



**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**JAIPUR BENCH**

**CORAM: SHRI DEEP CHANDRA JOSHI,**  
**HON'BLE JUDICIAL MEMBER**

**SHRI PRASANTA KUMAR MOHANTY,**  
**HON'BLE TECHNICAL MEMBER**

**IA (IBC) No. 86/JPR/2023**  
**in CP No. (IB)- 146/7/JPR/2020**

*(Under Section 30(6) read with Section 31 and 60(5) of the Insolvency and Bankruptcy Code, 2016)*

**IN THE MATTER OF CIRP:**

**MR. RISHABH CHAND LODHA, RESOLUTION PROFESSIONAL**  
... APPLICANT

**IN THE MATTER OF**

**SHAKUNTALA JOSHI & ORS.** ...FINANCIAL CREDITOR  
*Versus*  
**M/S HYPER TECHNO BUILDMART PVT. LTD.** ... CORPORATE DEBTOR

**Memo of Parties**

**IN THE MATTER OF CIRP**

**MR. RISHABH CHAND LODHA,**  
RESOLUTION PROFESSIONAL,  
E-5, SHRAMAN BASANT VIHAR,  
GANDHI NAGAR, BHILWARA, RAJASTHAN-311001  
... APPLICANT

**IN THE MATTER OF**

**SHAKUNTALA JOSHI & ORS.** ...FINANCIAL CREDITOR  
*Versus*  
**M/S HYPER TECHNO BUILDMART PVT. LTD.** ... CORPORATE DEBTOR

**For the Applicant** : Abhishek Devgan, Adv.  
Dr. R.C. Lodha, RP in person  
**For the Financial Creditor** : Prashant Agarwal, CA  
Apoorv Khator, Adv.



**Order Pronounced On 17.03.2023**

**Per: Shri Prasanta Kumar Mohanty, Technical Member**

1. The present Application has been filed under Section 30(6) read with Section 31 and Section 60(5) of the Insolvency and Bankruptcy Code, 2016 seeking approval of the Resolution Plan submitted by M/s Siddhartha Tex Fab Proprietorship firm of Mr. Siddhartha Gattani (SRA), which was approved by Committee of Creditors (COC) of M/s Hyper Techno Buildmart Private Limited (Corporate Debtor) in the 3<sup>rd</sup> COC meeting concluded on 26.12.2022, seeking the following reliefs:

- a. Allow the present Application and pass necessary order(s)/direction(s):
- b. Approve the Resolution Plan Under Section 31 of the Code submitted by the Respondent/Successful Resolution Applicant M/s Siddhartha Tex Fab Proprietorship firm of Mr. Siddhartha Gattani, which has been approved by the COC with 100 % vote casted in favour of the Resolution plan;
- c. Declare that upon approval of the Resolution Plan by this Tribunal, the provisions of the Resolution Plan shall be binding on the Corporate Debtor, its creditors, guarantors, members, employees, statutory authorities and other stakeholders in accordance with Section 31 of the Code, and shall be given to and implemented pursuant to the order of this Tribunal;
- d. Upon approval of the Resolution Plan by this Tribunal that the liability of the Corporate Debtor for any offence prior to the commencement of CIRP shall cease in accordance with the provisions of Section 32A of the Code.
- e. Reliefs and concession sought by the Successful Resolution applicant mentioned in Schedule 5 of the Resolution Plan;
- f. Approval of the appointment of the monitoring committee as stated in the Resolution Plan and confirmed by the Committee of Creditors;
- g. Vacating the moratorium on Corporate Debtor imposed under Section 14 of the Code;



- h. Discharging the Resolution Professional Mr. Rishabh Chand Lodha from the duties of the Resolution Professional of the Corporate Debtor.;
- i. As may be deemed fit and proper in the facts and circumstances of the instant

True Copy of the Resolution Plan submitted by M/s Siddhartha Tex Fab (Proprietorship Concern) has been annexed.

2. Briefly stated by the Applicant that:

- 2.1 An Application filed under Section 7 of the Code by the Financial Creditors, i.e. Allottees under Real estate Project, for initiating Corporate Insolvency Resolution Process (CIRP) of Corporate Debtor was admitted by this Hon'ble NCLT, vide order dated 23.12.2021 and Mr. Rishabh Chand Lodha, the Applicant herein was appointed as the IRP and subsequently confirmed as the Resolution Professional to conduct the CIR Process of the Corporate Debtor.
- 2.2 While admitting the Application under Section 7, this Hon'ble Tribunal adopted the Concept of “**Reverse CIRP**” emerged from the Judgement of Hon'ble NCLAT in the case of Umang Realtech, keeping specific focus on the “Shree Madhav Residency Project” of the Corporate Debtor and also set forth specific directions in para 18 and 19 of the order for the IRP/RP to abide, directions relevant for this application are cited hereunder

*“18. Consequently, while this Adjudicating Authority is inclined to initiate CIRP against the Corporate Debtor under provisions of IBC, 2016, it is required that the concerned Interim Resolution Professional/Resolution Professional (IRP/RP) shall keep the specific focus on the aforesaid real-estate Project of the Corporate Debtor and in context follow directions of this Adjudicating Authority throughout the process of CIRP which are inter-alia as follows:*

*a.....c..*

*d. The IRP/RP shall complete the Project on a priority basis through existing promoter(s) acting in the capacity of Independent financiers and not promoters, to ensure that the Corporate Insolvency Resolution Process reaches success and the allottees*



*take possession of their flats/apartments during CIRP as envisaged in the case of Umang Realtech. In the absence of any promoter so stepping forward, the IRP/RP is free to consider any Financing agency/institution of repute in stich avatar, independently, falling which he shall look at any other white knight/third party. This Project of the Corporate Debtor shall be/remain insulated and Independent from other activities of the Corporate Debtor.*

*e...k..*

*19. In view of the foregoing, CIRP of the Corporate Debtor is ordered by this Adjudicating Authority mainly rooted on the said real-estate Project and above-mentioned directions The consequences of initiation of CIRP shall be inter-alia as follows:*

*(i)...(iii)...*

*(iv) In terms of sections 17 & 19 of BC, 2016 all personnel of the Corporate Debtor including promoters and Board of Directors, whose powers shall stand suspended, shall extend all cooperation to the IRP during his tenure as such and the management of the affairs of the Corporate Debtor shell vest with the IRP. This order is being passed in an Application filed under Section 7 of IBC 2016 with a view to bring about resolution of the Corporate Debtor with focus on specific real-estate Project in question and the energies of the IRP/ RP are expected to be channelized accordingly. However, in the event of non-cooperation by the Corporate Debtor or its directors or its employees, the expense of resolution shall encompass the entire gamut of operations of the Corporate Debtor upon report/ application of the IRP/RP and directions in this regard of the Adjudicating Authority.*

*(v) In terms of Section 7 of IBC 2016, this order shall be communicated to the Applicant Corporate Debtor as well as the Interim Resolution Professional (IRP) appointed by this Adjudicating Authority to carry out the CIRP at the earliest, not exceeding one week from today. A copy of this order shall also be communicated to IBBI for its records*

