

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH-II, CHENNAI**

IA(IBC)/271(CHE)/2020

In

CP/1361/IB/2018

(filed under Section 31 of the Insolvency and Bankruptcy Code, 2016 and Rule 11 of
NCLT, Rules, 2016)

MR. A.ARUMUGAM,
Resolution Professional of
Hamsini Foundations Private Limited,
1/56, Market Road, Devi Stores, 1st Floor,
Kelambakkam - 6030 013.

... Applicant

Vs.

1.M/s Authum Investment and Infrastructure Ltd
Assignee of Surekha Asset Reconstruction Limited,
A member of the Committee of Creditors,
Of M/s.Hamsini Foundations Private Limited,
Office at 707, Raheja Centre,free Journal Road,
Nariman Point,Mumbai-400021

2. M/s. Sanchit Sales Private Limited,
A member of the Committee of Creditors,
1st Floor, New No.47, Old No.95,
Iyappa Chetty Street,
Chennai - 600 001.

3. The Authorised Representative of Homebuyers
Of M/s.Hamsini Foundations Private Limited
Mr. Krishnamachari,
109/30, 2nd Floor, T P Koil Street,
Triplicane, Chennai.

4. The Resolution Applicant,
Tatia Developer Private Limited
18-19, Ritherdon Road, Vepery,
Chennai – 600 007.

Respondents

IA(IBC)/1187(CHE)/2020

In

CP/1361/IB/2018

(filed under Section 60(5) of the Insolvency and Bankruptcy Code, 2016)

A. B. Jagadeesan

No. 5, Fourth Main Road,
Lakshmipuram, Thiruninravur,
Chennai 602024

... Applicant

-Vs-

(1) Mr. A. Arumugam

Resolution Professional
1/56, Market Road,
Devi Stores, 1 Floor,
Kelambakkam - 603013

(2) Mr. Krishnamachari

Authorised Representative of Homebuyers
109/30, 2nd Floor, T.P. Koil Street,
Triplicane, Chennai - 600005

(3) M/s Tatia Developer Private Limited

18-19, Ritherdon road, Vepery
Chennai – 600007

... Respondents

Order pronounced on 21st January 2025

CORAM

JYOTI KUMAR TRIPATHI MEMBER (JUDICIAL)

RAVICHANDRAN RAMASAMY MEMNER (TECHNICAL)

Present:

For Applicant: Mr K Moorthy.

For Respondent 1: Abitha Banu

For Respondent no 2: Mr Anant ,Divya Ganapathy

For respondent no 3 : K.P.Hemanth Kumar,

K.P. Pramodh Kumar, Ramaswamy Meyyappan

For Respondent no 4 : Mr Om Prakesh. E.

In IA/1187/IB/2020

For Applicant : Savitha G, Vatsala P.M

For Respondent: K moorthy

For RP Pavithra Sundarrajan

IA(IBC)/271(CHE)/2020 & IA/1187/ 2020 in CP/1361/2018

In the matter of Hamsini Foundations Private Limited

ORDER

1. IA(IBC)/271(CHE)/2020

This Application has been filed under Section 31 of the Insolvency and Bankruptcy Code, 2016 by the Resolution Professional of the Corporate Debtor viz. Hamsini Foundation Private Limited seeking to approve the resolution plan submitted by the Successful Resolution Applicant (SRA) viz. Tatia Developer Private Limited, approved by the CoC with 67.387% of voting.

2. (IBC)/1187(CHE)/2020

This Application has been filed by one Mr.A.B. Jagadeesan under Section 60(5) of IBC, 2016 against the Resolution Professional, Authorized Representative and SRA seeking to reject the Resolution Plan submitted by the SRA.

3. CIRP OF THE CORPORATE DEBTOR:

3.1. The Corporate Debtor was admitted to CIRP vide order dated 12.03.2019. Mr. A.Arumugam, Applicant herein was appointed as the Interim Resolution Professional later confirmed as a Resolution Professional of the Corporate Debtor.

3.2. The Public Announcement as per Section 15 was made subsequently the IRP constituted the CoC comprising 2 financial creditors and 49 homebuyers represented by the Authorised Representative.

3.3. In the 1st meeting of the CoC held on 30.05.2019 had the following members a) Reliance Commercial Finance Limited, b) Sanchit Sales Private Limited, c) Home Buyers (Form – CA). Later, Reliance Commercial Finance Limited claim was found defective and it become ineligible to be a member of the CoC.

3.4. After the 5th meeting of the CoC the Expression of Interest in Form-G was published on 27.08.2019. Meanwhile an application was moved to extend the CIRP period which was granted by this Tribunal vide order dated 25.09.2019 and the CIRP period was extended till 06.12.2019.

3.5. Thereafter, three resolution plans have been received by the RP viz. 1)Tatia Developers Private Limited, 2) Senthamizh Constructions and Projects Private Limited and 3) Sai Trading and Interiors. Resolution Plan submitted by Tatia and Senthamizh were discussed in the 14th meeting of the CoC where Sai Trading has withdrawn its plan.

3.6. Vide MA No.20 of 2020 further 60 days extension prayed by the RP wherein this Adjudicating Authority fixed the 04.02.2020 as CIRP expiry date.

3.7. In the 16th meeting of the CoC revised resolution plans of 1) Tatia Developers Private Limited, 2) Senthamizh Constructions and Projects Private Limited were placed before CoC. In the 17th meeting of the CoC held on 01.02.2020 the same was put to the voting. The results of the e-voting were declared on 04.02.2020. The Resolution Plan submitted by Tatia Developers Private Limited received 64.479%, voting Senthamizh Constructions and Projects Private Limited received 0%. Later the RP found that 8% interest component of the homebuyers was not included in their claim correcting the same the total voting of the CoC in the plan of Tatia Developers Private Limited become 67.387% which passed the muster. The extracts of the revised voting pattern are reproduced below:

4.2.2020/ 14.2.2020


Hamsini Foundations Pvt Ltd

Resolution

Results of E-voting on the approval of Resolution Plan on 3.2.2020 to 4.2.2020

Sl. No	Resolution	Yes	No	Required % of voting share	E-Voting results
	Approval of Resolution Plan Submitted by				
1	M/s Tatia Developer Pvt Ltd	67.387 %	32.613 %	66%	The Resolution plan submitted by M/s Tatia Developers Private Limited is approved by 67.387 % voting share as against the requirement of 66% . Hence The Resolution Plan submitted by M/s Tatia Developer Private Limited is treated as approved.
2	M/s Senthamilzh Constructions & Projects Pvt Ltd	NIL	100 %	66%	The Resolution Plan submitted By M/s Senthamilzh Constructions and Projects Pvt Ltd is not approved

Remarks ; 1) The Resolution plan submitted by M/s Tatia Developers Private Limited is approved as the same got 67.379% voting share as against the requirement of 66% .


A.Arumugam
Resolution Professional ,
Hamsini Foundations Pvt Ltd

3.8. As a result of above Tatia Developers emerged as successful resolution applicant. On the instruction of RP the SRA submitted its EMD of Rs.25,00,000/-. Subsequently, the RP filed this application for approval of the Resolution Plan.

3.9. Pursuant to that in the 19th meeting of the CoC held on 22.07.2024 the resolution plan submitted by Tatia Developers has been approved with the incorporation of additional CIRP cost.

4. OBJECTIONS ON THE RESOLUTION PLAN:

4.1. In the IA/1187/2020 Mr.A.B.Jagadeesan one of the creditors submitted his objection to the Resolution Plan approved by the CoC on the as follows:

- a) The Applicant along with Mr. D.K. Prabakaran, D.K. Babu and D.K.Dhanasekar (Collectively hereinafter referred to as 'Land Owners') are the joint owners of the property admeasuring 3.80 acres situated at Nemilicherry Village, Poonamalle Taluk, Thiruvallur District (hereinafter referred to as 'Property').
- b) the Applicant along with the Land Owners entered into a Joint Development Agreement (JDA) with Corporate Debtor on 09.06.2010 to develop a residential units in the Property. Subsequently, they had executed a General Power of Attorney (GPA) in favour of the Corporate Debtor in respect of 68% of the property. The GPA was registered as Doc No.1197/2010 before Sub Registrar Avadi. Thereafter, on 23.05.2015, the Applicant and the land owners entered into a Memorandum of Understanding (MoU) with the Corporate

Debtor for allotment of 20568 Sq.ft. of built-up area and 9053 Sq.ft. in undivided share in the land to the Land Owners.

