

**In the National Company Law Tribunal
Mumbai Bench**

MA 2144 of 2019 in CP No.1300/I&BC/MB/MAH/2017

Application Under **Section 30(1) & (6)** and **Order under section 31** of Insolvency &
Bankruptcy Code 2016

In the matter of

IFCI Ltd.

V.

Viz Infra Consultants Private Limited

By Mr. Raghu Babu Gunturu

.....Applicant/ Resolution Professional

Order delivered on: 21.11.2019

Coram: Hon'ble Shri M.K. Shrawat, Member (Judicial)
Hon'ble Shri Chandra Bhan Singh, Member (Technical)

For the Applicant : Advocate Shavez Mukri a/w Ms. Almira Lasrado i/b India Law,
for the Resolution Professional (RP).
Mr. Raghu Babu Gunturu, Resolution Professional.
Mr. Omkar Deosthale, for the Resolution Applicant.

Per: M.K. Shrawat, Member (Judicial).

ORDER

1. An Application has been moved on 11.06.2019 by the Learned Resolution Professional by invoking the Provisions of Section 30(6) of the Insolvency & Bankruptcy Code, 2016 read with Regulation 39(4) of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) 2016 for approval of a Resolution Plan. On receiving this Application along with Resolution Plan, an Order is hereunder passed as prescribed **U/s 31(1) of The Code.**
2. The Financial Creditor IFCI Ltd. had filed a Petition against the Corporate Debtor Viz Infra Consultants Private Limited by invoking the Provisions of Section 7 of The Code read with Rule 4 of The Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules 2016.

3. After considering the merits of the case, the said Petition was **admitted** vide an **Order dated 28.08.2018 (CP No.1300/I&BC/NCLT/MB/MAH/2017)**. Mr. Raghu Babu Gunturu was appointed as the Interim Resolution Professional (IRP). The said IRP was confirmed as the Resolution Professional (RP) in the first CoC meeting dated 27.09.2018.
4. The RP, who is the Applicant herein, submits that on 10.11.2018, Invitation for Expression of Interest for submission of Resolution Plans for the Corporate Debtor was published. The last date for submission of Expression of Interest was 20.12.2018. The CoC in the meeting dated 26.12.2018 fixed up the parameters for evaluation matrix for ascertaining the commercial aspects of the Resolution Plan.
5. In the fourth CoC meeting dated 19.02.2019, the CoC approved the extension of CIRP period by 90 days. Subsequently, an application, MA No. 581 of 2019, for extension of CIRP period for 90 days, was moved, which was allowed by this Bench vide order dated 14.03.2019.
6. In the fourth CoC meeting dated 19.02.2019, the CoC was informed by the Applicant that two Resolution Plans from the Prospective Resolution Applicants, namely Giriganga Infrasoftware Private Limited (hereinafter referred to as "H1 Bidder") and Balaji Operation and Maintenance Services Private Limited (hereinafter referred to as "H2 Bidder") were received. The CoC proposed to the Prospective Resolution Applicants for further improvement in the plan viz. enhancing the resolution amount of H1 Bidder and H2 Bidder. The Resolution Applicants were also informed that any cost in addition to ₹32 lakhs as approved by CoC as CIRP Cost would have to be then borne by the Resolution Applicant.
7. The Applicant informed CoC in the sixth meeting dated 09.05.2019 that H1 bidder has considered to improve the plan from ₹12 crore to ₹14 crore. However, H2 Bidder was not willing to further improve the Resolution Amount and therefore was not considered further by CoC. The Resolution

Applicant i.e. H1 Bidder also desired release of all the securities held by secured Financial Creditors including personal and corporate guarantees. However, the CoC was of the view that guarantees can be released only on an increase of Resolution amount substantially and on better payment terms.

8. In light of the above, in the seventh CoC meeting dated 24.05.2019, the RP informed the CoC that H1 bidder has improved the offer from ₹14 crore to ₹19.5 crore and also agreed to bear CIRP Cost of ₹40 lakhs. In the eighth CoC meeting dated 04.06.2019, the RP submitted the Fair Market Value and the Liquidation Value before the CoC.
9. In the ninth CoC meeting dated 07.06.2019, the Resolution Applicant agreed to make resolution amount as ₹25 crore including CIRP cost of ₹40 lacs. The RP placed the Resolution Plan for voting and **the CoC with voting share of 99.6% voted in favour of the Resolution Plan submitted by Giriganga Infrasonolutions Private Limited (“H1 Bidder”)**.
10. There are only three members in CoC, two of them namely IFCI Limited and IFCI Venture Capital Funds Limited, constituting 99.6% voting share in CoC, voted in favour of the Resolution Plan, whereas Xanadu Project Developers Private Limited, the remaining financial creditor of the Corporate Debtor, abstained from voting.
11. The Applicant states that the Resolution Applicant / H1 Bidder has submitted its affidavit dated 11.04.2019 confirming its eligibility to submit a resolution plan for the Corporate Debtor under Section 29A of the I&B Code. The Applicant also states that Resolution Applicant is not ineligible under section 29A to submit a Resolution Plan for the Corporate Debtor.
12. The Applicant has duly submitted Form H stating that the resolution plan is compliant of the provisions of the code. The Applicant has preferred the present application for approval of resolution plan by this Adjudicating Authority.

