

IN THE NATIONAL COMPANY LAW TRIBUNAL

COURT NO. V, MUMBAI BENCH

IA No. 2199 of 2021

in

CP (IB) 2564/MB/2019

AND

Under Section 30 (6) of the I&B Code, 2016

In the matter of

Corporation Bank

...Financial Creditor

v/s

M/s. Ideal Energy Projects Limited

....Corporate Debtor

In the matter of

Anil Goel

Resolution Professional

Ideal Energy Projects Limited

... Applicant

Order Reserved on: 17.01.2022

Order Pronounced on: 01.03.2022

Coram:

Hon'ble Smt. Suchitra Kanuparthi, Member (Judicial)

Hon'ble Smt. Anuradha Sanjay Bhatia, Member (Technical)

For the Applicant (RP): Mr. Shyam Kapadia a/w Mr. Aditya Guari, Mr. Dhananjaya Sud, Mr. Amar Vivek, Ms. Shalya Agarwal, Advocates.

For the Respondent: Mr. Shyam Sundar Solanke, Advocate.

RP in person: Mr. Anil Goel.

Per: Bench.

ORDER

1. The present application is filed by Mr. Anil Goel, Resolution Professional of Ideal Energy Projects Limited u/s. 30 (6) of Insolvency and Bankruptcy Code, 2016 (hereinafter 'Code') seeking approval of Resolution Plan submitted by M/s. Manas Agro Industries and Infrastructure Limited.
2. The CIRP of Corporate Debtor was initiated vide order dated 28.01.2020. The IRP issued public announcements on 19.02.2020.
3. The Applicant post his appointment issued notice to the Committee of Creditors on 24.03.2020 to convene the 1st meeting of CoC. However, the same was deferred due to COVID pandemic in the entire country. Further, the applicant convened the 1st meeting of CoC on 13.04.2020. The applicant was confirmed as Resolution Professional by E-voting on 23.04.2020 by 99.80% voting share.
4. The 2nd meeting of CoC was held on 10.06.2020 and 11.06.2020 whereby the members of CoC had passed a resolution authorising the applicant to publish Form-G for invitation of Expression of Interest for prospective resolution applicant. The last date of submission of EOI was 10.07.2020.
5. On 20.07.2020, the 4th meeting of CoC was held when the applicant informed that no EOI was received till 10.07.2020. The members of CoC passed a resolution to republish Form-G.
6. The 5th meeting of CoC was held on 27.08.2020, whereby the applicant informed the members that company names M/s. Manas Agro contacted the applicant showing his interest to submit EOI and had furnished EMD amounting to Rs. 10 lakhs. Further, after detailed discussions and deliberations, a resolution was passed by the CoC to republish Form-G. Accordingly, the applicant republished the Form-G and the last date of submission of EOI was 25.09.2020.

7. The 6th meeting of CoC was held on 22.09.2020, wherein the applicant informed the members of CoC that he had received email from PRA namely Manikaran Power Limited showing their interest in submitting EOI. In the said meeting after due deliberations the CoC resolved to republish Form-G. The Applicant republished Form-G on 30.09.2020.
8. In the 7th meeting of CoC on 20.10.2020, the applicant informed the CoC that two PRA's namely Suraksha Asset Reconstruction Limited (also member of CoC) and Sherisha Technologies Private Limited have showed interest in submitting EOI. The CoC further sought to republish the Form-G. The applicant republished Form -G on 29.10.2020. The CoC have resolved to seek an exclusion for the period of lockdown from 24.03.2020 to 31.08.2020 by 100% voting.
9. In the 8th meeting of CoC held on 11.11.2020, the Applicant apprised the CoC that he has received 4 PRA's and the provisional list of PRA's is as follows:
 - a. M/s. Manas Agro Industries & Infrastructure Limited;
 - b. Manikaran Power Limited;
 - c. Suraksha Asset Reconstruction Limited; and
 - d. Sherisha Technologies Private limited
10. In the 9th CoC meeting on 09.12.2020, the Applicant informed the members of CoC about the request of PRA's to extend the time limit to submit the resolution plan to complete the due diligence and further visit the plant of the Corporate Debtor at Nagpur. The CoC resolved to extend the last date of submission of Resolution Plan to 23.12.2020 and also passed a resolution to seek extension of the CIRP period by 90 days, beyond 180 days u/s. 12 of the Code.
11. In the 10th meeting of CoC held on 29.12.2020, the applicant apprised the members of CoC that one resolution plan was received of MPL and other

two PRA's namely M/s. Manas Agro and Sureksha asset reconstruction limited and have requested for extension of submission of resolution plan. After due deliberation and discussions, the last date of submitting the Resolution plan was once again extended to 10.01.2021.

12. In the 11th meeting of CoC held on 18.01.2021, the Applicant informed the CoC that he has received two resolution plan one from M/s. Manas Agro and another from MPL. In the 12th meeting of CoC M/s. Manas Agro and MPL was invited as special invitees and the plan submitted was discussed by the members of CoC. The prospective resolution applicant were asked to submit revised resolution plan on or before 12.01.2021.
13. **In the meanwhile, this Bench allowed two applications filed by the Applicant vide IA No. 2091 of 2020 and IA 2423 of 2020 excluding the lockdown period from CIRP period.**
14. In the 13th meeting of CoC on 17.02.2021, M/s. Manas Agro and MPL were invited and the revised resolution plans were discussed in detail. It was also decided that physical meeting was schedules on 26.02.2021, between the applicant, Members of CoC and PRA to arrive at a conclusive solution for revival of Corporate Debtor.
15. In the 14th meeting of CoC on 26.02.2021, the members of CoC were once again of the view that overall proposed amounts as per the resolution plan submitted by M/s. Manas Agro and MPL were very low as compared to the liquidation value of the corporate debtor, as a result the members of CoC asked M/s. Manas Agro and MPL to submit a revised resolution plan on or before 03.03.2021.
16. In the 15th meeting of CoC held on 05.03.2021, the Applicant informed the members of CoC that M/s. Manas Agro had submitted a revised resolution plan and the resolution plan submitted by MPL earlier was deemed to be final. In the said meeting, the CoC had invited the PRA's as

special invitees and discussed on the revised amount in the resolution plan submitted by M/s. Manas Agro, and they were asked to resubmit a revised resolution plan by 8th March 2021.

17. In the 16th meeting of CoC on 24.03.2021, the Applicant tabled the revised resolution plan submitted by M/s. Manas Agro on 16.03.2021. It was also brought to the notice of CoC no revised offer was submitted by MPL till 24.03.2021. As a result, members of the CoC were of the opinion to have one-on-one meeting with M/s. Manas Agro and MPL.
18. In the 17th meeting of CoC held on 15.04.2021, the Applicant apprise the members of CoC that he has received a revised resolution plan from MPL on 14.04.2021 and also received revised resolution plan from M/s. Manas Agro on 16.03.2021. The said applications were put to vote and disapproved by the members of CoC by 100% voting share. Subsequently, a resolution was passed to liquidate the Corporate Debtor by 100% voting.
19. In the 18th meeting of CoC held on 27.05.2021, the Applicant informed the CoC that he has received a revised proposal from M/s. Manas Agro. M/s. Manas Agro was invited as special invitee and after due deliberations and discussions, the CoC held that the proposal of M/s. Manas Agro is very low as compare to the liquidation value. The CIRP period was due to end on 02.06.2021, in view of the same the members of COC granted a day's time to modify/ revise the proposal.
20. On 28.05.2021, the Applicant informed the members of CoC about the revised proposal sends by M/s. Manas Agro. However, the members of CoC were not comfortable with the proposal of M/s. Manas Agro. In the meanwhile, the ex-director of the Corporate Debtor present in the meeting apprise the members of CoC that he has an investor having intention to submit his proposal for revival of Corporate Debtor. However, it was decided that the proposal from the ex-director cannot be considered in view of the violation of 29A of the Code.

