



IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI, COURT-IV

IA (I.B.C) (Plan) No. 87/MB/2024

in

CP (IB) No. 227/MB/2022

[Under Sections 30(6) and 31 of the Insolvency and Bankruptcy Code, 2016 r/w Regulation 39(4) of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016]

MR. RAJESH RAMESH KAMATH

[Registration No. IBBI/IPA-001/IP-P01606/2019-20/12481]

RESOLUTION PROFESSIONAL OF

PRITDIP IMPEX (INDIA) PRIVATE LIMITED

301, A Wing, Green Gagan

Near Lokhanwala, Akurli Road, Kandivali (East)

Mumbai-400101, Maharashtra.

.....Applicant

IN THE MATTER OF:

STEEL RESOURCES

...Operational Creditor

V/s

PRITDIP IMPEX (INDIA) PRIVATE LIMITED

...Corporate Debtor

Pronounced: 25.08.2025

CORAM:

HON'BLE SHRI K. R. SAJI KUMAR, MEMBER (JUDICIAL)

HON'BLE SHRI ANIL RAJ CHELLAN, MEMBER (TECHNICAL)



Appearances: Hybrid

Applicant/RP: Adv. Avinash R. Khanolkar a/w. Adv. Surekha Yadav, Adv. Khushbu Bhanushali and Mr. Rajesh Kamath (RP) in person

ORDER


[PER: K. R. SAJI KUMAR, MEMBER (JUDICIAL)]

1. BACKGROUND

1.1 This **IA (I.B.C) (Plan) No. 87/MB/2024** is filed by Mr. Rajesh Ramesh Kamath, the Applicant/Resolution Professional (RP) on behalf of the Committee of Creditors (CoC) of Pritdip Impex (India) Private Limited, the Corporate Debtor (CD), on 15.10.2024, seeking approval of the Resolution Plan, under Section 30(6) read with Section 31 of the Insolvency and Bankruptcy Code, 2016 (Code/IBC) and Regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Process for Corporate Persons) Regulations 2016 (CIRP Regulations), submitted by Mr. Kushal S. Rungta, i.e., the Successful Resolution Applicant (SRA) and duly approved by 100% voting share of the CoC in its 9th meeting held on 30.09.2024.

2. CORPORATE INSOLVENCY RESOLUTION PROCESS

2.1 This Adjudicating Authority (AA) *vide ex-parte* order dated 22.11.2023, in C.P.(IB) No. 277/MB/2022, admitted the CD into Corporate Insolvency Resolution Process (CIRP) filed by Steel Resources as Operational Creditor (OC) of the CD, under Section 9 of the IBC. The order of the AA was



challenged by Mr. Deepak Dahyalal Mavani, ex-director of the CD, in Appeal (AT) (Ins) No. 300 of 2024 before the Principal Bench of the Hon'ble NCLAT. However, the Appeal was dismissed *vide* order dated 12.03.2024. The Applicant was appointed as the Interim Resolution Professional, in the 1st CoC meeting dated 28.12.2023, and later he was confirmed as the RP for conducting the CIRP of the CD.

- 2.2 The Public Announcement in terms of Regulation 6 of the CIRP Regulations in Form A was made on 01.12.2023, inviting claims from creditors, workers and employees of the CD, under Section 15 of the IBC.
- 2.3 Upon the perusal of CD's Financial Statements as on 31.03.2024, the Applicant/RP found that the CD owed Rs.90,876/- to HDFC Bank. Accordingly, he sent an email on 07.12.2023, communicating the same to the Bank. Thereafter, the RP also visited HDFC Bank, Andheri (W) Branch and informed them that the CD was under CIRP. However, HDFC Bank did not submit any claim by providing any document relating to the loan reflected in the books of the CD.
- 2.4 Based on the other claims received, the CoC was constituted on 22.12.2023, comprising the sole OC, i.e., 'Steel Resources' as its member under Regulation 16 of the CIRP Regulations.
- 2.5 Further, due to non-cooperation from the CD's suspended Board of Directors, the Applicant filed IA(IBC) No. 448/2024, which was disposed of by the order dated 08.02.2024 of this Tribunal.
- 2.6 Form G, for Expression of Interest (Eol), was invited for the first time on 22.03.2024, pursuant to the resolution passed in the 4th CoC meeting. The



