IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH
(Exercising powers of Adjudicating Authority under The Insolvency and Bankruptcy Code, 2016)
(through web-based video conferencing)

I.A No. 06/2024
in
CP (IB) No.124 /BB/2017
U/s. 31(1) of the IBC, 2016

IN THE MATTER OF:

Shri Shivdutt Bannanje,
Resolution Professional of
M/s Fortuna Buildcon (India) Private Limited
Having his office at:
No.12, Vani Vilas Road, VV Puram
Bangalore 560 004.

… Applicant

In the matter of:

Reliance Capital AIF Trustee Company Private Limited

… Financial Creditor

Versus

M/s Fortuna Buildcon (India) Private Limited

… Corporate Debtor

Order delivered on: 18/12/2024

Coram: Hon'ble Shri. K. Biswal, Member (Judicial)

Hon'ble Shri. Manoj Kumar Dubey, Member (Technical)

PRESENT:

For the RP : Shri Raghuram Cadambi

Resolution Professional : Shri Shivdutt Bannanje

O R D E R

Per: Manoj Kumar Dubey, Member (Technical)

1. This Application is filed by Shri Shivdutt Bannanje (hereinafter referred to as 'Applicant/Resolution Professional') under section 30 (6) read with section 31 read with section 60(5)(c) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 read with Rule 11 of the National Company Law Tribunal Rules, 2016, seeking approval of the Resolution Plan as approved by the CoC Members.
2. Brief facts of the case are given hereunder:
   (a) The main Company Petition bearing CP(IB) No. 06/BB/2024 filed by Financial Creditor i.e Reliance Capital AIF Trustee Company Private Limited and other u/s 7 of the Code for initiation of Corporate Insolvency Resolution Process (CIRP) against M/s Fortuna Buildcon (India) Private Limited was admitted by this Adjudicating Authority, vide order dated 09/08/2019, and Shri Shivadutt Bannanjee was appointed as the Interim Resolution Professional and he was directed to take necessary actions in accordance with relevant provisions of the Code and Regulations made thereunder.
   (b) In compliance with Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the Applicant issued a public announcement in Form A on 16/08/2019, calling upon creditors of the Corporate Debtor to submit their claims to the Applicant on or before 28/08/2019. Pursuant to the collation of all claims, the Applicant has prepared the final list of creditors of the Corporate Debtor.
   (c) The 1st CoC held on 06/09/2019 appointed the Applicant herein as the RP. And I.A No. 555 of 2019 was filed and this Tribunal has confirmed the appointment of the Applicant as the RP vide order dated 25/10/2019.
   (d) Further, by way of the resolution passed the CoC in its 2nd meeting held on 09/10/2019 approved the invitation for expression of interest in Form-G and authorized the Applicant to publish the same. During this meeting, the Applicant prepared and presented the evaluation

matrix before the CoC, with a view to facilitate the CoC to evaluate all the resolution plans, in view of Regulation 39(3)(a) of the CIRP Regulations. Accordingly, the Applicant published brief particulars of the invitation for expression of interest (in prescribed 'Form G'), in the English newspaper (Financial Express) and a Kannada newspaper (Vishwavani) as per Regulation 36A of CIRP Regulations on 11.10.2019.

(e) Thereafter, on 06/12/2019, at the third meeting of the CoC of the Corporate Debtor, the CoC approved (i) a provisional list of prospective resolution applicants; (ii) drafts of the 'request for resolution plan' (RFRP) and proposed information memorandum i.e., to be issued by the Applicant to the finalized list of prospective resolution applicants.

(f) The RFRP stipulated that the last date for submission of the resolution plans was 13/01/2020 and the CIRP was required to be concluded on 05.02.2020. However, at the fourth meeting of the CoC of the Corporate Debtor on 14/01/2020, the CoC approved (i) the extension of the time for submission of the resolution plan from 13/01/2020 to 27/01/2020; and (ii) the extension of the period of the CIRP by 90 days from 05/02/2020.

(g) Further, I.A No. 42 of 2020 was allowed by this Tribunal on 22/01/2020 for extension of CIRP by 90 days with effect from 05/02/2020.

(h) Further, during the 5th CoC meeting held on 27/01/2020, based on the requests of the prospective resolution applicants, the CoC once again approved the extension for the submission of the resolution plan from 28/01/2020 to 10/02/2020. At the sixth meeting of the CoC of the Corporate Debtor on 20/05/2020 ratified a further extension of time period for submission of the resolution plan till 10.03.2020. At the same meeting, the Applicant informed the CoC that he received five resolution plans for the revival of the Corporate Debtor. The Resolution Professional opened the sealed resolution plans and presented the key terms of each of the resolution plans submitted by 5 (five) resolution applicants, including the Resolution Applicant plan dated 10/02/2020 i.e., Mr. M C George, which are summarized in the minutes of the meeting, for the consideration of the members of the CoC. Each of these plans was discussed and deliberated upon by the CoC.

(i) Thereafter, the Applicant convened the seventh meeting of the CoC on 24/06/2020, the Applicant apprised the members that certain changes were required to be made by the resolution applicants, in order for their plans to be compliant with the provisions of the Code and the CIRP Regulations. The Applicant also informed the members that he had apprised the respective resolution applicants of the amendments required for compliance under the Code and the CIRP Regulations.

(j) Subsequently, after considering the suggestions of the CoC which were expressed during the eighth meeting of the CoC of the Corporate Debtor on 30/07/2020, the Resolution Applicant submitted the resolution plan by way of an email dated 05/08/2020.

