IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
SPECIAL BENCH (COURT-II)

I.A. 3618 OF 2021
IN
Company Petition No. (IB)-1672 (ND)/2019

IN THE MATTER OF:

Alchemist Asset Reconstruction Company Limited

...Financial Creditor

Versus

Associated Lighting System Private Limited

...Corporate Debtor

AND IN THE MATTER OF:

Mr. Devendra Singh
Resolution Professional of
Associated Lightning System Private Limited
D-54, Defence Colony
New Delhi – 110024 **...Applicant**

Order Delivered on : 03.12.2021

SECTION: 30(6) read with 31(1) of the Insolvency and Bankruptcy Code, 2016.

CORAM:

SH. BHASKARA PANTULA MOHAN, HON'BLE MEMBER (J)

SH. L. N. GUPTA, HON'BLE MEMBER (T)

PRESENT:

For the Applicant	:	Adv Jitesh Talwani
For Resolution Applicant	:	Mr. Palash Singhai

ORDER

PER: SHRI L. N. GUPTA, MEMBER (T)

The IA No. 3618/2021 has been filed by Mr. Devendra Singh, the Resolution Professional of the Associated Lighting System Private Limited (hereinafter referred to as '**Applicant/ Resolution Professional'**) for approval of the Resolution plan submitted by one Mr. Arjun Nath, Ex-Director of the Corporate Debtor (hereinafter referred to as '**Successful Resolution Applicant**').

2. That the prayers made in the IA No. 3618/2021, which is taken up for consideration, are reproduced below :

> *(a) Allow the present application;*
>
> *(b) Approve the Resolution Plan submitted by Mr. Arjun Nath in case of the Corporate Debtor, as approved by the CoC under Section30(4) of the IBC in the meeting held on 12.07.2021, in terms of Section 31 of the IBC;*
>
> *(c) Pass any other order(s) as this Hon'ble Tribunal may deem fit in the fact and circumstances of the present case.*

3. It is averred by the Applicant on Page 20-22 of its Application that :

> *"1. The instant Application is being preferred by Devendra Singh (Applicant) the Resolution Professional of Associated Lightning System Private Limited ('Corporate Debtor'),* ***which falls under the category of Micro, Small & Medium Enterprises (MSME) having Registration no. UK05A0002463 dated 15.03.2018 under Section 30(6) R/w 31 of the Insolvency and Bankruptcy Code, 2016 ('IBC') seeking approval of Resolution Plan submitted by Mr. Arjun Nath, Ex-***

Director of the Corporate Debtor *(Power Suspended) residing at B-10, Mayfair Garden, Hauz Khas, New Delhi-110016 ('Resolution Applicant') in case of the Corporate Debtor, as approved by 100% of members of the Committee of Creditors ('CoC') in the 7th meeting of the CoC held on 12.07.2021. Copy of Resolution Plan submitted by Mr. Arjun Nath in case of Corporate Debtor is annexed herewith and marked as ANNEXURE A-1. A copy of the minutes of meeting of 7 CoC along with voting sheet dated 12.07.2021 is annexed herewith and marked as ANNEXURE A-2.."*

2. It is submitted that the Resolution Plan of Mr. Arjun Nath is above the liquidation value of the Corporate Debtor. It is further submitted that in the instant case, the time limit for completion of CIRP proceedings of the Corporate Debtor, pursuant to the orders passed by this Hon'ble Tribunal, came to an end on 18.07.2021. The CoC by exercising its commercial wisdom has approved the Resolution Plan of Mr. Arjun Nath on 12.07.2021. Therefore, the Resolution Plan has been approved by the CoC within the stipulated time limit as prescribed under Section 12(1) of the IBC and has passed the following resolution:

> *"RESOLVED THAT the Resolution Plan submitted by Mr Arjun Nath, Resolution Applicant along with the requisite documents as placed and presented by the Resolution Professional before the CoC in terms of Section 30(3) of the Insolvency and Bankruptcy Code, 2016 be and is hereby approved by the member of Committee of Creditors in terms of Section 30(4) of the Insolvency and Bankruptcy Code, 2016 and Regulation 39(3) of the Insolvency and*

Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) regulations, 2016.