last date for submission of Eol was 07.04.2024. The CoC, in its 5th meeting dated 15.04.2024, approved the Information Memorandum (IM), Request for Resolution Plan (RFRP) and Evaluation Matrix (EM) for Prospective Resolution Applicants (PRAs). However, due to non-receipt of Eol from any PRA by the last date for submitting Eol, i.e., 07.04.2024, the CoC, in its 6th meeting dated 17.05.2024, voted to reissue Form G as well as extension of CIRP period.

2.7 Pursuant to the issuance of Form G for the second time on 20.05.2024, the Applicant/RP informed the CoC that there was no response from any PRA for submission of Eol till the last date of 05.06.2024. Therefore, the CoC, in its 7th meeting dated 24.06.2024, again voted in favour of issuing Form G for the third time. Thus, Form G was issued for the third time on 27.06.2024, with the last date of submitting Eol as 13.07.2024. The CoC was informed in its 8th meeting dated 22.08.2024 that the Applicant had received Eol from only one PRA, i.e., Mr. Kushal S. Rungta, who submitted his Eol on 11.07.2024. After verification of the Eol submitted by Mr. Kushal S. Rungta, the Applicant declared him as PRA and later, the final list comprising of Mr. Rungta, as the sole PRA was published on 07.08.2024.

2.8 After confirmation of the draft of RFRP and EM, the Applicant shared the same with Mr. Kushal S. Rungta, and asked him to submit his resolution plan on or before 30.08.2024, in terms of Regulation 36B (3) of the CIRP Regulations.

2.9 Meanwhile, Mr. Kushal S. Rungta sent letter dated 29.08.2024 to the RP seeking extension of time period for submitting resolution plan. Mr. Kushal S.



Rungta also informed the Applicant that he paid Rs.5,00,000/- as Earnest Money Deposit (EMD) in terms of the RFRP. Thus, Mr. Rungta had paid an amount of Rs.6,00,000/- towards the payment of EMD, including Rs.1,00,000/- which was paid earlier. The Applicant agreed to his request for extension up to 13.09.2024 by email dated 29.08.2024.

2.10 The Applicant received the resolution plan from the PRA on 12.09.2024 and after evaluation, it was put to vote in the 9th meeting of the CoC dated 30.09.2024, wherein the plan submitted by Mr. Kushal S. Rungta was approved and thus, he emerged as the Successful Resolution Applicant (SRA). The CoC approved the Resolution Plan dated 23.07.2024 under Section 30(4) of the IBC with 100% voting share.

2.11 The CIRP period was extended to 26.08.2024 (by 90 days beyond 180 days of CIRP), *vide* order dated 12.06.2024 in IA(IBC) No. 3035/2024. Later, the extension of 60 days for CIRP period beyond 270 days was also allowed by order dated 15.10.2024 in IA(IBC) No. 4839/2024, w.e.f. 27.08.2024. The present IA has been filed by the Applicant/RP seeking approval of the Plan submitted by the SRA, after being approved by the CoC, as stated above.

2.12 The SRA has provided to the RP affidavit dated 11.07.2024, confirming its eligibility under Section 29A of the IBC for the purpose of submitting the Plan. The Applicant/RP has produced copy of the Due Diligence Report and Letter dated 24.07.2024, issued by M/s Sahaj and Associates, Chartered Accountants, wherein it is stated that the SRA is eligible under Section 29A of the IBC. The Applicant/RP issued Letter of Intent dated 12.08.2024, in favour of the SRA, and confirmed that the Earnest Money Deposit (EMD) of

Rs.5,00,000/- submitted at the time of EoI, and 5% committed amount paid at the time of submission of the Plan, would be adjusted against the Performance Bank Guarantee as per the RFRP.

