IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT – 1, AHMEDABAD

ITEM No.307 - IA(Plan.)/5(AHM)2025
in
C.P.(IB)/91(AHM)2023

Proceedings under Section 30 IBC

IN THE MATTER OF:

M/s SPP Insolvency Professionals LLP RP of M/s Shree Ram Cottex Industries Pvt. Ltd ....**Applicant**

Order delivered on: 17/10/2025

C O R A M:

MR. SHAMMI KHAN, HON'BLE MEMBER (J)
MR. SANJEEV SHARMA, HON'BLE MEMBER (T)

O R D E R
(Hybrid Mode)

The case is fixed for pronouncement of order. The order is pronounced in the open court, vide separate sheet.

-SD-

SANJEEV SHARMA
MEMBER (TECHNICAL)

-SD-

SHAMMI KHAN
MEMBER (JUDICIAL)

BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT-I, AHMEDABAD

IA(Plan)/05(AHM)2025
IN
C.P.(IB)/91/(AHM)2023

IA(Plan.)/5(AHM)2025

(An Application under Section 30(6) and 31 of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the NCLT Rules 2016)

In the matter of: *Shree Ram Cottex Industries Private Limited.*

M/s. SPP Insolvency Professional LLP,
RP of M/s. Shree Ram Cottex Industries Private Limited,
2nd Floor, CODISSIA G.D. Naidu Towers,
Huzur Road, Coimbatore-641 018.

Applicant

Order Pronounced On: 17.10.2025

C O R A M:

SH. SHAMMI KHAN, HON'BLE MEMBER (JUDICIAL)
SH. SANJEEV SHARMA, HON'BLE MEMBER (TECHNICAL)

A P P E A R A N C E:

For the Applicant/RP	: Mr. A. G. Sathyanarayana, Adv.
For the CoC	: Mr. Nipun Singhvi, Adv. a.w. Mr. Rahul Bhavsar, Adv.
For the State Tax Dept	: Ms. Ritu Guru, Adv.

O R D E R
[Per: Bench]

1. The instant application being IA(Plan)/05(AHM)2025 is filed on 25.02.2025 vide diary no. E00470 by the Applicant/Resolution Professional (M/s. SPP Insolvency Professional LLP, RP of M/s. Shree Ram Cottex Industries Private Limited under Sections 30(6) and 31 of the Insolvency and Bankruptcy Code, 2016 (for short "Code"), read with Rule 11 of the NCLT Rules, 2016, seeking the following prayers: -

a. *Allow this application and to pass an order confirming the CoC decision taken in the 12th CoC meeting held on 17.01.2025 in approval of the Resolution Plan submitted by Mr. Gunvantrai Vrajlal Bhadani; and*

b. *To pass such other orders or further orders which may deemed to be fit and proper in the interest of justice.*

FACTS

2. Relevant facts as available in the Plan Application are summarized below:

I. An application under Section 7 of the Insolvency and Bankruptcy Code, 2016 ("Code") seeking initiation of Corporate Insolvency Resolution Process ("CIRP") was filed by M/s. Raj Radhe Finance Limited, a Financial Creditor, on 10.04.2023 which was admitted by this Adjudicating Authority vide order dated 17.07.2023 passed in CP(IB) No. 91 of 2023 wherein, Mr. Keyur Jagdishbhai Shah, was appointed as Interim Resolution Professional ("IRP") and moratorium under Section 14 of the IBC, 2016 (Code) was ordered and directed the IRP to make public announcement and complete the assignment as required under law.

II. Accordingly, the public announcement about initiation of the CIRP and the calling for the claims was published by the IRP on 22.07.2023 in English Daily, "The Times of India", and in Gujarat, "Jai Hind". Pursuant to the public announcement, claims were filed with the IRP. The IRP on analysis of the claims has constituted the Committee of Creditors ("CoC") by M/s. Raj Radhe Finance Limited as the only Financial Creditor of the CD. The details of the List of creditors are as follows:

S. No.	**Name of Financial Creditor**	**Amount Claimed**	**Amount Admitted**
1.	RAJ RADHE FINANCE LIMITED	1,46,72,378.00	1,43,72,378.00
Total		1,46,72,378.00	1,43,72,378.00
S. No.	**Name of the Operational Creditor**	**Amount Claimed**	**Amount Admitted**
1.	STATE TAX OFFICER-3, GONDAL	10,41,41,618.00	8,19,00,574.00
Total		10,41,41,618.00	8,19,00,574.,00

III. The 1st meeting of the CoC was held on 16.08.2023 wherein the CoC has unanimously approved for appointment of existing IRP (Mr. Keyur Jagdishbhai Shah) as RP of the Corporate Debtor and as required under Section 22(3)(a), the same has been intimated to this

Adjudicating Authority on 22.08.2023.

IV. Further, in September 2023, the Erstwhile RP issued Form G, inviting Expressions of Interest ("EOI") from Potential Resolution Applicants, marking the commencement of the resolution plan solicitation process. Thereafter, on 04.04.2024, the erstwhile RP submitted that the Resolution Plan submitted by Mr. Sureshbhai Govindhbhai Lunagariya has been duly approved by the CoC with 100% voting share. It is noted that M/s Raj Radhe Finance Limited is the sole member of the CoC with 100% voting power.

V. However, the resolution plan was subsequently rejected by this Adjudicating Authority, on 30.09.2024. In response to the rejection, the Applicant herein M/s. SPP Insolvency Professional LLP, IPE was appointed as the new Resolution Professional to continue the resolution process by extending the CIRP timeline for 90 days.

VI. The applicant has taken possession of the CD from the erstwhile RP on 30.09.2024 and visited the factory on 03.10.2024. Thereafter, the Applicant has convened the 9th CoC meeting on 07.10.2024 and discussed about whole CIRP process and re-issue of Form-G. The CoC after deliberating in detail has exercised its commercial wisdom and approved the Re-issue of Form-G and the same was published on 10.10.2024 in "Times of India", English Edition and "Gujarat Samachar", Vernacular covering

Rajkot and Gondal Districts to invite fresh Expressions of Interest from prospective resolution applicants.

VII. Further, the applicant has appointed the registered valuers to conduct valuations of the land and buildings owned by the CD, and enhanced security measures were put in place at the factory premises to safeguard the assets. To ensure full regulatory compliance, the applicant engaged M/s. Ramesh M. Patel & Co. to carry out statutory audits and submitted mandatory disclosures with the Insolvency and Bankruptcy Board of India (IBBI) and the Indian Institute of Insolvency Professionals of India (IIIPICAI).

VIII. The applicant has circulated the updated Information Memorandum ("IM") to the CoC member on 20.10.2024 and also to the Prospective Resolution Applicants ("PRAs" to ensure transparency and clarity in the process. The applicant further submits that he has convened the 10th CoC Meeting on 28.10.2024 wherein the RP has placed the Minimum Eligibility Criteria, Evaluation Matrix and Request for Resolution Plans ("RFRP") to the CoC member. Further, the applicant has updated to the CoC about the receipt of EoI from 4 PRAs and the same were reviewed in detail, wherein the CoC after detailed discussions on the Eligibility Criteria, Evaluation Matrix and RFRP has resolved and approved the same for assessing the submission of Resolution Plan and Eligibility Criteria for Earnest Money Deposits ("EMD") and also fixed

Performance Guarantee of 20% on plan value to the PRAs for the resolution process.

IX. The Applicant submits that in the 11th CoC meeting held on 23.12.2024, the Applicant informed that pursuant to the issuance of Form G, 4 PRAs submitted their EoIs which were initially issued as a provisional list of PRAs to the CoC members. After verification of their compliance, a final list of PRAs was issued. Out of the 4 Resolution Applicants, two, namely Gunvantrai Vrajlal Bhadani and Consortium of Resurgent Ventures Private Limited and Sanjay Lodha submitted their Resolution plans on 14.12.2024 and 16.12.2024 respectively.

X. Thereafter, the Applicant opened the two Resolution Plans before the CoC for their comments and views. The applicant briefed about the CIRP timeline to the CoC and taken an agenda for discussion about further extension of 90 days in addition to 270 days of CIRP period since the 270 days of the CIRP period was about to expire on 29.12.2024. The CoC in its deliberations considered that it is necessary to get extension of CIRP timeline and Sole Financial Creditor M/s. Raj Radhe Finance Limited exercised their commercial wisdom by passing a resolution with 100% voting rights approving the extension of CIRP for a further period of 90 days as available in the Code. Accordingly, an application, being IA (I.B.C)/29/AHM/2025 was filed and the same was allowed by this Adjudicating Authority vide order dated

08.01.2025 by extending the CIRP timeline up to 12.02.2025.

XI. The Applicant submits that the additional claims and details regarding pending claims were received from the Financial Creditor and other Stakeholders after the submission of list of creditors before this Adjudicating Authority and in compliance with Regulation 12(1), the claims were verified and admitted as they were received before the date of issue of request for Resolution Plan. In compliance with the provisions of Regulation 13(2)(d) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the 2nd revised list of creditors & the constitution of the CoC along with amount claimed, claims admitted, security interest in respect of claims was prepared and filed on 07.12.2024 as an application and taken on record by this Tribunal vide order dated 19.12.2024 in IA(I.B.C)/1900/AHM/2024.The details of the updated List of Creditors are as follows:

S. No.	Name of Financial Creditor	Amount Claimed	Amount Admitted
1.	RAJ RADHE FINANCE LIMITED	1,46,72,378.00	1,43,72,378.00
Total		1,46,72,378.00	1,43,72,378.00
S. No.	**Name of the Operational Creditor**	**Amount Claimed**	**Amount Admitted**
1.	STATE TAX OFFICER-3, GONDAL	12,18,13,414.00	10,16,87,567.00
2.	EMPLOYEE'S	29,122.00	29,122.00

	PROVIDENT FUND ORGANISATION		
Total		12,18,42,536.00	10,17,16,689.00

XII. Meanwhile, the Applicant filed the 1st Progress report with the Adjudicating Authority on 06.12.2024 and it was taken on record vide order dated.18.12.2024 in IA(IBC)/1885/(AHM)/2024. Further, the Applicant has also filed Application under Section 19(2) against the suspended directors of the Corporate Debtor in IA(IBC)/1855/(AHM)/2024 before this Adjudicating Authority and it is posted for further consideration on 21.01.2025.

XIII. The Applicant has placed the two Resolution plans as submitted by the PRAs to the CoC in accordance with section 30(3) of the Code r/w Regulation 39(2) of the CIRP Regulations, 2016 for consideration /approval of the CoC in its 11th CoC meeting held on 23.12.2024, wherein CoC members further requested the Resolution Applicants to improvise their plan value and other terms of payment proposed and was given an opportunity revised resolution plan.

XIV. It is stated that the RP has negotiated the Resolution Plans with the PRAs and Gunvantrai Vrajlal Bhadani submitted a revised resolution plan on 30.12.2024 for Rs.1.5 crores, and Resolution Applicant - 2) Consortium of Resurgent Property Ventures Private Limited and Sanjay Lodha for Rs.2 crores on 16.12.2024. Then the RP examined the

Compliance of the Resolution Plans and submitted his due diligence certificate to the CoC members.

XV. It is further stated that the RP has placed the final revised resolution plans with the CoC and in its 11th CoC meeting held on 23.12.2024 and briefed about the plans to the CoC more importantly the plan value is less than 20% of Liquidation Value and after discussion with the CoC member, the RP directed the RA to submit a revised resolution plan and as per the discussion the RA - Mr. Gunvantrai Vrajlal Bhadani who has submitted a plan for Rs.80 lakhs has sent a revised resolution plan on 30.12.2024. On the 12th CoC meeting held on 17.01.2025 the revised plan submitted by Mr. Gunvantrai Vrajlal Bhadani was approved by the CoC member. The committee had detailed discussion on the resolution plans submitted to the CoC and observed the following while approving the Resolution Plans as submitted by the PRAs:

- it provides for payment of CIRP costs upto Rs.25 Lakhs.
- it provides for payment to Secured Financial Creditor.
- it provides for payment to Operational Creditor.
- the RA has the capacity to implement the resolution plan and will arrange the settlement amount from their own sources or borrowed funds and the time limit as provided in the plan.
- Settlement to the financial creditor will release all collaterals, security interest, encumbrance, legal cases against the RA pertaining to the CDs Properties.
- Timeline for proposed effective implementation from the date of approval of resolution plan.
- It has provision for approval required and the timelines for the same.

