

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH (COURT-I), KOLKATA**

**IA (IB) (PLAN) No. 12/(KB)/2024  
in  
C.P. (IB)No. 329/KB/2022**

*An application under Sub Section (5) of Section 60 read with sub section (6) of  
Section 30 of the Insolvency and Bankruptcy Board of India (Insolvency  
Resolution Process for Corporate Persons) Regulations, 2016;*

**In the matter of:**

**City Union Bank Limited**

**...Financial Creditor**

Versus

**Amritpur Tea Company Limited**

**...Corporate Debtor**

**In the matter of:**

**Mr. Soumitra Lahiri, (Registration number IBBI/IPA-001/IP-  
P00734/2017-2018/11232) Flat No- 14D & E, Tower – 32, Genexx  
Valley, Joka, Diamond Harbour Road, Kolkata – 700 104.**

**...Applicant**

**Date of pronouncement of order: 20.12.2024**

**CORAM:**

**SMT. BIDISHA BANERJEE, HON'BLE MEMBER (JUDICIAL)**

**SHRI BALRAJ JOSHI, HON'BLE MEMBER (TECHNICAL)**

**Appearances (via Video Conferencing/Physical)**

Mr. Vikram Wadehra, Adv. ] For RP

Ms. Aasia Hasan, Adv. ]

Mr. Soumitra Lahiri, RP in person

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**O R D E R**

**Per Bidisha Banerjee, Member (Judicial):**

1. The Court congregated through a hybrid mode.
2. Ld. Sr. Counsels / Counsels for the parties were heard at length.
3. This application has been preferred to seek approval of Resolution Plan in its entirety along with annexure, Schedule, Appendixes including the claims contained therein as submitted by **Mr. Sumit Kumar Khanna** and reliefs and concessions sought for under the Plan.
4. The CoC has approved the Resolution Plan of **Mr. Sumit Kumar Khanna** by **100%** vote through E-Voting in respect of the Corporate Debtor.

**5. Brief facts of the Case:**

- 5.1. The corporate insolvency resolution process (“CIRP”) of Amritpur Tea Company Limited (“Corporate Debtor”) vide Company Petition No.(IB) 329/KB/2022 was initiated by an order dated 27<sup>th</sup> September, 2023 this Tribunal and moratorium by Section 14 of the Insolvency and Bankruptcy Code, 2016 (“Code”) was also declared in respect of the Corporate Debtor and Mr. Soumitra Lahiri, Insolvency Professional was appointed as the IRP.

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- 5.2. Thereafter, as required under Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, Publication was made for announcement on 29<sup>th</sup> September, 2023 in Kolkata edition to the Statesman an English Daily newspaper and Aajkal in Bengali daily newspaper besides in the web portal of the Insolvency and Bankruptcy Board. Form A published stipulated that 12<sup>th</sup> October, 2023 would be the last date for submission of claim.
- 5.3. Further, this Adjudicating Authority dated 31<sup>st</sup> October, 2023 confirmed the Interim Resolution Professional as the Resolution Professional of the Corporate Debtor.
- 5.4. Thereafter, M/s. City Union Bank Emailed Form C being claim submitted as Secured Financial Creditor under Regulation 8 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate persons) Regulations, 2016. The claim amount is Rs.14,67,25,206/- (Rupees Fourteen crore sixty-seven lakh twenty-five thousand two hundred six) only.
- 5.5. On 12<sup>th</sup> October, 2023 the Applicant received a claim from the Secured Financial Creditor, City Union Bank Limited. Based on guidelines of sub-Regulation (1) of Regulation 12 read with sub-Regulation (1) of Regulation 17 of the Insolvency and

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Bankruptcy Board of India (Insolvency Resolution Process for Corporate persons) Regulations, 2016, I constituted committee of creditors on 12<sup>th</sup> October, 2023 and issued notice on 12<sup>th</sup> October, 2023 for convening the first meeting of the committee of creditors on 16<sup>th</sup> October, 2023 in parity with Regulation 17 (2) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate persons) Regulations, 2016.

