

Sl. No. 2

NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH
(Virtual Hearing)

PRESENT: SHRI RAJEEV BHARDWAJ – MEMBER (JUDICIAL)
: SHRI SANJAY PURI – MEMBER (TECHNICAL)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 16.01.2025 AT 12.15 P.M.

TC/CP. Nos.	IA No.	Present stage of the case	Section/Rule	Name of Parties
CP(IB)/78/7/AMR/2020	Main Case	Admitted on 04.04.2022	7 of IBC	Raghav Bhartia Vs Circar Jute Mills Pvt Ltd
	IA(IBC)(PLAN)/2/2024	For Orders	U/s 30(6) & 31(1) of IBC, 2016 R/w Reg 39(4) of IBBI Regulations, 2016	Mr. Kurapati Singarayya Chowdary, RP for Circar Jute Mills Pvt Ltd

ORDER

IA (IBC) (PLAN)/2/2024:

Present: Ms. Mummaneni Vazra Laxmi, Ld. Counsel for the Applicant/RP.

Orders pronounced. IA (IBC) (PLAN)/2/2024 is allowed and recorded vide separate sheets.

Sd/-

SANJAY PURI
MEMBER (TECHNICAL)

Sd/-

RAJEEV BHARDWAJ
MEMBER (JUDICIAL)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH AT MANGALAGIRI**

**IA (IBC) (PLAN)/2/2024
In
CP (IB)/78/7/AMR/2020**

[Application filed under Section 30(6) & 31(1) of the Insolvency and Bankruptcy Code, 2016 read with Regulation 39(4) of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016]

Filed by:

**Mr. Kurapati Singarayya Chowdary,
Resolution Professional for M/s. Circar Jute Mills Private Limited,
Reg. No: IBBI/IPA003/IP-N000149/2017-2018/11728
Flat No: 104, Kavuri Supreme Enclave, Kavuri Supreme Enclave,
Kavuri Hills, Madhapur,
Hyderabad – 500033. ... Applicant/Resolution Professional**

In the matter of:

Raghav Bhartia ... Financial Creditor/Petitioner

AND

M/s. Circar Jute Mills Private Limited ... Corporate Debtor

Date of Order: 16.01.2025

CORAM:

**SHRI RAJEEV BHARDWAJ, HON'BLE MEMBER (JUDICIAL)
SHRI SANJAY PURI, HON'BLE MEMBER (TECHNICAL)**

Appearance:

For the Applicant/RP : Ms. Mummaneni Vazra Lakshmi, Advocate

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ORDER
[PER: BENCH]

1. The present Application is filed by **Mr. Kurapati Singarayya Chowdary** (“Applicant”/“Resolution Professional” or “RP”), the Resolution Professional of **M/s. Circar Jute Mills Private Limited** (“Corporate Debtor”), under Section 30(6) & 31(1) of the Insolvency and Bankruptcy Code, 2016 (“Code”) read with Regulation 39(4) of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016 (“CIRP Regulations”), seeking approval of the Resolution Plan submitted by **M/s. Bindawala Banijya Limited** (“Successful Resolution Applicant” or “SRA”), which has been approved by the members of Committee of Creditors (“CoC”) with 100% voting.
2. **Brief facts of the Application are as follows:**
 - a. The Tribunal admitted the petition filed by the Financial Creditor on 04.04.2022, ordered the commencement of the CIRP against the Corporate Debtor, and appointed Mr. Ajay Kumar Jain as the Interim Resolution Professional (IRP). The IRP issued public announcement in Form – A, constituted the Committee of Creditors as per section 21 of the Code, and conducted the first meeting of CoC on 04.05.2022. In the same meeting, the CoC decided to replace the IRP, and the Financial Creditor filed an IA (IBC)/97/2022 for replacing the IRP. The Tribunal appointed the Applicant as the Resolution Professional, who handed over the records to the Applicant on 29.08.2022.
 - b. The Resolution Professional called further evidences from creditors to allow admission of claims, prepared the updated List of Creditors as

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per Regulation 13 of CIRP Regulations, 2016 and reconstituted the CoC as per section 21 of the Code and Regulation 17 of CIRP Regulations, 2016. The Resolution Professional filed an application (IA/236/2022) to bring on record the **report** constituting Committee of Creditors and for filing list of Creditors, which was taken on record by this Tribunal vide order dated 11.10.2022.

