



IN THE NATIONAL COMPANY LAW TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

IA No. 380 (PB) 2021, IA (IB) 2101/2020,  
CA No. 2891(PB)2019 & IA No.3814 (PB)/2020  
IN  
CP (IB) No.1567(PB)/2018

***In the matter of***

M/s National Products ... Operational Creditor

Versus

M/s Delhi Control Devices (P) Ltd. ... Corporate Debtor

**Memo of parties**

***In the matter of***

Ashok Kumar Gupta, Resolution Professional of  
Delhi Control Devices (Pvt) Ltd. ... Applicant

Versus

Statcon Elecronics India Limited ... Proforma Respondent

**Order pronounced on: 28.09.2022**

***Coram:***

Chief Justice (Retd.) Ramalingam Sudhakar : Hon'ble President  
Shri Avinash K. Srivastava : Hon'ble Member (Technical)

***Appearances :***

For the Applicant/RP : Mr. Abhishek Anand, Advocate  
Mr. Karan Kohli, Advocate  
RP in person : Mr. Ashok Kr. Gupta, Advocate  
For Greater Noida Authority : Mr. U. N. Singh, Advocate  
For SRA : Mr. G.P Madaan, Advocate  
Mr. Aditya Madaan, Advocate  
Mr. Aishwarya Adlarkha, Advocate

**ORDER**

***Per: Avinash Kumar Srivastava, Member (Technical)***

***1. Preliminary***

1.1. The present interlocutory application bearing IA No.3814 (PB) 2020 was moved on behalf of Mr. Ashok Kumar Gupta, Resolution Professional ("**RP**") of Delhi Control Devices Private Limited (CIN: U31200DL1984PTC017281), by Mr Abhishek Anand , Learned

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Counsel for the RP, under the provisions of Sections 30(6) and 31(1) of the Insolvency & Bankruptcy Code, 2016 [hereinafter referred to as **“the Code”** or **“IBC”**] read with regulation 39(4) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (**“CIRP Regulations”**) for approval of the Resolution Plan in respect of Delhi Control Devices Private Limited (**“Corporate Debtor”**).

- 1.1. The corporate debtor is engaged in the business of design, developing and manufacture of power distribution products for electrical utilities.
- 1.2. The underlying Company Petition CP (IB) No.1567(PB)2018 filed by National Products under Section 9 of the Code for initiation of Corporate Insolvency Resolution Process (**“CIRP”**) of the Corporate Debtor was admitted by this Adjudicating Authority *vide* its order dated 15.02.2019 (**“Admission Order”**). On that date, *i.e.*, 15.02.2019 (**“Insolvency Commencement Date”**) Mr. Ashok Kumar Gupta (IBBI Reg No. IBBI/IPA-003/IP-N00010/2016-17/10072) was appointed as IRP. Thereafter the parties entered into settlement and withdrawal application was filed which was allowed by this Adjudicating Authority *vide* order dated 07.03.2019 with the liberty to the Operational Creditor to file appropriate application if the terms of settlement are not complied with by the corporate debtor. Pursuant thereto, the settlement was dishonoured and the Operational creditor filed an application *i.e.* CA No. 1074 (PB) 2019 for revival of the main company petition which was allowed *vide* order dated 11.06.2019 and further *vide* order dated 05.07.2019, the applicant was directed to proceed with the CIRP of the corporate debtor. In the 1<sup>st</sup> CoC meeting dated 29.07.2019, the applicant was confirmed as RP with 95.21% of voting share.

**2. Collation of claims by RP**

- 2.1. The Applicant submits that the public announcement was made on

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11.07.2019 in *Economic Times (English)* and *Jansatta & Jagran (Hindi) (Dehradun Edition)* and called for proof of claims from the creditors of the Corporate Debtor and informed lenders to submit their claims as envisaged under the Code.

2.2. The details of claims submitted are as follows:

Particulars	Amount Claim in Lakh Rupees	Claim Admitted in Lakh Rupees
Financial Creditors	*19449	19449
Operational Creditors	2355	1668
Workmen & Employees	80	80
Government Dues	1034	968
Contingency- G. N Authority	35	0
Others- estimated 30 Lakh		
Total	22953	22165

\* Amount of claim was 1952.21 lakh, however reduced due to discharge of BG.