21. The Applicant called for meeting on 01.06.2021, whereby the ex-director apprised the members of CoC, that investor needs some more time to propose the concrete proposal for revival of Corporate Debtor. The CoC members have also resolved to seek extension beyond 330 days.
22. In the 19th meeting of CoC held on 17.06.2021, the applicant informed the CoC that he had received an email from M/s. Manas Agro on 11.06.2021 with respect to revision of proposal. The representative of MPL also showed interest in the proposal/ offer.
23. In the 20th meeting of CoC held on 22.06.2021, the Applicant apprised the members of CoC about the fact that the offer/ proposal as submitted by M/s. Manas Agro on 11.06.2021 is deemed to be final. The members were also informed about the revised proposal of MPL. The CoC still sought for revised proposal from M/s. Manas Agro. The ex-director also came up with the proposal u/s. 12A of the Code vide Email on 21.06.2021. However, the same was rejected by the CoC and the resolution plan submitted by both resolution applicant was put to vote.
24. An informal meeting was called for by the Applicant on 25.06.2021 to deliberate and discuss the proposal sent by M/s. Manas Agro, in view of the fact that lenders expressed discomfort with respect to clause pertaining to personal guarantees of M/s. Manas Agro. Subsequently, the M/s. Manas Agro sought some more time to give revised proposal. The CoC members also sought extension period as period of 330 days period has already come to an end.
25. In its 21st Meeting of CoC, held on 26.06.2021, the CoC members express their discomfort on assigning personal guarantee to M/s. Manas Agro and requested M/s. Manas Agro to revise the proposal. Both the resolution applicants submitted the revised plan on 25.06.2021 and the same were

put to vote on 28.06.2021. It was also resolved to seek extension of 330 days beyond 60 days.

26. In the 22nd meeting of CoC held on 14.07.2021, the Applicant apprised the members of CoC that a revised resolution plan was received from M/s. Manas Agro, on 13.07.2021 and that he has not received any revised plan from MPL. Hence, the last plan submitted by MPL on 23.06.2021 is deemed to be the final plan proposal. The resolution plan submitted by both resolution applicants were put to vote. The E-voting process concluded on 31.07.2021 and the plan submitted by M/s. Manas Agro received 53.50% vote. The plan submitted by MPL was disapproved by 100% voting.
27. The Applicant called for the 23rd meeting of CoC on 01.08.2021, to discuss a way forward since both the Resolution plans were disapproved by the CoC. The CoC members further indicated that they are in touch with the one of the PRA and are expecting a revised resolution plan.
28. On 24th meeting of CoC held on 13.08.2021, the Applicant apprise the members of CoC that M/s. Manas Agro has submitted a revised plan on 07.08.2021. the representative of M/s. Manas Agro was called and told to submit a revised offer. the 24th meeting also discussed about the regulation 39B, 39C and 39D of CIRP regulations w.r.t. liquidation cost, assessment as going concern and fee of liquidator.
29. On 14.08.2021, the revised plan of M/s. Manas Agro and MPL was put to vote on 17.08.2021 and the E-voting concluded on 30.08.2021. The plan submitted that M/s. Manas Agro was approved with 100% voting. The plan of MPL was disapproved. The voting results of 24th meeting of CoC is as follows;

IDEAL ENERGY PROJECTS LIMITED (Undergoing Corporate Insolvency Resolution Process under IBC, 2016)											
SUMMARY OF DECISIONS AS PER REGULATION 25 (4) AND (5) OF THE INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (INSOLVENCY RESOLUTION PROCESS FOR CORPORATE PERSONS) REGULATIONS, 2016 TAKEN IN 24th COC MEETING HELD ON 13.08.2021											
Sl. No.	Name of the Member of the CoC	Voting Share for this meeting	Resolution No.1 To approve the Resolution Plan submitted by Manas Agro Power Limited.			Resolution No.2 To approve the Resolution Plan submitted by Manas Agro Industries and Infrastructure Limited.			Resolution No.3 To Liquidate of Corporate Debtor and filing of application with the Hon'ble Adjudicating Authority, as per the provisions of Section 33 of Insolvency and Bankruptcy Code, 2016		
			Voted "For"	Voted "Against"	"Abstained from Voting"	Voted "For"	Voted "Against"	"Abstained from Voting"	Voted "For"	Voted "Against"	"Abstained from Voting"
1	Canara Bank	25.98%	-	25.98%	-	25.98%	-	-	-	25.98%	-
2	Corporation bank/Union Bank of India	36.10%	-	36.10%	-	36.10%	-	-	-	36.10%	-
3	Suraksha ARC Limited	17.65%	-	17.65%	-	17.65%	-	-	-	17.65%	-
4	ART Special Situations Finance	9.87%	-	9.87%	-	9.87%	-	-	-	9.87%	-
5	Bank of Baroda	10.40%	-	10.40%	-	10.40%	-	-	-	10.40%	-
	Total	100.00%	0.00%	100.00%	0.00%	100.00%	0.00%	0.00%	0.00%	100.00%	0.00%
RESULT			THE RESOLUTION IS REJECTED BY COC MEMBERS 97.100%.			THE RESOLUTION IS APPROVED BY COC MEMBERS BY 100%.			THE RESOLUTION IS REJECTED BY COC MEMBERS BY 100%.		

SD/-
Mr. Anil Goel
Resolution Professional in the matter of Ideal Energy Projects Limited
Email: anilgoel@anainsolvency.com , ideal.energy@anainsolvency.com
IP Registration No.-(IBBI/PA-001/IP-P00118/2017-2018/10253)
Date: 30th August, 2021
Place: New Delhi

30. Silent features of the Resolution Plan:

A. Overview of the Resolution Applicant:

- i. M/s. Manas Agro Industries and Infrastructure Limited is a public limited company engaged in power generation, manufacturing, rectified spirits, extra neutral alcohol, Ethanol, organic manure India, etc. the company is also engaged in the business of providing technical know-how rendering consultancy services in connection with manufacturing and processing of the above said business.
- ii. The Company has 7 units of which 3 units (Unit 1, 3 and 4) have aggregate sugar manufacturing capacity of 7000 tcd, etc.
- iii. The members of board of directors are Mrs. Sarang Nitin Gadkari being whole time director, Mrs. Sanaya Madhusudan Bansod being whole time director and Mr. Vishnu Changly being Non-ED, Mr. Manish Amarchand Mehta as non-ED, Mrs. Vrushali Jitendra Pradhan as independent women director and Mr. Pramod Bhaskar Borawar as independent director. The net worth of the Company is Rs. 388.94 crores.

B. Overview and understanding of Corporate Debtor:

i. Ideal Energy Project Limited, a coal based thermal power plant is a public company having registered office in Mumbai. The Company was incorporated on 03.04.2008 and is engaged in generation and distribution of electricity. The Company has set up 2/270-Megawatt coal-based power plant near Village: Bella and owns 235 acres of land. While the first phase of 270 megawatts is fully operational and the other 270 megawatts is not set up except for the common utilities.

ii. The Corporate Debtor has 3 directors and a CEO, the shareholding pattern is as follows:

As per the IM circulated by the RP, the shareholding pattern of the Company on 31.03.2019 had total issued, subscribed and paid-up equity capital of 69,68,19,680 shares of Rs. 10 each/-. The details of members/partners having 1% or more stakes are as under:

SN	Name of Share Holder	Total No. of Equity Shares	% of Holding
1	Ideal Toll & Infrastructure Pvt Ltd	12,04,60,350	17.29%
2	Jayant D. Mhaiskar jointly with Anuya J.	11,39,04,400	16.35%
3	Jayant D. Mhaiskar	5,72,03,230	8.21%
4	Dattatray P. Mhaiskar jointly with Sudha D.	23,15,27,100	33.23%
5	Dattatray P. Mhaiskar	12,68,44,600	18.20%
	Total	64,99,39,680	93.27%

iii. The compliance plan as incorporated in the Resolution plan is as below:

580

STRICTLY PRIVATE AND CONFIDENTIAL.

