



**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH – IV**

**I.A. (IBC)(Plan) No. 57 of 2024**

IN

C.P. (IB) No. 386/MB/2021

*(Filed u/s. 30(6) of the Insolvency and Bankruptcy Code, 2016)*

**M/s. ARCK Resolution Professionals LLP**

*Through its Designated Partner Mr. Anil Kohli*

Resolution Professional of Vinergy International Pvt. Ltd.

*... Applicant*

**IN THE MATTER OF**

**C.P. (IB) No. 386/MB/2021**

**ICICI Bank Limited**

*... Financial Creditor*

*v/s.*

**Vinergy International Pvt. Ltd.**

*...Corporate Debtor*

**Order Pronounced on: 09.12.2024**

***Coram:***

Ms. Anu Jagmohan Singh  
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli  
Hon'ble Member (Judicial)

***Appearances:***

**I.A. No. 57 of 2024**

For the Applicant/ RP

:

Mr. Abhinav Mathur *a/w.* Mr.  
Lokesh Pawarkar and Mr. Prasad  
Walkar, Ld. Counsel for the  
Applicant/ RP



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## ORDER

1. The captioned application bearing I.A. (IBC)(Plan) No. 57 of 2024 has been filed on 19.07.2024 by **ARCK Resolution Professional LLP**, the Applicant Resolution Professional (“Applicant RP”) of **Vinergy International Pvt. Ltd.** (“Corporate Debtor”), under Section 30(6) of the Insolvency and Bankruptcy Code, 2016 (“IBC, 2016”) on behalf of its Committee of Creditors seeking approval of the Resolution Plan submitted by **U.V. Stressed Assets Management** (“Successful Resolution Applicant”) and approved by 100% (one hundred percent) of the voting share of the members of the Committee of Creditors (“CoC”) of the Corporate Debtor for a Resolution Amount of INR 12.55Cr.

2. The brief facts of the Application are as follows:

2.1 Corporate Insolvency Resolution Process (“CIRP”) of the Corporate Debtor was initiated *vide* an Order dated 09.02.2023 of this Tribunal in C.P.(IB) No. 386/MB/2021, on an application filed by ICICI Bank Ltd. (“Financial Creditor”) *u/s.* 7 of the IBC, 2016. In furtherance thereof, *Mr. Vishal Pawankumar Bidawatjika* was appointed as the Interim Resolution Professional (“IRP”). The RP caused public announcement to be made in Form-A on 11.02.2023 informing the commencement of CIRP of the Corporate Debtor and invited claims from creditors, which were duly collated and verified, the IRP prepared a report on the constitution of CoC and filed the same along with list of creditors before this Tribunal. The same was taken on record by this Tribunal, *vide* its Order dated 20.04.2023.

2.2 In the intervening period however, disciplinary proceedings were initiated as against the said IRP and resultantly, the CoC sought to vote upon the appointment of the Applicant herein as the Resolution Professional



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(“RP”). The said appointment was duly confirmed by this Tribunal on 19.05.2023 (*In light of this Tribunal’s Order dated 30.01.2023 r/w. Rectification Order dated 07.06.2023*).

- 2.3 Pursuant to the same, the CoC sought to pass a Resolution for Liquidation of the Corporate Debtor with 80.87% voting-share *via* its Fourth Meeting dated 08.06.2023. An Interlocutory Application bearing *I.A. No. 3579 of 2023* was accordingly filed by the RP before this Tribunal, which was subsequently withdrawn at the backdrop of ongoing discussions towards materialisation of Resolution Plan(s), and the said withdrawal was duly allowed by this Tribunal *vide* its Order dated 20.11.2023.
- 2.4 During the subsequent meetings of the CoC of Corporate Debtor, discussions ensued towards materialisation of Resolution Plan received by *M/s. U.V. Stressed Assets Management*. The CoC however took note of the fact that *M/s. U.V. Stressed Assets Management* did not figure in the final list of Prospective Resolution Applicant(s) (“PRA”) in consonance with Regulation 36A of CIRP Regulations, and thereby sought to opt for re-publication of FORM-G on 04.05.2024. The re-publication was accordingly carried out, and the final list of PRAs was consequently issued on 28.05.2024, followed by issuance of Information Memorandum, Evaluation Matrix and Request for Resolution Plan(s) to the respective PRAs.
- 2.5 The CoC, *via* its Sixteenth Meeting dated 26.06.2024, sought to pass a resolution approving the Resolution Plan submitted by U.V. Stressed Assets Management with a voting-share of 73.91%, which was accordingly declared as the Successful Resolution Applicant (“SRA”). The records further reflect that one of the CoC members *viz. Assets Care*

and Reconstruction Enterprise Limited conveyed its voting for approval of the Resolution Plan via E-Mail dated 15.07.2024. In light of the same, the Applicant RP submits that the Resolution Plan (in consideration hereto) has been effectively approved with a voting share of 100%. The E-voting results of the Sixteenth Meeting of CoC dated 26.06.2024, concomitant to the afore-stated, is extracted as hereunder:

E-VOTING RESULTS OF THE 16th COC MEETING OF VINERGY INTERNATIONAL PRIVATE LIMITED HELD ON 26.06.2024 AT 4:00 P.M.						
E-VOTING COMMENCED ON 28.06.2024 AT 12:00 P.M. TILL 11.07.2024 AT 05:00 P.M.						
Resolution No. 1						
To consider and approve compliant Resolution Plan as submitted by M/s UV Stressed Assets Management Private Limited and authorize RP to file CoC approved Resolution Plan before Hon'ble NCLT in terms of Section 30(6) of the Code. The matter is resolved as under:						
"RESOLVED THAT in accordance with sections 30(4) and 30(6) of the Code read with regulations made thereunder, the approval of the members of the CoC be and is hereby accorded to the cured/amended/revised Resolution Plan submitted by M/s UV Stressed Assets Management Private Limited in the matter of Vinergy International Private Limited and the RP is authorized to issue Letter of Intent to the Successful Resolution Applicant."						
"RESOLVED FURTHER THAT Resolution Professional is authorized to file the CoC approved resolution plan with the Hon'ble Adjudicating Authority i.e. NCLT."						
S. No.	Name of Financial creditor	Voting Share (%)	Voted In Favour (%)	Voted Against (%)	Not voted (%)	Remarks
1	UV Asset Reconstruction Company Limited	36.63	36.63	-	-	APPROVED
2	ACRE	26.09	26.09*	-	-	
3	JC Flowers Asset Reconstruction Pvt Ltd	11.55	11.55	-	-	
4	Kotak Mahindra Bank	7.58	7.58	-	-	
5	Bank of India	18.14	18.14	-	-	
	<b>TOTAL</b>	<b>100%</b>	<b>100.00</b>	<b>0.00</b>	<b>0.00</b>	

The COC Member could not vote within the stipulated timeline for e-voting. However vide email dated 15.07.2024, post completion of e-voting, the COC Member confirmed its vote positively for approval of the agenda.

The Applicant RP has thus filed the captioned application, seeking approval of the Resolution Plan submitted by the Successful Resolution application a/w. certain reliefs, waivers and concessions as contained thereunder, before this Tribunal.

3. The SRA is admittedly a "...special purpose vehicle incorporated with the objective to carry on the business of acquisition, resolution or management of any financial assets and/ or act as financial consultants, management consultants, advisors in relation to



*acquisition and/ or resolution of financial or stressed assets.”* The SRA has further confirmed that it is eligible to submit Resolution Plan in consonance with Section 29A of Insolvency and Bankruptcy Code, 2016, and has sought to file an Affidavit *dated* 03.06.2024 to the same effect.

**Salient features of the Resolution Plan**

4. The key features of the Resolution Plan submitted by the SRA in the matter of Corporate Debtor herein, is summarized hereunder:

<b>Currency: Rs.</b>	<b>Timeline as per Clause 6.5</b>	<b>Admitted claim as per IM</b>	<b>Amount as per Resolution Plan</b>
Pending CIRP Costs	X + 30 Days	35,49,141.00	Payable as per actuals
‘Workmen and Employees	NA	Nil	Nil
<b>Verified Operational Creditors (Government Dues)</b>	X + 45 Days		
Deputy Commissioner Sales Tax Mumbai		1,12,15,88,036.00	3,22,672.93
Commissioner, Commercial Taxes, West Bengal		28.47,13,688.20	81,910.11
The Ass. Commissioner of Sales Tax, Vapi		15,65,92,673.00	45,050.60
Ass. Commissioner of Sales Tax, Hubballi		4,80,54,668.00	13,824.99