2.3. The RP submits that a total of twenty-four CoC meetings have been held during CIRP period as follows:

Particulars	Date of CoC Meeting
1 <sup>st</sup> CoC Meeting	29.07.2019
2 <sup>nd</sup> CoC Meeting	26.08.2019
3 <sup>rd</sup> CoC Meeting	11.09.2019
4 <sup>th</sup> CoC Meeting	22.10.2019
5 <sup>th</sup> CoC Meeting	19.11.2019
6 <sup>th</sup> CoC Meeting	17.12.2019



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PRINCIPAL BENCH, NEW DELHI

IA No. 380 (PB) 2021, IA (IB) 2101/2020,  
CA No. 2891(PB)2019 & IA No.3814 (PB)/2020,  
In CP (IB) No.1567(PB)2018  
*In Re: Resolution Plan approval of  
Delhi Control Devices Pvt. Ltd.*

<b>Particulars</b>	<b>Date of CoC Meeting</b>
7 <sup>th</sup> CoC Meeting	24.12.2019
8 <sup>th</sup> CoC Meeting	11.02.2020
9 <sup>th</sup> CoC Meeting	19.03.2020
10 <sup>th</sup> CoC Meeting	23.03.2020
11 <sup>th</sup> CoC Meeting	11.05.2020
12 <sup>th</sup> CoC Meeting	21.05.2020
13 <sup>th</sup> CoC Meeting	28.05.2020
14 <sup>th</sup> CoC Meeting	06.06.2020
15 <sup>th</sup> CoC Meeting	12.06.2020
16 <sup>th</sup> CoC Meeting	17.06.2020
17 <sup>th</sup> CoC Meeting	29.06.2020
18 <sup>th</sup> CoC Meeting	08.07.2020
19 <sup>th</sup> CoC Meeting	23.07.2020
20 <sup>th</sup> CoC Meeting	06.08.2020
21 <sup>st</sup> CoC Meeting	19.08.2020
22 <sup>nd</sup> CoC Meeting	27.08.2020

**3. Evaluation and voting**

3.1 The Applicant submits that invitations for Expression of Interest (EoIs) in Form-G was issued on 25.08.2019 by way of a public notice ("**Public Notice**") whereby prospective resolution applicants (**PRAs**) were invited to submit the EoIs for submitting a resolution plan of the Corporate Debtor on or before 12.09.2019. Thereafter revised Form G was published thrice on 12.10.2019, 22.10.2019 and 30.01.2020. Pursuant to it, the applicant received 3 EoIs and the last date for submission of refundable EMD amount was 29.02.2020.

3.2. Thereafter, in the 9<sup>th</sup> CoC Meeting held on 19.03.2020, it was apprised by RP to the members of COC that two resolution plans were received from two PRAs, viz. **Statcon Electronics India Ltd** and **M/s Sunrise Industries**.

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PRINCIPAL BENCH, NEW DELHI

IA No. 380 (PB) 2021, IA (IB) 2101/2020,  
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In CP (IB) No.1567(PB)2018  
*In Re: Resolution Plan approval of  
Delhi Control Devices Pvt. Ltd.*

- 3.3. The appointed registered valuers have submitted their reports providing the average fair value and average liquidation value of the Corporate Debtor as per the valuation report which are as follows:

Sl. No.	Assets	Average Fair Value	Average Liquidation Value
1.	Land and Building	₹32,73,97,000/-	₹24,43,14,000/-
2.	Plant and Machinery	₹1,25,74,249/-	₹1,25,74,249/-
3.	Financial Assets	₹5,62,444/-	₹5,62,444/-
	TOTAL	₹34,05,33,692/-	₹25,36,77,118/-

- 3.4. On 11.05.2020, in the 11<sup>th</sup> COC meeting, the two PRA's has submitted their Resolution Plan along with DD of Rs 50 Lakhs besides existing EMD of Rs. 10 lakhs. The CoC decided to seek further revised and improved resolution plans from the RAs which was further extended twice at the request of the RAs with the consent of CoC .
- 3.5. After due discussions and deliberations on various occasions, in the 21<sup>st</sup> COC meeting dated 19.08.2020, it was apprised to COC that the prospective Resolution Applicants have submitted their revised and improved resolution Plans and in view of the amendment in Regulation 39(3) of CIRP Regulations, 2016 both the plans were put to vote simultaneously and the Resolution Plan which receives the highest votes was to be considered as approved and the CoC members also had to decide a tie breaker formula before placing two or more resolution plans for voting. The COC decided that in case of tie breaker situation; the applicant will convene a COC on urgent notice of one day and re-conduct voting. It is further submitted that the Resolution Applicants were scored on Evaluation Matrix and Statcon Electronics India Limited secured the highest score.

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PRINCIPAL BENCH, NEW DELHI

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In CP (IB) No.1567(PB)2018  
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Delhi Control Devices Pvt. Ltd.*

- 3.6. During the 21<sup>th</sup> CoC meeting dated 19.08.2020, the RP placed the agenda concerning Regulation 39B, 39C and 39D of CIRP Regulations before the members of CoC in which CoC estimated the liquidation cost and to provide interim finance for liquidation expenses, if required.
- 3.7. The CoC deliberated in accordance with section 30(3) of the Code read along with Regulation 39(3) of CIRP Regulations during the 22<sup>nd</sup> meeting of the CoC held on 27.08.2020. The feasibility and viability of the resolution plans was also discussed in the meeting by the CoC. The e-voting on the compliant resolution plan commenced at 11.00 am on 28.08.2020 and concluded at 03:00 hours on 02.09.2020.
- 3.8. The Resolution Plan submitted by the Successful Resolution Applicant i.e Statcon Electronics India Limited was approved by a majority of 80.60% voting share by the CoC in the 22<sup>nd</sup> COC meeting dated 27.08.2020 and the application for approval of the resolution plan by this Adjudicating Authority was filed by the RP on 09.09.2020.

