

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH-V

I.A/6308/ND/2023

IN

CP (IB) NO.: 242/ND/2021

[Under Section 30(6) and 31 of the Insolvency and Bankruptcy Code, 2016 read with Regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016]

IN THE MATTER OF

EIK INVESTMENT AND TRADING LIMITED

...APPLICANT/FINANCIAL CREDITOR

Versus

DBG LEASING AND HOUSING LIMITED

...RESPONDENT/CORPORATE DEBTOR

AND

IN THE MATTER OF:

MR. RAJEEV RANJAN SINGH

RESOLUTION PROFESSIONAL OF

M/S. DBG LEASING AND HOUSING LIMITED

... APPLICANT

Order Delivered on:13.06.2025

CORAM:

SHRI MAHENDRA KHANDELWAL, HON'BLE MEMBER (JUDICIAL)

SHRI SUBRATA KUMAR DASH, HON'BLE MEMBER (TECHNICAL)

APPEARANCES:

For the RP : Mr. Sumesh Dhawan, Mr. Karan Gandhi, Mr. Sikhar Tiwari, Ms. Vidhika Kapoor, Mr. Sagar, Advs.
For the SRA : Mr. Shivam Gautam, Adv.



ORDER

PER: SUBRATA KUMAR DASH, MEMBER (TECHNICAL)

1. The present application i.e., I.A./6308/2023 has been filed under Section 30(6) read with section 31(1) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as 'the Code') read with Regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (hereinafter referred to as 'CIRP Regulations') on behalf of Mr. Rajeev Ranjan Singh, Resolution Professional (hereinafter referred to as 'Applicant') of M/s. DBG Leasing and Housing Limited (hereinafter referred to as 'Corporate Debtor'), seeking approval of the Resolution Plan submitted by Lenzing Polypacks Limited and Gappu Ispat (hereinafter referred to as 'Successful Resolution Applicant') and approved by the Committee of Creditor (hereinafter referred to as 'CoC') in its 10th meeting through e-voting.

2. **Facts as averred by the Applicant in I.A./6308/ND/2023**

- a) The Applicant submits that the Corporate Insolvency Resolution Process was initiated against M/s. DBG Leasing and Housing Limited, i.e., Corporate Debtor by this Adjudicating Authority vide order dated 16.11.2022 in the matter bearing C.P.(IB) No.:242/ND/2021, an application filed by EIK Investment and Trading Limited under Section 7 of the Code and Mr. Rajeev Ranjan Singh was appointed as the Interim Resolution Professional (IRP) of the Corporate Debtor vide the aforementioned Order. Thereafter, Mr. Rajeev Ranjan Singh was appointed as Resolution Professional in 1st CoC Meeting held on 16.12.2023.
- b) In the interregnum, the Interim Resolution Professional had issued a public announcement vide Form-A on 30.11.2022. which was published in Financial Express in English edition & in *Jansatta* in Hindi edition- Delhi NCR edition. Pursuant to the same, the Interim Resolution Professional received various claims from the Financial Creditors. The list of claims received by the Interim Resolution Professional is extracted below:



S. No	Particulars	Amount Claimed (in Lakhs)	Amount Admitted (in Lakhs)
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1.	Secured financial creditors	113503.56	383.24
2.	Unsecured financial creditors	191.44	191.44
3.	Operational creditors (Workmen)	Nil	Nil
4.	Operational creditors (Employees)	Nil	Nil
5.	Operational creditors (Government Dues)	Nil	Nil
6.	Operational creditors (other than Workmen and Employees and Government Dues)	Nil	Nil
7.	Other creditors, if any, (other than financial creditors and operational creditors)	Nil	Nil
	Total	113695	574.68

c) The Applicant to discharge his duties and in pursuance to Section 29 of the Code read with Regulation 36 of CIRP Regulation, prepared Information Memorandum



of the Corporate Debtor and shared the same with CoC members for their consideration after receiving the confidential undertaking. A Copy of the Information Memorandum is placed on record as ANNEXURE-4. Further, the 2nd CoC meeting dated 12.01.2023 was held to approve the eligibility criteria for Prospective Resolution Applicants and the same was approved by the CoC in the said meeting.

d) Pursuant to Regulation 36A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the Applicant published invitation of expression of Interest in Form G on 16.01.2023 in Financial Express (English) and Jansatta (Hindi) having a wide circulation over the place where the registered office of the corporate debtor is situated. A Copy of the said Form G published in Newspaper on 16.01.2023 is placed on record as ANNEXURE-5. Pursuant to the Form G, the Applicant received Expression of Interest from 4 parties and were found eligible and emerged as Prospective Resolution Applicants:

