**NATIONAL COMPANY LAW TRIBUNAL**
**NEW DELHI BENCH-V**

**(IB) 1612 (ND)/2018**
**IA/ 1519/2020**
**IA/ 3630/2020**

**IN THE MATTER OF:**

**RITU RASTOGI**
**RESOLUTIONAL PROFESSIONAL,**
**BENLON INDIA LIMITED .......RESOLUTION PROFESSIONAL**

**AND**

**IN THE MATTER OF**

**RIYAL PACKERS .....OPERATIONAL CREDITOR**

**VERSUS**

**BENLON INDIA LIMITED ...... CORPORATE DEBTOR**

**SURINDER KUMAR CHAWLA,**
**RESIDING AT 74 RAJASTHANI UDYOG NAGAR.**
**G.T. ROAD, NEW DELHI- 110088 .....RESOLUTION APPLICANT**

**And**

**RITU RASTOGI**
**RESOLUTIONAL PROFESSIONAL,**
**BENLON INDIA LIMITED**
**A-68, GROUP INDUSTRIAL AREA,**
**WAZIRPUR, DELHI, 110052 ....RESOLUTION PROFESSIONAL**

**SECTION: U/S 60(5) of IBC, 2016**

**Order delivered on: 20.10.2020**

**CORAM:**

**MR. ABNI RANJAN KUMAR SINHA, MEMBER (JUDICIAL)**

**MR. K.K. VOHRA, MEMBER (TECHNICAL)**

**For the Applicant/Financial Creditor:** Mr. Abhay Gupta for CoC, Mr. Sumesh Dhawan and Ms. Geetika Sharma for RA.

**For the Respondent/Corporate Debtor:** Mr. Ankur, Ms. Meera Murali & Ms. Ritu Rastogi and Mr. Neelakantan, SBI

## ORDER

## AS PER MR. ABNI RANJAN KUMAR SINHA, MEMBER (JUDICIAL)

1. Since the facts involved in I.A.-3630/2020 is also the subject matter of I.A. 1519/2020, therefore, we would like to dispose of both the IAs. by this common order.

### I.A. 1519/2020

2. The present petition has been filed under Section 30(6) of the Insolvency & Bankruptcy Code, 2016, (hereinafter referred to as the "Code") on behalf of the Resolution Professional, seeking approval of Resolution Plan.

3. The facts mentioned in the application in brief are as follows:

    i. The Corporate Debtor, Benlon India Limited, was admitted into insolvency vide order dated 19.12.2018 passed by this Adjudicating Authority, admitting the application under Section 9 of the Code filed by the Operational Creditor wherein the Applicant was appointed as Interim Resolution Professional.

    ii. That on 23.12.2018, the Applicant carried out public announcement on initiation of CIRP. After collation of claims and determination of the financial position of the Corporate Debtor, a Committee of Creditor (herein after CoC) was duly constituted by the Applicant on 12.01.2019 in terms of Section 18(1)(c) of the Code and the same was apprised to this Adjudicating Authority vide report dated 15.01.2019.

iii. On 13.04.2019, the Applicant published duly approved Form G for inviting expression of interest for submitting resolution plans in the CIRP of the Corporate Debtor. The last date for submission of EOI as per Form G was initially fixed as on 27.04.2019. As on 27.04.2019, 6 EOI were received by the RP. However, at the 7th COC meeting held on 24.05.2019, the CoC decided to extend the last date for EOI submissions to 15.06.2019. At the 8th CoC meeting held on 18.06.2019 the date was further extended to 01.07.2019 for submissions of EOI.

iv. Meanwhile the CoC in their 6th meeting held on 04.05.2019 by majority continued and appointed the Applicant as the Resolution Professional for the Corporate Debtor.

v. Since the CIRP period of 180 days was expiring on 17.06.2019, the Applicant on resolution having been passed by the CoC sought an extension of 90 days from this Adjudicating Authority to complete the CIRP. This Adjudicating Authority vide order dated 01.07.2019 granted 90 days extension with éffect from 17.06.2019.

vi. The Applicant then issued the Request for Resolution Plan (RFRP) on 13.07.2019 to all 6 potential Resolution Applicants, who had submitted their EOIs upon signing of confidentiality undertaking and asked them to submit resolution plans. The last date for submission of resolution plans was fixed at 13.08.2019. Accordingly, Resolution Plan was received and during the 10th, 11th, 12th, 13th CoC meetings continued discussions/negotiations with RA-Sunehri Texcraft took place. However, the said RA did not comply with IB Code and RFRP requirements, and the plan could not be put for voting.