- c. The Resolution Professional conducted the 7th CoC meeting on 26.09.2022, where the members agreed to issue Expression of Interest (EoI) and approved the eligibility criteria of the Prospective Resolution Applicants (PRAs) under section 25(2) (h) of the Code. The RP was instructed to file an application seeking extension of CIRP for 90 days with 71.46% voting.
- d. The Resolution Professional received seven EOIs from the PRAs, and three submitted their resolution plans before the due date i.e., 12.12.2022. The Resolution Applicants were Shri Guduru Siva Ramakrishna, Smt. T. Padma and Venue Feeds India (P) Limited, and Shri. Gaurang Bhartia and Smt. Manju Bhartia.
- e. In the 10th CoC meeting held on 18.01.2023, the RP submitted the resolution plans before the CoC members, but the CoC members rejected two out of the three plans. The remaining plan was from the suspended Board Members, Shri Gaurang Bhartia and Smt. Manju Bhartia, with a bid of Rs. 20:21 Crores with NPV of Rs. 16 Crores.
- f. On 04.02.2023, the Resolution Applicants submitted their revised resolution plan to the RP for a consideration of Rs. 12,47,05, 278/- (NPV of Rs. 6,36,53,440/-), a substantial reduction from the originally submitted plan amount. The Resolution Applicants had not addressed

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the non-compliances notified in the 10th CoC meeting, thus not in conformity with the resolution passed in that meeting.

- g. The RP informed the CoC members about the revised resolution plan of Shri Gaurang Bhartia and Smt Manju Bhartia during the 11th CoC meeting. Encord Trading (P) Ltd representative, Shri Hemant Gupta, requested clarifications on the revised plan's lower amount and the non-compliances notified in the 10th CoC meeting, as per the resolution applicant's response. In response, the Resolution Applicants, Shri Gaurang Bhartia and Smt Manju Bhartia narrated the following reasons for the reduced amount in the revised proposal:

“a) Bindawala Cables & Conductors (P) Ltd and Midland Projects (P) Ltd were treated as unrelated parties and distributions made accordingly. As these two creditors are now declared as related parties by the Adjudicating Authority, their reduced share as appropriated to the related parties resulted in reduction of the bid amount

b) There are certain developments that have taken place after passing the resolution in the 10th CoC with regard to a statement attributed to the Chief Minister of AP regarding shifting of AP Capital to Vishakapatnam, which cast a shadow on the land values across.

c) It is now learnt that the land property of the Corporate Debtor is continuing as agricultural property, which requires lot of effort and amount to convert it into industrial/commercial.

d) It is now learnt that the land is not in the name of the Corporate Debtor, but in the name of its predecessor company, M/s Circar Fibres (P) Ltd.

e) There are certain pressures cropping up from local politicians.

f) With reference to the non-compliances pointed out in the previous meeting, the Resolution Applicant, substantiated his stand that they are non-compliances and there are judgment(s) given by few NCLT Benches, which include Amaravati Bench.”

- h. The Resolution Applicant (RA) submitted a resolution plan to the CoC, which was deemed contrary to the resolution passed in their 10th CoC meeting. The RP suggested the resolution be resubmitted within 72 hours, but the plan was resubmitted for Rs. 14.09. Crores, which was

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lower than the original bid amount of Rs. 20.21 Crores. The RP argued that the revised plan did not meet the spirit of the IBC, which focuses on maximization of value to stakeholders, fair and transparent CIRP process, and distribution of bid amount among all creditors. The RP treated the revised plan as no resolution plan and proposed liquidation of the CD.