RESOLVED FURTHER THAT the Committee of Creditors authorized the Resolution Professional to submit the resolution Plan as approved herein to the Adjudicating Authority for approval in terms of Section 30(6) of the Insolvency and Bankruptcy Code, 2016 and other applicable provisions, if any, of the insolvency and Bankruptcy Code, 2016 and in accordance with rules and Regulations made thereunder."

It is also submitted that Mr, Arjun Nath ie Resolution Applicant has provided a Performance Bank Guarantee amounting to Rs. 50,00,000/(Rupees Fifty Lakhs Only) vide cheque of HDFC Bank, having no. 624790, drawn in the favour of Alchemist Asset Reconstruction Company Limited on 17.07.2021, Pursuant to the Letter of Intent dated 15.07.2021, (As per the provisions of RFRP document). A copy of said cheque is annexed herewith and marked as ANNEXURE A-3. (Emphasis Supplied)

4. To put succinctly, the facts of the case are that the Financial Creditor, M/s. Alchemist Asset Reconstruction Company Limited filed an Application bearing No. IB-1672(ND) 2019 under Section 7 of IBC, 2016 for initiation of Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor, M/s. Associated Lighting System Private Limited**.** The said Application was admitted by this Tribunal vide Order dated 21.10.2020 and the Applicant was appointed as the Interim Resolution Professional (IRP). It is added that the IRP was confirmed as RP in the 1st Meeting of CoC held on 18.11.2020.

5. It is submitted that in terms of the Regulation 6(1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the said Interim Resolution Professional made a public announcement in Form-A on 23.10.2020 with the last date for submission of claims being 04.11.2020. It has been added that the copy of the same was uploaded on the website of Insolvency and Bankruptcy Board of India (IBBI).

6. It is further submitted that the Resolution Professional constituted a Committee of Creditors, which comprised of sole Financial Creditor i.e. M/s. Alchemist Asset Reconstruction Company Limited having 100% voting rights.

7. It is stated by the Applicant that the 'Form-G' were published first, on 18.12.2020 and subsequently on 20.02.2021 in the newspapers namely, Business Standard (Hindi & English - All India Edition). That the last date for submitting the EOI against the initial publication of Form G was 02.01.2020. However, with the second time publication of Form G, it was kept as 13.03.2021. That the last date for submission of Resolution Plan was fixed for 28.04.2021

8. It is further stated that the Applicant received Expressions of Interest (EOIs) from the following 03 applicants till the last date for submission i.e., 13.03.2021:

a) Arjun Nath
b) Atambhu Buildwell Private Limited
c) R.K.G Asset Management LLP

9. It is submitted by the Applicant that the aforesaid EOIs were perused, verified and vetted and thereafter, provisional list containing names of 2 PRAs namely, Arjun Nath and Atmbhu Buildwell Private Limited were published on 23.03.2021.

10. It is further submitted by the Applicant that vide mail dated 27.04.2021, the eligible Prospective Resolution Applicants sought an extension to submit the Resolution Plan on account of curfew/lockdown imposed by the State Government of Delhi amidst the rising cases of during the Covid-19 pandemic, which was communicated to the member of the CoC. Subsequently, vide mail dated 28.04.2021, the CoC granted extension of time till 19.05.2021 for the submission of the Resolution Plan.

11. It is submitted by the Applicant that vide order dated 28.04.2021, this Adjudicating Authority was pleased to allow its application seeking extension of 90 days w.e.f. 19.04.2021 (beyond 180 days) for completion of CIRP, extending the last date of the Corporate Insolvency Resolution Process of Corporate Debtor till 18.07.2021.

12. It is further submitted by the Applicant that vide mail dated 21.05.2021, the eligible PRAs, once again sought another extension of 60 days to submit their Resolution Plan, on account of facing great difficulties due to continued curfew/lockdown imposed by the State Government of Delhi amidst rising cases of Covid-19. The Applicant communicated the said request to member of CoC and accordingly, vide mail dated 28.05.2021, the member of CoC granted extension of 15 days for PRAs to submit their Resolution Plan by 05.06.2021.

13. It is added by the Applicant that on 05.06.2021, it received a Resolution Plan from one Mr. Arjun Nath along with the Ernest Money deposit of Rs.10,00,000/-(ten lakhs) only.

