

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH-IV**

**IA-30/2024**

Under Section 30(6) of Insolvency &  
Bankruptcy Code, 2016

**Mr. Avil Menezes**

Resolution Professional/  
...Applicant

In the matter of

**CP (IB) No.1009/MB/C-IV/2020**

**AJS Impex Private Limited**

...Operational Creditor

Vs.

**Nyka Steels Private Limited**

...Corporate Debtor

**Order Pronounced on: 27.06.2024**

*Coram:*

Ms. Anu Jagmohan Singh  
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli  
Hon'ble Member (Judicial)

For the Applicant/RP :

Mr. Nausher Kohli a/w Mr.  
Rakesh Gupta, Learned Counsel  
present.

**ORDER**

1. This Application has been filed on 26.02.2024 by the Resolution Professional under Section 30(6) of the Insolvency and Bankruptcy Code, 2016 on behalf of the Committee of Creditors seeking approval of the Resolution Plan submitted by the Successful Resolution Applicant and approved by 100% of the voting share of the members of the Committee of Creditors

(hereinafter referred to as 'CoC') of the Corporate Debtor viz. Nyka Steels Private Limited (hereinafter referred to as 'Corporate Debtor').

2. **The brief facts of the Application are as follows:**

- 2.1 Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor was initiated vide an order dated 03.02.2023 of this Court in C.P.(IB)-1009(MB)/2020 on an application filed by AJS Impex Private Limited (Operational Creditor) under Section 9 of the Insolvency and Bankruptcy Code 2016. Mr. Hitesh Kothari (Reg. No.: IBBI/IPA-002/IP-N00324/2017-2018/10929) was appointed as Interim Resolution Professional (IRP). The Erstwhile IRP made a public announcement in the newspapers (in Mumbai) in Form-A on 10.02.2023 inviting claims from the creditors, workers/employees of the Corporate Debtor and from government bodies. IRP constituted the Committee of Creditors (CoC) based on the claims received by him and the first meeting of the CoC held on 09.03.2023. The second meeting of the CoC was held on 13.04.2023 wherein the resolution was passed for appointment of Mr. Avil Menezes as the Resolution Professional of the Corporate Debtor and the same was allowed vide an order of this Tribunal dated 12.05.2023.
- 2.2 Form G was published on 21.06.2023 and the last date for submission of the resolution plan was 04.09.2023

which was extended by CoC till 03.10.2023. The following Application for seeking extension under section 12(2) was filed and sought:

Sr. No.	Order Dated	Extension Granted	Period
1.	21.07.2023	90 Days	03.08.2023-31.10.2023
2.	06.11.2023	45 Days	01.11.2023-15.12.2023
3.	12.03.2024	74 Days	16.12.2023-28.02.2024 (Last date of CIRP)

2.3 The Applicant submits that there were 15 Expression of Interest's received from Prospective Resolution Applicant (PRAs) out of which 2 PRAs has submitted the Resolution Plan i.e. DM Metalloys Private Limited and Lalita Santosh Powle in Consortium with Pravesh Seafood Private Limited.

2.4 The Resolution Plan submitted by the Resolution Applicant viz. Lalita Santosh Powle in Consortium with Pravesh Seafood Private Limited was approved by the CoC in the 10<sup>th</sup> meeting held on 04.01.2024 and the

same was put for e-voting which concluded on 09.02.2024, approving the Resolution Plan submitted by Lalita Santosh Powle in Consortium with Pravesh Seafood Private Limited **unanimously with 100% voting**. The resolution is reproduced below -

*“Resolved that, the Revised Resolution Plan dated 20.12.2023 and the addendum to resolution plan dated 04.01.2024 submitted by Lalita Santosh Powle in Consortium with Pravesh Seafood Private Limited is hereby approved by the Committee of Creditors of the Nyka Steels Private Limited pursuant to Section 30(4) of the Insolvency and Bankruptcy Code,2016 and the rules and regulations thereunder.”*

2.5 The Applicant issued Letter of Intent dated 10.02.2024 to the Resolution Applicant. It is submitted that the Successful Resolution Applicant has provided the required Performance Security as under:

Date	Amount	UTR
04.09.2023	INR 25,00,000	CBIN0280624(2023090410002479)
14.02.2024	INR 1,00,00,000	CBIN0280624 (RTGS)

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15.02.2024	INR 37,20,000	CBIN0280624 (RTGS)
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2.6 Therefore, RP states that the Resolution Plan approved by the CoC is in compliance with the requirements of Section 30(2) of the Code.

