

**IN THE NATIONAL COMPANY LAW TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

I.A. 53/2024

In

CP (IBPP) No.01/ (PB)/2023

**ORDER UNDER SECTION 54L OF THE INSOLVENCY AND BANKRUPTCY
CODE, 2016 R/W REGULATION 49 OF THE INSOLVENCY AND
BANKRUPTCY (PRE-PACKAGED INSOLVENCY RESOLUTION PROCESS)
REGULATIONS, 2021.**

IN THE MATTER OF:

CP (IBPP) No.01/(PB)/2023

RG RESIDENCY PVT. LTD.

.. Petitioner

&

IN THE MATTER OF:

I.A.-53/2024

**RAJEEV LOCHAN
(Resolution Professional)**

..APPLICANT

Versus

RG RESIDENCY PVT. LTD
Having Registered Office at:
G-04, Ground Floor,
RG City Centre, Lawrence Road,
Keshav Puram
North West, Delhi, Delhi, India, 110035
CIN- U70109DL2010PTC197957

Order Pronounced On: 13.05.2025

CORAM:

CHIEF JUSTICE (RETD.) RAMALINGAM SUDHAKAR
HON'BLE PRESIDENT

SHRI RAVINDRA CHATURVEDI
HON'BLE MEMBER (TECHNICAL)

Appearances:

For the Applicant : Adv. Namit Suri, Adv. Ravi in IA-2527, 2531, 2432,
2465, 2471/2024
For the Respondent : Sr. Adv. P. Nagesh, Adv. Saurabh Jain, Adv. Prayag
Jain, Adv. Akshay Sharma, Adv. Shouryadita
For NOIDA : Adv. Rachit Mittal, Adv. Parish Mishra, Adv. Kanishk
Srivastava, Adv. Abhishek Sinha
For the RP : Adv. Kumar Anurag Singh, Adv. Zain Khan, Mr.
Rajeev Lochan, RP

ORDER

1. The present application (I.A. 53 of 2024) has been filed by Mr. Rajeev Lochan, Resolution Professional ("Applicant/RP") of RG Residency Private Limited, Corporate Debtor ("CD") on 09.07.2024 under Sections 54K(15) and 54(L) of the Insolvency & Bankruptcy Code, 2016 ("The Code") read with Regulation 49 of the IBBI (Pre- Packaged Insolvency Resolution Process) Regulations, 2021 ("PPIRP" Regulations) for approval of the Resolution Plan of the Corporate Debtor.
2. At the outset, it is relevant to mention herein that a clarification order was passed on 25.09.2024 in CP (IBPP) 02/2023. The relevant portion of the order dated 25.09.2024 is extracted below:

- a. It is observed from the Resolution Plan attached as Annexure A-9 of the I.A. 34 of 2024 that Appendix III relates to Financial Projections/Business Plan of the CD, However a copy of the same has not been attached. The Applicant is directed to provide a Copy of Appendix III. Further it is Observed that as per Para 2.1.14 of the Plan, it is mentioned that *“the Operational Creditors and the Financial Creditors shall be paid as per the business plan attached herewith as Appendix IV.”* The Applicant is to clarify as to what is Appendix IV.
- b. It is stated in the Plan under the Heading “Performance” (Para 6.7) that the *“Corporate Debtor may elect to perform any of its obligations under this Plan, either directly or indirectly, through or with, any direct or indirect wholly owned subsidiaries of the Corporate Debtor or **any other entity**, either individually or collectively or any **group company** of the Corporate Debtor (and the term “Corporate Debtor” in such context shall be read to include the Corporate Debtor and each such designated entity, unless the context requires otherwise). It is clarified that such designated entities (a) may be newly incorporated; (b) shall otherwise not make the Corporate Debtor ineligible under Section 29A of the Code; and (c) shall not be ineligible under Section 29A of the Code.”* The Applicant is to clarify and define the term “Group Company” and “Any other entity” through which the CD may perform its obligation under the Plan.
- c. It is observed from Para 6.16 of the Resolution Plan, that the CD is seeking to carry forward of its losses and utilize Unabsorbed Depreciation by invoking Section 79 (2) (c) of the Income Tax Act, 1962. The relevant portion of the Plan is extracted below:
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- It is stated at Para 6.16 of the Plan that the RP shall send a notice to the Principal Commissioner of Income Tax or commissioner of Income Tax having jurisdiction over the Corporate Debtor stating that the Resolution Plan submitted by the Corporate Debtor as approved by the CoC provides that the Corporate Debtor shall be permitted recourse to Section 79(2)(c) of the Income Tax Act, 1961. However, the applicant has not attached any proof showing that the notice has been issued to the Jurisdiction Officer as mentioned above. In any case, as the Income Tax Authority is to be afforded an opportunity of being heard, such proceedings are better conducted by way of RP filing an application before this Adjudicating Authority and praying for issuance of notice u/s 79(2)(c) of Income Tax Act, 1961 by this Adjudicating Authority instead of RP taking this role of adjudicating upon himself.
- d. The Applicant is further directed to clarify whether the land i.e. Plot No. GH-14B, Sector 1, Greater Noida on which the CD is to construct the residential plots is leased by G. Noida, and whether the said lease is still continuing or cancelled. The Applicant is directed to clarify the status regarding the land. Further in addition

to the same, the applicant is directed to provide details of pending lease payments (premium, rentals etc. by whatever name called) and since when due to G. Noida. Also, the Applicant is to clarify whether he has complied with Regulation 20 (3) of PPIRP Regulations, 2021 and sought objections from all the creditors including G.Noida.