S. No	Name of Person/Entity who submitted expression of Interest	Eligible/Not Eligible
1.	EIK Investment And Trading Limited	Eligible
2.	Kartavya Sales Private Limited	Eligible
3.	Gappu Ispat and Lenzing Polypacks Limited	Eligible
4.	Nakshatra Corporate Advisors Limited	Eligible

e) Subsequently the 3rd CoC meeting was held on 07.02.2023 wherein the members deliberated and finalized the Request for Resolution Plan. Further, in accordance with the provisions of Sub-regulation (10) of Regulation 36A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations 2016, the Applicant issued Provisional List of Prospective Resolution Applicants to the CoC members and to all prospective Resolution Applicants vide email dated 09.02.2023. A copy



of the provisional list of prospective resolution applicants is placed on record as ANNEXURE-6. Further, the Applicant issued information memorandum, evaluation matrix and a request for resolution plans to all Prospective Resolution Applicants vide email dated 14.02.2023. That thereafter, the Applicant issued the Final list of Prospective Resolution Applicants who are eligible to file the Resolution Plan in the CIRP of present corporate debtor vide email dated 24.02.2023 to all the Prospective Resolution Applicants. A copy of the final list of Prospective Resolution Applicants is annexed as ANNEXURE-7.

- f) Further, as per the Form G published the last date of submission of resolution plan by the Prospective Resolution Applicant (“PRA”) was 16.03.2023. However, no plan was received until the last day of submission of the resolution plan. Therefore, the CoC members in their 4th Meeting held on 20.03.2023 extended the time for submission of the resolution plan till 05.04.2023. Further a second extension was provided to the PRA’s till 20.04.2023. Thereafter, the Resolution Plan was received from the following Prospective Resolution Applicants along with EMD amount of Rs. 20.00 lacs which are as follow:
- i. Lenzing Polypacks Limited along with Gappu Ispat
 - ii. EIK Investment and Trading Limited
- g) The Applicant vide email dated 21.04.2023 informed the Prospective Resolution applicants the observation and remarks on the resolution plan submitted to the CoC members. Thereafter, on 06.06.2023 M/s EIK Investment and Trading Limited informed their inability to implement the observation via E-mail. A copy of relevant part of Bank statement of the Corporate Debtor evidencing the amount of Earnest Money Deposit from Lenzing Polypacks Limited along with Gappu Ispat is placed on record as ANNEXURE-8.
- h) Pursuant to Regulation 27 of IBBI (Insolvency Resolution Process for Corporate Person) Regulations 2016, since Corporate Debtor has only assets in the category of Securities & Financial Assets, the Applicant appointed two Registered Valuers for computation of Fair Value and Liquidation Value in accordance with the provisions of Regulations 35 of IBBI (Insolvency Resolution Process for Corporate Person) Regulations 2016, performing the valuation of Securities and Financial



assets of the Corporate Debtor. The summary of value computed by the valuers in their respective valuation reports are as follows:

S. No	Name of Valuer	Fair Value (INR)	Liquidation Value (INR)
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Securities & Financial Assets			
1.	Nitish Kumar Chugh	2,32,08,270	1,80,52,861
2.	Naveen Singhal	2,34,32,182	1,80,05,168
Average Value		2,33,20,226	1,80,29,014

- i) Further, the Applicant appointed an independent legal consultant namely Saurab Sharma for conducting the due diligence under Section 29A of Insolvency and Bankruptcy Code, 2016 of all the Prospective Resolution Applicants. A copy of due diligence under Section 29A of IBC, 2016 given by the Independent Legal Consultant in respect of SRA is placed on record as ANNEXURE- 9.
- j) In the 9th meeting of Committee of Creditors which was held on 04.09.2023, the Prospective Resolution Applicant were invited to participate in the COC meeting in terms of Section 30(5) of the Code to discuss and address with the members of the committee of creditors and explain the salient features of their Resolution Plan and apprised that the observation made by the CoC members will be incorporated in the Resolution Plan.
- k) Thereafter in the 10th Meeting of Committee of Creditors held on 23.09.2023 agenda for approval of Resolution Plan was placed and on a detailed discussion regarding the Resolution Plans submitted by the Prospective Resolution Applicant, the CoC decided that plan should be considered and put for E voting and e-voting in this regard was held on 27.09.2023 at 6.00 PM IST and concluded on 03.10.2023 till 6:00 PM IST and as per the result of e-voting, the



Resolution Plan submitted by M/s Lenzing Polypacks Limited along with Gappu Ispat (hereinafter referred to as “Successful Resolution Applicant”) was approved by the committee of creditors in accordance with the provisions of Section 30 (4) of Code with a majority of 100%. A copy of the minutes of 10th meeting of Committee of Creditors held on 23.09.2023 along with E-voting results evidencing that the Resolution Plan is approved with 100 % of majority is placed on record as ANNEXURE-10(COLLY). Further a copy of Resolution Plan submitted by Successful Resolution Applicant along with a copy of all the annexures/attachment (including an affidavit under section 29A) is placed on record as ANNEXURE-11 (COLLY).