In compliance of Section 30(2) of IBC, 2016, the Resolution Professional has examined the Resolution plan of the Successful Resolution Applicant and confirms that this Resolution Plan:

- a. Provides for payment of Insolvency Resolution Process cost in a manner specified by the Board in the priority to the payment of other debts of the corporate debtor;
- b. Provides for management of the affairs of the Corporate Debtor after approval of Resolution Plan;
- c. The implementation and supervision of Resolution Plan;
- d. Does not prima facie contravene any of the provisions of the law for time being in force,
- e. Conforms to such other requirements as may be specified by the Board.
- f. As per the Affidavit received and the further documents submitted, the Resolution applicants are not covered under 29A.

2.7 In compliance of Regulation 38 of CIRP Regulations, the Resolution Professional confirms that the Resolution plan provides that:

- i. The amount due to the Operational Creditors under resolution plan shall be given priority in payment over Financial Creditors.
- ii. It has dealt with the interest of all Stakeholders including Financial Creditors and Operational Creditors of the CD.
- iii. A statement that neither the Resolution Applicants nor any related parties have failed to implement nor have contributed to the failure of implementation of any other Resolution Plan approved by the AA in the past.
- iv. The terms of the plan and its implementation schedule.
- v. The management and control of the business of the CD during its term.
- vi. Adequate means of Supervising its implementation.
- vii. The Resolution Plan Demonstrates that it addresses
  - a. The cause of the Default
  - b. It is feasible and viable
  - c. Provision for effective implementation
  - d. Provisions for approvals required and the time lines for the same.
  - e. Capability to Implement the Resolution Plan

2.8 The Resolution Applicant viz. Lalita Santosh Powle in Consortium with Pravesh Seafood Private Limited i.e. Mrs. Lalita Powle is proprietor of Sanlita Exports having specialization in the area of overall management supervision and corporate social responsibilities. She handles local trading activities of Groundnuts, Corainder Seeds, Sesame Seeds, Shrimps and Fishes and Pravesh Seafood Private Limited, consortium member, having registered office at 415,4<sup>th</sup> Floor, Silver Spring, Opp MIDC Office, MIDC Taloja, Dist. Raigad, State Maharashtra. The Company commenced the operations in the year 2014-15, as Merchant Exporter registered under MPEDA for processing and Exports of Marine products. The Resolution Applicant confirmed that it is eligible to submit Resolution Plan as per Section 29A of Insolvency and Bankruptcy Code.

2.9 The Resolution Applicant has confirmed that -

- i. its connected persons are not convicted for any offence during the preceding five years and no criminal proceedings are pending against any person.
- ii. not disqualified under Companies Act, 2013 to act as a Director.

- iii. not identified as a willful defaulter by any bank of financial institution or consortium thereof in accordance with the guidelines of the Reserve Bank of India.
- iv. not debarred from accessing to, or trading in securities markets under any order or directions of the Securities and Exchange Board of India.

2.10 As per the RP the Fair Value and Liquidation Value determined by the registered Valuer are as follows:

Fair Value Rs. 8,98,38,422/-

Liquidation Value Rs. 6,83,84,524/-

3. **Resolution Plan for the Corporate Debtor (the key features of the Resolution Plan submitted by Lalita Santosh Powle in Consortium with Pravesh Seafood Private Limited is summarized below):**

3.1 *The value of the said Resolution Plan is Rs. 8,11,00,000/- which includes the payments towards the CIRP cost, payment to Secured Financial Creditors, and the summary of payment is enumerated below:*

Sr. No	Particulars	Amount (Rs)	Terms of Payment
1	Corporate Insolvency Resolution Process Cost	20,00,000/-	At Actuals, within 120 days from effective date



2	Payment to Secured Financial Creditor	7,91,00,000/-	Within 120 days from effective date (Interest on delay payments after 75 days at MCLR)
5	Payment to the Operational Creditor (other than Workmen/employees and other Statutory dues)	NIL	Settlement at 0%
	Total	8,11,00,000/-	

4. It is submitted that there is an application pending apropos certain fraudulent transaction under section 66 of the code, as duly mentioned in Form H Hereto. It is submitted that clause 9.1 of the Resolution Plan provides that *“Any monies received pursuant to exercise of powers and obligations by the Resolution Professional under Sections 43 to 51 (both inclusive) and Section 66 of the IBC, shall be vested in the Secured Financial Creditor. However, we have not been provided details of any transactions falling above referred sections. It is clarified that upon successful implementation of Resolution Plan and discharge of the Resolution Professional any application filed by the Resolution Professional under Section 43 to 51 & 66 of the Code shall be pursued by the Secured Financial Creditor directly and all cost and benefits to this account shall accrue to Secured Financial Creditor. The Secured Financial*

*Creditor shall be entitled to make suitable applications with the Hon'ble NCLT to enable them to pursue the said application and subsequent recoveries if any”.*

5. It is submitted by the Applicant in the Resolution Plan that a monitoring Committee shall be constituted within a period of 7 days from effective Date for a period from the Effective Date till the Transfer Date to oversee the implementation of the Resolution Plan. The Monitoring Committee shall comprise of the following members:
  - a. One authorized representative appointed by members of the Committee of Creditors of the Corporate Debtor.
  - b. One authorized representative of Resolution Applicant; and
  - c. Monitoring Agent- Erstwhile Resolution Professional.
6. Ld. Counsel for the Resolution Professional has annexed a certificate of the Form-H to the Application under Regulation 39(4) In Form-H of the CIRP Regulations, 2016 to certify that the Resolution Plan has approved by the CoC meets all the requirements of the IBC and its Regulations.