Details ofthePayment proposal and timeline is given below.

11.5 **The payments proposed to be made under this Plan are as follows:**

Sr No.	Particulars	Amount	Timeline
1.	Payment of CIRP Costs	Rs. 25,00,000/- (As on date of submission of Resolution Plan) The amount shall be paid at actuals on the date of approval of Resolution Plan with a cap of 25 lakhs.*	T+60 days from the date of approval of the Resolution Plan by Hon'ble NCLT
2.	Payments towards claims of Financial Creditors	Rs. 14,85,657 /- minus proportionate unpaid CIRP cost	T+90 days from the date of approval of the Resolution Plan by Hon'ble NCLT
3.	Payments towards claims of Operational Creditor (Statutory Dues)	Rs. 1,05,14,343 /- minus proportionate unpaid CIRP cost	T+90 days from the date of approval of the Resolution Plan by Hon'ble NCLT
4.	Payments towards claims of Workmen and Employees	NIL	-
5.	Payments towards any other Debts	NIL	-
6.	Contingent Liability/ Infusion of Working Capital	Rs. 5,00,000/-	
	TOTAL	**Rs. 1,50,00,000**	

Description	Amount Claimed (Rs. In INR)	Claim Admitted (Rs. In INR)
Financial Creditors	14,672,378.32	14,372,378.32
Operational Creditors	12,18,13,414.00	10,17,16,567.00
Workmen & Employees	Nil	Nil
Other Creditors	Nil	Nil
Total Claims	**13,64,86,152.32**	**11,60,89,067.32**

Further, the CoC after detailed discussions exercised their commercial wisdom and instead of taking up the voting in the meeting, they requested to send the ballot sheet for e-voting along with the detailed minutes, as they need to seek internal approvals before voting:

Further, the CoC passed the following resolution with members present and through e-voting (voted ballot sheets received over mail) for absent members.

> **"RESOLVED THAT the Revised Resolution Plan dt: 30.12.2024 submitted by Mr. Gunvantrai Vrajlal Bhadani for the resolution process of Corporate Debtor is hereby approved and confirmed by this committee u/s. 30(4) of the Insolvency and Bankruptcy Code, 2016 and the RP is directed to take necessary steps for obtaining the approval of the Adjudicating Authority under the provisions of IBC".**

XVI. It is submitted that the Resolution Plan submitted by Mr. Gunvantrai Vrajlal Bhadani is approved with requisite majority of 100% by the CoC. Further, the Resolution Professional has certified the Form-H in accordance with the CIRP Regulations 39(4).

XVII. It is further submitted that the CoC has approved the Resolution Plan dated 30.12.2024 [By the CoC members through Ballot] well within CIRP as prescribed under Section 12 of the Code.

XVIII. Further, to the approval of the Plan, the RP has given a letter declaring the PRA as the Successful Resolution Applicant ("SRA") and further requested to submit the Performance Bank Guarantee on or before 05.02.2025. However, on 05.02.2025 the SRA sent an email sought for extension of timeline for submission of Performance Guarantee of Rs.30,00,000/- for the plan approved by the CoC. Hence, the applicant has convened the 13^{th} CoC meeting on 06.02.2025 and the CoC unanimously approved for grant of time upto 14.02.2025 for submission of the Performance Bank Guarantee as per the terms of the Resolution plan approved by the CoC.

XIX. The Applicant submits that since the resolution plan is approved by the CoC with 100% voting rights exercising their commercial wisdom as detailed in catena of judgments by the Hon'ble Supreme Court and the Hon'ble NCLAT, the Prospective Resolution Applicant shall resolve the CD without continuation of any liabilities upon approval of this Adjudicating Authority within a period of 30 days.

XX. It is further submitted that once the said plan is approved by this Adjudicating Authority which is binding on the corporate debtor and its employees, members, creditors, including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of dues arising under the law such as authorities to whom statutory dues are owed, guarantors and other stakeholders involved in the resolution plan.

XXI. That the Applicant submits that the CD assets were not encumbered, charged, attached by any of the Statutory Authorities hence no liabilities arise to pay as per Section 53 of the Code and also to any of the statutory authorities.

XXII. The Applicant clarified that the RP has conducted review of the transactions of the specified period and no avoidance transactions are identified during the review. Further the RP in discussion with the CoC has decided not to appoint any external Forensic auditors as the RP's transaction review findings don't have any PUFE transaction findings.

XXIII. The applicant prays that this Tribunal to consider the Reliefs and Concessions as sought in Clause 13.2 in the resolution plan sought by the SRA and be allowed in accordance with law.

XXIV. Further, the said plan shall be effective from the date of implementation of the plan. The application is made bonafide in the interest of revival of the CD. No one will be prejudiced once this application is allowed for. Unless otherwise it will cause severe prejudice and irreparable loss to the stakeholders of the CD.

3. During the hearing on 24.02.2025, it is recorded that

> *"Ld. RP of the Corporate Debtor stated that the plan value is at a steep discount and is close to 16-17% of the liquidation value of the Corporate Debtor.*
> *He further stated that there are parties who are willing to purchase the land separately for a higher value. In pursuant to that he undertook to file additional affidavits.*
> *On the other hand, Proxy Counsel appearing for the State Tax Department, states that a sick note has been circulated by the main counsel, requesting adjournment in the matter.*

4. In compliance with the order dated 24.02.2025, the Applicant/RP filed a compliance affidavit on 06.03.2025 vide inward diary No.D-1472. The relevant portion of the same are reproduced as under:

a. It is necessary to submits that in furtherance of the resolution process, we have received enquiries on publication of Form-G (Expression of Interest for CD) dated 07th Oct 2024 from 10 parties. The list of the parties are as follows:

S. No.	***Parties***
1	*Resurgent Property Ventures Private Limited*
2	*Paresh M. Vyas*
3	*CS Preeti Jain*
4	*Santosh Dubey - Rohstoffe International Pvt Ltd*
5	*Parth Modi - M G Threads*
6	*Gunvantrai Vrajlal Bhadani*
7	*Parth Dhami*
8	*Madhuvan Securities Pvt Ltd.*
9	*Real Value Infotech Projects Private Limited*
10	*Kundan Group*

b. Subsequently, out of the 10 parties, EOIs have been received from 5 PRAs who were listed in the Final PRAs published by the Resolution Professional on 7th November, 2024. The list of Final PRA's are as follow:

S. No.	**Prospective Resolution Applicants**
1	Gunvantrai Vrajlal Bhadani (Rajkot)
2	Mis M G Threads (Ahmedabad)
3	Consortium of Resurgent Property Ventures Private Ltd. and Sanjay Lodha (Gurugram)
4	Rohstoffe International Pvt Ltd (Mumbai)
5	Real Value Infotech Projects Pvt Ltd (Kolkata)

c. Out of the Five PRAs, only two have submitted resolution plans and such was verified by the Resolution Professional and placed before the COC members in the 11th COC meeting on 23rd Dec 2024 for their comments. In the meeting, the COC members suggested that the plan value was very low compared to the valuation of the CD and informed the parties who has submitted resolution plan to improve their plans and also directed the Resolution Professional to follow up with the parties for improved resolution plan. Out of 2 plans, one party has improved their plan and other party did not chose to modify his resolution plan.

d. The Resolution Professional even though understanding that the Resolution Plan is significantly lower than the liquidation Value i.e. wherein PRAs proposing to pay Rs.1.5 crores and Rs. 2 crores respectively have placed both the plans before the COC members for their comments, the COC members has decided to vote upon the resolution plan received and directed the Resolution Professional to place the Resolution plan for voting. However, the CoC after detailed discussions, has approved the resolution plan submitted for 1.5 crores. Hence the voted resolution plan was placed before this Hon'ble Tribunal for their consideration on approval of the said plan.

e. During the course of the EOI and Plan submission process, the RP had detailed discussions with all the PRA's. One of the PRA has mentioned that the Fair value ofRs.12,42,36,559/- is very high and it will work out for them only at the range of 6-7 Crs for the land & building. In Further discussion with various land brokers in the region, we understand the market going rate in the region is around 8-9 Crs, which may involve unauthorized on-money transactions. All these indicative numbers are oral estimates shared by the prospects and brokers and do not have concrete recorded evidences.

f. The Guideline value of the said land & building is around Rs.6,47,30,000/- (Land - Rs.59,15,000/- & Building Rs. 5,88,15,000/-]. We understand from the valuers and other analysis that, none of the assets in the locality are transacted for a value less than the guideline value in recent times.

5. It is seen that in compliance with the order dated 07.03.2025, an affidavit in reply on behalf of the Respondent / State Tax Department was filed on 08.04.2025, vide inward diary No.D-2335. The relevant portion of the order is reproduced as under:

I. The Advocate of RP has mailed the present resolution plan application to the State Tax Officer on 28.03.2025. On 21.01.2025, IA No. 104 of 2024 was listed and counsel for the RP stated that the State Tax Department has been considered as Secured Operational Creditor.

II. In the said plan application at paragraph no. 3 the list of creditors is been mentioned, wherein, the claim of the department is shown as Operational Creditor and amount claimed is for Rs.10,41,41,618/- and the amount being admitted by the RP is Rs.8,19,00,574/-.

III. The RP has submitted in the plan application that in the 11th COC meeting held on 23.12.2024, it was been informed that final list of PRA's was issued and out of the 4 resolution applicants, two, namely Gunvantrai Vrajlal Bhadani and consortium of Resurgent Ventures Private Limited and Sanjay Lodha submitted their resolution plans on 14.12.2024 and 16.12.2024 respectively. It is submitted that two resolution plans were opened by the RP before the COC for their comments and views. That additional claim and details regarding pending claims were received from the Financial Creditor and other Stake Holders after the submission of list of creditors before this Adjudicating Authority and thereafter second revised list of creditors and constitution of the committee of creditors along with amount claimed, claims admitted, security interest in respect of claim was prepared and filed on 07.12.2024 before this Adjudicating Authority. That in para 12 of the application, the updated list of creditors is mentioned and the department has been mentioned in the category of operational creditor and the amount claimed by the department is Rs.12,18,13,414/- and the amount admitted by the RP is Rs.10,16,87,567/-

IV. It is submitted that the corporate debtor has purchased the land bearing survey no 39/7, 39/12 and 39/15 situated at Gondal, bn. The said land of the corporate debtor is nonagricultural land and the RP has taken into consideration the assets of the corporate debtor in the plan. It is submitted that the RP has consider the claim of the department as operational creditor in the resolution plan.

V. In the said application, the RP has stated that after negotiating the resolution plans with the PRAs and 1) Gunvantrai Vrajlal Bhadani submitted a revised resolution plan on 30.12.2024 for Rs.1.5 crores, and Resolution Applicant- 2) Consortium of Resurgent Property Ventures Private Limited and Sanjay Lodha for Rs.2crores on 16.12.2024. That the plan value is less than 20% of liquidation value which was been informed by the RP to COC and thereafter the Resolution Applicant submitted revised resolution plan on 17.01.2025 in the 12th COC meeting. That at paragraph no. 16 of the plan application, the RP has mentioned the payments proposed to be made under the plan. In the said tabular chart, the payment to be made towards statutory dues are mentioned. That the proposed amount in the plan which the State Tax Department will receive is amounting to Rs.1,05,11,333.00/-. It is pertinent to mention here that the value of liquidation of the CD is calculated amounting to Rs.9.68 crores which is more than the proportionate value proposed by the resolution applicant in its plan. The fair value of the CD is been calculated to an amount of Rs.12.42crores. That it is surprising, that the COC member, sole financial creditor has agreed upon the proposal of the revised resolution plan submitted by Mr. Gunvantrai Vrajlal Bhadani (RA- 1) on 30.12.2024 for Rs.1.5 crores.

