the Effective Date, and follow the dues procedure prescribed for the purpose upon payment of prescribed fees. The contract with third parties shall be subject to consent of such parties. It is clarified that continuance of approvals shall not be refused on account of extinguishment of any dues under Code and extension or renewal thereof shall not be denied on account of past insolvency of the Corporate Applicant. No action shall lie against the Corporate Applicant for any non-compliances arising prior to the date of approval of Resolution Plan, however, such non-compliances shall be cured, if necessitated to keep the approval in force, after acquisition by the Corporate Applicant within period stipulated in the Resolution Plan.

f. No orders levying any tax, demand of penalty from the Corporate Applicant in relation to period up to approval of the Resolution Plan shall be passed by any authority and such demand, if created, shall not enforceable as having extinguished in terms of approved Resolution Plan.

g. The carry forward of losses and unabsorbed depreciation shall be available in accordance with the provisions of Income Tax Act, and the Income Tax Department shall be at liberty to examine the same.

h. An application for compounding/condoning shall be filed in accordance with the procedure specified in respective law or concerned authority, however, no fine or penalty shall be imposed for non-compliances till the date of approval of this Plan or such further period as is permitted in terms of this Order.

i. ROC shall update the records and reflect the Corporate Applicant as 'Active' upon filing of pending returns/forms after payment of normal fees (not additional fee). In case such filing is not permitted by the e-filing portal, the ROC shall accept such forms/returns in physical format and manage to upload the same by back-end. The Corporate Applicant shall be exempted from using the words "and reduced".

j. The Compliances under the applicable law for all the statutory appointments by the Corporate Applicant shall be completed within 12 months, whereafter, the necessary consequence under respective law may follow.

k. The Resolution Applicant, the Corporate Debtor and the assets of the Corporate Debtor forming part of Resolution plan shall have immunity, privileges and protection as is available in the form and manner stated in Section 32A of the Insolvency and Bankruptcy Code, 2016.

l. It is clarified that any relief, concession or waiver, not specifically dealt with in Paras (a) to (k) above or not permissible in terms of decision in case of Ghanshyam Mishra (supra) and Abhilash lal (Supra) or specific provisions of the Code read with the Regulations, shall be deemed to be denied or rejected.

23. 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 if the CoC had approved the Resolution Plan by requisite percent

of voting share, then as per Section 30(6) of the Code, it is imperative for the Resolution Professional to submit the same to the Adjudicating Authority (NCLT). On receipt of such a proposal, the Adjudicating Authority is required to satisfy itself that the Resolution Plan as approved by CoC meets the requirements specified in Section 30(2) of the Code. The Hon'ble Apex Court further observed that the role of the NCLT is 'no more and no less'. The Hon'ble Apex Court further held that the discretion of the Adjudicating Authority is circumscribed by Section 31 of the Code 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) of the Code when the Resolution Plan does not conform to the stated requirements.

24. 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 CIRP 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:

25. The Resolution Plan is hereby **approved**. It shall become effective from this date and shall form part of this order with the following directions:
    i. It shall be binding on the Corporate Applicant, 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. The approval of the Resolution Plan shall not be construed as waiver of any statutory obligations/liabilities of the Corporate

Applicant and shall be dealt by the appropriate Authorities in accordance with law. Any waiver sought in the Resolution Plan, shall be subject to approval by the Authorities concerned in light of the Judgment of Supreme Court in ***Ghanshyam Mishra and Sons Private Limited v/s. Edelweiss Asset Reconstruction Company Limited***, the relevant paragraphs of which are extracted herein below:

> *"95. (i) 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 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;*
>
> *(ii) 2019 Amendment to Section 31 of the I&B Code is clarificatory and declaratory in nature and therefore will be effective from the date on which the Code has come into effect;*
>
> *(iii) consequently, all the dues including the statutory dues owed to the Central Government, any State Government or any local authority, if not part of the resolution plan, shall stand extinguished and no proceedings in respect of such dues for the period prior to the date on which the adjudicating authority grants its approval under Section 31 could be continued."*

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.

iv. The Successful Resolution Applicant, for effective implementation of the Resolution Plan, shall obtain all necessary approvals, under any law for the time being in force, within such period as may be prescribed. It is clarified that the authorities shall not withhold the approval/consent/extension for the reason of insolvency of the Corporate Applicant or extinguishment of their dues upto approval of Resolution plan in terms of the approved plan. Any relief or concession as sought on the plan shall be subject to the provisions of the relevant Act.

v. The moratorium under Section 14 of the Code shall cease to have effect from this date.

vi. 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.

vii. 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.

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

Sd/-	Sd/-
Prabhat Kumar	**Sushil Mahadeorao Kochey**
Member (Technical)	Member (Judicial)

/MK/