

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
COURT HALL NO: II**

Special Bench (PHYSICAL HEARING)

CORAM: DR.VENKATA RAMAKRISHNA BADARINATH NANDULA – HON'BLE MEMBER (J)

CORAM: SHRI CHARAN SINGH- HON'BLE MEMBER (T)

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
HYDERABAD BENCH, HELD ON 02.03.2023 AT 02:30 PM**

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA (IBC)/193/2023 in CP (IB) No.104/7/HDB/2020
NAME OF THE COMPANY	Sri Mata Infratech Ltd
NAME OF THE PETITIONER(S)	State Bank of India
NAME OF THE RESPONDENT(S)	Sri Mata Infratech Ltd
UNDER SECTION	7 of IBC

ORDER

IA(IBC)/193/2023

Orders pronounced recorded, vide separate sheets. In the result this application is allowed subject to the terms and conditions mentioned in the order.

Sd/-

MEMBER (T)

Sd/-

MEMBER (J)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH - II**

**I.A. No.193 OF 2023
in
CP(IB) NO. 104/7/HDB/2020**

*[U/s. 30(6) and U/s. 31(1) of the I&B Code, 2016 r/w Regulation 39(4) of
the IBBI (IRPCP) Regulations, 2016]*

**In the matter of:
M/s. SRI MATA INFRATECH LIMITED**

Mr. B. Naga Bhushan
Resolution Professional
IBBI/IPA-001/IP-P00032/2016-17/10085
Sri Mata Infratech Limited
1-1-380/38, Ashok Nagar Extension
Hyderabad – 500 020

.... Applicant /
Resolution Professional

Date of Order: 02.03.2023

Coram:

**Hon'ble Dr. Nandula Venkata Ramakrishna Badarinath, Member (Judicial)
Hon'ble Shri Charan Singh, Member (Technical)**

Parties / Counsels Present:

For the Applicant : Mr. B. Naga Bhushan, RP
Mr. B. Ramesh Babu, Advocate

Heard on: 27.02.2023, 02.03.2023

[PER : BENCH]

ORDER

1. The instant Application bearing IA No. 193/2023 is filed by the Resolution Professional of M/s Sri Mata Infratech Limited/ for short 'Corporate Debtor' under Section 30(6) and 31(1) of the Insolvency & Bankruptcy Code, 2016, r/w regulation 39(4) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, seeking approval of the Resolution Plan submitted by M/s Varma Steels Private Limited in consortium with Mr. A V P Varma, for short 'Resolution Applicant' as duly approved by the Committee of Creditors with 100% voting share.
2. The Company Petition CP(IB) No. 104/7/HDB/2020 filed by State Bank of India u/s. 7 of IBC, 2016 was admitted by the Adjudicating Authority, vide Order dated 28.04.2022 and ordered commencement of CIRP against the Corporate Debtor/M/s. Sri Mata Infratech Limited by appointing Mr. B. Naga Bhushan Bhagawati as the Interim Resolution Professional (IRP). Later, in the 1st COC Meeting held on 01.06.2022, the IRP confirmed as Resolution Professional, for short 'RP'.
3. On receipt of claims from the Creditors pursuant to public announcement dated 06.05.2022, the RP constituted the Committee of Creditors, for short 'COC' comprising of sole Financial Creditor of the Corporate Debtor as follows:

S.No.	Name of the Creditor	Claim submitted	Claim Admitted	Voting %
1.	State Bank of India	207,11,69,701	207,11,69,701	100%