- e. Whether any Transaction Audit has been done in order to identify any PUFEE Transaction. If yes, then the Applicant is directed to attach the report of the same.
- f. Further it is observed that the CD is registered as "Small Enterprise" in terms of the Udyam Registration Certificate dated 31 May 2022 having registration no. UDYAM-DL-06-0047979 issued by the Ministry of Micro, Small and Medium Enterprises. In this context it is relevant to mention that to be considered as Small Enterprise as per The Micro, Small And Medium Enterprises Development Act, 2006 *(as updated from time to time)* an entity has to fulfill the criteria as stated below:

"Investment in Plant and Machinery or Equipment: Not more than Rs.10 crore & Turnover: Not more than Rs. 50 Crore."

It is not clear as to how the CD would maintain the said status if it pays off a debt of Rs. 445 crores as provided in the Plan in a period of 53 months by constructing and selling residential plots. The applicant is directed to submit the financial projections. Further how the CD will meet, the working capital requirement and the capital expenditure required to undertake the construction, it being a small enterprise with capacity to take loans, short-term and long-term from the Banks/FI being limited to the norms applicable to a small industry. The Applicant is directed to provide for a detailed explanation to the same.

The applicant taking note of the above order, filed a clarification in this matter *(as order passed in CP(IBPP/02/2023 was such wherein a similar resolution plan was approved by COC)* by way of two affidavits dated 26.10.2024 and 08.11.2024 which has been considered.

- 3. Further, since the underlying land on which the project is to be constructed belongs to Noida Authority which is a statutory body and the plan envisaged necessary approvals of the statutory authority which is an important aspect on which the implementation of the plan depends, and NOIDA was not a part of second COC meeting, this adjudicating authority remanded the resolution

plan back to CoC for fresh consideration on 12.02.2025. The relevant portion of the order dated 12.02.2025.

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Upon perusal of the Plan and documents on record, it is observed that Noida has not been a part of the second CoC meeting and the Plan has been considered by the CoC without the presence of Noida. Considering the plan in such circumstances especially in view of Greater Noida Industrial Development Authority v. Prabhjit Singh Soni & Anr. (Civil Appeal Nos. 7590-7591 of 2023) this Adjudicating Authority is of the view that the plan envisages the use of land of Noida which is a statutory body, bound by its own rules and regulations having statutory flavor, there has to be a closer examination of the plan's feasibility. In the present case, the plan envisages necessary approvals of the statutory authority which is an important aspect on which the implementation of the plan depends as per documents on record Noida was not part of the CoC, hence in such circumstances, we are of the view that the plan cannot be considered and in such scenario, it is remanded back to CoC for fresh consideration.

In view of the above order, the applicant filed an affidavit dated 22.03.2025 which is extracted below:

8. That the 14th CoC meeting was scheduled for 15.02.2025 which was also attended by the authorised representative of NOIDA. During the said 14th CoC meeting, the Resolution Professional apprised the CoC members and the authorized representative of NOIDA about the directions issued by this Hon'ble Adjudicating Authority vide order dated 12.02.2025 for reconsideration of the Resolution Plan in the presence of NOIDA.
9. Accordingly, the Resolution Plan was reconsidered by CoC in the presence on NOIDA on 15.02.2025, and after deliberation and discussion the same was reapproved by CoC with 98.89% voting in favour. It is pertinent to mention that Mr. Rav Mahendra Pratap Singh, the Authorized

Representative of NOIDA was present at the meeting and requested the Resolution Professional to resend the approved Resolution Plan to it. The relevant portion of the 14th CoC meeting minute is reproduced herein:

“Resolution: To reconsider and, if thought fit, to pass with or without modification the following resolution:

“RESOLVED THAT the Resolution Plan for the Corporate Debtor approved in the 2nd COC meeting held on 7-3-24, in compliance with the Order issued by the Hon’ble National Company Law Tribunal (NCLT), New Delhi, on 12th February 2025, under the Pre-packaged Insolvency Resolution Process, is hereby reconsidered and approved.”

Mr. K.V. Ramakrishna Prasad inquired whether any changes had been made to the Resolution Plan. In response, the Resolution Professional (RP) confirmed that there is no changes to the Resolution Plan approved in the COC meeting held on 7th March 2024. Following this, K.V. Ramakrishna Prasad holding 98.89 % voting power confirmed and passed the Resolution Plan as it is.

On request from the representative of NOIDA, the modified resolution plan approved by the COC in its meeting held on 7th March 2024 which has been reapproved by CoC now has been re-sent via email to NOIDA Authorities for their records.”

Further a Copy of No-Objection letter dated 11.03.2025 issued by NOIDA Authority has also been attached by the Applicant in its affidavit dated 22.03.2025. It is observed that NOIDA authority has no objection if the plan is considered.

BRIEF FACTS

4. In the above backdrop, we consider the application for approval of the plan. The brief facts of the case resulting into the present application is as follows. That RG Residency Private Limited (*hereinafter referred to as “Corporate Debtor”*) filed a petition under Section 54 C of The Code seeking initiation of Pre-Packaged Insolvency Resolution Process. That pursuant to order dated 20.02.2024 passed by this Adjudicating Authority, the CD was admitted into Pre-Packaged Insolvency Process and accordingly the Applicant was

appointed as the Resolution Professional (“RP”) under the provisions of the Code. The Copy of order dated 20.02.2024 is annexed as **Annexure A-1** of the application.