- c) Meanwhile the Corporate Debtor was admitted to CIRP on 12.03.2019. The Applicant herein had submitted claim before the RP to the tune of Rs.7,84,08,000/-, which was only partially admitted by the RP.
- d) It is stated that the Applicant has 5.25% of voting rights in the CoC and falling under the category of homebuyers. He was unaware of the appointment of Mr. Krishnamachari as Authorised Representative for the homebuyers and has questioned his appointment.
- e) Further, the Applicant contended that the entire CIRP process was not conducted in fair and transparent manner. He also questioned the revision of voting percentage and calculation of voting percentage after the e-voting has been done on the resolution plan.

4.2. In response to the above objections on the resolution plan Ld. Counsel for the replied as follows:

- a) From the JDA submitted by the Applicant the RP perceived that the Applicant become related party having vested interest in the Corporate Debtor.
- b) The MoU submitted by the Applicant was unsigned and unregistered and not enforceable. Further, the RP requested the applicant to clarify the above finding with proper documents which was not properly explained by the Applicant.
- c) The Applicant has not challenged the decision of IRP on rejection of his claim within in time before this Adjudicating Authority.
- d) For the contention regarding the revision in the voting pattern the RP replied that the 8% interest component was not added and the same was omitted to be added by the RP which is an inadvertent mistake which was duly corrected and was communicated to the all the stakeholders on 14.02.2020.
- e) The Resolution Plan was approved by the CoC in its meeting held on 01.02.2020 and subsequent e-voting held on 4.2.2020

with 67.387% of voting shares CoC has approved. The resolution plan was submitted to this Adjudication Authority on 20.2.2020.

- f) The super build up area of Applicant will be against the claim of 19,6025 Sq. ft. is 11,596 Sq.ft only as per CRMI data. In case of Liquidation, the Liquidation value of the Applicant's assets of 11596 sq.ft. will be Rs 49 Lakhs only. If the Resolution plan is implemented, the Applicant will get of Rs 4.63 crores and after cancelling the expenditure of Rs 0.97 Crores, thus get a net gain of Rs 3.66 crore.
- g) If the Resolution plan is implemented, the applicant will get Rs.90,96,000 in case of cancellation. Therefore, the apprehension of the Applicant that he is deprived of his claim is incorrect as he will get 122% of the claim amount whereas the other Financial Creditors are getting less than him.
- h) The Applicant claims on 10 flats are to be adjudicated separately as in view of over lapping of claims on the assets with other Financial Creditors.

- i) The Applicant has no locus stand to be a dissenting Financial Creditor as per Hon'ble Supreme Court Judgment dated in appeal no 3395 of 2020 where in any individual homebuyer or any association cannot maintain a challenge to the resolution plans and cannot be treated as a dissenting Financial Creditor or an aggrieved person.
- j) The Applicant has made 3 applicants namely MA/135/2020, MA/226/2020 and MA 1187/2020 for the same cause of action.

5. After careful hearing of the submissions of Ld. Counsel for both the parties and on perusal of the records we see that the 3rd application in a row with the same pleading.

6. However, in order to find way out to the contentions raised by the Applicant in IA/1187/IB/2020 this Adjudicating Authority has appointed an Advocate Commissioner to identify the flats which has been overlapped between the land owner and home buyers and the same was reported to this Adjudicating Authority vide Report dated 05.10.2023. According to the report of the Advocate Commissioner, some flats have double ownership/overlapping rights the respective extract of the report is extracted below:

“20. That it is further observed from the data prepared as follows:

a. Flat No. 412 of Lilly Block has not been allotted to the share of the Land Owners or the Corporate Debtor under the Memorandum of Understanding dated 23.03.2015.

b. That a total of 39 flats though allotted to the Land Owners have been sold to third parties and it is unclear if the respective Land Owners to whom the said flats were allotted has authorised the sale and if the consideration for the same has been received by the Land Owners.

c. The UDS mentioned in the sale agreement/sale deed are in excess of the UDS mentioned in respect of the said flat in the joint development agreement.

d. Second allotment has been noted in 22 cases. It is observed that several of the first allotments are by way of registered sale deeds/sale agreement/construction agreement and there appears to be no cancellation of the said documents by way of a registered deed. However, second allotments have been subsequently made.

e. List of Flat bookings cancelled vide registered cancellation deeds were attached.

f. A total of 40 flats along with the UDS have been sold to Twain Properties LLP wherein it has been recorded that the flats units therein allotted/sold are in Block-E. However, there is no such block in the residential project as per the Memorandum of Understanding dated 23.03.2015. It was orally clarified by the Resolution Professional that the same belong to Lantana Block. In view of such clarification it appears that there would be overlapping allotments in flat nos. 210, 211 and 310 which are required to be verified in detail.

g. There are 7 registered Sale Agreement/Sale Deed documents for which the corresponding flat details are not available nor can be ascertained.

h. From the list of encumbrances reflected in the encumbrance certificate No. 92042620 obtained for the Project lands for the period from 05.12.2012 to 17.11.2020 there are 25 documents which have been required for and but not provided for our perusal.”

21. The block-wise summary of allotted flat and non-allotted flats is tabulated below:

BLOCK NAME	NO. OF FLATS BOOKED	NO. OF FLATS NOT BOOKED	TOTAL NO. OF FLATS
<i>Alamanda</i>	41	15	56
<i>Bougainvillea</i>	50	6	56

<i>Hibiscus</i>	49	7	56
<i>Jasmine</i>	10	46	56
<i>Lantana</i>	9	47	56
<i>Lilly</i>	17	39	56
<i>Rose</i>	51	5	56
<i>E</i>	40	-	-
	267	125	392

”

7. Moreover, this Adjudicating Authority have appointed a committee under the Chairmanship of Sr. Advocate Mr. Omprakash to report the stand of the disputing land owners and other stakeholder regarding the approval of the resolution plan. Accordingly, the Chairman has submitted his report dated 14.12.2023 clarifying that the Applicant land owner is interested in adjudicating this is issue before this Adjudicating Authority the conclusion of the report is reproduced below:

20. In spite of best efforts and various deliberations, a consensual resolution could not be arrived at for the said dispute which is the only issue standing in the way of the resolution plan. It is the view of the members of the committee and being echoed by the undersigned as a Chairman that the claims of the disputing landowner does not seem to be justifiable given the fact that he had not disputed all these years nor had initiated any proceedings against the CD or the suspended Directors as well as filed any application during the CIRP as against the collation of his claim by the RP. The dispute is raised only after the approval of the resolution plan. The statements of the SRA and other three landowners cannot be brushed aside. The SRA, the landowners and the disputing landowner can mutually agree upon a conciliated settlement agreement which would give a quietus to the issues pending before this Tribunal.
21. The counsel for the dissenting Financial Creditor however states that they stand on a different footing and that they would like to argue the matter for adjudication of their rights.

The report is accordingly submitted with all the annexures referred to therein and it is prayed that this Hon'ble Tribunal may be pleased to take the same on record.

8. The issues regarding appointment of Authorised Representative of the Homebuyers and decision regarding rejection of claim by the RP was already discussed and disposed of by this Adjudicating Authority in IA/227/2020.