Section III: Compliance of Plan with the IBC Code

Details of status of compliance of provisions of Section 30 of the Insolvency and Bankruptcy Code 2016 ("Code") and Regulation 37 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulation, 2016 ("Regulation"), is summarized as under:

Relevant Provision	Provisions of Section 30 of the Code/Regulation	Reference
Sec. 30(2)(a) of the Code	provides for the payment of insolvency resolution process costs in a manner specified by the Board in priority to the repayment of other debts of the corporate debtor	<p>The Resolution Applicant agrees that the amounts to be paid toward CIRP costs shall be determined by the Resolution Professional as soon as practicable after the Hon'ble NCLT approval date and in any event no later than 10 (ten) days from the date thereof.</p> <p>The Resolution Applicant will make payment of the actual CIRP Cost incurred, proposed to be Rs. 25 Crores, as specified in sub-section 30(2)(a) (Payment of CIRP Costs) of Section VI (Treatment of Stakeholders) of this Resolution Plan, towards payment of CIRP Costs.</p> <p>In case of actual CIRP as ratified by the CoC, and pending as on the Effective Date is less than proposed amount of Rs. 25 Crores, the difference between actual CIRP Cost and proposed CIRP Cost will be retained by Resolution applicant.</p> <p>In case of actual CIRP Cost exceeds amount proposed in Resolution Plan, aforesaid additional amount shall be paid by Resolution Applicant as per schedule specified in Section V (Term of Resolution Plan and its implementation).</p>
Sec. 30(2)(b) of the Code	Provides for the repayment of the 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	The claims of operational creditors as per the IM amounting to Rs. 71.16 Crores have been admitted by RP and the claims of Rs. 2.97 Crores are under verification. Since the corporate debtor is going concern incurring losses, we are proposing a settlement of all operational creditors at Rs. 1.27

MANAS



CERTIFIED TRUE COPY

581

STRICTLY PRIVATE AND CONFIDENTIAL

	liquidation of the corporate debt or under section 53.	Crores for their payment of dues (excl. related parties).
Sec. 30(2)(b) of the Code	And provides for payment of debts of financial creditors who do not vote in favor of the resolution Plan, in such a manner as may be specified by the board, which shall not be less than the amount to be paid to such creditors in accordance with sub section (1) of section 53 in the event of liquidation of the corporate Debtor	In the eventuality of there being any financial creditor who does not vote in favor of the resolution plan, the resolution applicant hereby undertake that payment as envisaged under this section will be made in accordance with the provisions of the code.
Sec 30(2)(c) of the Code	provides for the management of the affairs of the Corporate debtor after approval of the resolution plan	The Resolution Applicant, i.e. M/s Manas Agro Industries & Infrastructure Ltd would be having their nominee(s) on the Board to manage the company. The Resolution Applicant shall identify and appoint suitable professional to manage the affairs of the company on a day-to-day basis, with the support of the Key Managerial personnel of the Company and with guidance from the Board of Directors. It is clarified that, from the Hon'ble NCLT Approval Date till the implementation of the proposed transaction under the Resolution Plan i.e. on payment of cash and issuance of instrument as envisaged in the resolution plan. It is envisaged that an effective Implementation and Monitoring Committee (IMC) shall co-ordinate in implementation of the Resolution Plan by the Resolution Applicant. This Committee shall include two nominees from the Bank/CoC representing the Financial creditors, to safeguard the interests of the Lender and two nominees from Resolution Applicant, namely Mr. Sarang Nitin Gadkari and Mr. Uday Shankar Kamat and Resolution Professional Mr. Anil Goel, shall also form the new Board. The new Board shall be responsible for the supervision of the day to day affairs of the Corporate Debtor till the date on which the Resolution Applicant fulfils all its

14

MANAS



CERTIFIED TRUE COPY

(a)

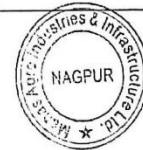
582

STRICTLY PRIVATE AND CONFIDENTIAL

		obligations as proposed under the Resolution Plan, including the payment to the Financial Creditors and Board shall keep IMC informed on progress on implementation of plan from time to time, The new board shall take over management control of the Corporate Debtor, immediately upon approval of the Resolution Plan by the Adjudicating Authority or as agreed with the Resolution Professional/ Committee Of Creditors ("Take Over Date"). The RP may be directed to handover the management control of the CD upon approval of the plan by Hon'ble NCLT. The Implementation and Monitoring Committee and the new Board shall be responsible for operating the Corporate Debtor as a going concern.
Sec. 30 (2) (d) & Regulation 38 (2)(c) of the Code	Term of plan, implementation schedule and supervision of the resolution plan	Plan is implemented immediately after the acquisition is complete on payment of settlement Amount or Instrument equivalent to unpaid settlement amount.
Sec. 30 (2) (e) of the Code	Does not contravene any of the provisions of the law for the time being in force	The Resolution Plan has been prepared after taking into consideration compliance of all applicable laws and regulations and shall not contravene any of the provisions of the law for the time being in force.
Sec. 30 (2) (f) of the Code	Plan conforms to such other requirements as may be specified by the Board	The resolution plan has been prepared taking every aspect into consideration so as to conform to such other requirements as may be specified by Board.
Regulation 37 (a) & (b) of the Code	<ul style="list-style-type: none"> transfer of all or part of the assets of the corporate debtor to one or more persons; sale of all or part of the assets whether subject to any security interest or not 	The Resolution Plan does not envisage transfer or sale of any assets of the Corporate Debtor.
Regulation 37(c) of the Code	the substantial acquisition of shares of the corporate debtor, or the merger or consolidation of the corporate debtor	The Resolution Applicant and/or Affiliates or Nominees shall subscribe to equity shares of Corporate Debtor such that they will hold 100% of the share capital of the corporate debtor, following

MANAS

15



CERTIFIED TRUE COPY

583

STRICTLY PRIVATE AND CONFIDENTIAL

		the capital reduction, and acquire control of the Corporate Debtor.
Regulation 37 (ca)	Cancellation and delisting of any shares of corporate debtor	The Resolution Applicant does not envisage delisting of shares of corporate debtor. Further the Existing Shareholders shall cease to own the shares of the Company and the existing equity share Capital of the Company shall stand extinguished immediately on the effective Basis.
Regulation 37 (d)	satisfaction or modification of any security interest	Charge is proposed to be modified in favor of the Resolution Applicant on take-over of financial creditors loans (along with underlying securities) by the Resolution Applicant (under Assignment). Accordingly, no satisfaction of the security interest is envisaged and charge, on execution of Assignment Agreement shall be modified in favor of the Applicant.
Regulation 37 (e) of the Code	curing or waiving of any breach of the terms of any debt due from the corporate debtor.	The debt of various due from Corporate Debtor are proposed to be settled / waived as provided separately under this Resolution Plan.
Regulation 37 (f) of the Code	Reduction in the amount payable to the creditors.	Please refer section IV of Resolution Plan.
Regulation 37 (g) of the Code	extension of a maturity date or a change in interest rate or other terms of a debt due from the corporate debtor	The debt of various due from Corporate Debtor is proposed to be settled / waived as provided separately under this Resolution Plan.
Regulation 37 (h) of the Code	amendment of the constitutional documents of the corporate debtor	Requisite amendments shall be made to the Memorandum of Association, Article of Association in relation to the transactions contemplated herein or for the implementation of Resolution Plan subject to compliance with applicable law
Regulation 37 (i) of the Code	Issuance of securities of the corporate debtor, for Cash, property, securities, or in exchange for claims or interests or other appropriate purpose.	The terms of issuance are covered under Section V of the resolution plan.

MANAS

16



CERTIFIED TRUE COPY

584

STRICTLY PRIVATE AND CONFIDENTIAL.