- 5.6. As required under sub-Regulation (1) of Regulation 13 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate persons) Regulations, 2016, the Applicant, verified every claim, as on the insolvency commencement date and thereupon maintained a list of creditors containing names of creditors along with the amount claimed by them, the amount of their claims admitted and the security interest, if any, in respect of such claims, and update it.
- 5.7. In conformity with clause (d) of sub-Regulation (2) of Regulation 13 a list of creditors was initially filed with the Adjudicating Authority on July 29, 2022. Subsequently, a revised list was submitted on November 14, 2023 and further updated list of claims was filed on January 25, 2024.
- 5.8. In compliance with sub-Section (1) of Section 21 of the Insolvency and Bankruptcy Code, 2016 as well as sub-

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Regulation (1) of Regulation 7 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate persons) Regulations, 2016 Committee of Creditors have duly been constituted.

- 5.9. As per information available at the office of the Deputy Labor Commissioner, Jalpaiguri, since January 2019 the workmen and staff are receiving "Financial Assistance for Workers in Locked Out Industries" at a rate of Rs.1,500/- per head per month. An additional one month's pay is granted as a bonus during Puja festival. Beside the above, the workmen and staff are getting free ration also.
- 5.10. Though as per Audited Annual Accounts of the year 2021-22 the company is depicted to be going concern, the ground reality in the light of the above contradict said Going Concern portrayal. A company cannot be under "Lock Out" and be a Going Concern at the same time.
- 5.11. At the first CoC Meeting held on 16.10.2023, the decision to appoint various Registered Valuers, with fees chargeable basis for valuation of different class of assets. The said Valuers have submitted their valuation report as follows:
- 5.11.1. Mr. Pradipta Das having registration number IBBI/RV/02/2019/11349, has submitted his valuation

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report under clause (a) of sub-Regulation (1) of Regulation 35 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 for asset class Land and Building. The fair value arrived by his is Rs.3,69,33,000/- and the liquidation value is estimated at Rs.2,67,76,000/- only.

5.11.2. Mr. Subir Roy having registration number IBBI/RV/02/2019/12094, has submitted his valuation report under clause (a) of sub regulation (1) of regulation 35 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 for asset class Land & Building. The fair value arrived by his is Rs.3,50,28,000 /- (Rupees Three crore Fifty lakh Twenty-Eight thousand) only and the Liquidation value is estimated at Rs.2,45,19,000 (Rupees Two crore Forty- five Lakh Nineteen thousand) only.

5.11.3. As stipulated under clause (b) of sub-Regulation (1) of Regulation 35 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the two estimates of a value in an asset class are not significantly different for the asset class Land & Building and thus, there is no need for appointing a Third

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valuer. The average of the fair value and Liquidation value for asset class Land & Building work out to Rs.3,59,80,500 (Rupees Three crore Fifty-Nine lakh Eighty thousand) only and Rs.2,56,47,500 (Rupees Two crore Fifty-Six lakh Forty-Seven thousand Five hundred) only, respectively.

5.11.4. Mr. Sujit Ghosh having registration number IBBI/RV/02/2022/14613, has submitted his valuation report under clause (a) of sub-Regulation (1) of Regulation 35 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulation, 2016 for asset class Plant and Machinery. The fair value arrived by his is Rs.21,93,990/- only and the liquidation value is estimated at Rs.3,73,668/- only.

5.11.5. Mr. Arindam Chowdhury having registration number IBBI/RV/01/2022/14563, has submitted his valuation report under clause (a) of sub-Regulation (1) of Regulation 35 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 for asset class Plant & Machinery. The fair value arrived by his is Rs.25,19,959/- (Rupees Twenty-Five lakh Nineteen thousand Nine Hundred Fifty-Nine) only and the Liquidation

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value is estimated at Rs.3,92,522 (Rupees Three Lakh Ninety-Two Thousand Five Hundred Twenty-Two) only.

5.11.6. As stipulated under clause (b) of sub-Regulation (1) of Regulation 35 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the two estimates of a value in an asset class are not significantly different for the asset class Plant & Machinery and thus, there is no need for appointing a Third valuer. The average of the fair value and Liquidation value for asset class Plant & Machinery work out to Rs.23,56,975 (Rupees Twenty-Three lakh Fifty-Six thousand Nine hundred Seventy-Five) only and Rs.3,83,095 (Rupees Three lakh Ninety-Five) only, respectively.