9. However, the only thing that is glaring at us are the voting pattern and the revision in the voting percentage in approving the Resolution Plan. It is noticed in the e-voting results declared on 04.02.2020 the SRA Tatia Developers received only 64.479% of votes

and Senthamilzh Constructions received 0% extract of the voting sheet is reproduced below:

4.2.2020

Hamsini Foundations Pvt Ltd

Resolution

Results of E-voting on the approval of Resolution Plan on 3.2.2020 to 4.2.2020

Sl. No	Resolution	Yes	No	Required % of voting share	E-Voting results
	Approval of Resolution Plan Submitted by				
1	M/s Tatia Developer Pvt Ltd	64.479 %	35.521%	66%	The Resolution plan submitted by M/s Tatia Developers Private Limited is approved by 64.479% voting share as against the requirement of 66% .
2	M/s Senthamilzh Constructions & Projects Pvt Ltd	NIL	100 %	66%	The Resolution Plan submitted By M/s Senthamilzh Constructions and Projects Pvt Ltd is not approved

Remarks – 1) The Resolution plan submitted by M/s Senthamilzh Constructions &Projects is rejected by 100% voting share .

2) The Resolution plan submitted by M/s Tatia Developers Private Limited is approved by 64.479% voting share as against the requirement of 66% .

On 14.02.2020 the RP re-calculated the voting percentage received by the Tatia Developers to 67.387% reasoning that he had missed to include the 8% interest component of the homebuyers in finalising the admitted claim amount and have also filed the calculation regarding each eligible homebuyer at page 38-40 of the plan application. Moreover, we see that after submission of the chairman report *supra* the resolution plan of the Tatia Developers has been placed before CoC in its 19th meeting held on 22.07.2024 and the has been approved by the

CoC relevant extracts of the minutes of the meeting is reproduced below:

21)Resolution No 5

Resolved that the Committee of Creditors in their Commercial Wisdom has approved with 100% voting share the additional CIRP Cost of Rs 68,60,000/ as per Page 2 Para 13 point 3 of resolution plan submitted by M/s Tatai Developers Pvt Ltd .

22)Resolution No 6

Resolved that the Committee of Creditors with 100% Voting share has approved the Resolution Plan submitted on 01.02.2020 by M/s Tatia Developers Private Limited and incorporating the additional CIRP Cost of Rs 68,60,000/ and rejecting all demands of Mr. Jagadeesan , M/s Arthvedastar(vizag) Realty Pvt Ltd , Mr.Ankaiya . The Committee further resolved that any claims not submitted so far will be not be entertained except with a direction from AA

The meeting came to an end at 6 pm with vote of thanks to the chair

And the corresponding voting results is as follows:



Date: Monday 1st of July 2024

This is to certify that E-voting event for E-VOTING - Hamsini Foundations Pvt Ltd conducted on Claim-Bridge platform from Sunday 30th of June 2024 07:00:00 PM to Monday 1st of July 2024 07:00:00 PM conducted fairly over a secured platform.

Total Voters:	3
Total Voted:	3
Total voting per:	0 %

Resolution Id:- OzUEG6mi7WEWTrj384

Item 1

Approval of Resolution Plan Submitted on 1.2.2020 by M/s Tatia Developer Pvt Ltd

#	Yes	No	Abstain
Total (%)	0	0	0
Count	3	0	0

10. In the above resolution the CoC has unanimously rejected the allegations of the Mr.Jagadeesan (Applicant in 1187) and has approved the resolution plan. In view of the above discussion we reasonably conclude that the allegation of Mr.Jagadeesan against rejection of his claim by the RP that it was inordinately time barred and the contention regarding appointment of Authorised Representative of homebuyers is denied as the majority of the them in the class of homebuyers has approved and it has raised no objection till date which was also dealt in IA/226/2020.

11. The discrepancy regarding correction in voting percentage has been appropriately demonstrated by the RP with the documents and the resolution plan was again put to vote in the 19th meeting of the Committee of Creditors and same has passed the muster. Albeit, the CIRP process of the Corporate Debt may not be in strict adherence with the procedure and time line prescribed in the regulation, however, we strongly presume that re-exercising the same process in order to meet procedure prescribed will yield the same result otherwise the Corporate Debtor will be pushed to liquidation ultimately. In order to curtail the delay and to reduce the depreciation

of the value of the assets of the Corporate Debtor, we reject the allegations of Mr. Jagadeesan and proceed with the resolution plan submitted.

12. ANALYSIS OF RESOLUTION PLAN:

12.1. ELIGIBILITY OF A RESOLUTION APPLICANT AND SOURCE OF FUND:

12.1.1. The SRA viz. Tatia Developers Pvt.Ltd is a company with 10 years experience in real estate activities including construction and layout development. The Company has developed more than 30 lakh square feet of lands in the last decade. The average turnover of the company for the period it is stated as 10 crores. The Registered office of the SRA is at No.18 Ritherdon Road, Vepery, Chennai – 600007. The paid-up capital of the company is Rs.14,00,000/-. The SRA has submitted declaration affidavit under Section 29A of the Code.

12.1.3. The Resolution plan shall be funded principally through capital induction of Rs.4.00 crores by Successful Resolution Applicant and internal accruals arising from realization of receivables from sold units of the projects and from future sales of unsold units in the project.

12.2. SHAREHOLDING PATTERN THE PROPOSED PLAN:

12.2.1. The Resolution Applicant will invest Rs.4 crore by itself and/or through its nominees into Corporate Debtor by subscribing shares in the Corporate Debtor.

12.2.2. The SRA thorough its nominees will takeover the Corporate Debtor by way of acquiring the Corporate Debtor. As on effective date the existing share capital and debentures shall be cancelled. The SRA will have the right to issue different class of shares and have the final capital structure in accordance with the applicable rules and regulations of the Companies Act.

12.2. RATIONALE OF THE RESOLUTION PLAN:

12.3. SETTLEMENT PROPOSED IN RESOLUTION PLAN ALONG WITH TIME

LINE OF PAYMENTS:

12.3.1. Payment of CIRP Cost:

a) The Plan has considered CIRP costs at an estimated amount of Rs. 40.00 lakhs which includes pending payment to Interim Resolution Professional (IRP) and/or Resolution Professional (RP) 2)

b) All amount of expenses incurred by IRP and/or RP shall be paid in priority by the resolution applicant after the approval of Resolution Plan by Adjudicating Authority.

c) In the event the said CIRP costs increases above the amount, the SRA will be entitled to offset such increase against the other amount payable under this plan.

12.3.2. Proposal regarding Financial Creditors:

a) **Suraksha ARC** will be paid Rs.3,00,00,000/- towards full and final settlement of the entire amount claimed including interest etc. The admitted principal amount shall cease to accrue interest or penalty with immediate effect from the effective date (plan approval date by this Adjudicating Authority). The amount shall be paid within 1 month from the effective date in 1 instalment.

b) **Sanchit Sales Pvt Ltd** will be paid Rs.1,05,00,000/- towards full and final settlement of the entire amount claimed including interest etc. The admitted principal amount shall cease to accrue interest or penalty with immediate effect from the effective date. The amount shall be paid within 1 month from the effective date in 1 instalment.

12.3.3. On acceptance of resolution plan by the prescribed authority and payment of the above mentioned amount the financial creditors shall have no claim against the Corporate Debtor, SRA or the nominees of the SRA for the balance waived amount in any form save and except in the event of default under the resolution plan. The Financial Creditor shall cease to have any right over the property of Corporate Debtor on payment of above assured sum and all agreements as of effective date shall be deemed to be cancelled/ cancelled proportionately on receipt of each instalment.

12.3.4. Proposal Regarding homebuyers:

The proposal regarding settlement to the homebuyers and the land owners is briefed in the plan as follows:

In respect of all homebuyers the amount received from the sale of unit is the principal amount finally admitted by the Interim Resolution Professional (IRP)/Resolution Professional (RP). The Balance Due to be recovered from home buyers is the difference between the principal amount admitted and the agreed value for such sales (including construction & other amenities etc). The Landowners are treated as Homebuyers.