2.13 As stated above, the Plan has been approved by the CoC in the 9th meeting held on 30.09.2024 with 100% voting share. The RP has complied with the requirements under Section 30(2)(a) to (f) of the IBC and Regulations 38(1)(a), 38(1A), 38(2)(a) to (c) and 38(3) of the CIRP Regulations.

2.14 The Applicant/RP, in his Additional Affidavit dated 18.01.2025, produced the copy of the minutes of the 10th meeting of the CoC held on 08.01.2025, approving the CIRP Cost of Rs. 20,25,540/- as on date. The RP has also provided compliance certificate dated 13.10.2024 in FORM H, as mandated under Regulation 39(4) of the CIRP Regulations.

3. VALUATION OF ASSETS OF CD AND CLAIMS RECEIVED

3.1 The RP submitted that, to ensure proper valuation of plant, machinery, securities and financial assets, registered valuers were appointed. Accordingly, the Fair Value of the CD's Assets is mentioned in Form H as Rs.5,40,82,346/- and the Liquidation Value of the CD's assets is Rs.4,20,82,070/-, which were determined as under:

Sr. No.	Valuer	Particulars	Fair Value (In Rs.)	Liquidation Value (In Rs.)
1.	Valuer 1	Plant & Machinery	36/-	36/-




		Securities and Financial Assets	5,24,81,626/-	3,96,05,074/-
	Total (A)		5,24,81,662/-	3,96,05,110/-
2.	Valuer 2	Plant & Machinery	30/-	30/-
		Securities and Financial Assets	5,56,83,000/-	4,45,59,000/-
	Total (B)		5,56,83,030/-	4,45,59,030/-
Average Valuation [(A+B)/2]			5,40,82,346/-	4,20,82,070/-

3.2 The Applicant/RP, *vide* its Additional Affidavit dated 18.01.2025, produced copy of the Audited Balance Sheet of the CD for the Financial Years (FYs) 2019-2020 to 2022-2023 along with copy of the Valuation Report dated 29.11.2023. It is mentioned in the Audited Balance Sheet that, as on 31.03.2023, an amount of Rs. 8,08,82,315/- is seen reflected as loan advances by the CD, and receivable by it from different debtors. It is further stated by the Applicant/RP that besides the said amount of Rs. 8,08,82,315/- as reflected in its books, there are no further assets of the CD as on 29.11.2023, and thus, valuation of the assets of the CD was done on the premise of the possibility of recovery from the receivables.

4. LIST OF CREDITORS OF CD

4.1 As on 28.06.2024, the list of CD's creditors, uploaded on the website of Insolvency and Bankruptcy Board of India (IBBI), based on the claims received by the Applicant, is as under:



Sl. No.	Creditors	Claim Amount (Rs.)	Claim Amount Admitted (Rs.)	No. of Claims
1.	Secured Financial Creditors	NIL	NIL	NIL
2.	Unsecured Financial Creditors	NIL	NIL	NIL
3.	Operational Creditors (Workmen & Employees)	NIL	NIL	NIL
4.	Operational Creditors (Government Dues)	NIL	NIL	NIL
5.	Operational Creditors (Other than Workmen and Employees and Government Dues)	1,13,36,696/-	1,03,45,240/-	2
Total		1,13,36,696/-	1,03,45,240/-	2

4.2 It is submitted that the RP has not received any claim from any secured creditor, or from any operational creditor, being workmen or employees. Further, it is submitted that the CD does not owe any amount to any financial creditor as HDFC Bank did not submit any claim till the date of approval of the Plan. Since the CoC comprises of a sole member, i.e., the OC itself, the question of making provision for dissenting creditor does not arise.