5.11.7. Mr. Kanchan Dutta having registration number IBBI/RV/06/2018/10396, has submitted his valuation report under clause (a) of sub-Regulation (1) of Regulation 35 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 for asset class Securities and Financial Assets. The fair value arrived by his is Rs.0/- (Rupees Zero) only and the Liquidation value is estimated at Rs.0 (Rupees Zero) only.



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- 5.11.8. Ms. Madhuimita Karar having registration number IBBI/RV/06/2018/10341, has submitted his valuation report under clause (a) of sub-Regulation (1) of Regulation 35 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 for asset class Securities and Financial Assets. The fair value arrived by his is Rs.0/- (Rupees Zero) only and the Liquidation value is estimated at Rs.0 (Rupees Zero) only.
- 5.12. As stipulated under clause (b) of sub-Regulation (1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the two estimates of a value in an asset class are not significantly different for the asset class Securities & Financial Assets and thus, there is no need for appointing a Third valuer. The average of the fair value and Liquidation value for asset class Securities & Financial Assets work out to Rs.0 (Rupees Zero) only and Rs.0/- (Rupees Zero) only, respectively.
- 5.13. Thus, in view of the above the Fair value and Liquidation value of all the assets of the corporate debtor, as on the commencement of CIRP work out of Rs.3,83,37,475/- only and Rs.2,60,30,595/- only respectively.

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5.14. The Committee of Creditors approved publication of the Form G on 8<sup>th</sup> November, 2023 in Business Standard being English Daily with decent circulation and in Bartaman being Bengali daily with decent circulation. A copy of the Form G published on 10<sup>th</sup> November, 2023 is attached herewith and marked as **Annexure-1.**

5.15. The Applicant submits that vide email dated 30<sup>th</sup> October, 2023 to the Committee of creditor's, draft of Expression of Interest Process Document covering details specified under sub-Regulations (4) to (7) of Regulation 36A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The Committee of Creditors, in the Second meeting held on 8<sup>th</sup> November, 2023 approved the Expression of Interest Process Document which could be forwarded to every person who may respond to Form G to be published.

5.16. The Applicant submitted vide email dated 30<sup>th</sup> October 2023 to the Committee of creditors draft of Information Memorandum as required under Section 29 of the Insolvency and Bankruptcy Code, 2016 read with Regulation 36 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The Committee of

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Creditors to approve information memorandum which may be forwarded to (a) every prospective resolution applicant in the provisional list; and to (b) every prospective resolution applicant who has contested the decision of the resolution professional against its non-inclusion in the provisional list as stipulated under sub regulation (1) of Regulation 36B of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The Committee of Creditors, at the Second meeting of the CoC, held on 8<sup>th</sup> November, 2023 approved the Information Memorandum.

5.17. The Applicant further stated that vide email dated 30<sup>th</sup> October, 2023 to the Committee of creditors draft of Evaluation Matrix as required under regulation 36B of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The Committee of Creditors, in its Second meeting held on 8<sup>th</sup> November, 2023, approved the Evaluation Matrix which may be forwarded to (a) every prospective resolution applicant in the provisional list; and to (b) every prospective resolution applicant who has contested the decision of the resolution professional against its non-inclusion in the provisional list as stipulated under sub regulation (1) of Regulation 36B of the Insolvency and

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Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

- 5.18. Ld. Counsel for the Applicant submits that vide email dated 30<sup>th</sup> October, 2023 to the Committee of Creditors draft of Request for Resolution Plan (RFRP) as required under Regulation 36B of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulation, 2016.
- 5.19. In the 2<sup>nd</sup> Meeting, the Committee of Creditors, held on 8<sup>th</sup> November, 2023, approved and requested for resolution plan (RFRP) which may be forwarded to every prospective resolution applicant in the provisional list; and to (b) every prospective resolution applicant who has contested the decision of the resolution professional against its non-inclusion in the provisional list as stipulated under sub regulation (1) of Regulation 36B of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- 5.20. Further, based on the Expression of Interest the Resolution Professional on 7<sup>th</sup> December, 2023 issued the Final List of Prospective Resolution Applicants in terms of sub Regulation (12) of Regulation 36A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons)

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Regulations, 2016. The Final List of Prospective Resolution Applicants dated 7<sup>th</sup> December 2023 is attached herewith and marked as **Annexure-2**.