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The Commercial Tax Officer, (Audit 02), Dharwad		4,30,05,233.00	12,372.30
Asst. Commissioner of Sales Tax, Karwar		75,27,727.00	2,165.67
Asst. Commissioner of Sales Tax, Kumta		5,57,082.00	160.27
Employees State Insurance Corporation		Nil	Nil
Verified operational   creditors (Other than Workmen and Employees and Government Dues)	NA	Nil	Nil
Verified financial creditors - Assigning Financial Creditors	X + 60 Days		
ACRE-144-TRUST		36,19,41,343.38	3,26,18,620.00
Bank of India		25,16,37,000.00	2,26,77,851.00
JC Flowers ARC		16,02,26,334.22	1,44,39,804.00
Kotak Mahindra Bank		10,51,76,015.96	94,78,598.00
Verified financial creditors - UV Asset Reconstruction Company Limited	NA	50,80,38,985.20	4,57,85,127.00
Other creditors (other   than financial creditors and operational creditors)	NA	Nil	Nil
Total		3,12,85,33,086.96	12,55,00,000.00

**Indicative timeline for implementation of resolution plan**

<b>Actionable</b>	<b>Timelines</b>
Date of Adjudicating Authority's approval of the Resolution Plan	X
Formation of Monitoring Committee and first meeting of the Committee to be held.	X+7
Payment of CIRP cost	X+30
Payment of dues to statutory authorities	X+45
Payment to dissenting financial creditors if any.	X+45
Payment of Assignment Consideration to Assigning Financial Creditors	X+60
Change in management of the Corporate Debtor, by appointment of Directors and Key Managerial Personnel appointed by the Resolution Applicant on the board of the Corporate Debtor	X+60
Re-organization of share capital as mentioned in clause 7.2.1	X+60
Date of cessation of the Monitoring Committee	X+60
Approvals, if any, that may be required to be taken for the Corporate Debtor	X+60

**Distribution of proceeds**

<b>Currency (INR)</b>	<b>Admitted Claims</b>	<b>Proportionate Plan Values for Financial Creditors</b>	<b>% of admitted claims.</b>	<b>Assignment Consideration.</b>
ACCRES-144-TRUST	361,941,343.98	32,618,620.00	9.01%	32,618,620.00
Bank of India	251,637,000.00	22,677,851.00	9.01%	22,677,851.00
JC Flowers ARC	160,226,334.22	14,439,804.00	9.01%	14,439,804.00
Kotak Mahindra Bank	105,176,015.96	9,478,598.00	9.01%	9,478,598.00
UVARCL	508,038,985.20	47,785,127.00	9.01%	NIL
<b>Total</b>	<b>1,387,19,678.19</b>	<b>125,000,000.00</b>	<b>9.01%</b>	<b>79,214,73.00</b>



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## Viability of the Resolution Plan

5. The Applicant RP hereby submits that the Resolution Plan approved by the CoC is in compliance with the legal requirements as mandated under IBC, 2016.

6. As per the RP the Fair Value and Liquidation Value determined by the Registered Valuer are as follows:

Fair Value: INR 3,50,88,074/- (Rupees Three crores, fifty lakhs, eighty-eight thousand, and seventy-four only)

Liquidation Value: INR 2,93,41,457/- (Rupees Two crores, ninety-three lakhs, forty-one thousand, four hundred and fifty-seven only)

7. The Applicant RP has annexed a certificate of the Form-H to the Application, under Regulation 39(4) In Form-H of the CIRP Regulations, 2016 to certify that the Resolution Plan has approved by the CoC meets all the requirements of the IBC and its Regulations.

### FORM H COMPLIANCE CERTIFICATE

(Under Regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016

I, **ARCK Resolution Professionals LLP, IPE registered as IP**, an insolvency professional enrolled with **Indian Institute of Insolvency Professionals of ICAI** and registered with the Board with registration number IBBI/IPE- 0030/IPA-1/2022-23/50013, is the resolution professional for the Corporate Insolvency Resolution Process (CIRP) of **Vinergy International Private Limited**.

2. The details of the CIRP are as under:



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Sl. No.	Particulars	Description
1	Name of the CD	<b>VINERGY INTERNATIONAL PRIVATE LIMITED</b>
2	Date of Initiation of CIRP	09.02.2023
3	Date of Appointment of IRP	09.02.2023
4	Date of Publication of Public Announcement	12.02.2023
5	Date of Constitution of CoC	03.03.2023
6	Date of First Meeting of CoC	13.03.2023
7	Date of Appointment of RP	19.05.2023
8	Date of Appointment of Registered Valuers	20.04.2023
9	Date of Issue of Invitation for EoI	I – 05.05.2023 II – 04.05.2024
10	Date of Final List of Eligible Prospective Resolution Applicants	I – Not specified by IRP II – 28.05.2024
11	Date of Invitation of Resolution Plan	I – Not specified by IRP II – 29.05.2024
12	Last Date of Submission of Resolution Plan	I – Not specified by IRP II – 28.06.2024
13	Date of Approval of Resolution Plan by CoC	11.07.2024
14	Date of Filing of Resolution Plan with Adjudicating Authority	19.07.2024
15	Date of Expiry of 180 days of CIRP	08.08.2023
16	Date of Order extending the period of CIRP	30.04.2024 17.05.2024
17	Date of Expiry of Extended Period of CIRP	19.07.2024
18	Fair Value	₹ 3,50,88,074
19	Liquidation value	₹ 2,93,41,457
20	Number of Meetings of CoC held	16