**REVISED FORM H  
COMPLIANCE CERTIFICATE**

)Under Regulation 39)4( of the Insolvency and Bankruptcy Board of India )Insolvency Resolution Process for Corporate Persons( Regulations, 2016

I, Avil Menezes, an insolvency professional enrolled with The Indian Institute of Insolvency Professional of ICAI and registered with the Board with registration number IBBI/IPA-001/IP-P00017/2016-2017/10041, am the resolution professional for the corporate insolvency resolution process )CIRP( of Nyka Steels Private Limited.

2. The details of the CIRP are as under:

<b>Sl. No.</b>	<b>Particulars</b>	<b>Description</b>
1	Name of the CD	Nyka Steels Private Limited
2	Date of Initiation of CIRP	03 February 2023
3	Date of Appointment of IRP	03 February 2023
4	Date of Publication of Public Announcement	10 February 2023 (order was received by IRP on 9 February 2023)
5	Date of Constitution of CoC	06 March 2023
6	Date of First Meeting of CoC	09 March 2023
7	Date of Appointment of RP	20 May 2023 (order was passed on 12 May 2023 and was received on 20 May 2023)
8	Date of Appointment of Registered Valuers	KKCA Valuers LLP & Mavent Advisors Private Limited were appointed on 22 June 2023 for

		valuation of Land & Building, Plant & Machinery, and Securities and Financial Assets.
9	Date of Issue of Invitation for EoI	21 June 2023
10	Date of Final List of Eligible Prospective Resolution Applicants	18 August 2023
11	Date of Invitation of Resolution Plan	05 August 2023
12	Last Date of Submission of Resolution Plan	<p>Last date for submission of resolution plan was 4 September 2023 which was extended by CoC till 3 October 2023.</p> <p>Further pursuant to negotiations with the PRAs who submitted resolution plan on or before 03 October 2023, CoC allowed additional time till 20 December 2023 to submit revised resolution plan.</p>
13	Date of Approval of Resolution Plan by CoC	09 February 2024

14	Date of Filing of Resolution Plan with Adjudicating Authority	26 February 2024
15	Date of Expiry of 180 days of CIRP	02 August 2023
16	Date of Order extending the period of CIRP	<p>Application for extension of CIRP period by 90 days was filed with the Hon'ble NCLT. The Hon'ble NCLT passed the order dated 21 July 2023 and accordingly last date of CIRP was 31 October 2023.</p> <p>Resolution Professional filed another application for extension of CIRP period by 60 days. The Hon'ble NCLT passed order dated 06 November 2023 and extended the CIRP by 45 days. Accordingly last date of CIRP was 15 December 2023.</p> <p>Further, as approved by CoC, Resolution Professional has filed</p>

		<p>another application for extension of CIRP period by 60 days beyond 330 days. The matter was listed on 1 January 2024 and Hon'ble NCLT Mumbai bench directed both the Committee of Creditors (CoC) and Resolution Professional (RP) to expedite the CIRP proceedings and to submit either Resolution Plan approval application or liquidation application before the next hearing scheduled for 13 February 2024. Thereafter in the hearing held on 13 February 2024 Hon'ble Bench suggested filing of consolidated extension application seeking an extension of the CIRP period till the submission of the Resolution Plan along with the Plan Approval Application within 2 weeks from the date of the orders and adjourned the said matter till 12 March 2024.</p>
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		<p>In the hearing held on 12 March 2024, Hon'ble NCLT allowed the extension of 74 days from 16.12.2023, making 28 February 2024, the last of CIRP.</p>
17	Date of Expiry of Extended Period of CIRP	<p>28 February 2024</p> <p>(Application for extension of CIRP period beyond 330 days by 60 days is filed with the Hon'ble NCLT. The matter was listed on 1 January 2024 and Hon'ble NCLT Mumbai bench directed both the Committee of Creditors (CoC) and Resolution Professional (RP) to expedite the CIRP proceedings and to submit either Resolution Plan approval application or liquidation application before the next hearing scheduled for 13th February 2024, Thereafter in the hearing held on 13 February 2024 Hon'ble Bench suggested</p>