VI. It is further submitted that, the State Tax Officer has objected to the approval of revised resolution plan submitted by Resolution Applicant No. 1, Mr. Gunvantrai Vrajlal Bhadani as the proposed amount provided by the Applicant does not offer the statutory dues of the State Tax Department and in less than the liquidation value.

VII. It is submitted herein, by the State Tax Officer that they have objection to the approval of resolution plan approved by the COC in the 12th COC meeting held on 17.01.2025 as well as objection to the said application ie., IA (Plan) 5 of 2025 submitted before this Adjudicating Authority.

VIII. That it would be pertinent to bring into the notice of this Hon'ble Court, the conduct of the suspended management as well as the conduct of financial creditor Raj Radhe Finance Ltd. That the sole financial creditor, Raj Radhe Finance Ltd.

has given 100% voting for the approval of resolution plan submitted by RA No. 1, Mr. Gunvantrai Vrajlal Bhadani. That this Hon'ble Court may kindly take into observation the order passed by this Hon'ble Court on 30.09.2024, in IA (Plan) 12 of 2024 was rejected as disposed of with certain directions. That the attention of the RP was also drawn by this Adjudicating Authority that the dues of the Respondent, State Tax Department shall be considered in view of the judgment delivered by the Hon'ble Supreme Court in the case of Rainbow Papers Ltd. Copy of the order dated 30.09.2024 passed order in IA (Plan) 12 of 2024 is annexed herewith and marked as **ANNEXURE-R4.**

IX. That it is submitted that an IA 104/2024 is also filed by the Resolution professional of the corporate debtor for necessary direction from this Adjudicating Authority directing the respondent no.1 to release the lien on the bank account BOB Account no. 93990500001014 in the name of Shree Ram Cottex Industries Private Ltd., the corporate debtor undergoing CIRP process which is pending for adjudication.

X. It is submitted that the brief facts pertaining to the dues of the corporate debtor are to be brought on record which are as under:

XI. On 29.11.2006 the corporate debtor i.e. Shree Ram Cotex Industries Pvt. Ltd. has been registered under the GVAT Act, 2003. vide registration no. 24092702800. It is submitted that the respondent had issued Assessment order for the year 2014-15, 2015- 16, 2016-17, 2017-18 under the VAT Act and for 2017-18 under the CST, GST Act. Copy of the FORM-102, Certificate of Registration is marked hereto and annexed as

ANNEXURE-R5.

XII. That it is submitted that the state tax department had addressed a letter on 10.03.2023 to the Bank of Baroda for creating lien on the bank account of the corporate debtor. In view of the above letter, it is in itself, self-explanatory that the respondent no.1 has created a charge on the bank account of the corporate debtor at the relevant point of time. That on 21st July 2023, Public Announcement was been made by the IRP. Copy of the letter dated 10.3.2023 addressed by the department to Bank of Baroda is marked and annexed to as **ANNEXURE-R6.**

XIII. It is further submitted that the corporate debtor company had turnover in crores of rupees and had maintained a strong balance sheet. From the records it reflects that the corporate debtor had sought loan from the financial creditor i.e. Raj Radhe Finance Ltd. The company of the corporate debtor chose to avail loan from Ahmedabad at the exorbitant rate of 18%. The corporate debtor failed to make payment within 1 and 1/2 year from availing the said loan. That in the 12th COC meeting the sole financial creditor, Raj Radhe Finance Ltd. has agreed upon the resolution plan submitted by RA 1, wherein the financial creditor will receive an amount proposed to Rs.14,85,657/- whereas RA 2 has proposed to pay an amount of Rs.1,43,72,379/- to the Financial Creditor. This act of accepting the proposed amount in the plan itself creates suspicious conduct of the financial creditor.

XIV. That the resolution professional has failed to consider that an application which is been filed before the Adjudicating Authority under section 31 of the Code has to meet with the requirements as referred to in sub section (2) of 30. That the Adjudicating Authority shall, before passing an order for approval of resolution plan under section 31, satisfy that the resolution plan has provisions for its affective implementation. That the section 30 of the Code is read as under:

Section 30- Submission of resolution plan

(1) *A resolution applicant may submit a resolution plan {along with an affidavit stating that he is eligible under section 29A} to the resolution professional prepared on the basis of the information memorandum.*

(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 {payment} of other debts of the corporate debtor;

{b) Provides for the payment of debts of operational creditors in such manner as may be specified by the Board which shall not be less than-

(i) the amount to be paid to such creditors in the event of a liquidation of the corporate debtor under section 53; or

(ii) the amount that would have been paid to such creditors, if the amount to be distributed under the resolution plan had been distributed in accordance with the order of priority in sub-section{1) of section 53, whichever is higher, and provides for the payment of debts of financial creditors, who do not vote in favor of the resolution plan, in such 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 a liquidation of the corporate debtor.

Explanation 1.-For removal of doubts, it is hereby clarified that a distribution in accordance with the provisions of this clause shall be fair and equitable to such creditors.

Explanation 2.- For the purpose of this clause, it is hereby declared that on and from the date of commencement of the Insolvency and Bankruptcy Code (Amendment) Act, 2019, the provisions of this clause shall also apply to the corporate insolvency resolution process of a corporate debtor-

(i) where a resolution plan has not been approved or rejected by the Adjudication Authority;

(ii) Where an appeal has been preferred under section 61 or not time barred under any provision of law for the time being in force; or

(iii) Where a legal proceeding has been initiated in any court against the decision of the Adjudicating Authority in respect of a resolution plan,

(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) confirms to such other requirements as may be specified by the Board.
{Explanation.—For the purposes of clauses (e), if any approval: of shareholders is required under Companies Act, 2013{18 of 2013) or any other law for the time being in forces for the implementation of actions under the resolution plan, such approval shall be deemed to have been given and it shall not be a contravention of that Act or law.}
(3} The resolution professional shall present to the committee of creditors for its approval such resolution plans which confirm the condition referred to in sub-section(2),
(4) The committee of creditors may approve a resolution plan by a vote of not less that (sixty-six) percent of voting share of the financial creditors, after considering its feasibility and viability, {the manner of distribution proposed, which may take into account the order of priority amongst creditors as laid down in sub-section (1) of section 53, including the priority and value of the security interest of a secured creditor} and such other requirements as may be specified by the Board:
Provided that the committee of creditors shall not approve a resolution plan, submitted before the commencement of the Insolvency and Bankruptcy code (Amendment) Ordinance, 2017 (ord. 7 of 2017} where the resolution applicant is in eligible under section 29A and may require the resolution professional to invite a fresh resolution plan where no other resolution plan is available with it
Provided further that where the resolution applicant referred to in the first provision is ineligible under clause(c) of section 29A, the resolution applicant shall be allowed by the committee of creditors such period, not exceeding thirty days, to make payment of overdue amounts in accordance with the provisions to clause (c) of section 29A.
Provided also that nothing in the second provision shall be construed as extension of period for the purposes of the provision to sub-section (3) of section 12, and the corporate insolvency resolution process shall be completed within the period specified in that subsection). Provided also that the eligibility criteria in section 29A as amended by the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2618 shall apply to the resolution applicant who has not submitted resolution plan as on the date of commencement of the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018.
(5) The resolution applicant may attend the meeting of the committee of creditors in which the resolution plan of the applicant is considered: Provided that the resolution applicant shall not have a right to vote at the meeting of the committee of creditors unless such resolution applicant is also a financial creditor,
The resolution professional shall submit the resolution plan as approved

by the committee of creditors to the adjudicating authority.

From the above said proviso, the learned Resolution Professional ought to have considered that section 238 of the Code cannot be interpreted to make any other laws redundant, the resolution professional has erred by giving overriding effect to the Code by considering section 238 of Code ignoring the provisions of section 30(2)(e) of the Code itself which clearly provides that the resolution plan does not contravene any of the provisions of law for the time being in force.

XV. The respondent submits that it is a matter of record that the corporate debtor has failed to pay the statutory dues and that because of such default on the part of corporate debtor proceedings for recovery of dues have been initiated by the department. The respondents submits that the dues relate to a period much prior to the commencement of Insolvency proceedings against the debtor and recovery proceedings had been initiated by the department much before the commencement of Insolvency resolution process i.e. 17.07.2023 under the code. The charge on the bank account appears to have been completely overlooked by the Resolution Professional which actually suggest that the RP has failed to discharge his duties as envisaged under the code and thereby erred in not including the claim of the department as a secured creditor in the debt of the corporate debt. The respondent submits that the claim of the department therefore, ought to have been considered by the RP irrespective of submissions of claim form by the department.

XVI. This Adjudicating Authority shall consider that the bank account of the corporate debtor which the respondent has attached are prior to the initiation of the CIRP proceedings and that the resolution professional here in shall consider the State Tax department as the secured creditor under Section 3(30) and section 53 of the code and shall take in to observation the findings given by the Hon'ble Apex Court in Review petition in the case of Rainbow Papers Ltd. and shall make the distribution of money/amount taking the respondent department by holding that Section 48 of the GVAT Act, over right section 53 of the code. Therefore, the present application of the resolution professional shall not be entertained by this Hon'ble Court in view of the above facts and circumstances.

6. In response to the reply, a rejoinder was filed by the Applicant/RP on 29.04.2025, vide inward diary No.D-2776. The relevant portion of same are reproduced as under:

I. The CD was admitted in CIRP by order of this Adjudicating Authority passed in CP(IB)/91/(AHM)/2023 on 17.07.2023 wherein, Mr. Keyur Jagdishbhai Shah, was appointed as Interim Resolution Professional. Pursuant which, the public announcement about initiation of the CIRP and the calling for the claims was published by the IRP on 22.07.2023 in English Daily, "The Times of India", and in Gujarati, "Jai Hind". Thereafter, claims were filed with the IRP. The IRP on analysis of the claims has constituted the CoC by M/s. Raj Radhe Finance Limited as the Major Financial Creditor of the CD in the CoC and the 1st Respondent as the Operational Creditor.

II. Further, in September 2023, the Erstwhile RP issued Form G, inviting Expressions of Interest (EOI) from potential resolution applicants, marking the commencement of the resolution plan solicitation process Thereafter, on 04.04.2024, the erstwhile RP has submitted that the Resolution Plan submitted by Mr. Sureshbhai Govindhbhai Lunagariya has been duly approved by the CoC with 100% voting share. However, the resolution plan was subsequently rejected by this Adjudicating Authority on September 30, 2024. In response to the rejection, the undersigned M/s. SPP Insolvency Professional LLP, IPE was appointed as the new Resolution Professional to continue the resolution process.

III. The Applicant respectfully submits that the applicant has taken possession of the CD from the erstwhile RP on 30.09.2024 and visited the factory on 03.10.2024. On 10.10.2024, Form G was re-issued to invite fresh Expressions of Interest from prospective resolution applicants.

IV. It is significant to observe that under Section 3(30) and Section 3(31) of the IBC defines secured creditor and security interest. Extract of the same is stated as follows:-

*3 (30) "**secured creditor**" means a creditor in favour of whom security interest is created;*
*3(31) "**security interest**" means right, title or interest or a claim to property, created in favour of, or provided for a secured creditor by a transaction which secures payment or performance of an obligation and includes mortgage, charge, hypothecation, assignment and encumbrance or any other agreement or arrangement securing payment or performance of any obligation of any person:*

The Applicant respectfully submits. that, in light of the relevant provisions and the Rainbow Papers judgment, while the State Tax Officer qualifies as a secured creditor due to the security interest created by operation of law, they continue to be categorized as an Operational Creditor, as the underlying dues pertain to statutory tax obligations, which fall under the definition of operational debt. The classification of the State Tax Officer as an Operational Creditor in the Resolution Plan is, therefore, accurate. Furthermore, the Plan duly acknowledges the security interest and provides for priority of payment in accordance with such interest. Hence, the objections raised in paragraphs 3 to 6 of the claim are misconceived and erroneous.

