



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

IA.No.66/2024

IN

CP(IB) No.655/MB/2022

Under Section 60(5) of Insolvency &
Bankruptcy Code, 2016

In IA No. 66/2024

Mr. Anshul Gupta,

..... Applicant/**Resolution
Professional**

In the matter of

Sudhar Industries

... Operational Creditor

Versus

Dhara Technosystem LLP

... Corporate Debtor

Order delivered on: 30.04.2025

Coram:

Prabhat Kumar

Justice V.G Bisht (Retd).

Hon'ble Member (Technical)

Hon'ble Member (Judicial)

Appearances:

For the Applicant

: Adv. Harish A Khan.

For Directorate of

: Adv. Shilpa Madki

Enforcement



ORDER

1. This Application has been filed by the Resolution Professional (“**RP/Applicant**”) under Section 30(6) of the Insolvency and Bankruptcy Code, 2016 (“**Code**”) on behalf of the Committee of Creditors (“**CoC**”) of **Dhara Technosystem** (“**Corporate Debtor**”) seeking approval of the Resolution Plan submitted by the Successful Resolution Applicant (“**SRA**”), **Shamir Kunnumparavalapil Easeph** and approved by 100% of the voting share of the members of the CoC of the Corporate Debtor viz. **Dhara Technosystem** (“**Corporate Debtor**”).


IA No. 66 of 2024

2. The present Application has been filed by Resolution Professional Mr. Anshul Gupta (“**Applicant**”) under Section 30(6) of the Insolvency and Bankruptcy Code, 2016 (“**Code**”) r/w Regulation 39(4) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 for seeking approval of the Resolution Plan of IHL Lifesciences Private Limited (“**Successful Resolution Applicant/SRA**”) read with the provisions of Section 31 of the Code, for **Dhara Technosystem** (“**Corporate Debtor**”) and for passing order/appropriate direction that this Tribunal may deem fit in the present matter.
3. The CIRP was initiated against the Corporate Debtor vide Order dated 11.08.2023.



Brief Facts

4. The Insolvency Resolution Professional (IRP) issued a Public Announcement in Form-A on 19.08.2023, inviting claims from the creditors of the Corporate Debtor. The announcement was published in Financial Express and Navakal, as well as on the IBBI website.
5. In furtherance of the Public Announcement, the Applicant collated and verified the claims and duly constituted the Committee of Creditors (CoC) in accordance with the relevant procedures.
6. At the 1st CoC meeting held on 16.09.2023, the Committee of Creditors confirmed and ratified the appointment of the Applicant as the Resolution Professional for the Corporate Debtor's Corporate Insolvency Resolution Process (CIRP).
7. At the 3rd CoC meeting held on 01.11.2023, The Resolution Professional (RP) invited Expressions of Interest (EOI) in Form G, under Regulation 36A(1) of the CIRP Regulations, from the general public.
8. The Resolution Professional published the first 'Form G', inviting Expressions of Interest ("**EOI**"), on 16.10.2023. The last date for submission of Resolution Plan was set as 05.12.2023.
9. At the 4th CoC meeting held on 31.01.2024, a resolution was passed by the members to seek an extension of 90 days before this Bench.
10. Subsequently, the Applicant republished Form G on 20.11.2023, indicating that the last date for submission of Expressions of Interest (EOI) was 05.12.2023. Accordingly, the deadline for submitting the Resolution Plan was set for 22.01.2024. However, following requests from the Prospective Resolution Applicants (PRAs) for additional



time to submit their Resolution Plans, the members of the Committee of Creditors (CoC), after discussion, agreed to extend the submission deadline to 19.02.2024, including an additional 14-day extension requested by the PRAs.