Regulation 37 (j) of the Code	Change, in portfolio of goods or services produced or rendered by the corporate debtor.	No amendment or change in the portfolio of goods or services produced or rendered by the corporate debtor is envisaged/ proposed at this stage. In case of any change in end use of the project, the Resolution Applicant shall be allowed to make such changes at appropriate time/stage.
Regulation 37 (k) of the Code	Change in the technology used by the corporate debtor.	There is no change in the technology proposed.
Regulation 37 (l) of the Code	Obtaining necessary approvals from the Central and State Governments and other authorities.	Certain necessary approvals of the Central and State Governments are already in place for the operation of the business. A prayer has been made at Section XIV (Other Terms and Conditions) of this resolution plan for extending any expired approval, coal linkages and power purchase agreement.
Regulation 38(1) of the Code	The amount due to the operational creditors under a resolution plan shall be given priority in payment over financial creditors	Operational Creditors dues (other than related parties to the corporate debtor) are proposed to be paid at Rs. 1.27 Crores towards their dues, out of which Rs. 1.27 Crores shall be paid within 90 days of approval of the Scheme by Hon'ble NCLT. As against this, secured financial creditors are being paid their dues as envisaged in Resolution Plan, resulting in Operational creditors getting priority in payment over financial creditors.
Regulation 38(IA) of the Code	Dealing with interests of all stake holders including financial creditors and operational creditors	Please refer section IV of Resolution Plan.
Regulation 38 1(B) of the Code	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. If so, whether the Resolution Applicant has submitted the statement giving details of such non-implementation	We hereby declare that the Resolution Applicant or any of its related parties hasn't failed to implement or contributed to the failure of implementation, in past of any resolution plan approved under the Insolvency and Bankruptcy Code ("Code").
Regulation	Term of plan and its implementation schedule	Please refer section V of Resolution Plan.

17



MANAS

CERTIFIED TRUE COPY

585

STRICTLY PRIVATE AND CONFIDENTIAL

382(a) of the Code		
Regulation 38(2)(b) of the Code	Management and control of the business of corporate debtor during term of resolution plan	The Applicant/ investor shall identify and appoint suitable professional to manage the affairs of the company on a day-to-day basis, with the support of the Key Managerial Personnel of the Company and with guidance from the Board of Directors.
Regulation 38(3) of the Code	A resolution plan shall demonstrate that – (a) it addresses the cause of default; (b) it is feasible and viable; (c) it has provision for its effective implementation; (d) it has provisions for approvals required and the timeline for the same; and (e) the resolution applicant has the capability to implement the resolution plan	(a) The reasons for default/ losses are due to reduction in margin, sharp decline in turnover and operation resulting into inability of servicing of liabilities. (b) Section IX provides the business plan for corporate debtor proposing its feasibility and viability (c) Section XIII provides the timelines for effective implementation of the Resolution Plan. (d) Section XIII provides for the approvals required and the timeline for the same.

C. Summary of debt owed by the Financial Creditors and Operational Creditor:

Category of Creditors	Claims submitted	Claims admitted	Claims rejected	Claims under Verification	Continuent Claims
Financial Creditors	3197.66	3188.31	-	9.35	-
Operational Creditors	74.13	71.16	-	2.97	-
Employees and Workmen	4.75	3.51	-	1.24	-
Total	3276.54	3262.98	-	13.56	-

D. Sources of Funds that shall be use in Insolvency Resolution Cost in priority:

- i. The net worth of the Resolution applicant is Rs. 388.94 crores, the acquisition shall be made via assignment of debt and the consideration be funded by combination of equity, preference capital, debentures, borrowing debt and internal approvals of the Applicant.
- ii. The RA proposes to make a total payment of Rs. 387 crores. The payment made to the operational creditors- Government authorities in compliance with section 30 (2) (b) is as follows:

Stakeholders	Our Proposal
CIRP Cost	<p>The Resolution Applicant agrees that the amounts to be paid toward CIRP costs shall be determined by the Resolution Professional as soon as practicable after the Hon'ble NCLT approval date and in any event no later than 10 (ten) days from the date thereof.</p> <p>The Resolution Applicant will make payment of the actual CIRP Cost incurred, proposed to be Rs. 25.00 Crores, as specified in sub-section 30(2)(a) (Payment of CIRP Costs) of Section VI (Treatment of Stakeholders) of this Resolution Plan, towards payment of CIRP Costs.</p>
Financial Creditors	The Resolution Applicant will make payment of Rs. 360 Crores to the Financial Creditors ("Financial Creditors Payments"), as consideration for acquisition / novation / assignment of the Admitted Financial Creditor Debt ("Admitted Financial Creditors Debt Acquisition") from the Financial Creditors,



Q

STRICTLY PRIVATE AND CONFIDENTIAL

589

	<p>including but not limited to third party security viz. personal guarantees and/or corporate guarantees and/or any other obligations of the directors and/or promoters, to the Resolution Applicant.</p> <p>Post assignment, no additional claims can arise to the account of RA and all the rights of the financial creditors shall stand vested with the RA. All Admitted Financial Creditors Debt shall be extinguished upon the approval of this resolution plan and consequent payment by the resolution applicant. The manner of distribution of the Financial Creditor payments between the Financial Creditors shall be pro-rata to the Admitted Financial Creditor Debt.</p> <p>Upon Financial Creditor payments as per the value proposed in the Resolution Debt, neither the Corporate Debtor nor the Resolution Applicant shall have any liability to make any payments to any Financial Creditor and all liabilities of the Corporate Debtor and the Resolution Applicant towards the Financial Creditors shall be settled fully and finally, on and from Implementation Date. Upon completion of the Admitted Financial Creditor Debt Acquisition, the Financial Creditors shall have no further liability towards the Resolution Applicant or Corporate Debtor.</p>
Operational Creditors	The total claims submitted by Operational Creditors (Trade Payables other than employees, workmen and govt. and statutory authorities) are Rs. 74.13 Crores out of which claims of Rs. 71.16 Crores have been admitted by the RP. We propose to pay Rs. 1.27 Crores (excluding dues of related parties) towards full and final settlement of the Operational Creditors.
Employee and Workmen Payment	The total claims submitted by the workmen and employees of the Corporate Debtor are Rs. 4.75 Crores out of which claims of Rs. 3.51 Crores have been admitted by the RP. A payment of Rs. 0.73 Crores is proposed as full and final settlement against the admitted claims of the workmen and employees.
Government and Statutory Authorities Payment	The claim of Maharashtra State Power Generation Company Limited (MSPGCL) for Rs. 7.54 Crores and Nagpur Irrigation Division for Rs. 3.08 Crores was admitted in full by the RP and was included in the Operation Creditors.

22



VERIFIED TRUE COPY

590

STRICTLY PRIVATE AND CONFIDENTIAL

		<p>As no other claim has been submitted by the Govt. and statutory authorities, we are not liable to pay any dues falling liable on or before the date of approval and liabilities pertaining to the period till the approval of the resolution plan by Hon'ble NCLT.</p> <p>However, a provision of Re. 1 is made for final settlement for all other statutory liabilities except the one mentioned above.</p>
Dissenting Creditors, if any	Financial	<p>As defined u/s 21(2) of the Code, dissenting financial creditors are those financial creditors who had a right to vote but did not vote in favour of the resolution plan.</p> <p>In accordance with the provisions of the Code, the Resolution Applicant undertakes to pay the dues of such dissenting financial creditor, equivalent to the amount such creditor would have been entitled to in case of liquidation of the Company in priority to the financial creditors who voted in favours of the resolution plan, provided that such value shall be reduced by CIRP cost and Liquidation cost.</p> <p>Whatever amount is paid to dissenting financial creditors will be reduced from payment to financial creditors as mentioned in the Resolution Plan. The payment to dissenting financial creditors shall be made from the source of funds identified earlier.</p>
Fund infusion for improvement of operations of Corporate Debtor	for of the	<p>The Resolution Applicant proposes to infuse CAPEX in the subsequent years of Rs. 49.58 Crores (Rs. 11.96 Crores for margin money for working capital and Rs. 37.62 Crores for CAPEX in the subsequent years) from time to time in the form of fresh equity which shall be used for business operations of the Corporate Debtor.</p>

- iii. The RA proposes to infuse a fresh equity to the tune of Rs. 10.10 crores and additional equity infusion of Rs. 49.58 crores, from its sources, for margin money for working capital and additional capital requirement from time to time in subsequent years.