V. The Applicant further submits that the State Tax Officer did not raise any specific objection regarding the value of the Resolution Plan during the COC meetings. Their representation was limited to insisting on being treated as a "secured operational creditor" in line with the Rainbow Papers judgment.

VI. Additionally, the Applicant submits that, despite conducting two rounds of Expression of Interest (EOI), only plans of relatively lower value were received. Out of the two plans submitted, the CoC approved one plan after due consideration. There is no element of any procedural impropriety in the conduct of the process. The Resolution Professional (RP) is obligated to place only those Resolution Plans before the CoC that are compliant with the provisions of the IBC and the applicable regulations. The decision regarding the approval of any compliant plan lies solely within the commercial wisdom of the CoC. The RP has no authority to override or influence such commercial decisions.

7. This Tribunal vide its order dated 18.06.2025, recorded as under:

> *"the Applicant / RP undertook to file a revised Form-H in terms of the instructions issued by the IBBI to all the IPs and RPs in the revised format provided by the IBBI by way of additional affidavit. He further undertook to obtain an affidavit of declaration from the SRA to the effect that the SRA will honour and implement the resolution plan in case approved by this Tribunal irrespective of any terms and condition of the resolution plan therein.*
>
> *At this stage, RP should filed the copy of audited accounts of the Corporate Debtor for the Financial Year 2019-2020 and onwards, if not, filed earlier. Copy of claims received from the Financial Creditor and Operational Creditor to verify the records and stated whether the communication as per Regulation for CIRP for the Corporate Debtor were issued by the erstwhile IRP."*

8. In compliance with the aforesaid order dated 18.06.2025, the

Applicant/RP filed an additional affidavit on 04.07.2025, vide inward diary No.D-4395. In the said affidavit, the revised Form-H is also attached wherein the fair value of the Corporate Debtor is Rs.12,42,36,559/- and the liquidation value is Rs.9,68,36,559/-.

9. Further, the Applicant/RP also filed a declaration form from the SRA. The relevant portion of the same are reproduced as under:

UNCONDITIONAL AND IRREVOCABLE UNDERTAKING:

a. I hereby unconditionally and irrevocably undertake to this Hon'ble Tribunal that I shall honour, abide by and implement the Resolution Plan in its entirety, as approved by the CoC and may be finally approved by this Hon'ble Tribunal in letter and spirit and within the timelines stipulated therein.

b. It is further solemnly affirm and undertake that the implementation of the Resolution Plan by me is not subject to or contingent upon any event, condition, or circumstance. This undertaking is absolute and shall remain binding upon me irrespective of any perceived or actual changes in economic conditions, market scenarios, financial positions, or any other terms or conditions that may rise post the approval of the Resolution Plan.

c. I am fully aware of the legal consequences of the approval of a Resolution Plan under the Code. I understand that as per Section 31(1) of the Code, once the Resolution Plan is approved by the Adjudicating Authority, it becomes legally binding on the Corporate Debtor and all its stakeholders, including members, creditors, employees, guarantors, and the Central and State Government. I unequivocally submit to the binding nature of the Resolution Plan.

d. I affirm that I have the necessary financial resources, capabilities, and the firm intention to implement the Resolution Plan. As a token of my commitment, I have already submitted the Performance Guarantee of Rs.30,00,000/- (Rupees Thirty Lakhs Only) in accordance with the terms of the Letter of intent dated 28th January 2025 and the Resolution Plan.

e. I state that the Resolution Plan submitted by me is fair, feasible and *viable, and its implementation will result in the revival of the Corporate Debtor, thereby achieving the objectives of the Insolvency and Bankruptcy Code, 2016.*

10. The Applicant / RP has also filed financials of the Corporate Debtor for the year 2019-20, 2020-21, 2021-22, 2022-23 and 2023-24 dated 27.09.2023 along with audit Report for the year 2023-24 dated 25.11.2025. The same are taken on record.

11. In addition to that, vide an order dated 08.07.2025, this Adjudicating Authority passed the following order:

> *"..4. Two plans were received, one of the RA submitted plan for Rs.2.00 Cr and the other one submitted for Rs.1.50 Crore.*
>
> *5. On what basis the CoC accepted the plan submitted by the other Resolution Applicant, who submitted the plan for Rs.1.50 Cr. The basis of the commercial wisdom used by the CoC needs to be submitted in the form of an affidavit.*
>
> *6. Further, the RP has submitted an additional affidavit filed on 06.03.2025 through Inward No.D-1472, the relevant para no.7 & 8 of the same is reproduced as under:*
>
>> *7. During the course of the EOI and plan submission process, the RP had detailed discussions with all the PRA's. One of the PRA has mentioned that the Fair Value of Rs. 12,42,36,559/- is very high and it will work out for them only at the range of 6-7 Crs for the land & building. In further discussion with various land brokers in the region, we understand the market going rate in the region is around 8-9 Crs, which may involve unauthorized on-money transactions. All these indicative numbers are oral estimates shared by the prospects and brokers and do not have concrete recordical evidences.*
>>
>> *8. The Guideline value of the said land &*

building is around Rs.6,47,30,000/-(Land Rs.59,15,000/- & Building Rs.5,88, 15,000/-) We understand from the valuers and other analysis that, none of the assets in the locality are transacted for a value less than the guidelines value in the recent times."

7. *The response of the CoC is also sought in the form of an affidavit.*

12. On the next date of hearing i.e., on 23.07.2025, it is further recorded that:

> *"In compliance of order dated 08.07.2025, it has been apprised by the Ld. Counsel for the Applicant / RP as well as RP that meeting of the CoC on 14.07.2025 was convened, wherein orders of this Tribunal dated 08.07.2025 was placed and after discussion, the CoC informed that it is appointing a legal counsel in the matter and it will file an affidavit before this Tribunal on the basis issue involved herein.*
>
> *Today, Mr. Nipun Singhvi, Adv. has appeared for the CoC and seeks time to file affidavit. The same is allowed. Ld. Counsel for the CoC is directed to file the same within a period of 10 days.*

13. In compliance with the order dated 23.07.2025, an affidavit was filed on behalf of the CoC on 07.08.2025, vide inward diary No.D-5330. The relevant portion of the same are reproduced as under;

I. It is stated that on 15.09.2023, the erstwhile Resolution Professional (RP), Mr. Keyur Jagdishbhai Shah, issued Form G inviting Expressions of Interest (EOIs) from potential resolution applicants, thereby initiating the resolution plan solicitation process.

II. That in response to the invitation, only two parties submitted EOIs. This list of parties submitted their EoI's are as follows:

S. No.	Name of Parties	Date
1	Resurgent Property Ventures Private Limited	28.09.2023
2	Sureshbhai Govindbhai Lungariya	30.09.2023

III. However, the erstwhile Interim Resolution Professional (IRP) declared only one of them eligible to submit a resolution plan, as the other applicant's documents were found to be inadequate. The eligible resolution Applicant to submit the resolution Plan:

S.No.	Name of Parties	Plan Value
1	Sureshbhai Govindbhai Lungariya	Rs.50,00,000

IV. That on 11th April 2024, the erstwhile Resolution Professional has duly filed the Committee of Creditors (CoC) approved resolution plan with the Adjudicating Authority, which was submitted by Mr. Sureshbhai Govindhbhai Lunagariya.

V. However, the resolution plan was later rejected by this Hon'ble Adjudicating Authority (AA) on 30th September 2024. Following this rejection, M/s. SPP Insolvency Professional LLP (IPE), the Applicant herein, was appointed as the new Resolution Professional to continue the resolution process, with a 90-day extension of the Corporate Insolvency Resolution Process (CIRP) timeline.

VI. That the newly appointed RP reissued Form G on 10th October 2024 in the "Times of India" (English edition) and "Gujarat Samachar" (vernacular edition), covering Rajkot and Gondal districts. Pursuant to this, ten parties initially expressed interest by submitting EOIs. Of these, five prospective resolution applicants (PRAS) were declared eligible to submit resolution plans. The list of Final PRA's are as follows:

S.NO	Prospective Resolution Applicants
1	Gunvantrai Vrajlal Bhadani (Rajkot)
2	M/s MG Threads (Ahmedabad)
3	Consortium of Resurgent Property Ventures Private ltd and Sanjay Lodha (Gurugram)
4	Rohstoffe International Pvt Ltd (Mumbai)
5	Real Value Infotech Projects Pvt Ltd (Kolkata)

VII. Ultimately, only two PRAs submitted resolution plans, which were discussed during the 11th CoC meeting held on 23rd December 2024 (refer to pages 11 to 13 of the minutes). Upon evaluation, both plans were found to be relatively low in value, and revised plans were accordingly sought. Of the two PRAs, only one submitted a revised resolution plan.

VIII. That following a comparative evaluation of the two resolution plans, one offering 2 crore and the other ₹1.5 crore the RP presented both plans along with their comparative analysis before the CoC in the 12th CoC meeting held on 17th January 2025 (refer to pages 19 and 20 of the minutes). The following are the list of Resolution applicants finally revised plan value:

S.No	Resolution Applicants	Plan Value
1	Gunvantrai Vrajlal Bhadani (Revised Plan) on 30.12.2024	Rs. 1,50,00,000
2	Consortium of Resurgent Property Ventures Private ltd and Sanjay Lodha (Old Plan)	Rs.2,00,00,000

IX. The CoC subsequently approved the plan submitted by **Mr. Gunvantrai Vrajlal Bhadani,** with 100% voting share by Raj Radhe Finance Ltd. in the 12th CoC meeting, through e-voting conducted on 27th January 2025.

X. That the Resolution Professional has since filed **IA (Plan)/5(AHM) 2025** before this Hon'ble Tribunal under Section 30(6) and Section 31 of the Insolvency and Bankruptcy Code, 2016 (IBC), seeking approval of the aforementioned Resolution Plan which is pending consideration.

XI. That during the hearing held on 8th July 2025, this Hon'ble Tribunal directed the COC to file an affidavit explaining the rationale and commercial wisdom behind the approval of a resolution plan with a lower monetary offer. Copy of order dated 08.07.2025 is attached hereto and marked as **Annexure-A.**

XII. That in compliance with the directions of this Hon'ble Tribunal, the Resolution Professional convened 15th meeting of the Committee of Creditors meeting, wherein detailed deliberations took place regarding the rationale behind the approval of the resolution plan by the CoC members.

XIII. During the meeting following was accorded by the CoC member;

> *The COC representative mention that their legal team opined that the higher-valued plan lacked compliance with several critical regulatory requirements. Specifically, it failed to provide for the payment of CIRP costs and did not treat statutory creditors, including the State Tax department, in accordance with prevailing legal provisions. Additionally, the plan did not propose a distribution framework as per Section 30 of the IBC, which could have resulted in post-approval litigation, especially in view of the Hon'ble Supreme Court's ruling in the Rainbow Papers case, which recognized G-VAT as a secured creditor.*
>
> *The approved resolution plan, although lower in monetary value, offered a compliant structure that ensured the proper treatment of all stakeholders and minimized the risk of future legal disputes. The COC, exercising its commercial wisdom, considered the long-term feasibility and sustainability of the resolution and opted for a plan that avoided potential litigation and aligned with statutory requirements. It was emphasized that the decision was taken after careful deliberation and in the interest of preserving the Corporate Debtor as a going concern.*

A copy of the minutes of the 15th CoC meeting dated 14.07.2025 is enclosed herewith as **Annexure-B.**

XIV. That it is submitted that Resolution Applicant according to CoC has made compliance with Regulation 37 and 38 of CIRP Regulations, 2016. The relevant clauses of resolution plan basis on which resolution plan was approved by CoC are as follows;f

Feasibility and viability of resolution plan

a) The feasibility and viability of resolution plan is demonstrated at **Clause 12** of resolution plan. It states following;

The Resolution Applicant will manage the entire spectrum of business of the Corporate Debtor from determining scope and goals for the businesses and will undertake an analysis of existing customer and markets. The Resolution Applicant, being a strategic investor shall drive the operations with concentrated focus on areas like widening customer base, efficient Working Capital management and product wise/ item wise profitability.