14. It is submitted by the Applicant that pursuant to the submission of Resolution Plan by Arjun Nath - the Resolution Applicant, the Applicant vetted and examined the said Resolution Plan in order to check that the Plan is in compliance with the provisions of the Code and Regulation made thereunder. Accordingly, queries/observations raised on perusal of the said plan were communicated to the Resolution Applicant vide mail dated 16.06.2021, in response to which, the Resolution Applicant submitted clarifications vide his mail dated 21.06.2021.

15. It is further submitted by the Applicant that on perusal of the clarifications provided by the Resolution Applicant and confirming that the Resolution Plan along with the addendum complied with the provisions of the IBC, 2016 and Regulations made thereunder, the Applicant shared copy of the said Resolution Plan along with the addendum to the member of the CoC vide email dated 24.06.2021.

16. It is submitted by the Applicant that the Resolution Plan was considered by the CoC in its 7th Meeting held on 12.07.2021 and was put to vote of CoC as the Agenda item No. B1. The scanned copy of the relevant resolution which was considered and voted by the CoC is reproduced overleaf :

Resolution:

To consider and if thought fit, to pass with or without modification the following Resolution:

"**RESOLVED THAT** the Resolution Plan submitted by Mr. Arjun Nath, Resolution Applicant along with the requisite documents as placed and presented by the Resolution Professional before the CoC in terms of Section 30(3) of the Insolvency and Bankruptcy Code, 2016 be and is hereby approved by the member of the Committee of Creditors in terms of Section 30(4) of the Insolvency and Bankruptcy Code, 2016 and Regulation 39(3) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

RESOLVED FURTHER THAT the Committee of Creditors authorized the Resolution Professional to submit the Resolution Plan as approved herein to the Adjudicating Authority for approval in terms of Section 30(6) of the Insolvency and Bankruptcy Code, 2016 and other applicable provisions, if any, of the Insolvency and Bankruptcy Code, 2016 and in accordance with rules and Regulations made there under."

Post deliberation, the voting on the above Resolution was done by signing/ sending in the voting sheet / register with detailed annexure made for the purpose.

DEVENDRA SINGH IBBI/IPA-002/IP-N00001/2016-17/10001 INSOLVENCY PROFESSIONAL

Page 12 of 15

17. It is further submitted by the Applicant that the plan submitted by RA Mr. Arjun Nath was approved by the CoC by 100% votes in its 7th Meeting held on 12.07.2021. The scanned copy of the voting sheet of the CoC is reproduced overleaf :

VOTING REGISTER

In reference to Regulation 25(4) and 26(4) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016

Seventh Meeting of the Committee of Creditors (CoC) of Associated Lighting System Private Limited (ALSPL) (Undergoing Corporate Resolution Process)

Date: 12th day of July, 2021 Day: Monday Time: 04:00 P.M.

Venue: D-54, First Floor, Defence Colony, New Delhi-110024 through Video Conferencing

Name of the Member	Represented By	Whether representing a Member or a Group of Members	Attendance (Physical/ Audio Visual (AV)/Video Conferencing	Physical Voting/e-Voting	Voting Items	Votes		
						For	Against	Abstained
Alchemist Assets Reconstruction Company Ltd.					ITEM NO. B1 TO CONSIDER, DELIBERATE, DECIDE AND APPROVE THE RESOLUTION PLANS OF THE MR. ARJUN NATH, RESOLUTION APPLICANT (RA) AND WHOSE RESOLUTION PLAN IS COMPLIED WITH THE PROVISIONS OF IBC, 2016 AND REGULATIONS MADE THEREUNDER.	✓		
					ITEM NO. B2 TO RATIFY THE EXPENSES INCURRED BY THE RP WHICH, IF RATIFIED, SHALL BE TREATED AS PART OF THE INSOLVENCY RESOLUTION PROCESS COST IN TERMS OF REGULATION 31 READ WITH REGULATION 34 OF THE INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (INSOLVENCY RESOLUTION PROCESS FOR CORPORATE PERSONS) REGULATIONS, 2016;	✓		

18. It is added that the Applicant vide letter dated 15.07.2021 issued Letter of Intent (LOI) declaring Mr. Arjun Nath as successful Resolution applicant and asked him to submit Performance Guarantee of Rs. 50,00,000/- (Fifty Lakhs) only. Subsequently on 17.07.2021, the Resolution Applicant provided Performance Guarantee amounting to Rs.50,00,000/- vide Cheque no. 624790 dated 17.07.2021 drawn on HDFC Bank in the favour of the Sole Financial Creditor - Alchemist Asset Reconstruction Company Limited (AARCL).

