



**In the National Company Law Tribunal
Special Bench, (Court-II),
Kolkata**

IA (IB) No. 1539/ (KB) /2022

In CP(IB) No. 482/(KB) /2019

Application under section 30(6) and section 31(1) of the Insolvency & Bankruptcy Code, 2016 read with regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 for approval of Resolution Plan.

In the Matter of:

Stressed Assets Stabilization Fund, carrying on its business, inter alia from 3rd Floor, D-Wing, IDBI Tower, WTC Complex, Cuffe Parade, Mumbai- 400 005.

...Financial Creditor

And

ER Textiles Limited, a company within the meaning of the Companies Act, 2013 and having its registered office at 1/433, Gariahat Road, Block-4A (4th Floor), Jodhpur Park, Kolkata - 700 068, West Bengal.

....Corporate Debtor

And

In the matter of:

Anup Kumar Singh, Resolution Professional of ER Textiles Limited having his office at Suite 1B, 1st Floor, 22/28A, Manoharpukur Road, Deshopriya Park, Kolkata - 700 029.

....Applicant

Date of Hearing: 27.07.2023

Date of Pronouncement of order: 20.12.2023

Coram:

Smt Bidisha Banerjee : **Member (Judicial)**
Shri Balraj Joshi : **Member (Technical)**

Counsel appeared physically / through video Conferencing

1. Mr. Ratnanko Banerji, Sr. Adv.] For the Successful Resolution Applicant
2. Ms. Madhujā Barman, Adv.
3. Mr. Aman Agarwal, Adv.

1. Mr. Joy Sha, Sr. Adv.] For the Resolution Professional
2. Mr. Ritoban Sarkar, Adv.
3. Mr. Avishek Das, Adv.



ORDER

Per Bidisha Banerjee, Member (Judicial):

1. Heard the Ld. Sr. Counsel / Ld. Counsel for the parties.
2. This application has been preferred to seek approval of Resolution Plan in its entirety along with its annexures, Schedule, Appendices and claims contained therein as submitted by Vajram Estates Pvt. Ltd. with reliefs and concessions sought for under the Plan. The Application has been preferred under Rule 34 of the NCLT Rules.
3. Vajram Estates Pvt. Ltd. was approved by the CoC with 100% voting shares. A copy of the Minutes of the Minutes of the 9th CoC meeting along with the E-voting results is annexed with the application and marked as Annexure 'H'.
4. The Applicant issued Letter of Intent to the Successful Resolution Applicant on 18.10.2022 and received a Performance Bank Guarantee dated 27.10.2022 for an amount of Rs. 6,51,60,000/- (Rupees Six Crore Fifty-one Lakhs Sixty Thousand Only) till the complete implementation of the Resolution Plan in compliance with Regulation 36B(4A) of IBBI(Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

5. The CIRP process and Compliances

- a. The Corporate Debtor was admitted into CIRP vide order dated 14.01.2022 and Mr. Anup Kumar Singh was appointed as the IRP and vide an order dated March 22, 2022 this Tribunal confirmed Mr. Anup Kumar Singh as the RP of the Corporate Debtor.
- b. The Applicant as per Regulations 27 of the IBBI (CIRP) Regulations, 2016 appointed two Registered Valuers being Auditor Appraisers & Research Pvt Ltd and Crest Valuation Services Pvt Ltd for arriving at the Fair Value and the Liquidation Value of the Corporate Debtor.
- c. The Applicant had also engaged a Transaction Auditor being V. Singhi & Associates to conduct the Transaction Audit of the Corporate Debtor for identification of preferential, undervalued and / or fraudulent transactions under sections 43, 45, 49, 50 and 66 of IBC, 2016.
- d. Paper publications were made in Form -G containing timelines for submission of EoI by the Applicant on March 30, 2022.