- 5.21. Vide lease deed dated 22<sup>nd</sup> April, 2015 the corporate debtor availed lease of 826.62 Acres of land for operating a Tea estate from the Government of West Bengal for a term of Thirty (30) years with effect from 20<sup>th</sup> August, 2005.
- 5.22. It may be worthwhile to add here that though a fresh lease agreement was executed on 22<sup>nd</sup> April, 2015, the tea garden plot was leased to Amritapur Tea Company Limited since long back (during British era) especially keeping in view the fact that the Corporate Debtor was incorporated in the year 1913.
- 5.23. On 9<sup>th</sup> November, 2023 a Show Cause Notice was received from the Touzi Section of the District Magistrate's Office pertaining violations to Lease terms. The Show Cause Notice was replied vide email and letter dated 9<sup>th</sup> November, 2023.
- 5.24. While carrying out valuation as required under Regulation 35 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, it was observed by the Registered valuers that only 691 Acres was under possession of the Corporate Debtor.

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- 5.25. The Committee of Creditors was of the view that the Registered valuers should proceed with their valuation based on Land Lease Deed as well as satellite Map.
- 5.26. Since this missing area of 135 Acres constitutes 16.33% of the total area, the Applicant emailed and wrote a letter to the District Magistrate seeking help in finding the missing land on which lease rent was being paid. I also requested for being issued Mouza maps to identify the missing land parcels.
- 5.27. On 9<sup>th</sup> December, 2023, the Applicant emailed to the District Magistrate humbly requesting the authority to refrain from such action which would constitute violation of the order of moratorium kindly issued by The Adjudicating Authority vide order dated 27<sup>th</sup> September 2023.
- 5.28. The Applicant has not received any reply to the emails and letters and therefore, moved a petition under Regulation 30 seeking assistance from the district administration.
- 5.29. In the fifth meeting of the Committee of Creditors it was decided to revise the Information Memorandum and to mention that 135 Acres of land was not in possession of the Corporate Debtor.
- 5.30. At the fifth meeting of the Committee of Creditors it was also decided to extend the last date for filing the Resolution Plan to 31<sup>st</sup> January, 2024. Accordingly, the Applicant wrote an email

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on 25<sup>th</sup> January, 2024 to all featuring in the Final List of Prospective Resolution Applicants informing the extended date for filing the Resolution Plan and enclosed the revised Information Memorandum.

- 5.31. In the tenth meeting, held on 5<sup>th</sup> June, 2024, with 100% voting rights asked the Resolution Professional to file a petition for extension of CIRP period of another 90 days under sub-Section (3) of Section 12 of the Insolvency and Bankruptcy Code, 2016 read with regulation 40 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- 5.32. Vide order dated 6<sup>th</sup> March, 2024, this Adjudicating Authority extended the CIRP period by 90 days with effect from 26<sup>th</sup> March, 2024. Thus, as per the order the CIRP was extended up to 24<sup>th</sup> June, 2024.
- 5.33. One Resolution Plan was received from Mr. Sumit Kumar Khanna of Rear R. Co. Private Limited which was considered by the Committee of Creditors.
- 5.34. At the Tenth meeting of the Committee of Creditors, held on 5<sup>th</sup> June, 2021, the CoC was of the view that the goodwill of the Tea Estate as well as its enterprise value could be much more than

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what had been offered in the resolution plan received from Mr. Sumit Kumar Khanna and as such the plan was rejected.

- 5.35. To have a resolution is the goal of any CIRP. Liquidation is the last resort as held by the Hon'ble Supreme Court in *State Bank of India and Ors. vs The Consortium of Mr. Murari Lal Jalan and Mr Florian Fritsch and Anr, Civil Appeal Nos 3736-3737 of 2023* and by the Hon'ble Appellate Authority in *Pankaj Dayaprasad Tiwari & Anr. vs Sunil Gajanan Nanal & Anr., Company Appeal (AT) (Insolvency) No. 1156 of 2023.*
- 5.36. Hon'ble Appellate Authority in *Mr. Ramneek Goel vs Mr. Sunil Bajaj and ors, Company Appeal (AT) (Insolvency) No. 845 of 2023* held that for value maximization, CoC is empowered to publish Form G multiple times.
- 5.37. There are nearly four hundred families who reside in Amritapur Tea Estate and are in a state of destitute, since liquidation of the company could endanger livelihood of these families who are fighting with extreme poverty for over two decades.
- 5.38. Since it was held by Hon'ble NCLAT in ***Paridhi Finvest Private Limited vs Value Infracon Buyers Association & Anr, Company Appeal (AT) (Insolvency) No. 654 of 2022*** that in the interest of equity deviation from Regulations 36A and 36B may be permitted, the Committee of Creditors at the eleventh