vii. Further, the Applicant applied to this Adjudicating Authority for further extension of the CIRP period to 330 days. This Adjudicating Authority vide order dated 13.09.2019 granted a further extension of 60 days to complete the process.

viii. On 05.10.2019, it was decided in the 14th CoC Meeting to run the process again to achieve insolvency resolution. Accordingly, new process advisors were appointed, and a fresh deadline for resolution plan submission was extended to 07.11.2019.

ix. As on 08.11.2019, two new resolution plans were received by the Applicant and opened in the 15th CoC Meeting. Further, CoC resolved to permit the RP to seek further extension of 45 days of the CIRP period for dealing with the new resolution plans. The Successful Resolution Applicant being Mr. Surender Kumar Chawla was shortlisted as RA on this date.

x. An application being CA No. 89/CV/ND/2019 seeking extension of CIRP period by 45 days was filed by the Applicant on 13.11.2019 before the Adjudicating Authority. However, the said application was rejected vide order dated 27.11.2019. The Applicant then filed an appeal being Company Appeal (AT) (Insol.) 1425/2019 before the NCLAT on 07.12.2019, against order dated 27.11.2019. Vide order dated 10.12.2019, the NCLAT directed that the approved resolution plan be submitted before it in sealed cover. Accordingly, the 16th COC meeting was held on 16.12.2019 where Resolution Plan of Successful Resolution Applicant ("SRA") was discussed but the meeting remained inconclusive.

xi. Thereafter, on 20.12.2019, the 17th CoC meeting was held and minutes were circulated by the Applicant. The SRA submitted his final Resolution Plan on 25.12.2019. The proposed resolution plan was sent to all the members on 25.12.2019 itself by the Applicant. Accordingly, a report on the evaluation of the proposed resolution plan dated 25.12.2019 was prepared by the PWC (process advisor) and the said report was circulated to all the members on 27.12.2019. At this stage, some changes were again advised by the CoC members and an Addendum to the Resolution Plan was submitted by the SRA on 31.12.2019. The said addendum was also circulated to all CoC members by the Applicant.

xii. Complete resolution plan with all the annexures and addendum was sent by RA through email dated 01.01.2020 and same had been circulated to the CoC members for voting.

xiii. On 01.01.2020, the Applicant received an email from State Bank of India the lead CoC member with about 48% vote share that they were considering the merits of the plan and hence requested to extend voting time upto 15.01.2020 after approval from appropriate authority. Accordingly, the Company Appeal was adjourned on 03.01.2020.

xiv. Voting at request of SBI was extended to 15.01.2020. However at close of voting, it was found that SBI voted against the resolution plan and Indian Bank abstained from voting. The voting had been finally closed on 15.01.2020 at 5:00 pm, but again an email dated 15.01.2020 was received from SBI viz., CoC member having approx. 48% voting share, with request to wanting to have the vote afresh.

xv. The NCLAT vide order dated 17.01.2020 allowed the appeal and remitted back the matter to allow the Plan to be finalized and Application under Section 30/31 be filed by 06.02.2020.

xvi. Between 18.01.2020 to 27.01.2020, the CoC members further negotiated the Resolution Plan with the SRA. On

28.01.2020, final revised Resolution Plan was received from SRA viz., Mr. Surender Kumar Chawla. On the same date the resolution plan was circulated to CoC members entitled to vote for approval through voting alongwith a comparison of the changes proposed.

xvii. On 29.01.2019, Notice was sent to hold 18th CoC meeting on 31.01.2020 but the same could not be held. On 30.01.2020 and 31.01.2020 certain queries were received from Hero Fincorp Ltd and SBI and the SRA responded to them.

xviii. On 01.02.2020, the 18th COC meeting was held and the Resolution plan was finally discussed and put to vote. The e voting closed at about 4.30pm on 05.02.2020. Report on e-voting was prepared by the RP on the same date and Letter of Intent was issued as the Resolution Plan of the RA was passed by 94.95% votes. The SRA has also submitted performance guarantee in the form of pay order no. 001835 drawn on HDFC Bank dated 05.02.2020 for Rs. 2 crore as required.

xix. On 06.02.2020, the Applicant moved an application before this Adjudicating Authority to allow submission of application under Section 30/31 after 06.02.2020 within a week. The said application is pending adjudication.