5. BRIEF BACKGROUND OF CD

- 5.1 The CD was incorporated on 02.11.2004 as a private limited company. It was engaged in the business of steel production and trading of industrial raw materials. Mr. Dipak Dahyalal Mavani (DIN: 00790464) and Mr. Mohit Dipak Mavani (DIN: 00783124) were directors of the CD at the time of CIRP commencement. The CD's authorised capital and paid-up capital are Rs.1,00,00,000/- and Rs.75,64,000/-, respectively. As per the IM, the CD has no contingent liability.
- 5.2 Since the CD is not a going concern, there are no employees and workmen as on the date of CIRP commencement. Further, there is no pending proceeding against the CD by any Government Department.

6. BRIEF BACKGROUND OF SRA

- 6.1 Mr. Kushal S. Rungta is a partner of the Steel Resources, i.e., the OC, which is the sole CoC member of the CD. He has experience of 10 years in the field of steel industry. Further, it is submitted that the SRA is not a related party to the CD.
- 6.2 The net worth of the SRA is Rs.13,21,10,827/- as on 31.03.2024 as reflected in the Qualification Certificate dated 09.07.2024 and Net Worth Certificate dated 05.10.2024, given by M/s Prashant Shah & Associates, Chartered Accountants and the SRA's Income Tax Return Acknowledgment for the FY 2023-2024.



7. SALIENT FEATURES OF PLAN APPROVED BY COC

7.1 The following is the summary of payments to be made by the SRA:

Sl. No.	Particulars	Amount Admitted (Rs.)	Amount Offered (Rs.)	% of Amount admitted	Terms and Conditions governing proposed payment
1)	CIRP Costs	At Actuals	At Actuals	100.00%	<p>CIRP Cost will be paid out of the total amount of Rs.75,00,000/- (Seventy-Five Lakh Rupees) which is the outlay for meeting the liabilities against all the admitted claims.</p> <p>In case there are additional expenses as informed to the SRA by the RP at the time of approval of the</p>



					Plan by the AA, the additional amount shall be reduced from the outlay made to the Operational Creditors. The Amount shall be paid within 60 days of approval of the Plan by the AA.
2)	Secured Financial Creditors	NIL	NIL	NIL	NIL
3)	Unsecured Financial Creditors belonging to any class of creditors	NIL	NIL	NIL	NIL
4)	Operational Creditors (Workmen & Employees)	NIL	NIL	NIL	NIL
5)	Operational Creditors	1,03,45,240/-	Balance amount	Balance amount	The Operational




	(Other than statutory claims, workmen and employees) i.e., Steel Resources		after payment of CIRP cost	after payment of CIRP cost	Creditors will have to be paid after settlement of CIRP cost from the total amount offered in the Resolution Plan.
6)	Operational Creditors (Statutory Dues)	NIL	NIL	NIL	NIL
7)	Related party Claims i.e., Accurate Metal Corporation	9,87,382/-	NIL	0.00%	No amount is being offered to the related party.

7.2 In Clause 4.1 of the Plan, the SRA has stated the causes for default committed by the CD, and has thus complied with the provisions of Regulation 38(3)(a) of the CIRP Regulations.

7.3 As far as the issue of compliance with Regulation 38(1A) of the CIRP Regulations is concerned, it is submitted that Table 1 of the Plan refers to the balancing of interest of stakeholders under the Plan, as follows:



Sr. No.	Stakeholder	Interest dealt in Resolution Plan
A.	CIRP Costs (As approved by CoC)	As per Section 30(2)(a) of IBC, CIRP cost is to be paid in priority to the creditors. CIRP cost for the entire period has been estimated at actual. The entire amount will be paid within 60 days of the approval of the Plan by the AA. CIRP Cost also provides the manner of funding of the additional cost till the approval of the Plan by the AA.
B.	Payment to Employees/Workers	Not Applicable
C.	Payment to Secured Financial Creditors	Not Applicable
D.	Payment to Unsecured Financial Creditors	Not Applicable
E.	Payment to Operational Creditors	Operational Creditor Balance amount net of payment of CIRP cost out of budget outlay of Rs.75,00,000/- (Seventy-Five Lakh Rupees)