The Resolution Applicant shall also undertake a systematic overhaul program its existing machinery, which will result in better quality, lower rejections and will enable the Corporate Debtor to enter new markets and different lines of business. It will further bring number of operating and financial synergies, since both the company and the applicant are engaged in the same industry in the same region and in which both, the Corporate Debtor and Resolution Applicant are indulged.

Hence, in commercial wisdom of CoC, RA has provided sufficient reasons for feasibility and viability of resolution plan.

Provisions for effective implementation of resolution plan

b) That Resolution Applicant has under Clause 22 of Resolution Plan has confirmed that in accordance with Regulation 38 (1B) that he has not failed to implement resolution plan. Further, Resolution Applicant at Clause 20 has stated management and control of the business of Corporate Debtor after its approval of resolution plan from adjudicating authority. The relevant portion is mentioned hereinbelow;

The Resolution Applicant shall induct new professionals in the management team in the future. Furthermore, the Resolution Applicant shall undertake suitable augmentation of human resources to implement this Resolution Plan. The Resolution Applicant may replace/remove existing employees to bring in operational efficiencies in the operations. The Resolution Applicant may also enter into appropriate agreements with the employees of the Corporate Debtor in respect of their terms of employment.

Financial Strategy, source of fund and revival strategy

c) The source of fund given by PRA is mentioned at Clause 11 (Page 345, Vol. II) of report. Further, the capability to implement resolution plan is mentioned at Clause 3 (Pg. 332) and 12 (Pg. 348). The Resolution Applicant has provided with its profile and emphasised on revival of Corporate Debtor. The net worth certificate provided by Resolution Applicant indicates that Resolution Applicant is capable of disbursing amount as mentioned under Resolution Plan. Copy of networth given by Resolution Applicant is attached hereto and marked as **Annexure-C.**

Cause of default addressed by Resolution Applicant

d) That the cause of default and revival strategy is mentioned by Resolution Applicant at Clause 12 of Resolution Plan. In accordance with provision of Resolution Plan, the Resolution Applicant states that Resolution Applicant and Corporate Debtor are in same business industry and has given vision to revive the Corporate Debtor.

Other Reasons

e) The Resolution Plan submitted by **Gunvantrai Vrajlal Bhadani** is considered to be legally compliant in accordance with provisions IB Code, 2016 and feasible and viable in the interest of all the stakeholders. While Resolution Plan submitted by other PRA namely **Consortium of Resurgent Property Ventures Private ltd and Sanjay Lodha** was non-compliant in terms of not providing **CIRP cost, payment to state tax** in accordance with judgement of Hon'ble Supreme Court in ***State Tax Officer (1) v. Rainbow Papers Ltd. (CIVIL APPEAL No.1661 of 2020).*** The payout to state tax department and Financial Creditor are as follows:

Creditor	**Amount proposed under Resolution Plan**
State Tax Department	1.05 Crores
Raj Radhe Finance Limited	15 Lakhs

f) The Liquidation value and Fair value are determined by registered valuers in accordance with provisions of IB Code, 2016 and therefore CoC cannot comment upon the methodologies adopted by Valuers.

XV. Based on the above, the COC exercised its **commercial wisdom** and resolved to approve the ₹1.5 crore resolution plan, as it was found to be legally sustainable, feasible for implementation, and aligned with the objective of value maximization and revival of the Corporate Debtor as a going concern.

XVI. That Hon'ble Supreme Court in Maharashtra Seamless Limited v. Padmanabhan Venkatesh and Ors. (CIVIL APPEAL NO. 4242 OF 2019) has held that;

> *26. No provision in the Code or Regulations has been brought to our notice under which the bid of any Resolution Applicant has to match liquidation value arrived at in the manner provided in Clause 35 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. This point has been dealt with in the case of Essar Steel (supra). We have quoted above the relevant passages from this judgment.*
>
> *27. It appears to us that the object behind prescribing such valuation process is to assist the CoC to take decision on a resolution plan properly. Once, a resolution plan is approved by the CoC, the statutory mandate on the Adjudicating Authority under Section 31(1) of the Code is to ascertain that a resolution plan meets the requirement of sub-sections (2) and (4) of Section 30 thereof. We, per se, do not find any breach of the said provisions in the order of the Adjudicating Authority in approving the resolution plan.*
>
> *28....Here, we feel the Court ought to cede ground to the commercial wisdom of the creditors rather than assess the resolution plan on the basis of quantitative analysis. Such is the scheme of the Code. Section 31(1) of the Code lays down in clear terms that for final approval of a resolution plan, the Adjudicating Authority has to be satisfied that the requirement of sub-section (2) of Section 30 of the Code has been complied with. The proviso to Section 31(1) of the Code stipulates the other point on which an Adjudicating Authority has to be satisfied. That factor is that the resolution plan has provisions for its implementation. The scope of interference by the Adjudicating Authority in limited judicial review has been laid down in the case of Essar Steel (supra), the relevant passage (para 54) of which we have reproduced in earlier part of this judgment.*

XVII. Further, Hon'ble Supreme Court in a catena of Judgments, one being ***'Kalparaj Dharamshi & Anr. vs. Kotak Investment Advisors Ltd. & Anr.*** (2021 SCC OnLine SC 204) has observed that the commercial wisdom of CoC must be adhered to unless the Adjudicating Authority is not satisfied that the requirement of sub-section (2) of Section 30 of the Code has been complied with. The relevant extract of the Judgment has been reproduced hereunder:

146. The view taken in the case of K. Sashidhar (supra) and Committee of Creditors of Essar Steel India Limited through Authorised Signatory (supra) has been reiterated by another three Judges Bench of this Court in the case of Maharashtra Seamless Limited (supra).

147. In all the aforesaid three judgments of this Court, the scope of jurisdiction of the Adjudicating Authority (NCLT) and the Appellate Authority (NCLAT) has also been elaborately considered. It will be relevant to refer to paragraph 55 of the judgment in the case of K. Sashidhar (supra), which reads thus:

"55. Whereas, the discretion of the adjudicating authority (NCLT) is circumscribed by Section 31 limited to scrutiny of the resolution plan "as approved" by the requisite per cent of voting share of financial creditors. Even in that enquiry, the grounds on which the adjudicating authority can reject the resolution plan is in reference to matters specified in Section 30(2), when the resolution plan does not conform to the stated requirements. Reverting to Section 30(2), the enquiry to be done is in respect of whether the resolution plan provides: (1) the payment of insolvency resolution process costs in a specified manner in priority to the repayment of other debts of the corporate debtor, (ii) the repayment of the debts of operational creditors in prescribed manner, (iii) the management of the affairs of the corporate debtor, (iv) the implementation and supervision of the resolution plan, (v) does not contravene any of the provisions of the law for the time being in force, (vi) conforms to such other requirements as may be specified by the Board. The Board referred to is established Under Section 188 of the I&B Code. The powers and functions of the Board have been delineated in Section 196 of the I&B Code. None of the specified functions of the Board, directly or indirectly, pertain to regulating the manner in which the financial creditors ought to or ought not-16- to exercise their commercial wisdom during the voting on the resolution plan Under Section 30(4) of the I&B Code. The subjective satisfaction of the financial creditors at the time of voting is bound to be a mixed baggage of variety of factors. To wit, the feasibility and viability of the proposed resolution plan and including their perceptions about the general capability of the resolution applicant to translate the projected plan into a reality. The resolution applicant may have given projections backed by normative data but still in the opinion of the dissenting financial creditors, it would not be free from being speculative. These aspects

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

148. It has been held, that in an enquiry Under Section 31, the limited enquiry that the Adjudicating Authority is permitted is, as to whether the resolution plan provides:
(i) the payment of insolvency resolution process costs in a specified manner in priority to the repayment of other debts of the corporate debtor, (ii) the repayment of the debts of operational creditors in prescribed manner, (iii) the management of the affairs of the corporate debtor, (iv) the implementation and supervision of the resolution plan, (v) the plan does not contravene any of the provisions of the law for the time being in force, (vi) conforms to such other requirements as may be specified by the Board.
149. It will be further relevant to refer to the following observations of this Court in K. Sashidhar (supra):

"57. ...Indubitably, the remedy of appeal including the width of jurisdiction of the appellate authority and the grounds of appeal, is a creature of statute. The provisions investing jurisdiction and authority in NCLT or NCLAT as noticed earlier, have not made the commercial decision exercised by CoC of not approving the resolution plan or rejecting the same, justiciable. This position is reinforced from the limited grounds specified for instituting an appeal that too against an order "approving a resolution plan" Under Section 31. First, that the approved resolution plan is in contravention of the provisions of any law for the time being in force. Second, there has been material irregularity in exercise of powers "by the resolution professional" during the corporate insolvency resolution period. Third, the debts owed to operational creditors have not been provided for in the resolution plan in the prescribed manner. Fourth, the insolvency resolution plan costs have not been provided for repayment in priority to all other debts. Fifth, the resolution plan does not comply with any other criteria specified by the Board. Significantly, the matters or grounds-be it Under Section 30(2) or Under Section 61(3) of the I&B Code-are regarding testing the validity of the "approved" resolution plan by CoC; and not for approving the resolution plan which has been disapproved or deemed to have been rejected by CoC in exercise of its business decision."

150. It will therefore be clear, that this Court, in unequivocal terms, held that the appeal is a creature of statue and that the statue has not invested jurisdiction and authority either with NCLT or NCLAT, to review the commercial decision exercised by CoC of approving the resolution plan or rejecting the same.

151. The position is clarified by the following observations in paragraph 59 of the judgment in the case of K. Sashidhar (supra), which reads thus: "59. In our view, neither the adjudicating authority (NCLT) nor the appellate authority (NCLAT) has been endowed with the jurisdiction to reverse the commercial wisdom of the dissenting financial creditors and that too on the specious ground that it is only an opinion of the minority financial creditors....."

152. This Court in Committee of Creditors of Essar Steel India Limited through Authorised Signatory (supra) after reproducing certain paragraphs in K. Sashidhar (supra) observed thus:
"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."

It can thus be seen, that this Court has clarified, that the limited judicial review, which is available, can in no circumstance trespass upon a business decision arrived at by the majority of CoC.

XVIII. That in the humble submission of CoC, the resolution plan presented before this Hon'ble Adjudicating Authority is compliant in accordance with law. The COC reserves its right to file further affidavit if required in accordance with law.

14. Further, vide order dated 08.09.2025, it is recorded that :

"Final Minutes of 15th meeting of the CoC has been filed by the Applicant/RP on 12.08.2025, vide inward diary No.D-5406. The same is taken on record.
...Meanwhile, the Applicant/RP is directed to file the chronology of dates and events of three days before the next date of hearing".

15. In compliance of the above order, the RP filed Chronology of events on 07.10.2025 vide inward no. D6774.

16. As per the definition clause, Effective Date means the NCLT approval date.

17. As per clause 2.4 of the plan **Directors of Corporate Debtor are as follows:-**

The particulars of directors of the Corporate Debtor as per the details provided in the updated Information Memorandum are set-out below. Pursuant to Sec 17 and 23 of the Code, the powers of the board of directors of the Corporate Debtor are suspended with effect from the IC Date.