(k) Further after receiving the majority votes from the CoC, the Applicant filed an interlocutory application for approval of the resolution plan under Section 30(6) read with Section 31 and 60(5) of the Code with I.A. No. 325 of 2020 before this Hon'ble Tribunal. Subsequently, however, the Applicant informed the CoC that the mandatory compliances had not been carried out by the Resolution Applicant. Accordingly, to save the Corporate Debtor from liquidation, the Applicant herein through its legal counsel sought permission of the Hon'ble Tribunal to withdraw the application (I.A. No. 325 of 2020) for approval of the resolution plan on 19/06/2023. The Hon'ble Tribunal accepted the application and liberty was given to the Applicant to file a fresh application for approval of the resolution plan vide order dated 19/06/2023.

(l) The applicant in the ninth COC meeting dated on 27/07/2023 regarding the required documents to the COC members in compliance to the IBBI Regulations. Thereafter the Applicant on 18.08.2023 convened the tenth meeting of the CoC. In the meeting, it was concluded that "*a last opportunity to be given to the Resolution Applicant to submit his revised Resolution Plan before the next CoC* *meeting. In case no Resolution Plan was received by the Resolution Professional before the next CoC meeting, the CoC to proceed with inviting fresh invitation of expression of interest from the prospective resolution applicants."*

(m) During the 11th meeting dated 25/10/2023 of the CoC members had resolved to file necessary application before the Hon'ble Tribunal, to give effect to the decision of the CoC and further seek approval from the Hon'ble Tribunal, for reinitiating the CIRP of the Corporate debtor from the Form- G stage. Further, the majority of members voted in favour of these resolutions and the resolution was passed.

(n) However, after the eleventh meeting of the CoC, the CoC members and the Resolution Applicant approached the Resolution Professional for another chance and to revive the Corporate Debtor. Based on verbal instructions of the CoC, the Resolution Applicant herein submitted a revised Resolution Plan in compliance with the order dated 02/06/2023 passed by this Hon'ble Tribunal.

(o) On 01/04/2024 the Applicant convened the twelfth meeting of the CoC of the Corporate Debtor. In the meeting, the Resolution Professional informed the CoC member that the revised resolution plan has been submitted by the resolution applicant physically on 28th March 2024. Further, the Applicant invited the Resolution Applicant to the twelfth CoC meeting for discussing the Resolution Plan submitted. The CoC members and the Resolution Applicant discussed the resolution plan at length.

(p) Accordingly, as instructed by the CoC, the revised Resolution Plan was put for e-voting, which commenced on at 10/04/2024 at 11:00A.M and closed on 12/04/2024 at 12:P.M. Subsequently, the revised Resolution Plan of Resolution Applicant, was approved by the CoC members with 97.43 Percent vote. Whereas, the remaining CoC members holding 2.57 percent voting shares abstained from voting.

(q) The Applicant submits that pursuant to Regulation 27 of the IBBI (Insolvency Resolution Process of Corporate Persons) 2016, on 23/10/2019, had appointed registered valuers. As per the valuation report submitted the average of Liquidation value of the assets of the Corporate debtor is Rs. 20,18,60,450.50 and the average Fair Market Value of the same is Rs. 25,93,73,293.50.

(r) It is submitted that the CoC members had various rounds of negotiations with the RA and the RA submitted a revised Resolution Plan on 22/02/2024. Thereafter, the 12th Meeting of the CoC was convened on 01/04/2024 wherein revised resolution plan dated 22/02/2024 was unanimously approved by members holding 97.43% of the total voting share (which comprised of 8.52% of homebuyers) having voted in favour of the said Resolution, while members holding 2.57% have abstained from voting. The said CoC meeting has been attached along with the petition.

(s) Further, as per the Resolution Plan submitted, the total payout towards settlement of CIRP costs and claims of creditors is as below:

Particulars	**Amount (INR in Crores)**
Reimbursement of CIRP Cost including IBBI fees	1.00
Financial Creditors i. Banks and Financial Institutions ii. Home Buyers iii. Unsecured Financial Creditors	 12.28 0.75 -
Operational Creditors	0.15
Dues to Employee and Casual Employees	0.34
Total (A)	**14.52**
Cost of revival of Fortuna Viva project (Estimate)	12.00
Cost of acquiring/ Renewal of Statutory Approvals	3.00
Other Misc. Exp	1.00
Interest for 6 months from Approval Date	1.00
Margin for Working Capital	3.00
TOTAL(B)	**20.00**
TOTAL (A+B)	**34.52**

(t) The Resolution plan further proposes for a Working Capital of the Corporate Debtor to the tune of Rs. 20 crores towards labour expenditure and any such expenses for construction of the Project. This amount will be infused over a period of 240-days from the Approval Date. Any other payment towards development of the project shall be paid in terms of proportional super built up area in the said project.

(u) It is submitted that in accordance with Section 30(1) of the Code the successful resolution applicants, Mr. M.C.George, have submitted affidavit, declaring that the SRA is eligible under Section 29A of the Code to submit the Resolution Plan. The same has been attached as Annexure 26A to the petition.

(v) Resolution Professional proposed that the estimated CIRP cost would INR 1.00 Crores that the Insolvency Resolution Process Cost. The actual CIRP cost (inclusive of fees to IBBI) shall be paid in full in priority to all other dues, in the manner as specified by the IBBI within 25 days from Approval Date.

