



**NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH (COURT-II), CHANDIGARH**

IA(IBC)/1683/(CH)/2023
In
CP(IB) No.449/Chd/Pb/2019
(Admitted)

(An Application under sections 30 (6) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of The National Company Law Tribunal Rules, 2016)

In the matter of IA(IBC)/1683/(CH)/2023

Mr. Deepankur Sharma

IRP/Acting RP Vishal Rice Exports Pvt. Ltd.

Resident of:

272, 2nd Floor, Sector 37-A, Chandigarh

...Applicant

In the matter of CP(IB) No. 449/Chd/Pb/2019

(An Application under section 9 of the Insolvency & Bankruptcy Code, 2016)

IN THE MATTER OF:

Mr. Dinesh Kumar Jain

Proprietor of M/s P.L. Foods

...Operational Creditor

Versus

Vishal Rice Exports Private Limited

...Corporate Debtor

Order delivered on: 21.04.2026

CORAM: MR. KHETRABASI BISWAL, MEMBER (JUDICIAL)

MR. KAUSHALENDRA KUMAR SINGH, MEMBER (TECHNICAL)

Present:-

For the Applicant/RP

: Mr. Vaibhav Sahni, Advocate
Ms. Swati Vashisth, Advocate
Mr. Deepankur Sharma, RP in Person



ORDER

1. The present Application has been filed on 25.06.2023 by Mr. Deepankur Sharma, Interim Resolution Professional/ Acting Resolution Professional (hereinafter referred to as the **“Applicant”**) under Section 30(6) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the **“Code”** or **“IBC”**), seeking approval of the Resolution Plan of **M/s Kasturi Lal Ashok Kumar** (hereinafter referred to as the **“Successful Resolution Applicant”** or **“SRA”**), in respect of **Vishal Rice Exports Pvt. Ltd.** (hereinafter referred to as the **“Corporate Debtor”**) which has been approved by the Committee of Creditors (hereinafter referred to as the **“COC”**) in the 11th Meeting dated 15.05.2023 with 80.63% voting share.

2. The averments made by the Applicant/Resolution Professional in the present application and as presented by the Ld. Counsel are summarized as under:-

i. The Corporate Debtor is a private limited company registered under the erstwhile Companies Act, 1956 and incorporated on 26.02.2008 having its registered office is at Super Market, Samana, Punjab. It has been engaged in the business of Rice Mill having its plant at Village Tulewal, Tehsil Samana, District Patiala, Punjab-147101. It offered products to leading global Rice brands.

ii. The Corporate Debtor was admitted in the Corporate Insolvency Resolution Process (CIRP) under Section 9 of the Code on 12.10.2022. Mr. Deepankur Sharma was appointed as Interim Resolution



Professional (IRP) for the Corporate Debtor by this Tribunal vide order dated 12.10.2022.

iii. The Constitution of the COC and the voting share of the respective Members has been as under:-

S. No.	Name of Creditor	Amount Claimed (Rs.)	Amount Admitted (Rs.)	Voting Share (%)
1.	Canara Bank	6,00,94,445.05	6,00,94,445.05	80.63%
2.	Punjab National Bank	1,44,37,056.16	1,44,37,056.16	19.37%
Total		7,45,31,501.21	7,45,31,501.21	100%

iv. As against the total claim received at Rs. 14,91,34,586.21/-, the IRP had admitted the claim to the extent of Rs. 14,39,83,495.93/-

v. Pursuant to publication of Form G for inviting of Expression of Interest (EOI) on 10.12.2022 in the course of the CIRP, 4 EOIs were received from Prospective Resolution Applicants (PRAs). After perusing the documents submitted by them, the Applicant published a provisional list of Prospective Resolution Applicant on 03.01.2023 consisting of one eligible Prospective Resolution Applicant and three ineligible PRAs. Thereafter, the Applicant published the Final List of prospective resolution applicants in the matter of the Corporate Debtor on 13.01.2023 consisting of one eligible prospective resolution applicant and three ineligible prospective Resolution Applicant. The Applicant received only one resolution plan from the prospective resolution applicant which was discussed by the members of COC



along with the Resolution applicant in several COC meetings i.e. 6th 7th, 8th, 9th and 10th COC meetings. RP has raised few clarifications and observation on the plan which was shared with the prospective resolution applicant. On which the Resolution Applicant submitted a Revised Resolution Plan. The Resolution Applicant in addition to the Resolution Plan only elaborated the "Treatment of the Personal Guarantor of the Corporate Debtor and Treatment of Government Dues in the scenario of additional claim admitted by the Adjudicating Authority or RP after approval of the Resolution Plan. The CoC in its commercial wisdom approved the revised resolution plan submitted by M/s Kasturi Lal Ashok Kumar (Resolution Applicant) with 80.63% voting share in its 11th Meeting on 15.05.2023.