A) Homebuyers in the first phase

a) Homebuyers in Bouganvilla-

All homebuyers including land owners of Bouganvilla block shall be required to pay an additional amount of Rs.150/- per sq ft of flat area in addition to Balance due from them.

b) Homebuyers in Rose and Hibiscus-

All homebuyers including land owners in Rose and Hibiscus

blocks shall be required to pay an additional amount of Rs 250/- per sqft of flat area in addition to Balance Due from them.

c) Unregistered & Uncompleted Flats' Homebuyers in above 3 blocks-

All homebuyers including landowners whose flats have not been registered and/or Completed (Possession Not handed over) shall be required to pay an additional amount of Rs 350/- per sq ft of flat area over and above the amount mentioned in clause 13(A)(a) or 13(A)(b), in addition to Balance Due from them.

In the event of failure/unwillingness to pay the receivables (including the additional amount as provided above), the Company shall be entitled to cancel the sale of the unit including UDS and refund 50% of the amount received against such unit.

B) Homebuyers in the second phase (Almanda, Jasmine, Lilly and Lantana blocks)

a) Land owners-

- 1) Land owners will be allotted 44,325 sq ft of flats towards full and final settlement of their share of built up area. (As per Annexure A)
- 2) The Landowners shall be required to pay an amount of Rs 625/- per Sq ft. of flat area allotted to them.
- 3) In the event of failure/ unwillingness to pay the receivables, the Company shall be entitled to cancel the sale of the unit including UDS and refund Rs 1000/- sq ft of flat area.

b) Homebuyers with Registered Sale Deed-

- 1) The homebuyers with registered sale deeds shall be required to pay an additional amount of Rs. 600/- per sq ft of flat area in addition to Balance Due from them.
- 2) In the event of failure/unwillingness to pay the receivables (including the additional amount as provided above), the Company shall be entitled to cancel the sale of the unit including UDS and refund 35% of the amount received against such unit.

c) Homebuyers with Registered Agreements-

- 1) The homebuyers with registered agreements shall be required to pay an additional amount of Rs. 1500/- per sq ft of flat area in addition to Balance Due from them.
- 2) In the event of failure/unwillingness to pay the receivables (including the additional amount as provided above), the Company shall be entitled to cancel the sale of the unit including UDS and refund 30% of the amount received against such unit.

d) Homebuyers with Unregistered Agreements

- 1) The homebuyers with unregistered agreements shall be paid 20% of their admitted claim as per Annexure B and they will not get any flat/area.

e) Homebuyers who have applied for cancellation

- 1) The homebuyers who have already applied for cancellation shall be paid 30% of the admitted claim as per Annexure C.

For all the above homebuyers whose sale deed/agreements are cancelled as provided in b(2), c(2), d(1) and e(1), all the deeds/agreement with them shall stand cancelled and the home buyer shall cooperate for necessary documentation/legal formalities. The payment will be made only on cancellation and completion of legal formalities.

The RA shall be entitled to put the unit for resale and the refunds shall be payable only from further sale of such unit (along with UDS).

Further each of the Homebuyers including Land Owners shall enter into a supplemental construction agreement with RA for additional cost/incremental demand within 90 days from the effective date.

12.3.5. Proposal regarding workmen and employees:

- 1) Payment of 100% of the admitted claim of dues of employees are proposed to be paid after payment of CIRP from the accruals arising from the realization of receivables from sold units and from future sales of unsold units. The employment of all existing employees of the Company shall stand terminated on the Effective date. The terminated employees shall not be entitled to make any demands or claims against the Company in respect of such termination, including for any termination benefits.

12.3.4. For Operational Creditors:

Operational creditors shall be paid 2.5 % of the admitted amounts of their claims as full and final settlement of all their claims. The payment

to operational creditors shall be made in 1 instalment within 1 month from the effective date.

12.4. Summary of the settlements to all stake holders is submitted as follows:

	Claim Amount Rs	%	Amount payable Rs	Remarks
1) Financial creditors				
A) Suraksha ARC	16,20,91,564	18.5	3,00,00,000	Within 1 month from effective date
B) Sanchit Sales Pvt Ltd	6,84,39,273	15.4 %	1,05,00,000	Within 1 month from effective date
2) Homebuyers with unregistered agreements	3,91,97,071	20%	78,39,414	Within 12 months of completion of legal formalities.
3) Homebuyers who have applied for cancellation	2,18,45,170	30%	65,53,551	Within 12 months of completion of legal formalities.
4) Employees	12,56,500	100 %	12,56,500	Within 3 months
5) Operational creditors	4,69,66,010	2.5 %	11,74,150	Within 1 month from effective date
6) Unclaimed statutory dues/legal claims (Provision)			25,00,000	On receipt of valid claims.
7) a) CIRP cost b) Additional CIRP cost			40,00,000 68,60,000	Immediately after approval of Resolution Plan by Adjudicating Authorities.
	Total		6,38,23,615	

12.5. PERFORMANCE GUARANTEE:

It is stated that the Successful Resolution Applicant will provide Rs.4 crore as performance guarantee within 30 days of receipt of approved resolution plan.

12.6. MONITORING COMMITTEE AND IMPLEMENTATION:

12.6.1. It is stated in the Resolution Plan that the Project can be monitored by a Monitoring Committee consisting of 1) Resolution Professional, 2) Home Buyers Representative, 3) Creditors Representative, 4) All Directors of Resolution Applicant Company.

12.6.2. Within 15 Days of the effective date, the resolution professional/interim resolution professional shall procure, arrange and handover to the SRA all communications, correspondences and agreements with homebuyers on basis of which the claims have been accepted and a statement of account of each home buyer forming the basis of accepted claims. Further, home buyers shall provide the original sale deeds/agreements to the Resolution Applicant for its records and when required by the Resolution Applicant or at the time of the possession of the units.

13. TABULATION OF VARIOUS MANDATORY COMPLIANCES REQUIRED UNDER THE PROVISIONS OF IBC, 2016:

From the averments as well as in the Form-H filed by the Resolution Professional the details of various compliances as envisaged within the provisions of IBC, 2016 and CIRP Regulations, which requires a Resolution Plan to adhere to, which are reproduced hereunder:

MANDATORY COMPLIANCE UNDER IBC, 2016	COMPLIANCE UNDER RESOLUTION PLAN
<u>S.30(2)(a)</u> - Payment of Insolvency and Resolution cost in the manner specified by the Board	Clauses 13 at Pages 42 of the Resolution Plan
<u>S.30(2)(b)</u> -Payment of debts of Operational Creditors in such manner as may be specified by the Board, which shall not be less than the amount to be paid to the Operational Creditors in the event of a liquidation of the Corporate Debtor under Sec. 53.	Clauses 16 to 18 at Pages 42 of the Resolution Plan
<u>S. 30(2)(c)</u> - Management of the affairs of the Corporate Debtor after approval of the Resolution Plan.	Clauses 11 and 12 at Pages 42 of the Resolution Plan
<u>S.30(2)(d)</u> - Implementation and Supervision of the Resolution Plan.	Clauses 34 at Page 48 of the Resolution Plan
<u>S. 30(2)(e)</u> - The plan does not contravene any of the provisions of the law for the time being in force.	Clauses 18, 31 and 37 at Pages 48 and 49 of the Resolution Plan
<u>S.30(2)(f)</u> - Conforms to such other requirements as may be specified.	Clauses 2 at Page 47 of the Resolution Plan

<p>S. 30(4) - Committee of Creditors approve the Resolution Plan by not less than 66% of the voting share of Financial Creditors, after considering its feasibility, viability and such other requirement as specified by the Board</p>	<p>The CoC, in its 19th meeting, has approved the Resolution Plan.</p>
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14. MEASURES REQUIRED FOR IMPLEMENTATION OF THE RESOLUTION PLAN IN TERMS OF REGULATION 37 OF CIRP REGULATIONS.