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meeting of the Committee of Creditors held on 25<sup>th</sup> June, 2024, decided that Form G be published again on 27<sup>th</sup> June, 2024 in English daily Business Standard and Bengali daily Aajkal since with time being available, the Committee of Creditors as well as the Resolution Professional must endeavor for value maximization.

5.39. A Copy of the Revised Form G published in English daily Business Standard and Bengali daily Aajkal on 27<sup>th</sup> June, 2024 referred to hereinabove is attached herewith and marked as **Annexure-3**.

5.40. The Final List of Prospective Resolution Applicants issued on 21<sup>st</sup> July, 2024 in conformity with sub-Regulation (12) of Regulation 36A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 was attached here as **Annexure-4**.

5.41. The Applicant issued notice, on 25<sup>th</sup> July, 2024, for the Twelfth CoC meeting scheduled to be held on Monday, the 29<sup>th</sup> of July 2024 at 4 p.m. at Ground Floor, 106, Golf Club Road, Kolkata - 700 033 and through video conferencing to transact the business as specified agenda as under:

5.41.1. The Committee of Creditors, with 100% percent voting rights approved the Resolution Plan submitted by the

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Resolution Applicant Mr. Sumit Kumar Khanna. A copy of the Resolution Plan submitted by Mr. Sumit Kumar Khanna is annexed hereto and marked as **Annexure-9**.

5.41.2. The documents submitted by Mr. Sumit Kumar Khanna supporting its Resolution Plan are attached herewith and marked as **Annexure-10**.

5.41.3. The Committee of Creditors, with 100% voting rights approved the Resolution Plan submitted by the Resolution Applicant Mr. Sumit Kumar Khanna. A certified extract of the resolutions adopted by the CoC is attached hereto as **Annexure-11**.

5.41.4. While approving the Resolution Plan submitted by the Resolution Applicant namely Mr. Sumit Kumar Khanna, the Committee of Creditors adopted resolutions as required under Regulation 39B, 39BA, 39C and 39D of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. A certified True copy of the Resolutions is attached hereto as **Annexure-12**.

5.41.5. That on 20<sup>th</sup> August, 2024, the Applicant forwarded to the Committee of Creditors a certificate certifying eligibility of the Resolution Applicant Mr. Sumit Kumar Khanna from the

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point of view of section 29A of the Insolvency and Bankruptcy Code, 2016. The certificate issued by the Resolution Professional certifying eligibility of the Resolution Applicant from the point of view of section 29A of the Insolvency and Bankruptcy Code, 2016 is annexed hereto as **Annexure-13.**

5.41.6. That on 20<sup>th</sup> August, 2024, the Applicant forwarded to the Committee of Creditors a certificate pertaining to the compliance of various Sections of the Insolvency and Bankruptcy Code, 2016 read with the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 with regard to the Resolution Plan submitted by the Resolution Applicant Mr. Sumit Kumar Khanna the same is annexed hereto as **Annexure-14.**

5.41.7. On 25<sup>th</sup> August, 2024 M/s. City Union Bank Limited emailed stating that **Rs.10,00,000/- (Rupees Ten Lakh only deposited by Mr. Sumit Kumar Khanna should be considered as Performance Security** as stipulated in sub-Regulation 4A of Regulation 36B of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. A copy of the email

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dated 25<sup>th</sup> August, 2024 received from M/s. City Union Bank Limited is attached herewith and marked as **Annexure-15**.

5.41.8. Further the Applicant has submitted Form "H" as required under sub-Regulation (4) of Regulation 39 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 duly completed and the same is appended thereto as **Annexure-16**.

**6.** Ld. Counsel for the Resolution Applicant also submits that as per valuation report from the different valuers, **fair value comes for an amount of Rs. 3,83,37,475/- and Liquidation value for an amount of Rs. 2,60,30,595/- in respect of the Corporate Debtor** as recorded in the Form H submitted by the Successful Resolution Applicant(SRA).

