

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

**IA (IB) No. 1214/KB/2022**

**in**

**CP (IB) No. 131/KB/2020**

*An 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:***

ICICI Bank Limited

... Financial Creditor

Versus

**McNally Sayaji Engineering Limited**

CIN: L28999WB1943PLC133247

... Corporate Debtor

*And*

***In the matter of:***

**Jitendra Lohia**, Resolution Professional of

McNally Sayaji Engineering Limited

... Applicant

**Date of pronouncement: 24 February 2023**

***Coram:***

Shri Rohit Kapoor, Member (Judicial)

Shri Balraj Joshi, Member (Technical)

***Appearances (via video conference):***

For the Applicant/RP

Ms. Manju Bhuteria, Advocate

Mr. Jitendra Lohia, Resolution Professional

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*In Re approval of Resolution Plan of McNally Sayaji Engineering Limited*  
IA (IB) No. 1214/KB/2022 in CP (IB) No. 131/KB/2020

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For the Successful Resolution Applicant

Ms. Pooja Chakrabarti, Advocate

Ms. Kiran Sharma, Advocate

**ORDER**

*Per: Balraj Joshi, Member (Technical)*

1. This Court convened through video conferencing.

**Preliminary**

2. I.A. (IB) No. 1214/KB/2022 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. Jitendra Lohia, Resolution Professional of McNally Sayaji Engineering Limited (CIN: L28999WB1943PLC133247), 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 McNally Sayaji Engineering Limited (**Corporate Debtor**).
4. The underlying Company Petition in C.P. (IB) No. 131/KB/2020 was filed by ICICI Bank Limited against McNally Sayaji Engineering Limited, the Corporate Debtor, under section 7 of the Insolvency and Bankruptcy Code 2016, which was admitted *vide* order dated 11 February 2021.
5. Initially, Mr. Jitendra Lohia, the Applicant having IBBI Reg. No. IBBI/IPA-001/IP-P00170/2017-18/10339, was appointed as the Interim

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Resolution Professional (**IRP**) and was appointed as the Resolution Professional (**RP**) of the Corporate Debtor on 27 December 2021.

**Constitution of CoC**

6. The IRP made public announcement on 15 February 2021 in *The Economic Times (English) (All India Edition)*, *Dainik Jagran (Hindi) (Dhanbad Edition)*, *Divya Bhaskar (Gujrati) (Vadodra Edition)*, *Hosa Digantha (Kannad) (Bangalore Edition)* and *Aajkal (Bengali) (West Bengal Edition)* 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 debtor in the specified forms till 27 February 2021. Form A was also published in the website of the IBBI.
7. The Hon'ble NCLAT *vide* order dated 26 February 2021 directed the IRP not to constitute the Committee of Creditors. After dismissal of the appeal on 29 November 2021, the Applicant verified the claims and constituted the Committee of Creditors ("CoC") and the report on the consti
8. The CoC was constituted with sixteen Financial Creditors. A report of the constitution of the CoC, was filed before the Adjudicating Authority on 07 December 2021.
9. The Applicant states that a total of eleven CoC meetings have been held during CIRP period, as follows:

<b>Particulars</b>	<b>Date of CoC meeting</b>
1 <sup>st</sup> CoC Meeting	14.12.2021
2 <sup>nd</sup> CoC Meeting	20.01.2022
3 <sup>rd</sup> CoC Meeting	22.02.2022
4 <sup>th</sup> CoC Meeting	25.03.2022

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Particulars	Date of CoC meeting
5 <sup>th</sup> CoC Meeting	25.04.2022
6 <sup>th</sup> CoC Meeting	13.05.2022
7 <sup>th</sup> CoC meeting	21.06.2022
8 <sup>th</sup> CoC meeting	28.06.2022
9 <sup>th</sup> CoC Meeting	28.07.2022
10 <sup>th</sup> CoC meeting	04.08.2022
11 <sup>th</sup> CoC meeting	17.08.2022

**Collation of claims**

10. The amounts claimed and admitted are summarised below:

Nature of creditor	Amount Claimed	Amount admitted
Secured Financial Creditor	₹3217,25,44,643.08	₹294,15,79,977.95
Unsecured Financial Creditor	₹181,74,04,567/-	₹62,68,488/-
Unsecured Financial Creditors – Related	₹58,96,51,985.66	₹42,12,00,000/-
Operational Creditors (other than related, government, workmen, employees)	₹33,61,83,980.12	₹26,94,26,174.48
Operational Creditors-related	₹73,75,33,189.49	₹32,11,32,361.57
Government	₹88,68,69,456/-	₹16,08,83,340.48
Employees	₹1,69,233/-	₹1,69,233/-
<b>Total</b>	<b>₹3654,03,57,054.35</b>	<b>₹412,06,59,575.48</b>

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**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 was issued on 28 January 2022 in *Economic Times, (English)* and *Business Standard (English)* newspapers of All India edition and *Sanmarg (Hindi)*, *Lokmitra (Gujarati)*, *Hosa Digantha (Kannada)* and *Ekdin (Bengali)* newspapers. The last date for receipt of EoI was 12 February 2022.
12. The notice was also published on the website of the Insolvency and Bankruptcy Board of India (**IBBI**).
13. The Applicant submits that in response to the invitation for EoI published on 28 January 2022, the RP received seventeen EoIs.
14. The RP then shared the Information Memorandum, Evaluation Matrix and Request for Resolution Plan (**RFRP**) with the Prospective Resolution Applicants.
15. The last date for submission of Resolution Plan was 01 April 2022, which was extended till 21 April 2022.

**Evaluation and voting**

16. The Resolution Plans were opened before the CoC in its 5<sup>th</sup> CoC meeting and the Resolution Plans were placed for discussion before the CoC in its 6<sup>th</sup> CoC meeting and the CoC requested for further revision in the Resolution Plans.

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17. In the 8<sup>th</sup> CoC meeting, all the Resolution Applicants were called for negotiation and bidding. The Resolution Applicants submitted their revised Resolution Plans as discussed in the 8<sup>th</sup> CoC meeting.
18. The Resolution Plans were put for e-voting on the 11<sup>th</sup> CoC meeting held on 17 August 2022, the e-voting concluded on 24 September 2022.
19. The Resolution Plan submitted by Tega Industries Limited was approved with 99.787% voting share. The Resolution Professional issued the letter of Intent on 26 September 2022<sup>1</sup>.
20. In accordance with regulation 36B(4A) of the CIRP Regulations, the Successful Resolution Applicant submitted Performance Bank Guarantee of Rs.17.80Crore being 10% of the resolution amount issued by Axis Bank Ltd. *vide* no. 11640100016411 dated 30 June 2022 and valid upto 30 June 2023<sup>2</sup>.

**Compliance of the approved Resolution Plan with various provisions**

21. The Applicant has filed a Compliance Certificate in prescribed form, i.e., Form 'H' dated 14 October 2022 in compliance with regulation 39(4) of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.<sup>3</sup>
22. 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:

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<sup>1</sup> Pp. 171-174 of the I.A.

<sup>2</sup> Annexure L at Pp. 175-176 of the I.A.