(w) As per the Information Memorandum provided by the Resolution Professional, a debt of INR 1,84,48,29,871/-is owed to the Financial Creditors from the Corporate Debtor. The details of claims submitted by the Financial Creditors and claims admitted as per Information Memorandum are as under:

Sl No.	Particulars	Claims submitted	Claims admitted
BANKS AND FINANCIAL INSTITUTIONS			
1.	Reliance AIF Management Company Limited	1,23,05,76,095/-	1,23,05,76,095/-
2.	Reliance Nippon Life Asset Management Limited (formerly known as Reliance Capital Asset Management Limited)		
3.	Tumkur Grain Merchant Co-operative Bank	2,90,98,098/-	2,90,57,018/-
4.	HDFC Bank Limited ("**Secured Financial Creditor 3**")	Note A	Note A
HOME BUYERS			
1.	Home Buyers	48,91,88,243/-	37,63,79,659/-
UNSECURED FINANCIAL CREDITORS			

1.	Unsecured Financial Creditors	9,59,67,435/-	1,67,55,587/-
TOTAL		**1,84,48,29,871/-**	**1,65,27,68,359/-**

NOTE A: Though no claim has been preferred by HDFC Bank, per the IM, a Range Rover case is mortgaged with it. This is also captured in the last audited financial statements of the Corporate Debtor. We have therefore considered HDFC Bank Limited under Secured Financial Creditors 3 for the purpose of this Resolution Plan.

(x) It is submitted that as per the Information Memorandum, the details of Operational Creditors as updated upto date of Resolution Plan are as under:

Sl. No	Operational Creditor	Claims submitted	Claims admitted
1	GRS Enterprises	29,59,039	28,51,696
2	RCC Mix	99,31,650	77,48,225
3	B Kristappa	21,52,000	21,52,000
4	Surya Reddy Mix Concrete	5,57,600	5,57,600
5	Genius Security & Allied Services	3,16,390	2,60,970
6	Sri Manjunatha Enterprises	3,24,094	-
7	Superb Classified	4,43,601	4,43,601
8	Bathula Hanumayamma	4,95,186	3,40,186
9	NP Electricals	16,89,405	10,90,223
10	Khushi Media Solutions Private Limited	18,83,172	14,54,956
11	Rock Ready Mix Concreate	10,24,700	10,24,700
12	Bathula Veeranjaneyulu – Labor contractor	4,42,406	4,42,406
13	Hamid – Labor contractor	1,57,941	1,57,941
14	Hydro Tools Engineering	8,85,160	8,85,160
15	Naresh M	3,32,727	-
16	Amjad Khan	40,82,750	26,638
17	Firstchoice RMX LLP	63,30,800	62,11,400
18	Multitech Enterprises	84,518	25,000
19	Greyapple Advertising Services Private Limited	8,60,603	-
20	S M Power	1,10,576	1,10,576
Total		**3,50,64,318**	**2,61,16,005**
STATUTORY AND GOVERNMENT DUES			
Nagamani.K.G, Assistant Commissioner of Commercial Taxes (Audit) 1.3 DGSTO-1, Bangalore		6,88,72,684	6,88,72,684
Total		**10,39,37,002**	**9,49,88,689**

The amount to be paid to Operational Creditors in the event of liquidation of the Corporate Debtor under Section 53 is NIL. However, Resolution

Applicant proposes to pay to Operational Creditors INR 15,00,000/- (Indian Rupees Fifteen Lakhs Only) ("**Settlement Amount for Operational Creditors**") to be distributed on a pro rata basis amongst the operational creditors within 25 days from Approval Date.

(y) It is submitted that as per the Information Memorandum the following details are dues from the workmen dues

Sl. No.	Particulars	Description
1.	Total amount claimed	Dues for employees : INR 31,58,578/- Dues for casual employees : INR4,16,000/- Total : INR35,74,578/-
2.	Total Amount admitted by Resolution Professional	Dues for employees : INR 29,39,161/- Dues for casual employees : INR4,16,000/- Total : INR33,55,161/-
3.	Amount to be paid	INR33,55,161/- (Indian Rupees Thirty-Three Fifty-Five Thousand One Hundred and Sixty-One Lakhs only) to be distributed amongst the employees and casual employees.
4.	Repayment tenor	25 days from Approval Date
5.	Other Conditions	Amounts will be remitted to employees, by transfer to their intimated Bank Accounts as "Full and Final Settlement" of dues owed to them b.
6.	Waiver, if any	NIL

(z) It is submitted that the The Resolution Applicant proposes the infusion of 1,000 shares (One Thousand) at the value of Re. 100/- (Rupees One Hundred Only) per share. The capital structure of the Corporate Debtor post cancellation of shares and reassignment of these shares will be as follows:

Name of Shareholder	Number of shares (INR100 / share)	% of shareholding
Mr. M C George	10	1%
M/s Phalada Developers Private Limited	990	99%
Total	**1,000**	**100%**

(aa) On approval of this Resolution Plan, the Corporate Debtor will process necessary accounting entries to give effect to all the adjustments that have been approved by this Resolution Plan. Further, Resolution Applicant individually and through PDPL will invest into the Corporate Debtor, as a going concern, and will operate in the name of the Corporate Debtor, post approval of this Resolution Plan.

(bb) It is submitted that upon the NCLT Approval Date, shall, within 25 days from the Approval Date, appoint a Committee comprising of 5 (Five) members, which would be headed by the Resolution Professional and will have 2 representatives from the Secured Financial Creditors and balance 2 from Resolution Applicant or PDPL who shall report to the Resolution Professional and the Resolution Professional shall supervise the plan after the approval date until Effective Date ("Monitoring Committee"). The Monitoring Committee shall have the responsibility of monitoring the implementations of this Resolution Plan, during the term of the Plan.

(cc) Further, After the Approval Date, the Corporate Debtor/ Company shall be managed by a reconstituted board according to the provisions of the Companies Act, 2013. The Directors on the reconstituted board shall be appointed on the Approval Date, without any additional approval from the shareholders, and will be accountable for the day to day operation of the Company and shall be bound as per applicable law to protect and preserve the value in the Company. The Corporate Debtor shall continue its operations in the normal course of business.

(dd) It is submitted that in accordance with Section 30(2)(e)of the Code this Resolution Plan does not contravene any provisions of the law for the time being in force and is in strict compliance with the regulations under Insolvency & Bankruptcy Code and the CIRP Regulations.