		<p>filing of consolidated extension application seeking an extension of the CIRP period till the submission of the Resolution Plan along with the Plan Approval Application within 2 weeks from the date of the orders and adjourned the said matter till 12 March 2024.</p> <p>In the hearing held on 12 March 2024, Hon'ble NCLT allowed the extension of 74 days from 16.12.2023, making 28 February 2024, the last of CIRP.)</p>
18	Fair Value	<ol style="list-style-type: none"> <li>1. KKCA valuers LLP INR 9,02,02,354</li> <li>2. Mavent Advisors Pvt. Ltd. INR 8,94,74,489</li> <li>3. Average Fair Value INR 8,98,38,422</li> </ol>
19	Liquidation value	<ol style="list-style-type: none"> <li>1. KKCA valuers LLP INR 6,55,42,346</li> </ol>



		2. Mavent Advisors Pvt. Ltd. INR 7,12,26,702 3. Average Fair Value INR 6,83,84,524
20	Number of Meetings of CoC held	11 (Eleven)

3. I have examined the Resolution Plan received from Resolution Applicant Lalita Santosh Powlle in Consortium with Pravesh Seafood Private Limited and approved by Committee of Creditors )CoC( of Nyka Steels Private Limited.

4. I hereby certify that-

- i. the said Resolution Plan complies with all the provisions of the Insolvency and Bankruptcy Code 2016 )Code(, the Insolvency and Bankruptcy Board of India )Insolvency Resolution Process for Corporate Persons( Regulations, 2016 )CIRP Regulations( and does not contravene any of the provisions of the law for the time being in force.
- ii. the Resolution Applicant Lalita Santosh Powlle in Consortium with Pravesh Seafood Private Limited has submitted an affidavit pursuant to section 30)1( of the Code confirming its eligibility under section 29A of the Code to submit resolution plan. The contents of the said affidavit are in order.
- iii. the said Resolution Plan has been approved by the CoC in accordance with the provisions of the Code and the CIRP Regulations made thereunder. The Resolution Plan has been approved by 100 % of voting share of financial creditors after considering its feasibility and viability and other requirements specified by the CIRP Regulations.

iv. I sought vote of members of the CoC by electronic voting system which was kept open from 08 January 2024 to 09 February 2024 i.e. at least for 24 hours as per the regulation 26.

5. The list of financial creditors of the Nyka Steels Private Limited being members of the CoC and distribution of voting share among them is as under:

<b>Sl. No.</b>	<b>Name of Creditor</b>	<b>Voting Share )%(</b>	<b>Voting for Resolution Plan )Voted for / Dissented / Abstained(</b>
1	UCO Bank	100	Voted For

6. The Resolution Plan includes a statement under regulation 38)1A( of the CIRP Regulations as to how it has dealt with the interests of all stakeholders in compliance with the Code and regulations made thereunder.

6A. Minutes of the committee meeting relating to discussion and decisions about resolution plan are attached with this certificate- Minutes of the 10<sup>th</sup> CoC Meeting of the Corporate Debtor held on 04<sup>th</sup> January 2024 are attached with this certificate.

7. The amounts provided for the stakeholders under the Resolution Plan is as under:

<b>Sl .</b>	<b>Categor y of</b>	<b>Sub- Categor y of</b>	<b>Amount Claimed</b>	<b>Amount Admitte d</b>	<b>Amoun t Provide d under</b>	<b>Amo unt Provide d</b>	<b>Am ount Pro</b>
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N o.	Stakeholder*	Stakeholder			the Plan	to the Amount Claimed (%)	vide to the Amount Admitted (%)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	
1	Secured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	-	-	-	-	-
		(b) Other than (a) above:	-	-	-	-	-
		(i) who did not vote in favour of	-	-	-	-	-

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		the resolution Plan					
		(ii) who voted in favour of the resolution plan	51,45,80,514	50,51,50,179	7,91,00,000	15.37%	15.66%
		<b>Total[(a) + (b)]</b>	<b>51,45,80,514</b>	<b>50,51,50,179</b>	<b>7,91,00,000</b>	<b>15.37%</b>	<b>15.66%</b>
2	Unsecured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	-	-	-	-	-
		(b) Other than (a) above:	-	-	-	-	-
		(i) who did not					

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		vote in favour of the resolution Plan					
		(ii) who voted in favour of the resolution plan	-	-	-	-	-
		<b>Total[(a) + (b)]</b>	-	-	-	-	-
3	Operational Creditors	(a) Related Party of Corporate Debtor	-	-	-	-	-
		(b) Other than (a) above:					
		(i) Government	-	-	-	-	-
		(ii) Workmen	-	-	-	-	-
		(iii) Employees	-	-	-	-	-
		(iv) For goods	6,76,21,186	2,77,07,939	-	-	-

		and services					
		Total[(a) + (b)]	-	-	-	-	-
<b>Grand Total</b>			<b>58,22,01,700</b>	<b>53,28,58,118</b>	<b>7,91,00,000</b>	<b>13.59%</b>	<b>14.84%</b>