4. It is averred that the RP conducted a total of nine (9) meetings of the COC during the CIRP. The Applicant issued Form-G on 21.06.2022. In response, Expression of Interests were received from the following two Prospective Resolution Applicants on 06.07.2022.
 - i. Mr. Prasanna Sai Raghuvveer Kandula
 - ii. M/s.Varma Steels Private Limited in consortium with AVP Varma
5. The RP requested for Resolution Plan, Evaluation Matrix and Information Memorandum from both the Prospective Resolution Applicants by fixing the last date for submission of the Resolution Plan was 20.08.2022.
6. In the 6th COC Meeting held on 03.10.2022, out of the two Prospective Resolution Applicants, only one Resolution Applicant i.e. M/s. Varma Steels Private Limited in consortium with Mr.AVP Varma submitted the Resolution Plan.
7. During the 7th CoC Meeting held on 11.10.2022, the RP/CoC conducted negotiations / deliberations with the representative of Resolution Applicant and requested to enhance the Resolution Plan amount, to which the Resolution Applicant responded favourably.
8. It is averred that the Applicant had received Valuation Reports and upon receipt of the Confidentiality Undertaking from the Financial Creditors, copies of the Valuation Reports were shared with them through mail on 13.10.2022.
9. The Applicant had filed an application with the Hon'ble NCLT on 18.10.2022 seeking extension of CIRP period by 90 days beyond 180

days, which was allowed on 26.10.2022 by virtue of which, the date of CIRP was extended upto 22.01.2023.

10. During the 8th COC Meeting held on 22.11.2022, the RP kept the revised Resolution Plan dated 17.11.2022 submitted by M/s.Varma Steels Private Limited in consortium with Mr.A.V.P.Varma for discussion. A brief synopsis of the Resolution Plan is as follows:
 - a) Resolution Plan amount: Rs. 33.08 Crores
 - b) Resolution Plan Period: 18 months from the order of NCLT
 - c) Proposed payment:
 - i. CIRP costs – At Actuals
 - ii. Financial Creditors – Rs. 33 Crores
 - iii. Operational Creditors – Rs. 0.08 Crores
11. The CoC evaluated the Resolution Plan submitted by the Prospective Resolution Applicant as per the Evaluation Matrix and Section 29A of the Code. **A copy of Certificate of Compliance under Section 29A of IBC, 2016 is filed as Annexure-21 at page no.269 of the application.** After evaluating in terms of both qualitative and quantitative criteria and aggregate the revised resolution plan submitted by M/s.Varma Steels Private Limited in consortium with Mr. A.V.P.Varma was put for e-voting as per the decision taken in the 8th CoC meeting held on 22.11.2022.
12. The Resolution Plan submitted by M/s.Varma Steels Private Limited in consortium with Mr. A.V.P.Varma (Resolution Applicant) was considered and approved by the CoC with 100% voting in favour of it under Section 30(4) of IBC. The Applicant further submits that all the requirements envisaged under the Code and Rules/Regulations made there-under have been met.

13. The details of the approved Resolution Plan submitted by the Successful Resolution Applicant is as follows:

S.No	Particulars	Amount
1	Resolution Plan Amount	33,08,00,000
2	Resolution Plan Period	18 months
3	Payment to Various	
	a) CIRP expenses	At actuals
	b) Operational creditors	8,00,000
	c) Secured Financial Creditors	33,00,00,000
	Total	33,08,00,000
4	Mode of Payment	Cash

5	Payment Schedule	
	a) CIRP Expenses	
	Within 30 days from NCLT	At actuals
	b) Operational Creditors (Others)	
	Within 30 days from NCLT	8,00,000
	c) Financial Creditors	
	Within 30 days from NCLT Order	5,00,00,000
	Within 30 days from NCLT Order	1,50,00,000
	Within 4 months from NCLT	1,00,00,000
	Within 6 months from NCLT	6,50,00,000
	Within 9 months from NCLT	1,00,00,000
	Within 12 months from NCLT	8,00,00,000
	Within 15 months from NCLT	2,00,00,000
	Within 18 months from NCLT	8,00,00,000
	Total	33,08,00,000
6	Proposed Distribution of	
	a) State Bank of India (100%)	33,00,00,000
	Total	33,08,00,000

A copy of the Resolution Plan along with its annexures is filed as **Annexure – A15** at page nos.155 to 247 of the application.