<sup>3</sup> Annexure N at Pp. 182-194 of the I.A.

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**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):**

<b>Clause of s.30(2)</b>	<b>Requirement</b>	<b>How dealt with in the Plan</b>
1.	Plan must provide for payment of CIRP cost in priority to repayment of other debts of CD in the manner specified by the Board.	Clause 3.2.1 at Page 42 of the Resolution Plan.
2.	(i) Plan must provide for repayment 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 repayment 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 plan had been distributed in accordance with the order of priority in sub-section (1) of section 53, whichever is higher;	Clause 3.2.3.(i)(b) at Page 48 of the Resolution Plan.  Clause 3.2.3.(i)(b) at Page 48 of the Resolution Plan.

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Clause of s.30(2)	Requirement	How dealt with in the Plan
	(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.	Clause 3.2.2(i)(b) at Pages 43-44 in the Resolution Plan.
(c)	Management of the affairs of the Corporate Debtor after approval of the Resolution Plan.	Clause 5.1 at Page 90 of the Resolution Plan.
(d)	Implementation and Supervision	Clause 5.2 at Pages 90-92 of the Resolution Plan.
(e)	Plan does not contravene any of the provisions of the law for the time being in force.	Clause 3.6.2 at Pages 73-74 of the Resolution Plan.
(f)	Conforms to such other requirements as may be specified by the Board.	----

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

<b>Particulars</b>	<b>Relevant Page of the Revised Resolution Plan dealing aforesaid compliance with Regulation</b>
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;	Not proposed in the Resolution Plan.
(b) sale of all or part of the assets whether subject to any security interest or not;	Not proposed in the Resolution Plan.
(c) restructuring of the corporate debtor, by way of merger, amalgamation and demerger;	Clause 3.4.6 at Pages 63-64 of the Resolution Plan.
(d) the substantial acquisition of shares of the corporate debtor, or the merger or consolidation of the corporate debtor with one or more persons;	Clause 3.4 at Pages 62-63 of the Resolution Plan.

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<b>Particulars</b>	<b>Relevant Page of the Revised Resolution Plan dealing aforesaid compliance with Regulation</b>
(e) cancellation or delisting of any shares of the corporate debtor, if applicable;	Clause 3.4 at Pages 62-63 of the Resolution Plan.
(f) satisfaction or modification of any security interest;	Clause 3.2.2 (iii) at pages 45-46 of the Resolution Plan.
(g) curing or waiving of any breach of the terms of any debt due from the corporate debtor;	Not proposed in the Resolution Plan.
(h) reduction in the amount payable to the creditors;	Clause 3.1.3 at Pages 40-42 of the Resolution Plan.
(i) extension of a maturity date or a change in interest rate or other terms of a debt due from the corporate debtor;	Not proposed in the Resolution Plan.
(j) amendment of the constitutional documents of the corporate debtor;	Clause 3.4.1 at Page 62 of the Resolution Plan
(k) issuance of securities of the corporate debtor, for cash, property,	Clause 3.5.2 at Page 68 of the Resolution Plan.

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<b>Particulars</b>	<b>Relevant Page of the Revised Resolution Plan dealing aforesaid compliance with Regulation</b>
securities, or in exchange for claims or interests, or other appropriate purpose;	
(l) change in portfolio of goods or services produced or rendered by the corporate debtor;	Not proposed in the Resolution Plan.
(m) change in technology used by the corporate debtor; and	Not proposed in the Resolution Plan.
(n) obtaining necessary approvals from the Central and State Governments and other authorities.	Clause 5.4 at Page 94 of the Resolution Plan.

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

<b>Ref to relevant Reg.</b>	<b>Requirement</b>	<b>How dealt with in the Plan</b>
38(1)	The amount due to the operational creditors under a resolution plan shall be given	Clause 3.2.3.(i)(c) at Page 48 of the Resolution Plan.

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<b>Ref to relevant Reg.</b>	<b>Requirement</b>	<b>How dealt with in the Plan</b>
	priority in payment over financial creditors.	
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 3.1.3. at Pages 40-42 of the Resolution 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 3.6.2 at Pages 73-74 of the Resolution Plan.
38(2)	A resolution plan shall provide:	

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<b>Ref to relevant Reg.</b>	<b>Requirement</b>	<b>How dealt with in the Plan</b>
	(a) the term of the plan and its implementation schedule;	Clause 4.2 at Pages 79-81 of the Resolution Plan.
	(b) the management and control of the business of the corporate debtor during its term; and	Clause 5.1 at Page 90 of the Resolution Plan.
	(c) adequate means for supervising its implementation.	Clause 5.2 at Pages 90-92 of the Resolution Plan.
38(3)	A resolution plan shall demonstrate that –	
	(a) it addresses the cause of default;	Clause 2.6 at Pages 36-37 of the Resolution Plan.
	(b) it is feasible and viable;	Clause 2.7 and Annexure 5 of the Resolution Plan.
	(c) it has provisions for its effective implementation;	Clause 5.2 at Pages 90-92 of the Resolution Plan.

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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 5.4 at Page 94 of the Resolution Plan.
	(e) the Resolution Applicant has the capability to implement the resolution plan.	Clauses 2.3 and Annexure 4 of the Resolution Plan.

23. The Resolution Applicant has submitted affidavit of eligibility under section 29A of the Code, affirmed on 21 April 2022<sup>4</sup>.

**Details of Resolution Plan/Payment Schedule**

24. The Applicant submits that the Resolution Applicant had filed a Resolution Plan on 21 April 2022 which was further amended on 30 July 2022.
25. The relevant information with regard to the amount claimed, amount admitted and the amount proposed to be paid by the Resolution Applicant, *i.e.*, Tega Industries Limited under the said Resolution Plan is tabulated as under:

Nature of Cost	Proposed Treatment
<b>CIRP Cost</b>	Not exceed Rs. 1,00,000 (Rupees one lakh).  In the event the actual CIRP Cost

<sup>4</sup> Annexure G at Pp. 85-88 of the I.A.

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<b>Nature of Cost</b>	<b>Proposed Treatment</b>
	<p>remaining outstanding is lower than the aforesaid amount, the obligation of the Resolution Applicant shall be limited to the extent of such lower amount.</p> <p>In the event the actual CIRP Cost at Transfer Date is higher than the aforesaid amount, then such Shortfall CIRP Cost shall first be adjusted from the Cash &amp; Cash Equivalents and if any Shortfall CIRP Cost remains outstanding even after the exhaustion of the entire Cash &amp; Cash Equivalents, such remaining amount shall be paid by the Resolution Applicant.</p>
<b>Assenting Secured Financial Creditors (excluding any Related Party)</b>	Rs. 164,00,00,000 (Rupees one hundred and sixty four crore only).
<b>Operational Creditors who are Workmen and Employees (excluding any Related Party)</b>	Rs. 1,69,233 (Rupees one lakh sixty nine thousand two hundred thirty three only)
<b>Operational Creditors in the nature of trade creditors (excluding any Related Party)</b>	Rs. 1,35,00,000 (Rupees one crore thirty five lakh only)
<b>Operational Creditors who are the Statutory Creditors (Government Dues)</b>	Rs. 1,00,000 (Rupees one lakh only)
<b>Additional amount proposed to be infused/ arranged by the Resolution Applicant towards capex</b>	Rs. 15,00,00,000 (Rupees fifteen crore only)
<b>Total</b>	Rs. 1,65,37,69,233 (Rupees one hundred sixty five crores thirty seven lakhs sixty nine thousand two

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Nature of Cost	Proposed Treatment
	hundred and thirty three only) + Rs. 15,00,00,000 (Rupees fifteen crore only) towards capex + Shortfall CIRP Cost + Shortfall Interim Management Cost to the extent it remains unpaid after adjustment from the Cash & Cash Equivalents.