5. The applicant after being appointed as RP issued a public announcement dated 22.02.2024 in terms of Regulation 19 of the PPIRP, Regulations, 2021 intimating about the commencement of PPIRP against the CD and inviting the creditors to submit their claims. The announcement was published on 22.02.2024 in newspaper namely Financial Express (English) and Jansatta (Hindi). The copy of public announcement dated 22.02.2024 is annexed as **Annexure A-3** of the application.
6. The Applicant received claims from the creditors and a list of claims was issued by the applicant in Form P-1O as per Regulation 20 of the PPIRP Regulations. Copy of the List of Claims as on 06.03.2024 under Form P10 is being annexed herewith and marked as **Annexure-A-4**. Further in accordance with Section 54-I read with Regulation 24 and 25 of PPIRP Regulations the applicant constituted the Committee of Creditors (COC).
7. That, under Section 54(K)(1) of the Code, the CD submitted the Base Resolution Plan to the Applicant and that the Applicant upon receiving the plan sought a legal compliance report thereof to be able to present the plan to the CoC. In accordance with Section 54 I (2) of the Code read with Regulation 28 of PPIRP, Regulations the applicant convened the First meeting of the Committee of Creditors on 01.03.2024. During the first meeting of COC, the base Resolution Plan of the CD was discussed along with other relevant agendas. Copy of Minutes of the First Meeting of the COC held on 01.03.2024 has been annexed as **Annexure A-6**.
8. Further the Applicant appointed registered valuers who conducted the valuation of the assets of the CD. The valuers conducted the valuation and the average fair market value of land and building of CD was computed as Rs. 1,37,40,95,000/- (Rupees One Hundred Thirty Seven Crores Forty Lakhs

and Ninety Five Thousand Only) and liquidation value of land and building was computed at Rs. 1,09,82,76,000/- (Rupees One Hundred Nine Crores Eighty Two Lakhs and Seventy Six Thousand Only). Further the average valuation with respect to Securities or Financial Assets (SFA) was computed as Rs. 11,78,000/- (Eleven Lakhs Seventy Eight Thousand Only) and average liquidation value is Rs. 11,78,000/-(Eleven Lakhs Seventy Eight Thousand Only). The appointment of valuers was confirmed by the COC in its 1st meeting held on 01.03.2024.

9. It is stated that the CD submitted a revised resolution plan and the same was considered in the 2nd COC meeting along with other relevant agendas. In the said COC meeting the said modified plan was put to vote and the plan was approved by 98.89% voting. The relevant extract of the meeting is extracted below for ready reference:

“RESOLVED THAT the Modified Base Resolution Plan of Corporate Debtor under Prepackaged Insolvency Resolution Process is hereby approved. This agenda was passed by 98.89% of voting share.”

This agenda was passed by 98.89% of voting share.

10. It is submitted by the Applicant that the plan proposed by the CD stands approved under Section 54 K (4) of the Code by more than 66% vote and it confirms to the requirement of the Code and it has sufficient provisions for its effective implementation.

Details of Resolution Plan

Brief About Corporate Debtor

11. The CD i.e. RG Residency Pvt. Ltd. bearing CIN U70109DL2010PTC197957 was incorporated on 14.01.2010 (as a Company Limited by Shares, Non Govt. Company) having its registered office at G-04, Ground Floor, RG City

Centre, Lawrence Road, Keshav Puram New Delhi 110035. The Authorized Capital of CD is Rs. 10,00,00,000 (Rupees Ten Crore Only) and Paid Up Capital is Rs. 4,80,00,000 (Rupees Four Crore Eighty Lakhs Only). The CD is a part of RG Group and is registered as small enterprise in terms of the Udyam Registration Certificate dated 29 May 2021 having registration no. UDYAM-DL-06-0017976 issued by the Ministry of Micro, Small and Medium Enterprises.

12. The CD has ascertained the cause of default which is mentioned at Clause 12.1 of Part 1, to be:

- a. Covid-19 Pandemic
- b. The purchasing power of the citizens had drastically come down. Higher Vacancy rate could be observed. People were not able to feed their basic needs, purchasing or making payments for purchasing houses was far away.
- c. The Corporate Debtor could not sell the inventory during that period.
- d. Non-sale of inventory and poor collection for more than two years had overburdened the company, with the additional financial cost of interest on loan and land dues. Other routine expenses could not be avoided.
- e. Due to paucity of the funds, the land dues could not be served in terms of lease deed/re-schedulement and of sanction respectively.
- f. The Corporate Debtor could not launch its project due to paucity of funds and negative sentiments of the people and the Land Authority cancelled the map of RG Mirage.

13. The Part -II of the plan extensively deals with the Settlement Proposal for the stakeholders of the CD and the relevant information with regards to the complete payment to be made to the stakeholders. It is relevant to mention herein that complete payment is read to mean the payments proposed to the

Creditors collectively under the two Resolution Plans submitted in the PPIRP of the Corporate Debtor (CD in this case) and the Guarantor i.e KVIR Towers Private Limited. Further, no Creditor shall be paid twice under this Resolution Plan and the Resolution Plan for KVIR Towers Private Limited (Corporate Guarantor).

Total Plan Value Rs. 362.50 crores			
S.No.	Particulars	Proposed Payment	Schedule of Payment
1.	PPIRP Cost		The PPIRP Costs shall be paid in full and in priority, towards final payment of the PPIRP Cost payable in accordance with the Code and the said Costs shall be paid out of the Total Plan Value.
2.	Operational Creditors	Rs. 217.48 Crores	Full payment is proposed to Operational Creditors within 32 months from the NCLT Order Date without any impairment. 1. Operational Creditors (except Noida Authority) to be paid INR 18 Crores. 2. Noida Authority to be paid INR 199.48 Crores.
3.	Other Creditors	Rs.11.48 crores	For Phase 1 of the Project, there are certain refund seekers. The refund seekers would be treated as other Creditors (Form F).
4.	Financial Creditors 1.Payment to Dissenting Financial Creditors		In the event the Dissenting Financial Creditors are entitled to an amount in the nature of liquidation value in terms of Sections 30 and Section 53 of the Code then the Dissenting Financial Creditors would be provided the DFC Payout or an amount of 12.02 crore whichever is higher.