xx. Therefore, the present application is being filed under Section 30(6) seeking approval of this Adjudicating Authority for Resolution Plan approved by the COC by 94.95%

favourable voting by the CoC. The CIRP process has been run by the Applicant as per the Code, to maximize the asset value of the Corporate Debtor. The approved resolution plan has been analysed by the process advisor and the COC has applied it mind to the approved resolution plan before approving the same. The SRA's plan has been found to be legally complied and has been thoroughly negotiated by the CoC in its commercial wisdom. The SRA meets the eligibility criteria and has submitted the eligibility declaration under Section 29A of the Code.

xxi. The liquidation value of the Corporate Debtor was ascertained to be an average of Rs. 81.01 cr. from the valuation reports received from two registered valuers. The total value of the financial proposal of the approved resolution Plan of the SRA is Rs. 123.00 cr. and the same was found to be above the liquidation value.

xxii. The approved Resolution Plan of the SRA-provides for upfront payment of 100% costs on priority.

xxiii. The summary of voting results for the resolution plan is as follows:

| SI | Name of Creditor | Voting Share (%) | Voting for Resolution Plan (Voted for/Dissented /Abstained) |
|---|---|---|---|
| 1 | State Bank of India | 48.35% | Voted for |
| 2 | Punjab National Bank | 19.16% | Voted for |
| 3 | Bank of Baroda | 11.83% | Voted for |
| 4 | Nanital Bank | 10.35% | Voted for |

| | | | |
|---|---|---|---|
| 5 | India Bank | 5.25% | Voted for |
| 6 | Hero Fincorp Ltd. | 5.05% | Dissented |

4. The Resolution Professional filed a compliance report in pursuance of the Order dated 05th October, 2020. The facts of the compliance report, in short, is that during the pendency of the aforesaid application, the Resolution Applicant filed an application I.A. No. 3630/2020, seeking modification of the Resolution Plan approved by the CoC, to the extent of modifying the timelines for making certain payments under the resolution plan. The resolution plan originally stipulated that upfront payments, as stated therein, would be made within 90 days from the Effective Date i.e. the date of approval of the Resolution Plan by this Adjudicating Authority.

5. Further, the Resolution Applicant, in IA No. 3630/2020, has sought a period of 210 days instead of 90 days to make the aforesaid upfront payments and same came up for hearing before this Bench on 14.09.2020 and on the request of the Resolution Applicant matter was adjourned for 25.09.2020 to approach the CoC.

6. Further, in order to consider the request of the Resolution Applicant for modification of timelines for payment, the Lenders/ Financial Creditors forming part of the CoC of the Corporate Debtor, convened a lenders' meeting on 01.10.2020 through virtual mode i.e. video conferencing. However, the minutes of the Lender's meeting could not be signed and stamped by all the

participating Lenders as the meeting was conducted through video conferencing and representatives of the participating Lenders were not available physically, on account of Covid 19 Pandemic. The minutes were signed by State Bank of India holding 48.3% of the voting share in the CoC.

7. Further, the lenders agreed to extension of payment time for upfront payments by 90 days i.e. granting a total time of 180 (90 + 90) days to resolution applicant for upfront payments from the Effective Date and the said minutes were filed on 04.10.2020.

8. Further, this Bench vide order dated 05.10.2020 directed the Resolution Professional to bring on record all the facts pertaining to the issue of extension of time for making payments under the plan, as stated above.

**IA-3630/2020**

9. The present petition has been filed under Section 60(5) of the Insolvency & Bankruptcy Code, 2016, (hereinafter referred to as the "Code") on behalf of the successful Resolution Applicant, Surinder Kumar Chawla praying for modification in the timeline of the payment schedule in the Resolution Plan.

10. The facts mentioned in the application in brief are as follows:

(i) The Corporate Debtor, Benlon India Limited was admitted into insolvency vide its order dated 19.12.2018 passed by the National Company Law Tribunal, New Delhi Bench V admitting the application under Section 9 of the Code and Ms. Ritu

Rastogi has been appointed as the Resolution Professional ("RP") of the Corporate Debtor.

(ii) That the Resolution Plan dated 19.1.2020 submitted by the Resolution Applicant was approved by the Committee of the Creditors (CoC) on 5.2.2020 by 94.95% favorable voting. That pursuant to the approval of the Resolution Plan under Section 30(4) of the code, the Resolution Professional had filed the Company Application under Section 30(6) of the Code seeking approval of this Adjudicating Authority on the Resolution Plan dated 19.1.2020 submitted by the Applicant and approved by the CoC.