26. The Resolution Plan defines “**Transfer Date**” as “*shall mean a date identified by the Resolution Applicant, for the purpose of implementation of this Resolution Plan, which shall be a date no later than 60 (sixty) days from the Sanction Date, subject to: (a) the Resolution Plan becoming effective in terms of Section 3.6.10; (b) there being no stay on such approval from a court/tribunal of competent jurisdiction; (c) the Resolution Professional having certified the (i) final CIRP Cost payable by the Resolution Applicant in terms of Section 3.2.1 of this Resolution Plan; and (ii) the liquidation value payable to the Dissenting Financial Creditors; and/or (d) there is no pending proceeding which, in the reasonable opinion of the Resolution Applicant, would have a material impact on the implementation of this Resolution Plan or any part thereof*”.

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

27. The Resolution Plan also provides for –
- a. Management of company after resolution in Clause 5 of Resolution Plan.
  - b. Term of the resolution plan in Clause 4.2 of Resolution Plan.
  - c. Implementation and Supervision of the resolution plan in Clause 5.2 of the Resolution Plan.

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**Relinquishment/Waiver of liabilities and Approvals**

28. The Reliefs, Exemptions and Waivers sought by the Resolution Applicant from the Adjudicating Authority are set out below for the successful implementation of the Resolution Plan. The orders thereon are indicated against each.

<b>Sl. No.</b>	<b>Relief, concessions and approvals sought</b>
	With effect from the Sanction Date and in accordance with the provisions of this Resolution Plan and unless specifically refused or denied by Adjudicating Authority or the relevant authorities as the case maybe:
1.	all Existing Shares of the Corporate Debtor shall be deemed to be delisted from the Stock Exchange
2.	no Person shall be entitled to take, initiate, institute or continue any suits, steps or proceedings against the Corporate Debtor or its Assets (whether by way of demand, legal proceedings, alternative determination process including arbitration or an expert determination process, the levying of distress, execution of judgment, decree or order, or otherwise) in any court of law, tribunal, arbitration panel or other authority in any jurisdiction whatsoever (including taking any action to foreclose, recover or enforce any security interest created by the Corporate Debtor in respect of its property) for the purpose of obtaining payment of any Liability, or for the purpose of placing the Corporate Debtor into liquidation or any analogous proceedings;
3.	all contracts, deeds, bonds, agreements and other instruments of whatever nature to which the Corporate Debtor is a party, and which are subsisting or having effect immediately before the Sanction Date shall remain in full force and effect, notwithstanding anything to the contrary that may be contained in such contracts, deeds, etc. provided that the Corporate Debtor reserves the right to modify or terminate such contracts with notice to the relevant counterparties without payment of any penalty or any Liability. The Corporate Debtor shall have no Liability or obligation to pay the relevant counterparty to such contracts any sums payable for period prior to the Sanction Date and the Corporate Debtor shall not be liable towards the performance guarantees or warranties provided under such contracts, deeds,

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	bonds, agreements and other instruments nor shall the Corporate Debtor or the Resolution Applicant be liable to pay damages to the relevant counterparty and prior approval of the counterparties (including Gujarat Industrial Development Corporation and Asansol Durgapur Development Authority) of any contract, agreement, shall not be required to be obtained for change in control / ownership / constitution of the Corporate Debtor pursuant to the terms of this Resolution Plan and all claims (whether pending, contingent or otherwise) made against the Corporate Debtor by the counterparties to such contracts / arrangements/ purchase orders / work orders in relation to period up to the Sanction Date shall stand settled and/or extinguished by virtue of the order of the Adjudicating Authority approving this Resolution Plan and the Corporate Debtor or the Resolution Applicant shall at no point of time be, directly or indirectly, held responsible or liable in relation thereto;
4.	all the non-compliances (including but not limited to violations of Applicable Law) by the Corporate Debtor shall stand regularised and all penalties payable in relation to the non-compliances shall stand waived off and the reconstituted Board of the Corporate Debtor, the Corporate Debtor and the Resolution Applicant shall not be liable for any non-compliances occurring prior to the Transfer Date. Without any liability for the aforesaid noncompliance for the past period before the Transfer Date, the Resolution Applicant shall endeavor to cause the Corporate Debtor to identify such non-compliances, evaluate the steps required to address such non-compliances and take steps to remedy such non-compliances to the extent practically possible. The Resolution Applicant and the Corporate Debtor shall be entitled to apply to and approach the Adjudicating Authority for relief for continued implementation of the approved Resolution Plan before or after any coercive action is taken against the Corporate Debtor or the Resolution Applicant, especially in view of the limited due diligence offered to the Resolution Applicant;
5.	any dues, liabilities, charges, interest, penalty or cost on the Corporate Debtor relating to any period prior to CIRP Commencement Date is deemed to be waived/ written-off and all the cases, show cause notices or proceeding pending at any forum or before any authority against the Corporate Debtor be unconditionally withdrawn on approval of the Resolution Plan;

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6.	the Resolution Applicant assumes that, in compliance of its duties under Regulation 35A of the CIRP Regulations, the Resolution Professional had determined whether the Corporate Debtor has been subjected to any transactions covered under sections 43, 45, 50 or 66 of the Code or not and applied to the Adjudicating Authority for seeking appropriate relief. Accordingly, though the Resolution Applicant reserve its right to institute any investigation pertaining to any transaction(s) carried out by the ex-management of the Company or to file appropriate applications before the court/tribunal of competent jurisdiction, the Resolution Applicant and its officers, directors, employees and the new management of the Corporate Debtor shall never be liable/responsible for any such transactions carried out by the ex-management of the Corporate Debtor;
7.	on the approval of the Resolution Plan applicable provisions of the Companies Act or rules made thereunder, relating to the capital restructuring, financial restructuring, cancellation of existing shares, reduction of existing shares or any other portion of this Resolution Plan for its implementation including re-casting of the financial statements of the Corporate Debtor shall deemed to have been complied with. Requisite filings may however be done within the period of 1 (one) year from the Sanction Date and that no further order be required from any regulator or authority and that approval of the Resolution Plan be deemed to be approval of all such action;
8.	all the charges registered with the RoC shall be deemed as satisfied and discharged and the same shall not be treated as a Liability of the Corporate Debtor or the Resolution Applicant by virtue of any arrangement, of whatsoever nature;
9.	any charge created, prior to the CIRP Commencement Date, on the cash / cash deposits / any other Assets of the Corporate Debtor shall stand fully satisfied and discharged by virtue of the order of the Adjudicating Authority approving this Resolution Plan;
10.	any approval, consent or permission that may be required from any statutory/governmental/regulatory authority for, or pursuant to change in control/management/ownership of the Corporate Debtor in accordance with the terms of any consent, licence, approval, right, entitlement, benefit and privilege whether under law,