MANDATORY COMPLIANCE UNDER CIRP REGULATION	COMPLIANCE UNDER RESOLUTION PLAN
<p><i>A Resolution Plan shall provide for the measures, as may be necessary, for insolvency resolution of the Corporate Debtor for maximisation of the value of its assets, including by not limited to the following: -</i></p>	
(a) transfer of all or part of the assets of the Corporate Debtor to one or more persons;	<p>Clause 37 at Page 49 of the Resolution Plan</p>
(b) sale of all or part of the assets whether subject to any security interest or not;	
(ba) restructuring of the Corporate Debtor, by way of merger, amalgamation and demerger;	<p>Clause 11 at Page 42 of the Resolution Plan</p>
(c) the substantial acquisition of shares of the Corporate Debtor, or the merger or consolidation of the Corporate Debtor with one or more persons;	<p>Clauses 11 and 12 at Page 42 of the Resolution Plan</p>
(ca) cancellation or delisting of any shares of the Corporate Debtor, if applicable;	<p>Clauses 11 and 12 at Page 42 of the Resolution Plan</p>
(d) satisfaction or modification of any security interest;	<p>Clauses 14 and 15 at Page 44 and 45 of the Resolution Plan</p>
(e) curing or waving of any breach of the terms of any debt due from the Corporate Debtor;	<p>Clauses 14 and 15 at Page 44 and 45 of the Resolution Plan</p>
(f) reduction in the amount payable to the creditors;	<p>Clauses 14 to 18 at Page 44 - 46 of the Resolution Plan</p>

(g) Extension of maturity date or a change in interest rate or other terms of a debt due from the Corporate Debtor.	Clauses 14 and 15 at Page 44 and 45 of the Resolution Plan
(h) amendment of the constitutional documents of the Corporate Debtor;	Clauses 11, 12 and 26 at Page 46 and 47 of the Resolution Plan
(i) Issuance of Securities of The Corporate Debtor, for cash property, securities, or in exchange for claims or interests, or other appropriate purpose;	Clauses 14, 15 and 16 at Page 42, 46 47 of the Resolution Plan
(j) change in portfolio of goods or services produced or rendered by the Corporate Debtor;	Clauses 26 at Page 46 and 47 of the Resolution Plan
(k) change in technology used by the Corporate Debtor; and	Clauses 26 at Page 46 and 47 of the Resolution Plan
(n) Obtaining necessary approvals from Central and State Governments and other Authorities.	Clauses 26 at Page 46 and 47 of the Resolution Plan

15. MANDATORY CONTENTS OF THE RESOLUTION PLAN IN TERMS OF REGULATION 38 OF CIRP REGULATIONS.

	MANDATORY COMPLIANCE UNDER CIRP REGULATION	COMPLIANCE UNDER RESOLUTION PLAN
38(1)	The amount due to the Operational Creditor under Resolution Plan shall be given priority in payment over Financial Creditor.	Clause 17 at Page 46 of the Resolution Plan
38(1A)	A Resolution Plan shall include a statements as to how it has dealt with the interest of all stakeholders, including Financial Creditors and Operational Creditors of the Corporate Debtor.	Clause 27 at Page 47 and 48 of the Resolution Plan

38(1B)	A Resolution Plan shall include a statement giving details if 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.	Clause 37 at Page 54 of the Resolution Plan
38(2)	a) term of the plan and its implementation schedule	Clauses 22 to 25 at Page 46 and 48 of the Resolution Plan
	b) management and control of the business of the Corporate Debtor during its term;	Clauses 34 at Page 48 of the Resolution Plan
	c) adequate means for supervising its implementation	
38(3)	a) it address the cause of default;	Clauses 11 to 23 at Pages 42 to 46 of the Resolution Plan
	b) it is feasible and viable	Clauses 25 at Page 46 of the Resolution Plan
	c) it has provisions for effective implementation	Clauses 11 and 34 at Page 42 and 48 of the Resolution Plan
	d) it has provisions for approval required and the timeline for the same; and	Clauses 22 to 26 and 37 at Page 46 to 54 of the Resolution Plan
	e) the resolution applicant has the capability to implement the Resolution Plan.	Clauses 1,11,12 at pages 41 and 42 of the Resolution Plan

16. Plan Value:

The fair value and the liquidation value of the Corporate Debtor has been mentioned as follows in the Form-H submitted by the Resolution professional,

Fair Value	Rs.33,92,35,085/-
Liquidation Value	Rs.26,70,90,847/-
Plan Value	Rs. 6,38,23,615/-

The plan value is lesser than that of the liquidation value of the Corporate Debtor. However, considering the effective completion of the project and securing the interest of the homebuyers and the requisite approval of the CoC this Adjudicating Authority accepts the proposed plan value. The Hon'ble Supreme Court in the case of *Maharashtra Seamless Limited versus Padmanabhan venkatesh & ors* case has observed that there is no necessity that the plan value should match with the liquidation value. The relevant extract of the decision is reproduced below:

In Para 26

No provision in the Code or Regulations has been brought to our notice under which the bid of any Resolution Applicant has to match liquidation value arrived at in the manner provided in Clause 35 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. This point has been dealt with in the case of Essar Steel.

Para 28

"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. Such is the scheme of the Code. Section 31(1) of the Code lays down in clear terms that for final approval of a resolution plan, the Adjudicating Authority

has to be satisfied that the requirement of sub-section (2) of Section 30 of the Code has been complied with”.

17. In so far as the approval of the Resolution Plan is concerned, this Authority, along with considering the decision of the Committee of Creditors, is duty-bound to follow the precedents of the Supreme Court in the matter of **K. Sashidhar –Vs– Indian Overseas Bank** (2019) 12 SCC 150, wherein in para 19 and 62 it is held as follows;

“19.....In the present case, however, our focus must be on the dispensation governing the process of approval or rejection of the resolution plan by the CoC. The CoC is called upon to consider the resolution plan under Section 30(4) of the I&B Code after it is verified and vetted by the resolution professional as being compliant with all the statutory requirements specified in Section 30(2).

*62.In the present case, however, we are concerned with the provisions of I&B Code dealing with the resolution process. The dispensation provided in the I&B Code is entirely different. In terms of Section 30 of the I&B Code, the decision is taken collectively after due negotiations between the financial creditors who are constituents of the CoC and they express their opinion on the proposed resolution plan in the form of votes, as per their voting share. In the meeting of the CoC, the proposed resolution plan is placed for discussion and after full interaction in the presence of all concerned and the Resolution Professional, the constituents of the CoC finally proceed to exercise their option (business/commercial decision) to approve or not to approve the proposed resolution plan. In such a case, non-recording of reasons would not per-se vitiate the collective decision of the financial creditors**. The legislature has not envisaged challenge to the “commercial/business decision” of the financial creditors taken collectively or for that matter their individual opinion, as the case may be, on this count.”*

Further, the Hon’ble Supreme Court of India in the matter of **Committee of Creditors of Essar Steels –Vs– Satish Kumar Gupta & Ors. in Civil Appeal** No. 8766 – 67 of 2019 at para 42 has held as follows;

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

Further the Supreme Court in the matter of **K. Sashidhar v. Indian Overseas Bank and Ors.** (2019) 12 SCC 150 has lucidly delineated the scope and interference of the Adjudicating Authority in the process of approval of the Resolution Plan and held as follows;

“55. Whereas, the discretion of the adjudicating authority (NCLT) is circumscribed by Section 31 limited to scrutiny of the resolution plan “as approved” by the requisite per cent 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. Reverting to Section 30(2), the enquiry to be done is in respect of whether the resolution plan provides: (i) the payment of insolvency resolution process costs in a specified manner in priority to the repayment of other debts of the corporate debtor, (ii) the repayment of the debts of operational creditors in prescribed manner, (iii) the management of the affairs of the corporate debtor, (iv) the implementation and supervision of the resolution plan, (v) does not contravene any of the provisions of the law for the time being in force, (vi) conforms to such other requirements as may be specified by the Board. The Board referred to is established under Section 188 of the I&B Code. The powers and functions of the Board have been delineated in Section 196 of the I&B Code. None of the specified functions of the Board, directly or indirectly, pertain to regulating the manner in which the financial creditors ought to or ought not to exercise their commercial wisdom during the voting on the resolution plan under Section 30(4) of the I&B Code. The subjective satisfaction of the financial creditors at the time of voting is bound to be a mixed baggage of variety of factors. To wit, the feasibility and viability of the proposed resolution plan and including their perceptions about the general capability of the resolution applicant to translate the projected plan into a reality. The resolution applicant may have given projections backed by normative data but still in the opinion of the dissenting financial creditors, it would not be free from being speculative. These aspects are completely within

the domain of the financial creditors who are called upon to vote on the resolution plan under Section 30(4) of the I&B Code.