- e. The Applicant published revised Form -G in three widely published national newspapers, containing fresh timelines for submission of EoI on 15.04.2022.
- f. As per Regulation 36B of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016; the Applicant has provided the RFRP, Information Memorandum and all other documents to the Prospective Resolution Applicants (PRAs) through Virtual Data Room (VDR) on 14th May, 2022.
- g. As per Regulation 36A (12) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the Applicant has issued final list of PRAs to the CoC.
- h. The CIRP period of the Corporate Debtor has come to an end on 13th July, 2022 and thereafter, the Applicant filed an IA (IBC) 637/KB/2022 praying for extension of time of 90 days which has approved by CoC by 98.14% votes to complete the CIRP. This tribunal vide order dated 04th July, 2022 has passed the same.
- i. As per request of Resolution Applicants, submission of Resolution Plans was extended till 3rd August and till last date, the Applicant received Resolution Plans from 3 (three) entities as enumerated below:
- i. Annapoorani Textiles Pvt Ltd.
 - ii. Bommidala Enterprises Pvt Ltd.
 - iii. Vajram Estates Pvt Ltd.
- j. Thereafter, the Applicant convened and chaired the 5th CoC meeting on 19th August, 2022, wherein the Resolution Plans submitted by the 3 Resolution Applicants (hereinafter referred to as “RAs”) and the same was unsealed and presented before the CoC members.
- k. On 16th September, 2022, in the 6th CoC Meeting, the Applicant presented the Financial Proposal of all the Resolution Applicants and at this meeting, it was further decided that a Legal Advisor be appointed to validate the eligibility of the PRAs u/s 29A of the Code, 2016 and also certify the same in connection with the CIRP of the Corporate Debtor.



- l. On 23rd of September, 2022, in the 8th CoC Meeting further discussion and negotiations were made on the Resolution Plans submitted by the 3 RAs. At this meeting, the Applicant has informed the CoC that all the RAs had improved their offers. Thereafter, finally, the CoC Members unanimously decided to grant liberty to all the RAs to revisit the Resolution Plans and submit their final revised plan by 26th September, 2022.
- m. In the 9th CoC meeting held on 30th September, 2022, it was decided that the Plans should be put up for voting and voting lines would be kept open from 2nd October, 2022 till 6th October, 2022 for the same. But, on 4th October, 2022 the CoC addressed an email to the Applicant seeking extension of time to vote upon the Resolution Plans and the same was concluded on 15.10.2022 and the Resolution Plan proposed by one, Vajram Estates Pvt Ltd. has been approved by the CoC with 100% votes.
6. The Vajram Estates Pvt Ltd., under this Resolution Plan, has provided for a total plan value for the Corporate Debtor of Rs. 65.16 Crores. **The amount claimed, amount admitted and the amount provided under the Resolution Plan are enumerated below:**

Class of Creditors / Particulars	Amount Claimed (In INR)	Amount Admitted (In INR)	Amount provided under the Resolution Plan (In INR)
CIRP Costs	50,00,000	50,00,000	50,00,000
Financial Creditors	1563,60,46,287	1563,60,46,287	64,23,20,631
Operational Creditors (Other than workmen and employee)	1,90,36,935	1,90,35,570	19,03,557
Other Debts & Dues	18,63,85,104	0.00	20,00,000
Government dues	3,69,10,886	91,48,404	3,75,812
Total	1588,33,79,212	1566,92,30,261	65,16,00,000
Working Capital	-	-	40,00,00,000
Grand Total	-	-	1,05,16,00,000

7. Synopsis of mandatory Provisions / Sections / Regulations and their compliance are as under:

Sl. No.	Section / Code / Regulation	Requirement	Compliance established
A. For Resolution Applicant			
1)	Section 29A	The Resolution Applicant must be eligible to submit resolution plan.	Affidavit filed along with this Resolution Plan
2)	Section 30 (1)	The Resolution Applicant must submit an affidavit stating that it is eligible.	
3)	Regulation 39(1) (a)		
B. For Resolution Plan			
1.	Section 30 (2)(a)	The Resolution Plan must provide for the payment of CIRP costs.	Schedule -I
2.	Section 30 (2) (b)	The Resolution Plan must provide for the payment to the Operational Creditors.	
3.	Section 30 (2)(c)	The Resolution Plan must provide for an effective management of the Corporate Debtor in the event of approval of this Plan	Chapter VII (C)
4.	Section 30 (2) (d)	The Resolution Plan must provide for supervision of the resolution plan	Chapter VII
5.	Section 30 (2) (e)	The Resolution Plan must declare that the present Resolution Plan does not contravene any provision	The RA declares that the present Resolution Plan does not contravene any provision of law for the time being in

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Sl. No.	Section / Code / Regulation	Requirement	Compliance established
			force.
6.	Section 30 (4)	Resolution Plan must provide feasibility and viability	The RA declares that the Resolution Plan is feasible and viable
7.	Section 30 (4)	The Resolution Plan must provide for manner of distribution taking into account the order of priority amongst creditors as laid down in sub-section (1) of section 53, including the priority and value of the security interest of a secured creditor	The RA is pleased to leave the distribution of the amounts inter se particular category of creditors at the discretion and wisdom of the CoC, provided that the Total Resolution Amount proposed under this Resolution Plan remains unaffected
8.	Section 31(1)	The Resolution Plan must provide for its effective implementation plan, according to the CoC.	Chapter VII
9.	Section 31(4)	The Resolution Plan must address necessary approvals required under the applicable law	Chapter IX(B) and Annexure 3 (Reliefs and Concessions)
10.	Regulation 36B (4A)	The RA must undertake to provide Performance Bank Guarantee amounting to 10% of the Total Resolution Amount	Chapter IX (J)
11.	Regulation 38 (1)(a)	The amount payable to the Operational Creditors under the	Schedule I