**4. Details of Resolution Plan/Payment Schedule**

- 4.1. The successful Resolution Applicant i.e Statcon Electronics India Limited is one of the leading supplier of Integrated Power Supply Systems (IPS), hybrid solar inverter etc and is involved in manufacturing and trading of electrical and electronics items. It is further stated in the Resolution Plan that the Resolution Applicant will continue with all existing business of corporate debtor and continue to complete the orders in hand for the agreement executed/ MOU pending as on date of this Resolution Plan or any other previous date.

- 4.2. The amount proposed in the Resolution Plan are tabulated below:

Sl. No.	Types of debts	Resolution Amount (In Lakhs)	Timeline for Payment
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IN THE NATIONAL COMPANY LAW TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

IA No. 380 (PB) 2021, IA (IB) 2101/2020,  
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In CP (IB) No.1567(PB)2018  
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Delhi Control Devices Pvt. Ltd.*

Sl. No.	Types of debts	Resolution Amount (In Lakhs)	Timeline for Payment
1.	CIRP Cost	91	Pending CIRP cost to be paid within 60 days
2.	Payment to Financial Creditors	2000	Rs. 330 Lakhs within 60 days
			Rs. 230 Lakhs within 240 days
			Rs. 1440 Lakhs within 360 days
3.	Payment to Operational Creditors including government dues	28	Within 60 days
4.	Payment to Workmen & Employees	20	Within 60 days
5.	Reserve towards Contingencies	11	-
6.	Investment in Business of CD-Working Capital	50	Rs. 20 Lakhs within 60 days
			Rs. 20 Lakhs within 240 days
			Rs. 10 Lakhs within 360 days
	<b>Total</b>	2200	
	Plant and machinery (deployed in kind)	200	Within 1year.
	Total	2400	

**5. Compliance of the successful Resolution Plan with various provisions:**

5.1.The Applicant has submitted the details of various compliances as envisaged by the Code and the CIRP Regulations which a Resolution Plan is required to adhere to, as follows:

As



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IA No. 380 (PB) 2021, IA (IB) 2101/2020,  
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In CP (IB) No.1567(PB)2018  
*In Re: Resolution Plan approval of  
Delhi Control Devices Pvt. Ltd.*

**Compliance with Section 30(2) of the Code:**

Clause of sec. 30(2)	Requirement	How dealt with in the Plan
(a)	Provides for the payment of Insolvency Resolution Process Cost.	<p>Clause 7.1 of the Resolution Plan provides for the Insolvency Resolution Process Cost.</p> <p>Clause 7.1 provides that the unpaid CIRP costs of Rs. 91 lakhs (As disclosed by RP) are to be paid in priority over payments to be made to any other creditors and the CIRP costs shall, amongst other things, include the costs, fees and charges incurred by the Resolution Professional, in running the operations of the company as a going concern. The CIRP costs shall be paid within 60 days from the effective date. The unpaid CIRP costs will be paid in full and in priority to any other creditor of the company upon resolution plan becoming effective from the contingency funds. The RA has further clarified that in case the amount of CIRP expenses is more than 91 lakhs, then the same shall be inducted by the RA over and above the amount offered under the plan.</p>
(b)	Plan must provide for repayment of debts of Operational Creditors in such manner as may be specified by the Board which shall not be less than- the amount payable to such creditors in the event of liquidation under section 53; or	<p>In clause 7.1(a) the RA has specifically provided to pay the Operational creditors within 60 days from the effective date in priority of any amount to financial creditors.</p> <p>It is further specifically provided in the plan that the amount payable to the Operational Creditors will be the amount due to the Operational creditors in terms of the liquidation value as per Sec 53 of the code or the amount that would have been paid to such operational creditors, if the total</p>

As



IN THE NATIONAL COMPANY LAW TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

IA No. 380 (PB) 2021, IA (IB) 2101/2020,  
CA No. 2891(PB)2019 & IA No.3814 (PB)/2020,  
In CP (IB) No.1567(PB)2018  
*In Re: Resolution Plan approval of  
Delhi Control Devices Pvt. Ltd.*