58. Indubitably, the inquiry in such an appeal would be limited to the power exercisable by the resolution professional under Section 30(2) of the I&B Code or, at best, by the adjudicating authority (NCLT) under Section 31(2) read with Section 31(1) of the I&B Code. No other inquiry would be permissible. Further, the jurisdiction bestowed upon the appellate authority (NCLAT) is also expressly circumscribed. It can examine the challenge only in relation to the grounds specified in Section 61(3) of the I&B Code, which is limited to matters "other than" enquiry into the autonomy or commercial wisdom of the dissenting financial creditors. Thus, the prescribed authorities (NCLT/NCLAT) have been endowed with limited jurisdiction as specified in the I&B Code and not to act as a court of equity or exercise plenary powers."

(emphasis supplied)

Also, the Supreme Court of India in the matter of **Committee of Creditors of Essar Steel India Limited v. Satish Kumar Gupta and Ors.** (2020) 8 SCC 531 after referring to the decision in **K. Sashidhar (supra)** has held as follows;

"73. There is no doubt whatsoever that the ultimate discretion of what to pay and how much to pay each class or sub-class of creditors is with the Committee of Creditors, but, the decision of such Committee must reflect the fact that it has taken into account maximising the value of the assets of the corporate debtor and the fact that it has adequately balanced the interests of all stakeholders including operational creditors. This being the case, judicial review of the Adjudicating Authority that the resolution plan as approved by the Committee of Creditors has met the requirements referred to in Section 30(2) would include judicial review that is mentioned in Section 30(2)(e), as the provisions of the Code are also provisions of law for the time being in force. Thus, while the Adjudicating Authority cannot interfere on merits with the commercial decision taken by the Committee of Creditors, the limited judicial review available is to see that the Committee of Creditors has taken into account the fact that the corporate debtor needs to keep going as a going concern during the insolvency resolution process; that it needs to maximise the value of its assets; and that the interests of all stakeholders including operational creditors has been taken care of. If the Adjudicating Authority finds, on a given set of facts, that the aforesaid parameters have not been kept in view, it may send a resolution plan back to the Committee of Creditors to re-submit such plan after satisfying the aforesaid parameters. The reasons given by the Committee of Creditors while approving a resolution plan may thus be looked at by the Adjudicating Authority only from this point of view, and once it is satisfied that the Committee of Creditors has paid attention to

these key features, it must then pass the resolution plan, other things being equal.”

(emphasis supplied)

18. The Supreme Court in its recent decision in **Jaypee Kensington Boulevard Apartments Welfare Association &ors. v. NBCC (India) Ltd.**

&Ors in *Civil Appeal no. 3395 of 2020* dated 24.03.2021 has held as follows;

“76. The expositions aforesaid make it clear that the decision as to whether corporate debtor should continue as a going concern or should be liquidated is essentially a business decision; and in the scheme of IBC, this decision has been left to the Committee of Creditors, comprising of the financial creditors. Differently put, in regard to the insolvency resolution, the decision as to whether a particular resolution plan is to be accepted or not is ultimately in the hands of the Committee of Creditors; and even in such a decision making process, a resolution plan cannot be taken as approved if the same is not approved by votes of at least 66% of the voting share of financial creditors. Thus, broadly put, a resolution plan is approved only when the collective commercial wisdom of the financial creditors, having at least 2/3rd majority of voting share in the Committee of Creditors, stands in its favour.

77. In the scheme of IBC, where approval of resolution plan is exclusively in the domain of the commercial wisdom of CoC, the scope of judicial review is correspondingly circumscribed by the provisions contained in Section 31 as regards approval of the Adjudicating Authority and in Section 32 read with Section 61 as regards the scope of appeal against the order of approval.

77.1. Such limitations on judicial review have been duly underscored by this Court in the decisions above-referred, where it has been laid down in explicit terms that the powers of the Adjudicating Authority dealing with the resolution plan do not extend to examine the correctness or otherwise of the commercial wisdom exercised by the CoC. The limited judicial review available to Adjudicating Authority lies within the four corners of Section 30(2) of the Code, which would essentially be to examine that the resolution plan does not contravene any of the provisions of law for the time being in force, it conforms to such other requirements as may be specified by the Board, and it provides for: (a) payment of insolvency resolution process costs in priority; (b) payment of debts of operational creditors; (c) payment of debts of dissenting financial creditors; (d) for management of affairs of corporate debtor after approval of the resolution plan; and (e) implementation and supervision of the resolution plan.

77.2. The limitations on the scope of judicial review are reinforced by the limited ground provided for an appeal against an order approving a resolution plan, namely, if the plan is in contravention of the provisions of any law for the time being in force; or there has been material irregularity in exercise of the powers by the resolution professional during the corporate insolvency resolution period; or the debts owed to the operational creditors have not been provided for; or the insolvency resolution process costs have not been provided for repayment in priority; or the resolution plan does not comply with any other criteria specified by the Board

77.6.1. The assessment about maximisation of the value of assets, in the scheme of the Code, would always be subjective in nature and the question, as to whether a particular resolution plan and its propositions are leading to maximisation of value of assets or not, would be the matter of enquiry and assessment of the Committee of Creditors alone. When the Committee of Creditors takes the decision in its commercial wisdom and by the requisite majority; and there is no valid reason in law to question the decision so taken by the Committee of Creditors, the adjudicatory process, whether by the Adjudicating Authority or the Appellate Authority, cannot enter into any quantitative analysis to adjudge as to whether the prescription of the resolution plan results in maximisation of the value of assets or not. The generalised submissions and objections made in relation to this aspect of value maximisation do not, by themselves, make out a case of interference in the decision taken by the Committee of Creditors in its commercial wisdom

78. To put in a nutshell, the Adjudicating Authority has limited jurisdiction in the matter of approval of a resolution plan, which is well defined and circumscribed by Sections 30(2) and 31 of the Code read with the parameters delineated by this Court in the decisions above referred. The jurisdiction of the Appellate Authority is also circumscribed by the limited grounds of appeal provided in Section 61 of the Code. In the adjudicatory process concerning a resolution plan under IBC, there is no scope for interference with the commercial aspects of the decision of the CoC; and there is no scope for substituting any commercial term of the resolution plan approved by the CoC. Within its limited jurisdiction, if the Adjudicating Authority or the Appellate Authority, as the case may be, would find any shortcoming in the resolution plan vis-à-vis the specified parameters, it would only send the resolution plan back to the Committee of Creditors, for re-submission after satisfying the parameters delineated by Code and exposted by this Court.”

(emphasis supplied)

19. Thus, from the catena of judgments rendered by the Supreme Court on the scope of approval of the Resolution Plan, it is amply made clear that

only limited judicial review is available for the Adjudicating Authority under Section 30(2) and Section 31 of IBC, 2016 and this Adjudicating Authority cannot venture into the commercial aspects of the decisions taken by the Committee of Creditors.

20. Thus, the Resolution Plan is hereby **Approved** and is binding on the Corporate Debtor and other stakeholders, shareholders and all creditors involved so that the revival of the Debtor Company shall come into force with immediate effect and the "Moratorium" under section 14 of IBC, 2016 shall cease to have any effect henceforth.