	2. Assenting Financial Creditors	Rs. 119.52 Crores	<p>Further it is stated that the DFC shall neither be entitled to, nor shall they receive any amounts other than the amounts due to them in the nature of liquidation value as stipulated hereinabove i.e. the DFC Payout.</p> <ol style="list-style-type: none"> 1. The aggregate amount of Rs. 119.52 crores includes payment to Pridhvi Asset Reconstruction and Securitization Co. (PARAS) of INR 100 Crore along with going forward IRR of 12% p.a. 2. In addition, surplus from the Project shall be shared with Pridhvi Asset Reconstruction and Securitization Co. (PARAS) as proposed under the Business Plan.
5.	Related party Financial Creditors	Rs. 2.02 crores	<ol style="list-style-type: none"> 1. The related party Financial Creditors to be paid an amount aggregating to INR 2.02 crores. 2. No Person shall be entitled to receive any settlement more than the proportionate settlement payable to a similarly placed class of creditors or stakeholders, as stated in this Plan.
		Total Plan Value Rs. 362.50 crore	

Note: A copy of the Resolution Plan of RG Residency Private Limited as approved by the CoC is annexed and marked as **Annexure A-9 of I.A. 53/2024**. The

applicant has filed clarification affidavit dated 25.10.2024, 08.11.2024 and 22.03.2025 which will be part of the Plan. The clarification was filed piecemeal and it consumed some time. RP should be more diligent and careful and place all details in one go.

14. The Resolution Plan defines *(Assenting Financial Creditor)* **“AFC Settlement Date”** to be date on which the entire payment as contemplated under this Resolution Plan is made to the Assenting Financial Creditors. **“Final Payment Date”** shall be the date on which the entire payment (as contemplated under this Resolution Plan) to the relevant stakeholder is made.
15. **Total Plan Value:** It is stated by the CD that the total plan value for the Corporate Debtor is (approximately) INR 362.50 crs (Rupees Three Hundred Sixty Two Crore Fifty Lakhs Only) which shall be arranged by the Corporate Debtor by selling the unsold units of the Project and by raising funds by the Corporate Debtor (“Total Plan Value”). Further, the Corporate Debtor shall utilise the Total Plan Value for the purpose of making payments to the stakeholders.
 - 14.1 All payment to the stakeholders shall be made from the Total Plan Value. Over and above the Total Plan Value, it is stated that the Corporate Debtor may arrange INR 10 crs (Rupees Ten Crore Only) in the form of interim finance for running the business of the CD by utilization of Najafgarh Land admeasuring (20.77 acres) owned by Dimension Buildwell Private Limited and utilize it as per the discretion of the Corporate Debtor including but not limited to the construction of the units in the Project in consultation with the Secured Assenting Financial Creditors. It is stated that the existing lenders of the said land may at their discretion issue no objection certificate to the Corporate Debtor upon it requesting for the same to enable the Corporate Debtor to utilize the said land by way of inter alia sale/mortgage/dispose off the said land. Further, in the Financial Projections as filed through an affidavit dated 08.11.2024 it is stated that it will raise loan of Rs. 30 crores (Rupees Thirty Crores Only) with ROI 18%.

14.2 It is stated that the CD may inter alia be funded by infusion of capital in the form of equity, shares, debt, convertible debt, external commercial borrowings and / or preference shares and / or availing financial indebtedness (including by arrangement from a third party to provide loans or other financial indebtedness), including creating any Encumbrance to secure it, in order to undertake transactions contemplated in the Plan.

16. Timelines for Payment

1. The units in the Project shall be sold basis a construction linked payment plan or structured payment plan whereby the Corporate Debtor shall receive the entire consideration for a particular unit within agreed upon timelines with the concerned buyer of such unit. Such entire consideration is herein after referred to as **“Total Sale Proceeds-Unit”**.
2. The date on which 10% of the Total Sale Proceeds-Unit is received is herein referred as the **“Sale Date Initial”**
3. In the estimate of the Corporate Debtor, 100% payment from all units of the Project would be received by 44 months from the NCLT Order Date (**“Sale Date Closure”**)
4. Between the Sale Date Initial and Sale Date Closure, the units of the Project shall be sold on an individual basis as and when they are purchased. The proceeds from the sale of units of the Project shall be credited in a separate bank escrow account of the CD.
5. Subsequent to the NCLT Order Date, however prior to the Sale Date Initial, the Corporate Debtor will enter into an escrow agreement to the satisfaction of the Secured Assenting Financial Creditors with a bank as instructed by the Secured Assenting Financial Creditors for opening the Escrow Account for Sale Proceeds.
6. The CD shall, subject to the Applicable Law route all Sale Proceeds through the Escrow Account for Sale Proceeds till the AFC Settlement Date. To ensure

this, the Corporate Debtor shall mention in all applicable documents (and shall intimate the relevant parties) that the cheques shall be drawn in favor of the Escrow Account for Sale Proceeds only. The Escrow Account for Sale Proceeds shall be operated by the Secured Assenting Financial Creditors