F.	To Equity Shareholders	The assets of the CD are insufficient to discharge the dues against the admitted claims. Hence, in the opinion of SRA, estimated liquidation value as per Section 53 available to Equity Shareholders is <i>NIL</i> , thus, no amount is due/allocated to them. On approval of Plan by AA, all the existing equity shares to be treated as cancelled/extinguished and a reduction of capital is proposed.
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- 7.4 As far as the source of funds for the implementation of the Plan is concerned, the SRA has stated that the equity infusion will be largely based on its own funds. In the event of any requirement of working capital, fund infusion would be done through inducting a strategic/financial investor in compliance with Section 29A of the IBC. Such investor may be inducted at the appropriate time, and accordingly, the equity capital will be restructured to that extent. Apart from that, the SRA may resort to borrowing in the best available terms in the event of any working capital gap or requirement of capacity expansion in the projection period. To ensure that, the CD's assets may be offered as security for the same. For working capital requirement, the provision of Rs.25,00,000/- is made by the SRA.
- 7.5 The terms of the Plan and its Implementation Schedule shall be within a period of 60 (Sixty) days from the date of approval of the Plan by this Tribunal.

It is submitted by the Applicant that the Plan provides for effective implementation as per the timelines set out, which is in compliance with Regulation 38(2)(a) of the CIRP Regulations. The Implementation Timeline of the Plan is listed as follows:

Sr. No.	Activities	Timelines in Days
PHASE-I: APPROVAL PROCESS OF THE RESOLUTION PLAN		
1.	Presentation of Plan to CoC	X
2.	Approval of Plan by CoC	X+15
3.	Application to NCLT	X+30
4.	Receipt of Certified Copy of NCLT Approval (Effective Date)	E
5.	Notice on the Company's website, if any	E+30
6.	Intimation to the CoC, IBBI, MCA, Tax Authorities and various other statutory authorities (as applicable)	
7.	Other Approvals and filings required under the Plan (Effective Date) <ul style="list-style-type: none">• ROC• RBI (if any)• Income-Tax Act• Other Authorities	
PHASE-II: SETTLEMENT OF CREDITORS		
8.	Resolution Applicant to give Performance Bank Guarantee on approval of plan by RP/CoC	Performance Bank Guarantee of Rs.7,50,000/- i.e., 10% of the Resolution Plan Amount of Rs.75,00,000/-, has been made in favour of Kotak Mahindra Bank



9.	Payment of CIRP Costs as approved by CoC	E+60
10.	Payment to Operational Creditor	E+60
PHASE-III: IMPLEMENTATION OF THE RESOLUTION PLAN		
11.	RP to handover possession of all assets/undertaking, records and charge of unit to SRA	E
12.	Appointment of Monitoring Agency	E+30
13.	Processing for handover by RP	E+30
14.	Cancellation of existing equity of erstwhile shareholders and issue of new shares	E+45
15.	Infusion of funds and subscribing of equity shares and Unsecured Loan by SRA	E+45
16.	Change in Memorandum and Articles of Association and other documentation as required under the proposed plan	E+45
17.	Management of Company: (i) Constitution of new Board; (ii) Appointment of statutory auditors by SRA, of their choice, subject to applicable regulations.	E+60

7.6 Further, the SRA gave its undertaking to comply with the provisions of Regulation 31A of the CIRP Regulations as regards payment of the applicable regulatory fee to the IBBI in the event of approval of the Plan.