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	contract, lease or licence granted in favour of the Corporate Debtor shall be deemed to be provided by virtue of the approval of the Resolution Plan by the order of the Adjudicating Authority without any additional costs;
11.	any remaining claims, debts and other dues from the Corporate Debtor to any person for the period prior to the Transfer Date, that is not expressly provided for in this Resolution Plan, including any claims from third parties relating to any contract entered into by the Corporate Debtor including damages on account of termination of such contracts pursuant to this Resolution Plan or claims which are in the nature of recovery, disgorgement, penalty, fees or recoupment of loss, shall be deemed to have been extinguished upon approval of this Resolution Plan, without any liability whatsoever on the Corporate Debtor or the Resolution Applicant;
12.	all Books and Records, the custody of the originals of documents of title, and the approvals, permits and licenses in relation to the business activities of the Corporate Debtor, the copy of the entire contents/documents (without any restrictions whatsoever) information technology systems of the Corporate Debtor as on the Transfer Date shall be delivered to the Resolution Applicant
13.	to give effect to any waiver and extinguishment under this Resolution Plan, any contract, agreement, deed or document, whether oral or written, express or implied, statutory or otherwise, pursuant to which any such dues, Liabilities, obligations, claims, counter claims, demands, actions, penalties, right, title or interest is claimed (other than as specifically mentioned herein) shall stand modified with effect from the Transfer Date without any further act or deed, and approval of this Resolution Plan by the Adjudicating Authority shall be deemed to be sufficient notice which may be required to be given to any Person for such matter and no further notice shall be required to be given;
14.	all contracts (except for any contracts that vest property rights (including but not limited to tenancy rights, intellectual property rights, actionable claims and/or those rights which are beneficial to the Corporate Debtor) between the Corporate Debtor and its

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	Related Parties shall stand terminated at the discretion of Resolution Applicant from the Sanction Date without payment of any compensation and without any further act, deed or instrument and all Liabilities and obligations of the Corporate Debtor or the Resolution Applicant to such Related Parties shall be discharged and be permanently extinguished
15.	the employment terms of the employees of the Corporate Debtor shall be in accordance with the standard policies of the Resolution Applicant. For avoidance of doubt, it is clarified that except as expressly set forth herein, no obligations or Liabilities of the Corporate Debtor in respect of the employees pertaining to the period prior to the Sanction Date are being assumed by the Resolution Applicant. No employee of the Corporate Debtor shall have any claim whatsoever against the Corporate Debtor pertaining to the period prior to the Sanction Date.
<b>Use of copy of the order of the Adjudicating Authority</b>	
16.	A certified copy of the approved Resolution Plan and the order of the Adjudicating Authority approving this Resolution Plan shall constitute conclusive evidence of the rights and entitlements of the Resolution Applicant and the Corporate Debtor as provided in the Resolution Plan and the settlement of claims with the Financial Creditors and discharge and extinguishment of all other claims and obligations, rights and entitlements of Financial Creditors, Operational Creditors and Other Creditors in accordance with the Resolution Plan by deemed satisfaction, discharge or extinguishment. A certified copy of the approved Resolution Plan and the order of the Adjudicating Authority approving this Resolution Plan shall, where applicable, constitute conclusive evidence of any modifications or cancellation or abandonment of contractual arrangements or agreements or leases or licenses as recorded in the Resolution Plan. The mere production and delivery of a certified copy of the approved Resolution Plan and the order of the Adjudicating Authority approving this Resolution Plan shall constitute proof of amendment of any constitutional documents of the Corporate Debtor, the authority to create security over the assets of the Corporate Debtor in favour of any refinancing creditor, change in the shareholding of the Corporate Debtor or its loan capital, change in the management of the Corporate Debtor,

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	<p>cancellation of the share capital of the Corporate Debtor and deemed delisting of the shares of the Corporate Debtor, appointments of Key Managerial Personnel of the Corporate Debtor, removal of the statutory auditor of the Corporate Debtor (if so opted by the Resolution Applicant) or revisions in agreements or arrangements by modification or cancellation or abandonment thereof, without any further act or deed.</p>
17.	<p>The mere production and lodgement of a certified copy of the approved Resolution Plan and the order of the Adjudicating Authority approving this Resolution Plan or a notarially certified copy of the approved Resolution Plan and the order of the Adjudicating Authority approving this Resolution Plan before any court or tribunal or regulator or government or arbitral tribunal or any administrative authority or any other authority shall be adequate and sufficient for such authorities (or the counter parties to the Corporate Debtor to constitute the revised agreements or arrangements or deemed modification or cancellation or abandonment thereof) to cause the abatement of any cause of action against the Corporate Debtor, or discharge or abatement of any suit or action or claim made in arbitration against the Corporate Debtor, or in any other judicial, quasi-judicial, regulatory, administrative or government proceedings of whatsoever nature in accordance with the approved Resolution Plan. Any pending or future proceedings against the Corporate Debtor which are contrary to or inconsistent with the terms of the Resolution Plan shall be deemed to be not maintainable or to have been terminated and closed upon the production and lodgement of the certified copy of the approved Resolution Plan and the order of the Adjudicating Authority approving this Resolution Plan or a notarially certified copy of the approved Resolution Plan and the order of the Adjudicating Authority approving this Resolution Plan. The certified copy of the approved Resolution Plan shall be posted on the website of the Corporate Debtor and the website of the Resolution Applicant. Notwithstanding the generality of the foregoing, all Proceedings shall be deemed to have been withdrawn or dismissed and will be deemed to have been barred with effect from the Transfer Date.</p>

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<b>Handover of Assets</b>	
18.	Any and all Encumbrance over the Assets, property or bank account of the Corporate Debtor shall stand released and / or extinguished on the Sanction Date. Any Person (including a Creditor or a Government Authority) who is in possession of the Assets, property or bank account of the Corporate Debtor shall allow possession of such Assets, property or bank account to the Resolution Applicant on and from the Transfer Date, irrespective of any symbolic or actual possession or attachment of Assets, property or bank account by such Person prior to the Sanction Date.
19.	No Person (including a Creditor or a Government Authority) shall take possession of and / or create Encumbrance or attach any Assets of the Corporate Debtor after the Transfer Date on account of any claim against the Corporate Debtor which relates to a period prior to the Sanction Date.
20.	The Monitoring Committee shall allow possession of the premises / offices of the Corporate Debtor, all passwords, bank account details, cheque books, statutory registers, minutes books, financial and tax records, all communication with vendors, customers, government and regulatory authorities and all other documents pertaining to the Corporate Debtor and its business, information technology systems (including all software and hardware), access to ERP system, etc to the Resolution Applicant within 7 (seven) days of the Transfer Date.
21.	All the attachments and execution process levied against the assets of the Corporate Debtor, shall be lifted and released.
22.	Any and all unauthorised possession/encroachments on the movable/ immovable assets of the Corporate Debtor, irrespective of period and irrespective of any claim on adverse possession basis, to be declared vacated immediately and the Corporate Debtor's ownership and possession to be admitted and established. The Corporate Debtor should have right to recover and take