E. Terms of Resolution Plan and implementation:

STRICTLY PRIVATE AND CONFIDENTIAL

594

SECTION V: Term of Resolution Plan and its implementation

The implementation of the Resolution Plan shall commence immediately from the Hon'ble NCLT Approval Date, and completion of the implementation of the Resolution Plan shall be carried out in accordance with the steps set out as below and in Section VIII (Conduct between Hon'ble NCLT Approval Date and Implementation of Resolution Date) of the Resolution Plan, and performance of all other actions as set out in this Resolution Plan, subject to satisfaction, or waiver by the Resolution Applicant, as the case may be, of the Condition Precedent.

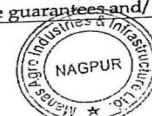
The sequence of events has been set out in greater detail in Section XIII (Indicative Timeline of Events for Implementation of Resolution Plan) of this Resolution Plan.

Particulars	Amount Proposed (Rs. in Crores)	Schedule of Payment (Day) from NCLT approval				Total
		90	365	730	1095	
CIRP Cost	25.00	25.00	-	-	-	25.00
Financial Creditors	360.00	45.00	100.00	107.50	107.50	360.00
Operational Creditors	1.27	1.27	-	-	-	1.27
Workmen & Employees	0.73	0.73	-	-	-	0.73
Total	387.00	72.00	100.00	107.50	107.50	387.00

The applicant shall make the above payments as per the order of distribution mentioned in section 53 of the IB Code, read with section 30. In the event of the RA prepaying the entire/part amount of Rs. 360 Crores before the agreed schedule, then such prepayment would entitle the RA for appropriate discount at the applicable Discounting Rate as mutually agreed between RA and the Financial Creditors.

Payment to financial creditors	
Consideration Amount	Rs. 360 Crores to be paid to the Financial Creditors as consideration under the resolution plan for acquisition/novation/ assignment, including but not limited to third party security viz. personal guarantees, corporate guarantees and / or any other co-obligations of the directors and/or promoters, to the Resolution Applicant.
Assignment	Assignment includes a) assignment of all the debt facilities by financial creditors; b) assignment of rights and claims of the financial creditors with respect to existing personal guarantees and/or corporate guarantees and/ or

27



CERTIFIED TRUE COPY

595

STRICTLY PRIVATE AND CONFIDENTIAL

Payment to financial creditors

	<p>any other co-obligations of the directors and/or promoters, to RA or any of its subsidiaries or its SPV.</p> <p>The Financial Creditors (including Dissenting Financial Creditors to the extent applicable) and the Resolution Applicant shall execute necessary deeds of assignment for the Assignment of Debt in favour of the Resolution Applicant, with issue of Instrument for unpaid settlement amount in favour of financial Creditor by Corporate Debtor after payment of upfront amount.</p> <p>Upon the COC and NCLT approval, Assignment of debt of Financial Creditors (including Dissenting Financial Creditors) shall be deemed to have been approved and assigned in favour of the Resolution Applicant.</p>
Repayment schedule/ Terms of Redemption	<ul style="list-style-type: none"> Rs. 45 Crores within 90 days on approval of the settlement proposal by the adjudicating authority. Rs. 100 Crores (includes consideration towards assignment of personal guarantees or corporate guarantees and/ or any other co-obligations of the directors and/or promoters, to the Resolution Applicant) within 365 days on approval of the settlement proposal by the adjudicating authority. Rs. 107.50 Crores within 730 days on approval of the settlement proposal by the adjudicating authority. Rs. 107.50 Crores within 1095 days on approval of the settlement proposal by the adjudicating authority.
Interest	Interest on Debt Instrument as per 1 Year MCLR of Union Bank of India payable semi-annually on outstanding amount due after one Year from the Effective date. Accordingly, no interest shall be payable for the period of one year from the Effective date.
Security	Till payment of settlement amount is completed, instrument secured by first pari-passu charge on assets of Corporate Debtor.
Instrument	Instrument for the deferred payment shall be in the form of Non-Convertible debt instrument.
Prepayment	After the approval of settlement proposal by adjudicating authority, the corporate debtor is entitled to prepay the entire amount at any point of time without any prepayment penalties and such prepayment would entitle the RA for appropriate discount at the applicable Discounting Rate as mutually agreed between RA and the Financial Creditors.

28



2

596

STRICTLY PRIVATE AND CONFIDENTIAL

Basis of the enhanced financial proposal:-

The enhanced financial proposal is based on the assessment of the revenue generation capabilities from the business of the Corporate debtor including the value attributable to its plant and machinery, based on the site visits and technical assessment. The RA has assessed the value of Rs. 357 Crores for the entire business of the Corporate debtor which is approximately Rs. 1.32 Crores per MW. In addition, the RA has assessed an amount of Rs. 30 Crores realizable from personal and/or corporate guarantees, which shall be available to RA for invocation and realization, post assignment.

Other information as required in terms of the IBBI (CIRP) Regulations:-

The Resolution Applicant confirms that neither the Resolution Applicant nor any of its - related parties have failed to implement or contributed to the failure of implementation of any other resolution plan approved by the Hon'ble NCLT at any time in the past.

- F. Acquisition as going concern, the RA its affiliates by way of upfront equity infusion, in fuse an amount equal to fund infusion in Corporate Debtor and the amount will be used to payment of CIRP cost and workmen payments, assignment of admitted financial debt to the RA by payment of Settlement amount to financial creditors, the pre CIRP shareholding shall be subject to capital reduction. During the implementation period, rights over the cash flow will vest with RA.

G. Bank Guarantees and performance guarantees:

The Resolution Applicant has provided the performance bank guarantee as confirmed by the Maharashtra State Co-operative Ltd, Regional Office- Nagpur for an amount of Rs. 50 crores and it is contemplated in the performance bank guarantee that the bank guarantee shall be valid for a period of 12 months.

H. Supervision and Implementation of Resolution Plan:

The implementation the Resolution Plan shall be executed under the supervision of Implementation and Monitoring committee (IMC). The IMC shall comprise of one nominated member from Financial Creditor (COC members), one member from Resolution Professional and one member from RA.

I. Compliance of Section 29:

The Resolution applicant has filed an affidavit to state that he is not disqualified in submitting the Resolution plan in respect of the Corporate debtor, pursuant to the provisions of the IBC and is not the connected person who is eligible under section 29A of the Code.

J. Reliefs concessions and dispensations:

With regard reliefs, concessions and waivers as sought by the Resolution Applicant, this Bench orders that the reliefs and concessions are granted as per the judgement of Hon'ble Supreme Court in Ghanshyam Mishra & Sons vs. Edelweiss Asset Reconstruction Company limited, where at para 95 (i) it was held that once a resolution plan was approved a creditor cannot initiated proceedings for recovery of the claim which are not part of the Resolution plan. Hence, all past liabilities arising out of any levies/ tax dues to any government authority such as VAT, CST, customs Excise Duty and employees, workmen, operational creditor, financial

creditor, etc, which are not part of the resolution plan and pertaining to the pre CIRP period, shall stand extinguished, post approval of the resolution plan.

