

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH, COURT-I
KOLKATA**

**IA (IB) No. 562/KB/2023
in
CP (IB) No. 25/KB/2022**

*Application under section 30(6) and section 31(1) of the
Insolvency & Bankruptcy Code, 2016 read with regulation 39(4) of the
Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for
Corporate Persons) Regulations, 2016 for approval of Resolution Plan.*

In the matter of:

Kosons Forest Products Private Limited
[CIN: U36104WB1996PTC079781]

... Corporate Applicant

And

In the matter of:

Netai Basak, Resolution Professional of
Kosons Forests Products Private Limited

... Applicant

Date of pronouncement: 22 December 2023

Coram:

Rohit Kapoor, Member (Judicial)
Balraj Joshi, Member (Technical)

Appearances (via hybrid mode):

For the Resolution Professional

Ms. Namrata Basu, Advocate
Mr. Netai Basak, RP in person

ORDER

Per: Balraj Joshi, Member (Technical)

1. This Court convened through hybrid mode.

Preliminary

2. I.A. (IB) No. 562/KB/2023 is an application under section 30(6) of the Insolvency and Bankruptcy Code, 2016, after approval of the resolution plan by the Committee of Creditors (“CoC”).
3. This application was filed by Mr. Netai Basak, Resolution Professional of **Kosons Forest Products Private Limited (CIN: U36104WB1996PTC079781)**, by invoking the provisions of section 30(6) of the Insolvency and Bankruptcy Code, 2016 (“**the Code**” or “**IBC**”) read with regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (“**CIRP Regulations**”) for approval of a Resolution Plan in respect of **Kosons Forest Products Private Limited (“Corporate Applicant”)**.
4. The underlying Company Petition in C.P. (IB) No. 25/KB/2022 was filed by **Kosons Forest Products Private Limited**, the Corporate Applicant, under section 10 of the Insolvency and Bankruptcy Code 2016, which was admitted *vide* order dated 9 June 2022.
5. Initially, Mr. Neeraj Kejriwal, (IBBI Reg. No. IBBI/IPA/P00392/2017-2018/10710) was appointed as the Interim Resolution Professional (**IRP**). Subsequently, in the 5th CoC meeting held on 10.10.2022 the Committee of Creditors having majority voting rights of 82.14% proposed to replace the erstwhile Resolution Professional and appoint the Applicant herein i.e., Mr. Netai Basak (IBBI Reg. No. IBBI/IPA-003/00327/2020-2021/13421) as the Resolution Professional. The Applicant was appointed as the Resolution Professional (**RP**) of the Corporate Applicant *vide* order dated 2 December 2022.
6. The period of 180 days expired on 05.12.2022 which was further extended for a period of 90 days *vide* order dated 2 December 2022 in I.A. (IB) No. 1365/KB/2022. The same was once again extended

for a period of three weeks *vide* order dated 01.03.2023 in I.A. (IB) No. 458/KB/2023 i.e., till 21.03.2023 for the purpose of completing the CIRP.

Constitution of CoC

7. The IRP made public announcement on 12 June 2022 in *Financial Express (English)*, *Aajkal (Bengali)* and *The Assam Rising (regional newspaper)* newspapers regarding initiation of Corporate Insolvency Resolution Process (**CIRP**) and called proof of claims from the financial and operational creditors, workers and employees of the Corporate Applicant in the specified forms.
8. The CoC was constituted on 14 July 2022¹ with sole Financial Creditor i.e., North East Centre for Technology Application and Reach (NECTAR). A report of the constitution of the CoC was filed before the Adjudicating Authority. The CoC was reconstituted and was formed with two Financial Creditors *viz.* Reliance Asset Reconstruction Company Limited with 82.14% voting share and North East Centre for Technology Application and Reach (NECTAR) with 17.86% voting share.
9. The Applicant states that a total of 12 (twelve) CoC meetings have been held during CIRP period, which are as follows:

Particulars	Date of CoC meeting
1 st COC	26.07.2022
2 nd COC	23.08.2022
3 rd COC	12.09.2022
4 th COC	27.09.2022
5 th COC	10.10.2022