(ee) It is submitted that the requirement to pay the operational creditors in priority over the financial creditors in accordance with Regulation 38(1)(a) of the Code, the payment of Operational Creditors shall be in priority to payments to Financial Creditors and such amounts shall not be less than the amount to be paid to such creditors in the event of a liquidation of the corporate debtor under Section 53 or the amount that would have been paid to such Operational Creditors, if the amount to be distributed under the Resolution Plan had been distributed in accordance with the order of priority in sub-section (I) of Section 53, whichever is higher and further, those Financial creditors who do not vote in favour of the resolution plan shall be paid in priority over Financial Creditors who voted in favour of the Resolution Plan. Further, the amount to be paid to such Financial Creditors who did not vote should not be less than the amount to be paid to such Financial Creditors in accordance with sub-section (1) of section 53 in the event of a liquidation of the Corporate Debtor.

(ff) It is contended that the plan deals with the interest of the stakeholders, including financial creditors and operational creditors of the corporate debtor in accordance with Regulation 38(1A) (a) of the CIRP Regulations.

(gg) It is submitted by the SRA in the Resolution Plan that the Resolution Applicant or any of his related parties have neither failed to implement nor contributed to be the failure of implementation of any other resolution plan approved by the Adjudicating Authority at any time in the past in accordance with Regulation 38 (1B) of the CIRP Regulations.

(hh) It is submitted that the Resolution Plan provides that the term of the plan shall commence once the same is approved by the Hon'ble NCLT ("**Approval Date**") and the implementation thereof shall continue for the period until the complete implementation of terms as envisaged under the Resolution Plan in accordance with Regulation 38(2)(a) of the CIRP Regulations.

(ii) The Resolution Plan provides for the management and control of the business of the corporate debtor during its term in accordance with Regulation 38(2)(b) of the CIRP Regulations. Further, the Resolution Plan provides for adequate means for supervising its implementation through appointing of an insolvency professional as a monitoring professional and the composition in accordance with Regulation 38(2)(c) of the CIRP Regulations.

(jj) It is submitted that the Resolution Plan, in accordance with Regulation 38(3) of the CIRP Regulations, demonstrates that it (a) 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.

(kk) It is submitted that the COC has passed a favourable resolution with 97.43% of the voting share approving the resolution plan in the 12th meeting of the COC and as such, hence the requirements of Section 30(4) have been complied with.

(ll) It is submitted that the period of completion of the CIRP of the Corporate Debtor has not expired and as such the present Application is filed within time. Further, all requirements under the Code and CIRP Regulations have been duly complied with, and that the Resolution Plan may be approved in accordance with law. Moreover, in accordance with Regulation 36B (4A) of the CIRP Regulations, the Resolution Applicant, vide compliance memo filed on 27.11.2024 has furnished the performance security dated 27.03.2024 and letter of comfort from the bank dated 12.11.2024 of Rs. 30 Crore/-. Further, the Bank Guarantee shall be valid up to 05.04.2025 and the claim or demand to be made under this Guarantee on or before 02.10.2025.

3. Heard learned Counsel for the RP and carefully perused the pleadings on record.

4. The Corporate debtor herein, namely, Fortuna Buildcon India Private Limited was incorporated on 09/03/2012. CIRP proceedings were initiated against the Corporate Debtor by this Adjudicating Authority, vide order dated 09/08/2019 passed in CP (IB) No. 124/BB/2022. The present application is filed for approval of the Resolution Plan submitted by Shri M C George implementing the Plan through M/s Phalada

Developers. The approval has been sought under the provisions of Section 31(1) of the Code.

5. It is noted that IA 325/2020 was filed previously before this Adjudicating Authority for approval of the Resolution Plan. However, on 19/06/2023, it was submitted that the said Plan was filed in August 2020 and since there have been many amendments to the Code and subsequently, there have been some judicial pronouncements; along with considering the defects and compliances pending as directed by the Tribunal, they sought permission to withdraw the plan with the liberty to file a fresh one. Accordingly, this Tribunal granted liberty to the Applicant herein to filed a fresh Resolution Plan and withdraw the earlier Resolution Plan filed in IA 325/2020 vide its order dated 19/06/2023.
6. Subsequently, IA 06/2024, was filed on 28/05/2024, with a fresh resolution Plan as approved by the COC. On 12/07/2024, this Tribunal issued a broad direction to the Applicant herein to file all the necessary documents for approval of the Resolution Plan. In pursuance to which the Applicant herein has filed a Memo vide Diary No: 4992, dated 26/08/2024 and Memo vide Diary No: 4800 dated 13/08/2024 wherein the Applicant has filed the following documents:
   i) As per Regulation 36A(8) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, Due Diligence report dated 23/08/2024.
   ii) Explanation with respect to Source of Funds of the Successful Resolution Applicant.
   iii) Net worth certificate of Shri M C George and Shri B A Rajendra Singh
   iv) Affidavit in respect to pending avoidance transactions.
7. On 23/10/2024 the Tribunal directed the applicant to file clarification in respect of Source of Funds and a fresh Performance Bank Guarantee as per Regulations 36(4)(a): Further the applicant was directed to furnish an explanation for delay in filing fresh Resolution Plan. The same was submitted vide diary No. 6682 dated 27/11/2024, wherein the net worth certificate of Shri M.C George and Shri B A Rajendra Singh were provided. Further the Applicant has also submitted the Letter of Comfort

for Rs 30 Crores dated 12/11/2024 issued by ICICI Bank vide Diary No 6682 dated 27/11/2024. Regarding the delay in filing the fresh Resolution Plan, the Applicant has filed a Memo vide Diary No 5128 dated 03/09/2024, wherein it is stated that the SRA was diagnosed with Ischemic Heart Disease and Coronary Artery Disease and has to undergo serious surgical procedures in 2023 due to which there was delay in filing the fresh Resolution Plan.