7. Notwithstanding anything else, in the event that any Milestone(s) is not achieved on or before the timeline specified in Schedule 6 (Milestones) for any reason whatsoever, the Secured Financial Creditors shall without prejudice to their other rights have the discretion to control the operations of the Escrow Account in terms of the Applicable Law.
8. In the event the funds in the Escrow Account for Sale Proceeds are not sufficient to meet the payments towards the PPIRP Costs and Creditors, then the Corporate Debtor shall use its other sources and/or arrange for additional funds to meet its payment obligations to the PPIRP Costs and Creditors as per the timeline contemplated in this Resolution Plan. The Sale Proceeds received on the Sale Date Initial and thereafter if required, shall at the first instance be utilised towards construction of the units, salary of employees, marketing of the units, applicable tax and other Administrative Overheads in priority to payments of PPIRP Costs or to the Creditors, which is needed for maintaining the corporate Debtor as a going concern.
9. The **“First Payment Date”** shall be the 7th Business Day following the Sale Date Initial /or shall be i.e. the date on which partial or whole payments towards the PPIRP Cost is paid.
10. The Corporate Debtor and the members of the Promoter Group (jointly and severally) agree that development of the Project and sale of units in the Project shall be achieved in the manner and within the timelines as set out in Schedule 6 (“Milestones”) starting from 61st day of the NCLT Order Date.
11. In the event that any Milestone(s) is not achieved on or before the timeline specified in Schedule 6 (Milestones) for any reason whatsoever, then this Resolution Plan shall be deemed to have failed and the Existing Financial

Creditors shall be entitled to take all or any recovery actions as deemed fit by them as per Applicable Laws.

12. The Operational Creditors and the Financial Creditors shall be paid as per the financial projections/business plan attached as Appendix III to the plan, provided that the Operational Creditors shall be paid in priority to the Financial Creditors from each tranche of Sale Proceeds till the AFC Settlement Date. The payment to Secured Assenting Financial Creditor as per plan shall be made as referred below:

Timelines (from the 61 st day following the NCLT Order date)	% of Outstanding (Principal + Redemption Premium)
Last day of Quarter – 9	15%
Last day of Quarter – 10	15%
Last day of Quarter – 11	15%
Last day of Quarter – 12	15%
Last day of Quarter – 13	20%
Last day of Quarter – 14	20%
Total	100%

For the sake of convenience, a quarter shall mean the calendar quarter. In case the NCLT order date falls during the first 15 days of any calendar quarter then the quarter 1 shall begin from the calendar quarter in which the NCLT order is received and incase the NCLT order date falls beyond first 15 days of the calendar quarter then the quarter 1 shall begin from the next calendar qtr. Further as per Form P-12 attached it has been affirmed that no PUFÉ applications are pending.

Note: *It is clarified by the Applicant that the Appendix IV may be read as Appendix III since it is a typographical error. Appendix III is the financial projection/business plan which has been filed vide separate affidavit dated 08.11.2024.*

Note: *The applicant has clarified vide a separate affidavit dated 22.03.2025 that post remanding of the matter, a COC meeting was conducted on 15.02.2025 which was attended by a representative of Noida and a no objection certificate dated 11.03.2025*

has been issued by the NOIDA. In view of the same it is observed that Noida has no objection on the aforesaid plan.

13. It is stated that Pridhvi Asset Reconstruction and Securitisation Company Limited (PARAS) shall be entitled to the mandatory sweep (subsequent to payment to Operational Creditors from each tranche of Sale Proceeds till the AFC Settlement Date) which is provided as follows:

Timelines (from the 61st day following the NCLT Order date)	Mandatory sweep % towards Redemption premium and principal repayment
First 6 months	10%
From 7th month to 12th month	15%
from 13th month to 18th month	20%
From 19th month to 24th month	25%
From 25th month to 30th month	40%
from 31st month till final payment	50%

**It is stated that 100% payments from all units of the Project would be received by 44 months from the NCLT Order Date. Accordingly, it is deemed that the final payment to all the creditors shall be made within time.*

Project Timelines

Phase 1 of the project (Constructed) RG Residency Tower P	Already Constructed, however registration of sale deed with respect to certain units of Phase 1 is pending. The CD shall take endeavours to support homebuyers for getting sale deed deed done.
Phase 2 of the project (Not Constructed) RG Mirage	Project Completion Timelines
Tower L&M	38 months from NCLT Order

17. **Management of the affairs of the CD**

Management Post NCLT Order Date till the AFC Settlement Date:

The management of the CD and the Plan implementation will be carried out by the board of directors of the CD, in the manner contemplated in this Resolution Plan and the board of directors shall:

- (a) Supervise the implementation of the Resolution Plan in terms of the Resolution Plan and the instructions of the Monitoring Agent.
- (b) Supervise and monitor the management and operations of the Corporate Debtor in the ordinary course and on a going concern basis.
- (c) Subject to the aforesaid, the board of directors of the Corporate Debtor shall be entitled to do all such acts, deeds, matters and things as may be necessary in relation to implementation of the Resolution Plan in accordance with the terms of the Resolution Plan.
- (d) Manage and oversee the day-to-day operations of the CD and ensure that the Corporate Debtor continues to function in the ordinary course of business.
- (e) Manage all affairs of the Corporate Debtor and preserve its assets and business as a going concern.
- (f) To make any filings or applications on behalf of the CD before any judicial/quasi-judicial/local or district administrative authorities.
- (g) To represent the Corporate Debtor in litigations and proceedings before various authorities by or against the Corporate Debtor.