Clause of sec. 30(2)	Requirement	How dealt with in the Plan
		<p>Resolution plan amount is to be distributed in accordance with the order of priority over any financial creditors of the corporate debtor. The outstanding liabilities as per the provisional financials as on Insolvency Commencement date i.e 15.02.2019 further revival order dated 05.07.2019 for which no claim have been filed/ admitted by the claimants/RP stands extinguished. In case the court directs for increase in amount or by any means, then that will result in to decrease in the share of other creditors to the CD.</p> <p>In clause 11.1 of the resolution plan, the Resolution applicant has proposed to pay to the financial creditors, who have a right to vote under sub- section (2) of Section 21 and who do not vote in favour of the Resolution plan which will shall not be less than the amount to be paid to such creditors in accordance with Section 53(1) IBC, 2016 on event of liquidation of the corporate debtor.</p>
(c)	Management of the affairs of the Corporate Debtor after approval of the Resolution Plan.	<p>Clause 7.2 provides for management of the corporate debtor by the resolution applicant.</p> <p>Clause 14 of the Resolution Plan also provides that after the payment/settlement of the Operational Creditors, which is scheduled for payment within 60 days from the effective date, resolution applicant will be entitled to take charge of the corporate debtor and the monitoring committee shall look after implementation of plan till settlement of payment under this plan.</p>

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IN THE NATIONAL COMPANY LAW TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

IA No. 380 (PB) 2021, IA (IB) 2101/2020,  
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In CP (IB) No.1567(PB)2018  
*In Re: Resolution Plan approval of  
Delhi Control Devices Pvt. Ltd.*

Clause of sec. 30(2)	Requirement	How dealt with in the Plan
(d)	Implementation and Supervision of Resolution Plan.	<p>Clause 7.2 provides for Implementation and Supervision of Resolution Plan.</p> <p>The resolution applicant has provided for monitoring and supervising the progress in implementation of the Resolution Plan under the supervision of the monitoring committee, represented by Resolution Professional, two nominee of resolution Applicant and one nominee of the financial creditor. The meeting fees of the member of monitoring committee shall be decided by the resolution applicant at the time of appointment.</p> <p>Clause 15 of the Resolution Plan provides that the period of implementation of the plan, to be monitored by the Monitoring committee, is 12 months or till full and final payment to the financial creditor is done whichever is earlier.</p>
(e)	Plan does not contravene any of the provisions of the law for the time being in force.	The statement has been included in the Resolution Plan in Clause 7.3, confirming that the Resolution Plan 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.	The requirement as per IBBI (CIRP) Regulation, 2016 are examined and dealt with.

ACS

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PRINCIPAL BENCH, NEW DELHI

IA No. 380 (PB) 2021, IA (IB) 2101/2020,  
CA No. 2891(PB)2019 & IA No.3814 (PB)/2020,  
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Delhi Control Devices Pvt. Ltd.*

The implementation schedule of the plan as per Clause 7.2 of the plan is as reproduced below which comply with the requirement of sec 30(2) (d) IBC, 2016:

The Implementation schedule shall be as under:

Activity	Timeline (days)
Approval by NCLT	T
Intimation to all Creditors, existing shareholders and other stakeholders of the Corporate Debtor	T+7
Intimation to the SEBI, Competition Commission of India, RBI, Tax authorities and various other statutory authorities (as applicable)	T+7
Transfer of existing equity and preference capital of the Company to Resolution Applicant	T+60
Management of Corporate Debtor: (i) Formation of Board of Directors by appointment of persons nominated by Resolution Applicant; (ii) Appointment of professionally qualified, key managerial employees of the Corporate Debtor;	T+60
Seeking Requisite Approvals as per para 18	
Payment of IRP Costs	T+60
Payment to Operational Creditors	T+60
Payment to Employee Compensation	T+60
Payment to Govt Dues	T+60
Payment to Financial Creditors	T+365 + 180 Days as Grace Period

**Mandatory contents of Resolution Plan in terms of Regulation 36B(4A) of CIRP Regulations:**

Regulation	Requirement	How dealt with in the Plan
36B(4A)	(a) The request for resolution plans shall require the resolution applicant, in case its resolution plan is approved under sub-section (4) of section 30, to provide a performance security within the time specified therein and such performance security shall stand forfeited if the resolution applicant of such	Clause 12 of the Resolution plan provides to furnish a performance security of an amount of Rs. 110 lakhs within 7 days of issuance of LoI, by way of RTGS in form of Performance guarantee/ Pay order/ Demand Draft/ FDR in the name of Delhi Control Devices Pvt. Ltd. -

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IN THE NATIONAL COMPANY LAW TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

IA No. 380 (PB) 2021, IA (IB) 2101/2020,  
CA No. 2891(PB)2019 & IA No.3814 (PB)/2020,  
In CP (IB) No.1567(PB)2018  
*In Re: Resolution Plan approval of  
Delhi Control Devices Pvt. Ltd.*

Regulation	Requirement	How dealt with in the Plan
	plan, after its approval by the Adjudicating Authority, fails to implement or contributes to the failure of implementation of that plan in accordance with the terms of the plan and its implementation schedule.	CIRP A/C. The amount of performance security can be modified by CoC during negotiating Resolution Plan with Resolution Applicant. Performance Bank Guarantee of Rs. 110 Lakhs has also been deposited by the Successful resolution Applicant.