2. I have examined the Resolution Plan received from Resolution Applicant **UV Stressed Assets Management Private Limited** and approved by Committee of Creditors (CoC) of **Vinergy International Private Limited**.

3. I hereby certify that-

(i) the said Resolution Plan complies with all the provisions of the Insolvency and Bankruptcy Code 2016 (Code), the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP Regulations) and does not contravene any of the provisions of the law for the time being in force.

(ii) the Resolution Applicant **UV Stressed Assets Management Private Limited** has submitted an affidavit pursuant to section 30(1) of the Code confirming its eligibility under section 29A of the Code to submit resolution plan. The contents of the said affidavit are in order.

(iii) the said Resolution Plan has been approved by the CoC in accordance with the provisions of the Code and the CIRP Regulations made thereunder. The Resolution Plan has been approved by 100%\* of voting share of financial creditors after considering its feasibility and viability and other requirements specified by the CIRP Regulations.

(iv) ~~The voting was held in the meeting of the CoC on 26.06.2024 where all the members of the CoC were present.~~

or

I sought vote of members of the CoC by electronic voting system which was kept open at least for 24 hours as per the regulation 26.

\*One of the COC member could not vote within the stipulated timelines, however, vide email dated 15.07.2024, the COC member conveyed its vote for approval of resolution plan.

4. The list of financial creditors of the CD **Vinergy International Private Limited** being members of the CoC and distribution of voting share among them is as under:

Sl. No.	Name of Creditor	Voting Share (%)	Voting for Resolution Plan (Voted for / Dissented / Abstained)
1	UV Asset Reconstruction Company Limited	36.63%	Voted for
2	Assets Care and Reconstruction Enterprise Limited (ACRE)	26.09%	Voted for *
3	JC Flowers Asset Reconstruction Pvt. Ltd.	11.56%	Voted for
4	Kotak Mahindra Bank	7.58%	Voted for
5	Bank of Inda	18.14%	Voted for

\* The COC member could not vote within the stipulated timelines, however, vide email dated 15.07.2024, the COC member conveyed its vote for approval of resolution plan.

5. The Resolution Plan includes a statement under regulation 38(1A) of the CIRP Regulations as to how it has dealt with the interests of all stakeholders in compliance with the Code and regulations made thereunder.

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

(Amount in Rs. lakh)

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Sl. No.	Category of Stakeholder*	Sub-Category of Stakeholder	Amount Claimed	Amount Admitted	Amount Provided under the Plan#	Amount Provided to the Amount Claimed (%)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	Secured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	NA	NA	NA	NA
		(b) Other than (a) above:				
		(i) who did not vote in favour of the resolution Plan	NA	NA	NA	NA
		(ii) who voted in favour of the resolution plan	13870.20	13870.20	1250	9.01%
		Total[(a) + (b)]	13870.20	13870.20	1250	9.01%
2	Unsecured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	NA	NA	NA	NA
		(b) Other than (a) above:				
		(i) who did not vote in favour of the resolution Plan	NA	NA	NA	NA
		(ii) who voted in favour of the resolution plan	NA	NA	NA	NA
		Total[(a) + (b)]	NA	NA	NA	NA

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3	Operational Creditors	(a) Related Party of Corporate Debtor	NA	NA	NA	NA
		(b) Other than (a) above:				
		(i) Government	17,384.42	17,379.64	5.00	0.03%
		(ii) Workmen	NA	NA	NA	NA
		(iii) Employees	NA	NA	NA	NA
		Total[(a) + (b)]	17,384.42	17,379.64	5.00	0.03%
4	Other debts and dues		NA	NA	NA	NA
Grand Total			31,254.62	31,249.84	1,255.00	4.015%

\*If there are sub-categories in a category, please add rows for each sub-category.

# Amount provided over time under the Resolution Plan and includes estimated value of non-cash components. It is not NPV.]