19. That the details of payments proposed to be made as per the Resolution Plan to the various stakeholders of the Corporate Debtor are given in Form 'H' of the Resolution Plan. The scanned copy of the relevant extracts of the same are reproduced below :

7.The amounts provided for the stakeholders under the Resolution Plan is as under:

(Amount in Rs. lakh)

Sl. 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	Nil	Nil	Nil	Nil
		(b) Other than (a) above:				
		(i) who did not vote in favour of the resolution Plan	Nil	Nil	Nil	Nil
		(ii) who voted in favour of the resolution plan	922.68	922.68	450.00	48.77
		Total[(a) + (b)]	922.68	922.68	450.00	48.77
2	Unsecured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	Nil	Nil	Nil	Nil
		(b) Other than (a) above:				
		(i) who did not vote in favour of the resolution Plan	Nil	Nil	Nil	Nil
		(ii) who voted in favour of the resolution plan	Nil	Nil	Nil	Nil
		Total[(a) + (b)]	Nil	Nil	Nil	Nil

3	Operational Creditors	(a) Related Party of Corporate Debtor	106.26	106.26	Nil	Nil
		(b) Other than (a) above:				
		(i)Government	Nil	Nil	Nil	Nil
		(ii)Workmen	Nil	Nil	Nil	Nil
		(iii)Employees	Nil	Nil	Nil	Nil
		(iv) Nil				
		Total[(a) + (b)]	106.26	106.26	Nil	Nil
4	Other debts and dues		Nil	Nil	Nil	Nil
Grand Total			1028.94	1028.94	450.00	48.77

20. That as per Form 'H' placed on record, the Liquidation value of the Corporate Debtor is disclosed as Rs.432.51 Lakhs and the Fair Market Value of the Corporate Debtor is disclosed as Rs.681.27 Lakhs. The size of the Resolution Plan is higher than the liquidation value of the Corporate Debtor and satisfies the claims of creditors to the extent of 48.77%.

21. That as part of the Resolution Plan, the Resolution Applicant has also enclosed his Affidavit dated 05.06.2021 stating that he is not barred under Section 29A of IBC, 2016 to submit the Resolution Plan. The scanned copy of the same is reproduced overleaf :

43

FORMAT IIIA - IBC, 2016 RELATED UNDERTAKING BY RESOLUTION APPLICANT

To

Devendra Singh
Resolution Professional
D-54, Defence Colony,
New Delhi-110 024

Dear Sir,

Sub: **Resolution Applicants' undertaking under the Insolvency and Bankruptcy Code, 2016**

In furtherance of the Request for Resolution Plan dated **27-03-2021** and in view of the provisions of the Insolvency and Bankruptcy Code, 2016, [I/We] ("Resolution Applicant") state, submit and confirm as follows: -

1. [I/We] hereby unconditionally state, submit and confirm that [I/We] are not disqualified from submitting a Resolution Plan in terms of Section 29A of the Insolvency and Bankruptcy Code, 2016 in respect of insolvency resolution process of Associated Lighting System Private Limited, pursuant to the provisions of the Insolvency and Bankruptcy Code, 2016 and/or otherwise.

2. [I/We] hereby state, submit and declare that none of (a) [me / us] being the Resolution Applicant; (b) any other person acting jointly with [me / us]; (c) any person who is a promoter and/or in the management and/or control of the Resolution Applicant; (d) any person who shall be the promoter and/or in management and/or control of the business of Associated Lighting System Private Limited during implementation of the Resolution Plan; and/or (e) the holding company, subsidiary company, associate company or related party of any person referred to in (c) and/or (d)

   (a) is an undischarged insolvent;

   (b) has been identified as a wilful defaulter in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949;

   (c) is or has been classified as non-performing asset in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949 and period of one year or more has lapsed from the date of such classification and who has failed to make the payment of all overdue amounts with interest thereon and charges relating to non-performing assets before submission of the resolution plan;