vi. Initially, the claim of Punjab State Civil Supplies Corporation Limited (PUNSUP) was admitted as a Secured Operational Creditor, and the Resolution Plan submitted by the Successful Resolution Applicant (SRA) accordingly proposed payment under Secured Operational Creditor category. However, pursuant to the order of this Tribunal dated 28.05.2024 in IA (IBC)/811(CH)/2023 directing PUNSUP to remove its charge over the assets of Corporate Debtor, the RP revised its status and reclassified the claim as that of an Unsecured Operational Creditor in accordance with the CIRP Regulations. Consequently, the SRA submitted an Addendum to the Resolution Plan modifying proposed treatment of PUNSUP and providing for payment under the Unsecured Operational Creditor category. The CoC approved



the Addendum and the Revised Form H in its 23rd meeting held on 25.11.2025 with the requisite voting share. The Addendum along with the Revised Form H has been filed by the RP in compliance with Regulation 39(4) of the CIRP Regulations, which is annexed as Annexure A-2 and A-3 to the affidavit of compliance dated 26.11.2025. The payment as proposed to each of the operational creditors namely, Punjab State Civil Supplies Corporation Limited, Hanumant Balaji Trading Company and Goyal Trading Company is 0.29% of their admitted claims.

vii. In compliance with the terms of the RFRP, the Resolution Applicant submitted the Performance Guarantee amounting to ₹22,50,000 in the name of the Corporate Debtor on 24.05.2023. The Tribunal, vide its order dated 28.05.2024, directed the Applicant to place on record a fresh Performance Bank Guarantee, as the earlier guarantee filed with the Application had expired on 24.05.2024. Accordingly, the Applicant has filed a fresh Performance Bank Guarantee.

viii. The RP has filed this Application on 25.06.2023 seeking approval of the Resolution Plan.

ix. The prescribed period, i.e., 180 days, of the CIRP had ended as on 09.04.2023 and thereafter, the period has been extended vide order dated 13.04.2023 and the extended period of the CIRP ended as on 08.06.2023.



x. On the basis of the Valuation Reports, the fair value and liquidation value of the Corporate Debtor have been arrived at Rs. 1,74,79,104.29 and Rs. 1,27,94,710.79 respectively.

xi. The Resolution Plan value amounts to Rs.1,62,00,000 (including insolvency resolution process cost, infusion of funds etc.) and the SRA has proposed to pay the total amount to the Stakeholders within 36 days from the approval of this plan by this Tribunal.

xii. The Resolution Plan provides for the payment towards the CIRP cost and to the various Stakeholders as given in the Table below:-

Particulars	Amount Claimed (Rs.)	Amount Admitted (Rs.)	Realizable amount under the plan (Rs.)	Amount realizable in plan to the admitted claim in (%)
CIRP Costs	-	-	Provision of Rs. 15,00,000 (subject to actual cost as on effective date, either below or above) at priority	-
Financial Creditors				
(i) Secured Financial Creditors - Assenting (Canara Bank)	6,00,94,445.05	6,00,94,445.05	1,44,00,000.00	23.96%
(ii) Unsecured Financial Creditors Dissenting (Punjab National Bank)	1,44,37,056.16	1,44,37,056.16	1,00,000	0.69%



Operational Creditors				
(a) Related Party of Corporate Debtor	NIL	NIL	NIL	NA
(b) Other than related party of Corporate Debtor				
(i) Government	NIL	NIL	NIL	NA
(ii) Workmen	NIL	NIL	NIL	NA
(iii) Employees	NIL	NIL	NIL	NA
(iv) Secured	NIL	NIL	NIL	NA
(v) Unsecured	7,46,03,085	6,94,51,994.78	2,00,000	0.29%
Grand Total	14,91,34,586.21	14,39,83,495.93	1,62,00,000	

xiii. The RP has examined the Resolution Plan and required compliances thereon. For ready reference, the compliance examined by the RP are reproduced in the Table below:-

Section of the Code/Regulation No.	Requirement with respect to the Resolution Plan	Compliance (Yes/No)	Relevant clause of resolution plan
Section 25(2)(h)	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	Clause 5 of the Resolution Plan at Page no 187-188
Section 29A	The Resolution Applicant is eligible to submit resolution plan as per final list of Resolution Professional or Order, if any, of the Adjudicating	Yes	Affidavit dated 25.06.2023, Annexure 14 to the Application Page no. 275-276