H. Key events/ Milestones as explained by CoC Members to substantiate the reasons for approval of plan which is as under:

Period	Particulars																		
Year 2008	<ul style="list-style-type: none"> ➤ Ideal Energy Projects Limited (“IEPL”) is a company incorporated in the year 2008 																		
Year 2009	<ul style="list-style-type: none"> • The Company envisaged to set up 2 x 270 MW coal based thermal power project near Village Bela, Tahshil Umred, District Nagpur, Maharashtra to be implemented in two phases. The estimated project cost of Phase I was Rs. 1,477 crores. Phase I of the project included setting up of 1 x 270 MW coal based thermal power project and setting up of common infrastructure facilities for phase II. • The Detailed Project Report was obtained & submitted by the Company in April ‘2009 and the project was appraised by Canara Bank Project Appraisal Group in May ‘2009. The project cost was sanctioned & funded with a Debt : Equity Ratio of 3 : 1 i.e. Debt of Rs. 1,107 crore and Equity of Rs. 370 crore in an consortium arrangement by six public sector banks namely Canara Bank (Lead Bank), Andhra Bank, Corporation Bank, Union Bank of India & Punjab National Bank – 																		
	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">Cost of Project</th> <th style="text-align: center;">Particulars</th> <th style="text-align: center;">Cost (Rs. In crore)</th> </tr> </thead> <tbody> <tr> <td></td> <td>Land</td> <td style="text-align: right;">19.00</td> </tr> <tr> <td></td> <td>Civil & Structural Works</td> <td style="text-align: right;">194.46</td> </tr> <tr> <td></td> <td>Plant & Machineries</td> <td style="text-align: right;">971.95</td> </tr> <tr> <td></td> <td>Total Hard Cost</td> <td style="text-align: right;">1185.41</td> </tr> <tr> <td></td> <td>Preliminary & Pre-operative expenses</td> <td style="text-align: right;">41.72</td> </tr> </tbody> </table>	Cost of Project	Particulars	Cost (Rs. In crore)		Land	19.00		Civil & Structural Works	194.46		Plant & Machineries	971.95		Total Hard Cost	1185.41		Preliminary & Pre-operative expenses	41.72
Cost of Project	Particulars	Cost (Rs. In crore)																	
	Land	19.00																	
	Civil & Structural Works	194.46																	
	Plant & Machineries	971.95																	
	Total Hard Cost	1185.41																	
	Preliminary & Pre-operative expenses	41.72																	

		Interest During Construction (IDC)	159.27
		Working capital margin	19.44
		Contingencies	31.17
		Total Soft Cost	251.60
		DSRA	40.00
		Total Project Cost	1,477.00
Means of Finance		Promoters' contribution – equity	370.00
		Term Loan	1,107.00
		Total	1,477.00

- The Project was appraised and set-up considering mainly following parameters –
- The Company has received all statutory approvals/clearances for the project including coal and water linkage. The location of the Project site is in a place where all the necessary infrastructure facilities like network of roads, rail, air and sea are already in place.
 - The Project is set-up for 270 MW (Phase I) based on sub-critical technology and the BTG is sourced from Bharat Heavy Electricals Limited (“BHEL”) & BOP is mainly completed by McNally Bharat Engineering Company Limited (“MBECL”).
 - Power Purchase Agreement (PPA) - The Company entered into a Long Term Power Purchase Agreement (PPA) with M/s. Reliance Trading Energy Limited (RETL) in the month of May 2009 for a period of 15 years from DCCO for supplying 150 MW of power and option to sell additional 50 MW. As per the PPA, the entire variable cost i.e. coal & secondary fuel cost (*based on 75% indigenous coal & 25% imported coal*) is pass through to RETL and the fixed cost of Rs.1.93 per unit for the first 5 years, Rs. 1.73 per unit for next 5 years and Rs. 1.53 for next block of 5 years. Variable cost in the project was considered as Rs. 1.10 per unit.

	<ul style="list-style-type: none"> ➤ Financial Closure achieved on 1st October 2009 for Phase I.
Year 2012	<ul style="list-style-type: none"> ➤ The project was under implementation phase, however company approached the banks for additional term loan for increase in project cost due to time overrun and increase in material cost and labour indices. The same was appraised by banks appropriately and funded by term loan of Rs. 197 crore and balance with additional promoters' contribution – equity of Rs. 94 crore. Total loan amount was thereafter Rs. 1304 Cr.
Year 2012	<ul style="list-style-type: none"> ➤ Change of policy by Ministry of Coal to sign the FSAs with Power Plants with a condition that Coal will be supplied under FSA only when a Power Plant/Generator has a Long Term PPAs with DISCOMS, which was not the condition at the time of issuance of LOA for the coal linkage. ➤ Due to distress in the power sector, the decision of Phase 2 was shelved off by the management at an early stage. Common utilities e.g. water reservoir, building, land was sufficient for two such projects.
Year 2013	<ul style="list-style-type: none"> ➤ In the meeting taken by Secretary (Coal) on 5th October 2012, the issue of signing FSA for entities who have entered in to Medium Term PPA with State Discoms was evaluated. In March 2013 Company entered into a medium term PPA for 23 months on competitive bidding basis with various Discoms of Govt. of Karnataka for supply of 140 MW i.e. for the period from Aug '2013 to June '2015, on the basis that Coal India Limited would be entering FSA with those Power Plants having medium term PPA. But the decision on eligibility of medium term PPA for signing of FSA didn't materialized. ➤ The project was successfully commissioned and Commercial Operation Date (COD) declared in May '2013.

- The Company couldn't start on regular operations/offtake with the Medium Term PPA with Discoms of Karnataka for supply of 140 MW of power account of unavailability of open access due to infrastructure bottlenecks on transmission lines in the Country and the open access approval on transmission corridor received in the range of 2 MW to 20 MW as against PPA obligations of 140 MW. This PPA again was a non-starter for entire tenure due to external factors i.e. unavailability of open access on transmission corridors due to congestion on lines.
- In Early 2000, Power Sector was perceived as "Low Risk High Return" business due to conducive Govt. Policies and environment factors. However despite being a major thrust area of Government, the sector has experienced problems in past few years. Due to no much long term tenders floated in the market by the State Discom's in the past three years and due to unavailability of long term tenders, IEPL couldn't enter into a Long Term PPA with any State Discom. And due to the changes in Coal policy by the Government coal supply under FSA was not available in absence of Long Term PPA and it was unviable to run the plant under short term/medium term PPA with higher cost of imported coal and e-auction market coal.
- The Company entered into Power Purchase Agreement (PPA) with PTC India Limited on 21st August 2013 for 240 MW for 25 years starting from 1st July '2015. PTC India Limited was to identify potential DISCOMs for Long Term PPA as well for Short Term Tenders, however there were no Long Term PPAs floated by any State Discoms immediately in that period.
- This lead to IEPL Power Plant being not operational since declaration of COD i.e. May 27, 2013 for lack of Long Term PPA resulting the

Company had to opt for restructuring of its debts under CDR Mechanism in Dec '2013.

- Restructuring of debts under CDR Mechanism with approval of lenders was approved in Dec 2013 due to following reasons as under –
- The Company achieved COD of the project on 27th May 2013 with a project cost of Rs.1,908.79 crore against re-assessed project cost of Rs.1,768 core (Original COD was 1st April 2012 with original project cost of Rs.1,477 crore).
 - The various reasons for time and cost overrun are as follows –
 - i. Delay in execution of the EPC contract
 - ii. Delay due to change in scope of project :-
 - a) Requirement for construction of 400 kV substation and switchyard
 - b) Delay in laying of transmission line for evacuation of power due to delay in permission from MSETCL (State Utility), Non-availability/readiness of MSETCL line and increase in number of towers due to change in tower specifications.
 - iii. Additional cost due to change in scope & specification of Switchyard.
 - iv. Additional cost due to change in specifications and additional transmission towers due to change in grid connectivity location.
 - v. Increase in preliminary and pre-operative expenses due to time-overrun i.e. delay in DCCO from Aug 2012 to May 2013.
 - vi. Increase in Interest During Construction (IDC) due to time-overrun i.e. delay in DCCO from Aug 2012 to May 2013.

- Change in Government policy for allocating coal linkage to Independent Power Producers (IPP) & supply under existing FSA in absence of Long Term PPA
- PPA with Reliance Energy Trading Limited (RETL) was a non-starter due to change in coal policy.
- Non-availability of power transmission corridor
- Non-availability & finalization of Long Term PPA with State/central power companies/Discoms
- High cost of imported coal & e-Auction market coal
- Changed power sector scenario
- Deteriorating financial health of Discoms
- The detailed project cost of cost overrun as was assessed and considered during implementation of Corporate Debt Restructuring Scheme (CDR) was as under –

Cost of Project	Particulars	Reassessed Cost	Cost incurred on COD
	Land	25.00	26.79
	Civil & Structural Works	276.95	283.17
	Plant & Machineries	1099.00	1119.41
	Total Hard Cost	1400.95	1429.37
	Preliminary & Pre-operative expenses	68.67	110.77
	Interest During Construction (IDC)	230.10	352.06
	Working capital margin	16.59	16.59
	Total Soft Cost	315.36	479.42
	DSRA	51.69	
	Total Project Cost	1768.00	1908.79

<i>Rs. In crore</i>	Means of Finance	Promoters' contribution – equity	464.00	552.82
		Term Loan	1,107.00	1355.97
		Total	1,477.00	1908.79

• Some of the key features of CDR package was as follows –

- 1) Moratorium of 34 months from cut-off date i.e. 01-06-2013 till March 2016 on repayment of Term Loans.
- 2) Funding of Interest for 31 months from cut-off date till December 2015 thru Funded Interest Term Loan of Rs.386.79 crores.
- 3) Additional Term Loan of Rs.78.45 crores for Cash Flow deficit.