   (d) has been convicted for any offence punishable with imprisonment for two years or more;

   (e) has been disqualified to act as a director under the Companies Act, 2013;

TRUE COPY

NOTARY Keshav Prasad Delhi Regn. No. 6506

44

(f) has been prohibited by the Securities and Exchange Board of India from trading in securities or assessing the securities market;

(g) has indulged in preferential transaction or undervalued transaction or fraudulent transaction in respect of which an order has been made by the Adjudicatory Authority under IBC;

(h) has executed an enforceable guarantee in favour of a creditor, in respect of a corporate debtor under insolvency resolution process or liquidation under IBC; and/or

(i) has been subject to any disability corresponding to (a) to (h) above under any law in a jurisdiction outside India.

Yours sincerely,

Mr. Arjun Nath

Date: 05-06-2021

B-10, Mayfair Garden, Hauz Khas New Delhi-110016

AFFIDAVIT

I, **Mr. Arjun Nath** S/o **Shri Ashok Raj Nath** aged **47 years old** (**"Resolution Applicant"**) currently residing at **B-10, Mayfair Garden, Hauz Khas New Delhi-110016**, do solemnly state on oath, declare and affirm that all that is stated in paragraphs 1 and 2 of the IBC, 2016 related Undertaking dated **05th June 2021** is true, correct and complete to my personal knowledge.

Solemnly, affirmed at New Delhi on 05th day June of 2021

Before me,

Notary / Oath Commissioner Deponent's Signature

NOTARY Keshav Prasad Delhi Regn. No. 4506 GOVT. OF INDIA

ATTESTED
NOTARY PUBLIC
DELHI (INDIA)

19 JUN 2021

TRUE COPY

22. With regard to compliances under the Resolution Plan, the Applicant has stated in the Form 'H', the following :

9. The compliance of the Resolution Plan is as under:

Section of the Code / Regulation No.	Requirement with respect to Resolution Plan	Clause of Resolution Plan	Compliance (Yes / No)
25(2)(h)	Whether the Resolution Applicant meets the criteria approved by the CoC having regard to the complexity and scale of operations of business of the CD?		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?		Yes
Section 30(1)	Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?		Yes
Section 30(2)	Whether the Resolution Plan-		
	(a) provides for the payment of insolvency resolution process costs?	Para 4.1 (Page No. 12)The CIRP Cost (to the extent unpaid) on 'Actual' basis shall be paid in priority to any other creditors of the Corporate Debtor on the effective date.	Yes
	(b) provides for the payment to the operational creditors?	Repayment to Operational creditors in terms of Section 30(2)(b) of	

		IBC is provided by the Resolution Applicant. Mentioned in column 4.4 on page no. 14.	
	(c) provides for the payment to the financial creditors who did not vote in favour of the resolution plan?	The treatment provided under resolution plan to the dissenting creditors is already detailed in column 4.3 on Page No. 13	
	(d) provides for the management of the affairs of the corporate debtor?	Mentioned in column 6.5 on page no. 21 and 22 of the Resolution Plan.	
	(e) provides for the implementation and supervision of the resolution plan?	Mentioned in part 6 on page no. 21 and 22 of the Resolution Plan	
	(f) contravenes any of the provisions of the law for the time being in force?	Mention under clause 5.3.6 on page no. 20 of the Resolution plan	

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?	Mentioned in Page no. 9 of Resolution Plan. The Resolution plan has been approved by CoC with 100% voting share.	Yes
Section 31(1)	Whether the Resolution Plan has provisions for its effective implementation plan, according to the CoC?	Mentioned in part 3 and 6 of the Resolution Plan	Yes
Regulation38 (1)	Whether the amount due to the operational creditors under the resolution plan has been given priority in payment over financial creditors?	The treatment provided under resolution plan to the operational creditors is already detailed in column 4.4 on page no. 14	Yes
Regulation 38(1A)	Whether the resolution plan includes a statement as to how it has dealt with the interests of all stakeholders?	Detailed under Part 4 of the Resolution Plan	Yes