8. Further, on 10/12/2024 this Tribunal has listed the matter for clarification for the following reason;

   "It is observed that as per Regulation 38(3) (d) the Plan has to provide in detail the provision for approvals required from authorities and the timeline for obtaining the same. However, on perusal of the Plan and Clause 15 & 16.9 of the plan, it is observed that the present plan does not provide details of authorities or clarify the proper approvals required and does not lay-out the timeline for seeking such approvals. Hence, proper clarification with requisite approvals of various authorities and timeline for the same is required to be filed."

   In pursuant to the same, the Ld Counsel for the RP has filed a Memo vide Diary No: 7061 dated 13/12/2024 wherein details required for the approvals, along with the timeline for the same is provided.

9. Pursuant to the public announcement inviting claims from the creditors of the Corporate Debtor, the Resolution Professional had constitute the COC. The details of the creditors, the distribution of voting share among them and the position of voting for the Resolution Plan is as under (Para 5 of Form H) :-

S. No.	Name of Creditor	Voting Share (%)	Voting for Resolution Plan (Voted for / Dissented / Abstained)
1.	Financial Creditors	100%	97.43% Voted For and 2.57% abstained.

10. The details of stakeholders and the amounts provided for them under the Resolution Plan given in Form H; which is given below:

(Amount in Rupees)

S. No.	Category of Stakeholder*	Sub-Category of Stakeholder	Amount Claimed	Amount Admitted	Amount Provided under the Plan**	Amount Provided to the Amount Claimed (%)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	Secured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	N/A	N/A	N/A	N/A
		(b) Other than (a) above: (i) who did not vote in favour of the resolution Plan	N/A	N/A	N/A	N/A
		(ii) who voted in favour of the resolution plan	125,96,33,113/-	125,96,33,113/-	12,28,37,510/-	9.75%
		Total[(a) + (b)]	**125,96,33,113/-**	**125,96,33,113/-**	**12,28,37,510/-**	**9.75%**
2	Unsecured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	N/A	N/A	N/A	N/A
		(b) Other than (a) above:	N/A	N/A	N/A	N/A

		(i) who did not vote in favour of the resolution Plan	N/A	N/A	N/A	N/A
		(ii) who voted in favour of the resolution plan	N/A	N/A	N/A	N/A
		(iii) Home Buyers*	48,91,88,243/-	37,63,79,659/-	75,00,000 *Note 2	*Note 2
		(C) Other Unsecured Creditor	9,59,67,435/-	1,67,55,587/-	-	-
		Total[(a) + (b)+ (c)]	585155678	39,31,35,246	75,00,000 *Note 1	
3	Operational Creditors	(a) Related Party of Corporate Debtor	N/A	N/A	N/A	N/A
		(b) Other than (a) above:				
		(i)Government	6,88,72,684/-	6,88,72,684/-	10,87,592/-	1.58%

		(ii)Workmen/Casual Employees	4,16,000/-	4,16,000/-	4,16,000/-	100%
		(iii)Employees	31,58,578	29,39,161	29,39,161	100%
		(iv) Others	3,50,64,318	2,61,16,005	4,12,407.076	1.58%
		Total[(a) + (b)]	**107511580**	**98343850**	**4855160.076**	
4	Other debts and dues		N/A	N/A	N/A	N/A
(A) Total			1952300371	1751112209	135192670.076	
(B) Amount required to recommence constriction of project and working capital.					20,00,00,000	
Total Resolution Amount (A+B+C)					**155192670.076**	

***Note 1** A resolution plan, as approved by the same resolution applicant had been filed with the Hon'ble Adjudicating Authority in I. A. No. 325 / 2020 on 19.08.2020. This plan, with suitable revisions pursuant to the orders of the Hon'ble Adjudicating Authority, has presently been re-filed.

***Note 2** The Resolution Plan proposes for the allotment of apartments to the home-buyers on payment of an additional amount of INR 1,000 (Indian Rupees One Thousand only) per square feet. Alternatively, the Resolution Plan proposes the payment of an amount equivalent to INR 75,00,000 (Indian Rupees Seventy Five Lakhs only) to those home buyers who do not opt for the allotment of apartments.

**Amount provided over time under the Resolution Plan and includes estimated value of non-cash components. It is not NPV. The Resolution Plan contains provisions wherein fully construted homes will be given to the home buyers in accordance with the timeline provided in the Resolution Plan.

11. The compliance of the Resolution Plan has been given in Para No. 9 of Form H are as follows:-

25 (2) (h)	Whether the Resolution Applicant meets the criteria approved by the CoC having regard to the complexity and scale of operations of business of the CD?	Clause 4, Page no. 6 to 7	Yes
Section 29A	Whether the Resolution Applicant is eligible to submit resolution plan as per final list of Resolution Professional or Order, if any, of the Adjudicating Authority?	Attached as a separate annexure with resolution plan.	Yes
Section 30 (1)	Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?	Attached as a separate annexure with resolution plan.	Yes
Section 30 (2)	Whether the Resolution Plan:		
	(a) provides for the payment of insolvency resolution process costs?	Section 30(2)(a)- Clause 7, Page no. 9 to 10.	Yes
	(b) provides for the payment to the operational creditors?	Section 30(2)(b)- Clause 16.1, Page no. 26 to 27.	Yes
	(c) provides for the payment to the financial creditors who did not vote in favour of the resolution plan?	Section 30(2)(c)- Clause 16.2, Page no. 27.	Yes
	(d) provides for the management of the affairs of the corporate debtor?	Section 30(2)(d)- Clause 20, Page no. 32 to 34.	Yes