14. On 10.01.2023, the RP issued 'Letter of Intent' (LoI) to the SRA and advised to remit 10% of the Resolution Plan amount and the SRA remitted Rs.3,30,00,000/- vide Bank Guarantee bearing No. 021GT02230240012

dated 24.01.2023 with acceptance of LOI, which is filed **as Annexure A-19 at page nos.262 to 267 of the application.**

15. **Contour of the Resolution Plan:**

- i. The Resolution Plan is submitted by **M/s.Varma Steels Private Limited in consortium with Mr. A.V.P.Varma, for short 'Resolution Applicant'**. Mr.AVP Varma, is the promoter and Managing Director of Sri Vijayalakshmi Cement Works. In 2016, Sri Vijayalakshmi Cement Works emerged as a Private Limited Company by name Varma Steels Private Limited. Varma Steels Private Limited was incorporated on 01.02.2016, having CIN: U51102TG2016PTC103003. The Registered Office of the company is situated at D.No.1-104/22/A, Plot No.16, The Address Home, Madhapur, Hyderabad – 500 081. The company is a major dealer and C&F Agent. The main activities of the company are purchasing of cement under renowned brands of Raasi Gold, Raasi Super and Coromandel from the India Cements Ltd. Mr. AVP Varma is a promoter of many companies including but not limited to Cement Company, EPC Company, Fintech Company, Hyper Local Delivery Company and IT and ITES Company. He runs on the concepts of Quality and Team Work which yields good results over a period of time.
- ii. The CoC is the sole Financial Creditor i.e. State Bank of India, which is having 100% voting share voted in favour of the Resolution Applicant.
- iii. An upfront payment of Rs.5.00 crores will be made by M/s.Varma Steels Private Limited in consortium with Mr.A.V.P.Varma (Resolution Applicant) within 30 days of effective date (Date of approval of the Resolution Plan).

iv. The Resolution Plan for an amount of Rs.33.08 crores provided for the stakeholders is tabulated below.

(Rs. in crores)

Sl. No.	Category of Stakeholder*	Sub-Category of Stakeholder	Amount Claimed	Amount Admitted	Amount Provided under the Plan#	Amount Provided to the Amount Claimed (%)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	Secured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21				
		(b) Other than (a) above: (i) who did not vote in favour of the resolution Plan (ii) who voted in favour of the resolution plan	207.12	207.12	33.00	15.93%
		Total[(a) + (b)]	207.12	207.12	33.00	15.93%
2	Unsecured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	--	--	--	--
		(b) Other than (a) above: (i) who did not vote in favour of the resolution Plan (ii) who voted in favour of the resolution plan	--	--	--	--
		Total[(a) + (b)]	--	--	--	--
3	Operational Creditors	(a) Related Party of Corporate Debtor	--	--	--	--

		(b) Other than (a) above:				
		(i) Government	1.60	1.60	0.08	5.0%
		(ii) Workmen	--	--	--	--
		(iii) Employees	--	--	--	--
		(iv) Others	--	--	--	--
		Total[(a) + (b)]	208.72	208.72	33.08	15.85%
4	Other debts and dues	CIRP Expenses	At actuals	At actuals	At actuals	100%
Grand Total			208.72	208.72	33.08	15.85%

- v. The Successful Resolution Applicant proposes to distribute the Resolution Plan amount to different stakeholders in the following manner:

S.No	Particulars	Amount
1	Resolution Plan Amount	33,08,00,000
2	Resolution Plan Period	18 months
3	Payment to Various Stakeholders	
	a) CIRP expenses	At actuals
	b) Operational creditors	8,00,000
	c) Secured Financial Creditors	33,00,00,000
	Total	33,08,00,000
4	Mode of Payment	Cash
5	Payment Schedule	
	a) CIRP Expenses	
	Within 30 days from NCLT Order	At actuals
	b) Operational Creditors (Others)	
	Within 30 days from NCLT Order	8,00,000
	c) Financial Creditors	
	Within 30 days from NCLT Order	5,00,00,000
	Within 30 days from NCLT Order (As Equity)	1,50,00,000
	Within 4 months from NCLT Order	1,00,00,000
	Within 6 months from NCLT Order	6,50,00,000
	Within 9 months from NCLT Order	1,00,00,000
	Within 12 months from NCLT Order	8,00,00,000
	Within 15 months from NCLT Order	2,00,00,000
	Within 18 months from NCLT Order	8,00,00,000
	Total	33,08,00,000