11. At the 6th CoC meeting held on 30.04.2024, a resolution was passed by the members to seek an additional extension of 60 days before this Bench. Furthermore, the Successful Resolution Applicant (SRA) submitted a revised Resolution Plan in accordance with the request of the Committee of Creditors (CoC) members.
12. At the 7th CoC meeting held on 25.05.2024, the resolution plan was approved by the CoC members by a 100% majority vote.
13. The Successful Resolution Applicant (SRA) deposited the required Earnest Money Deposit (EMD) of Rs. 5,00,000/- (Rupees Five Lakhs Only) into the designated bank account of the Corporate Debtor on 22.02. 2024. Additionally, the SRA deposited an amount of Rs. 5,50,000/- as a Performance Bank Guarantee, equivalent to 10% of the Resolution Plan Amount, via bank transfer.
14. The Salient Features of the Resolution Plan are as under:

A. Brief Background of the Corporate Debtor

- i. The Corporate Debtor is in the Business of Manufacturing of Fabrications, Assembly of Electrical and Fire Panels, Telecom Products, Module Assembly, wire Harnessing etc.
- ii. The Corporate Insolvency Resolution Process (“CIRP”) of Dhara Technosystem LLP (**Corporate Debtor**) has been initiated as per the provisions of the Insolvency and Bankruptcy Code (“IBC”) under Section 9 of the Code. The Application was moved before the Hon’ble National Company Law Tribunal, Mumbai Bench (“NCLT”) and was



admitted vide its order dated 11.08.2023 (“CIRP Order”). Pursuant to which, Mr. Ansul Gupta , (having IP Registration no. IBBI/IPA-002/IPN00310/2017-18/10899), Insolvency Professional, was appointed as the Interim Resolution Professional (IRP).

iii. **About the Resolution Applicant:-**

Shamir Kunnumparavalapil Easeph (Resolution Applicant), Chief Executive and beneficiary owner of SD International DWC-LLC having its registered office in Dubai since 2013. My Company is actively involved in LOB distribution of medical consumables, trading in agricultural commodities, ferrous & non-ferrous metals. During last 5 years under my guidance the company has grown its net assets from AED 7,40,80,486/- in Year 2018 to AED 14,96,76,108/- in Year 2022. The Resolution Applicant is looking forward to start LOB Distribution business in India therefore, want to submit the Resolution Plan for acquiring the Corporate Debtor and to revive the same and intend to take the firms business to international market.


B.The key features of the Revised Resolution Plan along with Addendum to the Resolution Plan as submitted by M/s. IHL Lifesciences Private Limited:

i. Payment as envisaged under the Resolution Plan:

Sr.No	Particulars	Payment Proposed Rs.
01	Recovery for Financial Creditors	25,00,000/-
02.	Treatment to other stakeholder	
	a)Employees & workmen	0

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	b) Statutory Creditors	0
	c) other Operational Creditors	1,00,000/-
	d) Shareholders	0
03.	Contingent Liabilities	4,00,000/-
	Total	30,00,000/-

The CIRP Cost does not form part of the aforementioned payment schedule. The unpaid CIRP Cost will be paid at actuals, including the CIRP Cost to be incurred until the date of approval of the Resolution Plan

C. That the Applicant has not received any claims under the category of Employees & Workmen. However, the SRA has allocated an amount of Rs. 2,00,000/- (Rupees Two Lakhs Only) for this category in case any claim is received and accepted by the Applicant/Monitoring Committee within 180 (One Hundred and Eighty) days of the approval of the Resolution Plan by the Hon'ble Tribunal. If no such claims are received for this category, the allocated amount shall be distributed among the financial creditors of the Corporate Debtor. The aforesaid amount is included in the Rs. 30,00,000/- (Rupees Thirty Lakhs Only).

D. Repayment schedule to the Financial Creditors as follows:

Sr. No.	Date	Proposed Payment(in Lakhs)
1.	Within 30 days from the date of approval of Resolution Plan	7.50
2.	Within 60 days from the date of approval of	10.00



	Resolution Plan	
3.	Within 90 days from the date of approval of Resolution Plan	12.50
	Total	25.00

E. Source of Fund:

i. The amount of Rs. 30.00 lakhs shall be brought in by the resolution applicant (wherein Shamir kunnump ara valapil Easeph or SPV shall have a share of 100%. The said amount will be brought in by the resolution applicant in combination of debt and equity into the company. The said amount will be brought by the resolution applicant through his own sources. The SRA submits that they have sufficient liquid funds to pay the said amount as mentioned in this plan.