8. MANAGEMENT OF CD

- 8.1 The SRA has undertaken that implementation of the Plan will be managed and controlled by it under the guidance and supervision of a Monitoring Agency (MA) on approval of the Plan.
- 8.2 Upon approval of the Plan, a new board of directors will be formed within 30 days of the complete handover of the CD by the Applicant/RP, during which the SRA shall hold the assets and manage the CD. The new board of directors would comprise Mr. Kushal S. Rungta and Mr. Suresh Rungta. The MA shall comprise of the Applicant/RP and one member from the new management of the CD.
- 8.3 The share capital of the CD shall be reduced, i.e., the existing shares of the CD shall be reduced by 100%, and new and additional shares will be issued in terms of the Companies Act, 2013.

9. PUFEE TRANSACTIONS

- 9.1 Upon noticing the Bank entries of the CD's account, it was found by the RP that, apart from the alleged money siphoned off by the CD's suspended board of directors from the CD's account, most of the debtors have paid back their debt due to the CD. As far as Preferential, Undervalued, Fraudulent, and Extortionate (PUFE) transactions are concerned, there is one IA (IBC) No. 4783/2024, filed by the RP against Mr. Deepak Dahyalal Mavani and another person, is pending before the Tribunal. The IA is filed under Section 66 of the IBC seeking recovery of Rs.9,27,10,311/- which would be pursued by the SRA and the recovered money would be given back to the CD.

**10. PERFORMANCE BANK GUARANTEE**

10.1 The Performance Bank Guarantee of Rs.7,50,000/- (Seven Lakh Fifty Thousand Rupees), i.e., 10% of the plan value is payable by the SRA. Out of which, the SRA remitted Rs.5,00,000/- on 29.08.2024. An amount of Rs. 1,00,000/- was already paid on 11.07.2024 as EMD for submitting EOI. The remaining Rs.1,50,000/- was also paid on 10.10.2024. All the payments were made by the SRA to the RP by RTGS through Kotak Mahindra Bank.

11. RELIEFS AND CONCESSIONS

11.1 The SRA has sought various reliefs and concessions in the Plan, wherein the waiver of statutory/contingent liabilities as well as liabilities arising out of dues owed to employees, operational and financial creditors, etc., prior to the approval of the Plan. The SRA also seeks waiver of any penalty, interest or fine on account of pending litigations/dues against the CD in entirety, including civil and criminal proceedings.

11.2 The SRA further sought waiver from payment of fees, levies, transfer charges, etc., as well as direction to the statutory authorities for allowing the CD to file any return/forms relating to period prior to the effective date. The SRA also has sought tax allowance of carrying forward the business loss for a period of 8 years from the date of approval of the Plan by this Tribunal and unabsorbed depreciation loss to be carried forward for an indefinite period under the Income-tax Act, 1961.



12. ANALYSIS AND FINDINGS

12.1 We have heard the Ld. Counsel for the RP and perused the Plan and related documents submitted along with the present IA.


12.2 The RP has submitted in his Additional Affidavit dated 18.01.2025 that the CD owed Rs.90,876/- to the HDFC Bank as on 31.08.2024, in relation to a term loan. However, there was neither any response from the Bank nor submission of any claim by them in spite of the email sent by the RP on 07.12.2023. Thus, in the present matter, the CoC of the CD comprised only of the sole OC, with no financial creditor, secured or unsecured. It is seen from the Due Diligence Report that that the SRA is a partner in the partnership firm of the OC, which initiated the CIRP of the CD. However, we observe that there is no bar under Section 29A of the Code for a sole operational creditor for being a resolution applicant in the corporate insolvency resolution process of a corporate debtor. The definition of the expression “related party” appearing under clauses (24) and (24A), respectively of Section 25, refer to persons and individuals of corporate debtors, and not in relation to operational creditors. Hence, the CoC is not restrained from considering and approving the Plan submitted by the SRA. Moreover, the Applicant/RP did not receive any other plan than that is submitted by the present SRA. In view of the above, there is no bar under law to consider the Plan approved by the CoC.