¹ Pg.58 of the Application

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Particulars	Date of CoC meeting
6 th COC	11.11.2022
7 th COC	14.12.2022
8 th COC	31.12.2022
9 th COC	09.02.2023
10 th COC	15.02.2023
11 th COC	21.02.2023
12 th COC	01.03.2023

Collation of claims

10. The amounts claimed and admitted are summarised below:

Amount in INR

Nature of creditor	Amount claimed	Amount admitted
Secured Financial Creditor		
Reliance Asset Reconstruction Company Limited (RARCL)	12,22,41,145.00	12,22,41,145.00
North East Centre for Technology Application and Reach (NECTAR)	7,58,65,636.00	2,65,82,213.00
Operational Creditors (Statutory Dues)		
Ministry of Commerce & Industry office of the Dy. Director General of Foreign Trade, Guwahati	1,02,67,602.00	35,30,816.00
Operational Creditors (Others)		
AIDCL	28,07,973.00	28,07,973.00
Rekha Rani Gattani	29,250.00	29,250.00

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Nature of creditor	Amount claimed	Amount admitted
Secured Financial Creditor		
Total	21,12,11,606.00	15,51,91,397/-

CIRP and compliances

11. The Applicant submits that in terms of the provisions of section 25(2)(h) of the Code read with regulation 36A(1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, invitations in Form 'G' for Expressions of Interest (**EoI**) from potential resolution applicants were issued for the first time on 15 December 2022 in four newspapers. The last date of receipt of EoI was 30 December 2022. The notice was also published on the website of the Insolvency and Bankruptcy Board of India (**IBBI**).
12. The Applicant submits that in response to the invitation for EoI published on 15 December 2022, **one EoI** was received which was submitted by **NIP Power Private Limited**. The provisional list of Prospective Resolution Applicant was issued on 4 January 2023 and the final list of Prospective Resolution Applicant was issued on 14 January 2023. The RP then shared the Information Memorandum, Evaluation Matrix and Request for Resolution Plan (**RFRP**) with the Prospective Resolution Applicant on 9 January 2023.
13. One Resolution Plan was received from the only Resolution Applicant, being **NIP Power Private Limited** was compliant in terms of the provisions of the Code.
14. As per regulation 35(2) of the CIRP Regulations, after receipt of the Resolution Plan, the RP informed the fair value and liquidation value of the Corporate Debtor to the CoC.

Evaluation and voting

15. The Resolution Plan was placed for discussion before the CoC in the 10th CoC meeting held on 15 February 2023. The CoC negotiated with the Resolution Applicant and the Resolution Applicant resubmitted revised Resolution Plan on 20 February 2023 and two addendum dated 27 February 2023 and the Resolution Professional informed the CoC about the revised plan and offer. Thereafter on 01 March 2023, the 12th COC meeting was held wherein the final revised Resolution Plan submitted by NIP Power Private Limited discussed and after due discussions, the CoC found the plan to be feasible and viable. The revised Resolution Plan was approved by the CoC with 100% majority through e-voting.
16. The RP issued a Letter of Intent dated 08 March 2023 to the Successful Resolution Applicant, which was unconditionally accepted by the Successful Resolution Applicant on 10 March 2023.
17. In accordance with regulation 36B(4A) of the CIRP Regulations, the Successful Resolution Applicant has submitted the Performance Bank Guarantee of Rs.6,15,000/- (Rupees Six Lakh Fifteen Thousand only) which was submitted *vide* RTGS No. RTGS CR-HDFC0000362 on 14.03.2023² during the submission of EoI and then converted into Earnest Money Deposit and the said Earnest Money Deposit was converted into Performance Bank Guarantee after approval of the Resolution Plan.