***Mandatory contents of Resolution Plan in terms of Regulation 37(1) of CIRP Regulations:***

Regulation 37(1)	Requirement	How dealt with in the Plan
(a)	transfer of all or part of the assets of the corporate debtor to one or more persons;	Yes, RA will try to sell idle assets of the corporate debtor and will use the proceeds for payment under
(b)	sale of all or part of the assets whether subject to any security interest or not;	Yes
(ba)	restructuring of the corporate debtor, by way of merger, amalgamation and demerger;	The Resolution Applicant has not proposed merger/ demerger/ consolidation of the company.
(c)	the substantial acquisition of shares of the corporate debtor, or the merger or consolidation of the corporate debtor with one or more persons;	Yes, the resolution Plan provides for the same in Clause 13.
(ca)	cancellation or delisting of any shares of the corporate debtor, if applicable;	NA
(d)	satisfaction or modification of any security interest;	Yes, Clause 11 provided for the same

AKS



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PRINCIPAL BENCH, NEW DELHI

IA No. 380 (PB) 2021, IA (IB) 2101/2020,  
CA No. 2891(PB)2019 & IA No.3814 (PB)/2020,  
In CP (IB) No.1567(PB)2018  
*In Re: Resolution Plan approval of  
Delhi Control Devices Pvt. Ltd.*

Regulation 37(1)	Requirement	How dealt with in the Plan
(e)	curing or waiving of any breach of the terms of any debt due from the corporate debtor;	Yes
(f)	reduction in the amount payable to the creditors;	Yes
(g)	extension of a maturity date or a change in interest rate or other terms of a debt due from the corporate debtor;	NA
(h)	amendment of the constitutional documents of the corporate debtor;	Yes, Clause 11.7(v) provides for the same
(i)	issuance of securities of the corporate debtor, for cash, property, securities, or in exchange for claims or interests, or other appropriate purpose;	NA
(j)	change in portfolio of goods or services produced or rendered by the corporate debtor;	NA
(k)	change in technology used by the corporate debtor; and	NA
(l)	Obtaining necessary approvals from the Central and State Governments and other authorities.	The resolution Applicant provided for approvals in Clause 9.5.4,17 and 20.8 of the Resolution Plan.

***Mandatory contents of Resolution Plan in terms of Regulation 38(1) of CIRP Regulations:***

Regulation	Requirement	How dealt with in the Plan
38(1)	(a) The amount payable to the operational creditors under a resolution plan shall be paid in priority over financial creditor.	In Clause 7.1 (a) the RA has specifically provided to pay the Operational Creditors within 60 days from the effective date in priority to payment of any amount to financial creditors.

As



IN THE NATIONAL COMPANY LAW TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

IA No. 380 (PB) 2021, IA (IB) 2101/2020,  
CA No. 2891(PB)2019 & IA No.3814 (PB)/2020,  
In CP (IB) No.1567(PB)2018  
*In Re: Resolution Plan approval of  
Delhi Control Devices Pvt. Ltd.*

Regulation	Requirement	How dealt with in the Plan
38(1A)	A resolution plan shall include a statement as to how it has dealt with the interests of all stakeholders, including financial creditors and operational creditors of the corporate debtor.	Clause 9.2 and Clause 16 of the Plan
38(1B)	A resolution plan shall include a statement giving details of the resolution applicant or any of its related parties has failed to implement or contributed to the failure of implementation of any other resolution plan approved by the Adjudicating Authority at any time in the past.	Clause 9.3 of The Resolution Plan.
38(2)	<b>A resolution plan shall provide:</b>	
	(a) the term of the plan and its implementation schedule;	Clause 7.2 and Clause 15 of the Resolution Plan
	(b) the management and control of the business of the corporate debtor during its term; and	Clause 7.2 and Clause 14 of the Resolution Plan
	(b) Adequate means for supervising its implementation	Clause 15 of the Resolution Plan
38(3)	<b>A resolution plan shall demonstrate that-</b>	
	(a) it addresses the cause of default;	Resolution Plan addresses the reasons for the default by the corporate Debtor in Clause 9.5.1 of the Resolution Plan
	(b) it is feasible and viable;	The COC has to decide the feasibility and viability of the Resolution Plan. The plan of RA has been detailed in 9.5.2
	(c) it has provisions for its effective implementation;	The plan provides for its term and implementation in Clause 9.5.3, 7.4 and 15 of the Resolution Plan. The CoC shall decide the effectiveness of the implementation of the