1) Thereafter, subsequent to the approval of Resolution Plan submitted by Successful Resolution Applicant by the Committee of Creditors of the Corporate Debtor, the Applicant issued the Letter of Intent (LoI) vide email dated 08.10.2023 to the Successful Resolution Applicant and requested him to submit the performance bank guarantee of INR. 49,40,980.00/- as obligated in request for resolution plan documents in addition to Earnest Money Deposit. A copy of Letter of Intent issued by the Applicant to the Successful Resolution Applicant along with the copy of email dated 08.10.2023 is placed on record as ANNEXURE-12 (COLLY). Copy of acceptance of Letter of Intent by the Successful Resolution Applicant is placed on record as ANNEXURE-13 (COLLY).

3. We have heard the submissions made by the Ld. Counsel for the Applicant and have carefully gone through the documents produced on record in conjunction with the averments tendered therein.

4. In view of Section 31 of the Code, this Adjudicating Authority before approving the Resolution Plan is required to examine whether the Resolution Plan which is approved by the CoC under Section 30 (4) of the Code meets the requirements as referred to under Section 30 (2) of the Code.

Section 30 (2) is quoted below: -

*“(2) The resolution professional shall examine each Resolution Plan received by him to confirm that each Resolution Plan –
(a) provides for the payment of insolvency resolution process costs in*



a manner specified by the Board in priority to the payment of other debts of the corporate debtor;

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

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

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

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

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

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

(i) where a Resolution Plan has not been approved or rejected by the Adjudicating Authority;

(ii) where an appeal has been preferred under section 61 or section 62 or such an appeal is not time barred under any provision of law for the time being in force; or

(iii) where a legal proceeding has been initiated in any court against the decision of the Adjudicating Authority in respect of a



Resolution Plan;]

(c) provides for the management of the affairs of the Corporate debtor after approval of the Resolution Plan;

(d) The implementation and supervision of the Resolution Plan;

(e) does not contravene any of the provisions of the law for the time being in force

(f) conforms to such other requirements as may be specified by the Board.

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

SCOPE OF JUDICIAL REVIEW ON COMMERCIAL WISDOM OF COMMITTEE OF CREDITORS IN RESPECT OF APPROVAL OF RESOLUTION PLAN

5. Hon'ble Supreme Court, in many judgments, has considered the scope of the judicial review by this Adjudicating Authority while considering the resolution plan which has been approved by the Committee of Creditors.

5.1. In so far as the approval of the resolution plan is concerned, this Adjudicating Authority is not sitting on an appeal against the decision of the Committee of Creditors and this Adjudicating Authority is duty bound to follow the judgment of the Hon'ble Supreme Court in the matter of **K. Sashidhar v. Indian Overseas Bank (2019) 12 CC 150**, wherein the scope and interference of the Adjudicating Authority in the process of the approval of the Resolution Plan is elaborated as follows:

“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.”

5.2. Further, the Hon'ble Supreme Court of India in the matter of **Committee of Creditors of Essar Steel India Limited vs. Satish Kumar Gupta & Ors., Civil Appeal No. 8766-67 of 2019**, vide its judgment dated 15.11.2019 has observed as follows:

“38. This Regulation fleshes out Section 30(4) of the Code, making it clear that ultimately it is the commercial wisdom of the Committee of Creditors which operates to approve what is deemed by a majority of such creditors to be the best resolution plan, which is finally accepted after negotiation of its terms by such Committee with prospective resolution applicants.”



5.3. Further, the Hon'ble Supreme Court in the matter of **Jaypee Kensington Boulevard Apartments Welfare Association v. NBCC (India) Limited, (2022) 1 SCC 401** has held as under:

“107.1. Such limitations on judicial review have been duly underscored by this Court in the decisions above-referred, where it has been laid down in explicit terms that the powers of the Adjudicating Authority dealing with the resolution plan do not extend to examine the correctness or otherwise of the commercial wisdom exercised by the CoC. The limited judicial review available to adjudicating authority lies within the four corners of Section 30(2) of the Code, which would essentially be to examine that the resolution plan does not contravene any of the provisions of law.”