21. RELIEF AND CONCESSIONS:

In respect of additional relief and concessions prayed in Clause 11 of the Resolution Plan, this Tribunal directs as follows,

SL. No.	RELIEF / CONCESSIONS SOUGHT FOR	ORDERS THEREON
1	All pending litigations or proceedings against the Company or in respect of the Project instituted by any home buyer which are before any tribunal, authority, consumer forum, court, real estate regulatory authority any other judicial or quasi-judicial body under law are deemed withdrawn.	Granted as per Ghanashyam Mishra and Sons Ltd vs Edelweiss Asset reconstruction ltd subject to the provisions of IBC
2	The Resolution Applicant shall have the option to apply and avail additional FSI permissible for the total project. However Land Owners will not be eligible for any additional share in the additional FSI obtained. Their area eligibility shall stand restricted as specified in Clause13(B)(a).	Granted subject to IBC and other applicable laws

3	Each home buyer is deemed to have given his/her/its consent to the Company and the resolution applicant under RERA and all other applicable laws for revision, modification, renewal of all building plans, layouts, development and construction approvals, change of access, usage restrictions, change in proportionate allocation of unsold and undivided share in land, as may be required by the Company and the Resolution Applicant.	Granted subject to IBC and other applicable laws
4	Each home buyer is deemed to have consented for construction of the project in accordance with approvals and permissions obtained by the Company for such projects, whether such approvals or permissions is obtained or such construction is undertaken prior to or after handover of possession.	Granted subject to IBC and other applicable laws
5	While the handover and delivery of possession of units shall be completed as provided in the resolution plan, delivery and completion of certain amenities may be delayed beyond possession date, but payment of monies by the Homebuyers shall not be stopped, delayed or deferred on account of the aforesaid.	Granted subject to IBC and other applicable laws
6	In order to enable the Company and the Resolution Applicant to give delivery of the units in a timely manner and to complete construction and Development of the projects more expeditiously and efficiently, each block may have to be completed phase wise.	Granted subject to IBC and other applicable laws
7	The company and the Resolution applicant may re brand and market the projects in such manner as it may deem fit and the homebuyers hereby give their consent and no objection to the same.	Granted subject to IBC and other applicable laws
8	Each homebuyer is hereby deemed to have provided all consents, permissions as are required for or incidental to the implementation of this resolution plan	Granted subject to IBC and other applicable laws

	under any applicable laws, including without limitation RERA, all development and construction bye laws, as per CMDA/DTCP rules and regulations.	
9	The RA has the right to swap flats of homebuyers within same/other blocks of equivalent Area to ensure speedy delivery /better marketability.	Granted subject to IBC and other applicable laws
10	Without prejudice to the aforesaid, each homebuyer shall as when requested by the Company, and in any event within Seven days of such request, provide such consents, confirmations and permissions as may be required under applicable law for the implementation of this resolution plan. The approval of the Adjudicating Authority and the CoC shall constitute adequate approval and cancellation of the existing share capital and accordingly, no approval/consent shall be necessary from any other Person/ Governmental Authority in relation to either of the sections under any agreement, the constitutional documents or under any Applicable Law. It is also clarified that the Resolution Applicant shall not be required to deal with the dissenting/ abstaining Financial Creditors in any manner other than as provided under the Code.	Granted to the extent without affecting the rights of homebuyers and subject to IBC and other applicable laws
11	No claim has been received from any statutory department. Hence, dues are treated as waived and no specific provision has been made for the same.	Granted as per Ghanashyam Mishra and Sons Ltd vs Edelweiss Asset reconstruction and subject to other applicable laws
12	Assets: a) All assets of the existing directors and shareholders In relation to this project shall accrue to the company. b) All assets of the Corporate Debtor including security deposits, properties, whether freehold, leasehold or license basis or any asset within the boundaries of the	Granted subject to the provisions of companies act IBC other applicable laws.

	<p>Corporate Debtor shall vest with the Resolution Applicant.</p> <p>c) The joint venture land advance of Rs. One crore paid by corporate debtor to land owners should be repaid before handing over of their apartments failing which Corporate Debtor shall have lien over the units allotted to land owners and the amount can be realized by selling their units.</p> <p>d) Subject to the above, all title deeds and other documents (including charge documents, if any) held by the Financial Creditors shall be transferred to the resolution applicant in accordance with the approved Resolution Plan.</p> <p>e) This Resolution Plan has been prepared on the assumption that none of the assets, receivables or securities of the Corporate Debtor shall be transferred, sold, disposed or otherwise Encumbered in any manner except in accordance with this Resolution Plan and Regulation 29 of CIRP Regulations. Notwithstanding anything contained in this Resolution Plan, in the event of any such transfer, sale, disposal or Encumbrance, the Resolution Applicant, the Committee of Creditors and the Resolution Professional or Insolvency Professional (as the case maybe) shall discuss and mutually agree suitable modifications to this Resolution Plan, in order for it to be implemented.</p>	
13	<p>Extinguishment Of Claims:</p> <p>a) Without prejudice to the secured financial creditors' rights against the guarantors of the corporate debtor in the proceedings pending to be initiated against the guarantors' , all</p>	<p>Granted as per Ghanashyam Mishra and Sons Ltd vs Edelweiss Asset reconstruction and subject to other applicable laws</p>

	<p>liabilities of the corporate debtor both secured or unsecured : quantified or proposed to be quantified in the affairs connected with the corporate debtor prior to the date of approval of the resolution application shall be deemed as settled and liability of the corporate debtor including secured and unsecured creditors, tax arrears both direct and in direct tax ,employee provident fund , commercial taxes, liability under labour laws, dues to the pollution control board, dues to electricity department, land tax, building tax shall not be carried forward to the resolution applicant.</p> <p>b) Further the resolution applicant shall not be held responsible for the liabilities quantified and to be quantified in connection with the affairs of the corporate debtor prior to the approval date of the resolution plan.</p> <p>c) The charge/ attachment if any made by the government agencies either the Central or State government, local authorities, electricity department and any agency government or quasi-government authorities shall be removed and no attachment can be made in future by the above authorities for the liabilities of the corporate debtor in connection with the affairs of the corporate debtor prior to the approval of the resolution plan.</p>	
14	<p>Concessions, Dispensations and Relief:</p> <p>a) Issuance of fresh equity shares of the corporate debtor to the resolution applicant followed by immediate extinguishment of all other issue shares of the corporate debtor to any other entity and a consequent reduction in</p>	<p>Granted subject to the provisions of companies act IBC other applicable laws</p>