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	possession of all such assets and/or land not under its possession, for which, whether or not any agreements have been made.
23.	The intangible assets to which the Corporate Debtor is entitled to and/or applied for and/or whether registered or not, whether in possession or not, whether in use or not shall continue to be the assets of the Corporate Debtor and all infringement and/or use by any third party shall become invalid. All agreements/documents where any such asset has been allowed to be used by any Related Party of the existing Promoters stands null and void.
<b>Lease Arrangements</b>	
24.	Where Corporate Debtor is the lessee in respect of any land leased to it by third party, such lease shall continue and nothing herein shall have the effect of terminating the same, nor shall such change in control amount to an assignment or attract any transfer charges. It may be noted that approval for similar waiver had already been allowed by Kolkata bench of the Adjudicating Authority in <i>In re: Resolution Plan of Jharkhand Mega Food Park Pvt Ltd.</i> [IA (IB) No.842/KB/2021 in CP (IB) No.1231/KB/2019].
25.	Immediately after the Transfer Date, the relevant lessors should acknowledge that its dues from the Corporate Debtor is restricted to the settlement amount proposed under this Plan and shall issue a certificate to the Corporate Debtor to that effect.
26.	The Corporate Debtor and the Resolution Applicant shall be granted an exemption from the payment of transfer charges for the period prior to the Transfer Date on the land parcel situated at Plots No. 75-79 (Alindra) in the Savli Industrial Estate, within the village limits of Alindra, Taluka Savli, District-Vadodara obtained by the Corporate Debtor on lease from Gujarat Industrial Development Corporation.  It may be noted that approval for similar waiver had already been allowed by Kolkata bench of the Adjudicating Authority in <i>In Re.</i>

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<b>Right over immovable assets</b>	
27.	The acquisition of the Corporate Debtor shall be subject to the Resolution Applicant getting title of land owned by the Corporate Debtor and title of such properties (whether or not movable) that are attached to such immovable properties or and title of such movable properties lying on such immovable properties.
28.	<p>In relation to any alleged transfer of any economic interest or other beneficial interest by the corporate debtor to any party in the past pertaining to the land parcels where the title and ownership is still lying with the Corporate Debtor, the Resolution Applicant shall have a right to terminate/ cancel such arrangement without any liability (monetary or otherwise) on the Corporate Debtor/ Resolution Applicant. Also, any agreement, MOU, transfer of rights or contract that hampers the assets/rights of Corporate Debtor shall be considered void if the same has not been registered/ presented before the concerned authority up to the Transfer Date.</p> <p>It may be noted that approval for similar waiver had already been allowed by Kolkata bench of the Adjudicating Authority in <i>In Re. Resolution Plan of Bansal Alumex Private Limited</i> [IA(IB)235 /KB/2022 in CP(IB)No.1204/KB/2019].</p>
<b>Release of Security Deposit provided by Corporate Debtor</b>	
29.	Approval of the Resolution Plan by the Adjudicating Authority will be treated as specific order for waiver / release of any kind of security deposits provided by the Corporate Debtor including but not limited to various government authorities, corporates, private person, government departments (Income Tax Department, Customs Department, Excise Department, Service Tax Department, Pollution Board, etc.), etc., under Applicable Law or

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	otherwise for any reason whatsoever, where the relevant arrangement is being discontinued or terminated.
<b>Effect on past liabilities</b>	
30.	<p>Upon approval of this Resolution Plan by the Adjudicating Authority, all liabilities (including without limitation, for any penalty, interest, fines or fees) (admitted/ verified/ filed or not) or obligations of the Corporate Debtor, in relation to: (A) any investigation, inquiry or showcause, whether civil or criminal; (B) any non-compliance of provisions of any laws, rules, regulations, directions, notifications, circulars, guidelines, policies, licenses, approvals, consents or permissions; (C) change of control, transfer charges, unearned increase, compensation or any other such liability whatsoever under any contract, agreement, lease, license, approval, consent, privilege or permission to which the Corporate Debtor or its subsidiaries, joint ventures or associates are entitled; (D) any leasehold rights or freehold rights to movable or immovable properties in the possession of the Corporate Debtor; (E) any contracts, agreements or commitments made by the Corporate Debtor; whether admitted or not, due or contingent, asserted or unasserted, crystallised or uncrystallised, known or unknown, secured or unsecured, disputed or undisputed, present or future, whether or not set out in the balance sheets of the Corporate Debtor or the profit and loss account statement of the Corporate Debtor, in relation to any period prior to the completion date or arising on account of the acquisition of control by the Resolution Applicant over the Corporate Debtor pursuant to this Resolution Plan shall be written off in full and shall stand permanently extinguished and the Corporate Debtor shall at no point of time be directly or indirectly held responsible or liable in relation thereto.</p> <p>It may be noted that approval for similar waiver had already been allowed by Kolkata bench of the Adjudicating Authority in <i>In re: Resolution Plan of Jharkhand Mega Food Park Pvt Ltd.</i> [IA (IB) No.842/KB/2021 in CP (IB) No.1231/KB/2019].</p>
<b>Consents and Approval</b>	

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31.	<p>As the Resolution Applicant is required to takeover the Corporate Debtor's business on a '<i>going concern</i>' basis, all consents, licenses, approvals, clearances, rights, entitlements, benefits and privileges whether under law, contract, lease or license, granted in favour of the Corporate Debtor or to which the Corporate Debtor is entitled or accustomed to, shall continue to remain valid, notwithstanding any provision to the contrary in their terms or on account of change of management/ownership of the Corporate Debtor, and provided that in case of consents, licenses, approvals, rights, entitlements, benefits and privileges that have expired or lapsed, notwithstanding that they may have already lapsed or expired due to any breach, non-compliance or efflux of time, be deemed to continue without disruption for the benefit of the Corporate Debtor, till the implementation of the Resolution Plan, as envisaged or such other period as required under Applicable Law. The name of new management will be endorsed on all such rights and entitlements as may be required only to the extent necessary for operating the Corporate Debtor.</p>
32.	<p>All Government Authorities:</p> <ul style="list-style-type: none"><li>(i) to provide reasonable time period of at least 12 (twelve) months after the Transfer Date in order to enable Resolution Applicant to assess the status of the business permits / statutory approvals and ensure that the Corporate Debtor is compliant with the terms of such business permits / statutory approvals and Applicable Law;</li><li>(ii) should not initiate any investigations, actions or proceedings in relation to such non-compliances;</li><li>(iii) should co-operate with the Corporate Debtor to renew / obtain such permits / approvals;</li><li>(iv) permit the Resolution Applicant to continue to operate the business of the Corporate Debtor pending such permits / approvals at least till a period of 12 (twelve) months from the Transfer Date; and</li><li>(v) to not charge any charges, penalty, interest, etc., till the time such permits / approvals are received.</li></ul>