6	Proposed Distribution of Resolution Plan	
	a) State Bank of India (100%)	33,00,00,000
	Total	33,08,00,000

16. The Applicant submitted in Form-H that the Resolution Plan is being filed three (3) days after the expiry of the period of CIRP provided in Section 12 of the Code. However, with the approval of the COC, the same has been received by the RP.
17. The Applicant confirmed that the Successful Resolution Plan is in compliance with the provisions of Section 30 (2). **A copy of the Resolution Plan along with its annexures is filed as Annexure – A15 at page nos. 155 to 247 of the application.**
18. **Compliance of mandatory contents of Resolution Plan under the Code and CIRP Regulations:-**

The Applicant has conducted a thorough compliance check of the Resolution Plan in terms of the Code as well as Regulations 38 & 39 of the Insolvency and Bankruptcy Board of India (Corporate Insolvency Resolution Process) Regulations, 2016, for short 'Regulation and has submitted Form-H under Regulation 39 (4). A copy of the Form-H is filed at page nos. 273 to 277 of the application. It is submitted that Resolution Applicant has filed Certificate of compliance under Section 29A and 30 of the Code confirming that they are eligible to submit the plan under Section 29A of the Code and that the contents of the said Certificate are in order. The fair value and Liquidation value as submitted in Form-H is Rs.43,86,50,222/- and Rs.30,78,61,759/- respectively.

19. In the above backdrop, we heard Mr. Ramesh Babu, Learned Counsel for RP. He submits that the Resolution Plan meets the requirement of Section 30 (2) of the Code, as under:-

- (i) The Resolution Plan provides for payment of CIRP costs as 'At Actuals' which shall be paid in priority to other creditors. This payment is part of the upfront payment i.e., within 30 days of approval of the Resolution Plan by NCLT. The CIRP costs have been approved by COC.
- (ii) The total claims of Rs.1,59,73,835/- filed by Operational Creditors (Statutory) have been verified and fully admitted for the purposes of CIRP by the Resolution Professional. The Resolution Applicant proposes to pay Rs.8,00,000/- towards Operational Creditor debt.
- (iii) There is no dissenting financial creditor as the Resolution Plan is approved with 100% majority by sole Financial Creditor/SBI.

20. The Resolution Plan is in compliance of Regulation 38 of the Regulations in the following manner:

- i. **Regulation 38(1)(a) of the CIRP Regulations 2016: Whether the amount due to the Operational Creditors under the Resolution Plan has been given priority in payment over financial creditors?**

Page No. 22 – 25 – Chapter IV – Clause G.2. and Page No 48 – Chapter VI - Clause I.1.a of the Plan Document):

The payment proposed to the Operational Creditors and dissenting financial Creditors, if any, in this Resolution Plan will be paid in priority to any of the financial creditors.

- ii. **Regulation 38 (1) (b): The amount payable under a resolution plan to the financial creditors, who have a right to vote under sub-section (2) of section 21 and did not vote in favour of the resolution plan, shall be paid in priority over financial creditors who voted in favour of the plan.**

Since there is only one Financial Creditor, who voted in favour of the Resolution Plan with 100% majority, there are no Dissenting Financial Creditors. The payment proposed to the Operational Creditors and dissenting financial Creditors, if any, in this Resolution Plan will be paid in priority to any of the financial creditors, which is furnished in detail at **Page No. 26 – 27 – Chapter IV – Clause G.4.ii and Page No 48 – Chapter VI - Clause I.1.b of the Plan Document.**