3. The interests of existing shareholders have been altered by the Resolution plan as under:

Sl. No	Category of Share Holder	No. of Shares held before CIRP	No. of Shares held after the CIRP	Voting Share (%) held before CIRP	Voting Share (%) held after CIRP
1	Equity	14,21,850	0	100	0
2	Preference	0	0	0	0

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

Section of the Code / Regulation No.	Requirement with respect to Resolution Plan	Clause of Resolution Plan	Compliance (Yes / No)
25(2)(h)	Whether the Resolution Applicant meets the criteria approved by the CoC having regard to the complexity and scale of operations of business of the CD?	NA	NA
Section 29A	Whether the Resolution Applicant is eligible to submit resolution plan as per final list of Resolution Professional or Order, if any, of the Adjudicating Authority?		Yes
Section 30(1)	Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?	Appendix 10	Yes
Section 30(2)	Whether the Resolution Plan-		
	(a) provides for the payment of insolvency resolution process costs?	Clause 4, Pg 6	Yes
	(b) provides for the payment to the operational creditors?	Clause 5,4, Pg 7	Yes
	(c) provides for the payment to the financial creditors who did not vote in favour of the resolution plan?	Clause 3.3, Pg 6	Yes

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	(d) provides for the management of the affairs of the corporate debtor?	Clause 9, Pg 11	Yes
	(e) provides for the implementation and supervision of the resolution plan?	Clause 6, Pg 7 Clause 9, Pg 11	Yes
	(f) contravenes any of the provisions of the law for the time being in force?]	Clause 13, Pg 16	Yes. (Provided that it does not contravene any of the provisions of law)
Section 30(4)	Whether the Resolution Plan (a) is feasible and viable, according to the CoC? (b) has been approved by the CoC with 66% voting share?	15th COC Meeting 16th COC Meeting Voting	Yes Yes
Section 31(1)	Whether the Resolution Plan has provisions for its effective implementation plan, according to the CoC?	15th COC Meeting	Yes
Regulation 38 (1)	Whether the amount due to the operational creditors under the resolution plan has been given priority in payment over financial creditors?]	Clause 5.4, Pg 7 & Clause 3.3, Pg 6	Yes
Regulation 38(1A)	Whether the resolution plan includes a statement as to how it has dealt with the interests of all stakeholders?	Clause 3, 4, 5 Pg 5, 6, 7 Clause 13.6 Pg 17	Yes
Regulation 38(1B)	(i) Whether the Resolution Applicant or any of its related parties has failed to implement or contributed to the failure of	Clause 13.2, Pg 16	Yes (Provided that it has not failed to implement any resolution plan)
	implementation of any resolution plan approved under the		
	Code.		

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	(ii) If so, whether the Resolution Applicant has submitted the statement giving details of such non-implementation?]		
Regulation 38(2)	Whether the Resolution Plan provides: (a) the term of the plan and its implementation schedule?	Clause 6, Pg 7, 8	Yes
	(b) for the management and control of the business of the corporate debtor during its term?	Clause 9, Pg 11	Yes
	(c) adequate means for supervising its implementation?	Clause 9.1.e, Pg 11 Clause 13, Pg 16	Yes
38(3)	Whether the resolution plan demonstrates that –		
	(a) it addresses the cause of default?	Clause 8.4, Pg 9	Yes
	(b) it is feasible and viable?	Clause 13.8, Pg 16	Yes
	(c) it has provisions for its effective implementation?	Clause 13.8, Pg 16 Clause 9, Pg 11	Yes
	(d) it has provisions for approvals required and the timeline for the same?	Clause 6.5, Pg 9	Yes
	(e) the resolution applicant has the capability to implement the resolution plan?	Clause 1, Pg 3 Clause 1, Pg 17	Yes
39(2)	Whether the RP has filed applications in respect of transactions observed, found or determined by him?		No such transactions
			observed
Regulation 39(4)	Provide details of performance security received, as referred to in sub-regulation (4A) of regulation 36B.]		EMD I & II amount Rs. 60,00,000 Bank Guarantee Rs. 1,27,50,000