(iii) It is stated that the Resolution Plan envisages a total outlay of Rs. 123.00 crore, which includes total consideration towards full and final settlement of the dues/claim of the Corporate Debtor of Rs. 103.00 crore (plus interest as proposed in the plan) for acquisition by the Resolution Applicant, which shall be utilised towards CIRP cost and settlement of creditors and further infusion of Rs. 20 crores towards capital expenditure and working capital. It is stated that the Resolution Plan proposes a distribution of consideration of Rs. 103 crores as aggregate payment of Rs 100 Crores to the Financial Creditors, Rs. 2 Crores for CIRP Cost, 0.50 Crores to the Operational Creditors and 0.50 Crores for the Statutory Dues. It is further stated that as per the clause 4.7 of the Resolution Plan, the Resolution Plan envisages full & final settlement and takeover of debt for an aggregate consideration of Rs. 100.00 crores to the financial creditors of which Rs. 42.10 crores shall be received by the financial creditors within 90 days of approval of the Resolution Plan, as detailed in clause 4.7 of the Resolution plan @ page 83 of the captioned Application filed by the RP. Further, the payment of Rs. 42.10 crore by the Resolution Applicant includes upfront payment of Rs. 13.21 crores (including appropriation of deposit of Rs. 2 crores being made along with submission of this Resolution Plan, further deposit of Rs. 2 crores to be made on approval of Resolution Plan by the CDC and Rs. 9.21 crores by appropriation of FDR of the Corporate Debtor lying with the financial creditors) and further deposit Rs. 28.89 Crores within 90 days from the date of approval of the resolution plan.

(iv) Therefore, as per the current Resolution plan dated 19.1.2020, the amount of Rs 31.89 (Rs. 28.89 Crores to financial Creditors plus 3 crores which includes CIRP Cost, Operational Creditors and statutory dues) is to be paid within 90 days from the approval of the Resolution Plan and further payment has to be made from the 3rd quarter after the expiry of the 90 days period.

(v) That the Resolution Applicant is filing the present application seeking modification/concession/relaxation in the timeline for the upfront payment to the Financial/Operational Creditors and/or other stakeholders as mentioned in the Resolution plan i.e. extension of the upfront payment period up to 210 days from the date of approval of the Resolution Plan instead of 90 days as sought earlier in the Resolution plan dated 19.1.2020 and further payment to be made from quarter after the expiry of 210 days.

11. We have heard the Learned Counsel appearing for the Resolution Professional, ld. Counsel for COC, ld. Counsel for SBI as well as the Resolution Applicant.

12. Learned Counsel appearing for the Resolution Professional Submitted that the Resolution Plan has been approved by the CoC. He further submitted that during the pending of the application filed by the RP for the approval of the Resolution Plan, the Resolution Applicant has filed an application for the extension of the time and the matter was again placed before the CoC and the CoC has approved the extension and additional time of 90 days. He further submitted that the Resolution Plan complied the provision contained under Section 30(2) of the IBC and so the same may be approved.

13. Learned Counsel appearing for the Resolution Applicant submitted that the Resolution Plan submitted by him is as per the provision contained under the IBC and so, the same may be approved.

14. In course of the hearing, no one has opposed the Resolution Plan, therefore, we have gone through the Resolution Plan

submitted by the Resolution Applicant as well as the application filed by the Resolution Applicant for the extension of time.

15. In view of the Section 31 of the IBC, the Adjudicating Authority before approving the Resolution Plan is required to examine that a Resolution Plan, which is approved by the CoC under Section 30(4) of the IBC meets the requirements as refer under Section 30(2) IBC, therefore, at this juncture, we would like to refer Section 30 (2) IBC and the same is quoted below: -

**Section 30 (2)**

***The resolution professional shall examine each resolution plan received by him to confirm that each resolution plan –***

***(a) provides for the payment of insolvency resolution process costs in a manner specified by the Board in priority to the payment of other debts of the corporate debtor;***

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

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

***(ii) the amount that would have been paid to such creditors, if the amount to be distributed under the resolution plan had been distributed in accordance with the order of priority in sub-section (1) of section 53,***

***whichever is higher, and provides for the payment of debts of financial creditors, who do not vote in favour of the resolution plan, in such manner as may be specified by the Board, which shall not be less than the amount to be paid to such creditors in accordance with sub-section (1) of section 53 in the event of a liquidation of the corporate debtor.***