**7.** The **Successful Resolution Applicant** / Mr. Sumit Kumar Khanna under this Resolution Plan has provided for a total **plan value** for the Corporate Debtor of **Rs. 5,37,47,000/-**(Rupees Five Crores Thirty-seven Lakhs Forty-seven Thousand only). The amount claimed, amount admitted and payout to creditors as provided under the Resolution Plan, is enumerated below:

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**(Amount in Lakh)**

<b>Category of stakeholder</b>	<b>Sub-Category of Stakeholder</b>	<b>Amount Claimed</b>	<b>Amount Admitted</b>	<b>Amount Provided under the Plan</b>
<b>A. Other debts and dues</b>	<b>CIRP Cost</b>	15.00	15.00	15.00
<b>B. Secured Financial Creditors</b>		1,467.25	1467.25	300.00
<b>C. Unsecured Financial Creditors</b>		<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
<b>D. Operational Creditors</b>	(a) Related party of Corporate Debtor	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
	(b) Other than (a) above;	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
	(i) Government	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
	(ii) Workmen	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
	(iii) Employee	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
	(iv) EPF	222.47	222.47	222.47
<b>Grand Total (A+B+C+D)</b>		<b>1704.72</b>	<b>1704.72</b>	<b>537.47</b>

**8. Synopsis of mandatory Provisions / Sections / Regulations and their compliance are as under:**

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<b>Section of the Code/Regulation No.</b>	<b>Requirement with respect to Resolution Plan</b>	<b>Clause of Resolution Plan</b>
25(2)(h)	Whether the Resolution Applicant meets the criteria approved by the CoC having regard to the complexity and scale of operations of business of the CD?	Yes. Clause 3.4 of the Resolution Plan
Section 29A	Whether the Resolution Applicant is eligible to submit resolution plan as per final list of Resolution or Order, if any, of the Adjudicating Authority?	Yes. Clause 3.4 of the Resolution Plan
Section 30(1)	Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?	Yes. Appendix 12
Section 30(2)	Whether the Resolution Plan- (a) provides for the payment of insolvency	Yes. Section IV, Proposal of the Resolution

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	<p>resolution process costs?</p> <p>(b) provides for the payment to the operational creditors?</p> <p>(c) provides for the payment to the Financial creditors?</p> <p>(d) provides for the management of the affairs of the Corporate Debtor?</p> <p>(e) provides for the implementation and supervision of the resolution plan?</p> <p>(f) contravenes any of the provisions of the law for the time being in force?</p>	<p>Plan</p> <p>Yes.</p> <p>Page 17 -20 of the Plan</p> <p>Yes.</p> <p>Yes.</p> <p>Section VIII of the Resolution Plan</p> <p>Yes.</p> <p>Section VIII of the Resolution Plan</p> <p>Yes.</p> <p>Clause 3.4 of the Resolution Plan</p>
Section 30(4)	Whether the Resolution Plan	

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	(a) Is feasible and viable, according to the CoC?  (b) Has been approved by the CoC with 66% voting share?	Yes.  Pae 58 to 69 of the Resolution Plan  Yes.  The said Resolution Plan has been approved by COC with 100% voting shares.
Section 31(1)	Whether the Resolution Plan has provisions for its effective implementation plan, according to the CoC?	Yes.  Section VIII of the Resolution Plan
Regulation 38(1)	Whether the amount due to the Operational Creditors under the Resolution Plan has been given priority in payment over Financial Creditors?	Yes.  Section IV of the Resolution Plan
Regulation 38(1A)	Whether the resolution plan includes a statement	Yes.  Clause 3.4 of the Resolution Plan



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<b>Section of the Code/Regulation No.</b>	<b>Requirement with respect to Resolution Plan</b>	<b>Clause of Resolution Plan</b>
	as to how it has dealt with the interests of all stakeholders?	
Regulation 38(1B)	(i) Whether the Resolution Applicant or any of its related parties has failed to implement or contributed to the failure of implementation of any resolution plan approved under the Code.  (ii) If so, whether the Resolution Applicant has submitted the statement giving details of such non-implementation?	Yes.  Clause 3.4 of the Resolution Plan
Regulation 38(2)	Whether the Resolution Plan provides:  (a) The term of the plan and its implementation	Yes.  Section VI of the Resolution Plan