*i. IRP to take over the affairs of the Corporate Debtor with focus on the aforesaid real-estate Project*

*ii. The IRP/RP shall complete the Project on a priority basis through existing promoter(s) acting in the capacity of independent financiers and not promoters, to ensure that the Corporate Insolvency Resolution Process reaches success and the allottees*



*take possession of their flats/ apartments during CIRP as envisaged in the case of Umang Realtech.*

*iii. In the absence of any promoter so stepping forward, the IRP/RP is free to consider any Financing agency institution of repute in stich avatar, independently, failing which he shall look at any other white Knight/ third party.*

*iv. However, in the event of non-cooperation by the Corporate Debtor or its directors or its employees, the expense of resolution shall encompass the entire gamut of operations of Corporate Debtor upon report/ application of the IRP/RP and directions in this regard of the Adjudicating Authority...”*

2.3 Accordingly, the Applicant proceeded with the reverse CIRP process as per the directions of the NCLT by performing the following activities:

- a) The Applicant extracted the ROC data of the Corporate Debtor wherein it was observed that the Corporate Debtor had 2 Directors (Ms. Sharmila Sharma and Mr. Shivdutt Sharma) who were also the Promoters of the Corporate Debtor. Thereafter, the Applicant vide email dated 28.12.2021 intimated them about the commencement of CIRP of the Corporate Debtor.
- b) Further, in compliance with the directions issued by the NCLT in para 18 (d) of the CIRP Commencement order, regarding completing the real-estate project, the Applicant, vide letter dated 27.12.2021, requested promoters of the Corporate Debtor to connect with the Applicant and prepare necessary plans for complying with the directions of the Tribunal, however, no reply was received from the promoters
- c) Thereafter, the Applicant sent a reminder letter by way of speed post to the Promoters on 29.12.2021, which has returned undelivered with the remark -Addressee Left without Instructions.
- d) Meanwhile, the Applicant visited the project site and enquired about the whereabouts of the promoters/directors of the Corporate Debtor and it was found that the Promoters had already abandoned the project and are absconding.



- e) Further the Applicant, appointed two architects (civil Engineer- Hemant Singh & Architect- Manish Surana) in order to ascertain the quantum of construction completed and construction remaining, and to ascertain the estimated cost involved in completion of the project. The appointed architects/valuers, after assessing the project and available records, submitted their report enumerating the estimated cost (as per current market value) involved for completion of project which is as follows:

S. No.	Architects/Valuer	Estimated Costs (In Rs.)
1.	Manish Surana- Architect	4,76,69,000.00
2.	Hemant Singh- Civil Engineer	4,57,52,600.00

On the basis of the cost estimated by the Architects/Valuers, the Applicant assessed the quantum of interim finance required to complete the project “Shree Madhav Residency”.

- f) Since the letters remained undelivered to the promoters hence the emails could not have been responded. Moreover, the whereabouts of the Applicants could also not be found. Consequently, the Applicant filed an application bearing IA No. 194/2022 under section 19(2) against the promoters and the Chartered Accountant of CD for seeking co-operation and requisite records/information required to complete the CIRP process .The Applicant could not get the Project completed through the promoters of the Corporate Debtor.
- g) The Applicant, aimed at achieving the objective of the CIRP Order, after ascertaining the quantum of interim finance required contacted various Builders/ Financers from Bhilwara who may be willing to Finance the real-estate Project of the Corporate Debtor and arranged several rounds of meeting with them, however, the considerable efforts put in by the Applicant could not bear fruit as none of the builders agreed to finance the project.
- h)** The Applicant made several efforts to arrange the requisite finance for completing the project on priority and had also



informed the COC members regarding the steps taken. Further, the Applicant in the 2<sup>nd</sup> COC meeting held on 07.03.2022 also requested the COC members (i.e., State Bank of India and homebuyers) to provide interim finance to complete the project and appropriate resolution to that extent was placed before the COC for their consideration. However, **the same was unanimously rejected.**

- i) Further, as an alternative the Applicant also placed requisite resolution for consideration of the members, that in case the COC was not inclined to fund the construction of the project then, the Applicant should be allowed to seek instructions from **the Hon'ble NCLT to complete the CIRP per the ordinary CIR Process as set out in the Code, by inviting EOI's for Resolution Plan. The aforesaid resolution was unanimously approved by the CoC.**

**2.4** In view of the aforementioned facts and circumstances the Applicant, at the instance of the members of the COC, filed an Application **bearing IA No. 286/JPR/2022 with the Tribunal seeking commencement of ordinary CIRP of the Corporate Debtor which was allowed by this Tribunal vide order dated 31.08.2022 directing the Applicant to commence fresh CIRP as detailed below:**

“...

*6. The RP is directed to take all such steps as are required under the statute, inter-alia in terms of Sections 15, 17, 18, 19, 20, and 21 of the Code, and transact proceedings with utmost dedication honesty and strictly under the provisions of the Code, and Rules and Regulations thereunder.*

*7. Consequences of commencement of CIRP shall be inter-alia as follows:*

*i. The RP appointed by the Adjudicating Authority, Mr. Rishabh Chand Lodha, is directed to take over the affairs of the Corporate Debtor and duties as required to be performed by him under the provisions of the Code, including the issue of a publication in widely circulated Newspapers as contemplated under the*



*provisions of the Code and calling for claims from the creditors of the Corporate Debtor, and collation of the same shall be done.*

*ii. Further, as a sequel of admission, a moratorium, as envisaged under Section 14 of the Code, is invoked concerning the Corporate Debtor, which will be in vogue during the CIRP of the Corporate Debtor. The RP shall carry out CIRP strictly as per the timelines specified and as envisaged under the provisions of the Code concerning the Corporate Debtor.*

*iii. The said RP shall act in accordance with the provisions of the Code. To defray the expenses incurred by the RP and fee of RP to be incurred, the existing CoC is directed to deposit a sum of Rs 1,00,000/- (One Lakhs Only) to the account of RP within three weeks from the date of this Order. This amount shall be proportionately contributed and reimbursed to the Applicant upon formation of the Committee of Creditors. The RP shall duly file a status report apprising this Adjudicating Authority about the progress of CIRP as unfolding concerning the Corporate Debtor. Any expenses incurred by the RP during the Reverse CIRP period shall be kept in the different separate accounts and shall be adjusted against the sale proceed of the Shree Madhav Residency Project.*

*iv. In terms of Section 17 and 19 of the Code, all personnel of the Corporate Debtor, including Promoters and Board of Directory whose powers shall stand suspended, shall extend all co-operation to the RP during his tenure as such and the management of the affairs of the Corporate Debtor shall vest with the RP,*

*v. In terms of Section 7 of the Code, this Order shall be communicated at the earliest, not exceeding one week from today to the existing members of the CoC, Corporate Debtor, as well as the available registered address of the suspended Board of Directors and Promoters for commencement of CIRP of the Corporate Debtor.”*

2.5 In terms of the order dated 31.08.2022, the Applicant issued a public announcement on 06.09.2022 as mandated under Section 15 of the Code and in terms of Regulation 6(1) of the IBBI (IRP of Corporate Persons) Regulations, 2016 (CIRP Regulations), in “FORM-A” for intimation of initiation of CIRP of Corporate Debtor and for invitation of claim(s) from creditor(s) with the last date of submission of claims as 17.09.2022. The aforesaid public announcement was published



on 06.09.2022 in newspaper “Indian Express” (English Language) and “Rashtradoot” (Hindi Language), having wide circulation.