12.3 Further, the CoC has considered the feasibility and viability of the Plan and approved the same by 100% of the voting shares of the CoC. We notice that the Plan is in compliance of Section 30 of the IBC in that it provides for-

- a) priority of payment of CIRP cost to the payment of other debts of the CD;
- b) payment of debts of the OC;
- c) the management of the affairs of the CD after approval of the Plan; and
- d) the implementation and supervision of the Plan.

12.4 In *K Sashidhar Vs. Indian Overseas Bank and Ors.* [(2019) 12 SCC 150], the Hon'ble Supreme Court held that if the committee of creditors approves a resolution plan by the requisite percentage of voting share under section 30(6), it is imperative for the resolution professional to submit the plan to the AA. The AA is then required to satisfy itself that the resolution plan, as approved by the CoC, meets the requirements specified in Section 30(2). The law is settled that the role of the AA is no more and no less than the above. The role of the AA with respect to a resolution plan is limited to matters specified in Section 30(2) of the IBC. Further, the AA is not required to interfere with the commercial wisdom of the CoC.


12.5 We find that the Plan meets the requirements under Section 30(2) of the IBC and that it is not in violation of provisions of any law for the time being in force. We find that the plan value is below the Liquidation Value assessed by the Registered Valuers. However, in *Maharashtra Seamless Limited Vs. Padmanabhan Venkatesh & Ors.*, [(2020) ibclaw.in 03 SC], the Hon'ble Supreme Court held that once a resolution plan is approved by the CoC, the statutory mandate on the AA under Section 31(1) of the IBC is to ascertain that it meets the requirement of sub-sections (2) and (4) of Section 30 of the IBC. It was observed that there is no provision in the IBC or the regulations



that the bid of a resolution applicant has to match with that of liquidation value determined under Regulation 35 of the CIRP Regulations. The Hon'ble Court held that the Court ought to cede ground to the commercial wisdom of the creditors rather than assess the resolution plan on the basis of quantitative analysis and that such is the scheme of the Code. Further, in *Kalpraj Dharamshi & Anr. Vs. Kotak Investment Advisors Ltd & Anr.*, [(2021) SCC OnLine SC 204], the Hon'ble Supreme Court also held that the commercial wisdom of CoC must be adhered to unless the AA is satisfied that the requirement of Section 30(2) has been complied with. The law laid down by the Hon'ble Supreme Court in *Maharashtra Seamless Limited* (supra) and *Kalpraj Dharamshi* (supra) has been applied by the Hon'ble NCLAT, Chennai, in *Mr. Ramesh Kesavan Vs. CA Jasin Jose & Anr.*, [(2024) ibclaw.in 19 NCLAT], wherein it was held that approval of resolution plan below the liquidation value is within the commercial wisdom of the CoC. Neither the IBC or the extant regulations expressly bar that value offered in a resolution plan should be over and above the liquidation value.

12.6 Further, in *Committee of Creditors of Essar Steel India Limited through Authorised Signatory Vs. Satish Kumar Gupta and Ors*, [(2020) 8 SCC 531], the Hon'ble Apex Court clearly held that the AA would not have the power to modify a resolution plan, which the committee of creditors in their commercial wisdom has approved.

12.7 In view of the discussions and the law thus settled, we are of the considered view that the Resolution Plan meets the requirements of Section 30(2) of the IBC and Regulations 37, 38, 38(1A), and 39(4) of the CIRP Regulations.



The affidavit dated 11.07.2024 by the SRA confirming his eligibility under Section 29A of the IBC to submit the Plan is on record. The Applicant/RP has also placed on record copy of the Due Diligence Report and Letter dated 24.07.2024, issued by Chartered Accountants, stating that the SRA is eligible under Section 29A of the IBC. In view of the above, the Plan is not in contravention of any of the provisions of Section 29A of the IBC, as undertaken by the SRA, and is in accordance with the law. We are satisfied that the Plan has provisions for its effective implementation. In view of factual and legal considerations, we find that the present application deserves to be allowed.