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<b>Section of the Code/Regulation No.</b>	<b>Requirement with respect to Resolution Plan</b>	<b>Clause of Resolution Plan</b>
	<p>schedule?</p> <p>(b) For the management and control of the business of the Corporate Debtor during its term?</p> <p>(c) Adequate means for supervising its implementation?</p>	<p>Yes.</p> <p>Section VIII of the Resolution Plan</p> <p>Yes.</p> <p>Section VI of the Resolution Plan</p>
Regulation 38(3)	<p>Whether the resolution plan demonstrate that-</p> <p>(a) It addresses the clause of default?</p> <p>(b) It is feasible and viable?</p> <p>(c) It has provisions for its effective implementation?</p> <p>(d) It has provisions for approvals required and the timeline for</p>	<p>Yes.</p> <p>Page 63 of the Resolution Plan</p> <p>Yes.</p> <p>Yes.</p> <p>Section VIII of the Resolution Plan</p> <p>Yes.</p> <p>Clause 8.1 at page 51 &amp; 52 of the Resolution Plan</p>

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<b>Section of the Code/Regulation No.</b>	<b>Requirement with respect to Resolution Plan</b>	<b>Clause of Resolution Plan</b>
	the same? (e) The resolution applicant has the capability to implement the resolution plan?	Yes. Clause 1.1.12  Yes. Section III and Section VI of the Resolution Plan
Regulation 39(2)	Whether the RP has filed applications in respect of transactions observed, found or determined by him?	Yes.
Regulation 39(4)	Provide details of performance security received, as referred to in Sub-Regulation (4(A) of Regulation 36B.	Yes. Clause 3.6 of the Resolution Plan. Amount at page 15, for Rs. 75 Lakh

**9.** A bare perusal of the extracts / excerpts from the Plan establishes that the **Resolution Plan has been approved with 100% voting share**. As per the CoC, the plan meets the requirement of being viable and feasible for revival of the Corporate Debtor. By and large, all the

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compliances have been done by the RP and the Resolution Applicant for making the plan effective after its approval.

**10.** On perusal of the documents on record, supported by an affidavit of the Resolution Professional, we accord our satisfaction that the Resolution Plan as approved by the CoC, is in accordance with sections 30 and 31 of the IBC and also comply with regulations 38 and 39 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, as enumerated supra.

**11.** We have also considered whether the reliefs, waivers and concessions have been sought for and as such given in the Resolution Plan. We would note that this Adjudicating Authority has power to grant reliefs, waivers and concessions only with respect to the reliefs, waivers and concessions that are directly in relation to the Code and the Companies Act 2013 (within the powers of the NCLT), and these are granted keeping in mind the object of the Code. No reliefs, waivers and concessions that fall within the domain of other government department/authorities are granted. However, The reliefs, waivers and concessions that pertain to other governmental authorities/departments may be dealt with the respective competent authorities/forums/offices, Government or Semi Government of the

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State or Central Government with regard to the respective reliefs, waivers and concessions whenever sought for.

**12.** It is almost trite and fairly well settled that the Resolution Plan must be consistent with the extant law. The Resolution Applicant shall make necessary applications to the concerned regulatory or statutory authorities for renewal of business permits and supply of essential services, if required, and all necessary forms along with filing fees etc. and such authority shall also consider the same keeping in mind the objectives of the Code, which is essentially the resolving of the insolvency of the Corporate Debtor.

**13.** The reliefs sought with respect to subsisting contracts/agreements can be granted, and no blanket orders can be granted in the absence of the parties to the contracts and agreements.

**14.** With respect to the waivers with regard to extinguishment of claims which arose Pre-CIRP and which have not been claimed are granted in terms of **Ghanashyam Mishra and Sons Private Limited vs. Edelweiss Asset Reconstruction Company Limited reported in MANU/SC/0273/2021: (2021)9SCC657: [2021]13SCR737**, wherein the Hon'ble Apex Court has held that "*once a resolution plan is duly approved by the Adjudicating Authority under sub-section (1) of section*

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*31, the claims as provided in the resolution plan shall stand frozen and will be binding on the Corporate Debtor and its employees, members, creditors, including the Central Govt., any State Govt. or any local authority, guarantors and other stakeholders.”*