2.6 Pursuant to the public announcement, the IRP collated the claims received, and constituted the Committee of Creditors (CoC) on 20.09.2022 in terms of Code and Regulation 17 of 1881 (CIRP of Corporate Person) Regulations, 2016 with nine financial creditors comprising of

- i. State Bank of India (80.91%)
- ii. Radha Sharma (2.11%)
- iii. Navneet Joshi (1.46%)
- iv. Arun Kumar Sharma (1.46%)
- v. Shakuntla Joshi (4.20%)
- vi. Dinesh Chandra Toshniwal (2.13%)
- vii. Sharda Sharma (2.73%)
- viii. Jai Pratap Rathore (1.90%) &
- ix. Kavya Srivastav Dio Sharad Srivastav (3.10%)

2.7 Thereafter, the Applicant convened 1<sup>st</sup> CoC meeting on 28.09.2022 wherein, the Applicant informed the members of the COC that the Applicant had appointed four (4) registered valuers in terms of Regulation 27 of the CIRP Regulations, 2016 during the reverse CIRP period, whose fees were approved by the then COC, in order to carry out the valuation for Land and Building and Securities and Financial Assets. The aforesaid valuers submitted their reports with the Applicant during the reverse CIRP period itself. Owing to the commencement of fresh CIRP, the Applicant placed the agenda qua the appointment of valuers/consideration of reports of Registered Valuers. Consequently, the members of the COC vide Agenda Item C-11 resolved not to obtain fresh valuation and rely on the values submitted by the valuers appointed during the reverse CIRP period. Further, the COC members also resolved vide the aforesaid resolution not to appoint the fresh Transaction Auditor and adopt the report submitted by the Transaction Auditor appointed during the reverse CIRP period.

2.8 During the 1<sup>st</sup> COC meeting the members of the COC apart from approving the Eligibility Criteria for the Prospective Resolution



Applicants, Evaluation Matrix for evaluating Resolution Plans and major terms of the Request for Resolution Plan were also pleased to confirm the existing IRP as RP vide Agenda Item C-4. Consequently, an Interlocutory Application bearing IA 512/JPR/2022, filed under Section 22(3)(A) of the Code, for confirmation of the IRP and as the RP was allowed by this Tribunal vide Order dated 19.10.2022

- 2.9 Further, in terms of Section 25(2)(h) of the Code read with Regulation 36A of the CIRP Regulations, the IRP/RP published Invitation for Expression of Interest in FORM G on 10.10.2022 in the Indian Express (English) Jaipur Edition and Rashtradoot (Hindi), Ajmer Edition wherein the last date for submission for Expression of Interest (EOI) was stipulated as 25.10.2022.
- 2.10 In view of the publication of Form G, the Applicant received 03 (Three) EOI's up to the last date for submission of EOI's which were subsequently verified in accordance with the provisions of the Code, Regulations and conditions stipulated in the eligibility criteria. Subsequently, the provisional list of the PRAs including the names of three (3) PRAs was issued on 04.11.2022.
- 2.11 Thereafter, the Applicant held the 2<sup>nd</sup> Meeting of the COC on 07.11.2022 wherein, the Applicant informed the members about the latest developments in the CIRP including the publication of provisional list of the PRAs on 04.11.2022.
- 2.12 In terms of Regulation 36 B (1), the Applicant shared the Information Memorandum, Evaluation Matrix, and the Request for Resolution Plan with the PRAs on 09.11.2022 i.e. within five days of issue of provisional list of PRAs. Thereafter, the Applicant shared the final list of the PRAs comprising of the names of same PRAs whose name reflected in provisional list of PRAs.
- 2.13 The Applicant received plans from all the 3 (three) PRAs up to 09.12.2022, i.e., the last date of submission of Resolution Plan. The details of the Resolution Applicants (RA) are as follows:
- a) M/s. Siddhartha Tex Fab (Proprietorship)
  - b) M/s. Bhilwara Construction Private Limited (Company)



c) M/s. Ganeshlal Shivraj (Proprietorship)

- 2.14 Thereafter, the Applicant conducted due diligence in order to examine and evaluate as to whether the plans submitted by the PRAs comply with the Section 29A-30 of the Code read with Regulation 37-39 of the CIRP Regulations. On examination and evaluation, the Applicant placed all the three resolution plans before the members of the COC in terms of Regulation 39(2) of the CIRP Regulations for their consideration in the 3<sup>rd</sup> COC meeting which was convened on 19.12.2022.
- 2.15 During the 3<sup>rd</sup> COC meeting, all the Resolution Applicants, either themselves or through their authorized representatives, presented their plans before the COC. After rigorous discussions and deliberations, the members of the COC requested the RAs to improve their financial offers and also explain as to how they would complete the project.
- 2.16 Consequently, the meeting was adjourned and resumed on 22.12.2022 wherein, the Applicant opened the revised financial offers received from the RAs and read out the broad financial parameters. Thereafter, the COC members requested the Applicant to evaluate all the Resolution Plans as per the evaluation matrix approved by the CoC. Accordingly, the meeting was adjourned to 26.12.2022.
- 2.17 On the request of the members of the COC in the adjourned 3<sup>rd</sup> COC meeting dated 22.12.2022, the Applicant prepared a draft evaluation matrix and tabled the same for consideration in the adjourned 3<sup>rd</sup> COC meeting dated 26.12.2022.
- 2.18 The members of the COC, after some discussion approved the following Evaluation matrix vide Agenda Item No. C-2:

Sl. No.	Name of the Resolution Applicant	Plan Value (Rs in Lacs)	Score
1	M/s Siddhartha Tex Fab (Proprietorship)	414.00	68.65 (H1)
2	M/s. Bhilwara Construction Private Limited (Company)	412.00	51.69 (H2)
3	M/s Ganeshlal Shivra (Proprietorship)	300.00	49.68 (H3)



Further the members of the COC after detailed discussion and deliberation noted the following:

- a) All three Resolution Plans are feasible and viable
- b) All offers are above the liquidation value
- c) As per evaluation matrix, the Resolution Plan submitted by M/s Siddhartha Tex Fab (Proprietorship Concern) has obtained 68.65 marks and is ranked as H-1.