Compliance of the approved Resolution Plan with various provisions

18. The Applicant has filed a Compliance Certificate in prescribed form, i.e., Form 'H' dated 18 March 2023 in compliance with regulation 39(4)

² Pg.268 of the I.A.

of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.³

19. The Applicant has submitted details of various compliances as envisaged within the Code and the CIRP Regulations which a Resolution Plan should adhere to, which is reproduced hereunder:

I. Submission of Resolution Plan in terms of sub-section (2) of section 30 of the Code (as amended vide Amendment dated 16 August 2019):

Clause of s.30(2)	Requirement	How dealt with in the Plan
1.	Plan must provide for payment of CIRP cost in priority to payment of other debts of CD in the manner specified by the Board.	Clause 5.4 at Page 12 of the Resolution Plan.
2.	(i) Plan must provide for payment of debts of OCs in such manner as may be specified by the Board which shall not be less than the amount payable to them in the event of liquidation u/s 53; (ii) Plan must provide for payment of debts of OCs in such manner as may be specified by the Board which shall not be less than amount that would have been paid to such creditors, if the amount to be distributed under the resolution	Clause 5.5 and Clause 5.6 at Pages 12-18 of the Resolution Plan Clause 5.5 and Clause 5.6 at Pages 12-18 of the Resolution Plan

³ Annexure N at Pgs. 255-268 of the I.A.

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Clause of s.30(2)	Requirement	How dealt with in the Plan
	<p>plan had been distributed in accordance with the order of priority in sub-section (1) of section 53, whichever is higher;</p> <p>(iii) provides for payment of debts of financial creditors who do not vote in favour of the resolution plan, in such manner as may be specified by the Board.</p>	Clause 5.7.1 (i) at Page 18-19 of the Resolution Plan.
(c)	Management of the affairs of the Corporate Debtor after approval of the Resolution Plan.	Clause 7 at Page 28 of the Resolution Plan.
(d)	Implementation and Supervision	Clause 7.6 at Pages 32-33 of the Resolution Plan.
(e)	Plan does not contravene any of the provisions of the law for the time being in force.	Clause 2.6 at Page 4 of the Resolution Plan
(f)	Conforms to such other requirements as may be specified by the Board.	Clause 2.6 at Page 4 of the Resolution Plan

II. Measures required for implementation of the Resolution Plan in terms of regulation 37 of CIRP Regulations:

Particulars	Relevant Page of the Revised Resolution Plan dealing aforesaid compliance with Regulation
A resolution plan shall provide for the measures, as may be necessary, for insolvency resolution of the corporate debtor for maximisation of value of its assets, including but not limited to the following: -	
(a) transfer of all or part of the assets of the corporate debtor to one or more persons;	NA
(b) sale of all or part of the assets whether subject to any security interest or not;	NA
(ba) restructuring of the corporate debtor, by way of merger, amalgamation and demerger;	NA
(c) the substantial acquisition of shares of the corporate debtor, or the merger or consolidation of the corporate debtor with one or more persons;	Clause 6 at Pages 25-27 of the Resolution Plan.

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Particulars	Relevant Page of the Revised Resolution Plan dealing aforesaid compliance with Regulation
(ca) cancellation or delisting of any shares of the corporate debtor, if applicable;	Clause 7.3.2 at Page 29 of the Resolution Plan.
(d) satisfaction or modification of any security interest;	NA
(e) curing or waiving of any breach of the terms of any debt due from the corporate debtor;	NA
(f) reduction in the amount payable to the creditors;	NA
(g) extension of a maturity date or a change in interest rate or other terms of a debt due from the corporate debtor;	NA
(h) amendment of the constitutional documents of the corporate debtor;	Clause 7.3.5 at page 29 of the Resolution Plan
(i) issuance of securities of the corporate debtor, for cash, property, securities, or in exchange for claims or interests, or other appropriate purpose;	NA

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Particulars	Relevant Page of the Revised Resolution Plan dealing aforesaid compliance with Regulation
(j) change in portfolio of goods or services produced or rendered by the corporate debtor;	NA
(k) change in technology used by the corporate debtor; and	NA
(l) obtaining necessary approvals from the Central and State Governments and other authorities.	Clause 9.1 at page 52 of the Resolution Plan.
(m) sale of one or more assets of corporate debtor to one or more successful resolution applicants submitting resolution plans for such assets; and manner of dealing with remaining assets.	NA

**III. Mandatory contents of Resolution Plan in terms of regulation 38
of CIRP Regulations:**

Ref to relevant Reg.	Requirement	How dealt with in the Plan
38(1a)	The amount payable to the operational creditors under a resolution plan shall be given priority in payment over financial creditors.	Clause 5.2 at Page 11 and clause 5.7 at Pages 18-21 of the Resolution Plan.
38(1b)	The amount payable to the financial creditors, who have right to vote and did not vote in favour of the resolution plan, shall be paid in priority over financial creditors who voted in favour of the plan.	Clause 5.2 at Page 11 and clause 5.7 at Pages 18-21 of the Resolution Plan.
38(1A)	A resolution plan shall include a statement as to how it has dealt with the interests of all stakeholders, including financial creditors and operational creditors of the corporate debtor.	Clause 5 at Pages 10-24 of the Resolution Plan.