**Notes:**

1. The total resolution plan value as per the resolution plan is INR 8,11,00,000. The amount of INR 7,91,00,000 in the table above excludes Unpaid CIRP Cost of INR 20,00,000.
2. The resolution plan also mentions that the CIRP cost shall be paid at actuals and excess shall be adjusted from the distribution to secured financial creditors.

8. The interests of existing shareholders have been altered by the Resolution plan as under:

Sl. No	Category of Share Holder	No. of Shares held before CIRP	No. of Shares held after the CIRP	Voting Share )%( held before CIRP	Voting Share )%( held after CIRP
1	Equity	1,28,125	NIL	100%	NIL

9. The compliance of the Resolution Plan is as under:

Section of the Code / Regulation	Requirement with respect to Resolution Plan	Clause of Resolution Plan	Compliance )Yes / No(
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No.			
25)2()h(	Whether the Resolution Applicant meets the criteria approved by the CoC having regard to the complexity and scale of operations of business of the CD?	-	Yes
Section 29A	Whether the Resolution Applicant is eligible to submit resolution plan as per final list of Resolution Professional or Order, if any, of the Adjudicating Authority?	-	Yes
Section 30)1(	Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?	Affidavit dated 28 August 2023 given by the Resolution Applicant	Yes

Section 30)2(	Whether the Resolution Plan-		
	(a) provides for the payment of insolvency resolution process costs?	Clause 4.7 (i) (a) at Page No. 20 of the Resolution Plan  Read with  Clause 4.10.1 at Page No. 25 of the Resolution Plan	Yes
	(b) provides for the payment to the operational creditors?	<b>Clause 4.7 (i) (d) (Payment to Other Operational Creditors) @</b> Page No. 22 of the Resolution Plan  <b>AND</b>  <b>Clause 4.7 (i) (c) (Operational Creditors including Outstanding Statutory Authorities Debt / Other Operational Creditors (excluding Workmen and Employees)) @</b>	Yes



		<p>Page Nos. 21 of the Resolution Plan.</p> <p><b>AND</b></p> <p><b>Clause 4.7 (i) (b) (Workmen and Employees) @</b> Page No. 20 of the Resolution Plan</p>	
	<p>(c) provides for the payment to the financial creditors who did not vote in favour of the resolution plan?</p>	<p><b>Clause 4.7 (i) (e) (Financial Creditors) @</b> Page Nos. 23 of the Resolution Plan</p> <p><b>AND</b></p> <p><b>Clause 4.10.3 (Mandatory contents of Resolution Plan)</b> at Pg No. 23 of the Resolution Plan</p>	Yes
	<p>(d) provides for the management of the affairs of the corporate debtor?</p>	<p><b>Clause 5.4 (Monitoring Committee)</b> Pg. no.32 of the Resolution plan.</p>	Yes

	(e) provides for the implementation and supervision of the resolution plan?	<p><b>Clause 5.2 (Implementation Schedule) @ Page Nos. 29-30 of the Resolution Plan</b></p> <p><b>AND</b></p> <p><b>Clause 5.4 (Monitoring Committee) Pg. no.32 of the Resolution plan.</b></p>	Yes
	(f) contravenes any of the provisions of the law for the time being in force?]	<p><b>Clause 4.10.11 (Mandatory contents of Resolution Plan) @ page no. 26 of the Resolution Plan</b></p> <p><b>And</b></p> <p><b>Clause 10.1 @ page no 47 of the Resolution Plan provides the RA does not contravenes any of the provisions of the law for the time being in force.</b></p>	Yes
Section 30)4(	Whether the Resolution Plan	<b>Financial Projections</b> submitted with	Yes

	<p>(a) is feasible and viable, according to the CoC?</p> <p>(b) has been approved by the CoC with 66% voting share?</p>	<p>the Resolution Plan</p>	<p>Yes</p>
Section 31)1(	<p>Whether the Resolution Plan has provisions for its effective implementation plan, according to the CoC?</p>	<p><b>Clause 5.2 (Implementation Schedule) @</b> Page Nos. 29-30 of the Resolution Plan</p> <p><b>AND</b></p> <p><b>Clause 5.4 (Monitoring Committee) Pg.</b> no.32 of the Resolution plan.</p>	<p>Yes</p>
Regulation 38)1(	<p>Whether the amount due to the operational creditors under the resolution plan has been given priority in payment over financial creditors?</p>	<p><b>Clause 4.7 (i) (d) (Payment to Other Operational Creditors) @</b> Page No. 22 of the Resolution Plan</p> <p>And</p> <p><b>Clause 4.10.2 (Mandatory contents of</b></p>	<p>Yes</p>