	Authority		
Section 30(1)	The Resolution Applicant has submitted an affidavit stating that it is eligible as per Code	Yes	Affidavit dated 16.02.2023 at Page no.267.
Section 30(2)	<p>The Resolution Plan-</p> <p>(a) Provides for the payment of Insolvency Resolution Process Cost</p> <p>(b) Provides for the payment to the operational creditors</p> <p>(c) Provides for the payment to the Financial Creditors who did not vote in favour of the resolution plan</p> <p>(d) Provides for the management of the affairs of the corporate debtor?</p> <p>(e) Provides for the implementation and supervision of the Resolution Plan</p> <p>(f) Contravenes any of the provisions of the law for the time being in force</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>No</p>	<p>Clauses 8,9 & 11 of the Resolution Plan provides for payment of Insolvency Resolution Process Costs, Operational Creditors, Financial Creditors who did not vote in favour of the Resolution Plan, provides for implementation and supervision of the Resolution Plan and provides for Management of the affairs from Page no.191 to 227.</p>
Section 30(4)	<p>The Resolution plan</p> <p>(a) is feasible and viable, according to the CoC</p> <p>(b) has been approved by the CoC with 66% voting share</p>	<p>Yes</p> <p>Yes</p>	<p>COC approved the Resolution Plan by 80.63% votes while considering that the Resolution Plan is feasible and viable.</p>
Section 31(1)	The Resolution Plan has provisions for its effective implementation plan, according to the COC	Yes	Clause 9 at page 211-214



Regulation 38(1)	The amount due to the operational creditors under the resolution plan has been given priority in payment over financial creditors	Yes	Clause 8 of the Resolution Plan form and addendum filed by the RA
Regulation 38(1A)	The Resolution Plan includes a statement as to how it has dealt with the interest of all stakeholders	Yes	Clause 11 of the Resolution Plan from page 214 to 215
Regulation 38(1B))	Neither the Resolution Applicant nor any of its related parties has failed to implement or contributed to the failure of implementation of any resolution plan approved under the Code. If applicable, the Resolution Applicant has submitted a statement giving details of any such non-implementation	No	Clause 11 of the Resolution Plan from page 214.
Regulation 38(2)	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	Yes	Clause 11 of the Resolution Plan from page 214 to 218.
Regulation 38(3)	The Resolution Plan demonstrates that- (a) it addresses the cause of default (b) it is feasible and viable (c) it has provisions for its effective implementation (d) it has provisions for approvals required and the timeline of the	Yes	Clause 11 of the Resolution Plan from page to 218 to 222.



	same (e) the resolution applicant has the capability to implement the resolution plan		
Regulation 39(2)	Whether the RP has filed application in respect of transactions observed, found or determined by him?	No	The IRP/ Acting RP received a report from the transaction auditor which is under scrutiny as due absence of necessary documents and non-co-operation by the suspended board of directors the report is still under consideration.
Regulation 39(4)	Provide details of performance security received as referred to in sub-regulation (4A) of Regulation 36B	Yes	The SRA provided Fresh Performance Bank Guarantee of Rs. 22,50,000 as directed by this Tribunal vide its order dated 28.05.2024

3. We have heard the Learned Counsel for the RP and have carefully pursued all the pleadings placed on the records. It is noted that the CoC approved the revised Resolution Plan of M/s Kasturi Lal Ashok Kumar by 80.63% votes and as such it is not necessary for us to go into details of the commercial wisdom of CoC. We proceed to examine the plan in light of provisions contained in sections 30(2) and 31 of the Code read with Regulation 38 of the IBBI (CIRP of the Corporate Debtor) Regulations, 2016. The Resolution Professional has placed on record the compliance certificate in revised Form-H. It is seen that the fair value of the assets of the Corporate Debtor is Rs. 1,74,79,104.29 /- whereas, the liquidation value of the corporate debtor is Rs. 1,27,94,710.79 /-. The Resolution Plan value as proposed by the Successful Resolution Applicant is of Rs.1,62,00,000/-.



4. It is noted that in an application, being IA(I.B.C.)/310(CH)/2025, this Tribunal considered the rejection of the claim filed by the Assistant Commissioner of State Tax amounting to ₹2,65,87,984/-, comprising ₹79,28,884/- under the PVAT Act and ₹1,86,59,100/- towards GST interest and penalties. This Tribunal has held that the statutory dues of the Government are liable to be considered by the Resolution Professional even at this stage. However, it has been directed that the applicant department shall revise its claim by excluding the amounts arising during the moratorium period. The Resolution Professional was accordingly directed vide order dated 08.12.2025 to place the revised claim before the Committee of Creditors for appropriate consideration, admit the same in the Resolution Plan, and to file a revised Form H, if required, reflecting the distribution amongst the stakeholders.