2. The CIRP has been conducted as per the timeline indicated as under:

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Section of the Code / Regulation No.	Description of Activity	Latest Timeline under regulation 40A	Actual Date
Section 16(1)	Commencement of CIRP and Appointment of IRP	T 09.02.2023	09.02.2023
Regulation 6(1)	Publication of Public Announcement	T+3 12.02.2023	12.02.2023
Section 15(1)(c) / Regulation 12 (1)	Submission of Claims	T+14 23.02.2023	23.02.2023
Regulation 13(1)	Verification of Claims	T+21 02.03.2023	01.03.2023
Section 26(6A) / Regulation 15A	Application for Appointment of Authorised Representative, if necessary	T+23 04.03.2023	03.03.2023
Regulation 17(1)	Filing of Report Certifying Constitution of CoC	T+23 04.03.2023	03.03.2023
Section 22(1) and regulation 17(2)	First Meeting of the CoC	T+30 11.03.2023	13.03.2023
Regulation 35A	Determination of fraudulent and other transactions	T+115 09.06.2023	No transaction determined
Regulation 27	Appointment of two Registered Valuers	T+47 28.03.2023	20.04.2024
Regulation 36 (1)	Submission of Information Memorandum to CoC	T+95 15.05.2023	29.05.2024
Regulation 36A	Invitation of EoI	T+60 10.04.2023	I – 05.05.2023 II – 04.05.2024
	Publication of Form G	T+60 10.04.2023	I – 05.05.2023 II – 04.05.2024
	Provisional List of Resolution Applicants	T+85 05.05.2023	I – No EoI received II – 22.05.2024
	Final List of Resolution Applicants	T+100 20.05.2023	I – NA II – 28.05.2024
Regulation 36B	Issue of Request for Resolution Plan, which includes Evaluation Matrix and Information Memorandum to Resolution Applicants	T+105 25.05.2023	I – NA II – 29.05.2024
Section 30(6) / Regulation 39(4)	Submission of CoC approved Resolution Plan	T+165 24.07.2023	19.07.2024
Section 31(1)	Approval of Resolution Plan	T=180 08.08.2023	As per Adjudicating Authority

3. The time frame proposed for obtaining relevant approvals is as under:

Sl. No.	Nature of Approval	Name of applicable Law	Name of Authority who will grant Approval	When to be obtained
1	Approval of Resolution Plan	Insolvency & Bankruptcy Code, 2016	Hon'ble NCLT	As per Adjudicating Authority
2	Any other statutory approvals	As applicable	As applicable	Within 60 days from the date of approval of resolution plan by Hon'ble NCLT

5. The Resolution Plan is not subject to any contingency. ☹

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The Resolution Plan is subject to the following contingencies (Elaborate the contingencies):

- i.....  
ii.....

6. Following are the deviations / non-compliances of the provisions of the Insolvency and Bankruptcy Code, 2016, regulations made or circulars issued thereunder (If any deviation/ non-compliances were observed, please state the details and reasons for the same):

Sl. No.	Deviation/Non-compliance observed	Section of the Code / Regulation No. / Circular No.	Reasons	Whether rectified or not
1	NA	NA	NA	NA
2	NA	NA	NA	NA
3	NA	NA	NA	NA

7. The Resolution Plan is being filed **0** days before the expiry of the period of CIRP provided in section 12 of the Code.

14A. Whether the resolution professional has, in accordance with regulation 35A,-

- (a) applied to the Adjudicating Authority on or before the one hundred and thirty-fifth day of the insolvency commencement

date:

~~Yes~~

/ No

- (b) filed Form CIRP 8 with the Board on or before the one hundred and fortieth day of the insolvency commencement

date:

~~es~~ /

No

₹

8. Provide details of section 66 or avoidance application filed / pending.

Sl. No.	Type of Transaction	Date of Filing with Adjudicating Authority	Date of Order of the Adjudicating Authority	Brief of the Order
1	Preferential transactions under section 43	NA	NA	NA
2	Undervalued transactions under section 45	NA	NA	NA
3	Extortionate credit transactions under section 50	NA	NA	NA
4	Fraudulent transactions under section 66	NA	NA	NA

15A. The committee has approved a plan providing for contribution under regulation 39B as under:

- a. Estimated liquidation cost: Rs. 70,00,000/-  
b. Estimated liquid assets available: Rs. Nil/-  
c. Contributions required to be made: Rs 70,00,000/-  
d. Financial creditor wise contribution is as under:



IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH – IV

I.A. (IBC)(Plan) No. 57 of 2024

IN

C.P (IB) No. 386/MB/2021



Sl. No.	Name of financial creditor	Amount to be contributed (Rs.)
1	UV Asset Reconstruction Company Limited	₹ 25,64,100
2	ACRE	₹ 18,26,300
3	JC Flowers Asset Reconstruction Pvt Ltd	₹ 8,08,500
4	Kotak Mahindra Bank	₹ 5,30,600
5	Bank of India	₹ 12,69,800
<b>Total</b>		<b>₹ 70,00,000</b>

15B. The committee has recommended under regulation 39C as under:

- a. Sale of corporate debtor as a going concern: Yes  
s ~~Ne~~
- b. Sale of business of corporate debtor as a going concern: Yes ~~Ne~~

The details of recommendation are available with the resolution professional.