ORDER

The **IA (I.B.C.) (Plan) No. 87 of 2024 in C.P.(IB) 277 of 2022 is allowed** and the Resolution Plan submitted by **Mr. Kushal S. Rungta** is hereby **approved** in terms of Section 31(1) of the IBC.

- I. The Resolution Plan shall become effective from the date of this Order and shall form part of this Order. It shall be binding on the CD, 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, such as, authorities to whom statutory dues is owed, guarantors and other stakeholders involved in the Plan.
- II. The Hon'ble Supreme Court in *Ghanshyam Mishra and Sons Private Limited Vs. Edelweiss Asset Reconstruction Company Limited*, [2021 SCC Online SC 313], held that on the date of the approval of the resolution plan by the AA, 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 a part of the resolution plan. Accordingly, no person, including the Central Government, any State Government or any local authority, guarantors and other stakeholders, will be entitled to initiate or continue any proceedings in respect of a claim prior to CIRP which is not a part of the Resolution Plan.

- III. The approval of the Plan shall not be construed as a waiver of any future statutory obligations/liabilities of the CD and shall be dealt with by the appropriate authorities in accordance with the law. Any waiver sought in the Plan relating to the period after the date of this Order, more particularly, licences and approvals for keeping the CD as a going concern, shall be subject to approval by the authorities concerned and by this Order, we do not deter any authority from dealing with any of the issues arising after effecting the Plan. The CD may obtain necessary approvals required under any law for the time being in force from the appropriate authorities within a period of one year from the date of approval of the Plan. However, we recommend due consideration for the revival of the CD.
- IV. The pending application relating to preferential/fraudulent transactions under the IBC is pending before the Tribunal shall be pursued by the SRA at his costs and expenses. However, the recovery, if any, shall be paid to the CD.
- V. The Memorandum of Association and Articles of Association of the CD shall accordingly be amended and filed with the Registrar of Companies, for information and record. However, if any approval of shareholders is required



under the Companies Act, 2013 or any other law for the time being in force for the implementation of actions under the Resolution Plan, such approval shall be deemed to have been given, and it shall not be a contravention of that Act or law.

- VI. The CD shall not be prosecuted for any offence committed prior to the commencement of CIRP in terms of Section 32A of the IBC.
- VII. Further, all such claims which are not a part of the Plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings with respect to a claim which is not a part of the Resolution Plan.
- VIII. The moratorium declared under Section 14 of the IBC shall cease to have effect on and from the date of this Order.
- IX. The MA, as proposed under the Resolution Plan, shall supervise the implementation of the Resolution Plan and file status of its implementation before this Tribunal from time to time, preferably every quarter.
- X. The RP shall stand discharged of his duties with effect from the date of this Order. However, he shall perform his duties in terms of the Plan as approved by us.
- XI. The SRA shall have access to all the CD's records, documents, assets and premises with effect from the date of this Order.
- XII. The RP is further directed to hand over all records, documents and properties of the CD to the SRA to enable it to carry on the business of the CD.
- XIII. Liberty is granted to the parties for moving any application, if required, in connection with implementation of this Plan.



- XIV. The Applicant/RP shall forward all records relating to the conduct of the CIRP and the Plan to the IBBI along with a copy of this Order for information and record.
- XV. A certified copy of the Resolution Plan shall be provided by the Designated Registrar, as downloaded from the Data Management System of NCLT, on an application by the Applicant/RP.
- XVI. The Applicant/RP shall forthwith send a copy of this Order to the CoC and the SRA respectively for necessary compliance.
- XVII. **I.A. (I.B.C) (Plan) No. 87/MB/2024** in **C.P.(IB) No. 277/MB/2022** is **allowed** and the **Plan is approved**. The I.A. is disposed of in terms of the above.

Sd/-

ANIL RAJ CHELLAN

MEMBER (TECHNICAL)

Sd/-

K. R. SAJI KUMAR

MEMBER (JUDICIAL)

//LRA-Tanmay Jain//