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Ref to relevant Reg.	Requirement	How dealt with in the Plan
38(1B)	A resolution plan shall include a statement giving details if the resolution applicant or any of its related parties has failed to implement or contributed to the failure of implementation of any other resolution plan approved by the Adjudicating Authority at any time in the past.	Clause 8 at Page 36 of the Resolution Plan.
38(2)	A resolution plan shall provide:	
	(a) the term of the plan and its implementation schedule;	Clause 7 at Pages 28-35 of the Resolution Plan.
	(b) the management and control of the business of the corporate debtor during its term; and	Clause 7 at Pages 28-35 of the Resolution Plan.
	(c) adequate means for supervising its implementation.	Clause 7 at Pages 28-35 of the Resolution Plan.

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Ref to relevant Reg.	Requirement	How dealt with in the Plan
	(d) Provides for the manner in which proceedings in respect of avoidance transactions, if any, will be pursued after the approval of the resolution plan and the manner in which the proceeds, if any, from such proceedings shall be distributed.	NA
38(3)	A resolution plan shall demonstrate that –	
	(a) it addresses the cause of default;	Clause 4.1 at Page 6 and Clause 7 at Pages 28-35 of the Resolution Plan.
	(b) it is feasible and viable;	Clause 4.1 at Page 6 and Clause 7 at Pages 28-35 of the Resolution Plan.
	(c) it has provisions for its effective implementation;	Clause 4.1 at Page 6 and Clause 7 at Pages 28-35 of the Resolution Plan.

Ref to relevant Reg.	Requirement	How dealt with in the Plan
	(d) it has provisions for approvals required and the timeline for the same; and	Clause 4.1 at Page 6 and Clause 7 at Pages 28-35 of the Resolution Plan. (also add the addendum and date wherein the same is mentioned)
	(e) the Resolution Applicant has the capability to implement the resolution plan.	Clause 4.1 at Page 6 and Clause 7 at Pages 28-35 of the Resolution Plan.

20. The Resolution Applicant has submitted affidavit of eligibility under section 29A of the Code, affirmed on 30 December 2022⁴.

Details of Resolution Plan/Payment Schedule

21. The Applicant submits that the Resolution Plan was placed before the 10th CoC meeting on 15.02.2023. After negotiations with the Resolution Applicant, the Resolution Plan was resubmitted on 20.02.2023 alongwith two addendums dated 27.02.2023 and it was placed before the 12th CoC meeting held on 01.03.2023 and thereby approved by 100% majority.

⁴ Pages 77-80 of the I.A.

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22. The Applicant in clause 5.10⁵ of the Resolution Plan has mentioned about the Resolution Plan Outlay and means of finance which are as follows:-

Cost of Plan	Total Amount (in Lakh)
Cost to be incurred	
CIRP Cost (As per Actuals Unpaid dues)	20.00
Payment to Secured Financial Creditors in full & final	50.00
Payment to Government Dues in full & final Settlement	1.00
Payment to Other Operational Creditors in full & final Settlement	0.50
Sub- Total	71.50
Total Payment to Existing Financial & Operational Creditors	71.50
Add: Capital Expenditure to Restart the Unit	25.00
Add: Working Capital	15.00
TOTAL (Rs. In Lakh)	111.50

Means of Finance	Total Amount (in Lakh)
Fresh Equity to be infused by the Resolution Applicant	25.00
Unsecured Loans by Applicant	86.50
TOTAL (Rs. In Lakh)	111.50

Total Admitted Liability & Payment Plan			
Class	Admitted Claim as per Process memorandum	Upfront Payment in full & final settlement	Total Payment
CIRP Cost	-	20.00	20.00
Secured Financial Creditor	1,488.23	50.00	50.00
Operational Creditors (Statutory Dues)	35.31	1.00	1.00
Operational Creditors (Others)	28.37	0.50	0.50
Total	1,551.91	71.50	71.50