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Sl. No.	Section / Code / Regulation	Requirement	Compliance established
		resolution plan shall be given priority in payment over financial creditor	
12.	Regulation 38 (1)(b)	The amount payable under the Resolution Plan to the Financial Creditors, who have a right to vote under sub-section (2) of section 21 and did not vote in favour of the Resolution Plan, shall be paid in priority over financial creditors who voted in favour of the plan	Schedule I
13.	Regulation 38 (1A)	The Resolution Applicant must provide a statement as to how it has dealt with the interest of all stakeholders, including financial creditors, and operational creditors, of the corporate debtor	Chapter III (B) (2)
14.	Regulation 38 (3)(b)	The Resolution Plan should demonstrate that it is feasible and viable.	The RA declares that the present Resolution Plan is feasible and viable.
15.	Regulation 38 (3)(c)	The Resolution Plan must demonstrate that it has provisions for its effective implementation.	Chapter VII
16.	Regulation 38	The Resolution Plan must	Chapter IX (B)

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Sl. No.	Section / Code / Regulation	Requirement	Compliance established
	(3)(d)	demonstrate that it has provisions for approvals required and the timeline for the same.	Annexure 3 (Reliefs and Concessions)
17.	Regulation 38 (3)(e)	The Resolution Plan must demonstrate that the resolution Applicant has the capability to implement the Resolution Plan.	Chapter IV, V and VI

8. In course of hearing, it was submitted by the Ld. Sr. Counsel for the Applicant that the Resolution Plan is in compliance of the provisions of under Section 30 of IBC read with relevant Regulations of the CIRP Regulations and has been approved by CoC and the Plan if approved, would result in maximization of the value of assets of the Corporate Debtor and avoid corporate death due to liquidation by reviving it from financial crisis.

9. **Reliefs and Concessions** sought by the Resolution Applicant from this Adjudicating Authority are enumerated below for successful implementation of the Resolution Plan:

1)	The Central Board of Direct Taxes (CBDT) or any other relevant Governmental Authority to exempt the RA and the CD from the applicability of and payment of all Taxes under the Income Tax Act, 1961 (including Section 115JB), including any liability under the Minimum Alternate Tax which may arise on account of the transactions envisaged under this Resolution Plan either on the RA, or the CD or any other Person who is likely to be impacted due to implementation of the Resolution Plan, and the Adjudicating Authority shall pass an order to that effect.
2)	The CBDT/ Department of Revenue shall grant the following exemptions/waivers: (1) from applicability of Section 281 of the

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	<p>Income Tax Act, 1961 including obtaining no-objection certificate from income tax authorities in respect of all the pending proceedings and dues (including interest and penalty) of the Corporate Debtor arising for periods up to the Effective Date (including such proceedings and dues for periods prior to the Effective Date that may crystallize subsequent to the Effective Date). Further, CBDT/Department of Revenue shall restrict/ restrain from treating any transactions contemplated in this Resolution Plan as being void or non-compliant with any provisions of the Income Tax Act, 1961; and (ii) from all Tax Liabilities (including interest and penalty) and Tax proceedings arising in respect of periods up to the Effective Date, including such Liabilities/ proceedings for periods up to the Effective Date that may crystallize subsequent to the Effective Date in respect of on-going or potential income Tax litigations at all levels.</p>
3)	<p>The CBDT shall grant exemption to the Corporate Debtor from the requirement of amounts in respect of taxes being withheld from payments made to the Corporate Debtor for a period of 1 (One) year from the Effective Date.</p>
4)	<p>The CBDT and or any other Governmental Authority to allow the CD to enjoy and avail in 4 future any tax benefits, deductions, exemptions as per the relevant provisions of the applicable law which the CD was entitled to as on the Plan Effective Date for the balance period as per the relevant provisions of the Applicable Law.</p>
5)	<p>The change in shareholding of the Corporate Debtor pursuant to the Resolution Plan shall nos lead to lapse of any brought forward losses of the Corporate Debtor and provisions of Section 79 of the Income Tax Act, 1961 are not applicable. New Management to be permitted to avail Sec. 79 (2) (c) of Income Tax Act benefits.</p>
6)	<p>All licenses and Government Approvals held by the CD, which expire prior to Effective Date or within a period of six (6) months thereafter, shall be renewed extend by the relevant Governmental Authorities, and the CD shall be permitted to submission to continue to operate its</p>