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?	A statement regarding Resolution Applicant or any of its related parties has not failed to implement or contributed to the failure of implementation of any resolution plan approved under the Code is Mentioned under page 20 clause 5.3.7 of the Resolution Plan. Not Applicable	Yes
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?	a. Mentioned under Clause 6.6, Page No. 22 of the Resolution Plan. b. Mentioned in column 6.2 on Page No. 21 of the Resolution Plan c. Mentioned in part 3 on page no. 11 of Resolution Plan	Yes

38(3)	Whether the resolution plan demonstrates that – (a) it addresses the cause of default?	a. Mentioned in Part 2.1, on Page no. 8 of Resolution Plan which is addressing the cause of default and remedies stated under the plan for dealing with the same.	Yes
	(b) it is feasible and viable?	b. Mentioned in Page no. 9 of Resolution Plan.	
	(c) it has provisions for its effective implementation?	c. Mentioned in Part 3 and 6 of the Resolution Plan	
	(d) it has provisions for approvals required and the timeline for the same?	d. Not provided specifically, however, provided in general under Part-8 of the Resolution Plan	
	(e) the resolution applicant has the capability to implement the resolution plan?	e. Mentioned in part 3 of the Resolution Plan	
39(2)	Whether the RP has filed applications in respect of transactions observed, found or determined by him?	No dubious transactions observed or found in the given matter	No
Regulation 39(4)	Provide details of performance security received, as referred to in sub-regulation (4A) of regulation 36B.		Yes

23. That further, the payment schedule as stipulated in the Resolution Plan for payments to Financial Creditor is reproduced below:

Resolution Plan submitted by Mr. Arjun Nath dated 05-06-2021

4.2.3. **Upfront Payment of INR 100.00 lakh**: The upfront payment of INR 100.00 lakh will be made to the SFC (AARC) within a period of 90 days from the NCLT approval date.

4.2.4. **Deferred Payment of INR 350.00 lakh:** The RA will pay deferred payment of INR 350.00 lakh to SFC (AARC) in full and final settlement of their claims / dues / debt within 48 months from Effective Date as per payment schedule given in clause 4.2.5 below.

4.2.5. **Confirmed Timeline of Resolution Amount to be paid to Secured Financial Creditors**

Particulars	Amount in INR Lakh
Upfront Payment	100.00
Deferred Payment	
1. Within 06 Months from Effective Date	43.75
2. Within 12 Months from Effective Date	43.75
3. Within 18 Months from Effective Date	43.75
4. Within 24 Months from Effective Date	43.75
5. Within 30 Months from Effective Date	43.75
6. Within 36 Months from Effective Date	43.75
7. Within 42 Months from Effective Date	43.75
8. Within 48 Months from Effective Date	43.75
Total Deferred Payment	350.00
Grand Total	450.00

24. As regards the payment to the Operational Creditors, it is stated by the Applicant in the Resolution Plan and reiterated during the course of hearing held on 22.11.2021 that the Operational Creditors filing claims are the related party to the Corporate Debtor. Therefore, they are paid 'NIL' value against their claims in the Resolution Plan.

25. That with regard to the management of the Corporate Debtor upon approval of the Resolution Plan, the following has been stated by the Applicant. The scanned copy of the relevant extracts of Resolution Plan is reproduced below :

Part 6 – Supervision and Implementation of the Resolution Plan

6.1 TERM OF THE RESOLUTION PLAN:

The term of this Resolution Plan is 48 months ("Term") from the Effective Date. The RA proposes to provide for the supervision of the implementation of the resolution plan in following phases:

6.2 SUPERVISION BY MONITORING COMMITTEE (MC):

Monitoring Committee will come into force on the date of approval of Resolution Plan by Hon'ble NCLT. Monitoring Committee shall be constituted by Committee of Creditors in consultation with the Resolution Applicant, which would comprise of one IP, one representative of the RA and one from Secured Financial Creditors of the CD. This committee shall continue the operations of the CD till the Effective Date when control and management of the CD will be handed over to the RA. Thereafter the Monitoring Committee will supervise the implementation of the Resolution Plan as per the provisions contained herein.

6.3 COST OF MONITORING COMMITTEE:

The Cost of the Monitoring Committee would be paid by the RA on actual basis as may be negotiated / settled by mutual consent.