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	<p style="text-align: center;">It may be noted that approval for similar waiver had already been allowed by Kolkata bench of the Adjudicating Authority in <i>In re: Resolution Plan of Jharkhand Mega Food Park Pvt Ltd.</i> [IA (IB) No.842/KB/2021 in CP (IB) No.1231/KB/2019].</p>
<b>Contracts and Agreements</b>	
33.	<p>In the interest of keeping the Corporate Debtor as a ‘going concern’, unless otherwise specified in the Resolution Plan, all contracts and agreements shall continue to remain valid and notwithstanding any lapse, non-compliance, breach or expiry of underlying terms of such contracts and agreements or requirement of prior approval upon change of control; these contracts and agreements shall be deemed to continue without disruption and without any further acts, deeds, cost, penalty, etc., for the benefit of the Corporate Debtor for their original tenure including subsequent tenures wherever the Corporate Debtor is entitled for renewals.</p>
34.	<p>Any change in the management of the Corporate Debtor shall not affect the validity and enforceability of any agreement, lease deed, contract, etc. executed by the Corporate Debtor with various parties, authorities, companies, etc. save and except the provisions and scope of alterations/modifications/amendments as also such reliefs and concessions provided to the Resolution Applicant and the Corporate Debtor under this Resolution Plan.</p>
35.	<p>The Resolution Applicant will, after the Transfer Date, make an assessment of whether it wants to continue with or terminate the contracts / agreements entered into by the Corporate Debtor. It is clarified that in case the Resolution Applicant terminates any such old contract / agreements, no termination payments or liquidated damages shall be payable by the Resolution Applicant or Corporate Debtor on account of such termination.</p>
36.	<p>Status quo of the agreements in relation to all its existing empanelment, <i>inter alia</i> including in railways and defence shall be maintained.</p>

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<b>Encumbrances</b>	
37.	On and with effect from the Transfer Date, all Encumbrances, security interest, liens and /or attachments including pursuant to Applicable Law and particularly Sections 281 of the Income Tax Act and Section 81 of the Central Goods and Services Tax Act created or suffered to exist over the assets of the Corporate Debtor or over the securities of the Corporate Debtor, whether by contract or by Applicable Law, whether or not in favour of Persons receiving settlements under this Plan or those who have provided debt to any third party, shall stand unconditionally and irrevocably released and all enforcement proceedings commenced by any Person over any of the assets of the Corporate Debtor or any subsidiary or over any securities of the Corporate Debtor shall stand released and reversed, without the requirements of any further deed or action on part of the Resolution Applicant or the Corporate Debtor
<b>Utilities</b>	
38.	All the electricity, water and other utilities in relation to the existing units of the Corporate Debtor shall be continued and any request for reconnection shall be allowed without any reconnection charge or fresh security deposit
<b>Inquiries and Investigations</b>	
39.	Upon approval of this Resolution Plan by the Adjudicating Authority, all inquiries, investigations and proceedings, whether civil or criminal, notices, causes of action, suits, claims, disputes, litigation, arbitration or other judicial, regulatory or administrative proceedings against, or in relation to, or in connection with the Corporate Debtor or the affairs of the Corporate Debtor, pending or threatened, present or future, (including without limitation, any investigation, action, proceeding, prosecution, whether civil or criminal, by the Central Bureau of Investigation, the Enforcement Directorate or any other regulatory or enforcement agency), in relation to any period prior to the Transfer Date or arising on account of the acquisition of control by the Resolution Applicant

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	<p>over the Corporate Debtor pursuant to this Resolution Plan shall stand withdrawn or dismissed and all liabilities or obligations in relation thereto, whether or not set out in the balance sheets of the Corporate Debtor or the profit and loss account statements of the Corporate Debtor, will be deemed to have been written off in full and permanently extinguished and the Corporate Debtor or the Resolution Applicant shall at no point of time be, directly or indirectly, held responsible or liable in relation thereto notwithstanding any adverse order that may be passed in respect of the same by any authority prior to or after the Transfer Date. Upon approval of this Resolution Plan by the Adjudicating Authority, all new inquiries, investigations, whether civil or criminal, notices, suits, claims, disputes, litigation, arbitration or other judicial, regulatory or administrative proceedings will be deemed to be barred and will not be initiated or admitted against the Corporate Debtor in relation to any period prior to the acquisition of by the Resolution Applicant over the Corporate Debtor or on account of the acquisition of control by the Resolution Applicant over the Corporate Debtor pursuant to this Resolution Plan.</p> <p>It may be noted that approval for similar waiver had already been allowed by Kolkata bench of the Adjudicating Authority in <i>In re: Resolution Plan of Jharkhand Mega Food Park Pvt Ltd.</i> [IA (IB) No.842/KB/2021 in CP (IB) No.1231/KB/2019].</p>
<b>Prior non-compliances, breaches and defaults</b>	
40.	<p>Upon approval of the Resolution Plan by the Adjudicating Authority, all non-compliances, breaches and defaults of the Corporate Debtor for the period prior to the Transfer Date (including but not limited to those relating to tax), shall be deemed to be waived by the concerned Governmental Authorities. Immunity shall be deemed to have been granted to the Corporate Debtor from all proceedings and penalties under all Applicable Laws for any non-compliance for the period prior to the Transfer Date and no interest/penal implications shall arise due to such</p>

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	<p>noncompliance/ default/breach prior to the Transfer Date. Notwithstanding the generality of the foregoing, breaches, contraventions or non-compliances of the Applicable Laws shall be deemed to be permanently extinguished by virtue of the order of the Adjudicating Authority approving this Resolution Plan, and the Corporate Debtor or the Resolution Applicant shall at no point of time, directly or indirectly, have any obligation, Liability or duty in relation thereto.</p>
41.	<p>The lenders (including Secured Financial Creditors) of the Corporate Debtor shall regularize all the loan accounts of the Corporate Debtor and shall ensure that the asset classification of such loan accounts is "standard" in their books with effect from the Transfer Date.</p> <p>It may be noted that approval for similar waiver had already been allowed by Kolkata bench of the Adjudicating Authority in <i>In Re. Resolution Plan of Marsons Limied</i> [IA (IB) No. 118/KB/2021 In C.P. (IB) No. 628/KB/2018] and <i>In Re. Resolution Plan of Basu &amp; Co. Road Contractors Private Limited</i> [IA (IB) No. 64/KB/2022 In C.P. (IB) No. 2050/KB/2019].</p>
42.	<p>The past performance of the Corporate Debtor should not be considered when the Corporate Debtor applies for credit rating with any agency/bank/financial institutions.</p>
<b>Compliances under Companies Act</b>	
43.	<p>The Corporate Debtor, pursuant to the provisions of this Resolution Plan and the authority contained therein, shall cause its board of directors to take steps for implementation of the provisions of the Resolution Plan, which <i>inter alia</i> includes – (i) execution of appropriate loan agreement, modifications of previous documents for creating security and filing of appropriate forms under Company Law or other laws, with, amongst others, the Registrar of Companies and Ministry of Corporate Affairs or other statutory authorities; (ii) issuance of shares and instruments as provided in the Resolution Plan; and (iii) other compliances as per the governing law. The Corporate Debtor shall file the order of the Adjudicating Authority approving this Resolution Plan with</p>