- i. The CoC members requested the RP to put the resolutions relating to liquidation "ON HOLD" and passed a resolution authorizing the RP to seek extension of CIRP by 30 days. The RP filed IA (IBC)/73/2023, which was allowed by the Tribunal. In response to an email request from the CoC members, the RP convened the 13th CoC meeting on 23.03.2023, and with unanimous voting, the CoC agreed to extend the CIRP period for 60 days. The RP filed IA/119/2023, which was granted by the Tribunal on 18.04.2023.
- j. In the meanwhile one of the members of the CoC with 36.44% voting rights filed IA (IBC)/69/2023 before this Tribunal seeking for direction to the RP to place the non-compliant Resolution Plan before CoC. The RP conducted a 14th CoC meeting on 18.05.2023, which approved the extension of the CIRP period for 90 days. The RP filed IA/217/2023, which was allowed by the Tribunal. The CIRP was extended for 90 days from 31.05.2023 to 28.08.2023. The Tribunal disposed of IA/69/2023 with directions to convene a meeting of the CoC and place the revised/final resolution plan dated 11.02.2023 submitted by R2 before the CoC for discussion and voting.
- k. The resolution plan of Shri Gaurang Bhartia and Smt Manju Bhartia was placed before the CoC, and in the 15th CoC meeting, the resolution with a Bid amount of Rs.14,08,83,931/- (NPV of Rs. 808.19 Lakhs)

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was approved by 100% voting. The RP informed the Successful Resolution Applicant (SRA) and requested them to comply with the terms and conditions stipulated in the RFRP document. The SRA transferred an amount of Rs.1,00,00,000/- through NEFT into the account of the CD as the Performance Guarantee.

1. Accordingly, the RP filed an IA (IBC)/329/2023 for approval of the Resolution Plan submitted by Shri Gaurang Bhartia and Smt Manju Bhartia. However, the Tribunal rejected the plan, directing the RP to attempt a new resolution plan that meets the Code's requirements by issuing a Fresh Form – G notice and expressing interest from eligible PRAs. The relevant portion of the order dated 03.04.2024 is as follows:

“35. In the present case, the CoC not only acted in “capricious, arbitrary, irrational” manner but also approved the plan that contravenes the provisions of IBC. To that end, the CoC has failed to exercise its commercial wisdom in deciding on the Resolution Plan which in real sense is not only far below than the Liquidation value, it also contravenes the law. Therefore, we are of the considered view that the Resolution Plan proposed through this application is rejected.

36. The RP is directed to make another attempt for obtaining a Resolution Plan that meet requirements of the Code in letter and spirit by issue of fresh Form-G and invite fresh EoI from the eligible PRAs.

This IA is therefore dismissed with the above remarks.”

- m. The RP issued a notice for the 16th CoC meeting on 12.04.2024, following the Tribunal's order. The CoC members requested a postponement of the meeting for three weeks, citing an appeal against the Order dated 03.04.2024. However, the RP denied the request, stating that the following reasons for the delay were not acceptable:

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- a. The said request was received from only three members commanding an aggregate vote share of 36.44% in the CoC.
 - b. Other members commending vote share of 63.56% did not join in seeking postponement of the meeting.
 - c. The period request for the postponement i.e., 3 weeks from 16.04.2024 was too long a period and the Resolution Professional failed to see any merit in conceding to their request, if conceded to, will prolong the CIRP, which is already running beyond 330 days.
- n. The RP conducted a Zoom meeting on 16.04.2024 at 2.00 pm, but no members of the CoC attended. The meeting was adjourned to the next day, but none appeared until 2.30 pm. The RP conducted the 17th CoC meeting on 09.05.2024, but none of the members attended. The 18th CoC meeting on 09.05.2024 approved for an extension of the CIRP period with 74.98% voting, but the agenda item for issuance of Form-G was differed with, as the CoC had filed an appeal before the Hon'ble NCLAT, Chennai Bench.
- o. In the 19th CoC meeting held on 29.05.2024, the CoC approved to issue EoI in Form G, with the issue of Form G subject to the outcome of the appeals filed by the CoC members. The RP received 10 EoI's from PRAs, and the following three (3) were submitted their plans before the due date of 27.08.2024:
- a) Bindawala Banijya Limited
 - b) Mr. Gaurang Bhartia & Mrs. Manju Bhartia (Members of the Suspended Board) and
 - c) Mr. Sivachaitanya Saikam