5. Furthermore, in IA(I.B.C.)/1857(CH)/2025, the issue was whether the claim of the Employees Provident Fund Organisation (EPFO) amounting to ₹6,29,281/- was liable to be admitted and paid by the Resolution Professional, despite delay and computation beyond the CIRP period. This Tribunal vide its order dated 08.12.2025 observed that the Corporate Debtor had ceased operations prior to the commencement of CIRP on 12.10.2022, whereas the claim had been computed up to November 2024 and directed the applicant department to re-compute its dues accordingly. The Resolution Professional has been directed to consider the revised claim for admission and payment in accordance with law.



6. In order to obtain the approval of the Adjudicating Authority, the Resolution Plan should adhere to the following requirements as per section 30(2) of the Code and Regulation 38 of the CIRP Regulations thereunder:-

i. It should provide for the payment of corporate insolvency resolution process costs in priority to the repayment of other debts of the corporate debtor.

[Section 30(2)(a)]

ii. The repayment of the debts of operational creditors should not be less than the amount to be paid to such creditors in the event of liquidation of the corporate debtor under section 53 of the Code, or the amount that would have been paid to the said creditors if the amount to be distributed under the resolution plan had been distributed in accordance of section 53(1) of the Code.

Moreover, the payment to the operational creditor is to be made in priority over the financial creditor;

Further, the repayment of the debts of dissenting financial creditors should not be less than the amount that would have been paid to such creditors in the event of liquidation of the corporate debtor under section 53 of the Code and the payment to said dissenting financial creditor is to be made in priority to the consenting financial creditors.

[Section 30(2)(b) read with CIRP Regulation 38(1)(a) & 38(1)(b)];

iii. Provides for the management of the affairs of the corporate debtor after approval of the resolution plan.

[Section 30(2)(c) read with CIRP Regulation 38(2)(b)];



iv. The implementation and supervision of the resolution plan.

[Section 30(2)(d) read with CIRP Regulation 38(2)(c)]

v. It does not contravene any of the provisions of the law for the time being in force.

[Section 30(2)(e)];

vi. It conforms to such other requirements as may be specified by the Board.

[Section 30(2)(f)]

Such other requirements of the Resolution Plan as detailed in IBBI (Resolution Process for Corporate Person) Regulations, 2016 which are not covered above, are as under:

a. The Resolution Plan should include a statement as to how it has dealt with the interest of all stakeholders including financial creditors and operational creditors of the corporate debtor.

[CIRP Regulation 38 (1A)]

b. The Resolution Plan should include a statement giving details as to whether the Resolution Applicant or any of its related parties has at any time failed to implement or caused the failure of implementation of any other Resolution Plan which was approved by the Adjudicating Authority.

[CIRP Regulation 38 (1B)]

c. The Resolution Plan should contain the term of the plan and its implementation schedule.

[CIRP Regulation 38(2)(a)]



d. The Resolution Plan should also demonstrate that it addresses the cause of default; is feasible and viable; has provisions for its effective implementation; has provisions for approval required and timeline for the same. Further, that the resolution applicant has the capability to implement the Resolution Plan.

[CIRP Regulation 38(3)]

7. In view of the provisions of the Code as summarized hereinabove, the Resolution Plan is examined as follows:-

i. The Resolution Plan provides for payment of CIRP cost in priority over any other payments/debts of the Corporate Debtor, out of the amount proposed to be paid in the form of initial working capital. It provides for the actual CIRP cost incurred. A provision of Rs. 15,00,000 is made in this regard. Any other cost of the quantum and nature as was regularly being incurred during the CIRP period shall be paid in full after the approval of resolution plan by the COC till the approval by NCLT. It also provides that any CIRP cost of such quantum which is exceptional and not being regularly incurred during the CIRP period shall be paid in full, provided all the supporting documents of such cost is shared to RA in original and is also approved by COC. Thus, the provisions of Section 30(2)(a) are complied with.

ii. There have been two CoC Members - one **Canara Bank** (Secured Financial Creditor) having 80.63% voting shares and the other **Punjab National Bank** (Unsecured Financial Creditor) having 19.37% voting shares. The Canara Bank voted in favour of the Resolution Plan



whereas, Punjab National Bank voted against it. Thus, Punjab National Bank is the dissenting Unsecured Financial Creditor. The Resolution Plan provides for the payment of Rs. 1,00,000 to this dissenting (unsecured) Financial Creditor. As provided in Section 30 (2) (b) of the Code, repayment of the debt to dissenting Financial Creditor should not be less than the amount that would have been paid to such creditor, in the event of liquidation , under Section 53 of the code and the same to be made in priority.