	<p>share capital of the corporate debtor.</p> <p>b) In case of capital reduction, the requirement of adding and reduced in the name of the corporate debtor to be dispensed with.</p> <p>c) The approval of the plan by the NCLT shall be deemed to have waived all of the procedural requirements in terms of section 66, section 42 and section 62(1)c of the Companies Act 2013 and the NCLT (procedure for reduction in share capital) rules, 2016 for reduction of share capital and issuance of equity shares.</p> <p>d) The registrar of companies, Chennai to take on record the change in the shareholding, directorship and other such consequential changes and implement the plan, upon approval of the plan by NCLT without seeking any further compliances.</p> <p>e) In terms of the circular (REF IBC/01/2017) dated 25thOctober, 2017 issued by the MCA, approval of the shareholders of the corporate debtor to the transactions contemplated under the plan shall be deemed to have been given on the approval of the plan by the NCLT, including for the reduction of share capital and for any other measures as may be required under the provisions of the Companies Act, 2013.</p> <p>f) The approval of this resolution plan by NCLT shall constitute adequate and final approval of NCLT for all actions and purposes of this resolution plan.</p> <p>g) Cancellation of the existing share capital of the corporate debtor in terms of section 66 and other provisions of the Companies Act 2013 and other applicable law.</p> <p>h) For issuance of new equity/ preference shares or convertible securities in terms of Companies Act 2013 and other applicable laws and accordingly, no approval/consent shall be necessary from any other person in relation to any</p>	
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	<p>of these actions including under any agreement, the constitution document of the corporate debtor or any applicable law.</p> <p>i) All government authorities to consider waiving the non compliance of the corporate debtor prior to the transferred date including without limiting to failure to obtain any approval from the government authorities to change in control of the corporate debtor as per terms of the plan.</p> <p>j) The Central Board of Direct Taxes (CBDT) or any other relevant Authority to consider exempting the Resolution Applicant and the company from the applicability of and payment of all Taxes under the Income Tax Act, 1961, including sec 115JB, including any liability under the Minimum Alternative Tax which may arise on account of the transaction envisaged under the Resolution Plan either on the Resolution Applicant or the company or any other person who is likely to be impacted due to implementation of the Resolution Plan. The Resolution Applicant will also be legible to carry forward accumulated losses as eligible for such carry forward and the Adjudicating Authority shall pass an order to that effect.</p> <p>k) The Stamp duty payable to the Government of Tamilnadu and the Ministry of Corporate Affairs to consider exempting the Resolution Applicant and the company, from levy of stamp duty and fees applicable in relation to this resolution plan and its implementation including any stamp duty applicable on the issue of shares by the company and transfer of immovable properties and execution of any definitive agreement.</p> <p>l) The relevant Tax authorities to consider providing relief from applicability of and payment of Taxes under provisions</p>	
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	<p>of all indirect tax laws which may arise as a result of implementation of the plan either on the resolution applicant or the corporate debtor or any other person who is likely to be impacted due to implementation of the plan. Further the tax authorities to consider providing waiver/exemption from applicability or of payment of Taxes, interest or penalty to be levied pertaining to the period prior to the transfer date relating to including commercial taxes, goods and service taxes, central sales tax, entry tax laws in respect of which proceedings may have been or have been initiated against the corporate debtor or the resolution applicant or in respect of proceedings which may indicated in future under the Indirect Tax laws and the goods and service tax laws applicable from July 1 2017.</p> <p>m) All pending legal, regulatory or administrative proceedings in respect of the affairs of the corporate debtor, all inquiries, investigations, notices and or cause of actions whether already arisen or expected to arise in relation to any period prior to the Transfer date shall stand abated as against the corporate debtor and deemed disposed of without any liability or obligations cast on the corporate debtor financially or otherwise. All contingent financial liability to any party with whom the corporate debtor had contracts, business transactions shall stand completely extinguished.</p> <p>n) All creditors of the corporate debtor to withdraw all legal proceedings commenced against the corporate debtor in relation to claims, including all proceedings if any under the SARFASI and RDDBFI, within 30 days of the approval date.</p> <p>o) The corporate debtor shall be entitled to modify or terminate (including</p>	
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	<p>shareholders agreements, share purchase agreements and any other contracts with parties that were related parties to the corporate debtor Prior to the insolvency commencement date) which impose onerous conditions and restrict implementation of the resolution plan.</p> <p>p) All the outstanding negotiable instruments issued by the corporate debtor or by any person on behalf of the corporate debtor including demand promissory notes, postdated cheques and letters of credit, shall stand terminated and the resolution applicant shall not be cast any obligations or liability arising out of the same.</p> <p>q) All rights, titles and benefits relating to the movable and immovable properties of the corporate debtor shall be vested in the corporate debtor as is where is basis.</p> <p>r) All power of attorney or authorities executed by the Board of the corporate debtor on or prior to the transfer date shall stand revoked, cancelled or shall be void.</p> <p>s) All liabilities in relation to any corporate guarantees, indemnities and all forms of credit support provided by the corporate debtor prior to the corporate debtor shall stand extinguished.</p> <p>t) The NCLT to provide relief to the corporate debtor from all past litigations pending at different levels and provide waiver for all dues including interest and penalty on such litigations.</p> <p>u) The NCLT to allow the corporate debtor to enjoy and availing future any tax benefits, deductions, exemptions as per the relevant provisions of the applicable laws which the corporate debtor was entitled to as the Transfer date for the balance period as per the relevant provisions of the applicable laws. One month from the date of approval of plan by AA</p>	
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	<p>v) The Ministry of environment and forest of the Government of India, the Central Pollution Control Board including the relevant state pollution control board and all other relevant government authorities concerned to consider waiving anyone – compliance by the company under Environment (Protection) Act, 1986, Water (Prevention and control of pollution act), 1974, Air (prevention and control of pollution) Act 1981 and other environmental litigations and the rules , regulations made there under and consents granted there under.</p> <p>w) The relevant government authorities to consider waving all past non-compliance of the company in relation to obtaining required corporate authorization for undertaking relevant transactions.</p> <p>x) The relevant government authorities to consider waving all past non-compliance of the company in relation to obtaining required corporate authorization for undertaking relevant transactions.</p> <p>y) The Financial Creditors to release the security interest held over any assets of the company including properties whether freehold, leasehold or license basis and all such assets to be vested with the company free and clear of all encumbrances. The existing lease of the company with respect to lands to continue on preexisting terms with modifications as mutually agreed by the lessee and the lesser.</p> <p>z) The relevant government authorities to consider exempting the Resolution applicant and the company from the applicability of and payment of all taxes under the Central Goods and Service Tax Act, 2017, which may arise on account of the transactions envisaged under the resolution plan either on the</p>	
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	<p>resolution applicant or the company or any other person who is likely to be impacted due to the implementation of the resolution plan and the NCLT shall pass an order to this effect.</p> <p>aa)The NCLT to consider approving the capital reduction as contemplated under the resolution plan without requiring compliance with all the provisions of Sec 66(1) and (2) of the Companies Act, 2013.</p>	
15	<p>Confidentiality: By the receipt and deliberation of this Resolution Plan, the Resolution Professional and the Financial Creditors of the Corporate Debtor agree and undertake that they shall not reveal, and shall ensure that their directors, officers, managers, employees (including those on secondment), legal, financial and professional advisors and bankers to whom Confidential Information is made available do not reveal, to members of the public, other resolution applicants or potential resolution applicants any Confidential Information, provided however that the provisions of this Paragraph shall not be applicable to any disclosure interest amongst the members of CoC, their consultants, experts, authorized representatives, agents, employees etc. or any disclosure pursuant to Applicable Law subject to any practicable arrangements to protect confidentiality. The Resolution Applicant shall be entitled to remedies available to her under the provisions of applicable law.</p>	<p>Granted subject to the provisions of companies act IBC other applicable laws</p>

22. The Resolution Professional shall submit all the records, documents, belongings and assets of the Corporate Debtor processed during the commencement of the Proceedings and also return to the Resolution Applicant.

23. A certified copy of this Order be issued on demand to the concerned parties, upon due compliance. Liberty is hereby granted for moving any Interlocutory Application, if required, in connection with the implementation of this Resolution Plan.

24. That in respect of stepping in by the Resolution Applicant/Promoters into the shoes of the Corporate Debtor and taking over the business, the provisions of the Companies Act, 2013 shall be applicable.

25. Copy of this Order is to be submitted to the Office of the Registrar of Companies, Chennai, for updating the master data of the Corporate Debtor and to the IBBI for records.

26. The Resolution Professional is further directed to hand over all records, premises/documents to Resolution Applicant to finalise the further line of action required for starting the operation as contemplated under the Resolution Plan. The Resolution Applicant shall have access to all the records premises/documents through Resolution Professional to finalise the further line of action required for starting the operation.

27. The Resolution Professional shall stand discharged from his duties with effect from the date of this order.

28. According to curtail the delay and to reduce the depreciation of the assets of the Corporate Debtor, we reject the allegations of Mr. Jagadeesan and proceed with the resolution plan submitted Accordingly

IA(IBC)/1187(CHE)/2020 In CP/1361/IB/2018 is Dismissed and Accordingly,
IA(IBC)/271(CHE)/2020 shall stands *Allowed and Disposed of*.

28. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Learned Counsel for information and for taking necessary steps. Files are consigned to the record.

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RAVICHANDRAN RAMASAMY
MEMBER (TECHNICAL)

-SD-

JYOTI KUMAR TRIPATHI
MEMBER (JUDICIAL)

LRA/Rannika