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- p. The RP held the 21st CoC meeting on 31.08.2024, where resolution plans were opened and appraised by members of the CoC and Resolution Applicants. The RP also discussed pending compliances and requested an extension of the CIRP period for 60 days. The CoC approved the extension on 03.09.2024, and the Tribunal extended the CIRP period for 60 days on 09.09.2024, ending on 09.11.2024. After reviewing resolution plans from PRAs, the RP negotiated for better plans and extended time for revised plans submission. Two Resolution Applicants, Bindawala Banijya Limited and Sivachaitanya Saikam, submitted their revised plans. However, Gaurang Bhartia and Manju Bhartia (Suspended Board Members) requested another extension, which was not granted.
- q. The RP conducted the 23rd CoC meeting on 23.10.2024 and details of the following resolutions plans were presented to the CoC:

Sl. No.	Name of the Resolution Applicant	Amount in Rs.
1	Bindanwala Banijya Ltd, represented by Shri Anurag Bindanwala. i) Upfront cash Rs. 6,87,68,000/- (Cash paid in 90 days) ii) Debt Instruments Rs.15,03,75,000/- (Debt instruments issued in 90 days, without interest).	Rs. 21,91,44,000
2	Shri Guarang Bhartia & Smt. Manju Bhartia, represented by Shri Gaurang Bhartia: The PRA wanted 2 days to revise the plan. It is agreed that 2 days' time will be allowed to all PRAs subject to consent by the CoC. (Earlier plan)	Rs. 3,84,22,525
3	Shri Sivachaitanya Saikam Upfront cash payable within 89 days from the date of approval.	Rs. 11,43,00,000

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RP requested an extension from the CoC for Mr. Gaurang Bhartia, who was denied the opportunity earlier. The RP submitted a request for a 2-day extension, but the CoC declined the request after reviewing the resolution plans.

- r. The RP conducted the 24th CoC meeting on 01.11.2024 to deliberate on three resolution plans received. The RP presented reports on their due diligence, eligibility criteria, compliance with the Code and regulations, and evaluation on the Evaluation Matrix provided along with the RFRP. However, prospective resolution applicants Mr. Gaurang Bhartia and Mr. Sivachaitanya Saikam raised objections regarding the CIRP period and RFRP document. The CoC members argued that the CIRP period extended beyond timelines, making further grant of time for submitting a revised plan impossible.
- s. After deliberations, the members found the plan submitted by M/s. Bindawala Banijya Limited feasible and advised the RP to put the plan to vote. Accordingly, the members of the CoC with 100% voting rights approved the Resolution Plan submitted by M/s. Bindawala Banijya Limited.
- t. The RP informed the Successful Resolution Applicant (SRA) about the CoC's approval of the Resolution Plan and requested compliance with RFRP terms. PRAs whose plans did not find favour were also informed. As per RFRP, the SRA transferred Rs.10,00,000/- into the CD account as Performance Security.
- u. The Resolution applicant is seeking grants and reliefs from the Tribunal to avoid delays in obtaining approvals and permissions. The approved resolution plan, as per Section 31 of IBC, 2016 is binding on the CD,

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- its employees, members, creditors, and stakeholders involved in the plan. To avoid delays, the applicant is seeking certain grants or reliefs from the Tribunal to avoid any issues with the approval process.
- v. The Resolution Professional has submitted Form - H under regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 for compliance purposes.
 - w. The constitution of the Monitoring Committee consisting of Three (3) members for implementation of the Resolution Plan as proposed by the Successful Resolution Applicant and approved by the Committee of Creditors, as given below:
 - a) Mr. Kurapati Singarayya Chowdary, Resolution Professional, shall be the Chairman of the Monitoring Committee.
 - b) One Representative of the Successful Resolution Applicant and
 - c) One Representative of the Committee of Creditors.
 - x. Therefore, in view of the above facts mentioned, the Resolution Professional is seeking the Tribunal for approval of the Resolution Plan submitted by M/s. Bindawala Banijya Limited, which has been approved by the CoC with 100% voting under section 31(1) of the Insolvency and Bankruptcy code, 2016.
3. In the above backdrop, we have heard Ms. Mummaneni Vazra Lakshmi, Ld. Counsel for the Resolution Professional Mr. Kurapati Singarayya Chowdary and perused the record.
4. This Adjudicating Authority rejected the Resolution Plan approval Application filed by the Resolution Professional and directed them to obtain