	(e) provides for the implementation and supervision of the resolution plan? (f) contravenes any of the provisions of the law for the time being in force?	Section 30(2)(e)- Clause 16.3.1, Page no. 27 and Clause 19, Page no. 32 Section 30(2)(f)- Clause 16.3.1, Page no. 27 to 28.	Yes No
Section 30 (4)	Whether the Resolution Plan: (a) is feasible and viable, according to the CoC? (b) has been approved by the CoC with 66% voting share?	The CoC found the resolution plan feasible and viable and voted in favour of resolution plan with 97.43%.	Yes
Section 31 (1)	Whether the Resolution Plan has provisions for its effective implementation plan, according to the CoC?	Clause 16.7, Page no. 30; Clause 17 Page no. 31; Clause 19, Page no. 32.	Yes
Regulation 38 (1)	Whether the amount due to the operational creditors under the resolution plan has been given priority in payment over financial creditors?	Clause 16.1, Page no. 26 to 27.	Yes
Regulation 38 (1A)	Whether the resolution plan includes a statement as to how it has dealt with the	Clause 18, Page no. 31.	Yes

	interests of all stakeholders?		
Regulation 38 (1B)	(i) Whether the Resolution Applicant or any of its related parties has failed to implement or contributed to the failure of implementation of any resolution plan approved under the Code. (ii) If so, whether the Resolution Applicant has submitted the statement giving details of such non-implementation?	Clause 16.3.2, Page no. 27 N/A	No.
Regulation 38 (2)	Whether the Resolution Plan provides: (a) the term of the plan and its implementation schedule? (b) for the management and control of the business of the corporate debtor during its term? (c) adequate means for supervising its implementation?	Reg. 38(2)(a) - Clause 19 Page no. 32. Reg. 38(2)(b) - Clause 20, Page no. 32 to 34. Reg. 38(2)(c) - Clause 19.2, Page no. 32	Yes
Regulation 38 (3)	Whether the resolution plan demonstrates that – (a) it addresses the cause of default (b) It is feasible and viable?	Clause 16 Page no. 26. Section 30(3)(a)- Clause 16.5, Page no. 29 Section 30(3)(b)- Clause 16.6., Page no. 29 to 30.	Yes

	(c) it has provisions for its effective implementation? (d) it has provisions for approvals required and the timeline for the same? (e) the resolution applicant has the capability to implement the resolution plan?	Section 30(3)(c)- Clause 16.7, Page no. 30. Section 30(3)(d)- Clause 15 Page no. 26 and Clause 16.9 Page no. 30. Section 30(3)(e)- Clause 17, Page no. 31.	
Regulation 39 (2)	Whether the RP has filed applications in respect of transactions observed, found or determined by him?	Clause 22.5 and Clause 22.6, Page no. 35.	
Regulation 39 (4)	Provide details of performance security received, as referred to in sub-regulation (4A) of regulation 36B.]	Clause 5.2, Page no. 9	Yes

12. It is submitted by the Resolution Professional that the COC in its 12th meeting held on 01/04/2024 has approved the Resolution Plan with 97.43% voting share and the conditions provided for Section 30 (4) of the Code are satisfied.

13. At this juncture it is necessary to refer to sec 30(2). The Provisions of Section 30(2) of the I&B Code, 2016 are as follows:

"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 3 [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) *Conforms to such other requirements as may be specified by the Board."*

a) The compliance of Section 30(2) of the Code is given in Para No.09 of Form-H. The same is being further examined as under:

a. **Section 30(2)(a):** Clause 7 of the Plan provides for the payment of insolvency and resolution process cost. The Applicant estimated the CIRP cost of INR 1,00,00,000/- (Indian Rupees One Crore

Only), inclusive of regulatory fees payable to IBBI. The final CIRP cost shall be as agreed upon by the CoC and we shall remit the full CIRP cost so approved within 25 days from Approval Date. Any amounts claimed as part of CIRP costs exceeding INR 1,00,00,000 (Indian Rupees One Crore Only) will be firstly reduced from the payment due to the Operational Creditors, then from the amounts allocated for the Home Buyers and if there is still a shortfall, such shortfall will be recovered from the amount payable to the Secured Financial Creditors. In case the total amount charged towards CIRP cost is lesser than INR 1,00,00,000 (Indian Rupees One Crore Only), the money not claimed will stand cancelled and will not be added to any other settlement head under this Scheme.

b. **Section 30(2)(b):** In accordance with Section 30 (2) (b) read with Regulation 38 (I) (a), the payment of Operational Creditors shall be in priority to payments to Financial Creditors and such amounts shall not be less than the amount to be paid to such creditors in the event of a liquidation of the corporate debtor under Section 53 or the amount that would have been paid to such Operational Creditors, if the amount to be distributed under the Resolution Plan had been distributed in accordance with the order of priority in sub-section (I) of Section 53, whichever is higher.

c. **Section 30 (2)(c):** In pursuance of Section 30 (2) (b) read with Regulation 38 (1) (b), the Resolution Applicant provides that the Financial Creditors who do not vote in the favor of the Resolution Plan shall be paid in priority over Financial Creditors who voted in favor of the Resolution Plan. Further, the amount to be paid to such Financial Creditors who did not vote should not be less than the amount to be paid to such Financial Creditors in accordance with sub-section (1) of section 53 in the event of a liquidation of the Corporate Debtor.

d. **Section 30(2)(d):** After the Approval Date, the Corporate Debtor/ Company shall be managed by a reconstituted board according to the provisions of the Companies Act, 2013. The Directors on the reconstituted board shall be appointed on the Approval Date, without any additional approval from the shareholders, and will be accountable for the day to day operation of the Company and shall be bound as per applicable law to protect and preserve the value in the Company. The Resolution Applicant shall through PDPL appoint in the Corporate Debtor such number of Directors and/ or have the right to appoint majority directors, whichever is higher on the board of the company including independent directors and all the existing Directors shall resign and cease to be Directors with immediate effect which shall be brought in the records of Registrar of Companies and any such requisite authorities in accordance with the law. The Resolution Applicant shall also exercise such veto powers that he deems fit in the interest of retaining the Company as a going concern.