ii. The payment under the Resolution Plan is proposed to be paid in 3 Tranches: a) within 30 days of the Approval of Resolution Plan, the Resolution Applicant shall contribute an amount of ₹ 7,50,000/- (Rupees Seven Lakhs Fifty Thousand only) as First Tranche; b) within 60 days of the Approval of Resolution Plan the Resolution Applicant shall contribute an amount of ₹ 10,00,000 (Ten Lakh Rupees only) as a second Tranche; c) within 90 days of the Approval of Resolution Plan the Resolution Applicant shall contribute an amount of ₹12,50,000 (Twelve Lakhs Fifty Thousand only) as third Tranche.

15. Relief and Concessions:

i. All the liabilities of all the Operational Creditors shall also be annulled subject to the payment as envisaged in the plan. Also All the ongoing and subsequent litigations arising out of the actions and/or inactions of the Corporate Debtor or its



Directors, employees, authority holders etc. prior to the effective date are hereby annulled.

- ii. The resolution applicant and/or the Corporate Debtor shall not be responsible for claim, damage, penalty, attachment. etc. if any imposed under Assessment proceedings and/or appeal proceedings and/or any proceedings before any court of law including but not restricted to execution of any judgment or decree of any court arising out of any events / defaults / non-compliance / non-payment of any liability and any failure of such nature or any action /inaction of the erstwhile management carried out or due before the effective date including the right of the guarantors towards subrogation. The commitment of the resolution applicant, for all the liabilities standing on the effective date, is restricted to the resolution plan amount of Rs. 30 lakhs. Any liability as on the effective date whether provided for or not provided for in this plan shall stand irrevocably settled and extinguished in perpetuity. All Claims (whether contingent or crystallised, known or unknown) of Governmental Authorities in relation to all Taxes, all deductions and all withholding Taxes on any payment, as required under Applicable Law and pertaining to the period prior to the Effective Date shall stand extinguished on the Effective Date.
- iii. The company may not have the necessary approvals/consents from various statutory authorities including factory license, pollution control board, water board, electricity department, etc. The non - compliances relating to the above authorities arising prior to the effective date to be hereby ratified. The Resolution Applicant requests all Governmental Authorities to provide reasonable time period after the Effective Date in' order for the Resolution Applicant to assess the status of these approvals/consents and ensure that the Corporate Debtor is



compliant with the terms of such applicable Law without initiating any investigations, actions or proceedings in relation to such Non-Compliances and all such non-compliances stands ratified by this order.

iv. On the Effective Date, all the outstanding negotiable instruments issued by the Corporate Debtor or by any Person on behalf of the Corporate Debtor including demand promissory notes, post-dated cheques and letters of credit, shall stand terminated and the Corporate Debtor's liability under such instruments shall stand extinguished.

v. The Information Memorandum provides a list of items wherein litigations, ongoing investigations or proceedings initiated by government and statutory authorities. The said list of litigations be considered as contingent liabilities as part of this resolution plan be considered as the full and final settlement towards these proceedings/contingent liabilities and any other financial or nonfinancial liability arising out of these litigations.

16. 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 distribute 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 29A.

17. 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 CD.
- 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 AA in the past.
- d) The terms of the plan and its implementation schedule.
- e) The management and control of the business of the CD during its term.
- f) Adequate means of Supervising its implementation.
- g) The Resolution Plan Demonstrate 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

18. The Resolution Professional has annexed **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 Code and its Regulations. The relevant extracts, as otherwise stated elsewhere in the order, are as follows –

FORM H

COMPLIANCE CERTIFICATE

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

I, Mr. Anshul Gupta, an insolvency professional enrolled with Indian Institute of Insolvency Professionals of ICSI and registered with the Board with registration number IBBI/IPA-002/IP-N00310/2017-18/10899, am the Resolution Professional for the corporate insolvency resolution process)CIRP(of Dhara Technosystem LLP.