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a feasible resolution plan that met the requirements of the Code, vide order dated 03.04.2024 passed in IA (IBC)/329/2023 with the following observations:

“31. The reasons given by the CoC for approving the Resolution Plan submitted by the Bhartia’s are also insubstantial. Merely because the gross offer of Rs. 14.09 Crores (which is misleading) was apparently higher than the Liquidation Value of Rs. 11.84 Crores, the CoC preferred to go with the Resolution Plan. The CoC did not even consider that this misleading gross offer of Rs. 14.09 Crores was less than the Fail Value of Rs. 15.55 Crores of the CD. The NPV of the plan of Rs.14,08,83,931 was only Rs.808.19 Lakhs, and out of which Rs. 235 lakhs will be appropriated by the Resolution Applicant herself. Acceptance of such a self-serving plan, which would allow the Members of the suspended Board to take over the CD, with assets worth Rs. 40 Crores, for a meagre sum of Rs. 1.5 Crores shows complete lack of commercial wisdom on part of the CoC.

.....
“35. In the present case, the CoC not only acted in “capricious, arbitrary, irrational” manner but also approved the plan that contravenes the provisions of IBC. To that end, the CoC has failed to exercise its commercial wisdom in deciding on the Resolution Plan which in real sense is not only far below than the Liquidation value, it also contravenes the law. Therefore, we are of the considered view that the Resolution Plan proposed through this application is rejected.

36. The RP is directed to make another attempt for obtaining a Resolution Plan that meet requirements of the Code in letter and spirit by issue of fresh Form-G and invite fresh EoI from the eligible PRAs.

This IA is therefore dismissed with the above remarks.”

5. After this Tribunal’s order, the Resolution Professional conducted the 19th CoC meeting on 29.05.2024 to issue an Expression of Interest in Form – G, subject to the outcome of the appeals filed by CoC members. The Resolution

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Professional received 10 (ten) Expressions of Interests from prospective resolution applicants, with three (3) submitting their plans before the due date of 27.08.2024: (i) Bindawala Banijya Limited, (ii) Mr. Gaurang Bhartia & Mrs. Manju Bhartia (Suspended Board Members), and (iii) Mr. Sivachaitanya Saikam.

6. Further, in the 24th CoC meeting held on 01.11.2024, the CoC approved M/s. Bindawala Banijya Limited's Resolution Plan with 100% voting, with the following resolution:

“RESOLVED that the committee of creditors hereby approves the Resolution Plan submitted by Bindawala Banijya Limited with Evaluation Matrix score of 84.40 out of 100 (Maximum score) and with an aggregate offer amount of Rs. 2191.44 lakhs, consisting of Upfront cash of Rs. 687.68 lakhs (within 90 days, from the date of approval by Hon’ble Adjudicating Authority) and deferred amount of Rs. 1503.75 lakhs payable within 5 years, from the date of approval by Hon’ble Adjudicating Authority, with zero interest backed by unsecured debt instrument.”

The voting share of the members of the CoC is as follows:

S. No	Name of the Member	Voting share (%)	Voted in favour of Resolution Plan submitted by M/s. Bindawala Banijya Limited.
1.	Encord Trading (P) Ltd.	3.13	3.13
2.	Excel Commosale (P) Ltd.	33.31	33.31
3.	Norisys Technologies (P) Ltd.	63.56	63.56
	Total	100%	100%

7. Therefore, it can be seen that the plan amount of Rs.21,91,44,000/- offered by the Successful Resolution Applicant is more than the Fair Value of the Corporate Debtor which is Rs.15.55 Crores, and out of which upfront cash

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of Rs.687.68 lakhs will be payable within 90 days of approval, and a deferred amount of Rs. 1503.75 lakhs payable within 5 years with zero interest backed by the unsecured debt instrument. **The salient features of the Resolution Plan are as follows:**