6.4 DISSOLUTION OF THE MONITORING COMMITTEE:

Upon payment of proposed settlement amounts to the financial creditors of the CD and handing over the possession of assets of CD to RA, as contemplated in this resolution plan, the Monitoring Committee shall issue a Completion Certificate to the CD/ RA, as the case may be and this certificate shall be final in terms of discharge of duties of RA in relation to implementation of the Resolution Plan. Further, upon issuance of the Completion Certificate, the Monitoring Committee shall stand dissolved.

6.5 MANAGEMENT OF CD POST EFFECTIVE DATE:

6.5.1 Within 30 days from the NCLT Approval date all the existing Directors of the CD shall be deemed to have demitted office and shall stand removed as Directors of the CD and the Resolution Applicant shall appoint two directors on the Board of Directors of CD ("Reconstituted Board of Directors of CD" or "Reconstituted BoD") which would consist of two nominees of RA and accordingly, the business of CD shall be carried on by the new management. It is further clarified that Monitoring Committee which will be formed on the NCLT Approval Date will supervise the operations of the CD from the NCLT Approval Date till its Dissolution as per clause 6.4 above.

6.5.2 The peaceful possession of the all the assets of the CD will be handed over to RA on the Effective Date.

6.5.3 The Registrar of the Companies will remove the names of the existing Directors of the CD on presentation of the order of the Hon'ble AA approving this Resolution Plan without any further act or deed on behalf of the existing Directors and permit the authorised Representative of the Reconstituted Board of Directors to file/ upload the documents relating to their appointment as Directors.

6.5.4 On dissolution of monitoring committee, as mentioned in earlier chapters, the Reconstituted BoD shall assume their powers as per the provisions of the Companies Act, 2013.

26. That on noticing that the Resolution Plan has been submitted by the Ex-Director of the CD, vide order dated 18.08.2021 this Adjudication Authority has directed the Applicant to issue notice through publication in the two newspapers, one in English and other in Hindi, circulated within the area, where the registered office of the Corporate Debtor is situated for the purpose of inviting objections, if any, towards the approval of Resolution Plan. The scanned copy of the order dated 18.08.2021 is reproduced below:

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH (COURT – II)

Item No.101
(IB)-1672(ND)2019
IA-3618/2021

IN THE MATTER OF:

M/s. Alchemist Assets Reconstruction Company Limited ... **Applicant/Petitioner**

Versus

M/s. Associated Lighting System Private Limited. ... **Respondent**

Under Section: 7 of IBC, 2016 (CIRP)

Order delivered on 18.08.2021

CORAM:
SHRI. ABNI RANJAN KUMAR SINHA, HON'BLE MEMBER (J)

SHRI. L. N. GUPTA, HON'BLE MEMBER (T)

PRESENT: Palash Singhai Advocate for RP

ORDER

IA-3618/2021: Heard the Ld. Counsel appearing for the Resolution Professional and perused the averments made in the Application. We notice that the Resolution plan has been submitted by the Ex-Director of the Corporate Debtor.

Considering this, we think it proper to issue notice through publication in the two newspapers, one in English and other in Hindi, circulated within the area, where the registered office of the Corporate Debtor is situated. In case anybody has objections to the Resolution plan, they are directed to file their objections with this Tribunal within 30 days from the date of the publication. The Applicant is directed to take steps for the publication, within a week and file an Affidavit of service.

The office is also directed list all IA's including the Application under Section 19, if pending, along with this IA on 21.09.2021.

-Sd-
(L.N. GUPTA)
MEMBER (T)

-Sd-
(ABNI RANJAN KUMAR SINHA)
MEMBER

27. That the Applicant in compliance of the aforesaid direction, has filed its Affidavit dated 30.08.2021 stating that the notice inviting objections was duly published in the newspapers namely, Jansatta (Hindi) and Financial Express (English) on 28.08.2021.