Monitoring Agent and its Power and Responsibilities: Till the AFC Settlement Date, the board of directors of the CD shall appoint a Monitoring Agent who shall be nominated by the Secured Assenting Financial Creditors of the Corporate Debtor. It is relevant to mention herein that in the 2nd COC meeting held on 07.03.2024 the agenda for constitution of monitoring committee was put before COC and it was resolved as under:

“RESOLVED THAT the Monitoring Committee comprising of Mr. Rajeev Lochan, Insolvency Professional, IBBI Reg No.: IBBI/IPA-002/IP-N00606/2018-2019/11885 as Chairman, one representative from corporate debtor and one representative from lead COC member would be formed during Implementation Period from the date of approval of the resolution plan by Hon’ble NCLT.

“Further Resolved that the fee of the Resolution Professional i.e., Mr. Rajeev Lochan for monitoring of implementation of resolution plan would be decided by the monitoring committee.” This agenda was passed by 98.89% of voting share.

As per Part-I Clause 6.1.3 of the Plan, the Monitoring Agent shall have power to:

(a) Supervise the withdrawals of funds from the bank accounts of the Corporate Debtor.

(b) The Monitoring Agent shall be authorized to take all steps/ corporate actions required to be taken by the Corporate Debtor, for the timely implementation of the Resolution Plan including for ensuring corporate compliances.

18. Statement as to how the Corporate Debtor has dealt with the interests of all stakeholders, including Financial Creditors and Operational Creditors

Clause 7 of Part 1 of the Resolution Plan states that the Corporate Debtor has taken into account the interests of the stakeholders of the Corporate Debtor, including the Financial Creditors and Operational Creditors to the best extent possible.

The revival of the Corporate Debtor, as envisaged under this Plan, shall contribute significantly to the society and government by contributing significantly direct and indirect employment and income generation opportunities. On perusal of the Financial Projection/ Business Plan submitted by the Applicant, it is observed that the total saleable area for the project to be developed in residential category is 869657 Sq.ft. The Corporate Debtor hereby

confirms that this Plan is not in contravention of the provisions of any Applicable Law.

19. Compliance with Section 29A of the Code

The Corporate Debtor confirms that it has submitted, along with the Plan, an affidavit stating that it is eligible under Section 29A of the Code and as on the date of this Plan and on the basis of its records, it is eligible under Section 29A of the Code.

20. Term of the Plan and its implementation schedule

The term of the Plan shall commence from the date of submission of the Resolution Plan to the Resolution Professional till the AFC Settlement Date. This Plan shall upon its approval by the NCLT ipso facto form part of the NCLT Order.

21. Implementation of any other resolution plan The Corporate Debtor confirms that neither it nor any of its related parties has failed to implement or contributed to the failure of implementation of any other resolution plan approved by the NCLT at any time in the past under the Code.

22. Clause 12.6 of Part-I of the Resolution Plan (*Mandatory Provisions of the Plan*) states that the Corporate Debtor undertakes that every information and records provided in connection with or in the Resolution Plan is true and correct and discovery of false information and record at any time will render the Corporate Debtor ineligible to participate in any resolution process under the Code. Further Clause 12.2 of the Plan (Part I) states that the plan is feasible and viable. Further in this context reference could be made the minutes of 2nd COC meeting held on 07.03.2024 wherein the feasibility and viability of the plan was discussed and it was stated that if there is an impairment of any claims owed by the corporate debtor, the committee of creditors may require the promoters of the corporate debtor to dilute their shareholding or voting or control rights in the corporate debtor. It was confirmed by Pridhvi Asset Reconstruction and

Securitisation Company Limited (PARAS) that they do not intent to dilute the promoters rights in terms of the code and the COC approved the resolution.

Further, clause 10 of the Plan (Part I) states that the provisions have been made for its effective implementation. Further Clause 12.5 states that Resolution Applicant has the capability to implement the resolution plan. We have considered the same and find anything adverse to the implementation.

23. Compliance of Section 79 of Income Tax Act, 1961

It is stated in the Plan that the Resolution Professional shall send a notice to the principal commissioner of Income Tax or commissioner of Income Tax having jurisdiction over the Corporate Debtor ("Section 79 Notice") stating that the Resolution Plan submitted by the Corporate Debtor as approved by the CoC provides that the Corporate Debtor shall be permitted recourse to Section 79(2)(c) of the IT Act, as may be applicable and further if no representation is received from the principal commissioner of Income Tax or commissioner of Income Tax pursuant to issuance of the Section 79 Notice by the date of the NCLT Order, it shall be deemed that the principal Commissioner of Income Tax or commissioner of Income Tax have no objections to the Corporate Debtor carrying forward its Tax losses and such Section 79 notice shall be treated as having accorded a reasonable opportunity of being heard to the principal commissioner or commissioner of Income Tax in relation to this Resolution Plan.

Note: It is clarified by the Applicant that as per the plan it do not propose to change the shareholding of the company and therefore no such benefit of Section 79 as mentioned in clause 6.16 of the plan would entail upon the CD and the applicant omits the said clause as approved by the COC.

Note: Further the Applicant omits Clause 6.7.1 of the plan and thereby undertakes to perform all the obligations by itself.

Analysis & Findings

- a. It is relevant to mention herein that this Adjudicating Authority vide Admission Order dated 20.02.2024, directed that the “RP and COC would be responsible to check whether the Corporate Debtor should receive the benefits of being categorized as “Small Enterprise”. In the event of CD losing its status of Small Enterprise at a later point of time on account of turnover from operations being above the threshold limit, the RP will report to this Adjudicating Authority for appropriate orders as per law.” It is stated by the applicant that the COC was apprised of the same and it is confirmed that the CD is registered as Small Enterprise. Further it is relevant to mention that the current status of the CD for the F.Y 2025-2026 has been categorized as “Micro Enterprise” as reflected UDYAM Website.