13. The Resolution Plan as approved by the CoC in the meeting dated 07.06.2019 is reproduced for ready reference:

“RESOLUTION PLAN FOR CORPORATE DEBTOR

The Resolution Plan for the M/s Viz Infra Consultant Private Limited Corporate Debtor has been bifurcated into three major categories covering all the mandatorily details as required under the provisions of IBC, CIRP Regulations and the RFRP issued by the Resolution Professional. The contents of the Resolution Plan have been explained under each of the following three categories as the following details:

Sl. No.	Particulars	Page No
1.	Composition and Ownership Structure of the Resolution Applicant (Appendix No –A)	
2.	Financial and Implementation Proposal of Resolution Plan (Appendix No –B)	
3.	Conditions precedent to the effectiveness of the Resolution Plan (Appendix No –C)	

The following table contains the list of annexures enclosed along with Resolution Plan.

Sl. No.	Annexures	Page No
1.	Copy of MOA & AOA (Annexure-I)	
2.	Profile of the Company, Directors and future Business Plan (Annexure-II)	
3.	Copy of Annual Reports for FY: 2015-16, FY: 2016-17, FY: 2017-18 (Annexure-III)	
4.	Board Resolution (Annexure-IV)	
5.	Net worth Certificate as on 31.12.2018 (Annexure-V)	
6.	PAN No. of the Resolution Applicant (Annexure-VI)	
7.	Undertaking regarding eligibility (Annexure-VII)	
8.	Affidavit regarding eligibility under section 29A (Annexure-VIII)	
9.	Undertaking confirming the correctness of information submitted in the plan. (Annexure-IX)	
10.	Indemnity to indemnify Committee of Creditors & Resolution Professional (Annexure-X)	
11.	Undertaking on Performance Guarantee (Annexure-XI)	
12.	List of Operational Creditors (Annexure-XII)	
13.	List of Shareholders of Corporate Debtor (Annexure-XIII)	

Appendix– A

COMPOSITION AND OWNERSHIP STRUCTURE OF THE RESOLUTION APPLICANT

1. **Basic Details as submitted in EOI to be given enclosing:**
 - a. **MOA & AOA- (Annexure-I)**
 - b. **Profile of the Company, Directors and Future Business Plan - (Annexure-II)**
 - c. **Annual Reports- (Annexure-III)**
 - d. **Board Resolution -(Annexure-IV)**
 - e. **Net worth Certificate -(Annexure-V)**
 - f. **PAN No. of Company -(Annexure-VI)**

2. **Prior Experience in managing/turning around of Companies including managerial competence, technical abilities, key management personal experience**

*The profile of the Resolution Applicant (RA) detailing write up on the management competence and technical abilities is enclosed as **Annexure-II***

3. **Indemnity for the COC, Resolution Professional and Resolution Process Advisor for all acts done in good faith. The indemnity will survive the CIRP period.**

The Resolution Applicant undertakes to indemnify COC and Resolution Professional against specific loss or damage arising out the action of Resolution Applicant during CIRP Period.

4. **Details of Group/Connected Companies**

*(i) The Resolution Applicant undertakes that neither it nor any of its connected person(s) suffer from any ineligibility under section 29A of the IBC, 2016 to the extent applicable. It is further undertakes that we shall intimate the Resolution Professional of the Company forthwith if it or any of its connected person(s) becomes ineligible at any time during the corporate insolvency resolution process. The undertaking in this regards is enclosed as **Annexure-VII**.*

*(ii) In accordance with Section 30(1) of the Code, a separate affidavit of Resolution Applicant is enclosed as **Annexure- VIII** confirming its eligibility under Section 29A of the Code*

Appendix – B**FINANCIAL AND IMPLEMENTATION PROPOSAL OF RESOLUTION PLAN****1. Financial Proposal**

1.1. The Resolution Applicant propose to offer **Rs. 25.00 Crores (Rupee Twenty Five Crores)**, including CIRP Cost, towards Bid Value which shall be paid by RA in the manner as mentioned in Table- I below:

Table I - Financial Proposal with Bid Value

Particulars	Upfront Payment (within 30 days from NCLT Approval)	Within 60 days from NCLT approval	Within 90 days from NCLT approval	Within 240 days from NCLT approval
Installments	I	II	III	IV
Payment of Bid Value	40%	20%	20%	20%

1.2. Further it is proposed that the Bid Value shall be appropriated among the creditors of the Corporate Debtor strictly in the manner as mentioned in Table – II below:

Table II – Appropriation of the Bid Value**(Amount in Rs.)**

S. No	Particulars	Total Admitted Amount	Upfront Payment (within 30 days from NCLT Approval)	Within 60 days from NCLT approval	Within 90 days from NCLT approval	Within 240 days from NCLT approval	Total Amount (INR)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Installment			I	II	III	IV	
1.	CIRP Cost*	40,00,000	40,00,000/-				40,00,000/-
2.	Operation Creditors	76,28,76,030	1,00,000/-	-	-	-	1,00,000/-
3.	Secured Financial Creditors	396,22,86,731	9,58,00,000/-	5,00,00,000/-	5,00,00,000/-	5,00,00,000/-	24,58,00,000/-
4.	Unsecured Financial Creditors	1,49,83,752	1,00,000/-	-	-	-	1,00,000/-
	Total	474,33,46,513	10,00,00,000/-	5,00,00,000/-	5,00,00,000/-	5,00,00,000/-	25,00,00,000

*Rs. 40 Lacs of CIRP Cost is admitted expense upto 20th May, 2019 and balance CIRP cost upto NCLT order approving Resolution Plan shall be paid after obtaining the certified true copy of Order of NCLT.

1.3. The Earnest Money Deposit (EMD) of Rs.10 Lakh enclosed along with this Resolution Plan shall be adjusted against the proposed upfront payment.

1.4. Bid Value as reduced by EMD amount will be deposited into an account, to be opened especially for this purpose, as per the payment schedule stipulated in Table-II above. RP is being hereby authorized to distribute such money as proposed in this Resolution Plan after its approval by NCLT without any consent from Resolution Applicant. In case Resolution plan after approval of NCLT and receipt of certified true copy of order of NCLT approving Resolution Plan ("**Effective Date**") challenged within the time period

of 30 days from NCLT approval, in that case the above upfront payment will be released within 30 days of final disposal of such legal matter(s).

- 1.5. **Resolution Amount** – It is the total amount mentioned under Col (8) of Table II to be paid in three instalments
- 1.6. **Equity Rights to Financial Creditors:** No equity and equity rights to financial creditors of the Corporate Debtor is proposed as part of this Resolution Plan.
- 1.7. **Priority of Payments:** The payment of insolvency resolution Process cost will be paid on top priority. Subsequently, as per the provisions 30 (2) (b) of IBC, 2016, payment to Operational Creditor(s) to be made equivalent to amount which they get in the event of liquidation of the Corporate Debtor. Further, it is also proposed to pay Rs. 1.00 lakh over and above the liquidation value of Operational Creditor(s). Secured Lenders will be paid as specified in the above Table-II above and no payment is proposed to Unsecured Creditors.
- 1.8. **Source of Fund:** Resolution Applicant will fund the Resolution Amount from internal sources which inter-alia includes amount receivable from its Debtors and other Parties. The total dues receivable from such parties are around Rs. 41 Crore as on 3rd June, 2019 and realization of the same are expected soon. Further, as on date, RA is debt free Company having net worth of around Rs.33 Cr. as on 31.12.2018 which is expected to be around Rs. 40 Cr. by March, 2019 and likely to cross Rs.55 Cr. by end of Financial Year 2019-20. Accordingly, if required, RA would be able to raise funds from the market to ensure timely payment as proposed in this Resolution Plan.
- 1.9. **Treatment of Securities Available with Secured Creditors:** All existing securities provided by the borrower/subsidiaries/associates/any third party and taken by Secured Creditors of the Corporate Debtor (based on information available in Information Memorandum (IM)) for which any charge has been filed with MCA or not, shall be considered in toto and after full payment of Resolution Amount, no security of whatsoever nature will be enjoyed by Secured Lenders except personal guarantee of Mr. M.S. Ramakrishna and shall stand released/transferred automatically upon release of consideration as proposed in the Resolution Plan. An illustrative chart based on information available in IM has been as tabulated below:

Table- III Existing Securities and its treatment

S. No.	Existing Securities	Proposed Treatment
1.	Pledge of Shares of Athena Infraprojects Pvt. Ltd. - 63,03,329 nos @ 10/-	Should be released
2.	Pledge of 13,53,26,667 Equity shares of M/s. Athena Energy Ventures Pvt Ltd., dated 12.07.2013 executed by Corporate Debtor and M/s. Satluj Infraprojects Pvt. Ltd (SIPL) i.e., 13,33,26,667 Equity shares by Viz Infra and 20,00,000 equity shares by SIPL	Shares pledged by Corporate Debtor should be released and Shares pledged by SIPL shall be transferred to RA
3.	Pledge of 5,93,87,009 Equity shares of M/s. Athena Infraprojects Pvt. Ltd by Corporate Debtor.	Should be released