2.19 On the request of the members of the COC, the Applicant placed the average of the fair and liquidation value of the Corporate Debtor prepared on the basis of the reports received from the Registered Valuers qua each category of assets. The details of the valuations are mentioned herein below:-

Sl. No.	Assets	Average Fair Value	Average Liquidation Value
1	Land and Building	Rs. 3.47 Crore	Rs. 2.66 Crore
2	Securities & Financial Assets	Rs. 0.09 Crore	Rs. 0.09 Crore
	Total	Rs. 3.56 Crore	Rs. 2.77 Crore

2.20 Accordingly, the members of the COC considered the following resolutions qua resolution plans which is provided herein below:

**“.. Item No.C-2(a):**

*"RESOLVED THAT the Resolution Plan received from M/s Siddhartha Tex Fab (Proprietorship Concern), having a Resolution Plan value of Rs. 414 Lac and also having H-1 ranking as per the Evaluation Matrix, is hereby authorized to submit Resolution Plan, as approved herein above, to the Adjudicating Authority along with compliance certificate in Form H of the Schedule and to do all such acts and deeds as may be necessary and expedient relating thereto."*

**Item No.C-2(b):**

*"RESOLVED THAT the Resolution Plan received from M/s Ganeshlal Shivraj (Proprietorship Concern), is hereby authorized to submit Resolution Plan, as approved herein above, to the Adjudication Authority along with compliance certificate in Form H of the Schedule and to do all such acts and deeds as may be necessary and expedient relating thereto."*

**Item No.C-2(c):**



*"RESOLVED THAT the Resolution Plan received from Bhilwara Construction Private Limited (Consortium Lead Member), is hereby authorized to submit Resolution Plan, as approved herein above, to the Adjudication Authority along with compliance certificate in Form H of the Schedule and to do all such acts and deeds as may be necessary and expedient relating thereto."*

- 2.21 The members of the COC applying their respective commercial wisdom, approved the resolution plan submitted by M/s Siddhartha Tex Fab (Proprietorship Concern) vide Agenda Item No. C-2(a) for a **resolution amount of Rs. 414.00 lac with 100.00% voting share in its favour**. True Copy of the minutes of the third COC meeting along with the summary of e-voting results dated 25.01.2023 qua approval of Resolution Plans and other Resolutions have been annexed.
- 2.22 Pursuant to the approval of the Resolution Plan by the COC, the RP issued a Letter of Intent dated 25.01.2023 to the Respondent being the successful Resolution Applicant, which was unconditionally accepted by the Respondent on the same day. Further, the Respondent deposited the Performance Security of **Rs. 50 lac** in the CIRP account of the Corporate Debtor.

3. Brief contour of the approved Resolution plan of M/s Siddhartha Tex Fab (Proprietorship Concern) as provided by the Applicant is as follows:

<b>Parameters</b>	<b>Contents of Resolution Plan</b>
Revised Total Value of Resolution Plan	Rs. 414.00 Lacs
Upfront Payment within 30 days of approval of resolution Plan by the Hon'ble NCLT	Rs. 100.00 Lacs
Payment of CIRP Cost	Rs. 20,00,000 (will be paid in priority)
EPFO Dues	Rs. 10,33,094 (within 30 days from appointed date)
Payment to Unsecured Financial Creditors (other than directors and their relatives)	Rs. 75,51,000 (within 85 days from appointed date)
Payment against Statutory Dues	Rs. 5,00,000 (within 30 days from appointed date)
Payment to Operational Creditors (including statutory dues)	Rs. 2,00,000 (within 30 days from appointed date)
Payment to secured financial Creditors	Rs. 3,01,15,906 (within 85 days from the appointed date)



Constitution of Monitoring Committee	The monitoring Committee shall consist of three members i.e. a. Resolution Professional b. One representative from RA c. One representative from secured financial creditors
Additional point, if any	CIRP Cost shall be proportionally appropriated from the payment to made to the Financial Creditor if exceeded the stipulated amount.

4. The Applicant further submits that:

4.1 Throughout the CIRP process, the Applicant has received claims from different categories of creditors and the details of such claim and the amount to be distributed amongst them as per the resolution plan is provided herein below:

#	Category of Stakeholder	Sub-category of stakeholder	Amount claimed	Amount admitted	Amount Provided under the plan	Amount Provided to the Amount Claimed(%)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	<b>Secured Financial Creditors</b>	(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 the resolution plan	-	-	-	-
		(ii) Who voted in favour of the resolution plan	835.47	830.69	301.16	36.05%
		<b>Total(a)+(b)]</b>	<b>835.47</b>	<b>830.69</b>	<b>301.16</b>	<b>36.05%</b>



<b>2. Unsecured Financial Creditors</b>	(a) Creditors not having a right to vote under Sub-Section (2) of Section 21	NA	NA	NA	NA
	(b) Other than above:				
	(i) Who did not vote in favor of the resolution Plan	-	-	-	-
	(ii) Who voted in favor of the Resolution Plan	195.99	195.99	75.51	38.52%
	<b>Total[(a)+(b)]</b>	<b>195.99</b>	<b>195.99</b>	<b>75.51</b>	<b>38.52%</b>
<b>3. Operational Creditors</b>	(a) Related Party of Corporate Debtor	NA	NA	NA	NA
	(b) Other than (a) above:				
	Government	102.04	102.04	05.00	4.90%
	EPFO Dues	10.33	10.33	10.33	100%
	Employees	-	-	-	-
	Other Operational Creditors	78.16	78.16	02.00	2.55%
	<b>Total [(a)+(b)]</b>	<b>190.53</b>	<b>190.53</b>	<b>17.33</b>	<b>9.09%</b>
<b>Grand Total</b>		<b>1221.99</b>	<b>1217.21</b>	<b>394.00</b>	<b>32.24%</b>

4.2 Further, Mr. Siddhartha Gattani the proprietor of M/s Siddhartha Tex Fab has submitted its affidavit as required under Regulation 39(1) of the CIRP Regulations confirming its eligibility in terms of Section 29A of the Code and the same has been annexed with the approved Resolution Plan. Furthermore, as required under Regulation 39(4) of the CIRP Regulations, the RP has also filed the



Compliance Certificate in "Form -H" of the schedule of CIRP Regulation with the present Application.