**15.** In this regard we also rely on the judgement of Hon’ble High Court of Rajasthan in the matter of **EMC v. State of Rajasthan, Civil Writ Petition No. 6048/2020 with 6204/2020 reported in (2023) ibclaw.in 42 HC** wherein it has been inter-alia held that “*Law is well-settled that with the finalization of insolvency resolution plan and the approval thereof by the NCLT, all dues of creditors, Corporate, Statutory and others stand extinguished and no demand can be raised for the period prior to the specified date.*”

**16.** Thus on the date of approval of resolution plan by the Adjudicating Authority, all such claims, which are not a part of resolution plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim, which is not part of the resolution plan as per the law laid down by the Hon’ble Supreme Court in **Ghanashyam Mishra** supra. The Hon’ble Supreme Court also held that all the dues including the statutory dues owed to the Central Govt, any State Govt or any local authority, if not part of the resolution plan, shall stand extinguished

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and no proceedings in respect of such dues for the period prior to the date on which the Adjudicating Authority grants its approval under section 31 could be continued.

- 17.** With respect to the waivers sought in relation to guarantors, we seek to place reliance on the judgment of **Lalit Kumar Jain v. Union of India reported in MANU/SC/0352/2021: (2021) 9 SCC 321: (2021) ibclaw.in 61 SC**, wherein the Hon'ble Supreme Court held in para 133 that sanction of a resolution plan and finality imparted to it by section 31 does not per se operate as a discharge of the guarantor's liability shall apply.
- 18.** With respect to the reliefs and waivers sought for all inquiries, litigations, investigations and proceedings shall be granted strictly as per the section 32A of the Code and the provisions of the law as may be applicable.
- 19.** As far as the question of granting time to comply with the statutory obligations/seeking sanctions from governmental authorities is concerned, the Resolution Applicant is directed to do the same within one year as prescribed under section 31(4) of the Code.

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- 20.** In case of non-compliance of this order or withdrawal of Resolution Plan, the CoC shall have the right to forfeit the EMD amount already paid by the Resolution Applicant.
- 21.** Subject to the observations made in this Order, the Resolution Plan in question is hereby **APPROVED** by this Bench. The Resolution Plan shall form part of this Order.
- 22.** The Resolution Plan is binding on the Corporate Debtor and other stakeholders involved so that revival of the Debtor Company shall come into force with immediate effect.
- 23.** The Moratorium imposed under section 14 shall cease to have effect from the date of this order.
- 24.** The Resolution Professional shall submit the records collected during the commencement of the proceedings to the Insolvency & Bankruptcy Board of India for their record and also return to the Resolution Applicant or New Promoters.
- 25.** Certified copy of this Order be issued on demand to the concerned parties, upon due compliance.



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- 26.** Liberty is hereby granted for moving any Application if required in connection with implementation of this Resolution Plan.
- 27.** A copy of this Order is to be submitted in the Office of the Registrar of Companies, West Bengal.
- 28.** It is not on record that whether the Financial Creditors have invoked Personal Guarantees or not. It is essential for the purpose of maximization for wealth of the Corporate Debtor, personal guarantees need to be invoked. Therefore, we direct the Financial Creditors to invoke Personal Guarantees, if not already done.
- 29.** The Resolution Professional may stand discharged from his duties with effect from the date of this Order, however, he is required to comply with our direction mentioned in Para 30 of the order subject to comply the direction, which the creditors should bear in mind.
- 30.** The Resolution Professional shall stand discharged from his duties with effect from the date of this Order.
- 31.** The Resolution Professional is further directed to handover all records, premises/factories/documents to the Resolution Applicant to finalise the further line of action required for starting of the operation.

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The Resolution Applicant shall have access to all the records/premises/factories/documents through the Resolution Professional to finalise the further line of action required for starting of the operation.

**32.** The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.

**33.** The Interlocutory Application being **IA (IB)/(PLAN)/12(KB)2024 along with main Company Petition vide CP(IB) No. 329(KB) /2022 shall stand disposed of** accordingly.

**34.** Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

**Balraj Joshi  
Member (Technical)**

**Bidisha Banerjee,  
Member (Judicial)**

**Signed on this, the 20<sup>th</sup> day of December, 2024**

M. Jana (P.S.)