S.No.	Nature of dues	Amount of Claim admitted by RP	Total amount offered	Timeline
1.	CIRP Costs	-	Rs.50,00,000	Within 30 days from the NCLT order.
2.	Debts due to operational creditors other than employees and workmen	Rs.2,68,21,848	Rs.2,68,000	Within 30 days from the NCLT order.
3.	Debts due to financial creditors (unrelated FC)	Rs.7,31,25,141	Rs.19,03,75,000/- (Rs.4,00,00,000 Cash upfront) (Rs.15,03,75,000- deferred payment)	Cash component of Rs. 4,00,00,000/- within 90 days. Rest of Rs. 15,03,75,000/- as deferred payments to be made by issuance of Debt instruments with 0% interest rate within 90 days from the date of approval by the Hon'ble Adjudicating Authority which is payable in 5 years.
4.	Payments to related unsecured financial creditor	Rs.30,76,25,716		
5.	Payment to Manju Bhartia (Secured Creditor as per subrogation) from BOB	Rs. 2,35,00,000	Rs.2,35,00,000	Within 90 days from the NCLT order.
6.	Others	Nil	Nil	NA
	Total	Rs.43,10,72,705	Rs.21,91,43,000	

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8. Overview of Resolution Applicant:

The Successful Resolution Applicant M/s. Bindawala Banijya Limited (BBL) set up in 1981, is a finance company registered with the Reserve Bank of India as a non-deposit taking non-banking finance company (NBFC) which is primarily engaged in the business of advancing loans and investing/trading in securities and also listed on The Calcutta Stock Exchange Limited (CSE). The Company has a net-worth of more than Rs. 5 Crores which has already been established and stated that being an N.B.F.C, it has the ability to raise funds in a short period to finance the resurrection of the CD.

9. Source of Funds – Clause 22.3 of the Plan:

The Resolution Applicant has provided the details of complete source of funds as required to meet the proposed payments under the resolution plan. The said fund is to be provided out of the retained earnings of the Company and/or by taking loans.

The cash component shall be funded with introduction of fresh equity shares/preference shares/loan and debt instruments (secured or unsecured) or any combination thereof at the discretion of resolution applicant.

The balance of plan amount pertaining to the debt component to be issued within 90 days of approval of the plan.

Further, funds may be brought in by the Resolution Applicant from time to time as per the requirements out of internal accruals and/or through other sources like equity issue, loans etc.,

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10. Further at clause 10.2 of the plan, it is stated that the management of the Corporate Debtor will be replaced by the following proposed name of the Directors:

- (i) Mr. Anurag Bindawala
- (ii) Mr. Avinash Himatsingka

11. Therefore, from the above, it has been found that the Resolution Plan, as presented by the Resolution Applicant, satisfies all requirements set forth in the Insolvency & Bankruptcy Code, 2016—most notably, Section 30 (2) of the IB Code, Regulation 38 (1A), and any applicable CIRP Regulations. It doesn't violate any legal requirements and addresses every stakeholder's interest.

12. Section 30 (2) of the Code as amended up to date enjoins upon the Resolution Professional to examine each Resolution Plan received by him to confirm that such plan –

- a) provides for the payment of insolvency resolution process costs in the 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 the 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 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

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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 - For the purpose of the above provision is as under:

- (i) it is hereby clarified that at each stage of the distribution of proceeds in respect of a class of recipients that rank equally, each of the debts will either be paid in full, or will be paid in equal proportion within the same class of recipients if the proceeds are insufficient to meet the debts in full; and
- (j) The term “workmen’s dues” shall have the same meaning as assigned to it in section 326 of the Companies Act, 2013 (18 of 2013).
- 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) Confirms to such other requirements as may be specified by the Board.

13. Section 30(4) of the Code reads as follows:

“30 (4) The committee of creditors may approve a resolution plan by a vote of not less than sixty-six percent of voting share of the financial creditors, after considering its feasibility and viability, the manner of distribution proposed, which may take into account the order of priority amongst

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creditors as laid down in sub-section (1) of section 53, including the priority and value of the security interest of a secured creditor and such other requirements as may be specified by the Board.”