4.	<i>Pledge of 1,25,05,000 Equity Shares held in M/s Athena Kynshi Power Private Limited and 1,15,05,000 equity shares held in M/s Athena Emra Power Pvt. Ltd. Dated 22.11.2013 executed by M/s. Chiron Infratech Pvt Ltd.</i>	<i>shall be transferred to RA</i>
5.	<i>Pledge of 32,00,000 equity shares of M/s Athena Kynshi Power Private Ltd dated 22-11-2013 executed by Athena Infraprojects Pvt. Ltd.</i>	<i>shall be transferred to RA</i>
6.	<i>Pledge of 4,79,73,600 Equity Shares of Athena Infraprojects Pvt. Ltd. Dated 28.05.2014 executed by Corporate Debtor.</i>	<i>Should be released</i>
7.	<i>Corporate Guarantee dated 26.03.2013 executed by M/s. Athena Infra Projects Limited</i>	<i>Should be released</i>
8.	<i>Promissory Note dated 2nd April, 2014 (Rs. 4.30 Cr.)</i>	<i>Should be released</i>

1.10. **Lands given as Collateral Security in favour of third party (ies) by Corporate Debtor:** *The land owned by Corporate Debtor, Ac 58.54 Cents and Ac 18.16 Cents mortgaged in favor of IFCI for loan availed by ABIR and mortgaged in favor of Coastal Infrastructure Pvt. Ltd., respectively, must be made free from all encumbrances or charges or any third party rights/claims upon payment of the Bid Value.*

1.11. **Liquidation Value and Interest of Stakeholders:** *As per the estimates of the Resolution Applicant, the verified/admitted claims of the Secured Financial Creditors are more than the Liquidation Value. Further, the proposed Bid Value is also less than the admitted claims of the Secured Financial Creditors; as such the liquidation value payable to Operational Creditors including statutory dues and dissenting Financial Creditors shall be **NIL**.*

1.12. *All liabilities including outstanding amount to any of the creditors, statutory dues and others which have either not been claimed by anybody or claimed and not admitted by RP and any liability which has been provided or not provided for and not included specifically in Table-II above, shall stand extinguished.*

1.13. *Resolution Plan as approved by Hon'ble NCLT will be acceptable and binding to Resolution Applicant.*

1.14. *Under provisions of section 31 (1) of IBC, Resolution Plan as approved by Hon'ble NCLT shall be binding on the Corporate Debtor, members, creditors, guarantors and other stakeholders of or relating to Corporate Debtor. Any of the stakeholders as mentioned herein will have no claims of whatsoever nature against the Corporate Debtor and Resolution Applicant or its guarantors.*

1.15. *The Resolution Applicant or any of its related parties have never been involved in the CIR Process and hence they have not failed to implement any resolution plan under Insolvency and Bankruptcy Code, 2016.*

1.16. *This Resolution Plan does not contravene any provisions of the applicable law for the time being in force.*

2. Term of the Resolution Plan, its Implementation and Supervision and management of affairs after approval of Resolution Plan:

2.1. Term of the Resolution Plan: *The Term of the Resolution Plan shall be from the date of approval of the Resolution Plan by NCLT and till the Transfer Date. Transfer Date shall be date of payment of last installment of Resolution Amount.*

2.2. Implementation, Supervision of the Resolution Plan & means thereof and Management & Control of Business of the Corporate Debtors during term of the Resolution Plan:

Upon the approval of this Resolution Plan by Hon'ble NCLT:

2.2.1. *The Resolution Professional shall be released of his statutory duties and responsibility and handover of all the records, assets and information of the Corporate Debtor under his custody /control to the Resolution Applicant.*

2.2.2. *Pursuant to the approval of NCLT, the suspended Board of Directors shall stand dissolved and the Directors of the Corporate Debtor immediately within 30 days from NCLT approval deemed to have resigned.*

2.2.3. *The COC of Corporate Debtor shall be dissolved against the Order of Honble National Company Law Board. A Committee comprising of Resolution Professional, the Member of the COC and also nominee(s) of the Resolution Applicant ("**Monitoring Agency**"), shall be constituted to manage day to day affairs of Corporate Debtor under its supervision, until, the full payment of Bid Value by Resolution Applicant, transfer & release of all securities as proposed in the Resolution Plan and full hand-over of assets of the Corporate Debtor including business records, all statutory books, accounts books taken into custody by the Resolution Professional under the various provisions of IBC, 2016.*

2.2.4. *Following shall be Members of Monitoring Agency:*

- (i) Resolution Professional (Chairman)*
- (ii) One member representing COC*
- (iii) One member representing Resolution Applicant.*

Scope of Monitoring Agency shall be to oversee the implementation of this Resolution Plan as per the order of Hon'ble National Company Law Tribunal. A fee of Rs. 2,00,000/- Per month plus applicable GST shall be paid to Resolution Professional by the Resolution Applicant from the date of approval of Resolution Plan by NCLT till the cessation of Monitoring Agency. Monitoring Agency shall cease to operate on disbursing full resolution amount to the creditors and on release of all securities by the Creditor in favor or the benefit of Resolution Applicant and both process will run together.