Further, as against the total admitted dues of Operational Creditor at Rs. 6,94,51,994 /-, the Resolution Plan provides for payment of an amount of Rs.2,00,000 only which is 0.29% of their admitted claim. As provided under Section 30(2)(b) of the Code, the repayment of debts of an Operational Creditor should not be less than amount to be paid to such Creditor under Section 53 of the Code or the amount that would have been paid to such Creditor if the amount is distributed under the Resolution Plan had been distributed in accordance with Section 53(1) of the Code.

In the present case, the liquidation value of the Corporate Debtor is Rs. 1,27,94,710, whereas the Resolution Plan value is Rs. 1,62,00,000 against the total admitted claim of Rs. 14,39,83,495 including a debt of Rs. 6,00,94,445 admitted in favour of the Secured Financial Creditor (Canara Bank) alone. Even if this Liquidation Value or the plan value were to be distributed strictly in accordance with the priority set out under Section 53 of the Code, the entire amount would be fully



absorbed by the higher-priority stakeholders, particularly the Secured Financial Creditors, leaving no residual amount for the dissenting Financial Creditor or to the Operational Creditors. Despite this, the Resolution Plan provides for payment of Rs. 1,00,000 to dissenting creditor and Rs. 2,00,000 to the Operational Creditors, though the amount so proposed is quite nominal compared to their admitted claims.

Thus, as regards the payment of the dissenting creditor or the Operational Creditor, the Resolution Plan is compliant of the provisions of Section 30(2)(b) of the Code read with Regulations 38(1)(a) and 38(1)(b) of the CIRP Regulations.

iii. Prior to the initiation of the CIRP, the Board of Directors and the shareholders of the Corporate Debtor were consisted of the following:-

BOARD OF DIRECTORS OF CORPORATE DEBTOR

Sr. No.	Name	Designation	Address
1.	Mr. Naresh Kumar Jain	Director DIN: 00374467	Jain Mohalla, Samana, District Patiala, Punjab- 147101.
2.	Mr. Kuldeep Singh	Director DIN: 08394206	Near Chintpurni mandir punjpir road, Amamgarh, Samana, District Patiala, Punjab-147101.

SHAREHOLDERS OF CORPORATE DEBTOR

Sr. No.	Name	No. of Shares	% Shareholding
1.	Mr Naresh Kumar Jain	1,32,400	7.28%
2.	Mr Prince Jain	1,65,100	9.08%
3.	Smt. Anupama Jain	2,46,350	13.54%
4.	Mr. Gautam Jain	1,91,500	10.52%
5.	Mr. Vardhman Jain	2,12,000	11.65%
6.	Mrs Monika Jain	1,39,000	7.64%
7.	Mr. Kailash Jain	2,46,450	13.55%
8.	Mr. Rishab Jain	1,21,200	6.66%
9.	Mr. Dinesh Kumar Jain	53,000	2.91%



10.	Mr. Sham lal	80,000	4.40%
11.	Mr. Binu Dhiman	70,000	3.85%
12.	Mr. Rajesh Kumar	80,000	4.40%
13.	Mr. Rajesh Jain	80,000	4.40%
14.	Others	2,000	0.12%
	Total	18,19,000	100.00%

The Resolution Plan provides for reconstitution of the Board on its approval by the Adjudicating Authority. It also provides that from the NCLT approval date till the Board reconstitution date, management of the Company will be supervised by the Monitoring Committee comprising of 1 (one) Representative of all the Financial Creditors of Corporate Debtor and 01 (one) Authorised Representative of the Resolution Applicant and 01 (one) Existing Resolution Professional (who shall be its Chairman); and from the date of the Reconstitution of the Board, the management of the Company would be in the hands of the Board of Directors. Thus, we find that adequate provisions have been made for the management of the affairs of the Corporate Debtor after approval of the Resolution Plan and as such, the provisions of Section 30(2)(c) of the Code r/w Regulation 38(2)(b) of the CIRP Regulations has been complied with.