14. Further, the Resolution Professional shall forward the Resolution Plan, as authorized by the Committee of Creditors, to the Adjudicating Authority in accordance with Section 30(6) of the Insolvency and Bankruptcy Code, 2016. Section 31 of the Code addresses the Adjudicating Authority's acceptance of the Resolution Plan in the event that it is satisfied that the Resolution Plan satisfies the conditions stipulated in Section 30(2) of the IB Code as approved by the Committee of Creditors under Section 30(4). Therefore, the Adjudicating Authority has the responsibility to ensure that the Resolution Plan, as approved by the Committee of Creditors, satisfies the aforementioned standards.
15. On perusal of the Resolution Plan, it is observed that the Resolution Plan provides for the following:
 - a) Payment of CIRP Cost as specified u/s 30(2) (a) of the Code.
 - b) Repayment of Debts of Operational Creditors as specified u/s 30(2) (b) of the Code.
 - c) For management of the affairs of the Corporate Debtor, after the approval of Resolution Plan, as specified U/s 30(2) (c) of the Code.
 - d) The implementation and supervision of Resolution Plan by the RP and the CoC as specified u/s 30(2) (d) of the Code.

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- e) The RP has certified through affidavit that the Resolution Plan is not in contravention to any of the provisions of law, for the time being in force, as specified u/s 30(2)(e) of the Code.
16. In accordance with Section 30(2) (a) through Section 30(2) (f) of the Code and Regulations 38(1), 38(1-A), 38 (1-B), 38(2), and 38(3) of the Regulations, the RP has complied. The Plan also stipulates that upon the adoption of the Resolution Plan, the Company shall continue as a going concern and conduct business as usual.
17. Along with the Plan, the Resolution Professional has submitted a Compliance Certificate in Form-H. Upon examination, the same is discovered to be in order. According to Regulation 38(1A) of the Regulations, the Resolution Plan contains a statement detailing how it has addressed the interests of the stakeholders in accordance with the Code and the Regulations.
18. In *K Sashidhar v. Indian Overseas Bank & Others* (in Civil Appeal No.10673/2018 decided on 05.02.2019) the Hon'ble Apex Court held that:

“if the CoC had approved the Resolution Plan by requisite percent of voting share, then as per section 30(6) of the Code, it is imperative for the Resolution Professional to submit the same to the Adjudicating Authority (NCLT). On receipt of such a proposal, the Adjudicating Authority is required to satisfy itself that the Resolution Plan, as approved by CoC, meets the requirements specified in Section 30(2). The Hon'ble Court observed that the role of the NCLT is 'no more and no less'.”

The Hon'ble Court further at para 35 held that:

“the discretion of the Adjudicating Authority is circumscribed by Section 31 and is limited to scrutiny of the Resolution Plan “as approved” by the requisite percent of voting share of financial

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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.

19. **In CoC of Essar Steel** (Civil Appeal No.8766-67 of 2019 decided on 15.11.2019) the Hon'ble Apex Court clearly laid down that the Adjudicating Authority would not have power to modify the Resolution Plan which the CoC in their commercial wisdom have approved. In para 42 Hon'ble Court observed as under:

"Thus, it is clear that the limited judicial review available, which can in no circumstance trespass upon a business decision of the majority of the Committee of Creditors, has to be within the four corners of section 30(2) of the Code, insofar as the Adjudicating Authority is concerned, and section 32 read with section 61(3) of the Code, insofar as the Appellate Tribunal is concerned, the parameters of such review having been clearly laid down in K. Sashidhar (supra)."