2.2.5. *The Monitoring Agency shall manage the affairs of the Corporate Debtor along with Board of Directors of the Corporate Debtor till completion of Term of Resolution Plan. The members of Monitoring Agency shall be invitees to the Board Meeting during the existence of Monitoring Agency.*

2.2.6. *After Transfer Date, Resolution Applicant will control the management and affairs of the Corporate Debtor by appointing its nominee(s) on the Board of Corporate Debtor. With effect from the Transfer Date, the Corporate Debtor shall be managed by experienced professionals who shall have vast experience in managing the affairs of the businesses across various sectors including infrastructure.*

2.2.7. *It is hereby clarified that the directors on the reconstituted Board and managerial personnel appointed by the Resolution Applicant shall not be liable for any past non-compliance of provisions of applicable laws by the erstwhile*

Board of Directors of the Corporate Debtor and erstwhile key managerial personnel of the Corporate Debtor respectively.

2.2.8. *The Corporate Debtor shall continue as a going concern and operate in its normal course of business after implementation of the Resolution Plan subject supervision of Monitoring Agency wherever required.*

3. Financial assumptions & Projections:

3.1. *The Corporate Debtor is Investment Company and engaged in the business of providing consultancy services.*

3.2. *Further, upon making payments/settlement of the creditors, the Corporate Debtor will become a debt free company and thus, the financial cost will become NIL i.e. the major component of the total expenses of Corporate Debtor.*

3.3. *Being Investment/consultancy Company, operating cost is almost negligible which is variable in nature and if required, shall be incurred through various arrangements/internal sources.*

3.4. *Corporate Debtor has noticeable stake, direct/indirect, in various power projects; however, no return is expected on any of the investment made in these power projects. Further, considering most of the projects are green filed projects and are in the process of obtaining various statutory/regulatory permits/clearances for the commencement of construction at site, any major fund requirement towards capital expenditure is unlikely in near future.*

3.5. *Further, RA would be in the position to explore the opportunities by extending various services to such Projects including consultancy and infrastructure facilities, to revive the business of Corporate Debtor.*

4. Proposal for meeting the interest of all other stakeholders, along with timelines:

S. No.	Particulars	Treatment/Payment Proposed
1.	CIRP Cost	<i>CIRP Cost of Rs. 40 Lacs. (Upto 20th May and balance CIRP cost upto NCLT order approving Resolution Plan shall be paid after obtaining the certified true copy of Order of NCLT.)</i>
2.	Secured Financial Creditors	<i>Rs. 24.58 Cr. as per Table-II of para 1.2 and 1.6 of Appendix-B of Resolution Plan.</i>
3.	Unsecured Financial Creditors	<i>Rs. 1.00 Lac</i>
4.	Operation Creditors	<i>Rs. 1.00 Lac (List of Operational Creditors as Provided in Information Memorandum is enclosed as Annexure- XII)</i>
5.	Present Equity Shareholders	<i>All shares issued by Corporate Debtor either in physical or dematerialized form till date in possession/control/pledge of shareholder/nominee or with anybody else in whatever form shall stand cancelled in totality without calling back physical certificates. These shareholders/their nominees shall not have any rights /claims to damages/compensation of whatsoever nature on this</i>

S. No.	Particulars	Treatment/Payment Proposed
		<p>account from CD or RA.</p> <p>List of Shareholder of Corporate Debtor as provided in Information Memorandum is enclosed as Annexure- XIII</p> <p>Any commitment to issue shares in future by Corporate Debtor before approval of Resolution Plan by NCLT, will stand cancelled/null & void.</p> <p>Any rights of whatsoever nature given to existing shareholders or proposed shareholders through Article of Association of the Corporate Debtor (AoA) will stand cancelled and withdrawn and suitable changes in the AoA will be made pursuant to the approval of Resolution Plan by NCLT.</p> <p>All shareholders' agreements/MoUs or inter se agreements among shareholders, if any, stand cancelled and are not enforceable as the same are infructuous, with implementation of Resolution Plan.</p> <p>Any agreements / contracts/ MOU/ settlement deeds or any documents of whatsoever nature which may also give rise to any rights of claim to third parties, not factored or declared now, including and not limited to agreements executed with other parties will be treated as cancelled and will have no enforceable value/rights after approval of Resolution Plan by NCLT.</p> <p>All the paid up equity share capital at present against which issued shares are being cancelled, will be transferred to Reserve and Surplus along with recasting of assets and liabilities representing true and fair value of state of affairs of CD.</p> <p>Any compliance(s) require to be executed for the proposed transactions/structure/event under this Resolution Plan under Companies Act / any other Act, will be deemed as granted, as a fait accompli to the Resolution Process, by virtue of NCLT order accepting this Resolution Plan.</p>
6.	Present Directors	All existing Directors of the Corporate Debtor (filed/non-filed at RoC) will cease to be Directors and the approval of Resolution Plan by NCLT serves as an order for filing necessary forms with MCA or any other statutory authority or regulators, if any, required.
7.	Compliances	Upon cancellation of equity shares of existing shareholders, all existing Directors of the Corporate Debtor (filed/non-filed at RoC) will cease to be Directors