- iii. **Regulation 38(1A): A resolution plan shall include a statement as to how it has dealt with the interests of all stakeholders, including financial creditors and operational creditors, of the corporate debtor. (Page No 48 – Chapter VI - Clause I.2 of the Plan Document):**

Sl.No	Description of the Payment	Admitted amount (in Rs.)	Resolution Plan Consideration Amount (in Rs.)
1	Claims from Secured Financial Creditor	207,11,69,701	33,00,00,000
2	Claims from Un-Secured Financial Creditors	0	0
3	Claims from Operational Creditors	1,59,73,835	8,00,000/-
4.	Claims from Other Than Operational Creditors and Financial Creditors (Statutory Authorities/ Government Dues)	0	0
5	Claims from Workmen and Employees other than priority (dues for 24 months)	0	0
	Total Payable	208,71,43,536	33,08,00,000

- iv. **Regulation 38(1B): Whether the resolution applicant or any of its related parties has failed to implement or contributed to the failure of implementation of any other resolution plan approved by the Adjudicating Authority at any time in the past. (Page No 49 – Chapter VI - Clause I.3 of the Plan Document):**

Neither the Resolution Applicant nor its related parties have failed to implement or contributed to the failure of implementation of any other resolution plan approved by the Adjudicating Authority at any time in the past.

21. Monitoring Committee -

The Monitoring Committee shall comprise of Resolution Professional who will act as the Chairman, with equal number of representatives of Resolution Applicant and the CoC, during the course of implementation of the plan. All key managerial personnel of the Corporate Debtor would be deemed to have resigned and new Key managerial personnel shall be appointed by the Resolution Applicant.

22. Source of Funds: (Page no. 36 Clause G.8 of Chapter III of the Resolution Plan

- i. The Resolution Applicant is having sufficient liquid funds required for implementation of the proposed resolution plan from his personal sources.
- ii. The Resolution Applicant retains the right to arrange this funding from various sources including but not limited to other investors, banks and financial institutions, etc. or to alter the funding mix and capital structure. However, under all scenarios the Corporate Debtor shall be controlled and managed by entities that meet the requirement of the Code. Resolution Applicant will infuse the required funds on stages basis whenever required. The Resolution Applicant confirms

that required funds available even from the other entity of the Group also. The RA reserves the right to infuse required funds by itself or holding company or subsidiary company or individual promoters or even by the third parties either by way of issue of Equity Shares/Preference shares/NCDs/CCDs/Loans including ECB's(Rupee & Foreign Currency) from promoters or shareholders or from any Investors or banks/ FIs, etc.

23. **Accounting Treatment: (Page nos.10 to 11 Clause G.10 of Chapter III of the Resolution Plan}**

Pursuant to the order of the NCLT approving this Resolution Plan, any debit or credit, being the balancing figure, arising as a result of giving effect to this Resolution Plan, will be adjusted appropriately by the Corporate Debtor/ R.A in the capital reserve at its sole discretion in compliance with the applicable accounting standards and the same shall not be treated as deemed profit and no tax liability shall be attracted on the said adjustments. Further the Share application money pending in the Balance Sheet of the Corporate Debtor shall be moved to general reserves or any other reserve as may be deemed fit and proper.

24. **Reliefs & Concessions:**

According to the Ld. Resolution Professional, the Resolution Applicant has sought the reliefs/concessions as mentioned at page Nos. 53 to 61 of the Resolution Plan. We have carefully examined the same. In so far as the relief sought for by the Applicant in respect of immovable property is concerned, as per the Resolution Plan voted by the CoC, the Successful Resolution Applicant is entitled to purchase the immovable property covered by Doc. No.

2846/2005, Survey No. 425, belonging to the erstwhile Managing Director of the Corporate Debtor/Company, Mr. Satyanarayana Raju Kalidindi, which is under mortgage with the Financial Creditor, at a reserve price of Rs.5.44 crores in accordance with Rule 8(5)(d) of the rules made under the SARFAESI Act, as a “Private Treaty Sale”, by depositing 25% of the agreed sale consideration as DD or deposit in a no lien /escrow account and the balance 75% amount shall be deposited by the Resolution Applicant within 30 days from the date of the approval of this Resolution Plan and upon making such deposit, the sale certificate having effect of transfer of title in the said property be executed in the name of M/s Sri Mata Infratech Limited or in the name as deemed fit by the Resolution Applicant.