Further the applicant in the affidavit dated 26.10.2024 as follows:

4.	<i>With respect to the status of the corporate debtor as MSME it is to be noted that as per the provisions of MSME Act a company is</i>
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given the certificate of being MSME only for a period of one year which has to be renewed every year subject to the company's turnover being within the limits as specified for the respective category of micro small and medium.

At present the financial requirement of the company to maintain the status of MSME is as follows:

MICRO	SMALL	MEDIUM
Investment in Plant and Machinery or Equipment: Not more than Rs.1 crore and Annual Turnover; not more than Rs. 5 crore	Investment in Plant and Machinery or Equipment: Not more than Rs.10 crore and Annual Turnover; not more than Rs. 50 crore	Investment in Plant and Machinery or Equipment: Not more than Rs.50 crore and Annual Turnover; not more than Rs. 250 crore

The benefits, to an MSME company, under various schemes and acts are completely dependent on the date on which the same is being availed and the only factor that has to be considered is whether on the date of applying for such benefits under any law, the company is still registered and eligible as an MSME company.

Further, the object of the Micro, Small and Medium Enterprises Development Act, 2006 is to provide for facilitating the promotion and development and enhancing the competitiveness of micro small and medium enterprises and for matters connected there with or incidental thereto.



	<p><i>This clearly indicates that all these benefits are being extended to a MSME company so that the same may grow and become large company and it does not intend to restrict the company to continue to be micro or small or medium enterprise only.</i></p> <p><i>Having said that, the efforts of the corporate debtor would certainly be to ensure the growth of corporate debtor in the larger interest of every stakeholder.</i></p> <p><i>With respect to the financial planning for completion of the project, the detailed financial / business plan has already was submitted to the CoC for its consideration along with the resolution plan itself and the same shall also be placed before the Hon'ble NCLT.</i></p>
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However, it is observed from the Financial Projections/Business Plan submitted by the Applicant that the turnover of the CD year wise for next 4 years is as follows:

Year	Quarters	Total Revenue
Year 1	Q1+Q2+Q3+Q4 (11.07+22.13+61.78+87.26)	Rs.182.24 Crore
Year 2	Q5+Q6+Q7+Q8 (+81.49+69.32+94.75+107.80)	Rs. 353.36 crores
Year 3	Q9+Q10+Q11+Q12 (+93.84+78.73+31.28+20.86)	Rs. 224.71 crores
Year 4	Q13+Q14 (+3.64+0.89)	Rs. 4.53 Crores

(Note: Quarter1 is to start from 60 days from the Order)

This will breach the threshold limit in 1st and 3rd year (incase of being categorized as Micro or Small Enterprise) and 2nd year as well as applicable to obtain the status of MSME, which will ultimately lead to CD losing its status of being MSME. Since the Resolution Plan has been approved by 98.89% voting majority and there is no objection raised by any stakeholder including Noida, we are inclined to accept the clarification of the CD. Further The plan value stand

at Rs. 362.50 crore (Rupees Three Hundred Sixty Two Crore Fifty Lakhs Only), proposed to be arranged through future recoveries from unit sales, with borrowings upto 30 crore (Rupees Thirty Crores Only) contemplated in case of shortfall. However, no documentary proof or letter confirming loan approval been provided. The committee of creditors (COC), exercising its commercial wisdom, considered and assessed the plan feasibility and viability. Given the COC being decision making authority , their approval after due deliberation is deemed appropriate in light of various authorities including *K Shashidhar v. Indian Overseas Bank & Ors., (2019) ibclaw.in 08 SC.* and *Essar Steel India Ltd. Committee of Creditor v. Satish Kumar Gupta, (2019) ibclaw.in 07 SC.*

- b. We may further mention that in our Admission Order dated 20.02.2024, we had stated:

15. We are constrained to observe that the CD has obtained an UDYAM Registration Certificate based on his declaration of having zero (Nil) Property, Plant and Equipment and revenue of Rs. 22.96 crore in the year 2022-2023 from the operations. Based on the above said declarations, the CD has been declared as Small Enterprise. We also observe that CD is engaged in Real Estate Business and it has an outstanding loan from Unrelated Financial Creditors of more than INR 300 crore. Further, it has bought land valued at 106.05 crores from Noida in F.Y.2022-2023 and it is having inventory of Rs. 458 crores as per the Balance Sheet of F.Y. 2022-23.

16. Further as per the Profit and Loss Account of F.Y. 2022-23 attached, CD has shown zero (Nil) Rental Expenditure to carry out its activities. In the present facts and circumstances, we deem it appropriate to bring the above facts to the notice of the Govt. of India, Ministry of Micro, Small and Medium Enterprises as well as Ministry of Corporate Affairs as to whether any safeguard is in place in respect of corporates in Real Estate Sector who seek the status of MSME on account of the nature of its operations where plant and equipment is taken on rent or construction work is subcontracted, and there is a usual period of construction (before completion and sale of properties) during which turnover remains quite low.

The admission order dated 20.02.2024 has been sent to concerned Ministry. However no response/ steps has been taken by the concerned ministry.