Year 2014 to 2016	<p>➤ The scenario however has not improved or changed and the power generation entities continue to struggle for existence, with no definite visibility of revival, and the Company's plan to get the offtake arrangements/PPA did not materialize. The Company & its promoters decided to pursue selling of the asset to Strategic Investor to salvage the Asset and also safeguard the exposure of lenders.</p> <p>➤ The Company approached multiple reputed strategic investors for potential sale of the plant, however could attract interest from TATA Power Co. Ltd. ("TATA Power") for acquisition of the asset and a share purchase agreement was signed in December 2014.</p> <p>➤ However, the agreement could not materialize the lenders still could not agree and conclude on the said terms of the TATA Power proposal, leading to TATA Power formally withdrawing from the deal/transaction and terminating the Share Purchase Agreement (SPA) in January '2016.</p>
----------------------------	--

	<ul style="list-style-type: none"> ➤ Specific attention needs to be drawn to the fact that slow progress in signing of Long term PPA's by DISCOMs has led to sizeable thermal capacity being untied and has in turn exposed the short term market to both price and volume risks. Due to deteriorating health of DISCOMs, the sector outlook remains subdued. Further, bilateral ties have dried up owing to Consumers being inclined to purchasing power from Power Exchanges at comparatively lower rates. Recent tenders that have been floated by DISCOMS have either been for small volumes or with specific conditions e.g. Source fuel as imported coal or captive mines etc. Currently approximately 16 GW of capacity is untied due to lack of PPA's which could act as a severe constraint in realizing fair value for the Project. Moreover technological obsolescence has also impacted this particular Plant as it is based on sub-critical technology. ➤ The Company and its promoters once again undertook a comprehensive process to find strategic investors, and had received a response from a strategic investor "Narne Group" which was ready to take over the Company's operations under Change of Management outside SDR guidelines of RBI (DBR BP.BC.No. 41/21.04.048/2015-16 dated Sept 24, 2015) and the Narne Group offer was given to Company's lenders. However it was indicated by lenders that the proposal of "Narne Group" has not been considered favorably.
<p>Year 2017</p>	<ul style="list-style-type: none"> ➤ Lenders themselves decided to run the open bid process for price discovery mechanism through newspaper advertisement for Sale of asset/final resolution under Change of Management outside SDR guidelines and accordingly IDBI Capital Markets Limited ("IDBI Caps") was mandated as an Advisor by JLF to run the open bid process for price discovery mechanism for Sale of asset /final resolution under Change of Management outside SDR guidelines. In view of same the open bid process was initiated with publishing

	<p>Advertisement & Expression of Interest (EOI) on July 19, 2017 in leading newspaper.</p> <ul style="list-style-type: none">➤ However the lenders could attract only one bid out of 6 bidders i.e. from one of the Asset Reconstruction Company (“ARC”). The offer submitted by said ARC was also re-negotiated by lenders with the ARC, however the final offer submitted by ARC was in the range of approx. Rs.225-230 crore in an all cash deal for five lenders, which was again not considered by lenders as favorable.➤ In the interim, it was communicated by Andhra Bank (<i>one of the member bank of JLF</i>) that they have assigned their loan exposure of around 407 cr. (18.36% in JLF exposure) to M/s. Suraksha Asset Reconstruction Private Ltd. (ARC) on 28.09.2017
Year 2018	<ul style="list-style-type: none">➤ In the year 2017-18, in order to revive the Plant & meet the cash flow for maintaining the Plant, Company secured & signed a Power Purchase Agreement (PPA) under Tender floated by Maharashtra State Power Generation Company Ltd. (“MSPGCL”) under Tolling Policy for supply of 215 MW of power for a period of 8 months at a Tariff of 2.79 per unit (kWh).➤ Company had also approached all lenders for NOC/consent for operating the Plant under the said MSPGCL PPA, while offering to share proportionate cash flows with lenders. However, lenders could not reach on any consensus on NOC in time, resulting the Performance Guarantee got forfeited as the Plant could not be operated to meet PPA obligations. However, the Promoters still made good the BG forfeiture & Termination demand costs of Rs.46.40 crore payable to MSPGCL from their own sources without any costs to the lenders towards the same.

Year 2019	<p>➤ Despite of defaulting in its 1st PPA with MSPGCL in 2017 due to non-operation of Plant, Company with great efforts again qualified as a successful bidder on its own merit under 2nd Power Supply PPA/Tender with State Utility - MSPGCL in the Year 2019. Company re-approached lenders for NOC for revival of the Asset & to operate the Plant under PPA, with presenting cash flow sharing plan to lenders. However, by the time all lenders could permit for NOC, one of Lender Corporation Bank had filed the case with NCLT under IBC which got admitted and Company went under CIRP since 28-01-2020. Even this time the PPA could not be operated and the Performance Guarantee of Rs. 9.88 was forfeited which was made good through Promoter funding in the Company/Corporate Debtor without any costs to Lenders.</p>
	<p>➤ Despite the sectoral issues due to policy level changes which were beyond the control of management and had impacted the Project adversely, the Company & the promoters pursued and completed the Project, declaring the COD for the Project on 27.05.2013. The promoters of IEPL have honored their full equity commitment in the Project and though continued to incur losses while maintaining the asset to safeguard the assets value for the Lenders to the maximum extent possible, while with entire equity erosion of Rs. 841 crores.</p>
	<p>➤ The power sector in India is currently suffering from:</p> <ul style="list-style-type: none"> • Sluggish growth • Large capacities of thermal plants being stranded • Lack of PPAs and low tariff rates • Overall low prospects of revival <p>State of power sector in India:</p> <p>a) <u>Increase in supply without existing PPAs:</u> Although there have been ambitious projections to add capacity, a significant capacity of the existing thermal power plant is untied. The</p>

power plants are either selling the untied capacity at merchant tariff rates, which are much below the PPA rates or keeping it idle. Among thermal power plants with untied capacity, 16,066 MW of the existing constructed capacity is untied.

b) Rise of renewable sources of energy:

There has been an aggressive push for clean technology for sustainable development adopted by the Government to achieve the twin objective of reduction of carbon footprint as well as to reduce dependency on hydrocarbon-based power generation. This push is likely to continue and augment growth of the renewable energy sector. The cost of generation for Solar Power has come down drastically and can be demonstrated in the recent biddings done by DISCOMS for solar power plant.

The current renewable energy installed capacity stands at 45 GW which needs to grow at a CAGR of more than 30% if the Government's target of 175 MW must be achieved by FY 2022. This will decrease the share of thermal power from the current 70% to 57%.

c) Current Tariff Scenarios:

There has been a decrease in the number of tenders for PPA released by DISCOMS for new tie ups for thermal plants due to the following reasons:

- Overcapacity and underutilization, as mentioned above
- Drastic reduction in cost of renewable energy
- Muted growth and financial stress on DISCOMS

This has impacted the long term PPA tariff rates and thus making plants with higher fixed or variable cost uncompetitive.

There is a declining trend in the per unit rates in recent bids. In the near term, the low tariff regime is expected to continue. Due to non-

availability of long term PPAs, IPP's have started to offload their capacities on the exchange which has affected the demand supply equilibrium causing a steep fall in these rates.

➤ **Additional CAPEX requirement:**

In accordance with the Ministry of Environment, Forest & Climate Change (MOEF) notification dated 07.12.2015, IEPL will be required to undertake capital expenditure for installation of a Flue Gas Desulphurization (FGD) unit.