e. **Section 30(2)(e) :** Clause of the Plan provides for the implementation and supervision of the resolution plan. The Resolution Applicant through PDPL shall, within 25 days from the Approval Date, appoint a Committee comprising of 5 (Five) members, which would be headed by the Resolution Professional and will have 2 representatives from the Secured Financial Creditors and balance 2 from Resolution Applicant or PDPL who shall report to the Resolution Professional and the Resolution Professional shall supervise the plan after the approval date until Effective Date ("**Monitoring Committee**"). The Monitoring Committee shall have the responsibility of monitoring the implementations of this Resolution Plan, during the term of the Plan;

f. **Section 30 (2)(f):** It is submitted that under Section 30 (2) (f) of the Code, this Resolution Plan does not contravene any provisions of the law for the time being in force and is in strict compliance with the regulations under Insolvency & Bankruptcy Code and the CIRP Regulations.

(1) Regulation 38 (1): In accordance with Section 30 (2) (b) read with Regulation 38 (I) (a), the payment of Operational Creditors shall be in priority to payments to Financial Creditors and such amounts shall not be less than the amount to be paid to such creditors in the event of a liquidation of the corporate debtor under Section 53 or the amount that would have been paid to such Operational Creditors, if the amount to be distributed under the Resolution Plan had been distributed in accordance with the order of priority in sub-section (I) of Section 53, whichever is higher.

(2) Regulation 38 (1A): The Resolution Applicant confirms that the payments due to the stakeholders of the Corporate Debtor shall be made by Resolution Applicant, in the manner indicated herein above and accordingly the interest of the stakeholders of Corporate Debtor are duly covered by the Resolution Applicant, after taking into consideration that the Corporate Debtor is a going concern and adhering to the requirements set out under the Code.

Particulars	**Payment Date from Approval Date**	**Amount (INR in Crores)**
Total equity infusion in the Corporate Debtor	5th day	0.01
Secure fresh commitments from Home Buyers, after the Home Buyer opts for either option proposed under this Scheme	15th day	
Infusion of debt or equity in Corporate Debtor	20th day	6.40
Infusion of debt or equity in Corporate Debtor	115th day	8.11
Utilized as follows		
Settlement of CIRP cost (which includes regulatory fee to IBBI)	25th day	1.00
Payment to Operational Creditors	25th day	0.15
Payment to Employees and Casual Labor	25th day	0.34
Payment to Secured Financial Creditors		
Nippon Life India AIF Management Limited, formerly called Reliance Nippon Life Asset Management Company Limited and Nippon Life India Asset Managemenet Limited, formerly called Reliance AIF Management Company Limited ("**Secured Financial Creditor 1**")	15% - 25th day 25% - 35th day 60% - 120th day	12.00

Tumkur Grain Merchant Co-Operative Bank ("**Secured Financial Creditor 2**")		0.28
Payment to homebuyers for buy back (if any) *	24 months commencing from 270th day	0.75
Payment to Unsecured Financial Creditors		-
Amount required to re-commence construction of Project and working capital #		20.00

(3) Regulation 38(1B): Under Regulation 38(1B) of CIRP Regulations, the Resolution Applicant or any of its related parties has not 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. The Resolution Applicant or any of its connected persons has not withdrawn from any Resolution Plan after its approval by the relevant committee of creditors.

(4) Regulation 38(3)(a): The cause of default of the Corporate Debtor was primarily on account of the diversion of funds by the Corporate Debtor to related parties as noted in the audited financial statements for the year ended 31 March 2019 for purposes which were not related to its projects. The Resolution Applicant will be implementing the Resolution Plan through M/s. PDPL, which has been incorporated for the sole purpose of conducting business in real estate and construction. Therefore, funds raised for this Project, to the extent necessary, shall be utilized only for the said purpose and will not be diverted to any other projects. Both the promoters of the company are highly capable of managing the business of the company and the business. M/s. PDPL is therefore not solely dependent on one person. In addition, M/s. PDPL shall be adopting a different approach to revive the Corporate Debtor's project and continue its business. The company will sell apartment units which are already constructed / near completion phase as opposed to selling apartment units prior to construction itself, which was done by the Corporate Debtor.

The Resolution Applicant and PDPL believe that this is a more sustainable approach towards slowly reviving the business of the Corporate Debtor and improving the prevailing trends and practices in the real estate market.

(5) Regulation 38(3)(b): The Resolution Plan aims to revive the projects of the Corporate Debtor in a sustainable and gradual manner and with a view to protect all stakeholders. The Promoters of M/s. PDPL shall infuse adequate capital as mentioned in this Resolution Plan for the implementation of the Plan and are also ready and willing to utilise funds from sister concerns for the implementation of the Resolution Plan. The Resolution Plan is thus feasible and viable.

(6) Regulation 38(3)(c): The Resolution Applicant will appoint an experienced and senior person of M/s. PDPL to supervise the implementation of Resolution Plan. He/ She shall have a team working under him/ her and he/ she shall report directly to the Resolution Applicant and management of PDPL.

(7) Regulations 38(3)(d): The time-line for approvals of Resolution Plan is stated in Clause 15 and Clause 16.9 of the Plan. On the approval of the Resolution Plan, the Resolution Applicant through the Corporate Debtor will begin the process of obtaining necessary sanctions, approvals, and licences within 10 days from the Approval Date. The Resolution Plan proposes that any liability which may arise on account of any default by the Corporate Debtor prior to the approval of this Resolution Plan with respect to renewal/ for fresh license, certificate, permit or approval shall be waived by the respective authorities as part of the Resolution Plan. The Resolution Applicant will apply for necessary sanctions, approvals, and licences within 10 days the Approval date. The Resolution Applicant through Corporate Debtor after approval of this Resolution Plan, on best effort basis, will submit and obtain the approvals over a 90-day period after the Approval Date.