2. The details of the CIRP are as under:

Sl. No.	Particulars	Description
1	<i>Name of the CD</i>	<i>Dhara Technosystem LLP</i>
2	<i>Date of Initiation of CIRP</i>	<i>August 11, 2023 (Order received on August 17, 2023)</i>
3	<i>Date of Appointment of IRP</i>	<i>11-08-2023</i>
4	<i>Date of Publication of Public Announcement</i>	<i>19-08-2023</i>
5	<i>Date of Constitution of CoC</i>	<i>09-09-2023</i>


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6	<i>Date of First Meeting of CoC</i>	16-09-2023
7	<i>Date of Appointment of RP</i>	16-09-2023 (ballot received on 18-09-2023)
8	<i>Date of Appointment of Registered Valuers</i>	27-09-2023
9	<i>Date of Issue of Invitation for EoI</i>	First round of Form G – 16-10-2023 Second round of Form G – 20-11-2023
10	<i>Date of Final List of Eligible Prospective Resolution Applicants</i>	21-12-2023
11	<i>Date of Invitation of Resolution Plan</i>	20-11-2023
12	<i>Last Date of Submission of Resolution Plan</i>	22-01-2024 (extended till 19-02-2024)
13	<i>Date of Approval of Resolution Plan by CoC</i>	28-05-2024
14	<i>Date of Filing of Resolution Plan with Adjudicating Authority</i>	05-07-2024
15	<i>Date of Expiry of 180 days of CIRP</i>	07-02-2024
16	<i>Date of Order extending the period of CIRP</i>	The RP had filed an application with the Hon'ble NCLT for extending the period of CIRP by 90 days and the order for the same was pronounced by the NCLT on April 22, 2024. Accordingly, the

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		<i>CIRP ended on May 07, 2024.</i> <i>Moreover, the RP has filed an application for further extension of CIRP by 60 days, however order for the same is not pronounced by the Hon'ble NCLT.</i>
17	<i>Date of Expiry of Extended Period of CIRP</i>	<i>06-07-2024 post extension (Application filed, Order not yet pronounced by the Hon'ble NCLT)</i>
18	<i>Fair Value</i>	<i>0</i>
19	<i>Liquidation value</i>	<i>0</i>
20	<i>Number of Meetings of CoC held</i>	<i>7</i>

3. *I have examined the Resolution Plan received from Resolution Applicant Mr. Shamir Kunnumparavalapil Easeph and approved by Committee of Creditors)CoC(of Dhara Technosystems LLP.*

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 time being in force.*
- ii. the Resolution Applicant Shamir Kunnumparavalapil Easeph has submitted an affidavit pursuant to section30)1(of the Code confirming its eligibility under*

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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 and the CIRP Regulations made thereunder. The Resolution Plan has been approved by 100% of voting share of financial creditors after considering its feasibility and viability and other requirements specified by the CIRP Regulations.

Further, I sought vote of members of the CoC by electronic voting system which was kept open at least for 24 hours as per the regulation 26.

5. The list of financial creditors of Dhara Technosystems LLP 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	Equilink Capital Management Services Ltd	20.71%	Voted For
2	Thornberry Capital Private Limited	28.06%	Voted For
3	Wittyminds Enterprise Pvt Ltd	51.23%	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 - Page no. 12 of the Resolution Plan

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

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<i>Sl. No.</i>	<i>Category of Stakeholder</i>	<i>Sub-Category of Stakeholder</i>	<i>Amount Claimed</i>	<i>Amount Admitted</i>	<i>Amount Provided under the Plan#</i>	<i>Amount Provided to the Amount Claimed (%)</i>
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>	<i>(5)</i>	<i>(6)</i>	<i>(7)</i>
<i>1</i>	<i>Secured Financial Creditors</i>	<i>(a) Creditors not having a right to vote under sub-section (2) of section 21</i>	-	-	-	-
		<i>(b) Other than (a) above:</i>	-	-	-	-
		<i>(i) who did not vote in favour of the resolution Plan</i>	-	-	-	-
		<i>(ii) who voted in favour of the resolution plan</i>	<i>17,10,81,250</i>	<i>17,10,81,250</i>	<i>12,19,000</i>	<i>0.71%</i>
		<i>Total[(a) + (b)]</i>	<i>17,10,81,250</i>	<i>17,10,81,250</i>	<i>12,19,000</i>	<i>0.71%</i>