		<b>Resolution Plan)</b> @ Page No. 25 of the Resolution Plan	
Regulation 38)1A(	Whether the resolution plan includes a statement as to how it has dealt with the interests of all stakeholders?	<b>Clause 4.7</b> <b>(Manner of</b> <b>payment of total</b> <b>plan amount) @</b> Page No. 20-24 of the Resolution Plan	Yes
Regulation 38(1B)	(i) Whether the Resolution Applicant or any of its related parties has failed to implement or contributed to the failure of implementation of any resolution plan approved under the Code.  (ii) If so, whether the Resolution Applicant has submitted the statement giving details of such non-	<b>Clause 3.4 @</b> Page No. 19 of the Resolution Plan  <b>AND</b> <b>Clause 4.10.12</b> <b>(Mandatory</b> <b>contents of</b> <b>Resolution Plan)</b> @ Page No. 26 of the Resolution Plan  <b>NA</b>	Yes

	implementation? ]		
Regulation 38)2(	Whether the Resolution Plan provides: )a( the term of the plan and its implementation schedule?	<b>Clause 5.2 (Implementation Schedule) @</b> Page Nos. 29-30 of the Resolution Plan  <b>AND</b>  <b>Clause 5.4 (Monitoring Committee)</b> Pg. no.32 of the Resolution plan.	Yes
	)b( for the management and control of the business of the corporate debtor during its term?	<b>Clause 5.4 (Monitoring Committee)</b> Pg. no.32 of the Resolution plan.	Yes
	)c( adequate means for supervising its implementation?	<b>Clause 5.2 (Implementation Schedule) @</b> Page Nos. 29-30 of the Resolution Plan  <b>AND</b>  <b>Clause 5.4</b>	Yes

		<b>(Monitoring Committee)</b> Pg. no.32 of the Resolution plan.	
38)3(	Whether the resolution plan demonstrates that –  )a( it addresses the cause of default?	<b>Clause 2.4 @ Pg No. 15 of the Resolution Plan.</b>  <b>AND</b> <b>Clause 4.10.5 (Mandatory contents of Resolution Plan) @ Page No. 25 of the Resolution Plan</b>	Yes
	)b( it is feasible and viable?	<b>Financial Projections</b> submitted with the Resolution Plan	Yes
	)c( it has provisions for its effective implementation?	<b>Clause 5.2 (Implementation Schedule) @ Page Nos. 29-30 of the Resolution Plan</b>  <b>AND</b> <b>Clause 5.4 (Monitoring Committee) Pg. no.32 of the Resolution plan</b>	Yes

	d( it has provisions for approvals required and the timeline for the same?	<b>Clause 5.5 (List of approvals, from whom and estimated timelines) @ Page Nos. 32-33 of the Resolution Plan</b>	Yes
	e( the resolution applicant has the capability to implement the resolution plan?	<b>Clause 3 (Overview of the RA) @ Page No. 16-19 of the Resolution Plan</b>  AND <b>Clause 4.10.6 (Mandatory contents of Resolution Plan) @ Page No. 25 of the Resolution Plan</b>	Yes
39)2(	Whether the RP has filed applications in respect of transactions observed, found or determined by him?	<b>Clause 9.1 (Receivable from avoidance application) @ Page No. 42 of the Resolution Plan</b>	Yes
Regulation 39(4)	Provide details of performance security received, as referred to in sub-regulation	--	Yes, Performance Security of INR 1,62,20,000

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	(4A) of regulation 36B.		is provided
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10. The CIRP has been conducted as per the timeline indicated as under:

Section of the Code / Regulation No.	Description of Activity	Latest Timeline under regulation 40A	Actual Date
Section 16)1(	Commencement of CIRP and Appointment of IRP	03 February 2023	03 February 2023
Regulation 6)1(	Publication of Public Announcement	06 February 2023	10 February 2023 (order was received by IRP on 9 February 2023)
Section 15)1)c( /Regulation 12 )1(	Submission of Claims	17 February 2023	24 February 2023
Regulation 13)1(	Verification of Claims	24 February 2023	03 March 2023
Section 26)6A( / Regulation 15A	Application for Appointment of Authorised Representative, if necessary	26 February 2023	NA
Regulation 17)1(	Filing of Report Certifying Constitution of CoC	26 February 2023	06 March 2023
Section 22)1( and regulation 17)2(	First Meeting of the CoC	05 March 2023	09 March 2023



NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH-IV

IA-30/2024  
IN  
CP (IB)/1009/MB-IV/2020

Regulation 35A	Determination of fraudulent and other transactions	29 May 2023	21 June 2023 (Auditor was appointed by the RP) And 09 January 2024 (date of receipt of transaction audit report)
Regulation 27	Appointment of two Registered Valuers	22 March 2023	22 June 2023
Regulation 36 )1(	Submission of Information Memorandum to CoC	09 May 2023	11 August 2023 (Within 1 day of receipt of undertaking from CoC)
Regulation 36A	Invitation of EoI	04 April 2023	21 June 2023
	Publication of Form G	04 April 2023	21 June 2023
	Provisional List of Resolution Applicants	29 April 2023	31 July 2023
	Final List of Resolution Applicants	14 May 2023	18 August 2023
Regulation 36B	Issue of Request for Resolution Plan, which includes Evaluation Matrix and Information	19 May 2023	05 August 2023

	Memorandum to Resolution Applicants		
Section 30(6) / Regulation 39(4)	Submission of CoC approved Resolution Plan	13 February 2024	26 February 2024
Section 31(1)	Approval of Resolution Plan	28 February 2024	-

11. The time frame proposed for obtaining relevant approvals is as under:

The Successful Resolution Applicant has sought certain reliefs, concessions and dispensation as more particularly set out under **Clause 8 of the resolution plan.**

12. The Resolution Plan is not subject to any contingency.: **Yes**

13. Following are the deviations / non-compliances of the provisions of the Insolvency and Bankruptcy Code, 2016, regulations made or circulars issued thereunder )If any deviation/ non-compliances were observed, please state the details and reasons for the same(: **NIL**

14. The Resolution Plan was filed on 26 February 2024, i.e. 2 days before the expiry of the period of CIRP provided in section 12 of the Code. Hon'ble NCLT vide order dated 12 March 2024, Hon'ble NCLT allowed the extension of 74 days from 16 December 2023, making 28 February 2024, the last of CIRP.)

14A. Whether the resolution professional has, in accordance with regulation 35A,-

- (a) applied to the Adjudicating Authority on or before the one hundred and thirty-fifth day of the insolvency commencement

date: No, the RP was appointed vide order dated 12 May 2023, which was received by RP on 20 May 2023. Pursuant to appointment and as approved by CoC, the auditor was appointed on 21 June 2023 and the final audit report was received on 09 January 2024.

(b) filed Form CIRP 8 with the Board on or before the one hundred and fortieth day of the insolvency commencement date: No, transaction audit was not concluded on or before the one hundred and fortieth day of the insolvency commencement date.

15. Provide details of section 66 or avoidance application filed / pending.

Sl. No.	Type of Transaction	Date of Filing with Adjudicating Authority	Date of the Order of the Adjudicating Authority	Brief of the Order
1	Preferential transactions under section 43	23 February 2024	-	-
2	Undervalued transactions under section 45	-	-	-
3	Extortionate credit transactions under section 50	-	-	-
4	Fraudulent transactions under section 66	23 February 2024	-	-

15A. The committee has approved a plan providing for contribution under regulation 39B as under: The members in the 10th CoC Meeting unanimously decided that the above shall be discussed and pursued in the ensuing CoC meeting, if none of the resolution plan receive requisite majority.

15B. The committee has recommended under regulation 39C as under:

- a. Sale of corporate debtor as a going concern: NA
- b. Sale of business of corporate debtor as a going concern: NA

Note: The members in the 10th CoC Meeting unanimously decided that the above shall be discussed and pursued in the ensuing CoC meeting, if none of the resolution plan receive requisite majority.

15C. The committee has fixed, in consultation with the resolution professional, the fee payable to the liquidator during the liquidation period under regulation 39D. - NA

Note: The members in the 10th CoC Meeting unanimously decided that the above shall be discussed and pursued in the ensuing CoC meeting, if none of the resolution plan receive requisite majority.

16. I, Avil Menezes hereby certify that the contents of this certificate are true and correct to the best of my knowledge and belief, and nothing material has been concealed therefrom.