15C. The committee has fixed, in consultation with the resolution professional, the fee payable to the liquidator during the liquidation period under regulation 39D.]

9. I, **ARCK Resolution Professionals LLP**, hereby certify that the contents of this certificate are true and correct to the best of my knowledge and belief, and nothing material has been concealed therefrom.

Name of the Resolution Professional: **ARCK Resolution Professionals LLP**

IP Registration No: **IBBI/IPE-0030/IPA-1/2022-23/50013**

Address as registered with the Board: Flat No 409, 4th Floor Ansal Bhawan, 16, K G Marg, Connaught Place, New Delhi-110001

Email id as registered with the Board: [insolvency@arck.in](mailto:insolvency@arck.in)

Date: 19.07.2024

Place: New Delhi

### **Findings of this Tribunal**

8. In the circumstances mentioned hereinabove, the Applicant has filed Application seeking approval of this Tribunal on the Resolution Plan, submitted by the Resolution Applicant *i.e.* **U.V. Stressed Assets Management** stating that the plan is in accordance with the Section 30(2) and other provisions laid down under the code.
9. On perusal of the Resolution Plan, it is observed that the Resolution Plan provides for the following:



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- 9.1.1 Payment of CIRP Cost as specified u/s 30(2)(a) of the Code.
- 9.1.2 Repayment of Debts of Operational Creditors as specified u/s 30(2)(b) of the Code.
- 9.1.3 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.
- 9.1.4 The implementation and supervision of Resolution Plan by the RP and the CoC as specified u/s 30(2)(d) of the Code.
10. The RP has complied with the requirement of the Code in terms of Section 30(2)(a) to 30(2)(f) and Regulations 38(1), 38(1)(a), 38(2)(a), 38(2)(b), 38(2)(c) & 38(3) of the Regulations.
11. The RP has filed Compliance Certificate in Form-H along with the plan. On perusal the same is found to be in order. The Resolution Plan has been approved by the CoC in the 16<sup>th</sup> Meeting *dated* 26.06.2024, with an effective voting-share of 100%. Further, there are no such pending proceedings *u/s.* 66(1) *r/w.* 43(1) and 44(1) of the Code.
12. Upon due perusal of the Resolution Plan, this Bench deemed it fit to seek clarification in relation to its implementation at the backdrop of certain pending litigation(s) and their impact apropos the implementation of Resolution Plan. The captioned plan-approval application was accordingly listed for clarification on 25.10.2024 and the Ld. Counsel appearing at the behest of Resolution Professional was accordingly directed to file the requisite additional-affidavit explaining the same. In compliance with the afore-said directions, the Resolution Professional has sought to file its Additional Affidavit *dated* 28.10.2024, whereby the following has been brought on record:

“



3. That the Successful Resolution Applicant, namely M/s UV Stressed Assets Management Private Limited (hereinafter referred to as 'SRA'), has provided in clause 11.1 of the resolution plan dated 19.06.2024 as follows:

*“The Corporate Debtor will continue to pursue any litigation or claim being presently pursued by the corporate Debtor or initiate any such litigation in future in order to effectuate the Resolution Plan. Any recovery made by the corporate Debtor shall be utilized by the corporate Debtor in any manner at the discretion of the Resolution Applicant. Litigation against the Corporate Debtor (as identified in Annexure 3 herein) shall, unless otherwise specifically stated in the plan. Shall stand abated.”*

*However, the SRA has also submitted an undertaking that the SRA/ Corporate Debtor will pursue the existing proceedings concerning and related to the Corporate Debtor, which are currently pending before this Hon'ble Tribunal as well as the Hon'ble Bombay High Court. [...]*