- 4.3 Section 30(6) of the Code mandates the Resolution Professional to submit the Resolution Plan as approved by the committee of creditors to the Adjudicating Authority for approval under Section 31(1) of the Code. Accordingly, as the Resolution Plan submitted by the M/s Siddhartha Tex Fab Proprietor Mr. Siddhartha Gattani being Successful Resolution Applicant has been duly approved by the COC with 100.00% vote casted in its favour, therefore the present Application is being filed by the RP before this Tribunal which is the Adjudicating Authority under the Code seeking approval of the Resolution Plan for the Corporate Debtor
- 4.4 The Resolution Plan has been approved taking into consideration of all the stakeholders as well as creditors of the Corporate Debtor equated with the revival of the Corporate Debtor Moreover; the approved resolution plan is considerably above the average liquidation value of the Corporate Debtor. It is submitted that the Resolution Plan contained necessary provisions for its effective implementation, and it will just and equitable to approve the resolution plan submitted by M/s Siddhartha Tex Fab Proprietor Mr. Siddhartha Gattani.
- 4.5 Although, the Applicant foresees no reason for disapproval of the resolution plan by this Tribunal, however, in event of this Tribunal rejects the resolution plan submitted and orders for liquidation of the Corporate Debtor, the following compliances, which are mentioned herein below, in terms of Section 33 of the Code and CIRP Regulations, are made by the Applicant:
- i. In compliance of Regulation 39B of the CIRP Regulation the COC member in its 3<sup>rd</sup> meeting at Agenda Item No. C-3(a), in consultation with the Applicant made the best estimate of the liquidation cost, i.e. Rs. 4.20,000/ excluding liquidator and executive officer fees, in the event this Tribunal does not approve executive officer fees', in the event this Tribunal does not



approve the Resolution Plan as approved by the COC and orders for liquidation of the Corporate Debtor. Further, COC also passed resolution confirming that Financial Creditors shall contribute proportionately the excess of the Liquidation Cost over Liquid assets of Corporate Debtor. The above resolution was approved by the COC members with 100 % vote in its favour;

- ii. In compliance of Regulation 39C of the CIRP Regulations, the COC in its 03rd meeting at Agenda Item No.C-3(b) passed resolution with 100.00% vote authorizing sale of Corporate Debtor as a "going concern" under Regulation 32(e) or (f) of Liquidation Process Regulation, 2016, or sell the assets on standalone/in slump sale/collectively or assets in terms of Regulation 32 of Liquidation Process Regulation, 2016, as liquidator may deem appropriate.
- iii. In compliance of Regulation 39D of the CIRP Regulations, the COC in its 3<sup>rd</sup> CoC meeting at Agenda Item C-3(c) also passed the resolution for appointment of the Applicant to act as the Liquidator and fix the fees thereof, with 100 % vote.

4.6 There is an application which is still pending adjudication as on date of filing the present applications and the details of the same are provided herein below:

<b>Interlocutory Application No./ E-filing/Diary No.</b>	<b>Provisions of Code</b>	<b>Relief sought</b>	<b>Next date of hearing</b>
194/JPR/2022	Section 19(2) & 19(3)	Submission of financial papers from the Suspended Director	13.02.2023

5. The Applicant/RP under Regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, has submitted the **Compliance Certificate Form** as stated below:



5.1 Rishab Chand Lodha, an Insolvency Professional enrolled with Indian Institute of Insolvency Professionals of ICAI and registered with the Board with registration number IBBI/IPA-001/IP-P01075/2017-2018/11766, is the Resolution Professional for the Corporate Insolvency Resolution Process (CIRP) of CD- M/s Hyper Techno Buildmart Pvt. Ltd

5.2 The details of the CIRP are as under:

<b>Sl. No.</b>	<b>Particulars</b>	<b>Description</b>
1	Name of CD	Hyper Techno Buildmart Private Limited
2	Date of Initiation of CIRP	31.08.2022
3	Date of Appointment of Public Announcement	31.08.2022.
4	Date of publication of Publication announcement	06.09.2022
5	Date of Constitution of CoC	20.09.2022
6	Date of First Meeting of CoC	28.09.2022
7	Date of Appointment of RP	19.10.2022
8	Date of Appointment of Registered Valuers	28.09.2022
9	Date of Issue of Invitation for EOI	10.10.2022
10	Date of Final List of Eligible	19.11.2022
11	Date of Invitation of Resolution Plan	09.11.2022
12	Last date of Submission of Resolution Plan	09.12.2022
13	Date of Approval of Resolution Plan by CoC	25.01.2023
14	Date of filing of Resolution Plan with Adjudicating Authority	....
15	Date of Expiry of 180 days of CIRP	27.02.2023
16	Date of Order extending the period of CIRP	NA
17	Date of Expiry of extended period of CIRP	NA
18	Fair Value	3.56 Crores
19	Liquidation value	2.77 Crores
20.	Number of Meeting of CoC held	03

5.3 The RP has examined the Resolution Plan received from Resolution Applicant M/s Siddharth Tex Fab, Resolution Application and



approved by Committee of Creditors (CoC) of Hyper Techno Buildmart Private Limited (CD).

5.4 The RP further certifies 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 (M/s Siddharth Tex Fab) 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.
- 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. The RP sought vote of members of the CoC by electronic voting system which was kept open at least for 24 hours as per the Regulations 26.

5.5 The list of financial creditors of the CD being members of the CoC and distribution of voting share among them is as under:

SL No.	Name of Creditor/ Class of Creditors	Voting Share (%)	Voting for Resolution Plan (Voting for /Dissented/ Abstained)
1	State Bank of India	80.91%	80.91%
2	Radha Sharma	2.11%	2.11%
3	Navneet Joshi	1.46%	1.46%
4	Arun Kumar Sharma	1.46%	1.46%
5	Shakuntla Joshi	4.20%	4.20%
6	Dionesh Chandra Toshniwal	2.13%	2.13%
7	Sharda Sharma	2.73%	2.73%
8	Jai Pratap Rathore	1.90%	1.90%
9	Kavya Srivastav D/o Sharad Shrivastav	3.10%	3.10%



<b>TOTAL</b>	<b>100%</b>	<b>100%</b>
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- 5.6 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.
- 5.7 The amounts provided for the stakeholders under the Resolution Plan is as under:

#	Category of Stakeholder	Sub-category of stakeholder	Amount claimed	Amount admitted	Amount Provided under the plan	Amount Provided to the Amount Claimed(%)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
<b>1.</b>	<b>Secured Financial Creditors</b>	(c) Creditors not having a right to vote under sub-section (2) of Section 21	-	-	-	-
		(d) Other than (a) above				
		(iii) Who did not vote in favour of the resolution plan	-	-	-	-
		(iv) Who voted in favour of the resolution plan	835.47	830.69	301.16	36.05%
		<b>Total(a)+(b)]</b>	<b>835.47</b>	<b>830.69</b>	<b>301.16</b>	<b>36.05%</b>
<b>2.</b>	<b>Unsecured Financial Creditors</b>	(c) Creditors not having a right to vote under Sub-Section (2) of Section 21	NA	NA	NA	NA
		(d) Other than above:				
		(iii) Who did not vote n favor of	-	-	-	-



		the resolution Plan				
		(iv) Who voted in favor of the Resolution Plan	195.99	195.99	75.51	38.52%
		<b>Total[(a)+(b)]</b>	<b>195.99</b>	<b>195.99</b>	<b>75.51</b>	<b>38.52%</b>
<b>3. Operational Creditors</b>	(c) Related Party of Corporate Debtor	NA	NA	NA	NA	NA
	(d) Other than (a) above:					
	Government	102.04	102.04	05.00	4.90%	
	EPFO Dues	10.33	10.33	10.33	100%	
	Employees	-	-	-	-	
	Other Operational Creditors	78.16	78.16	02.00	2.55%	
	<b>Total [(a)+(b)]</b>	<b>190.53</b>	<b>190.53</b>	<b>17.33</b>	<b>9.09%</b>	
<b>Grand Total</b>			<b>1221.99</b>	<b>1217.21</b>	<b>394.00</b>	<b>32.24%</b>