Director Name	***Designation***	***DIN***	***Gender***	***Appointment Date***	***Cessation Date***
Ramnik Chakubhai Bhalala	*Director*	*00448378*	*Male*	*17th September, 2023*	--
Dineshkumar Chakubhai Bhalala	*Director*	*02870249*	*Male*		--

18. As per clause 11.5 of the Resolution Plan, the payments proposed to be made under this plan are as follows:

The payments proposed to be made under this Plan are as follow:

Sr. No.	***Particulars***	***Amount***	***Timeline***
1.	*Payment of CIRP Costs*	*Rs.25,00,000/- (As on date of submission of Resolution Plan) The Amount shall be paid at actuals on the date of*	*T+60 days from the date of approval of the Resolution Plan by Hon'ble NCLT*

		*approval of Resolution Plan with a cap of Rs. of 25 lakhs**	
2	*Payments towards claims of Financial Creditors*	*Rs.14,85,657/- minus proportionate unpaid CIRP cost*	*T+90 days from the date of approval of the Resolution Plan by Hon'ble NCLT*
3	*Payments towards claims of Operational Creditor (Statutory Dues)*	*Rs.1,05,14,343/- minus proportionate unpaid CIRP cost*	*T+90 days from the date of approval of the Resolution Plan by Hon'ble NCLT*
4	*Payments towards claims of Workmen and Employees*	*NIL*	-
5	*Payments towards any other Debts*	*NIL*	-
6	*Contingent Liability / Infusion of Working Capital*	*Rs.5,00,000/-*	
	Total	***Rs.1,50,00,000***	

***If the CIRP cost is more than as proposed, above will be deducted proportionally from the FC and OC's payment as proposed in the plan.**
Note: This plan follows judgment of the Supreme Court in the case of State Tax officer v. Rainbow Papers Ltd.

CIRP Cost

(a) The Resolution Applicant assumes that the CIRP Cost is being paid by the applicant on the actual basis with a cap of 25 lakh. In view of the same and in accordance with the Section 53 of the IB Code, 2016, we are proposing to pay the CIRP cost on priority which included paid/unpaid till the approval of the Plan, which will be deposited into the CIRP account after the approval of the plan.

(b) In case the CIRP costs exceeds the sum of Rs. 25,00,000 (Rupees Twenty-five Lakh Only) provided as aforesaid, then the increase shall be first made from the receivables/cash/bank balances or any operational revenues of the corporate debtor and balance if any shall be adjusted from the creditors to keep proposed plan amount intact. Similarly, any decrease in the CIRP cost, the remaining Bank/cash balances, receivables from operations of the Corporate Debtor shall be property of the Resolution Applicant.

(c) It is hereby clarified that the Resolution Applicant has proposed the above payment structure and mechanism so as to ensure that overall financial obligation of the Resolution Applicant remains unchanged. The Resolution Applicant confirms that all such CIRP Costs over and above the cost incurred through the balances of Corporate Debtor will be paid in full and in priority to the payment of all the other creditors/stakeholders or will be back deposited into the companies account and will be used as Working capital.
(d) Resolution Applicant proposes to meet any shortfall in the CIRP Cost, in priority over other payments to other Stakeholders in accordance to Section30 (2)(a) of the code. The payments towards the shortfall in CIRP Cost shall be met out of the proposed Total Bid Value.

Proposal for Secured Financial Creditors:

(a) *According to the updated IM, the total claims filed by Financial Creditors is Rs. 1,46,72,378.32/- (Rupees One Crore Forty-six Lakhs Seventy-two Thousand Three Hundred and seventy-eight and thirty-two paisa Only), and the total admitted claim is 1,43,72,378.32/- (Rupees One Crore Forty-three Lakhs Seventy-two Thousand Three Hundred and seventy-eight and thirty-two paisa Only) Bifurcation of the claims is provided below:*

Sr No.	Bank	Amount Claimed (Rs. In INR)	Admitted Claim (Rs. In INR)	Proposed Amount (Rs. In INR)
1	Raj Radhe Finance Limited	1,46,72,378.32	1,43,72,378.32	14,85,657.00/- *
	TOTAL	1,43,72,378.32	1,43,72,378.32	14,85,657.00

if the CIRP cost is more then as proposed above will be deducted proportionally from the FC and OC's payment as proposed in the plan.

Proposal for Operational Creditors (Government Dues)

a) *The Resolution Applicant believes that the Operational Creditors are very crucial stakeholders for any business organization and they should be reciprocated properly for the support and assistance provided by them for running the Corporate Debtor. Hence, the Resolution Applicant is desirous to consider the interest of all the Operational Creditors, to ensure the long term association with them for smooth functioning going forward.*

b) *It is understood that list of claims of Operational Creditors also include claims against the Corporate Debtor, which may be pending or sub-judice before a competent forum. Such claims are treated as* "sub-judice claims" or "contingent claims". Each such sub-judice or contingent claim is a "claim" as defined under the IB Code.

c) *As per the updated list of creditors, the total admitted Claims of the Operational Creditors amounts to Rs. 10,17,16,689.00 /- (Rupees Ten Crores Seventeen Lakhs Sixteen Thousand Six Hundred and eighty-nine Only). Bifurcation of the claims is as below:*

Sr No.	Name of Creditors	Claim Amount (Rs.)	Claim admitted (Rs.)	Proposed amount (Rs.)
1.	State Tax Officer	12,17,84,292.00	10,16,87,567.00	1,05,11,333.00/-
2.	Employee's Provident Fund Organisation	29,122.00	29,122.00	3010.00/-
	Total	12,17,84,292.00	10,17,16,689.00	1,05,14,343 /-*

**if the CIRP cost is more then as proposed above will be deducted proportionally from the FC and OC's payment as proposed in the plan.*

Source of Funds

- *The Total Bid Value shall be funded by the Resolution Applicant from his own sources through a mix of equity, unsecured loan, etc. However, the Resolution Applicant retains the right to arrange funding from various other sources including but not limited to strategic investors, raising debt from banks and/or financial institutions, issuance of Debt Instruments, etc. or to alter the funding mix and capital structure. However, under all scenarios the Resolution Applicant shall continue to be promoted, controlled and managed by entities that meet the requirements of the Code.*

- *The Resolution Applicant shall utilise the balance amount available in the CIRP Bank Account (including the EMD amount of Resolution Applicant) as on date of approval of the said plan for payment to the Creditors. Any excess funds if required shall be brought in by the Resolution Applicant as and when necessary. However, it is to note that, in no circumstances the total bid value exceeds Rs. 1,50,00,000/- (Rupees One Crore Fifty Lakhs only)*

- *Moreover, the Resolution Applicant shall keep an amount of Rs. 5,00,000/- from the CIRP Bank Account of the Corporate Debtor* *as a fund for Contingent Liability. The said fund is kept aside for dealing with any factors affecting the Resolution Plan. If in any case the fund from contingent liability is not utilised, then the said fund shall be used for the purpose of Working capital requirements*

- *The Resolution Applicant confirms that it has sufficient funds/resources to make the payment of Total Bid Value as per this Resolution Plan and/or can raise such amounts from other sources also.*

19. The Form G titled, (Invitation for Expression of Interest for M/s. Shree Ram Cottex Industries Private Limited dated 07.10.2024 (available on pages 79 and 80) stated **that there are no employees in the company.**

20. The Information Memorandum (available on pages 83 to 113 of the Plan Application) contains the following relevant information about the Corporate Debtor:

- The company was incorporated on 17.09.2013 and has a paid-up capital of Rs 1,00,00,000.
- It was engaged in the business of ginning, pressing, spinning etc. of textile products.
- 10,00,000 shares of Rs 10 each of the company are held by Shri Ramnikbhai Chakhubhai Bhalala, Shri Dineshkumar Chakubhai Bhalala, Sunitaben Dineshbhai

Bhalala, Rashilaben Ramnikbhai Bhalala, and Chakubhai Ramjkbhai Bhalala.

- Shri Ramnikbhai Chakubhai Bhalala and Dineshkumar Chakubhai Bhalala were the directors of the company.
- The company has land of 14568 sq m and seven buildings with constructed area of 7590 sq m. The land and buildings are located at survey no. 39, opposite Biliyala Bus Stop, NH-8B, Gondal, Gujarat.
- The plant and machinery of the company are already sold, before the insolvency commencement date and the factory land and building is available.
- Estimated fair value of land and building is Rs 12,13,26,005 and securities and financial assets are Rs 29,36,560.
- As per the financials provided, the company had long term borrowings of Rs 11.74 crores and short-term borrowings of Rs 16.57 crores and trade receivables of Rs 17.52 crores, cash and bank balances of Rs 4.67 crores, inventories of Rs 6.67 crores as on 31.03.2023.
- Inventories, trade receivables and cash and bank

balances were Rs 27.76 crores, Rs 24.50 crores, and Rs 1.10 crores as on 31.03.2022.

- However, claims of only M/s Raj Radhe of Rs 1,46,72,378 was received as against long term and short-term borrowings of Rs 25.57 crores and Rs 21.63 crores as on 31.03.2022. It is unclear, who were these persons, and why no claims were filed.
- There is a tax demand of Rs 12,17,84,292 of the State Tax Department against the Corporate Debtor.
- The company repaid loan of Rs 14.10 crores during the year 2022-2023, as a related party transaction, but no application for avoidance (preferential) transaction is filed.
- There are material litigation of the company (page 106 of the Application).
- **The corporate debtor is not a going concern and they have sold all their machineries as on 15.07.2023 and had provided land on lease.**
- **The company has an unabsorbed business loss of Rs 6,65,66,372 and unabsorbed depreciation of Rs**

19,95,193.

- A charge on the assets was created for Rs 1,50,00,000 on 13.09.2022 in favour of charge holder namely Raj Radhe Finance Limited.

21. The information relevant to the present proceedings, as available in the Resolution Plan (Pages 316 to 372 of the Application) submitted by Shri Gunvant Rai Vrajlal Bhadani, approved by the CoC is given below:

- **The Resolution Plan notes that the Corporate Debtor is not a going concern and they have sold all their machineries as on 15.07.2023 and had provided land on lease. There are no ongoing operations in the Corporate Debtor.**
- Material litigations (listed) are pending in High Court of Gujarat and Taluka Court Gondal.
- The Resolution Applicant proposed a total bid value of Rs 1,50,00,000.
- In paragraph 18.1 of the Plan, it is stated that on approval of the Resolution Plan by the CoC and Adjudicating Authority, **the Resolution Applicant**

proposes to transfer the shares of the company to the respective parties identified by the SRA without any consideration, raising concerns under Section 29A of the IBC regarding eligibility and potential circumvention of checks on new shareholders. In the monitoring committee meeting, the said transfer will be noted and will be considered as a deemed transfer if not signed by the current shareholder.

- Clause 20 of the Plan notes that the RA may replace/remove existing employees to bring in operational efficiencies in the operations. The Resolution Applicant may also enter into appropriate agreements with the employees of the Corporate Debtor in respect of their terms of employment.

22. Form H submitted by the Applicant (on 04.07.2025) contains the following relevant information:

- Initiation of CIRP on 17.07.2023.
- Fair value- Rs 12,42,36,559
- Liquidation Value Rs 9,68,36,559.
- Resolution Plan value Rs 1,50,00,000. (Approved by the

CoC)

- Second resolution plan value Rs 2,00,00,000 which was not approved by the CoC.
- Approved resolution plan value is Rs 15.50% of the liquidation value whereas it is 12.07% of the Fair Value.
- The Form notes that the realizable value to the operational creditors will be significantly lower on account of approval of plan for lower value in comparison to the liquidation value.
- The unabsorbed business loss is of Rs 6,65,66,372 and unabsorbed depreciation is Rs 19,95,193.

23. M/s Raj Radhe had granted a loan of Rs 1,50,00,000 on 21.07.2022. M/s Raj Radhe filed an application under section 7 of the IBC, 2016 on 24.03.2023. All the machineries were sold on 15.07.2023 and the Corporate Debtor was initiated into CIRP on 17.07.2023.

24. The Audit Report for the financial year 2023-2024 shows that trade receivables got reduced from 14.90 crores to Rs 2.62 crores. Short term borrowings got reduced from 16.57 crores to NIL. Long term borrowings got reduced from Rs 11.91 crores to 4.64 crores. Cash and cash equivalent got reduced from Rs 4.67 crores to Rs 58.03 lakhs. The company sold plant and machinery for Rs 200.28 lakhs and vehicles for Rs 5.27 lakhs and furniture and office equipment also.