25. The Resolution Applicant also sought a direction to the authorities concerned, for the mining rights in the land admeasuring 40 acres covered by Doc. No. 2846/2005, Survey No. 425, enabling the Resolution Applicant to continue the same to be a part of the assets of the Corporate Debtor.
26. ***In K. Sashidhar v. Indian Overseas Bank & Others (in Civil Appeal No. 10673/2018) 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. On receipt of such proposal, the Adjudicating Authority (NCLT) 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”.

27. The Hon'ble Supreme Court has further held at para 35 of the above judgement that ***the discretion of the adjudicating authority (NCLT) is circumscribed by Section 31 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.***
28. The Hon'ble Supreme Court in **Committee of Creditors of Essar Steel India Limited Vs. Satish Kumar Gupta & Ors**, held that *"the limited judicial review available to AA has to be within the four corners of section 30(2) of the Code. Such review can in no circumstance trespass upon a business decision of the majority of the CoC. As such the Adjudicating Authority would not have power to modify the Resolution Plan which the CoC in their commercial wisdom have approved"*.
29. The Hon'ble Supreme Court of India, in the recent ruling in re **Vallal RCK vs M/s Siva Industries and Holdings Limited & Ors**, has held as under:-

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

Limited v. Padmanabhan Venkatesh and Others, Kalpraj Dharamshi and Another v. Kotak Investment Advisors Limited and Another, and Jaypee Kensington Boulevard Apartments Welfare Association and Others v. NBCC (India) Limited and Others.

27. This Court has, time and again, emphasized the need for minimal judicial interference by the NCLAT and NCLT in the framework of IBC. We may refer to the recent observation of this Court made in the case of **Arun Kumar Jagatramka v. Jindal Steel and Power Limited and Another:**

“95.However, we do take this opportunity to offer a note of caution for NCLT and NCLAT, functioning as the adjudicatory authority and appellate authority under the IBC respectively, from judicially interfering in the framework envisaged under the IBC. As we have noted earlier in the judgment, the IBC was introduced in order to overhaul the insolvency and bankruptcy regime in India. As such, it is a carefully considered and well thought out piece of legislation which sought to shed away the practices of the past. The legislature has also been working hard to ensure that the efficacy of this legislation remains robust by constantly amending it based on its experience. Consequently, the need for judicial intervention or innovation from NCLT and NCLAT should be kept at its bare minimum and should not disturb the foundational principles of the IBC.....”

30. Therefore, the resolution plan, when tested on the touch stone of the aforesaid facts and the rulings, we are of the view that the instant resolution plan satisfies the requirements of Section 30 (2) of the Code and Regulations 37, 38, 38 (1A) and 39 (4) of the Regulations. We also found that the Resolution Applicant is eligible to submit the Resolution Plan under Section 29A of the Code.
31. We therefore, hereby approve the revised Resolution Plan dated 17.11.2022 submitted by M/s.Varma Steels Private Limited in consortium with Mr. AVP Varma, along with annexure, schedules forming part of the Resolution Applicant annexed to the Application and order as under:

- i. The Resolution Plan along with annexures and schedules forming part of the plan 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. All crystallized liabilities and unclaimed liabilities of the Corporate Debtor as on the date of this order shall stand extinguished on the approval of this Resolution Plan.
- iii. 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 with by the appropriate Authorities in accordance with law. Any waiver sought in the Resolution Plan, shall be subject to approval by the Authorities concerned as held by Hon'ble Supreme Court in the matter of ***Ghanashyam Mishra And Sons Private Limited Versus Edelweiss Asset Reconstruction Company Limited*** in CIVIL APPEAL NO.8129 OF 2019 dated 13.04.2021.
- iv. It is hereby ordered that the Performance Bank Guarantee furnished by the Resolution Applicant shall remain as performance Bank Guarantee till the amount proposed to be paid to the creditors under this plan is fully paid off and the plan is fully implemented.
- v. In so far as the relief sought for by the Applicant in respect of immovable property is concerned, as per the Resolution Plan voted by the CoC, the Successful Resolution Applicant is entitled to