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PRINCIPAL BENCH, NEW DELHI

IA No. 380 (PB) 2021, IA (IB) 2101/2020,  
CA No. 2891(PB)2019 & IA No.3814 (PB)/2020,  
In CP (IB) No.1567(PB)2018  
*In Re: Resolution Plan approval of  
Delhi Control Devices Pvt. Ltd.*

Regulation	Requirement	How dealt with in the Plan
		Resolution Plan.
	(d) it has provisions for approvals required and the timeline for the same; and	The plan provides the provisions for approvals required and timelines for the same in Clause 9.5.4, 17 and 20.8 of the Resolution Plan.
	(e) the Resolution Applicant has the capability to implement the resolution plan.	The resolution Applicant has provided its financial strength and details of experience in the same industry in Clause 9.5.5 of the Resolution Plan, which CoC may Consider.

5.2. The Applicant submits that the successful resolution applicant has submitted an affidavit in regard to the eligibility under section 29A of the Code, as required by Regulation 39(1)(a) of the CIRP Regulations. An undertaking has also been submitted by the successful Resolution Applicant, as mandated in terms of regulation 39(1)(c) of the CIRP Regulations.

5.3. The Applicant has filed a Compliance Certificate in prescribed Form, i.e Form 'H' in compliance with Regulation 39(4) of the CIRP Regulations<sup>1</sup>. The RP has issued the Letter of Intent to the Successful Resolution Applicant on 03.09.2020. Evidence of receipt of performance bank guarantee of Rs. 110 Lakhs in form of FDR as required under regulation 36B (4A) is also placed on record.<sup>2</sup>

**6. Details of Resolution Plan/ Payment Schedule**

6.1. The Applicant submits the relevant information about the amount claimed, amount admitted, and the amount proposed to be paid by the Successful Resolution Applicant, i.e., Statcon Electronics India Limited, under the said Resolution Plan is tabulated asunder:

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<sup>1</sup> Page 512-522 of the Application

<sup>2</sup> Page 526 of the Application



IN THE NATIONAL COMPANY LAW TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

IA No. 380 (PB) 2021, IA (IB) 2101/2020,  
CA No. 2891(PB)2019 & IA No.3814 (PB)/2020,  
In CP (IB) No.1567(PB)2018  
*In Re: Resolution Plan approval of  
Delhi Control Devices Pvt. Ltd.*

(Amount in Rs. Lakh)

Sl. No.	Category of Stakeholder	Amount Claimed	Amount Admitted	Amount Provided under the Plan	Amount Provided to the Amount Claimed (%)
1.	Secured Financial Creditors (Exclusive Charge on Vehicles Loan)	59	59	40	67.80%
1 (a)	Secured Financial Creditors (Consortium)	18734.5	18734.5	1938	10.35%
1(b)	Secured Financial Creditors (Against Specific Plant & Machinery ,but securities not available/ not found))	655.5	655.5	22	3.36%
2.	Unsecured Financial Creditor	0	0	0	0
3.	Operational Creditors				
	Related parties of the Corporate Debtor	0	0	0	0
	Government	1034	968	10	1.0%
	Workmen	49	49	12	25%

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In CP (IB) No.1567(PB)2018  
*In Re: Resolution Plan approval of  
Delhi Control Devices Pvt. Ltd.*

T h e	Employees	31	31	8	25%
	Others	2355	1,668	18	1.08%
4. t	Other debts dues & Contingencies	35	0	11	NA
o t	<b>TOTAL</b>	22953	22165	2059	9.0%

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6.2. The Resolution plan size is approximately ₹24,00,00,000/- (Rupees Twenty Four crores only) . The Resolution Plan defines **“Effective Date”** as the date on which the Adjudicating Authority approves the Resolution Plan.

**7. Details on Management/Implementation and Reliefs as per the Resolution Plan**

7.1. The Resolution Plan also provides for details of management and control, implementation and supervision of the Resolution Plan and term of plan and the same is already set out in Para 5.1(c) & (d) *supra*.

**8. Details on fraudulent and avoidance transaction**

8.1. The Resolution Plan provides in Para 9(vi) that any outcome proceed/ amount realized on pursuant to Fraudulent and avoidance transaction application filed before this Adjudicating Authority shall be distributed to Secured FC as per provision of the Code or as per direction of this Adjudicating Authority. In case the same is not pursued by the FC, then in that case RA will pursue the matter and if any outcome made, then 50% of the recovery amount will be paid to FC after deducting all expenses made by RA.