⁵ Page 24 of the Resolution Plan

23. Further in clause 7.7⁶ of the Resolution Plan, the Applicant has mentioned the indicative timelines for implementation of the Resolution Plan. Such term and implementation schedule of the Resolution Plan are as follows:

Particulars	Target Time	Effective timelines (in days)
Approval of AA	X	X
Payment to entire amount Resolution plan Outlay	30 days	X +30
Takeover of the Assets	5 days from payment	X+35
Repairs of the plant to achieve maximum capacity	300 days form handover	X +335
Startup of unit	335 days from the Approval of AA	

Details on Management/Implementation and Reliefs as per the Resolution Plan – Salient Features

24. The Resolution Plan also provides for –
- Management of company after resolution in Clause 7.4.3 at Page 31 of Resolution Plan.
 - Term of the resolution plan in Clause 7.7 at Pages 33-34 of the Resolution Plan.
 - Implementation and Supervision of the resolution plan in Clause 7.6 at pages 32-33 of the Resolution Plan.

Relinquishment/Waiver of liabilities and Approvals

25. The Reliefs, Exemptions and Waivers sought by the Resolution Applicant from the Adjudicating Authority are set out below for the

⁶ Page 33 of the Resolution Plan

successful implementation of the Resolution Plan. The orders thereon are indicated against each.

Sl. No.	Relief, concessions and approvals sought
1.	<p><u>Shareholders permission</u></p> <p>Under the Companies Act, 2013, various actions which are proposed to be undertaken pursuant to this Resolution Plan, such as: (i) issuance and allotment of the Equity Shares to the Resolution Applicant; and (ii) subsequent Capital Reduction would require approval of the shareholders of the Corporate Debtor Company.</p> <p>However, as per explanation to Section 30(2) of the Insolvency and Bankruptcy Code, 2016, it has been clarified that <i>"if any approval of shareholders is required under the Companies Act, 2013(18 of 2013) or any other law for the time being in force for the implementation of actions under the resolution plan, such approval shall be deemed to have been given and it shall not be a contravention of that Act or law."</i></p> <p>The purpose of the explanation to section 30(2) of the Code is to prevent shareholders of a company under the CIRP from obstructing the implementation of a resolution plan which was duly approved by the Adjudicating Authority under the provisions of the Code.</p> <p>Accordingly, the requirement of procuring approval of the shareholders of the Company has been dispensed with for any of the actions proposed to be undertaken pursuant to this Resolution Plan.</p>
2.	<p>The requirement of obtaining a no objection certificate under section 281 of the Income-tax Act, 1961 and provisions of taking over its predecessor's Tax liability under section 170 of the Income-tax Act, 1961 shall not be applicable. Similarly, any requirements to obtain waivers from any Tax authorities including in terms of section 79 and section 115JB of the Income-tax Act, 1961, is deemed to have been granted upon</p>

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Sl. No.	Relief, concessions and approvals sought
	approval of this Resolution Plan and with effect from the Approval Date .
3.	The change in the shareholding of the Corporate Debtor pursuant to this Resolution Plan approved by the Adjudicating Authority shall not result in lapse of any losses of the Corporate Debtor that are brought forward under the provisions of section 79 read with section 2(18} Income-Tax Act, 1961. Furthermore, the scheme of merger and amalgamation as proposed shall not result in lapse of any losses of the Corporate Debtor that are brought forward under the provisions of section 79 read with section 2(18} Income-tax Act, 1961.
4.	The Central Board of Excise and Customs to not to void the transactions contemplated under the Resolution Plan (including a potential sale of Assets} under section 81 of the Central Goods and Service Tax Act, 2017 and not to impose any subsequent liability on the Resolution Applicant and/or the Corporate Debtor.
5.	The losses already lapsed/ not lapsed, as shown in the books of accounts as on the date of approval of the Resolution Plan shall be allowed to be carried forward for a period of eight (8) Assessment Years from the Financial Year relevant to the Assessment Year in which Resolution Plan is approved.
6.	Act as necessary directions to Central Board of Direct Taxes: i} For exemption from the provisions of Income Tax Act, 1961, including but not limiting to the provisions of Minimum Alternate Tax, arising as a result of giving effect to the Resolution Plan, including write-back of liabilities. ii} For Claim set-off of the entire Minimum Alternate Tax (MAT} credit as available to the Corporate Debtor, against the