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	the Registrar of Companies and Ministry of Corporate Affairs or any other regulatory authority, instead of resolution of board or the shareholders of the Corporate Debtor that were otherwise required for actions that are affected through an order of the Adjudicating Authority approving this Resolution Plan, and that shall be sufficient compliance by the Corporate Debtor.
44.	The directors of the reconstituted Board shall not be liable for any past non-compliances with the provisions of applicable laws by the erstwhile Board of Directors of the Corporate Debtor.
45.	Approval of this plan shall be deemed approval for removal of Directors from the record of the Corporate Debtor as appearing on the MCA portal/ website/ income tax web site/ Any Indirect tax website. Certified copy of the order approving Resolution Plan shall be a direction on such statutory authorities to do the needful.
<b>Taxation</b>	
46.	The Corporate Debtor and Resolution Applicant be exempted from the applicability of the provisions of Sections 28, 41, 43B, 45, 56, 79, 179, 269-SS, 269-T, 281 and other applicable provisions of the Income-Tax Act, 1961 for the purposes of implementation of this Resolution Plan.
47.	The Corporate Debtor or the Resolution Applicant shall not, at any point of time, be held financially liable under the provisions in relation to the Liability of the Corporate Debtor as per Section 170 of the Income Tax Act, 1961 in respect of any transaction carried out before the Transfer Date or contemplated under the Resolution Plan.
48.	Necessary directions, instructions be issued to the CBDT and other relevant Tax authorities to waive/exempt the applicability of Sections 56 and 50CA of the Income Tax Act, 1961 in respect of reduction of capital of the Existing Shareholders of the Corporate Debtor, issuance of shares by the Corporate Debtor and increase of authorised share capital in terms of Resolution Plan, and any of these transactions shall not result in any tax incidence in the hands of the Corporate Debtor or the Resolution Applicant under the aforesaid sections whether on account of valuation or otherwise.

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49.	The CBDT under its notification dated January 6, 2018 has eased the applicability of provisions relating to levy of Minimum Alternate Tax (“MAT”) for companies against whom CIRP has commenced. In accordance with the aforesaid notification, the CBDT is requested to allow the reduction of total amount of loss brought forward (including unabsorbed depreciation) from the book profits of the Corporate Debtor for the purposes of levy under Section 115 JB of the Income Tax Act, 1961. The CBDT is also requested to waive and exempt all MAT and other income tax Liabilities arising on the Corporate Debtor and/or its successors on account of settlement of Financial Creditors and Operational Creditors pursuant to implementation of this Plan.
50.	Necessary directions, instructions be issued to the CBDT, Customs, Value Added Tax authorities, Central Sale Tax authorities, GST authorities, entry tax and other Tax authorities whether central or state to exempt income/gain/profits, if any, arising as a result of giving effect to the Resolution Plan and from being subjected to income tax in the hands of the Corporate Debtor or the Resolution Applicant under the provisions of Income Tax Act, 1961, value added tax, customs, octroi, excise duty, service tax, goods and service tax, including but not limited to any income tax and MAT Liability arising on capital reduction in the Corporate Debtor, waiver/write off/ write down of current amounts due to employees, vendors, Operational Creditors, Financial Creditors, value of assets, value of inventories, etc. without any impact on brought forward tax and book loss / depreciation and waive all Liabilities whether crystallised or not in respect of Taxes (including interest and penalty) arising in respect of periods up to the Sanction Date and arising out of implementation or sanction of the Resolution Plan.
51.	It is further clarified that a company is not ordinarily permitted to carry forward its accumulated business losses in case of a change in the shareholding of such company in excess of 51% (fifty-one percent) as per Section 79 of the Income-tax Act, 1961. However, this restriction does not apply if such change in shareholding takes place pursuant to a resolution plan approved under the Code, provided that the jurisdictional Principal Commissioner of Income-tax or the jurisdictional Commissioner of Income-tax (as appropriate), is afforded reasonable opportunity to express his views in this regard. Accordingly, the Adjudicating Authority be pleased to or cause the Resolution Professional or the reconstituted

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	board of Corporate Debtor, or cause the Corporate Debtor to, serve a notice to jurisdictional Principal Commissioner of Income-tax or the jurisdictional Commissioner of Income-tax (as appropriate) immediately after this Resolution Plan is submitted to the Adjudicating Authority for its approval, and it is prayed that the Corporate Debtor should be permitted to carry forward its unabsorbed business losses notwithstanding a change in the shareholding of the Company in excess of 51% (fifty one percent) pursuant to this Resolution Plan.
<b>Waiver of Transaction Fees, Stamp Duty</b>	
52.	<p>The Collector of Stamps, Revenue Department of concerned State Government and the Ministry of Corporate Affairs to 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 any stamp duty applicable on and the issue of shares or Merger Scheme by the Corporate Debtor.</p> <p>It may be noted that approval for similar waiver had already been allowed by Kolkata bench of the Adjudicating Authority in <i>In Re. Resolution Plan of Basu &amp; Co. Road Contractors Private Limited</i> [IA (IB) No. 64/KB/2022 In C.P. (IB) No. 2050/KB/2019] and in <i>In Re. Resolution Plan of Castal Extrusion Private Limited</i> [IA (IB) No. 277/KB/2021 in CP (IB) No. 438/KB/2018].</p>
53.	Necessary directions, instructions be issued to all relevant Governmental Authorities to grant relief/concessions from payment of fees, charges, transfer charges, assignment charges, stamp duty, registration fees (including fees payable to the jurisdictional RoC) for various actions contemplated under this Resolution Plan (including capital reduction, issuance of shares by the Corporate Debtor or increase in authorised share capital or Merger Scheme), appointment of Board of Directors including Key Managerial Personnel and any other action taken to implement the Resolution Plan and that the fees payable to the RoC in respect of amendment of the memorandum of association and articles of association of the Corporate Debtor be waived and the RoC be directed to approve the relevant forms under Companies Act and rules thereto without payment of fees in

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IA (IB) No. 1214/KB/2022 in CP (IB) No. 131/KB/2020***

<b>Sl. No.</b>	<b>Relief, concessions and approvals sought</b>
	respect thereof. Similarly, the stamp duty arising on issuance of shares by the Corporate Debtor be waived.
54.	<p>It is envisaged that, dispensation/ waiver be given by the State Governments, Central Governments or any other authorities, from payment of any stamp duty on transfer of land, salami on transfer, transfer fees on account of change in shareholdings pursuant to this plan, Khazana, land taxes, conversion of land including interest, penalty or other charges/fees relating to the transfer/takeover of assets or state levies which may arise in the event of change in management of the Corporate Debtor pursuant to the acceptance of this Resolution Plan. Further direction be issued to the state authorities for suitably amending all the licenses and rights pursuant to the change of management on acceptance of the Resolution Plan. Any subsidies or entitlements, which are accruing to the Corporate Debtor either before or after the approval of the Resolution Plan, are to be continued.</p> <p>It may be noted that approval for similar waiver had already been allowed by Kolkata bench of the Adjudicating Authority in <i>In Re. Resolution Plan of Bansal Alumex Private Limited</i> [IA(IB)235 /KB/2022 in CP(IB)No.1204/KB/2019].</p>
<b>Claims by Statutory Authorities</b>	
55.	All statutory Liabilities pertaining to the period prior to the Transfer Date or pertaining to or arising out of implementation of this Resolution Plan shall not be required to be paid and the same shall be binding on all such statutory authorities.
<b>Treatment of Workmen/Employee Dues</b>	
56.	The employment terms of the employees of the Corporate Debtor shall be in accordance with the standard policies of the Resolution Applicant. For avoidance of doubt, it is clarified that, except expressly set forth herein, no obligations or Liabilities of the Corporate Debtor in respect of the employees pertaining to the period up to the Transfer Date are being assumed by the Resolution Applicant. No employee of the Corporate Debtor shall have any claim whatsoever against the Corporate Debtor pertaining to the