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IN THE NATIONAL COMPANY LAW TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

IA No. 380 (PB) 2021, IA (IB) 2101/2020,  
CA No. 2891(PB)2019 & IA No.3814 (PB)/2020,  
In CP (IB) No.1567(PB)2018  
*In Re: Resolution Plan approval of  
Delhi Control Devices Pvt. Ltd.*

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**9. Waivers, Reliefs and Exemptions**

The SRA has prayed for the reliefs, waivers and concessions as enumerated under the Resolution Plan approved by the CoC , namely, that from the plan approval date all inquiries, investigation and proceedings, whether civil or criminal, suits, claims, disputes, interests and damages in connection with the Corporate Debtor or the affairs of the Corporate Debtor, pending or threatened, present or future in relation to any period prior to the plan approval date, or arising on account of implementation of this Resolution Plan, shall stand withdrawn, satisfied and discharged. From the date of approval of the 'Resolution Plan', the Resolution Applicant shall be legally authorized to seek appropriate orders from respective authorities/courts/tribunals for renewal of licenses/withdrawal/dismissal or abetment of the proceedings as the case may be.

**10. Findings**

10.1. On examination of the Resolution Plan, on 27.09.2022, a query was raised by this Adjudicating Authority regarding the claims proposed to be paid to the workmen and employees in the Resolution Plan. It was conceded by the learned Counsel for SRA that they will ensure 100% payment of the workmen and employees dues i.e. 80 Lakh Rupees instead of 20 Lakhs. The Resolution plan size now stands at approximately ₹24,60,00,000/- (Rupees Twenty Four crores Sixty Lakhs only) and the payment schedule there by stands amended as follows:

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IN THE NATIONAL COMPANY LAW TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

IA No. 380 (PB) 2021, IA (IB) 2101/2020,  
CA No. 2891(PB)2019 &IA No.3814 (PB)/2020,  
In CP (IB) No.1567(PB)2018  
*In Re: Resolution Plan approval of  
Delhi Control Devices Pvt. Ltd.*

(Amount in Rs. Lakh)

Sl. No.	Category of Stakeholder	Amount Claimed	Amount Admitted	Amount Provided under the Plan	Amount Provided to the Amount Claimed (%)
1.	Secured Financial Creditors (Exclusive Charge on Vehicles Loan)	59	59	40	67.80%
1 (a)	Secured Financial Creditors (Consortium)	18734.5	18734.5	1938	10.35%
1(b)	Secured Financial Creditors (Against Specific Plant & Machinery ,but securities not available/ not found))	655.5	655.5	22	3.36%
2.	Unsecured Financial Creditor	0	0	0	0
3.	Operational Creditors				
	Related parties of the Corporate Debtor	0	0	0	0
	Government	1034	968	10	1.0%

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IN THE NATIONAL COMPANY LAW TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

IA No. 380 (PB) 2021, IA (IB) 2101/2020,  
CA No. 2891(PB)2019 & IA No.3814 (PB)/2020,  
In CP (IB) No.1567(PB)2018  
*In Re: Resolution Plan approval of  
Delhi Control Devices Pvt. Ltd.*

	Workmen	49	49	49	100%
	Employees	31	31	31	100%
	Others	2355	1,668	18	1.08%
5.	Other debts dues & Contingencies	35	0	11	NA
	<b>TOTAL</b>	22953	22165	2119	9.56%

10.2. On hearing the submissions made by the Ld. Counsel for the Resolution Professional and perusing the record, we find that the Resolution Plan has been approved by the CoC with 80.60% of the members voting in favour of the Resolution Plan. As per the CoC, the Plan meets the requirement of being a viable and feasible revival of the Corporate Debtor. By and large, there are provisions for making the Plan effective after approval by this Bench.

10.3. On perusal of the documents on record, we are satisfied that the Resolution Plan is in accordance with Sections 30 and 31 of the IBC and also complies with regulations 38 and 39 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

10.4. The reliefs, concessions and waivers sought by the Successful Resolution Applicant will be dealt with strictly as per law.

10.5. 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.

10.6. In case of non-compliance of this order or withdrawal of Resolution Plan within the stipulated time, in addition to other consequences which



IN THE NATIONAL COMPANY LAW TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

IA No. 380 (PB) 2021, IA (IB) 2101/2020,  
CA No. 2891(PB)2019 & IA No.3814 (PB)/2020,  
In CP (IB) No.1567(PB)2018  
*In Re: Resolution Plan approval of  
Delhi Control Devices Pvt. Ltd.*

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follow under law, the CoC shall forfeit the EMD amount already paid by the Resolution Applicant as well as the Performance Bank Guarantee.

**11. Orders**

- 11.1. Subject to the observations made in this Order, the Resolution Plan of ₹24,60,00,000/- (Rupees Twenty Four crores Sixty Lakhs only) is hereby **approved. The Resolution Plan shall form part of this Order.**
- 11.2. 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.
- 11.3. The Moratorium imposed under section 14 of the Code shall cease to have effect from the date of this order.
- 11.4. The Resolution Professional shall submit the records collected during the commencement of the proceedings to the Insolvency & Bankruptcy Board of India for their record.
- 11.5. **IA (IB) No.3814(PB) 2022** and the main Company Petition, *i.e.*, CP (IB) No. 1567(PB)/2018 shall stand **disposed of** accordingly.