5.8 The interests of existing shareholders have been altered by the Resolution Plan as under:

Sl. No.	Category of Shareholder	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 (Promoters)	243000	0	100%	0

5.9 The compliance of the resolution Plan is as under:

Section of the Code/ Regulation No.	Requirement with respect to Resolution Plan	Clause of Resolution Plan	Compliance (Yes/No)
25 (2)(h)	Whether the Resolution Applicant	EOI, Affidavit & Clause 4.6 &	Yes



	meets the criteria approved by the CoC having regard to the complexity and scale of operations of business of the CD?	Affidavit/Undertaking u/s 29A (page-11)	
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?	Clause 4.6 & Affidavit/Undertaking u/s 29A (page-11)	Yes
Section 30(1)	Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?	Clause 4.6 (Page-13)	Yes
Section 30(2)	Whether the Resolution Plan- a. Provides for the payment of insolvency resolution process costs? b. Provides for the payment to the operational creditors? c. Provides for the payment to the financial creditors who did not vote in favour of the resolution plan? d. Provides for the management of the affairs of the corporate debtor? e. Provides for the implementation and supervision of the resolution plan? f. Contravenes any of the provisions of the law for the time being for	Clause 3.2.1 (Page 5) & Clause 2.1 of schedule 7 (Page 28)  Clause 3.2.4 (page 5); 4.8 (page-12) & schedule 7 (page 29)  Clause 3.2.4.3 (b) (page-06)  Clause 4.3 (Page-09)  Clause 4.3 page 09  Clause 1.8 (page 2)	Yes  Yes  Yes  Yes  Yes  No



	force? g. Confirms to such other requirements as may be specified by the board	Clause 4.9 page 12	Yes
Section 30(4)	Whether the Resolution Plan a. Is feasible and viable, according to the CoC? b. Has been approved by the CoC with 66% voting share?	Clause 4.5.2 page 111	Yes Yes
Section 31(1)	Whether the Resolution Plan has provisions for its effective implementation plan, according to the CoC?	Clause 4.3 page 09	Yes
Regulations 35A	Where the resolution professional made a determination if the corporate debtor has been subjected to any transaction of the nature covered under sections 43, 45, 50 or 66, before the one hundred and fifteenth day of the insolvency commencement date, under intimation to the Board?	No amount has been determined therefore it is NIL	Yes
Regulation 38(1)	Whether the amount due to the operational creditors under the resolution plan has been given priority in payment over financial creditors?	2.3 of Schedule 7 page 29 & 3.2.4.2 (page-05)	Yes
Regulation 38(1A)	Whether the resolution plan includes a statement as to how it has dealt with the interests of all stakeholders?	4.4 on page 10	Yes
Regulation 38(1B)	i. Whether the Resolution	4.7 page 11	No



	<p>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.</p> <p>ii. If so, whether the Resolution Applicant has submitted the statement giving details of such non-implementation?</p>		
Regulation 38(2)	<p>Whether the Resolution plan provides:</p> <p>i. The term of the plan and its implementation schedule?</p> <p>ii. For the management and control of the business of the corporate debtor during its term?</p> <p>iii. Adequate means for supervising its implementation?</p>	<p>4.1 page 08</p> <p>4.2 page 08</p> <p>4.3 page 09</p>	Yes
38(3)	<p>Whether the resolution plan demonstrates that-</p> <p>a. It addresses the cause of default?</p> <p>b. It is feasible and viable?</p> <p>c. It has provisions for its effective implementation?</p> <p>d. It has provisions for approvals required and the timeline for the same?</p> <p>e. The resolution applicant has the capability to</p>	<p>4.5.1 page 10</p> <p>4.5.2 page 11</p> <p>Schedule 2 Page 21</p> <p>9.8 Page 17</p> <p>4.5.2.1 on page 11</p>	Yes



	implement the resolution plan?		
39(2)	Whether the RP has filed applications in respect of transactions observed, found or determined by him?	No amount has been determined therefore it is NIL.	Yes
Regulation 39(4)	Provide details of performance security received, as referred to in sub-regulation (4A) of Regulation 36B.	4.22, page 13	Yes

5.10 The CIRP has been conducted as per the timeline indicated as under:

<b>Section of the Code/ Regulation No.</b>	<b>Description of Activity</b>	<b>Latest Timeline under Regulation 40A</b>	<b>Actual Date</b>
Section 16(1)	Commencement of CIRP and Appointment of IRP	T	T
Regulation 6(1)	Publication of Public announcement	T+3	T+3
Section 15(1)(c)/ Regulation 12(1)	Submissions of Claims	T+14	T+14
Regulation 13(1)	Verifications of Claims	T+21	T+21
Section 26(6A)/Regulation 15A	Application for Appointment of Authorized Representative	T+23	NA
Regulation 17(1)	Filing of Report Certifying Constitution of CoC	T+23	T+20
Section 22(1) and regulation 17(2)	First meeting of the CoC	T+30	T+28
Regulation 35A	Determination of fraudulent and other transactions	T+115	NA
Regulation 27	Appointment of two Registered Valuers	T+47	T+29
Regulation 36 (1)	Submission of Information Memorandum to	T+54	T+54



	CoC		
Regulation 36A	Invitation of EOI	T+75	T+40
	Publication of Form G	T+75	T+40
	Provisional List of Resolution Applicants	T+100	T+65
	Final List of Resolution Applicants	T+115	T+80
Regulation 36B	Issue of Request for Resolution Plan, which includes Evaluation matrix and Information Memorandum to Resolution Applicants	T+105	T+70
Section 30(6)/Regulation 39(4)	Submission of CoC approved Resolution Plan	T+165	T+147
Section 31(1)	Approval of Resolution Plan	T=180	
	Extension sought on T+180	T+270	NA

5.11 **The Resolution Plan is not subject to any contingency-** Yes

5.12 Following are the deviations/non-compliance of the provisions of the Insolvency and Bankruptcy Code, 2016, regulations made or circulars issued thereunder

Sl. No	Deviation/Non-compliance observed	Section of the Code/regulation No./Circular No.	Reasons	Whether rectified or not
1	NIL	NIL	NIL	NIL

5.13 The Resolution Plan is being filed within the period of CIRP provided in Section 12 of the Code.

5.14 Details of Section 66 or avoidance application filed/pending:

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

15A. The committee has approved a plan providing for contribution under regulation 39B as under:

- a. Estimated liquidation cost Rs. 4,20,000 plus Liquidator's fees and executive officer's fees
- b. Estimated liquid assets available is Rs. 0.00
- c. Contributions required to be made: Rs. 4,20,000 plus Liquidator's fees and executive officer's fees
- d. Financial creditor wise contribution is as under