S. No.	Particulars	Treatment/Payment Proposed
		<p>and this order will serve as approval for filing:</p> <ul style="list-style-type: none"> - their resignation/removal forms with MCA; - amend list of shareholders with deletion of names of existing shareholders and new shareholders of Resolution Applicant getting in to as brought out in subsequent paras - Compliance with the terms of the Resolution Plan approved by the NCLT is within itself the requisite consent and therefore automatically empower RA and CD to complete necessary formalities connected with filings with regard to change in shareholders, directors and such other filings as are relevant for completing the resolution process to the end – be it with ROC, MCA, Statutory Authorities, Government and Tax Departments, Regulators and will not require any separate consent from any authority
8.	Status of Authorized Share Capital	<p>Upon adjustment of existing Paid Up Capital as aforesaid in S. No. 1, CD will issue further shares in future against existing authorized share capital without payment of additional charges for enhancement of authorized share capital to Ministry of Corporate Affairs (MCA), if any, as proposed under relevant Act.</p>

Any and all compliances required under Companies Act, 2013, shall be treated as complied with/taken, on approval of Hon'ble NCLT accepting this Resolution Plan. Any compliance required to execute proposed transactions/structure/event under this Resolution Plan under Companies Act / any other Act will be deemed as granted by virtue of NCLT order approving this Resolution Plan.

The requisite amendments to the Article of Association (AoA) of Corporate Debtor shall be carried out to give effect to the agreed understanding. New Shareholder Agreement and AoA shall be in place within 40 days from NCLT approval that will override each and every document related in this regard and any approval/procedure required in this regard from any authority under any Act will be deemed to have been complied with by virtue of this order.

Shareholder Agreement/ AOA in existence, giving rights to any erstwhile shareholder/nominee of such shareholder shall stand cancelled in totality without any consideration. These shareholders/nominees shall not have any rights /claims to damages/compensation of whatsoever nature.

5. Other Key Issues:

5.1. Addressing of the Cause of Default:

5.1.1. Cause of the Default: *The loan has been taken by the Corporate Debtor in the form of Secured Redeemable Debentures from IFCI (Financial Creditor) for the following purposes:*

5.1.1.1. Rs. 124.99 Cr. for buying out of the existing equity shareholding of IFCI in Athena Energy Ventures Private Limited (AEVPL); and

5.1.1.2. Balance towards investment in AEVPL for meeting the additional requirement of Athena Chattisgarh Power Limited (ACPL)

The Corporate Debtor is engaged in the business of providing consultancy services and infrastructure development. Majority of the exposure of the Corporate Debtor is in Power Sector including Thermal and Hydro across the country though various JVs and/or investment entities. However, due to the challenges faced by the power sector in the country, the various power projects wherever Corporate Debtor has associated could not be taken off. Consequently, the Corporate Debtor and its promoters have faced acute financial crunch which has led to default in payment of the dues of IFCI.

5.1.2. Addressing of the Default: *RA in the instant case has proposed to make the Corporate Debtor a debt free company within 240 days of the approval of the Resolution Plan by NCLT. The details of the same were provided in the Table – I and Table – II above.*

5.2. Feasibility, Viability and Effective Implementation of the Resolution Plan:

5.2.1. RA shall be able to pay the Bid Value as per the Resolution Plan by arranging/raising the funds from its internal sources/from the market through various financial instruments. Upon making payments/settlement of the creditors as per the proposed Resolution Plan, the Corporate Debtor will become a debt free company and thus, the financial cost will become NIL which is the major component of the total expenses of the Corporate Debtor. The operating cost is almost negligible which is variable in nature and if required, shall be incurred through various arrangements. The Corporate Debtor is having noticeable stake in various power projects which are at various stages such as operational, under development etc. RA would be best placed to extend the various services including consultancy and also in creating basic infrastructure at respective project site. Thus, the synergy among the RA, the Corporate Debtor and the various project SPVs would result into optimal harmony.

5.3. Provisions for Approvals Required and Timeline for the Same:

5.3.1. Corporate Debtor being an investor and engaged in the business of providing consultancy services, no major statutory clearances/approvals are envisaged for implementation of Resolution Plan. However, in future, if any clearance required, the same will be taken accordingly.

5.4. Capabilities of the RA w.r.t. implementation of the Resolution Plan:

5.4.1. Presently, Resolution Applicant is carrying out O&M of 1200 MW Teesta - III Hydro Electric Project (India's 2nd Largest Hydro power project) in the State of Sikkim, which is successfully under operation for almost last two years and supplying the electricity to the national grid, as a sub - contractor for M/s Andritz

O&M Private Limited (Andritz). Resolution Applicant also created the brand named “Krishiurja” for sale of organic Products in India.