purchase the immovable property covered by Doc. No. 2846/2005, Survey No. 425, belonging to the erstwhile Managing Director of the Corporate Debtor/Company, Mr. Satyanarayana Raju Kalidindi, which is under mortgage with the Financial Creditor, at a reserve price of Rs.5.44 crores in accordance with Rule 8(5)(d) of the rules made under the SARFAESI Act, as a “Private Treaty Sale”, by depositing 25% of the agreed sale consideration as DD or deposit in a no lien /escrow account and the balance 75% amount shall be deposited by the Resolution Applicant within 30 days from the date of the approval of this Resolution Plan and upon making such deposit, the sale certificate having effect of transfer of title in the said property be executed in the name of M/s Sri Mata Infratech Limited or in the name as deemed fit by the Resolution Applicant, similar relief has been sought in respect of the very same item of property by this resolution applicant under Resolution Plan submitted by the same Resolution Professional, approval of which was sought under I.A. No. 194 / 2023, in CP (IB) No.103/7/HBD/2020, on the file of Bench-I of Hyderabad, and the said relief has been allowed by the Adjudicating Authority, vide Order dated 27.02.2023.

- vi. Therefore, since the beneficiary in both these intended sales being the applicant or its nominee, we are of the opinion that, one sale by Private Treaty of the above property, under the Rules made under the SARFEASI Act, with the Reserve Price mentioned above would serve the purpose, and also save the CIRP Costs.
- vii. We, therefore, hereby direct that only One Sale in respect of the land covered by Doc No. 2846/2005, Survey No. 425, under a “Private Treaty” shall be conducted as per the Rules made under the SARFEASI Act, with the Reserve Price mentioned above. We assume that deposit of 25% of the Reserve Price mentioned above has already been made hence we direct the Resolution Applicant to deposit the 75% of the balance amount within 30 days from today and upon making such deposit, the sale certificate having effect of transfer of

title in the above property be executed in the name of M/s. Sri Mata Infratech Limited or in the name as deemed fit by the Resolution Applicant as expeditiously as possible.

- viii. In so far as the direction to the Mining Authorities for the mining rights in the land admeasuring 40 acres covered by Doc. No. 2846/2005, Survey No. 425, enabling the Resolution Applicant to continue the same to be a part of the assets of the Corporate Debtor is concerned, the Resolution Applicant shall approach the authorities concerned for permission to continue the mining rights, if any, granted in favour of the Corporate Debtor and in force. Upon making application, the Authorities concerned shall consider the same as per the relevant rules as expeditiously as possible.
- ix. The Memorandum of Association (MoA) and Articles of Association (AoA) shall accordingly be amended and filed with the Registrar of Companies (RoC) Hyderabad 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.
- x. Henceforth, no creditors of the erstwhile Corporate Debtor can claim anything other than the liabilities referred to supra.
- xi. The moratorium under Section 14 of the Code shall cease to have effect from this date.
- xii. 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.

- xiii. The Applicant shall forthwith send a copy of this order to the CoC and the Resolution Applicant.
- xiv. The Registry is directed to furnish free copy to the parties as per Rule 50 of the NCLT Rules, 2016.
- xv. The Registry is directed to communicate this order to the Registrar of Companies, Hyderabad for updating the master data and also forward a copy to IBBI.
32. Accordingly, **IA 193/2023 in CP(IB) No.104/7/HDB/2020** stands disposed of.

Sd/-

CHARAN SINGH
MEMBER (TECHNICAL)

Sd/-

DR. N.V.RAMAKRISHNA BADARINATH
MEMBER (JUDICIAL)

Syamala