(emphasis supplied)

The above view of the Hon'ble Supreme Court in **Jaypee Kensington Boulevard Apartments Welfare Association v NBCC (India) Limited (Supra)** is reaffirmed by the Hon'ble Supreme Court in its recent decision dated 21.11.2023 in the case of **Ramkrishna Forgings Limited Vs Ravindra Loonkar, Resolution Professional of ACIL Limited & Anr., 2022 SCC OnLine SC 2142.**

5.4. Additionally, Hon'ble Supreme Court, in their judgment dated 01.04.2024 passed in **Piramal Capital and Housing Finance Limited (Formerly known as Dewan Housing Finance Corporation Limited) Vs 63 Moons Technologies Limited & Ors., Civil Appeal Nos. 1632-1634 Of 2022** has examined the issue of scope of Judicial Review in the matter of approval of Resolution Plan. After analyzing all the aforementioned judgments and other judgments, Hon'ble Supreme Court has stated as under:

“42. In view of the above legal position settled by this Court in the fleet of judgments, it is no more res integra that the legislature has given paramount importance to the “commercial wisdom” of CoC, and that the scope of the judicial review by the Adjudicating Authority (NCLT) is limited to the extent



provided under Section 31, and that of the Appellate Authority (NCLAT) is limited to the extent provided under sub-section (3) of Section 61 of the IB Code...

43. While considering the feasibility and viability of the Prospective Resolution Plans, the CoC can always suggest a modification therein and exercise its commercial wisdom. However, once the RP is approved by the requisite majority of CoC, and when such RP is placed before the Adjudicating Authority for its approval under Section 31, the Adjudicating Authority has to only see whether such RP as approved by the CoC meets the requirements as referred to in Section 30(2). It is only where the Adjudicating Authority is satisfied that the RP does not conform to the requirements of sub-section (1) of Section 31, it may by an order reject the RP. It is true that the NCLT has to decide all the questions on law or fact arising out of or in relation to the insolvency resolution or liquidation under the residuary jurisdiction vested in NCLT under Section 60(5), however as held in Essar Steel (supra), such residual jurisdiction does not in any manner impact Section 30(2) of the Code, which circumscribes the jurisdiction of the Adjudicating Authority, when it comes to the confirmation of RP, as has been mandated by Section 31(1) of the Code.”

6. Thus, from the judgments cited supra, it is amply clear that only limited judicial review is available to the Adjudicating Authority under Section 30(2) read with Section 31 of the Code, 2016 and this Adjudicating Authority cannot venture into the commercial aspects of the decisions taken by the committee of the creditors.
7. In light of the abovementioned law laid down by the Hon’ble Supreme Court, we now examine the resolution plan proposed in the instant application.

SALIENT FEATURES OF THE RESOLUTION PLAN

8. The salient features of the resolution plan submitted by Lenzing Polypacks Limited and Gappu Ispat (hereinafter referred to as ‘Successful Resolution Applicant’) and approved by the Committee of Creditor (‘CoC’) in its 10th meeting held on 23.09.2023 are as follows:



a) The composition of CoC was never changed and has remained the same, the details of which are mentioned hereinbelow:

S. No.	Name of the Financial Creditor	Amount claimed (In Rs.)	Amount admitted (In Rs.)	Percent age of voting share (%)	Voting for Resolution Plan (Voted for/Dissented/Abs tained)
1.	Asset Care and Reconstruction Enterprise Limited (ACRE)	11,35,02,56,404.00	38324720.00	66.69%	Voted for
2.	EIK Investment and Trading Limited	19,143,612.00	19,143,612.00	33.31%	Voted for

b) The Applicant had appointed two registered valuers for computation of Fair Value and Liquidation Value. The average fair and the liquidation value of the Corporate Debtor calculated on the basis of valuation reports submitted by the respective valuers is stated below:



S. No.	Name of valuer	Fair Value (In Rs.)	Liquidation Value (In Rs.)
1.	Nitish Kumar Chugh	2,32,08,270	1,80,52,861
2.	Naveen Singhal	2,34,32,182	1,80,05,168

- c) The Applicant Resolution Professional states that Corporate Debtor isn't / wasn't a going concern. In fact, the name of the Corporate Debtor was struck off from the register of companies maintained with the Registrar of Companies on 29.10.2019. Thereafter, the Resolution Professional preferred an application being IA No. 3318/2023 before this Adjudicating Authority inter alia praying for the revival of the Corporate Debtor which was allowed by this Adjudicating Authority vide order dated 04.07.2024. Accordingly, the name of the Corporate Debtor has been restored and status on the MCA now shows active. This Adjudicating Authority vide order dated 19.07.2024 had directed the Resolution professional for filing the affidavit showing the actions taken towards restoration and accordingly, the RP filed an affidavit dated 16.08.2024.
- d) The Resolution Applicant provides for a total corpus of : Rs.4,77,45,615.00/- (Excluding CIRP Cost – CIRP cost which is to be paid at actuals over and above the Resolution Plan Value).