**CA (IB) No.380(PB)2021**

- 11.6. This application has been filed by Greater Noida Industrial Development Authority under Sec 60(5) IBC, 2016 against the decision of RP for considering the applicant/ GNIDA as Operational Creditor and not informing for participating in a meeting of COC.
- 11.7. The issue of considering the applicant as Financial Creditor instead of Operational Creditor does not need consideration as the claim of the applicant has already been considered in approved Resolution Plan and further in the letter dated 05.02.2021, the resolution Applicant has also given an undertaking to pay the applicant as per the proportionate ratio given to other Financial Creditors in the Resolution Plan, so no prejudice



IN THE NATIONAL COMPANY LAW TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

IA No. 380 (PB) 2021, IA (IB) 2101/2020,  
CA No. 2891(PB)2019 & IA No.3814 (PB)/2020,  
In CP (IB) No.1567(PB)2018  
*In Re: Resolution Plan approval of  
Delhi Control Devices Pvt. Ltd.*

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will be caused to the applicant.

11.8. It was urged by the learned Counsel for Greater Noida Authority that the lease rentals are due for the CIRP period which have to be included in CIRP cost as per Regulation 31(b) of CIRP Regulations, 2016. It is fairly conceded by the Learned Counsel for RP that the same has been included in the CIRP costs and will be paid to Greater Noida Development Authority within 60 days of the approval of Plan.

11.9. In view of the above, **IA No. 380(PB)2021 is ordered as above.**

**12. CA(IB) 2891(PB) 2019**

12.1. This application has been filed by RP against Madya Pradesh Poorv Kshetra Vidyut Vitran Company. Ltd. And Karnataka Bank Ltd. seeking ad interim injunction against the bank guarantee and direction to the Respondents not to act further in pursuance of the notice dated 27.11.2019.

12.2. At this juncture, as the resolution Plan has already been approved in IA (IB) No. 3814/2021 supra, no useful purpose will be served in keeping this application pending. Therefore, the present application being **IA No.**

CA 2891/2019 **293/20210 becomes infructuous and is dismissed as such.**  
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**13. IA (IB) No.2101(PB)2020**

13.1. The present application has been filed under Sec 43 and 66 r/w Sec 25(2)(j)IBC, 2016 with the prayer to declare the transaction entered into by promoters and suspended management of the corporate debtor as preferential under Sec 43 and certain Transactions as fraudulent under Sec 66 as same were done with the intent to defraud the creditors.

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IN THE NATIONAL COMPANY LAW TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

IA No. 380 (PB) 2021, IA (IB) 2101/2020,  
CA No. 2891(PB)2019 &IA No.3814 (PB)/2020,  
In CP (IB) No.1567(PB)2018  
*In Re: Resolution Plan approval of  
Delhi Control Devices Pvt. Ltd.*

- 13.2. After perusal of application and in view of the direction of Hon'ble Supreme Court in the case of ***"Anuj Jain Interim Resolution Professional vs. Axis Bank Limited & Ors. in Civil Appeal Nos. 8512-8527 of 2019"***, it is directed that the present application be segregated and separate applications be filed for each kind of transactions and same be done within four weeks.
- 13.3. Further as the resolution plan has already been approved, thus present matter needed to be pursued further as per the clause inserted in Para 9(vi) of the Resolution Plan and memo of parties to be amended accordingly. ***With the above directions, the present application stands disposed of.***
- 13.4. Certified copy of this Order be issued on demand to the concerned parties, upon due compliance.
- 13.5. Liberty is hereby granted for moving any application if required in connection with implementation of this Resolution Plan.
- 13.6. A copy of this Order shall be filed by the Resolution Professional with the Registrar of Companies, NCT of Delhi & Haryana.
- 13.7. The Resolution Professional shall stand discharged from his duties with effect from the date of this Order, save and except those duties that are enjoined upon him for implementation of the approved Resolution Plan.
- 13.8. The Resolution Professional is further directed to hand over all records, premises/ factories/documents available with it to the Resolution Applicant to finalise the further line of action required for starting of the operation. The Resolution Applicant shall have access to all the records and premises through the Resolution Professional to finalise the further course of action required for starting of operations of the Corporate Debtor.

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IN THE NATIONAL COMPANY LAW TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

IA No. 380 (PB) 2021, IA (IB) 2101/2020,  
CA No. 2891(PB)2019 & IA No.3814 (PB)/2020,  
In CP (IB) No.1567(PB)2018  
*In Re: Resolution Plan approval of  
Delhi Control Devices Pvt. Ltd.*

13.9. The Registry is directed to send copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.

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

13.11. File be consigned to the record.

**RAMALINGAM SUDHAKAR  
PRESIDENT**

**AVINASH K. SRIVASTAVA  
MEMBER (TECHNICAL)**