28. That pursuant to the said Publication of notice, no objections were received by this Adjudicating Authority.

29. After going through the Application and documents placed on record, we observe that the CoC has approved the Resolution Plan submitted by the Resolution Applicant Mr. Arjun Nath by 100% votes in its 7th Meeting held on 12.07.2021. We also observe that no objection whatsoever challenging the Resolution Plan were filed before this Adjudicating Authority at any stage. Even pursuant to publication inviting objections in the newspapers namely, Jansatta (Hindi) and Financial Express (English) on 28.08.2021, no objection to the Resolution Plan has been received. The role of the Adjudicating Authority has been examined by the Hon'ble Supreme Court in a catena of decisions. The relevant portion of the decision of the Hon'ble Supreme Court in **CIVIL APPEAL NO.10673 OF 2018, in the matter of K. Sashidhar Vs. Indian Overseas Bank & Ors.** is reproduced below:

> *"35. Whereas, the discretion of the adjudicating authority (NCLT) is circumscribed by Section 31 limited to scrutiny of the resolution plan "as approved" by the requisite percent of voting share of financial creditors. Even in that enquiry, the grounds on which the adjudicating authority can reject the resolution plan is in reference to matters specified in Section 30(2), when the resolution plan does not conform to the stated requirements. Reverting to Section 30(2), the enquiry to be done is in respect of whether the resolution plan provides : (i) the payment of insolvency resolution process costs in a specified manner in priority to the repayment of other debts of the corporate debtor, (ii) the repayment of the debts of operational creditors in prescribed manner, (iii) the management of the affairs of the corporate debtor, (iv) the implementation and supervision of the resolution plan, (v) does not contravene any of the provisions of the law for the time being in force, (vi) conforms to such other requirements as may be specified by the Board. The Board referred to is established under Section 188 of the I&B Code. The powers and functions of the Board have been delineated in*

Section 196 of the I&B Code. None of the specified functions of the Board, directly or indirectly, pertain to regulating the manner in which the financial creditors ought to or ought not to exercise their commercial wisdom during the voting on the resolution plan under Section 30(4) of the I&B Code. The subjective satisfaction of the financial creditors at the time of voting is bound to be a mixed baggage of variety of factors. To wit, the feasibility and viability of the proposed resolution plan and including their perceptions about the general capability of the resolution applicant to translate the projected plan into a reality. The resolution applicant may have given projections backed by normative data but still in the opinion of the dissenting financial creditors, it would not be free from being speculative. These aspects are completely within the domain of the financial creditors who are called upon to vote on the resolution plan under Section 30(4) of the I&B Code."

"38. Indubitably, the inquiry in such an appeal would be limited to the power exercisable by the resolution professional under Section 30(2) of the I&B Code or, at best, by the adjudicating authority (NCLT) under Section 31(2) read with 31(1) of the I&B Code. No other inquiry would be permissible. Further, the jurisdiction bestowed upon the appellate authority (NCLAT) is also expressly circumscribed. It can examine the challenge only in relation to the grounds specified in Section 61(3) of the I&B Code, which is limited to matters "other than" enquiry into the autonomy or commercial wisdom of the dissenting financial creditors. Thus, the prescribed authorities (NCLT/NCLAT) have been endowed with limited jurisdiction as specified in the I&B Code and not to act as a court of equity or exercise plenary powers."

30. In view of the decision referred to Supra, it is a settled principle of law that the Adjudicating Authority shall not interfere with the decision taken by the CoC in its commercial wisdom, save and except the circumstances referred to in Section 30(2) of the IBC, 2016.

31. In sequel to the above, we have no other option but to approve the Resolution Plan as approved by the CoC and placed by the Applicant before this Adjudicating Authority. We, therefore, approve the Resolution Plan

submitted by the Applicant along with the following directions in respect of the Corporate Debtor :

(i) The order of the moratorium passed by this Adjudicating Authority under Section 14 of the IBC,2016 shall cease to have effect from the date of passing of this Order.

(ii) The Resolution Professional shall forward all the records relating to the conduct of the CIRP and the Resolution Plan to the IBBI for its record and database.

(iii) The approved Resolution Plan shall become effective from the date of passing of this Order.

(iv) The Monitoring Committee as provided in the Resolution Plan shall be setup within 07 days of passing of this Order which shall take all necessary steps for implementation of the Resolution Plan.

32. The Resolution Professional shall forthwith send a copy of this Order to the CoC and the Resolution Applicant.

33. With the above, IA-3618 of 2021 stands **allowed**.

Sd/-	**Sd/-**
(L. N. Gupta)	**(Bhaskara Pantula Mohan)**
Member (T)	**Member (J)**