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Sl. No.	Relief, concessions and approvals sought
	normal income-tax as would be payable by the Corporate Debtor post the Approval Date, i.e. no normal taxation should be applicable until the MAT credit is adjusted/utilized in full.
7.	There arising no liability of the Resolution Applicant in respect of any reassessment, reopening, revision, review or other proceedings under the Income -tax Act, 1961, or any other law or statute for any period prior to the Effective Date.
8.	All Relevant Authorities (including RBI} to waive and close matters and not to raise any fresh assessment/demand pertaining to any and all non-compliances/ defaults/dues of the Corporate Debtor prior to the Effective Date, including but not limited to those relating to Income Tax, Service Tax, Goods and Service Tax, Customs and Excise Act, Foreign Exchange Management Act, Prevention of Money Laundering Act, s Tax/Value Added Tax Acts of the relevant State or the Central Government, Real Estate Regulatory Act of the relevant States or the Central Government}. All penalties, liabilities and claims by whatever name called, shall in relation to the aforesaid non-compliances/demand/defaults/dues shall stand extinguished permanently.
9.	All Governmental Authorities (including but not limited to Income Tax Authority, Service tax Department, VAT Department and GST Department} to waive the non-compliances of the Corporate Debtor or further claims of the Governmental Authorities on the Corporate Debtor arising out of or in relation to the past claims, and/or actions, deed/s or thing/s prior to the Insolvency Commencement Date.
10.	That all the assets of the corporate debtor including but not limited to the current assets, bank balances and fixed deposits will vest to the benefit of the Corporate Debtor and under control of the Resolution Applicant. Any attachment and/or

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Sl. No.	Relief, concessions and approvals sought
	freezing order against the assets of the Corporate Debtor by any authority, including but not limited to IT, GST will stand vacated and the Corporate Debtor will be free to use the assets to it benefits to ensure that the unit continues to be a going concern
11.	On the date of Adjudicating Authority order approving, the resolution plan, all Encumbrances, Security Interest, liens and/or attachments (including pursuant to applicable law) created or suffered to exist over the assets of the Corporate debtor, whether by contract or by Applicable law shall be allowed to exist only to the extent of the balance amount as contemplated in the resolution plan due to the creditors and commenced by any person over any assets of the Corporate debtors or over any securities of the corporate debtors shall stand irrevocably released and reversed upon full and final settlement of the dues of the secured financial creditors as contemplated in the resolution plan without the requirement of any further deed or actions on part of the Resolution Applicant
12.	The approval of resolution Plan by Adjudicating Authority shall constitute adequate and final approval of the Adjudicating Authority for: (a) cancellation of the share capital of the Corporate Debtor in terms of section 66 and other provisions of the Companies Act, 2013 and other Applicable Law without any compliance of any provisions of the Act which shall stand exempted without any further actions on part of any Party; (b)for issuance of new Equity Shares/ preference shares and/ or convertible securities as may be considered appropriate to issue in terms of the Section 42 and Section 62(1)(c) of the Companies Act, 2013 and other Applicable Law and accordingly; and (c) the amount infused by the Resolution Applicant in the Corporate Debtor for payment of dues of financial creditors as