*The said list of matters pertaining to the Corporate Debtor are listed below:*

S. No.	Particulars	Description	NDoH
1	IA (I.B.C)/3534/MB/2023 M/S ARCK RESOLUTION PROFESSIONALS LLP VS SHRI SHIV DAS MAURYA	Application for peaceful possession of Leased land	NA
2	IA (I.B.C)/3528/MB/2023 M/S ARCK RESOLUTION PROFESSIONALS LLP VS M.P. AUDYOGIK KENDRA VIKAS NIGAM (INDORE) LIMITED	Application for peaceful possession of Leased land	04.12.2024
3	IA (I.B.C)/4517/MB/2023M/S ARCK RESOLUTION PROFESSIONALS LLP THROUGH ANIL KOHLI VS HDFC BANK LIMITED	Application seeking removal of lien from the Bank Account of Corporate Debtor	04.12.2024
	EXA/1928/2018 RICHMOND MERCANTILE LTD. FZC VS. VINERGY INTERNATIONAL PRIVATE LTD	Execution Application filed by Richmond Mercantile against corporate debtor, the inventory of corporate debtor was sold and amount realised deposited before Hon'ble Bombay HC	NA



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*The Applicant further submits that, in accordance with the undertaking submitted by the SRA pursuant to the directions of Hon'ble NCLT, the SRA has undertaken that the aforesaid ongoing matters currently pending before this Hon'ble Tribunal and the Hon'ble Bombay High Court do not, in any manner, prejudice or adversely affect the implementation of the Resolution Plan submitted by M/s UV Stressed Assets Management Private Limited. It is stated that the Resolution Plan approved by the COC is in no manner contingent on the outcome and subject matter in the aforesaid Applications (Pending before Hon'ble NCLT Mumbai as well as the matter pending before Hon'ble High Court). Further, Resolution Plan is not at all affected in any manner by the decisions in the aforesaid applications. It is pertinent to note that the present Application seeking approval of Resolution plan has already been heard and reserved for orders on 03.10.2024.*

*4. It is stated that the aforesaid undertaking by SRA has also been put forth in the COC meeting held on 28.10.2024 and duly approved unanimously by COC members. [...]*

*5. Accordingly, it is humbly submitted that these pending matters, in no manner, cause any prejudice to or adversely impact the implementation of the resolution plan dated 19.06.2024 filed in present IA. The resolution plan remains unaffected by the pending proceedings in the aforementioned matters and continues to be in compliance with the applicable laws and regulations.*

*[...]*

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In light of the afore-said, we find that the same is in due consonance with the extant tenets of law, and the Additional Affidavit dated 28.10.2024 is accordingly taken on record.

13. In the case of *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 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 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.

14. 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)."*

15. In view of the discussions and the law thus settled, the instant Resolution Plan meets the requirements of Section 30(2) of the Code and Regulations 37, 38, 38 (1A) and 39 (4) of the Regulations. The Resolution Plan is not in contravention



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of any of the provisions of Section 29A of the Code and is in accordance with law. The same needs to be approved. Ordered accordingly.

**16.** The present Application bearing I.A. (IBC)(Plan) No. 57 of 2024 in C.P. (IB) No. 386/MB/2021 is hereby **Allowed**. The Resolution Plan annexed to the Application is hereby Approved. It shall become effective from this date and shall form part of this Order.

**16.1.** 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.

**16.2.** At the risk of re-iteration, the approval of this resolution plan shall not be construed as waiver of any statutory obligations of the Corporate Debtor, and the same shall be dealt by the appropriate authorities in accordance with law.

**16.3.** Further in terms of the judgment of Hon'ble Supreme Court in the matter of *Ghanshyam Mishra & Sons Pvt. Ltd. v. Edelweiss Asset Reconstruction Company Limited*; On the date of approval of the Resolution Plan by the Adjudicating Authority, all such claims which are not a part of the Resolution Plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim which is not a part of the Resolution Plan.

**16.4.** The Memorandum of Association (MoA) and Articles of Association (AoA) shall accordingly be amended and filed with the Registrar of Companies (RoC), Mumbai, Maharashtra for information and record.



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- 16.5.** The Moratorium *u/s.* 14 of IBC, 2016, shall cease to have effect from the date of pronouncement of this Order.
- 16.6.** The Applicant shall supervise the implementation of the Resolution Plan and shall effectively file status of its implementation before this Tribunal from time to time without fail, preferably every quarter.
- 16.7.** The Applicant shall forward all records relating to the conduct of the CIRP and the Resolution Plan to the Insolvency and Bankruptcy Board of India, along-with the copy of this Order for requisite information.
- 16.8.** The Applicant shall forthwith send a Certified Copy of this Order to the CoC and the Successful Resolution Applicant, for necessary compliances thereof.

Sd/-

**ANU JAGMOHAN SINGH**  
**MEMBER (TECHNICAL)**

**09.12.2024**

*Aditya Kalia*

Sd/-

**KISHORE VEMULAPALLI**  
**MEMBER (JUDICIAL)**

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