25. The Resolution Plan seeks various waivers and concessions. Some of these waivers and concessions sought have no nexus with the real facts and ground situation of the Corporate Debtor.

ANALYSIS AND FINDINGS OF THIS TRIBUNAL

26. Before adverting to the Application filed by the RP and the submitted Resolution Plan, we consider it appropriate to highlight essential facts about the case as available in the records.

- The Corporate Debtor had availed a loan of Rs 1,50,00,000 from M/s Raj Radhe Finance Limited on 21.07.2022. M/s Raj Radhe filed an application under section 7 of the IBC, 2016 on 24.03.2023. All plant, machinery, furniture, and office equipment were sold on 15.07.2023 for more than Rs 2 crores just before admission of Application under section 7 on 17.07.2023 leaving nothing except immovable properties.

- The Information Memorandum and the Resolution Plan states that the company is not a going concern. All the plants and machinery are sold. There are no employees in the company. There are no ongoing operations in the company.

- The company has only land and building and the fair value is Rs 12,42,36,559 and liquidation value is Rs 9,68,36,559. As against these valuations, the Plan value is Rs 1,50,00,000.

- The information available on the record does not show the purpose for which this loan received from M/s Raj Radhe Finance was used.

- No transaction audit (for determining avoidance or fraudulent transactions) has been carried out in the case.

- The company had a high value of inventories, cash and bank balance, and amounts receivable and these got reduced during FY 2023-2024 and payments made to related parties, but no transaction audit was carried out.

- Sales Tax Department has a claim of more than Rs 12 crores.

- There are many court cases pending against the Corporate Debtor.

- The Resolution Applicant is an individual and the Plan does not provide who will own the equity of the Corporate Debtor and who will be the owners of the company. The Plan states that the SRA will decide who will be the new shareholders and shares will be allotted without a consideration. We are unable to understand the reasons for the same. Further, there would not be any check for section 29A compliance.

- The Plan has not identified the cause of default by the corporate debtor, and it does not provide for how the land and building will be used.

27. The Single member CoC or the RP did not inquire about the reasons for selling all the movable assets of the Corporate Debtor just two days prior to the Corporate Debtor being initiated into CIRP. Whether the transactions were at arm's length. No application for avoidance or fraudulent transactions is filed. As discussed above there has been a significant change in the values of receivables and payables in the years 2022-2023 and 2023-2024 but these do not find any mention in any of the CoC meetings.

28. **<u>SECTION</u>** 31 of the IBC deals with the approval of the resolution plan. Section 31 reads as follows:

> ***"31. Approval of Resolution Plan***
> *(1) If the Adjudicating Authority is satisfied that the resolution plan as approved by the committee of creditors under sub-section*
> *(4) of section 30 meets the requirements as referred to in sub- section (2) of section 30, it shall by order approve the resolution plan which shall be binding on the corporate debtor and its employees, members, creditors, including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force, such as authorities to whom statutory dues are owed, guarantors and other stakeholders involved in the resolution plan.*
> ***Provided that the Adjudicating Authority shall, before passing an order for approval of resolution plan under this sub-section, satisfy that the***

resolution plan has provisions for its effective implementation.

(2) Where the Adjudicating Authority is satisfied that the resolution plan does not confirm to the requirements referred to in sub-section (1), it may, by an order, reject the resolution plan.

(3) After the order of approval under sub-section (1),—

(a) the moratorium order passed by the Adjudicating Authority under section 14 shall cease to have effect; and

(b) The resolution professional shall forward all records relating to the conduct of the corporate insolvency resolution process and the resolution plan to the Board to be recorded on its database.

(4) The resolution applicant shall, pursuant to the resolution plan approved under sub-section (1), obtain the necessary approval required under any law for the time being in force within a period of one year from the date of approval of the resolution plan by the Adjudicating Authority under sub-section (1) or within such period as provided for in such law, whichever is later.

Provided that where the resolution plan contains a provision for combination, as referred to in section 5 of the Competition Act, 2002, the resolution applicant shall obtain the approval of the Competition Commission of India under that Act prior to the approval of such resolution plan by the committee of creditors."

29. To our understanding, section 31 requires satisfaction of the Adjudicating authority on two broad issues:

a) Whether the resolution plan has provisions for its effective implementation; and

b) Whether the resolution plan meets the requirements of section 30 (2) read with Regulations 38 and 39 of the CIRP

Regulations.

30. This Tribunal had passed an order in this case on 30.09.2024. The order concerned approval of resolution plan which was rejected. The order notes that the Plan value was only Rs 50,00,000 and that was also approved by the sole CoC member. In paragraph 18 of the Order, the submission of the State Tax Department notes that the Corporate Debtor was a company having turnover in crores of rupees and strong balance sheet before it availed loan from Raj Radhe Finance Limited. Regarding taking loans from M/s Raj Radhe, the conduct of the Corporate Debtor raises serious doubts about the genuineness. In the Resolution Plan, the land and buildings were not included and the same were also not valued. The land and building were not included in the Information Memorandum. There were a suppression of material facts. It also notes that prior to the commencement of CIRP all the machineries were sold to Aradhya Cotfeb LLP. The land was also leased to this company at a monthly rent of Rs 10000. During hearing of that case (paragraph 53), the learned counsel for the RP requested this Bench not to liquidate the Corporate but to give another chance for rescue of the Corporate Debtor. Then RP was also changed, and the present RP was appointed by this Tribunal.

31. Section 30 (2) of the IBC reads as below:

> ***"30. Submission of resolution plan.***
> *(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 payment of other debts of the corporate debtor;*
> > *(b) provides for the payment of debts of operational creditors in such manner as may be specified by the Board which shall not be less than-*
> >
> > > *(i) the amount to be paid to such creditors in the event of a liquidation of the corporate debtor under section 53; or*
> > >
> > > *(ii) the amount that would have been paid to such creditors, if the amount to be distributed under the resolution plan had been distributed in accordance with the order of priority in sub-section (1) of section 53,*
> >
> > *whichever is higher, and provides for the payment of debts of financial creditors, who do not vote in favour of the resolution plan, in such 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 a liquidation of the corporate debtor.*
> > *Explanation 1.-For removal of doubts, it is hereby clarified that a distribution in accordance with the provisions of this clause shall be fair and equitable to such creditors.*

Explanation 2.-For the purpose of this clause, it is hereby declared that on and from the date of commencement of the Insolvency and Bankruptcy Code (Amendment) Act, 2019, the provisions of this clause shall also apply to the corporate insolvency resolution process of a corporate debtor-

(i) where a resolution plan has not been approved or rejected by the Adjudicating Authority;

(ii) where an appeal has been preferred under section 61 or section 62 or such an appeal is not time barred under any provision of law for the time being in force; or

(iii) where a legal proceeding has been initiated in any court against the decision of the Adjudicating Authority in respect of a resolution plan;

(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.

Explanation. -For the purposes of clause (e), if any approval of shareholders is required under the Companies Act, 2013 (18 of 2013) or any other law for the time being in force for the implementation of actions under the resolution plan, such approval shall be deemed to have been given and it shall not be a contravention of that Act or law."

Furthermore, Regulation 39(4) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, requires the CoC to evaluate the resolution plan based on its feasibility and viability. It appears that other than the distribution of Rs 1,50,00,000 provided in the Plan (meeting CIRP cost, Payment to M/s Raj Radhe Finance and Sales Tax Department) there is nothing about the business plan by the RA. There are no words about the insolvency and resolution thereof. It appears to be a simple case of the SRA acting as an intermediate because it wants to issue shares to some other persons without any consideration. How is that possible? How could ownership of the land and building of more than Rs 12 crores can be transferred without any consideration? It appears to be a simple case of purchase of the land and building by the RA at a price much lesser than the fair value and liquidation value. The Plan value is about 16%-17% of liquidation value. As per RP there were some persons interested in purchasing land and building for about 6 crores to 9 crores. There is nothing in the plan for effective implementation of the plan except the receipt of Rs 1,50,00,000 and utilization of the same. Nothing on the business of the Corporate Debtor. In the case of the CD, the plan does not benefit anyone because there are no employees and does not contribute to any business growth as such. The CD has no other stakeholders like employees or customers who will benefit. In fact, there is nothing in the plan that provides for insolvency resolution of the CD or revival of the CD. The CD has already sold all the plant and machinery during the year 2023-2024. We are not convinced that the case supports resolution of the insolvency. The case has potential of misuse of the business losses and unabsorbed depreciation because the CD can be sold to any one by allotting shares to it. The asset in the form of available business loss and unabsorbed deprecation is not valued and this is a possibility because the RA has not given information on the new shareholders of the company and how will it use the Corporate Debtor.

32. This Tribunal is fully conscious of the principle that judicial intervention by the Adjudicating Authority under the Insolvency and Bankruptcy Code, 2016, must be limited and restrained. As reiterated in a catena of decisions by the Hon'ble Supreme Court, including in ***K. Sashidhar v. Indian***

Overseas Bank [2019] 102 taxmann.com / 12 SCC 150, **Committee of Creditors of Essar Steel Ltd. V. Satish Kumar Gupta 8 SCC 531, Ebix Singapore (P) Ltd v. Committee of Creditors of Educomp Solutions Ltd [2021] 130 taxmann.com 208,** ***Vallal RCK v. Siva Industries &Holding Ltd*** **((2022) 9 SCC 803)**, the commercial wisdom of the CoC is not to be interfered with, save in exceptional circumstances. However, this Tribunal cannot remain a mute spectator where the very anchor of the insolvency resolution process, the bona fide, and the commercial judgment of the CoC - is corroded by patent arbitrariness and opacity.

33. Hon'ble Madras High Court in the matter of S.V. Ramani v. Union of India (Writ Petition No. 29845 of 2022) has observed in para 52.3 as under:

> " 52.3 While the legislative intent to save the corporate debtor as a going concern may be appreciable, should it be at the cost of others, more so when the IBC offers adequate space for engineering manipulation? The larger question therefore, is why should the Parliament bend backwards to protect one corporate debtor at the risk of exposing the public interest to peril? The present case, a case study merely, illustrates how IBC could be manipulated to defeat the interests of the undisclosed creditors of the corporate debtor. Some points for the Parliament to ponder, and some legislative correction for

it to make, lest the long term impact of the IBC could be disastrous, if not counterproductive. Incidentally, has the Parliament taken note of the percentage of recovery generally achieved out of a successful resolution process of the Corporate Debtor?".

The facts suggest that there is no business of the CD, no employees, no machineries and the remaining fixed assets are sold in the year 2023-2024.

34. These facts raise serious doubts about the whole CIRP process initiated based on the application of M/s Raj Radhe Finance Limited. There is nothing on record about the inventory of crores of rupees and receivables too. No transaction audit was carried out. The Sales Tax Department has objected to the Plan considering its low value in comparison to fair and liquidation value. The Commercial Wisdom of the CoC is required to be judged based on the facts of the case and the involvement of the CoC in the whole CIRP. The land and building was not included in the Information Memorandum, the land and building was leased but nothing on the record, machineries were sold during the period it was not able to recover its loan, there was huge change in the value of receivable and payable, all machineries were sold pending its application before this Tribunal, there are no employees, the Information Memorandum notes the CD is not a going concern. We do not see any sign of genuine insolvency resolution in the case.

35. There is no material in the Plan underpinning the feasibility and viability of the Resolution Plan.

36. The fulcrum on which the Resolution Process under the Code proceeds is the full and correct knowledge of the affairs of the CD i.e. fulcrum of the CIRP is full disclosure under Regulation 36 (Information Memorandum); however, in the present case, it appears that full information about the CD was not available to the CoC, which undermined CoC's informed decision-making. Therefore, the CoC could not be said to have exercised its commercial wisdom while approving the resolution plan.