Accordingly, the details of the aforesaid payments, as mentioned in the revised Compliance Certificate of Form-H, is mentioned hereinbelow:

(Amount In Rupees)

Stakeholder Type	Amount(s)				Payment schedule
	Amount Claimed	Amount Admitted	Realisable amount	Amount realizable	



			under the plan	in plan to amount claimed (%)	
Secured Financial Creditors - Creditors not having a right to vote under subsection (2) of section 21 - Dissenting - Assenting	11,35,02,56,404.00	38324720	38324720	100%	Within 18 months from the effective date in equal quarterly installments
Unsecured Financial Creditors -Creditors not having a right to vote under subsection (2) of section 21 - Dissenting - Assenting	191,43,612	191,43,612	92,20,895	48.17%	Within 18 months from the effective date in equal quarterly installments
Operational Creditors					There has been no claim from statutory authorities. However, in the event, any such dues is admitted, subsequently and treated as secured/unsecured statutory dues shall be paid. Rs. 2,00,000.00 in proportion to their respective admitted



					claims or such other methodology as the CoC may determine. Resolution applicant proposes to pay Nil value to unsecured statutory dues, if admitted subsequently
(i) Government	NIL	NIL	NIL	NIL	NIL
(ii) Workmen - PF dues - Other dues	NIL	NIL	NIL	NIL	NIL
(iii) Employees - PF dues - Other dues	NIL	NIL	NIL	NIL	NIL
(iv) Other Operational creditors	NIL	NIL	NIL	NIL	NIL
Other Debts and Dues	NIL	NIL	NIL	NIL	NIL
Shareholders	NIL	NIL	NIL	NIL	NIL
Total	11,36,95,00,01 6	5,74,68,33 2.00	4,77,45,61 5.00	82.73%	

e) The summary of Financial Proposal presented in accordance with the present resolution plan, is mentioned hereinbelow:



Particulars	Amount (in lakhs)
Resolution Plan Value:	4,77,45,615.00
CIRP Cost	In full Unpaid CIRP Costs (including litigation Costs Minus recoveries from such litigation) shall be paid over and above the resolution amount
Payment to Secured Financial Creditors:	4,75,45,615,00
Workmen's & Employees priority due:	Nil
Operational Creditors	2,00,000.00 (Statutory and Govt. Dues

- f) The Applicant has also provided with the schedule of the payments to be made as per the Resolution Plan, the details of which are mentioned hereinbelow:



	Amount (in lakhs)	Timelines for payment
Earnest Money Deposit	20 lacs	Already paid along with EOI
Upfront Contribution, if any, as per the Resolution Plan submitted by the applicant	NA	NA
Performance Security under Regulation 39(4) Sub Regulation (4A) of Regulation 36B read with Regulation 39(4)	4940980/-	17.10.2023

g) The Resolution Applicant has categorically stated that the RA intends to arrange for the infusion of necessary funds required via debt, equity or quasi-debt instruments to make the payments to creditors as proposed in the Resolution Plan. It is further observed that the Successful Resolution Applicant furnished a Net-Worth Certificate dated 31.03.2024 and 03.06.2025 for elaborating upon his sources of funds of M/S Gappu Ispat and M/s Lenzing Polypacks Limited respectively, the details of which are mentioned hereinbelow:



Particulars	Rs. In lacs	Amount (Rs.in lacs)
Fixed Assets	59.13	
Investment in shares(at cost)	1973.59	2032.72
Cash & Bank Balances		398.61
Current Assets		1773.97
Loans and Advances		469.87
Total		4675.17
Less: Liabilities		4020.97
Net Worth		654.20

Particulars	Rs. In lacs	Amount (Rs.)
Share Capital		7500700.00
Reserve and Surplus		468182.00
Net Worth		7968882.00
Net Worth(in lacs)		79.69

h) The Resolution Professional has certified vide revised Form-H regarding the compliances with various provisions of Section 30, and the same is extracted below along with paragraph as well as page numbers at which same appears in the said Resolution Plan:

Section	Provisions under Section 30(2) of the Code	Compliance under Resolution Plan
30(2)(a)	provides for the payment of insolvency resolution process costs in a manner specified by the Board in priority to the payment of other debts of the corporate debtor;	YES Clause 1.1(i)- Page-8
30(2)(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	NA



	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	
30(2)(c)	provides for the management of the affairs of the Corporate Debtor after approval of the resolution plan;	YES CHAPTER-IX-PAGE 45
30(2)(d)	the implementation and supervision of the resolution plan;	YES CHAPTER IX, Page-43
30(2)(e)	does not contravene any of the provisions of the law for the time being in force	YES CHAPTER X

i) The Resolution Professional has certified, vide revised Form-H regarding the compliances with various mandatory provisions as specified under the Regulations of IBBI CIRP Regulations 2016, and the same is extracted below along with paragraph as well as page numbers at which same appears in the said Resolution Plan:

Regulation	Provisions under said Regulations of IBBI CIRP Regulations 2016.	Compliance under Resolution Plan
38(1)	The amount due to the operational creditors under the resolution plan has been given priority in payment over financial creditors	YES CHAPTER III CLAUSE 1.1.
38(1A)	The resolution plan includes a statement as to how it has dealt with the interests of all stakeholders	YES CHAPTER X Page-52



38(1B)	Neither the Resolution Applicant nor any of its related parties has failed to implement or contribute to the failure of implementation of any resolution plan approved under the Code. If applicable, the Resolution Applicant shall submit a statement giving details of any such non-implementation	NO CHAPTER X Page-52
38(2)(a)	A resolution plan shall provide the term of the plan and its implementation schedule;	YES CHAPTER IX
38(2)(b)	A resolution plan shall provide the management and control of the business of the corporate debtor during its term; and	YES CHAPTER IX
38(2)(c)	A resolution plan shall provide adequate means for supervising its implementation	YES CHAPTER IX
38(2)(d)	provides for the manner in which proceedings in respect of avoidance transactions, if any, under Chapter III or fraudulent or wrongful trading under Chapter VI of Part II of the Code, will be pursued after the approval of the resolution plan and the manner in which the proceeds, if any, from such proceedings shall be distributed.	YES PAGE-13
38(3)(a)	A resolution plan shall demonstrate that – it addresses the cause of default;	YES PAGE-22
38(3)(b)	A resolution plan shall demonstrate that – it is feasible and viable;	YES CHAPTER X
38(3)(c)	A resolution plan shall demonstrate that –	YES CHAPTER IX



	it has provisions for its effective implementation;	
38(3)(d)	A resolution plan shall demonstrate that – it has provisions for approvals required and the timeline for the same; and	YES CHAPTER IX
38(3)(e)	A resolution plan shall demonstrate that – the resolution applicant has the capability to implement the resolution plan	YES CHAPTER IV
39(4)	The details for Performance Security received, as referred to sub-regulation (4A) of Regulation 36B	YES CHAPTER XII PAGE-59

- j) It has been observed that no claims have been filed before the Resolution Professional with regards to the Provident Fund liability. Similarly, the Resolution Professional, through the discharge of his duties, has reached the conclusion that no transactions classified as preferential, undervalued, fraudulent or wrongful transactions have been ascertained in the present application.
- k) It has been observed that the Committee has approved a plan providing for contribution under regulation 39B as under:
- Estimated liquidation cost: Rs.6,91,000/-
 - Estimated liquid assets available: Rs.0.00/-
 - Contribution required to be made: Rs.6,91,000/-
 - Financial Creditor wise contribution is as under:

Sl. No.	Name of financial creditor	Amount to be contributed (Rs.)
1	Asset Care and Reconstruction Enterprise Limited (ACRE)	4,60,828
2	EIK Investment and Trading Limited	2,30,172
Total		6,91,000



- l) The Applicant stated that the Resolution Applicant is not a promoter or in the management or control of the Corporate Debtor or a related party of such a person. Thus, the SRA is eligible to avail relief under Section 32A of the Code, 2016.
- m) The Applicant has attached a copy of affidavit dated 31.01.2023 under Section 29A of the Insolvency and Bankruptcy Code, 2016 along with furnishing Compliance Certificate in Form-H submitted by the Applicant.
- n) It has been observed that no Operational Creditor has filed claims before the Resolution Professional and they are not included in the list of claims filed for the purpose of the said Resolution Plan.
- o) The Successful Resolution Applicant has submitted the revised Compliance Certificate in the Form-H by way of the Declaration dated 06.06.2025 in accordance with the amendment dated 03.04.2025 issued by the Insolvency and Bankruptcy Board of India. The summary for realisable amount under the said Resolution Plan, as mentioned in the Compliance Certificate in Form-H, has been reiterated as under:

Sl. No.	Particulars	Description
1.	Total Realisable amount under the plan <i>(In case of real estate CDs, provide the monetary value of flats etc. given to allottees)</i>	Rs. 4,77,45,615.00
2.	Fair Value	Rs. 2,33,20,226.00
3.	Liquidation Value	Rs. 1,80,29,014.00
4.	Percentage (%) of realisable amount to Fair Value	204%
5.	Percentage (%) of realisable amount to Liquidation Value	265%
6.	Percentage (%) of realisable amount to Principal amount	103%
7.	Percentage (%) of realisable amount to Total admitted claims	83%
8.	Percentage (%) of realisable amount to Other than admitted Corporate Guarantee claims	48.17%

9. On perusal of documents provided with the Application and the facts asserted by the Resolution Professional, it is noted that the Resolution Plan has been approved by the Committee of Creditors (CoC) with a 100% majority vote as submitted by Lenzing Polypacks Limited and Gappu Ispat. Specifically, the Liquidation Value of the Corporate Debtor stands at Rs. 1,80,29,014.00 /-, while the Resolution Plan amounts to Rs. 4,77,45,615.00/-. The CoC, exercising its commercial wisdom,



approved the revised resolution plan after considering all relevant facts and circumstances of the case.

10. The applicant has prayed for a number of waivers, reliefs and concessions in the Resolution Plan as mentioned in Clause-22 of the Convenience Performa as submitted by the Successful Resolution Applicant. As to the relief and concessions sought in the resolution plan, by taking into consideration the decision of the Hon'ble Supreme Court in the matter of **Embassy Property Development Private Limited v. State of Karnataka & Ors. in Civil Appeal No. 9170 of 2019**, we direct the Successful Resolution Applicant to file necessary application before the necessary forum/authority in order to avail the necessary relief and concessions, in accordance with respective laws. The relevant part of the judgement is reproduced herein below:

“39. Another important aspect is that under Section 25 (2) (b) of IBC, 2016, the resolution professional is obliged to represent and act on behalf of the corporate debtor with third parties and exercise rights for the benefit of the corporate debtor in judicial, quasi-judicial and arbitration proceedings. Section 25(1) and 25(2)(b) reads as follows:

“25. Duties of resolution professional –

(1) It shall be the duty of the resolution professional to preserve and protect the assets of the corporate debtor, including the continued business operations of the corporate debtor.

(2) For the purposes of sub-section (1), the resolution professional shall undertake the following actions:

(a).....

(b) represent and act on behalf of the corporate debtor with third parties, exercise rights for the benefit of the corporate debtor in judicial, quasi-judicial and arbitration proceedings.”

This shows that wherever the corporate debtor has to exercise rights in judicial, quasi-judicial proceedings, the resolution professional cannot short-circuit the same and bring a claim before NCLT taking advantage of Section 60(5).

40. Therefore in the light of the statutory scheme as culled out from various provisions of the IBC, 2016 it is clear that wherever the corporate debtor has to exercise a right that falls outside the purview of the IBC, 2016 especially in the realm of the public law, they



cannot, through the resolution professional, take a bypass and go before NCLT for the enforcement of such a right.”

In the light of the decision of the Hon’ble Supreme Court in the **Embassy Property Development Private Limited (Supra)**, as to the relief and concessions sought in Clause 4.8 of the Resolution Plan, it is clarified that this Adjudicating Authority is not inclined towards granting any such relief prayed for except for what is provided in the Code itself. However, the Successful Resolution Applicant may approach and file the necessary application before the necessary forum/authority in order to avail the necessary relief and concessions, in accordance with respective laws.

IMPLEMENTATION OF RESOLUTION PLAN

11. After the perusal of the Final Resolution Plan and its addendum submitted by the Successful Resolution Applicant along with the mandatory compliances filed by the Applicant herein, we are of the view that:
 - 11.1. In respect of compliance regarding Regulation 39(4) of the CIRP Regulations, the Applicant has filed a compliance certificate in Form-H, certifying that the Resolution Plan submitted by the Successful Resolution Applicant meets the requirements as laid down in various sections of the Code and the CIRP Regulations and there are sufficient provisions in the Plan for its effective implementation as required under the Code. Further, an affidavit has been obtained from the Successful Resolution Applicant stating that he is eligible under the provisions of Section 29A of the Code, 2016.
 - 11.2. In view of the above discussion, this Adjudicating Authority is satisfied that the Resolution Plan as filed and explained by the SRA meets the requirement of Section 30(2) of IBC.
 - 11.3. The Resolution Applicant has provided the indicative timeline of events for implementation of the Resolution Plan at Page No. 243, which is reproduced as under:



Step	Action	Timeline (In working days)
Step 1	Approval for revival of the Company by the Adjudicating Authority	T
Step 2	Approval of the Resolution Plan by the Adjudicating Authority	T
Step 3	Infusion of funds by way of equity for payment of unpaid CIRP Costs and payment of proposed amounts for Operational Creditors and Financial Creditor	T + within 18 months
Step 4	Payments of any unpaid CIRP Costs	T + within 18 months
Step 5	Capital Reduction of the CD	T + within 18 months
Step 6	Infusion of funds by way of equity or convertible securities or subordinate convertible loans or any appropriate means	T + within 18 months
Step 7	Payment of upfront amount towards unpaid (CIRP Costs as) well as the dues of operational creditors and financial creditors	T + within 18 months
Step 8	Assignment of Admitted Financial Debt by the Financial Creditors to the RA	T + within 18 months
Step 9	Receipt of NOC from Financial Creditors	T + within 18 months

11.4. While approving the resolution plan as mentioned above, it is clarified that the resolution applicant shall, pursuant to the resolution plan approved under section 31(1) of the Code, 2016, obtain all the necessary approvals as may be required under any law for the time being in force within the period as provided for in such law.

12. In the Resolution Plan, it is mentioned that the powers concerning the control of the Corporate Debtor vests with the Resolution Professional which will be then transferred to the alleged new Board of Directors once the said Resolution Plan is approved by this Adjudicating Authority. Thereafter, the Resolution Applicant shall be in control and management of affairs of the Corporate Debtor.

12.1. Further, the correct implementation of the said Resolution Plan shall be performed by the Monitoring Committee from the date the said Resolution Plan gets approved. Pursuant to the aforementioned approval, the Monitoring Committee shall comprise of Resolution Professional or any other Insolvency Professional, one designated representative of the creditors and one designated



representative of the Resolution Applicant and the said Committee shall be formed within one day from the communication of the order approving the said Resolution Plan.

- 12.2. The Monitoring Committee shall oversee the implementation of the Resolution Plan. It shall assist to maintain Corporate Debtor as a going concern with business in good health, in trust, in furtherance of sale of the Corporate Debtor to the Resolution Applicant and no other Person or stakeholder.
13. The Resolution Applicant reserves the right to streamline/restructure its holding in the Corporate Debtor and/or the operations, assets, liabilities, and/or businesses of the Corporate Debtor or any of their undertakings through arrangements, reconstructions, restructurings, mergers, sale of assets or securities or any other form of reorganization, renegotiation of existing agreements or arrangements, at any date after the Plan Effective Date. It is clarified that the same shall be done in consensus with the Monitoring Committee.
14. Therefore, in our considered view, there is no impediment to giving approval to the instant Resolution Plan. Accordingly, we hereby **approve the Resolution Plan**, which shall be binding on the corporate debtor and its employees, shareholders of the corporate debtor, creditors including the Central Government, any State Government or any local authority to whom statutory dues are owed, Successful Resolution Applicant and other stakeholders involved. In view of the above, **I.A. 6308/ND/2023 stands allowed.**
15. It is declared that the moratorium order passed by this Adjudicating Authority under Section 14 of the Code shall cease to have effect from the date of pronouncement of this order.
16. The Resolution Professional shall forward all records relating to the Corporate Insolvency Resolution Process of the corporate debtor and the Resolution Plan to IBBI to be recorded in its database in terms of Section 31(3) (b) of the Code. The Resolution Professional is further directed to hand over all the records, premises, and properties of the corporate debtor to the Successful Resolution Applicant to ensure a smooth implementation of the resolution plan.



The approved Resolution Plan shall become effective from the date of passing of this order. The Approved Resolution Plan shall be a part of this order, subject to our observations regarding concessions, reliefs and waivers sought therein.

18. The Monitoring Committee is directed to file the monthly status report with regard to the implementation of the approved plan before this Adjudicating Authority.

In view of the above, the **I.A./6308/ND/2023 stands approved** in terms of the aforesaid discussion and is accordingly disposed off.

Let the copy of the order be served to the parties.

Sd/-
(SUBRATA KUMAR DASH)
MEMBER (TECHNICAL)

Sd/-
(MAHENDRA KHANDELWAL)
MEMBER (JUDICIAL)