Resolution Applicant offers knowledge based technical services customized to client’s needs & assets, maximizing cost benefits in operation & maintenance of strategic assets. As of now Resolution Applicant is also exploring opportunities in the field of Operation and Maintenance of Thermal and Renewable power plants in India.

5.4.2. The Resolution Applicant believes that its unique combination of financial strength, management depth, unmatched experience and broad technological expertise especially in the infrastructure sector would enable it to successfully implement its Resolution Plan for the Corporate Debtor. The financial projection of the Resolution Applicant are as follow:

Amount in Rs. Cr		
Particulars	2018-19	2019-20
Revenue	92	119
Expenses	69	96
PBT	23	23
Tax	7	7
PAT	16	16
Net Worth	41	57

Snapshot of Salient Terms and Conditions of the Proposal are as below:

S. No	Particulars	Details
1.	Amount of upfront payment to creditors (Upfront Cash Recovery)	As mentioned above under Table-I & II above.
2.	Balance repayment obligations to creditors (other than upfront payment)	As mentioned above under Table-I & II above.
3.	Corporate Guarantee or additional collateral/ security being offered by the Resolution Applicant	NIL
4.	Any third-party collateral being offered as additional security by the Resolution Applicant(s)	NIL
5.	Performance Guarantee	Bank guarantee/Demand Draft equivalent to 10% of the Bid Value will be submitted within timeline stipulated in RFRP. In case, DD is submitted towards Performance Guarantee, the same shall be adjusted against the upfront payment as proposed in Resolution Plan.
6.	Equity to Lenders	NIL
7.	Details of Key Management Personnel of the Resolution Applicant(s) with a brief	The same are briefed in Annexure-II

S. No	Particulars	Details
	<i>description of experience in managing capital intensive assets</i>	
8.	<i>Details of prior experience of the Resolution Applicant(s) in managing capital intensive businesses</i>	<ul style="list-style-type: none"> - <i>Operation and Maintenance of one of largest Hydro Power Projects i.e. 1200 MW Teesta-III HEP</i> - <i>Organic Fertilizer- Set up the network of 100 dealers and complete marketing team comprising of marketing experts, marketing field officers and agronomists.</i>
9.	<i>Brief description of successful turnaround case studies in India or abroad</i>	<i>Nil</i>
10.	<i>Credit Rating of the Resolution Applicant(s) For Unrated Corporates , please provide details of Net worth For Funds please provide details of Assets Under Management</i>	<p><i>Company has not availed any debt through any of the financial instruments. As such no credit rating has been obtained.</i></p> <p><i>Net Worth Certificate as on 31st December, 2018 is enclosed.</i></p>

Appendix – C

CONDITIONS PRECEDENT TO THE EFFECTIVENESS OF THE RESOLUTION PLAN

“No conditions precedent is proposed to the effectiveness of the Resolution Plan”

We understand that the members of the COC have further right to renegotiate the terms of this Resolution Plan and the decision of the COC in selection of the Successful Resolution Applicant shall be final and binding on us.

Yours sincerely

For Giriganga Infrsolutions Private Limited”

Summary of the Resolution Plan

14. A bird's eye view of the resolution plan as approved by CoC is as under:

S. No.	Particulars	Total Admitted Amount (₹)	Upfront payment within 30 days from NCLT approval	Within 60 days from NCLT Approval	Within 90 days from NCLT Approval	Within 240 days from NCLT Approval	Total Amount (₹)
Instalment			I	II	III	IV	
1.	CIRP Cost*	40,00,000	40,00,000				40,00,000
2.	Operational Creditors	76,28,76,030	1,00,000	-	-	-	1,00,000
3.	Secured Financial Creditors	396,22,86,731	9,58,00,000	5,00,00,000	5,00,00,000	5,00,00,000/-	24,58,00,000
4.	Unsecured Financial Creditors	1,49,83,752	1,00,000	-	-	-	1,00,000
	Total	474,41,46,513	10,00,00,000	5,00,00,000	5,00,00,000	5,00,00,000	25,00,00,000

**₹40 lakh of CIR Cost is admitted expense upto 20.05.2019 and balance CIRP Cost upto NCLT order approving Resolution Plan shall be paid by CoC after obtaining the certified true copy of order of NCLT.*

15. As per the above table, the Resolution Applicant intends to settle the dues of creditors by bringing in ₹25 crore for this project. The Applicant submits that no claims pertaining to statutory dues have been received. There are no workmens' and employees' outstanding dues. The Liquidation Value and Fair Market Value of the Corporate Debtor as determined by two independent valuers as per Regulation 35 of the IBBI (CIRP) Regulations, 2016 is stated to be ₹13,05,00,000/- and ₹18,65,00,000/- respectively. It is stated during the course of the hearing that the corporate Debtor is in the business of providing financial consultancy services and infrastructure development. There is only one asset i.e. land & Building located at Yerramanchi Village, Penkonda Mandal, Ananthapur District, which is valued by M/s. ANVI Advisors, for the purposes of calculating liquidation value and fair market value. The investments of the Corporate Debtor (Book Value ₹355.92 crore) have been valued as 'NIL' by M/s. Adroit Technical Services Pvt. Ltd. and M/s. TRC Corporate Consulting Private Limited.