Name of the Resolution Professional: Avil Menezes  
IP Registration No: IBBI/IPA-001/IP-P00017/2016-17/10041  
Authorization for Assignment valid till 27th November 2024  
Address as registered with the Board: 106, 1st Floor,  
Kanakia Atrium 2, Cross Road A, Behind Courtyard Marriott,  
Chakala, Andheri East, Mumbai - 400093

Email id as registered with the Board: [avil@caavil.com](mailto:avil@caavil.com)

Date: 23-05-2024

7. In the circumstances mentioned hereinabove, the Applicant has filed Application seeking approval of this Tribunal on the Resolution Plan, submitted by the Resolution Applicant i.e. Lalita Santosh Powle in Consortium with Pravesh Seafood Private Limited stating that the plan is in accordance with the Section 30(2) and other provisions laid down under the code.
8. On perusal of the Resolution Plan, it is observed that the Resolution Plan provides for the following:
  - a. Payment of CIRP Cost as specified u/s 30(2)(a) of the Code.
  - b. Repayment of Debts of Operational Creditors as specified u/s 30(2)(b) of the Code.
  - c. For management of the affairs of the Corporate Debtor, after the approval of Resolution Plan, as specified U/s 30(2)(c) of the Code.
  - d. The implementation and supervision of Resolution Plan by the RP and the CoC as specified u/s 30(2)(d) of the Code.
9. The RP has complied with the requirement of the Code in terms of Section 30(2)(a) to 30(2)(f) and Regulations 38(1), 38(1)(a), 38(2)(a), 38(2)(b), 38(2)(c) & 38(3) of the Regulations.

10. The RP has filed Compliance Certificate in Form-H along with the plan. On perusal the same is found to be in order. The Resolution Plan has been approved by the CoC in the 10th meeting held on 04.01.2024 with 100% (Hundred percent).
11. We make it categorically clear that approval of this Resolution Plan does not tantamount to allowance of any relief(s), concession(s) or dispensation(s) that fall within the domain of any government department(s) and/or authorities thereto. The reliefs, concessions and dispensations that pertain to other governmental authorities and/or departments shall be dealt with by the respective competent authorities/fora/offices, Government (State or Central) with regard to the respective reliefs, if any.
12. In the case of “**K Sashidhar v. Indian Overseas Bank & Others**” (in **Civil Appeal No.10673/2018** decided on 05.02.2019) the Hon’ble Apex Court held that if the CoC had approved the Resolution Plan by requisite percent of voting share, then as per section 30(6) of the Code, it is imperative for the Resolution Professional to submit the same to the Adjudicating Authority (NCLT). On receipt of such a proposal, the Adjudicating Authority is required to satisfy itself that the Resolution Plan as approved by CoC meets the requirements specified in Section 30(2). The Hon’ble Court observed that the role of the NCLT is ‘no

more and no less'. The Hon'ble Court further held that the discretion of the Adjudicating Authority is circumscribed by Section 31 and is limited to scrutiny of the Resolution Plan "as approved" by the requisite percent 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.

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

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

14. In view of the discussions and the law thus settled, the instant Resolution Plan meets the requirements of Section 30(2) of the Code and Regulations 37, 38, 38 (1A) and 39 (4) of the Regulations. The Resolution Plan is not in contravention of any of the provisions of Section 29A of the Code and is in accordance with law. The same needs to be approved. Hence ordered.

**ORDER**

15. The Application **IA-30/2024** in CP(IB)/1009/(MB-IV)/2020 is **allowed**. The Resolution Plan annexed to the Application is hereby approved. It shall become effective from this date and shall form part of this order.

13.1. It shall be binding on the Corporate Debtor, 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 is due, guarantors and other stakeholders involved in the Resolution Plan.

13.2. The approval of the resolution plan shall not be construed as waiver of any statutory obligations of the Corporate Debtor and shall be dealt by the appropriate authorities in accordance with law. Further in terms of the judgment of **Hon'ble Supreme Court** in the matter of "**Ghanshyam**



***Mishra And Sons Private Limited V/S Edelweiss Asset Reconstruction Company Limited***, on the date of approval of the Resolution Plan by the adjudicating authority, all such claims which are not a part of Resolution Plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim which is not a part of the Resolution Plan.

- 13.3. The Memorandum of Association (MoA) and Articles of Association (AoA) shall accordingly be amended and filed with the Registrar of Companies (RoC), Mumbai, Maharashtra for information and record. The Resolution Applicant, for effective implementation of the Plan, shall obtain all necessary approvals, under any law for the time being in force, within such period as may be prescribed.
- 13.4. The moratorium under Section 14 of the Code shall cease to have effect from this date.
- 13.5. The Applicant shall supervise the implementation of the Resolution Plan and file status of its implementation before this Authority from time to time, preferably every quarter.
- 13.6. The Applicant shall forward all records relating to the conduct of the CIRP and the Resolution Plan to

the IBBI along with copy of this Order for information.

13.7. The Applicant shall forthwith send a certified copy of this Order to the CoC and the Resolution Applicant, respectively for necessary compliance.

16. The Interlocutory Application i.e. IA-30/2024 in CP(IB)/1009(MB)/2020 is allowed accordingly disposed of.

Sd/-

**Anu Jagmohan Singh**  
**Member (Technical)**

Sd/-

**Kishore Vemulapalli**  
**Member (Judicial)**