37. The decision of the CoC to approve everything put up to it with a 100% majority and without raising any pertinent questions/clarifications on anything during the whole CIRP indicates a behavior not of prudent decision makers and at arm's length. The CoC's approval of the resolution plan with a 100% majority, without questioning significant transactions undertaken and particularly of selling the assets by the CD. There appears to be no questioning or discussion with the erstwhile/suspended management about the huge receivables and inventories. Such failure to exercise due diligence violates the CoC's duty to maximise value under Section 30(4) and undermines the IBC's objectives. There appears to be no intention to resolve the insolvency as the CD has no ongoing business.

38. In the case of ***Vallal RCK v. Shiva Industries (supra)*** the Hon'ble Supreme Court has also held that:

> *" ...in our view, the adjudicating authority or the appellate authority cannot sit in an appeal over the commercial wisdom of the CoC. The interference would be warranted only when the adjudicating authority or the appellate authority finds the decision of the CoC to be wholly capricious, arbitrary, irrational and dehors the provisions of the statute or rules."*

39. In view of the facts discussed above, the CoC not only acted in a "capricious, arbitrary, irrational" manner but also approved the plans that contravene the provisions of IBC and the

Regulations. In that regard, the CoC has failed to exercise its commercial wisdom in deciding on the Resolution Plan, which, in a real sense, does not take into account the ground realities of the CD and is not commercially feasible and viable. It does not lead to value maximisation from the assets of the CD.

40. Therefore, we are of the view that the resolution plan has no provisions for its effective implementation as required by Section 31 (1) of the IBC, except payment to the CoC member and the Sales Tax Department. This non-compliance warrants rejection under Section 31(2), leading to mandatory liquidation under Section 33(1)(b), as no other compliant plan is available within the CIRP period.

41. The Tribunal would also like to mention that the underlying purpose of a resolution plan is not merely the settlement of claims but the revival of the Corporate Debtor as a going concern in a manner that is commercially viable and legally compliant. In this regard, Regulation 38(3) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, outlines key parameters that every resolution plan must comply with. The said regulation reads as under:

"Regulation 38(3): The resolution plan shall demonstrate that -

(a) it addresses the cause of default;
(b) it is feasible and viable;
(c) it has provisions 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."

42. In the present case, upon a detailed consideration of the material on record, it is evident that the resolution plan fails to satisfy the criteria laid down in the above regulation. Further, section 30 (2) of the IBC, 2016 requires that the plan provides for the implementation and resolution of the Plan. The RA has no plans to provide a resolution to the corporate insolvency. As discussed in detail with cogent reasons, the Plan fails to meet the requirements of clauses (c), (d), (e), and (f) of section 30 (2) of the IBC, 2016.

43. The plan lacks financial depth and strategic clarity to justify its feasibility and viability, as it provides no business projections to revive the Corporate Debtor, which has no ongoing operations, employees, or plant and machinery. Moreover, there is no demonstrable vision to restart the business of the CD and no capability is shown on the part of the Resolution Applicant to implement the plan. In fact, does not provide any information on the business projections of the CD and how will it be achieved.

44. Thus, in substance and spirit, the resolution plan does not comply with the provisions of Sections 30(2)(c), (d), (e), and (f) and Section 31 of the IBC, 2016, and Regulation 38(3) of the CIRP Regulations, as it fails to provide for the management of the CD's affairs, effective implementation, compliance with applicable laws, and demonstrates the RA's capability to implement the plan.

45. The Hon'ble Supreme Court in the case of Pratap Technocrats (P) Ltd. v. Monitoring Committee of Reliance Infratel Ltd. 10 SCC 623, under the Heading: Balancing the goals and key objectives of insolvency law in paragraph 46 of the order noted that, " since an insolvency regime cannot fully protect the interests of all parties, some of the key policy choices to be made while designing the insolvency law relate to the broad goals of the law (rescuing businesses in financial difficulty, protecting employment, protecting the interest of creditors. Encouraging the development of an entrepreneurial class) and achieving the desired balance between the specific objectives identified above.

> The Hon'ble Court in paragraph 47 further notes that, "Hence, once the requirements of IBC have been fulfilled, the adjudicating authority and the appellate authority are duty-bound to abide by the discipline of the statutory provisions. It needs to be emphasised that neither the adjudicating authority nor the appellate authority have an unchartered jurisdiction in equity. The jurisdiction arises within and as a product of a statutory framework.

Thus, where, as here, the plan fails to balance creditor interests and revival objectives, rejection is justified to prevent misuse, as cautioned in S.V. Ramani v. Union of India (Madras High Court, Writ Petition No. 29845 of 2022).

46. As discussed in this order, currently, there is no business in the CD, CD has no employees, the creditors other than the unsecured security creditor (sole CoC member) have not even filed any claim, all pointing to the conclusion that the plan submitted by the RA does not meet the goals of the IBC law.

47. Accordingly, and in view of the discussion above, the relying on the provisions of Sections 30 and 31 (2) of IBC, 2016 and

Regulation 38 as referred above, the Resolution Plan in question is hereby rejected by this Adjudicating Authority for non-compliance with Regulation 38(3)(a), (b), (c), and (e) of the CIRP Regulations, 2016, as it fails to address the cause of default, demonstrate feasibility and viability, provide for effective implementation, and establish the resolution applicant's capability to implement the plan.

48. The provisions under Section 33(1)(b) of the Code are reproduced below: -

> ***33. Initiation of liquidation. -***
> *(1) Where the Adjudicating Authority, -*
>
> > *(b) rejects the resolution plan under section 31 for the non- compliance of the requirements specified therein, it shall -*
> >
> > *(i) pass an order requiring the corporate debtor to be liquidated in the manner as laid down in this Chapter;*
> > *(ii) issue a public announcement stating that the corporate debtor is in liquidation; and*
> > *(iii) require such order to be sent to the authority with which the corporate debtor is registered.*

49. The Hon'ble Supreme Court in the case of Ramkrishna Forging Ltd. (Supra), in paragraph 29 referred to the decisions in the cases of Innoventive Industries Ltd. v. ICICI Bank Ltd. [2017] 84 taxmann.com 320/ 1 SCC 407 and Swiss Ribbons (P) Ltd.

v. Union of India [2019] 101 taxmann.com 389/4 SCC 17 in which it was explained that the Code was specifically introduced by the Parliament for ensuring quick and time bound resolution of insolvency of corporate entities in financial trouble, by first attempting to revive the Corporate Debtor, failure whereof would entail liquidation of the corporate debtor's assets.

50. As a consequence, following the rejection of the resolution plan under Section 31(2) for non-compliance with statutory requirements, and given the mandatory requirement under Section 33(1)(b) to initiate liquidation upon failure to approve a resolution plan within the CIRP period, the Tribunal orders the liquidation of the Corporate Debtor to maximize creditor value and conclude the insolvency process.

51. In view of the above, it is hereby ordered as follows: -

a) The Corporate Debtor **Shree Ram Cottex Industries Private Limited** is admitted into liquidation in terms of the provisions of **33(1)(b)** of the Insolvency and Bankruptcy Code, 2016, to be conducted in accordance with Chapter III of the Code and the IBBI (Liquidation Process) Regulations, 2016 which shall be effective from the date of this order.

b) **Mr. Pankaj Khetan**, having Registration No. IBBI/IPA-002/IP-N00010/2016-2017/10014, E-mail ID ippankajkhaitan@gmail.com; Mobile No. 99998-83792 & 93102-01908 is hereby appointed as a Liquidator of the Corporate Debtor i.e. **Shree Ram Cottex Industries Private Limited**, as the Liquidator of the Corporate Debtor to carry the liquidation process.

c) The Moratorium declared under section 14 of the Code shall cease to have effect from the date of the order of liquidation.

d) A fresh moratorium under Section 33(5) of the Code is declared, prohibiting the institution or continuation of suits or proceedings against the Corporate Debtor, except as provided under the Code, effective from the date of this order until the completion of the liquidation process.

e) The Liquidator shall take charge of the Corporate Debtor's assets, books, and records forthwith and perform all duties as prescribed under Sections 35 to 50 of the Code and the IBBI (Liquidation Process) Regulations, 2016.

f) The Liquidator is directed to file a preliminary report within 75 days of this order, as per Regulation 13 of the IBBI (Liquidation Process) Regulations, 2016 and submit periodical progress reports to this Tribunal.

g) The Liquidator so appointed shall complete the liquidation process as per the provisions of the Code r.w. the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

h) Considering that the sale of corporate debtor has not met with the expected success in the CIRP and as per RP there are prospective buyers interested in land and building, the liquidator with the consent of the SCC may consider selling assets as per Regulation 32 (a) to 32 (d) [IBBI (Liquidation Process) Regulations, 2016 to maximise the value of assets for the benefit of the financial creditor, Sales Tax Department and other stakeholders.

i) All the powers of the Board of Directors, key managerial persons, and the partner of the Corporate Debtor, as the case may be, hereafter cease to exist. All these powers henceforth vest with the Liquidator.

j) The Creditors, as well as the Personnel of the Corporate Debtor, including the suspended management, are directed to extend all cooperation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.

k) The Liquidator will charge fees for the conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified by IBBI and same shall be paid to the Liquidator from the proceed of the liquidation estate under section 53 of the Code.

l) Once the liquidation process is initiated, subject to section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor. The Liquidator has the liberty to institute a suit and other legal proceedings on behalf of the Corporate Debtor with the prior approval of this Adjudicating Authority, as provided in sub-section (5) of section 33 of the Code.

m) This liquidation order shall be deemed to be notice of discharge to the officers, employees, and workmen of the Corporate Debtor except to the extent of the business of the Corporate Debtor continued during the liquidation process by the Liquidator.

n) This Adjudicating Authority directs the Liquidator to issue a public announcement stating that the Corporate Debtor is in liquidation. The Liquidator will also serve a copy of this order to the various Government Departments such as Income Tax, GST, VAT, and all financial and other creditors etc., who are likely to have any claim upon the Corporate Debtor so that the authorities concerned are informed of the liquidation order timely. The Liquidator will also provide a copy of this order to the trade unions/employee associations of the Corporate Debtor so that the workman/employees could also be informed of this liquidation order through their association.

o) The liquidator to consider filing applications against the persons from whom debt of more than Rs 1 crore is due and the application would be in the limitation period.

p) The Liquidator is further directed to consider commissioning a forensic audit to identify any preferential, undervalued, fraudulent, or extortionate transactions under Sections 43, 45, 50, and 66 of the IBC, given the significant asset sales and financial transactions noted in the accounts including fate of inventory.

q) The Liquidator is directed to prioritize these investigations to ensure transparency and protect creditor interests, addressing all the deficiencies noted in this order during the CIRP. The Liquidator shall coordinate with the Adjudicating Authority for any necessary approvals to institute legal proceedings, as provided under Section 33(5) of the IBC.

r) As has been discussed in this order, the CD is not carrying out any business operation, there are no plant and machinery and no employees. The Liquidator in consultation with the Stakeholder Consultation Committee, as constituted under the provisions of Regulation 31A, may consider the sale of financial assets with priority.

s) The present Resolution Professional is directed to hand over the relevant documents and control of the Corporate Debtor to the newly appointed liquidator forthwith.

t) The Registry is directed to communicate this order to the concerned Registrar of the Companies, the registered office of the Corporate Debtor, IBBI, the Resolution Professional, and the Liquidator by speed post as well as e-mail within one week from the date of this order, after completion of all the formalities for records and necessary action, if any. The Registrar of Companies shall update the Corporate Debtor's status on the MCA portal accordingly.

u) Registry is directed to send a copy of this order to the Principal Chief Commissioner of Income Tax, Ahmedabad.

v) Liberty is granted to the Liquidator to approach this Tribunal for any further directions or clarifications as may be required during the liquidation process.

52. Accordingly, **IA(Plan)/05(AHM)2025** in CP(IB) No. 91 of 2023 stands **dismissed** and disposed of.

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

-SD-

SANJEEV SHARMA
MEMBER (TECHNICAL)

Rajeev Sen

-Sd-

SHAMMI KHAN
MEMBER (JUDICIAL)