<b>Sl. No</b>	<b>Name of financial creditor</b>	<b>Amount to be contributed</b>
1	State Bank of India	In the voting share of 80.91%
2	Radha Sharma	In the voting share of 2.11%
3	Navneet Joshi	In the voting share of 1.46%
4	Arun Kumar Sharma	In the voting share of 1.46%
5	Shakuntla Joshi	In the voting share of 4.20%
6	Dionesh Chandra Toshniwal	In the voting share of 2.13%
7	Sharda Sharma	In the voting share of 2.73%
8	Jai Pratap Rathore	In the voting share of 1.90%
9	Kavya Srivastav D/o Sharad Shrivastav	In the voting share of 3.10%



- 15B. The committee has recommended under Regulation 39C as under:
- a. Sale of Corporate Debtor as a going concern: Yes
  - b. Sale of business of Corporate Debtor as a going concern: Yes
- 15C. The committee has fixed, in consultation with the resolution professional, the fee payable to the liquidator during the liquidation period under Regulation 39D: Yes

**6. In accordance with our order dated 13.02.2023, the RP/Applicant vide Additional Affidavit dated 15.02.2023 submits that:**

- 6.1 An Application for approval of Resolution Plan of Siddhartha Tex Fab Proprietorship firm of Mr. Siddhartha Gattani (SRA) was filed with this Tribunal and listed for hearing on 13.02.2023 wherein this Tribunal directed to bring on record the Affidavit of SRA qua his eligibility under Section 29A of the IBC.
- 6.2 Mr. Siddhartha Gattani Siddhartha Tex Fab submitted its Affidavit stating its eligibility under Section 29A on 09/12/2022 along with the Resolution Plan.
- 6.3 RK Jain & Associates Consultancy was appointed by the RP for seeking assistance in forming an opinion as to whether Siddhartha Tex Fab complied with the provisions of Section 29A of the IB Code, 2016 which submitted its report on 28.11.2022.
- 6.4 On perusal of the Affidavit of Mr. Siddhartha Gattani and report of R.K Jain & Associates Consultancy, the Resolution Plan of Mr. Gattani was placed before the members of the COC, which approved the aforesaid Plan with 100% majority in the 03<sup>rd</sup> COC meeting through e-voting on 25.01.2023.

**7. The Successful Resolution Applicant in accordance with our order dated 13.02.2023, vide Additional Affidavit dated 17.02.2023 submits that:**

- 7.1 The SRA is the Proprietor of Siddhartha Tex Fab under whose name the Resolution Plan for Hyper Techno Buildmart Pvt. Ltd. (Corporate Debtor), was submitted on 09-12-2022



7.2 The Resolution Plan submitted was approved by the members of the COC with 100% voting in the 03<sup>rd</sup> COC meeting of the Corporate Debtor.

7.3 The brief contour of the Resolution Plan submitted is as under:

<b>PARAMETERS</b>	<b>CONTENTS OF RESOLUTION PLAN</b>
Total Value of Resolution Plan	Rs. 414.00 Lacs
Upfront Payment within 30 days of approval of Resolution Plan by the Hon'ble NCLT	Rs. 100.00 Lacs
Payment of CIRP cost	Rs. 20,00,000.00 (will be paid in priority)
EPFO Dues	Rs. 10,33,004.00 within 30 days from appointed date
Payment to Unsecured Financial Creditors (other than directors and their relatives) i.e., Homebuyers	Rs. 75,51,000.00 (within 85 days from appointed date)
Payment against Statutory Dues	Rs. 5,00,000.00 (within 30 days of Appointed date)
Payment to Operations Creditors (including Statutory Dues)	Rs. 2,00,000.00 (within 30 days from appointed date)
Payment to Secured Financial Creditors	Rs. 3,01,15,908.00 (within 85 days from the appointed date)
Constitution of Monitoring Committee	The monitoring Committee shall consist of three members i.e., i. Resolution Professional ii. One representative from RA iii. One representative from secured financial creditors
Additional point, if any	CIRP Cost shall be proportionately appropriated from the payment to be made to the Financial Creditor, if exceeded the stipulated amount.

**7.4 The SRA undertakes to complete the real estate project of Hyper Techno Buildmart Pvt. Ltd (Corporate Debtor) i.e., "Shree Madhav Residency" within 1 year from the date of approval of the Resolution Plan by this Tribunal**

7.5 The SRA understands that in order to complete the real-estate project an amount of Rs 4.30 crore (approximately) is required to be infused as investment for operations.

7.6 The SRA understands that as per the financial proposal of the Resolution Plan an amount of Rs. 4 14 crore is being offered to the creditors and for the payment of CIRP cost.

7.7 The total amount of Rs. 8.44 crore shall be funded as follows:



Source of Funds	Amount (In Cr.)
Fresh Equity (Own Funds)	1
Liquid Fund (Own Funds)	1.14
Borrowings/Loan from sister Concerns/Companies	6.3
<ul style="list-style-type: none"><li>• <b>Shorya Business India Ltd</b> Reg. Office 2nd floor Bhandari Rajendra Mark Opp. Nagar Prasad Bhilwara, Rajasthan-311001</li><li>• <b>Divain Industries India Limited</b> Reg. Office 2nd floor Bhandan Plaza Rajendra Marg Opp. Nagar Prasad Bhilwara, Rajasthan-311001</li><li>• <b>Iota Exports Pvt Ltd</b> Reg. Office: 3, Main Sector Shastri Nagar Bhilwara Rajasthan-311001</li></ul>	
Total	8.44

On completion of the entire project comprising of 60 flats, the RA will reserve 50% i.e., 30 flats for the accommodation of employees of its proprietorship concern and its sister concerns and sell the remaining 50% flats i.e. 30 to the general public.

7.8 The RA has already submitted its financial projections in the Resolution Plan for the financial year 2023-24 emanating the projected revenue, cost of construction and the projected profit for the project “Shree Madhav Residency” floated by the Corporate Debtor.

**8. In accordance with our order dated 16.02.2023, the Home buyers have also filed their affidavits that once their claims are settled with the Resolution Plan as proposed, they shall not make any claims against the CD or RA in future.**

### **ORDER**

9. The Insolvency and Bankruptcy Code, 2016, defines Resolution Plan as a plan for Insolvency Resolution of the Corporate Debtor as a going concern. **The Resolution Plan must resolve insolvency (rescue a failing, but viable business); should maximize the value of assets of the**



**Corporate Debtor, and should promote entrepreneurship availability of credit arid balance the interests of all the stakeholders.**

10. In the backdrop of the object of the IBC, it is amply clear that the **Resolution is Rule and the Liquidation is an Exception.** Liquidation brings the life of a corporate to an end. It destroys organizational capital and renders resources idle till reallocation to alternate uses. Further, it is inequitable as it considers the claims of a set of stakeholders only if there is any surplus after satisfying the claims of a prior set of stakeholders fully. **IBC therefore, does not allow liquidation of a corporate debtor' directly.** It allows liquidation only on failure of corporate insolvency resolution process. It rather facilitates and encourages resolution in several ways.