20. The Hon'ble Supreme Court of India, in **re Vallal RCK vs M/s Siva Industries and Holdings Limited & Ors**, has held as under:-

"21. This Court has consistently held that the commercial wisdom of the CoC has been given paramount status without any judicial intervention for ensuring completion of the stated processes within the timelines prescribed by the IBC. It has been held that there is an intrinsic assumption, that financial creditors are fully informed about the viability of the corporate debtor and feasibility of the proposed resolution plan. They act on the basis of thorough examination of the proposed resolution plan and assessment made by their team of experts. A reference in this respect could be made to the judgments of this Court in the cases of K. Sashidhar v. Indian Overseas Bank and Others, Committee of Creditors of Essar Steel India Limited through Authorised Signatory v. Satish Kumar Gupta and Others, Maharashtra Seamless Limited v. Padmanabhan Venkatesh and Others, Kalpraj Dharamshi and Another v. Kotak Investment Advisors Limited and Another, and Jaypee Kensington Boulevard Apartments Welfare Association and Others v. NBCC (India) Limited and Others.

27. This Court has, time and again, emphasized the need for minimal judicial interference by the NCLAT and NCLT in the framework of IBC. We may refer to the recent observation of this Court made in the case of Arun Kumar Jagatramka v. Jindal Steel and Power Limited and Another:

Sd/-

Sd/-

“95.However, we do take this opportunity to offer a note of caution for NCLT and NCLAT, functioning as the adjudicatory authority and appellate authority under the IBC respectively, from judicially interfering in the framework envisaged under the IBC. As we have noted earlier in the judgment, the IBC was introduced in order to overhaul the insolvency and bankruptcy regime in India. As such, it is a carefully considered and well thought out piece of legislation which sought to shed away the practices of the past. The legislature has also been working hard to ensure that the efficacy of this legislation remains robust by constantly amending it based on its experience. Consequently, the need for judicial intervention or innovation from NCLT and NCLAT should be kept at its bare minimum and should not disturb the foundational principles of the IBC.....”

21. The instantaneous Resolution Plan is determined to comply with Section 30(2) of the Code and Regulations 37, 38, 38(1A), and 39 (4) of the Regulations in light of the discussions and the legislation so settled. Hence, the Resolution Plan is compliant with the law and does not violate any of the clauses found in Section 29A of the Code. Therefore, the same is in need of approval. Hence the following order:

ORDER

- i. The Resolution Plan annexed to the Application is hereby approved. It shall become effective from this date and shall form part of this order. It 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. All crystallized liabilities and unclaimed liabilities of the corporate debtor as on the date of this order shall stand extinguished on the approval of this Resolution Plan.

Sd/-

Sd/-

- iii. The approval of the Resolution Plan shall not be construed as waiver of any statutory obligations/ liabilities of the Corporate Debtor and shall be dealt with by the appropriate Authorities in accordance with law. Any waiver sought in the Resolution Plan, shall be subject to approval by the Authorities concerned as held by Hon'ble Supreme Court in the matter of *Ghanashyam Mishra And Sons Private Limited Versus Edelweiss Asset Reconstruction Company Limited in CIVIL APPEAL NO.8129 OF 2019 dated 13.04.2021*.
- iv. The Memorandum of Association (MoA) and Articles of Association (AoA) shall accordingly be amended and filed with the Registrar of Companies (RoC), Andhra Pradesh for information and record. The Resolution Applicant, for effective implementation of the Plan, shall obtain all necessary approvals, under any law for the time being in force, within such period as may be prescribed.
- v. The moratorium under Section 14 of the Code shall cease to have effect from this date.
- vi. The Applicant shall supervise the implementation of the Resolution Plan and file status of its implementation before this Authority from time to time, preferably every quarter.
- vii. The Applicant shall forward all records relating to the conduct of the CIRP and the Resolution Plan to the IBBI along with copy of this Order for information.
- viii. The Applicant shall forthwith send a copy of this Order to the CoC and the Resolution Applicant.

Sd/

Sd/

ix. The Registry is directed to furnish free copy to the parties as per Rule 50 of the NCLT Rules, 2016.

x. The Registry is directed to communicate this order to the Registrar of Companies, Andhra Pradesh for updating the master data and also forward a copy to IBBI.

22. Accordingly, IA(IBC)(Plan)/2/2024 in CP(IB)/78/7/AMR/2020 is disposed of.



Shri Sanjay Puri
Member (Technical)



Shri Rajeev Bhardwaj
Member (Judicial)

Chandu