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Sl. No.	Relief, concessions and approvals sought
	per this Resolution Plan shall not be termed as deposits under section 73 to 76 of the Companies Act, 2013 and the rules made thereunder, shall be effective without following the provisions of the Companies Act, 2013, and that no approval/ consent shall be necessary from any other Person in relation to any of these actions including under any agreement, the constitution documents of the Corporate Debtor or any Applicable Law.
13.	The Resolution Applicant (and its Affiliates) and any future buyers of the Assets of the Corporate Debtor shall not be liable, in any way, for any criminal proceedings or actions that have been initiated against the Corporate Debtor or its existing or former promoters, shareholder or directors, employees, officers, at any point of time, before or after the Approval Date.
14.	The Department of Registration and Stamps and any other relevant authorities of State Governments where the Corporate Debtor or the Resolution Applicant carries on its business and operations or where its Assets are located, shall exempt the Resolution Applicant and the Corporate Debtor from the levy of stamp duty and fees, applicable in relation to this Resolution Plan and its implementation, including issuance of Equity Shares as provided in this Resolution Plan.
15.	All creditors (including but not limited to the Financial Creditors and other Operational Creditors) of the Corporate Debtor shall withdraw all legal proceedings commenced against the Corporate Debtor in relation to Claims, including proceedings commenced against the Corporate Debtor under Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and Recovery of Debt and Bankruptcy Act, 1993 within a period of 90(ninety) days of the Approval Date, and in the meanwhile the creditors shall not pursue the legal and other actions taken by any and/or all of them against the Corporate Debtor.
16.	For the purpose of consolidation of the books of the Corporate Debtor with Resolution Applicant, the Effective Date shall be treated as the date on which Corporate Debtor shall issue its

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Sl. No.	Relief, concessions and approvals sought
	equity shares to the Resolution Applicant against full payment to the Financial Creditors in terms of this Resolution Plan, which eventually results in takeover of the Corporate Debtor by the Resolution Applicant on that day.
17.	The Adjudicating Authority be pleased to direct all relevant government authorities to provide/extend to the Corporate Debtor all licenses, permits and approvals required by the Resolution Applicants for implementation of the terms of this Resolution Plan and for an efficient functioning of the business of the Corporate Debtor. Further, all licenses and permits required by the Corporate Debtor shall be continued to be made available to the Corporate Debtor.
18.	That the Concerned Registrar of Companies do waive off the Fees as may be payable in course of implementation of the Resolution Plan including but not limiting to Fees and charges payable for increase in the Authorized Capital of the Corporate debtor in course of allotment of shares to Financial Creditors for the unsustainable Debts and also increase in authorized capital as may be required in course of equity infusion by the Resolution Applicant.
19.	The change in ownership of the Corporate Debtor shall not be construed as a breach of legal obligation or as an event of default by any government/ statutory authority and the same shall not be used as a reason for non-grant/denial of extension of any no objection/permission/license as was granted to or is required to be granted to the Corporate Debt or, as the case may be.

Orders

26. On hearing the submissions made by the Ld. Counsel for the Resolution Professional, and perusing the record, we find that the Resolution Plan has

been approved with 100% voting share. As per the CoC, the plan meets the requirement of being viable and feasible for revival of the Corporate Debtor. By and large, all the compliances have been done by the RP and the Resolution Applicant for making the plan effective after approval by this Bench.

27. On perusal of the documents on record supported by an affidavit of the Resolution Professional, we accord our satisfaction that the Resolution Plan as approved by the CoC, is in accordance with sections 30 and 31 of the IBC and also complies with regulations 38 and 39 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
28. We have perused the reliefs, waivers and concessions as sought and as given in Clause 9 at pages 38-41 of the Resolution Plan. While some of the reliefs, waivers and concessions sought by the Resolution Applicant come within the purview of the Code while many others fall under the power and jurisdiction of different government authorities/departments. This Adjudicating Authority has power to grant reliefs, waivers and concessions only with respect to some of the reliefs, waivers and concessions that are directly in relation to the Code and the Companies Act 2013 (within the powers of the NCLT), and these are granted keeping in mind the object of the Code. No reliefs, waivers and concessions that fall within the domain of other government department/authorities are granted. The reliefs, waivers and concessions that pertain to other governmental authorities/departments shall be dealt with the respective competent authorities/forums/offices, Government or Semi Government of the State or Central Government with regard to the respective reliefs, waivers and concessions. The competent authorities including the Appellate authorities may consider grant such reliefs, waivers and concessions keeping in view the provisions and spirit of the Code.
29. The Resolution Applicant shall make necessary applications consistent with extant law to the concerned regulatory or statutory authorities for renewal of business permits and supply of essential services, if required, and all necessary forms along with filing fees etc. and such authority shall

also consider the same keeping in mind the provisions and objectives of the Code, which is essentially the resolving of the insolvency of the Corporate Debtor.