This would require further capital expenditure and installation cost of approximately **Rs. 120-150 crores** for the project. The capex shall be undertaken in FY 2024-25, as due to technology advancement the existing Boilers and other equipment have become uneconomical as compared to the Supercritical Technology Power Plant.

The company is not having railway sidings for supply of coal and it requires 4000 MT of coal per day. It needs 300 trucks every day which makes a traffic of 600 trucks per day on the roads leading to factory routing thru various villages. This would be environmentally hazardous and would not be sustainable and therefore railway sidings inside the plant site is required. Estimated expenses for railway sidings are 80-100 Cr.

➤ There is no active Power Purchase Agreement with any Discoms in place presently for the Project and the Plant is non-operational without any revenue generation.

➤ The capital cost of the project is very high due to various external factors as detailed out above, which makes its fixed cost component on higher side, resultant the plant becomes very uncompetitive in Tenders/bids floated by Discoms & the Tariffs realized in present markets in power sector, thereby making the high debt very much unsustainable on the project. Fixed cost component was very high because of very high capital expenses at that time. The variable cost assumed in the project report was Rs. 1.10 per unit and fixed cost

	<p>was assumed at Rs. 1.90 per unit. Presently, the variable cost have gone up to Rs. 2.40 per unit for coal linkages from Coal India Limited and Rs. 1.90 per unit if the tolling PPA of MahaGenco is considered. The difference of Rs. 1.30 per unit is making the unit unviable, therefore fixed cost is required to be reduced for making the project viable.</p> <ul style="list-style-type: none">➤ There is reduction in the price in equipment for thermal power plants as the Chinese equipment is now popular and is priced at much lower than the value in 2009➤ Additionally, fresh working capital to the tune of Rs.100 to 120 crore is also required to be brought in for starting regular operations of plant on full load in case a Power Purchase Agreement is secured going forward.
	<ul style="list-style-type: none">➤ Depreciation for 10 years would also reduce the price to a great extent considering that the revised cost of the assets was Rs. 1429 Cr. And written down value of the assets would be Rs. 350 Cr approx. based on 15% depreciation per year on written down method.➤ Original loan amount was Rs. 1107 Crore, which was increased to Rs. 1304 Cr because of over run in the project cost. However, the cost of assets remained at Rs. 1429 Cr.

Findings:

31. The approval of the resolution plan has been sought under Section 31 of the Code. We have carefully considered the submissions of the learned counsel for the RP and perused the records. The conditions provided under Section 31(1) are that the Resolution Plan is approved by Committee of Creditors under Section 30(4) of the Code and that the Resolution Plan so approved meets the requirement of Section 30(2) and that the Resolution plan has provisions for its effective implementation.

32. The admission order of the CIRP was passed on 28.01.2020 and the Resolution plan submitted by the M/s. Manas Agro Industries and Infrastructure Limited was approved by the CoC in its 24th meeting on 13.08.2021 with 100 % voting. Thus, the provisions of Section 30 (4) are satisfied. The approval has been sought under the provision section 31(1) of the Code. The Resolution applicant has filed an affidavit declaring that it is not ineligible to submit a plan under section 29A of the Code.

33. The provisions of Section 30(2) are as follow:

“30. (1)...

(2) The resolution professional shall examine each resolution plan received by him to confirm that each resolution plan—

(a) provides for the payment of insolvency resolution process costs in a manner specified by the Board in priority to the repayment of other debts of the corporate debtor;

(b) provides for the repayment of the 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 section 53;

(c) provides for the management of the affairs of the Corporate debtor after approval of the resolution plan;

(d) the implementation and supervision of the resolution plan;

(e) does not contravene any of the provisions of the law for the time being in force;

(f) conforms to such other requirements as may be specified by the Board.”

34. Section 30(2)(a) the Resolution Plan provides in payment of Rs. 25 crores towards CIRP cost in priority over payments to any other

Creditors on effective date, section 30(2)(b) it is stated that the Form H states that the fair value of the Corporate Debtor is Rs. 668.47 crores and the Liquidation value is Rs. 356.13 crores. The Resolution Applicant has furnished the Performance Bank Guarantee of Rs. 50 crores.

35. The Resolution Plan proposes to pay Rs. 360 crores to the Financial Creditor, Rs. 1.27 crores to the Operational Creditors and Rs. Rs. 0.73 crores to the workmen and employees, Rs. 1 is paid as a final settlement to all other statutory liabilities. The RA is proposing to issue fresh equity to the Corporate Debtor to the tune of Rs. 10.10 crores upfront as the part of the settlement to the creditors and additional liquidity infusion of Rs. 49.58 crores from its own sources, from margin money for working capital and additional capex requirement from time to time.

36. Section 30(2)(c)(d) of the Resolution Plan further provides for the monitoring committee is as follows;

“The implementation the Resolution Plan shall be executed under the supervision of Implementation and Monitoring committee (IMC). The IMC shall comprise of one nominated member from Financial Creditor (COC members), one member from Resolution Professional and one member from RA.”

37. Section 30(2) (e), the RP has certified that the Resolution Plan complied with the provision of the Code and regulation and does not contravene any provision of law from the time being in force.

38. In CoC of *Essar Steel (Civil Appeal No. 8766-67 of 2019 decided on 15.11.2019)* the Hon’ble Apex Court clearly laid down that the Adjudicating Authority would not have power to modify the Resolution Plan which the CoC in their commercial wisdom have approved. In para 42 Hon’ble Court observed as under:

“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).”

39. We further rely on the judgement of the Hon’ble Supreme Court in case of *K. Shashidhar Vs IOB*, wherein it was held inter alia that no corresponding provision has been envisaged by the legislature to empower the Resolution Professional, Adjudicating Authority, of that matter NCLAT to reverse the commercial decision of the CoC. It is also held that the commercial decision of Financial Creditor are not open for judicial review by Adjudicating authority and by Appellate Authority. Therefore, in view of the above discussion. The decision taken by the Financial Creditor/CoC Members falls within the ambit of its commercial and banking wisdom and is therefore not being interfered with.

40. In view of the above discussion the decision taken by the CoC falls within the ambit of its commercial wisdom and cannot be interfered with.

ORDER

41. Therefore, subject to the observation made in this order, we hereby accord our approval to the Resolution Plan. The Resolution Plan shall form part of this order.

42. Any relief sought in the Resolution Plan, where any contract, agreement, understanding, Proceeding, action, notice etc. not specifically identified, or is for a future contingency, is, at this point of time, rejected.

43. The Resolution Plan as approved is binding on the Corporate Debtor and other stakeholders involved so that the revival of the Corporate Debtor can come into force with immediate effect.
44. The Moratorium imposed under Section 14 shall cease to have effect from the date of this order.
45. The Resolution Professional shall stand discharged from his duties with effect from the date of this Order. However, he shall perform his duties in terms of the Resolution Plan as approved by this Adjudicating Authority.
46. The Resolution Professional is further directed to handover all records, and properties to the Resolution Applicant to finalize the further line of action required for starting of the operation. The Resolution Applicant shall have access to all the records and premises of the corporate debtor through the Resolution Professional to finalize the further line of action required for starting of the operation.
47. In case of non-compliance of this order or withdrawal of Resolution Plan, the performance security amount already paid by the Resolution Applicant shall be liable to be forfeited.
48. Liberty is hereby granted for moving any Application if required in connection with implementation of this Resolution Plan.
49. The Applicant shall supervise the implementation of the Resolution Plan and file status of its implementation before this Authority from time to time, preferably every quarter.

50. The Applicant shall forward all records relating to the conduct of the CIRP and the Resolution Plan to the IBBI along with copy of this order for information.
51. The Applicant shall forthwith send a certified copy of this order to the CoC and the Resolution Applicant, respectively for necessary compliance.
52. The Application bearing no IA No. 2199 of 2021 is stand **disposed of** and consigned to record.

SD/-

ANURADHA SANJAY BHATIA
Member (Technical)

SD/-

SUCHITRA KANUPARTHI
Member (Judicial)