11. Keeping in view such object behind the enactment of the Code, and the intention of the Legislature, priority is to be given to the resolution than liquidation in the larger interests of the public, workmen, stakeholders and the other employees of the corporate debtors. In the interest of justice and in order to achieve the objectives of the Code, liquidation of a company can be only as a last resort, wherein, all efforts for bringing a Resolution Plan were failed or it cannot be found workable in the larger public interest. Hence, now the approval of Resolution Plan by this Adjudicating Authority is rule as per the apex court's decision in the matter of ***K. Saahidhar Vs. Indian Overseas Bank & Ors.***

12. On perusal of the records, **it is found that the Resolution Plan confirms to the criteria as provided under clauses (a) to (f) in section 30(2) of the Code and the CoC approved the Resolution Plan by 100% voting. The value offered by the Resolution Plan is higher than the value of liquidation.** The Resolution Plan also confirms to such other requirements as may be specified by the Board. **The Resolution Professional has also certified that the Final Resolution Plan is in conformity with the provisions of the IBC.**



13. **IA (IBC)194/JPR/2022** has been filed by the RP under sec 19(2) read with sec 60(5) of IBC, seeking directions from this tribunal against the suspended promoters/directors and personnel of the Corporate Debtor for their non-cooperation. However, it is submitted by the RP and CoC that transactions under sec 43,45, 50 and 66 of IBC are not found in this case. The RP has not filed any IA under these sections. and the present Resolution Plan submitted has been approved by the CoC with 100% voting. **Hence, this IA (IBC)/194/JPR/2022 has become infructuous and is hereby disposed of accordingly. No other IA is pending before this Bench relating to the Corporate Debtor.**

14. **Personal guarantees not be waived:** It is submitted by the CoC and the SRA that Personal Guarantees are not to be discharged by virtue of the approval of this Resolution Plan. FC retains its right to proceed against the Guarantors.

15. During the last hearing, this bench sought certain clarifications from the main Financial Creditor in the CoC with regard to the acceptance of such percentage of the haircut. However it has been submitted by them that they have accepted such haircut considering several aspects and the decision is a commercial decision.

16. On perusal of the Resolution Plan, we are of the considered view that the Resolution Plan meets the requirement of Section 31 r/w Section 30(2) of the Code. Therefore, the present application IA (IBC) No. 86/JPR/2023 is allowed and the Resolution Plan is approved with the following observations and Conditions:

16.1 Approval of the Resolution Plan does not mean automatic waiver or abatement of legal proceedings, if any, which are pending by or against the Corporate Debtor as those are the subject matters of the concerned Competent Authorities having their proper/ own jurisdictions to pass any appropriate order as the case may be. The Resolution Applicant on approval of the Plan may approach those



Competent Authorities/ Courts /Legal Forums/ Offices — Govt. or Semi Govt./State or Central Govt. for appropriate reliefs sought for in the plan. This is not going to make any hindrance for proper implementation of the Resolution Plan as those are the subject matter of the concerned/appropriate Competent Authorities.

16.2 The Monitoring Committee would be of three members consisting of one representative of the SRA, (ii) one representative of the Financial Creditor having highest voting share in the CoC and (iii) Mr. Rishabh Chand Lodha Resolution Professional, as Head of the Monitoring Committee. The Resolution Professional shall be the Chairman of the monitoring Committee for supervision of the implementation of the Resolution Plan. Fees of the RP as the Chairman of the Monitoring Committee is to be the same as being paid to the RP during the CIRP period and the same shall be borne by SRA as decided and agreed in the Resolution Plan.

17. The Successful Resolution Applicant has submitted that besides the payment to the CoC members as per the plan, another Rs 4.30 crore is required for completion of the real estate project of the Corporate Debtor i.e., "Shree Madhav Residency", for which he has already kept provision of that amount for completion of the project in time. In view of his submissions, the SRA is directed to ensure that project is completed within 1 year from the date of approval of the resolution plan.

18. The monitoring committee is advised to submit the progress report every quarter and it **needs to be wound up on implementation of the Resolution Plan and completion of the real estate project within One year.**

19. **All the eight homebuyers have submitted that once their claims are settled as proposed in the Resolution Plan, they will not make any claim against the CD or SRA in future. On the other hand, the SRA has also submitted in its affidavit that he would reserve 50% i.e., 30 flats**



**for the accommodation of the employees of its proprietorship concern; its sister concerns and sell the remaining 50% flats i.e., 30 flats to the general public. Considering the submissions of the SRA and in the interest of the homebuyers, the SRA is directed to give preference to the present eight homebuyers, if they are interested to buy the flats at the price proposed to be sold on completion of the Project.**

**20. The affidavits submitted by the SRA and the eight Homebuyers in accordance with our order dated 13.02.20263 are taken on record and the same is considered as the part of the resolution plan submitted.**

21. It is further directed that:

21.1 The approved Resolution Plan shall come into force with immediate effect.

21.2 The Resolution Plan shall be subject to the various existing laws in force and shall also conform to such other requirements specified by the Board and other Statutory/Competent Authorities as the case may be.

21.3 The Successful Resolution Applicant shall, pursuant to the Resolution Plan approved under section 31(1) of the Code, obtain the necessary approvals required under any laws 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 section 31(1) or within such period as provided for in such law, whichever is later or as the case may be.

21.4 All relevant parties in relation to the Final Resolution Plan are to be bound by the terms and conditions mentioned therein in accordance with Section 31(1) of the IBC 2016.

21.5 All relevant parties are directed to extend full cooperation to carry out the terms and conditions of the Resolution Plan. If there is any deviation in implementing the Resolution Plan, the concerned parties/entity will be liable for punishment as per Chapter 7 (Offences and penalties) of the IBC, 2016.



21.6 The Resolution Professional shall forward all records relating to the conduct of the corporate insolvency resolution process and Resolution Plan to the Insolvency and Bankruptcy Board of India for their recorded on its database.

**22. We, the Adjudicating Authority, are of the considered opinion that the Resolution Plan along with affidavits filed by the RA and the Homebuyers meets the requirements as referred to under section 30(2) of the Code. Accordingly, the moratorium on Corporate Debtor imposed under Section 14 of the Code is vacated; IA (IBC) No. 86/JPR/2023 in CP No. (IB)-146/7/JPR/2020 is allowed and the Resolution Plan is approved with the above Observations and Directions.**

PRASANT  
A KUMAR  
MOHANT  
Y

Digitally signed  
by PRASANTA  
KUMAR  
MOHANTY  
Date: 2023.03.17  
18:31:54 +05'30'

**(Prasanta Kumar Mohanty)  
Member (Technical)  
& Adjudicating Authority**

DEEP  
CHANDR  
A JOSHI

Digitally signed  
by DEEP  
CHANDRA JOSHI  
Date: 2023.03.17  
17:49:15 +05'30'

**(Deep Chandra Joshi)  
Member (Judicial)  
& Adjudicating Authority**