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

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

*(i) where a resolution plan has not been approved or rejected by the Adjudicating Authority;*
*(ii) where an appeal has been preferred under section 61 or section 62 or such an appeal is not time barred under any provision of law for the time being in force; or*
*(iii) where a legal proceeding has been initiated in any court against the decision of the Adjudicating Authority in respect of a resolution plan;]*

*(c) provides for the management of the affairs of the Corporate debtor after approval of the resolution plan;*
*(d) The implementation and supervision of the resolution plan;*
*(e) does not contravene any of the provisions of the law for the time being in force*
*(f) confirms to such other requirements as may be specified by the Board.*

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

16. Mere plain reading of the provision contained under Section 30 (2) IBC shows that the Resolution Professional shall examine the Resolution Plan on the point that: -

(i) the plan provides for the payment of insolvency resolution process costs

(ii) provides for the payment of debts of operational creditors in the manner specified by the Board

17. Therefore, at this juncture, we would like to refer the **Regulation 37 and 38 of IBBI (Insolvency Resolution Process for Corporate Persons), Regulation 2016** and the same are quoted below: -

**<u>Regulation 37</u> (Insolvency Resolution Process for Corporate Persons), Regulation 2016**

A resolution plan shall provide for the measures, as may be necessary, for insolvency resolution of the corporate debtor for maximization 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;

(b) sale of all or part of the assets whether subject to any security interest or not;

(ba) restructuring of the corporate debtor, by way of merger, amalgamation and demerger;

(c) the substantial acquisition of shares of the corporate debtor, or the merger or consolidation of the corporate debtor with one or more persons;

(ca) cancellation or delisting of any shares of the corporate debtor, if applicable;

(d) satisfaction or modification of any security interest;

(e) curing or waiving of any breach of the terms of any debt due from the corporate debtor;

(f) reduction in the amount payable to the creditors;

(g) extension of a maturity date or a change in interest rate or other terms of a debt due from the corporate debtor;

(h) amendment of the constitutional documents of the corporate debtor;

(i) issuance of securities of the corporate debtor, for cash, property, securities, or in exchange for claims or interests, or other appropriate purpose;

(j) change in portfolio of goods or services produced or rendered by the corporate debtor;

(k) change in technology used by the corporate debtor; and

(l) obtaining necessary approvals from the Central and State Governments and other authorities.

**Regulation 38 - (Insolvency Resolution Process for Corporate Persons), Regulation 2016 - Mandatory contents of the resolution plan.**

(1) The amount payable under a resolution plan –

(a) to the operational creditors shall be paid in priority over financial creditors; and

(b) to the financial creditors, who have a right to vote under sub-section (2) of section 21 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.

(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.

(IB) 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.

(2) A resolution plan shall provide:

(a) the term of the plan and its implementation schedule;

(b) the management and control of the business of the corporate debtor during its term; and

(c) adequate means for supervising its implementation.

(3) A resolution plan shall demonstrate that –

(a) it addresses the cause of default;

(b) it is feasible and viable;

(c) it has provisions for its effective implementation;

(d) it has provisions for approvals required and the timeline for the same; and

(e) the resolution applicant has the capability to implement the resolution plan.

18. Mere plain reading of the Regulations show that the Resolution Plan shall provide for the measures, as may be necessary, for insolvency resolution of the corporate debtor for maximization of value of its assets and Regulation 38 says that what are the mandatory contents of the Resolution Plan and on the basis of that, we have to examine this aspect that the amount due to the Operational Creditor under the Resolution Plan shall be given priority in payment over the Financial Creditor or not?

19. In view of the aforesaid regulation, A Resolution Plan is required to contain a statement that how it will deal with the interest of the all stakeholders including Financial Creditor and the Operational Creditors of the Corporate Debtor and if these are sufficiently provided in the Resolution Plan then the Adjudicating Authority under Section 31 may approve the Resolution Plan, if the Authority satisfy that the Resolution Plan has provisions for effective implementation.

20. Now in the light of that provisions, when we shall examine the Resolution plan then we noticed that at page 93 of the application and page 22 of the resolution plan clause 4.11 has

provided the terms of Resolution Plan and implementation schedule.