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	period prior to the Transfer Date except to the extent provided for payment by the Resolution Applicant in this Resolution Plan, if applicable.
57.	All the pending claims pertaining to claim for gratuity pending before the competent authority, including the Joint Labour Commissioner, Asansol, shall stand quashed.
<b>Benefits received by the Corporate Debtor</b>	
58.	That the Corporate Debtor or Resolution Applicant shall not be required to refund any benefit (subsidy / incentive or any monetary benefit) already availed by the Corporate Debtor or pay any interest, penalty, late fees, damages on account of failure of the Corporate Debtor to comply with the terms and conditions for grant of such incentive/subsidy/benefit or due to change in management arising due to implementation of the Resolution Plan and no litigation/proceedings shall be instituted against the Corporate Debtor or Resolution Applicant on this account and any pending litigation/proceedings shall stand quashed/withdrawn without any Liability on the Corporate Debtor/Resolution Applicant and the relevant authority including any district industrial center / State Government / Central Government or any implementing authority appointed under any law for the time being in force shall act in accordance with the aforesaid directions.
<b>Miscellaneous</b>	
59.	The Corporate Debtor shall, at the option of the Resolution Applicant, recast its books of accounts to give effect to this Resolution Plan i.e., to <i>inter alia</i> give effect to reduction of capital, set off the balance in the security premium reserve, impairment of assets, write back/write off the debt/Liabilities etc., and make the consequential adjustment in retained earning without requiring to comply with any procedure.
60.	The Resolution Applicant shall have the right to recover and take necessary action of all actionable claims including loans and advances (provided or not provided or written off).
61.	The assets/properties which are owned and/or recorded in the books of the Corporate Debtor for which the title

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	deeds/agreements/any other documents are not traceable shall be deemed to be the assets of the Corporate Debtor and the Corporate Debtor shall be entitled to obtain the certified true copy from such authority where such documents are registered or the photo copy thereof would be treated as the valid original documents for claiming the title over such properties and/or for dealing with such properties.
62.	Transfer of any amount lying in the banks for more than 7 (seven) years or otherwise to investor protection fund under the provisions of Companies Act shall be exempted and use of such funds in operating the Corporate Debtor shall be allowed in the interest of all stakeholders.
63.	On and from the Sanction Date, by order of the Adjudicating Authority sanctioning this Resolution Plan, a restraint on, and prohibition of, all Adverse Actions shall be deemed to be declared until implementation of this Resolution Plan in full (including until the Transfer Date). All stakeholders shall be bound by the provisions of this Resolution Plan and such restraint and prohibition.
64.	The amount infused by the Resolution Applicant in the Corporate Debtor for payment of dues of Financial Creditors as per this Resolution Plan shall not be termed as 'deposits' under sections 73 to 76 of the Companies Act and the rules made thereunder.
65.	Notwithstanding anything to the contrary, the powers of attorney or authorisations issued by the corporate debtor shall stand cancelled without any further act, instrument or deed.
<b>Treatment of debts barred by limitation</b>	
66.	As of the Transfer Date, any debt owed by the Corporate Debtor to any Operational Creditor, which is barred by limitation under the Applicable Laws, shall immediately, irrevocably and unconditionally stand extinguished, waived and withdrawn on and from the Transfer Date, and no person shall have any further rights or claims against the Corporate Debtor in this regard.
<b>Right to recover any amount from the existing debtors of the Corporate Debtor</b>	

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67.	Upon approval of the plan by Adjudicating Authority the Resolution Applicant will have all the rights to recover from the debtors of the Corporate Debtor any amount lying as due in the books of account as on the CIRP Commencement Date.

**Orders**

29. On hearing the submissions made by the Resolution Professional, and perusing the record, we find that the Resolution Plan has been approved with 99.787% 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.
30. On perusal of the documents on record, we are satisfied that the Resolution Plan 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.
31. As far as the question of granting time to comply with the statutory obligations or seeking approvals from authorities is concerned, the Resolution Applicant is directed to do so within one year from the date of this order, as prescribed under section 31(4) of the Code.
32. We have perused the reliefs, waivers and concessions as sought and as given in Clauses 6 and 7 at Pages 95 to 109 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

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reliefs, waivers and concessions only in relation to the Code and the Companies Act 2013 (within the powers of the NCLT) for achieving the objective 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 spirit of the Code.

33. The Resolution Plan should be consistent with extant law. The Resolution Applicant shall make necessary applications 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 objectives of the Code, which is essentially the resolving of the insolvency of the Corporate Debtor.
34. 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.

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**,<sup>5</sup> 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

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<sup>5</sup> 2021 SCC OnLine SC 313 decided on 13.04.2021.

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Corporate Debtor and its employees, members, creditors, including the Central Govt, any State Govt or any local authority, guarantors and other stakeholders. We place reliance on the recent 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.”*

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. 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 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.

35. With respect to the waivers sought in relation to guarantors, the judgment of *Lalit Kumar Jain v Union of India & ors*,<sup>6</sup> 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.
36. 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.

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<sup>6</sup> 2021 SCC OnLine SC 396 decided on 21.05.2021.

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37. In case of non-compliance of this order or withdrawal of Resolution Plan, the payments already made by the Resolution Applicant shall be liable for forfeiture.
38. Subject to the observations made in this Order, the Resolution Plan dated 22 April 2022, is hereby **APPROVED** by this Bench. **The Resolution Plan shall form part of this Order.** The Resolution Plan thus approved shall be binding on the Corporate Debtor and other stakeholders involved in terms of section 31 of the Code, so that revival of the Debtor Company shall come into force with immediate effect.
39. The Moratorium imposed under section 14 of the Code shall cease to have effect from the date of this order.
40. The Resolution Professional shall submit copies of 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.
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 to the Registrar of Companies, West Bengal.
43. The Resolution Professional shall stand discharged from his duties with effect from the date of this Order, save and except the duties envisaged in the Resolution Plan.
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 and premises

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of the corporate debtor through the Resolution Professional to finalise the further line of action required for starting of the operation.

45. **I.A. (IB) No. 1214/KB/2022 in the main Company Petition, i.e., C.P. (IB) No. 131/KB/2020 shall stand disposed of accordingly.**

46. The Registry is directed to send e-mail copies of the order forthwith to all the parties 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 24<sup>th</sup> day of February 2023.

GGRB[LRA]