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2	<i>Unsecured Financial Creditors</i>	<i>(a) Creditors not having a right to vote under sub- section (2) of section 21</i>	-	-	-	-
		<i>(b) Other than (a) above:</i>	-	-	-	-
		<i>(i) who did not vote in favour of the resolution Plan</i>	-	-	-	-
		<i>(ii) who voted in favour of the resolution plan</i>	17,97,00,000	17,97,00,000	12,81,000	0.71%
		<i>Total[(a) + (b)]</i>	17,97,00,000	17,97,00,000	12,81,000	0.71%
3	<i>Operational Creditors</i>	<i>(a) Related Party of Corporate Debtor</i>	-	-	-	-
		<i>(b) Other than (a) above:</i>	-	-	-	-
		<i>(i) Government</i>	-	-	-	-

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		<i>(ii) Workmen and Employees</i>	-	-	-	-
		<i>(iii) Operational creditors</i>	1,65,34,580	1,65,34,580	1,00,000	0.60%
		<i>(iv) Others</i>	-	-		-
		<i>Total[(a) + (b)]</i>	1,65,34,580	1,65,34,580	1,00,000	0.60%
4	<i>Other debts and dues</i>	<i>Contingent Statutory Dues</i>	-	-	2,00,000	-
		<i>Contingent Workmen and Employees dues</i>	-	-	2,00,000	-
	<i>Grand Total</i>		36,73,15,830	36,73,15,830	30,00,000	0.82%

19. On perusal of the Resolution Plan IA 66 of 2024, 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.

20. 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.

21. 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 the CoC by majority of 100%.

22. This bench observed that the valuer has determined the liquidation value as zero, however, there seems to be credit balance in the bank account with the ICICI bank and certain securities lying in the DMAT account frozen by the Enforcement Directorate, accordingly this Bench directed the Applicant Resolution Professional to seek clarification from the valuer as to why the amount lying in the bank account and the value of securities lying in DMAT account, which is under freeze of ED (Enforcement Directorate), were not considered by them in their valuation report. The Applicant placed on record the two email communication from Amandeep Kaur and Ravi Ashok Kumar Jain , both registered valuer. Amandeep Kaur through Muskaan Barwal has clarified vide email dated 03.12.2024 that *“these cash and bank balances were frozen by the government authority/SEBI. Consequently, these balances are not available for utilization by the RP team, This form the basis of our findings, and therefore ,as per our professional judgement we have not been able to assign any value under this category”*. Further Mr. Ravi Ashok Kumar Jain has clarified that *“5. we have seen the Order of Adjudicating Authority (under the Prevention of Money Laundering Act, 2002) dated 04.09.2023 and with reference to that understand the further details as follows;*

1. Bank accounts and Demat Accounts of the entity are Frozen by the Enforcement Directorate and not in possession of Resolution Professional

2. As per the reading and understanding of the case by ED the entity has received the Proceeds of Crime in its Bank accounts.

3. Total transaction volume of the Crime claimed by ED is Rs. 170.70 Cr.

4. Total amount under Freeze by ED is Rs. 9.29 Crores arrived from the total of 111 Bank Account frozen pertaining to 82 respondents or accused.

Thus, the entity under CIRP has no visibility of realization of amount as on the Valuation date and thereby we are compelled to give the Nil Valuation report to the Resolution Professional who is not even in possession of the assets and has no control over its realisability on the given dates.”

23. At internal page No.8 of the Resolution Plan it is stated that:-“Further we understand that company has certain liquid funds in its bank accounts which RP is trying to take control. We hereby confirm that the Resolution Applicant will not have any right on the cash and bank balance as on transfer date and the same will be distributed among the CoC member proportionately”. Financial Statement for the year ended 31.03.2020 discloses the following current assets, the Fair & Liquidation value of which is considered as Nil on account of the attachment of properties of the Corporate debtor by the Enforcement Directorate.