iv. The Implementation and Supervision of the Resolution Plan is entrusted to the Monitoring Committee. It is also provided that from the date of NCLT approval till the constitution of the Monitoring Committee, the Resolution Professional shall supervise the implementation of the Resolution Plan. Hence, the provisions of Section 30(2)(d) of the Code r/w Regulation 38(2)(c) is complied with.



v. The RP has submitted that the plan does not contravene any provisions of law. We also noted that the plan does not contravene any provisions of the law for the time being in force. Thereby, the provisions of Section 30(2)(e) of the Code has been complied with

vi. The Resolution Plan also conforms to other IBBI Regulations as given hereunder:

a. The Resolution Plan adequately deals with the interest of all stakeholders, including Financial Creditors and Operational Creditors of the Corporate Debtor. Thereby, the plan is in compliance with Regulation 38(1A) of the CIRP Regulations.

b. It is submitted that neither the Resolution Applicant nor any of its related parties have at any time failed to implement or contributed to the failure of implementation of any other Resolution Plan which was approved by the Adjudicating Authority. Thereby, the plan is in compliance with CIRP Regulation 38(1B) of the CIRP Regulations.

c. The Resolution Applicant proposes to implement this Resolution Plan within a period of 36 days from the date of approval of the Plan by this Tribunal in accordance with the Implementation Schedule and other terms contained in this Resolution Plan. The term of the plan and its implementation schedule has been provided in Clause 11 of the Resolution Plan, which is as follows:-



S. No.	Activity	Timeline
1.	Issuance of Letter of Intent by the CoC	A
2.	Payment of the Performance Security	A+7 Business days
3.	Approval by NCLT ('Effective Date')	E
4.	Notice on the Company's Website of the Approved NCLT order. If Any	E+3 days
5.	Appointment of a Monitoring Committee	E+3 days
6.	Intimation to the CoC, IBBI, RBI, MCA, Tax authorities and various other statutory authorities (as applicable)	E+15 days
7.	Intimation to all the Creditors, existing shareholders and other stakeholders of the Company	E+15 days
8.	Infusion of Total Resolution Plan Amount by the Resolution Applicant	E+30 days
9.	Cancellation of existing Equity Shares as proposed under the Plan and allotment of Shares of the Company to the RA and its nominees (to meet the minimum shareholders requirement) along with all requisite filings	E+30 days
10.	Payment of CIRP Costs at actuals up to the Effective Date	E+31 days
11.	Settlement of claims of Operational Creditors along with issuance of NOC	E+32 days
12.	Payment of Liquidation Value to Dissenting Financial Creditors along with issuance of NOC	E+32 days
13.	Appointment of the nominees of the RA as the directors of the Board and resignation of the current directors on the Board of directors of the Company	E+33 days
14.	Management of Company (i) Appointment of a CEO, CFO, COO and other key management personnel of the Company as determined by the Resolution Applicant; and (ii) Appointment of statutory auditors	E+33 days
15.	Settlement of claims of Assenting Financial Creditors along with issuance of NOC	E+33 days
16.	Handover of all security documents by lender (agent) to the Resolution Applicant	E+33 days
17.	Execution of material agreements giving effect to the Resolution Plan, if required	E+36 days



Thereby, Regulation 38(2)(a) of the CIRP Regulations has been complied with.

d. The Resolution Plan addresses the cause of default; is feasible and viable; has provisions for its effective implementation; contains provisions for approval required and the timeline for the same. Further, that the Resolution Applicant has the capability to implement the Resolution Plan. Thus, Regulation 38(3) of the CIRP Regulations has been complied with.

8. It is to be noted that the Resolution Applicant is having expertise in the business of Rice Milling, sale and purchase of wheat and paddy on behalf of farmers as commission agents. Further, the Applicant is an expert with a team of leading technical consultants for the rice milling industry based in the Indian Subcontinent (land of Basmati Rice) with over 20 years of experience, trained manpower and the latest know-how in rice milling technology from leading manufacturers. The Resolution Plan provided settlement of the liabilities of corporate debtor, which has remained outstanding as on the Insolvency Commencement date through repayment plan of Rs. 1,62,00,000 (rounded off) (Rupees One Crore Sixty two Lacs Only) less deduction of Earnest Money Deposit (EMD) of Rs. 15,00,000 (Rupees Fifteen Lacs Only). Further, the Plan stated cancellation of all existing paid-up shares of the corporate debtor including any share warrants, any other known or unknown agreements, rights, documents which gives the rights to anyone to subscribe into the share capital of the Corporate Debtor, without



any further action of Corporate Debtor on approval of the resolution plan. However, the Authorised share capital will remain intact and will be used to issue fresh equity shares after approval of resolution plan by Adjudicating Authority. As part of the Resolution Plan, the entire share capital of CD shall be restructured in tranches within a span of time such that the resultant shareholding of CD is as follows:-