**<u>Terms of Resolution Plan and implementation of schedule is given below: -</u>**

"The resolution plan envisages a period of 90 days for assignment of debt by financial creditors to PARCL. The payment of IRPC, statutory dues and Operational Creditors shall precede payment to the Financial Creditors. The resolution plan envisages 60 days for curing any inadvertent delay. Thus, the term of resolution plan is considered as 150 days. The implementation schedule of the Resolution Plan is thus envisaged as under: -

| S.No. | Payment | Amount (Rs. In Crore) | Implementation Schedule |
|---|---|---|---|
| 1. | Payment of outstanding CIRP | 2.00 | In priority to the Financial Creditors. |
| 2. | Payment of Operational Creditors | 0.50 | In priority to the Financial Creditors. |
| 3. | Settledment of Statutory due i.e. ESI/PF | 0.50 | In priority to the Financial Creditors. |
| 4. | Payment to Financial Creditors. | | |
| a. | With submission of plan | 2.00 | Already paid |
| b. | On approval of plan by CoC | 2.00 | Will be paid in the form of demand draft |
| c. | Appropriation of FDR | 9.21 | |
| d. | within 90 days of effective date payment by RA | 17.79 | |
| e. | within 90 days of effective date payment by ARC | 11.10 | |
| f. | Issue of SR by ARC within 90 days of effective date | 52.90 | |
| g. | Five lacs Optionally Convertible Debentures | 5.00 | Will be issued within 90 days |

| | | | |
|---|---|---|---|
| | with interest rate of 0.01% (Optionally convertible into Ten lacs Equity share at the end of 3 years from the date of issue or redeemable on 3 years from date of issue) | | from effective date. |
| | **Total** | **103.00** | |

"

21. On the basis of the averments made in clause 4.11, we noticed that payment of outstanding CIRP cost, payment of Operational Creditors, settlement of statutory dues are in the priority list of the Plan and the priority has been given for making payments towards the CIRP cost, the debt of the Operational Creditor, settlement of statutory dues to the Financial Creditors, therefore, we are of the view that the Resolution Plan is in the manner stated in Section 30 (2) of IBC read with Regulation 38 of the Insolvency Resolution Process for Corporate Persons, Regulation 2016.

22. We also noticed that in clause 4.5 at page 82, the provision for the 196 employees / workmen who were under the employment of the Corporate Debtor and it is proposed that the revival of the operation of the closed unit shall further create fresh employment opportunity for which existing and ex-employees / workmen shall be given preference, therefore, the provision has been made for the employees of the Corporate Debtor.

23. At this juncture, we would also like to mention this fact that when this application for approval of Resolution plan was pending, an application was filed on behalf of the Resolution Applicant, which was registered as **I.A. Number 3630/2020** and

the said proposal was placed before the lenders, who in its meeting dated 01 October, 2020 agreed to give three months additional time of 90 days, which means earlier there was provision for 90 days and by the minutes dated 01 October 2020 additional 90 days has been given to the Resolution Applicant that is 90 days + 90 days = 180 days for making the payment, in other words, lenders in its meeting dated 01 October, 2020 agreed to modify the timeline of the payment schedule, which was earlier approved by the CoC and consented to give additional time that is 90 days + 90 days = 180 days and with this, the time schedule mentioned in the Resolution Plan is modified and in place of 90 days it shall be read as 90 days + 90 days i.e. 180 days.

24. For the reasons discussed above, in our considered view the Resolution Plan fulfilled the requirement as referred in Section 30(2) and there are sufficient provisions in the plan for its effective implementation as required under the proviso of Section 31 of the IBC, therefore, in our considered view, the Resolution Plan is required to be approved by this Adjudicating Authority.

25. Accordingly, we hereby approved the Resolution Plan. which was earlier approved by the members of the CoC by the majority vote of 94.5% and in view of minutes dated 01 October, 2020 of the lenders, we, hereby, approved the modification of timeline of the payment of the schedule in the Resolution Plan submitted by the Resolution Applicant Mr. Surinder Kumar Chawla and in place

of 90 days, the timeline of the payment schedule shall be read as 90 days + 90 additional days i.e. 180 days.

26. The Approved Resolution plan alongwith minutes dt 01/10/2020 shall be part of this order.

27. Since, we have already decided the issue raised in this **I.A.-3630/2020** while approving the resolution Plan in **I.A.-1519/2020**, therefore, the present IA has become infructuous, so the same is disposed off in terms of the order passed in I.A-1519/2020.

-Sd-

**K. K. VOHRA**
**Member (T)**

-Sd-

**ABNI RANJAN KUMAR SINHA**
**Member (J)**