Particulars	Balance as on 31.03.2020
Non Current Assets	
Non Current investment	1,00,00,000
Current Assets	
Trade Receivables	1,85,58,133
Bank Balances	4,83,91,885
Short Term Loans; &Advances	70,81,35,088
Other Current Assets	14,9,50,171
Total	80,01,45,277.00



24. On the perusal of the case records we find that the resolution plan was put to vote on 25.05.2024 and an application IA 3620 of 2024 was filed by the Applicant Resolution Professional on 29.06.2024, seeking direction to the Enforcement Directorate to vacate the attachment of the Assets of the Corporate Debtor under PMLA. The present application seeking the approval of the resolution plan was filed on 29.07.2024. During the pendency of this application, it was submitted by the Counsel for ED and confirmed by the Counsel for Globe Capital that the office of ED has since withdrawn the order of attachment in relation to the assets of the Corporate Debtor, accordingly these assets stands defroze. Counsel for the Applicant Resolution Professional reiterated that in terms of clause 8 of the Resolution Plan, the cash and bank balance as on transfer date so defroze will be distributed among the CoC member proportionately.
25. 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). 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 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.

26. The reliefs & concessions as prayed in the Resolution Plan 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} and subject to the observations or limitations in the following paras and judicial precedents in case of *Municipal Corporation of Greater Mumbai vs. Abhilash Lal and Ors. (2019) ibclaw.in 480 NCLAT* :
- a) Any increase in the authorized share capital shall be subject to payment of prescribed fee, if any applicable, and filing of prescribed forms with the Registrar of Companies.
 - b) 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.
 - c) 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.
 - d) The SRA may file appropriate application, if required, for renewal of all Business Permits, licenses, permissions, rights, entitlements, benefits, subsidies and privileges whether under applicable Law, contract, lease or license granted in favour of the Corporate Debtor or to which the Corporate Debtor 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 or renewal of approvals/permission/license shall not be refused on account of extinguishment of any dues under IBC and extension or renewal thereof shall not be denied on account of past insolvency of the Corporate Debtor.

- e) The SRA has sought that no Governmental Authority (including regulatory, judicial and quasi-judicial authority) shall issue any orders, directions, decrees, Judgments etc. that will be in contravention of the provisions of the Resolution Plan (including the financial plan). The Resolution Applicant is submitting the Resolution Plan for the Corporate Debtor as a going concern. The provisions of this Resolution Plan shall prevail over the provisions of all agreements / arrangements / purchase orders / work orders, etc. entered into by the Corporate Debtor to the extent of any inconsistencies.
- f) The carry forward of losses and unabsorbed depreciation shall be available to the extent and in the manner provided under the provisions of Income Tax Act, and the Income Tax Department shall be at liberty to examine the same. Further, the concerned tax authorities shall be at liberty to examine the carry forward of input tax credit available under Indirect Tax for its further carry forward.
- g) ROC shall update the records and reflect the Corporate Debtor 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 Debtor shall be exempted from using the words "and reduced".



- h) No orders levying any tax, demand or penalty from the Corporate Debtor in relation to period upto 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.
- i) 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.
- j) The resolution applicant shall, obtain the necessary approval required under any law for the time being in force within a period of one year from the date of approval of the resolution plan or within such period as provided for in such law, whichever is later.
- k) The approval of the Resolution Plan shall not be construed as waiver of any statutory obligations of the Corporate Debtor and may be dealt by the appropriate Authorities in accordance with law in so far as such obligation pertains to a period after the approval of the Resolution Plan unless otherwise relaxed specifically.
27. 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.**
28. The Resolution Plan along with the Addendum thereto annexed to the Application 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 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. The approval of the Resolution Plan shall not be construed as waiver of any statutory obligations/liabilities of the Corporate Debtor 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 paras 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), Pune, 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.

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT – I

IA No. 66/2024
In C.P.(IB) No. 655(MB)/2022



29. The Interlocutory Application No.66/2024 in C.P.(IB)/655(MB)2022
is accordingly is allowed and disposed of.

Sd/-

Prabhat Kumar

Member (Technical)

Sd/-

Justice V.G. Bisht

Member (Judicial)