The Revised Share Capital Structure after the Plan Approval

Sr. No.	Name of the Shareholder	No. of Shares Held
1.	<i>Nominee of Ashok Kumar</i>	1
2.	<i>Ashok Kumar</i>	18,18,999
	Total	18,19,000

Funds will be inducted from their own resources. The Net worth of Resolution Applicant as on 02.01.2023 is stated to be Rs. 5.32 Cr. A copy of Fixed Deposit, Amounting to Rs 1.5 Cr. Dated 04.02.2023 are also annexed with the plan; and as such the Successful Resolution Applicant has sufficient net worth and current assets to source the funding of this Resolution Plan.

9. It is noted that IA(I.B.C.)/2260(CH)/2023 has been filed under Section 66 of the Insolvency and Bankruptcy Code, 2016 by the Resolution Professional, seeking appropriate directions against the Respondents in respect of alleged fraudulent transactions entered into with an intent to defraud the creditors of the Corporate Debtor. The said application is presently pending adjudication. In respect to this matter, the Resolution



Applicant in Clause 9.3.1 of the Plan has provided that if any PUFÉ application under Sections 43, 45, 47, 50 or 66 of the Code during CIRP period has been filed by the Resolution Professional, Resolution Professional shall pursue the application post approval of resolution plan by Adjudicating Authority and recovery, if any shall belong to Secured Financial Creditor.

10. The Relief and Concessions are sought by the Resolution Applicant in Clause 13 of the Resolution Plan. The Resolution Applicant is seeking certain reliefs and concessions which are in the nature of prayer and not a condition precedent for the implementation of the Resolution Plan. The relief and concession so sought by the SRA are summarised here as under:-

- (i) The Central Board of Direct Taxes (CBDT) or other relevant authorities to exempt the Resolution Applicant and the Company from all taxes under the Income Tax Act, 1961 (including Section 115JB) arising from transactions under the Resolution Plan.
- (ii) The Company shall be allowed to continue enjoying and avail all tax benefits, deductions, exemptions including carry-forward of losses under the Income Tax Act, even if statutory returns or forms were not filed on time. The Resolution Applicant shall be allowed to file pending income tax returns, which will be treated as filed on time without any penalty, fine, or additional charges.
- (iii) CBDT shall provide relief from all pending direct tax litigations and waive all related tax dues, interest, penalties, and prosecution. Delays in filing Income Tax returns, TDS returns, and related reports should also be condoned.



(iv) Any attachments on assets, properties, bank accounts, or projects of the Corporate Debtor created by any Government Authority or any other relevant authority including but not limited to Income Tax Department, Service Tax Department, GST Department, Sales Tax Department, Excise Department, PF, ESI, Enforcement Directorate, PUNSUP or any other authority or department shall stand cancelled/ceased/settled upon approval of the Resolution Plan. All pending litigations, suits, arbitrations, civil or criminal proceedings against the Corporate Debtor shall stand abated or disposed of.

(v) All expired, suspended, or cancelled licenses and government approvals should be renewed for the period for which they were originally granted, starting from the Effective Date of the Plan without additional fees, penalties, or interest, allowing the Company to continue operations

(vi) Government authorities to waive any and all demand or notice of demand in relation to making payments towards the transfer charges or unearned amount related to the Company's properties arising due to transactions under the Resolution Plan.

(vii) All penalties, taxes, charges, levies, and cess related to past non-compliances prior to the Cut-Off Date shall be waived, and the Company and Applicant shall not be held liable.

(viii) Any rights of persons (whether exercisable now or in the future and whether contingent or not) to demand allotment, issue, sale,



transfer of shares, or loans due to change of control shall stand permanently unconditionally and irrevocably extinguished.

(ix) Authorities to exempt the Applicant and the Company from taxes under the Goods and Services Tax Act, 2017 arising from transactions under the Resolution Plan.

(x) All government authorities to waive Non-Compliances of the Company prior to the Plan Effective Date including but not limited to Companies Act, 2013, the Industrial Disputes Act, 1947, the Labour Laws, Income tax Act 1961, VAT, Service Tax Act, GST, sales tax, the relevant shops and establishment acts and rules, circulars and regulations of each of the above legislations.

(xi) All government authorities to grant any additional reliefs, concessions, or dispensations required for effective implementation of the Resolution Plan.