30. The reliefs sought with respect to subsisting contracts/agreements can be granted, and no blanket orders can be granted in the absence of the parties to the contracts and agreements.

31. With respect to the waivers with regard to extinguishment of claims which arose Pre-CIRP and which have not been claimed are granted in terms of **Ghanashyam Mishra and Sons Pvt Ltd v Edelweiss Asset Reconstruction Company Ltd**,⁷ wherein the Hon'ble Supreme Court has held that once a resolution plan is duly approved by the Adjudicating Authority under sub-section (1) of section 31, the claims as provided in the resolution plan shall stand frozen and will be binding on the Corporate Debtor and its employees, members, creditors, including the Central Govt, any State Govt or any local authority, guarantors and other stakeholders.

In this regard we also rely on the judgement of Hon'ble High Court of Rajasthan in the matter of *EMC v. State of Rajasthan* wherein it has been inter-alia held that :

Law is well-settled that with the finalization of insolvency resolution plan and the approval thereof by the NCLT, all dues of creditors, Corporate, Statutory and others stand extinguished and no demand can be raised for the period prior to the specified date.

Thus on the date of approval of 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 part of the resolution plan as per the law laid down by the Hon'ble Supreme Court in **Ghanashyam Mishra supra**.. The Hon'ble Supreme Court also held that all the dues including the statutory dues owed to the Central Govt, any State Govt or any local authority, if not part of the resolution plan, shall stand

⁷ 2021 SCC OnLine SC 313 decided on 13.04.2021.

- extinguished and no proceedings in respect of such dues for the period prior to the date on which the Adjudicating Authority grants its approval under section 31 could be continued.
32. With respect to the waivers sought in relation to guarantors, we seek to place reliance on the judgment of *Lalit Kumar Jain v Union of India & ors*,⁸ wherein the Hon'ble Supreme Court held in para 133 that sanction of a resolution plan and finality imparted to it by section 31 does not per se operate as a discharge of the guarantor's liability shall apply.
33. With respect to the reliefs and waivers sought for all inquiries, litigations, investigations and proceedings shall be granted strictly as per the section 32A of the Code and the provisions of the law as may be applicable.
34. As far as the question of granting time to comply with the statutory obligations/seeking sanctions from governmental authorities is concerned, the Resolution Applicant is directed to do the same within one year as prescribed under section 31(4) of the Code.
35. In case of non-compliance of this order or withdrawal of Resolution Plan, the CoC shall have the right to forfeit the EMD amount already paid by the Resolution Applicant.
36. Subject to the observations made in this Order, the Resolution Plan is hereby **APPROVED** by this Bench. **The Resolution Plan shall form part of this Order.**
37. The Resolution Plan is binding on the Corporate Debtor and other stakeholders involved so that revival of the Debtor Company shall come into force with immediate effect.
38. The Moratorium imposed under section 14 shall cease to have effect from the date of this order.
39. The Resolution Professional shall submit the records collected during the commencement of the proceedings to the Insolvency & Bankruptcy Board of India for their record and also return to the Resolution Applicant or New Promoters.

⁸ 2021 SCC OnLine SC 396 decided on 21.05.2021

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH, COURT I

In Re Resolution Plan of Kosons Forests Products Private Limited
IA (IB) No. 562/KB/2023 in CP (IB) No. 25/KB/2022

40. Certified copy of this Order be issued on demand to the concerned parties, upon due compliance.
41. Liberty is hereby granted for moving any Application if required in connection with implementation of this Resolution Plan.
42. A copy of this Order is to be submitted in the Office of the Registrar of Companies, West Bengal.
43. The Resolution Professional shall stand discharged from his duties with effect from the date of this Order.
44. The Resolution Professional is further directed to handover all records, premises/factories/documents to the Resolution Applicant to finalise the further line of action required for starting of the operation. The Resolution Applicant shall have access to all the records/premises/factories/documents through the Resolution Professional to finalise the further line of action required for starting of the operation.
45. **IA (IB) No. 562/KB/2023 and CP (IB) No. 25/KB/2022** shall stand disposed of accordingly.
46. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
47. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

Balraj Joshi
Member (Technical)

Rohit Kapoor
Member (Judicial)

Order signed on the 22nd day of December 2023.

FA_LRA