16. The claims of the secured financial creditors as per the proposed Resolution Plan are being settled at 6.20% of the total admitted claims.

Similarly, those of unsecured financial creditors at 0.67% and for the operational creditors, it is at 0.01% of the total admitted claim in the resolution plan.

17. The Plan provides for management of affairs of the Corporate Debtor and implementation & supervision of the plan. The RP has given a statement in Form H that the plan deals with interests of all stakeholders as required under Section 30(2) of the I&B Code and Regulation 38 of CIRP Regulations.
18. Regarding the history of the Resolution Applicant, the RP submits that a manpower of around 450 employees and workers is employed under the Resolution applicant. The Resolution Applicant is handling Operations and Management (O&M) of one of largest Hydro Power Projects i.e. 1200MW Teesta-III HEP. It has receivables from its ongoing projects valuing at around ₹41 crore. The Resolution Applicant intends to fund this transaction through internal accruals. It is stated that there are no loans and long term liabilities on this Resolution Applicant. It is a debt free company. The net worth of the Resolution Applicant is around ₹33 crore as on 31.12.2018 which is expected to go upto ₹40 crore by March, 2019 and likely to cross ₹55 crore by the end of Financial Year 2019-20. The Resolution Applicant, on being inquired by this Bench about its strategy to run the Corporate Debtor as a going concern, submits that if required, it would raise funds from the market to ensure timely payment as proposed in the plan.
19. It is stated that the resolution plan amount of ₹25 crore would be arranged from the receivables of around ₹41 crore from the Resolution Applicant's other ongoing projects. The RP further states that 10% of the plan amount i.e. ₹2.5 crore for Performance Bank Guarantee has already been paid by DD as a security deposit . Further, an amount of ₹10 lakh has also been paid as Earnest Money Deposit. Hence, out of an amount of ₹10 crore

which is payable within 30 days of approval from this Tribunal, an amount of ₹2.6 crore has already been paid by the Resolution Applicant.

20. When inquired by this Bench about the scheme of the Resolution Applicant to run the company as a going concern, it was contended that the funds will be raised from market as when the need arises. As far as the feasibility and viability of the resolution Plan is concerned, it is submitted that the Resolution Applicant shall be able to pay the Bid Value as per the Resolution Plan by arranging/raising the funds from its internal sources. The Corporate Debtor would be a debt free company pursuant to payment to all the creditors. The operating cost of the Corporate Debtor, which is variable in nature, shall be incurred through various arrangements, as per the requirement. The Resolution Applicant would be best placed to extend the various services including consultancy and also in creating basic infrastructure at respective project site. Thus, the synergy among the Resolution Applicant, the Corporate Debtor would result into optimal growth path.
21. On hearing the submissions made by the Ld. Counsel for the resolution Professional, the Resolution Plan in hand satisfies the minimum threshold of approval by 66% majority of the CoC. The Resolution Applicant is not barred under section 29A of the I&B Code to file the resolution plan. The CoC has looked into the feasibility and viability of the Resolution Plan. The plan stands the requirement of being viable and feasible for revival of the Corporate Debtor. By and large, all the compliances have been done by the RP and the Resolution Applicant for making the plan effective after approval by this Bench.
22. The Resolution Plan, subject to this order, is hereby approved, and shall be binding on the Corporate Debtor and other stakeholders involved so that revival of the Debtor Company shall come into force with immediate effect and the “Moratorium” imposed under section 14 shall cease to have

any effect henceforth. The Resolution Professional shall submit the records collected during the commencement of the Proceedings to the Insolvency & Bankruptcy Board of India for their record and also return to the Resolution Applicant or New Promoters. Certified copy of this Order be issued on demand to the concerned parties, upon due compliance. That liberty is hereby granted that, if deem fit, and legally permissible, to move Miscellaneous Application if required in connection with implementation of this Resolution Plan. That in respect of stepping by the New Promoters/Resolution Applicant into the shoes of the erstwhile Company and taking over the business, the provisions of Companies Act, 2013 shall be applicable and because of this reason a copy of this Order is to be submitted in the Office of the Registrar of Companies, Mumbai.

23. The RP is directed to handover all records, premises/factories/documents to Resolution Applicant to finalise the further line of action required for starting of the operation. The Resolution Applicant shall have access to all the records/premises/factories/documents through Resolution Professional to finalise the further line of action required for starting of the operation.
24. The directions embodied and period of implementation provided hereinabove shall be effective from the date of receipt of this Order.

Sd/-
CHANDRA BHAN SINGH
MEMBER (TECHNICAL)

Sd/-
M.K. SHRAWAT
MEMBER(JUDICIAL)

Date : 21.11.2019

JS