11. The Resolution Applicant has also sought that upon approval of the Resolution Plan by the National Company Law Tribunal (“NCLT”), all non-compliances, dues, liabilities, obligations, claims, breaches, and defaults of Vishal Rice Exports Private Limited, pertaining to the period prior to the Effective Date / Insolvency Commencement Date, including but not limited to those relating to taxes, statutory dues, material litigations, ongoing investigations, and statutory obligations as set out in the Information Memorandum, shall stand irrevocably and unconditionally waived and extinguished.



12. We have considered the prayers made as regards to various relief and concessions as sought for and stated in Clause 13 of the Resolution Plan. We have also considered as to how the unpaid liabilities should be dealt with.

12.1. We find that the unpaid liabilities after the approval of the plan and the claims not filed at all with the RP during the CIRP and those which are not included in the Plan should be extinguished in view of the law settled by the Hon'ble Supreme Court in the case of **Ghanshyam Mishra and Sons Private Limited Vs. Edelweiss Asset Reconstruction Company Limited and Ors. Reported in MANU/SC/0273/2021** which reads as follows:

86. ".....The legislative intent behind this is to freeze all the claims so that the resolution applicant starts on a clean slate and is not flung with any surprise claims. If that is permitted, the very calculations on the basis of which the resolution applicant submits its plans, would go haywire and the plan would be unworkable. 87. We have no hesitation to say that the word "other stakeholders" would squarely cover the Central Government, any State Government or any local authorities. The legislature, noticing that on account of obvious omission, certain tax authorities were not abiding by the mandate of I&B Code and continuing with the proceedings, has brought out the 2019 amendment so as to cure the said mischief....."

12.2. After the corporate debtor is taken over by the new management, no inquiry, investigation, litigation etc. will be made against it in relation to the period prior to the CIRP.

12.3. As regards allowing carry forward losses, it is to be noted that following the process of the CIRP and on extinguishment of the unpaid liabilities, the



financial accounts are to be recasted by providing a suitable accounting entries whereby, the extinguished liabilities together with the extinguished share capital of the previous management would get converted into the Capital/General Reserve and as such the accumulated losses, if any, will have to be first of all set off against such a Reserve. For balance amount, if any, the SRA can approach the Income Tax Authorities.

12.4. As regards other reliefs and concessions sought by the resolution applicant, we direct the said successful resolution applicant to approach the concerned statutory authorities for those concessions and those authorities will consider the same as per the provisions of law under the relevant Acts keeping in view the intent and object of the IBC.

12.5. The relief which is not specifically provided should not be treated as being allowed. Even if no reliefs or concessions are granted by the authorities concerned then also SRA is bound to implement the resolution plan effectively without taking shelter of refusal by authorities concerned by non-implementation of the plan. Nevertheless, the SRA will also have liberty to file an appropriate application if so required for seeking any specific relief which is not granted hereinabove and/or denied by the concerned authority.

13. The proviso to sub-section (1) of Section 31 of the Code, 2016 states that before passing any Order for approval of the Resolution Plan, the Adjudicating Authority should also be satisfied that the Resolution Plan has provisions for its effective implementation. In view of the discussions and findings as made hereinabove, we are satisfied that the Resolution Plan in question meets the requirements as referred to in Sub-Section (2) of Section



30 of the IBC and the Resolution Plan also contains the provisions for its effective implementation, and as a result, we hereby approve the Resolution Plan submitted by **M/s Kasturi Lal Ashok Kumar** for the Corporate Debtor subject to the payments onto the claims of the Assistant Commissioner of State Tax and EPFO as directed (refer Para 4 and 5 herein above) and proceed to pass the following Order:

- (i) The Resolution Plan shall be binding on the Corporate Debtor, its employees, members, creditors including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force is due, guarantors and other Stakeholders involved in the Resolution Plan,
- (ii) The approved 'Resolution Plan' shall become effective from the date of this Order,
- (iii) The Order of moratorium dated 12.10.2022 passed by this Adjudicating Authority under section 14 of the IBC, 2016 shall cease to have effect from the date of this Order,
- (iv) The Resolution Professional shall forthwith send a copy of this Order to the parties and the Resolution Applicant,
- (v) The Resolution Professional shall forward all records relating to the conduct of the Corporate Insolvency Resolution Process and



Resolution Plan to the Insolvency and Bankruptcy Board of India to be recorded in its database.

14. As a result, the Application bearing **IA(IBC)/1683/(CH)/2023 stands allowed and disposed of.**

Sd/-

(K.K. SINGH)
MEMBER (TECHNICAL)
INDERJEET

Sd/-

(K. BISWAL)
MEMBER (JUDICIAL)