Further, in Memo dated 13/12/2024, the following has been stated to be the requisite timeline of approval;

Sl. No.	Nature of Approval	Name of applicable Law	Name of Authority who will grant Approval	When to be obtained
1.	Registration of New Promoter	Section 15 of the Real Estate Regulation Act, 2016	Karnataka Real Estate Regulatory Authority	Application for such approval will be made within 10 (ten) working days of approval of the Plan, on a best-efforts basis, submit and obtain the approvals over a 90-day period from the date of the approval of the Plan. (***See Clauses 15.1 and 16.9 of the Revised Resolution Plan dated 22.02.2024***)
2.	Grant of sanction of Revised Development Plan	Section 240 read with Section 247 of the Bruhat Bengaluru Mahanagara Palike Act, 2020	Bruhat Bengaluru Mahanagara Palike (BBMP)	Same as above.
3.	Fresh Connection of Electricity	Section 43 of the Electricity Act, 2003	Bangalore Electricity Supply Company Limited (BESCOM)	Same as above.
4.	Fresh Connection of Water Supply	Section 35 of the Bangalore Water Supply and	Bangalore Water Supply and Sewerage Board (BWSSB)	Same as above.

		Sewerage Act, 1964		
5.	No Objection Certificate	Section 13 of the Karnataka Fire Force Act, 1964	Karnataka Fire and Emergency Services Department	Same as above.
6.	Consent to Establish	Section 25 of the Water (Prevention and Control of Pollution) Act, 1974	Karnataka State Pollution Control Board	Same as above.

(8) Regulation 38 (3) (e): Regulation deals with the capability of the Resolution Applicant to implement the resolution plan. It is submitted that M/s Phalada Developers comprises of three people:

i. M.C George: Resolution Applicant significant experience of managing various entities having coffee and tea estates with a total cultivable area of 7000 acres. He is an able administrator having been a businessman for over 5 decades. His estimated personal net worth as at 31 January 2024 was INR 98.28 croes.

ii. B A Rajendra Singh: He is an astute businessman with multiple business interests including building and managing an educational institution, managing a real estate business and also has constructed many buildings and residences for various friends and relatives. His estimated personal net-worth as at 31 January 2024 is INR182.92 crores.

iii. Raghunath P. R: Chartered Accountant with over 20 years' experience in raising funds, accounting, and regulatory affairs. Involved in raising funds for many large real estate companies and will manage the finances of PDPL.

Further, the Applicant has attached the Letter of Comfort dated 12/11/2024 issued by ICICI Bank vide Diary No 6682 dated 27/11/2024.

12. It is observed that in Para 4 of Form H, the resolution professional has certified that the said Resolution Plan complies with all the provisions of the Insolvency and Bankruptcy Code 2016 (Code), the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP Regulations) and does not contravene any of the provisions of the law for the time being in force. Also, the resolution applicants Shri M C George has submitted affidavit pursuant to section 30(1) of the Code confirming its eligibility under Section 29A of the Code to submit Resolution Plan. It is further certified that the Resolution Plan has been approved by the COC in accordance with the provisions of the Code and the CIRP Regulations made thereunder. The Revised Resolution Plan has been approved by 97.43% of voting share of creditors after considering its feasibility and viability and other requirements specified by the CIRP Regulations.
13. Moreover, in accordance with regulation 36B(4A), the resolution applicant has furnished the Corporate Guarantee of Rs. 1,00,00,000/- by way of a Performance Guarantee; which shall remain in force up to 20/10/2025. The said Bank Guarantee is attached to diary dated 27/11/2024.
14. The Applicant vide Memo dated 26/08/2024 in Diary No: 4992 has explained the source of funds for the said Resolution Plan that the Resolution Applicant through PDPL proposes to contribute and invest towards sums required for the successful execution of the present Resolution Plan through debt and equity instruments executed by Shri M C George and Shri B A Rajendra. Further the Applicant has also submitted the Letter of Comfort for Rs 30 Crores dated 12/11/2024 issued by ICICI Bank vide Diary No 6682 dated 27/11/2024.
15. It is noted from the plan that the Corporate Debtor shall continue as a going concern.
16. In the circumstance and for the aforesaid reasons, the instant IA bearing **I.A. No.06 of 2024 is allowed** and accordingly, the Resolution Plan

dated 22/02/2024 ('Resolution Plan') (Annexure 1) submitted by Shri M C George implementing the plan through M/s Phalada Developers is hereby approved. The Resolution Plan so approved shall be binding on the Corporate Debtor and its employees, members, creditors, including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force such as authorities to whom statutory dues are owed, guarantors and other stakeholders involved in the Resolution Plan. Under the provisions of section 31(3) of the Code, we also direct as under:

a. The moratorium imposed vide order dated 09/08/2019 in the main CP shall cease to have effect from the date of communication of this order.
b. The resolution professional shall forward all records relating to the conduct of the CIRP and the Resolution Plan to the Board to be recorded on its database.

Further, the Resolution Professional is directed to handover the management, control and all the assets, documents/records in physical and/or digital form to the Resolution Applicant immediately and the resolution professional will cease to be resolution professional.

17. The approved Resolution Plan shall be effective from date of passing of this Order.

Sd/-	**Sd/-**
(MANOJ KUMAR DUBEY)	**(K. BISWAL)**
MEMBER (TECHNICAL)	**MEMBER (JUDICIAL)**