- c. On hearing the submissions made by the Ld. Counsel for the Resolution Professional and perusing the record, we find that the Resolution Plan has been approved by the CoC with 98.89% of the members voting in favor of the Resolution Plan. As per the CoC in their commercial wisdom, the Plan meets the requirement of being a viable and feasible for revival of the Corporate Debtor. The plan is not contingent. We find no reason not to accept the same.
- d. As far as the issue of reliefs and concessions which fall in the jurisdiction of different Government Authorities, and/ or are subjected to the provisions of different laws for the time being in force are concerned, it is made clear that the amount payable by the CD in terms of the plan to different creditors, stakeholders, and to keep the Corporate Debtor as a going concern cannot be subject to any condition, assumptions, relief/ concessions and/ or qualification. It is also needs to be underlined that the provisions of Section 31(4) of IBC, 2016 mandates the Resolution Applicant to obtain the necessary approval required under any law for the time being in force within a period of one year from the date of approval of the resolution plan by the Adjudicating Authority under Section 31 of the IBC, 2016. In terms of the provisions of Section 14 of the Code (*which applies mutatis mutandis* to “PPIRP” as per 54E of the code even during the period of CIRP (in this case PPIRP) , no default in payment of current dues is a precondition for continuation of the License, Permit, Registration and similar rights. Thus, even during the moratorium period, some of the facilities forming part of the reliefs and concessions sought are made available to the CD only when there is no default in payment of the current dues. On approval of the Resolution Plan, the SRA/CD cannot be put on a better footing by exempting it from paying its legitimate dues under the law. The CD would be entitled to no reliefs/ concessions/waivers except those are available/permissible to it as per the provisions of Section 31(1) and 32A of

IBC, 2016. The SRA is at liberty to approach the relevant authorities who would consider these claims as per the provisions of the relevant law in an expeditious manner.

- e. Thus, it is ordered that the reliefs, concessions and waivers sought by the Successful Resolution Applicant will be dealt with strictly as per the law and shall not be deemed to be granted only by the virtue of this plan approval order.
- f. The applicant has also attached the compliance certificate in Form P-12 as per Regulation 49 (1) of the Insolvency and Bankruptcy Board of India (Prepackaged Insolvency Resolution Process) Regulations, 2021] stipulating the compliance with the provisions of the code. On perusal of the same and documents on record, we are satisfied that the Resolution Plan is in accordance with Sections 30 of the Code read with regulations 45 of the PPIRP Regulations, 2021. Further it would be relevant to mention that some homebuyers namely Mr. Sumit Bansal, Mr Sunit Bansal, Ms. Monika Bansal, Ms. Parul Bansal and Mr. Sumit Bansal have filed applications numbered as **IA-2527/2024, IA-2531/2024, IA-2432/2024, IA-2465/2024 and IA 2471/2024** alleging their grievances. The aforesaid applications have been dealt in a separate order. In view of the same, as per Clause 10.16 of the plan which is extracted below for ready reference:

10.16 In case, as an outcome of any litigation [including pertaining to any claimant of the Corporate Debtor whose Claim has not been admitted by the Resolution Professional (in part or in full)] before the relevant court/ judicial authority, an order is passed wherein any Claim is ordered to be admitted (in part or in full), the Claim of such claimant shall be settled as Financial Creditors' Claim/Operational Creditors' Claim/Other Creditors' Claim (as the case may be) as mentioned in Part II (Settlement Proposal) of this Resolution Plan, respectively. Further, the quantum of Claim for the purposes of making payment to any Creditor in terms of this Resolution Plan shall take into account orders passed in any related litigation or any other directive, order from any judicial/quasi-judicial authority in terms of Applicable Law which may *inter alia* lead to a reduction in the quantum of such a Claim prior to the payment being made for such Claim.

The amount as admitted in the applications will be dealt as per the aforesaid clause and will be paid accordingly.

24. ORDER

- i. Subject to the observations made in this Order, the Resolution Plan of **Rs. 362.50 crores/-** (Rupees Three Hundred Sixty Two Crores and Fifty Lakhs Only) is hereby **approved**. The Resolution Plan shall form part of this Order. Further it is made clear that, if any creditor being paid under the resolution plan of KVIR Towers Pvt. Ltd, shall not be paid twice and cannot get the benefit of both the resolution plans.
- ii. The Resolution Plan is binding on the Corporate Debtor and other stakeholders involved so that the revival of the Debtor Company shall come into force with immediate effect.
- iii. The Moratorium imposed under section 14 of the Code shall cease to have effect from the date of this order.
- iv. The Resolution Professional shall submit the records collected during the commencement of the proceedings to the Insolvency & Bankruptcy Board of India for their record and also return to the Resolution Applicant or New Promoters.

Accordingly, IA No.53 (PB)/2024 is allowed and disposed of.

- v. A Certified copy of this Order shall be filed by the Resolution Professional with the Registrar of Companies, NCT of Delhi.
- vi. The Resolution Professional shall stand discharged from his duties with effect from the date of this Order, save and except those duties that are enjoined upon him for implementation of the approved Resolution Plan.

- vii. The Resolution Professional is further directed to hand over all the records, premises/records/factories/data/documents in any form available with it to the Resolution Applicant to finalize the further line of action required for starting of the operation.
- viii. The Registry is hereby directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
- ix. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

24. To summarize:

- i. **IA-53/2024** filed for seeking approval of resolution plan is allowed and **disposed of**. The Plan value is **Rs. 362.50 crores/-** (Rupees Three Hundred Sixty Two Crores and Fifty Lakhs Only).
- ii. **IA-2527/2024, IA-2531/2024, IA-2432/2024, IA-2465/2024 and IA 2471/2024** have been dealt in a separate order.
- iii. **CP (IBPP) No.-01(PB)/2023 is disposed of** in above terms.
- iv. File be consigned to record storage (current).

Sd/-

(RAMALINGAM SUDHAKAR)

PRESIDENT

Sd/-

(RAVINDRA CHATURVEDI)

MEMBER (TECHNICAL)