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	business and assets in the manner operated prior to submission of this Resolution Plan until renewal / extension of such licenses and approvals. The relevant Governmental Authorities will provide a reasonable period of time after the Plan Effective Date in order for the RA to assess the status of the licensee and Governmental Approvals required by the CD and to procure that the CD applies for the same.
7)	The Inspector of the Ministry of Cor, Collector of Stamps, Revenue Department, of any State Government and the Ministry of Corporate Affairs to exempt the RA and the CD, from the levy of stamp duty and fees applicable in relation to this Resolution Plan (and all documents to be from the pursuant to applicable on the issue of stems of my and its implementation, including any stamp duty on the issue of shares or NCDs by the CD.
8)	The relevant State Pollution Control Boards to approve renewal of the consents to operate obtained by the CD under applicable provisions of the Water (Prevention and Control of Pollution) Act, 1974, Air (Prevention and Control of Pollution) Act, 1981, and to approve renewal/ consent pursuant to Environmental Clearances.
9)	All Governmental Authorities to waive all past Non-Compliances of the CD under Applicable Laws, and the CD, RA shall not be liable for any Non-Compliances under Applicable Laws for the period prior to the Plan Effective Date. Any connections, including without limitation and water and electricity connections in the name of the CD, shall be renewed by the respective Governmental Authorities without insisting on the payment of past dues by the CD.
10)	The rights of any Person (whether exercisable now or in the future and whether contingent or not) to call for the allotment, issue, sale or transfer of shares or loan capital of the CD or the RA, assets of the CD (as stated in the IM) or RA, whether on a change of control or otherwise, shall stand unconditionally and irrevocably extinguished.
11)	As the RA was not provided entire information sought while preparing the Resolution Plan in relation to the Government Approvals required

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	for undertaking the business of the CD, it is probable that some of such Government Approvals may have lapsed, expired, suspended, cancelled, revoked or terminated or the CD has certain Non-Compliances in relation thereto. Accordingly, all Governmental Authorities to provide at least 6 months after the Effective Date in order for the RA to assess the status of these Government Approvals, to ensure that the RA is compliant with them and, in the event of non-compliance, for the RA to apply for such licenses and approvals without initiating any investigations, actions or proceedings in relation to such Non- Compliances.
12)	The relevant Governmental Authority to exempt the RA and the CD from the applicability of 12 and payment of all Taxes under the Central Goods and Services Tax Act, 2017 which may arise on account of the transactions envisaged under this Resolution Plan either on the RA, or the CD or any other Person who is likely to be impacted due to implementation of the Resolution Plan, and the Adjudicating Authority shall pass an order to that effect.
13)	The Adjudicating Authority to approve the capital reduction as contemplated under this Resolution Plan of the equity shares of the CD, without requiring compliance with the provisions of Section 66(1) and (2) of the Companies Act, 2013.
14)	The CBDT to consider providing relief to the CD from all direct Tax litigations pending at different levels and provide waiver from all Tax dues including interest and penalty on such litigations.
15)	The Central Board of Excise and Customs/respective value-added Tax/entry Tax authorities / director general of foreign trade to consider providing relief to the CD from all litigations pending at different levels and provide such litigations waiver from tax dues including interest and penalty on such litigations.
16)	All Governmental Authorities to waive the Non-Compliances of the CD prior to the Plan Effective Date, including but not limited to Companies Act 2013, the Industrial Disputes Act, 1947, and the relevant shops and

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	establishment acts and rules, circulars and regulations of each of the above legislations.
17)	Reserve Bank of India to confirm that, on and from the Effective Date, all accounts of the CD shall stand regularized and their asset classification shall be "standard" for the purposes of all Applicable Laws.
18)	All Governmental Authorities to grant any relief, concession or dispensation as for implementation of the transactions contemplated under the Resolution Plan in accordance with the terms and conditions.
19)	The Ministry of Corporate Affairs and / or the Hon'ble NCLT shall, by way of approval of this Resolution Plan, be deemed to have granted their approval to the Corporate Debtor for holding the Annual General Meeting of the Corporate Debtor for the FY ended on March 31, 2022, following the expiry of the stipulated maximum period for holding such meeting under Applicable Laws.
20)	20. With respect to the proposed reconstitution of the Board of Directors of the Corporate Debtor on and from the Effective Date, the Hon'ble NCLT shall, by virtue of the approval of this Resolution Plan, be deemed to have directed the Ministry of Corporate Affairs and the jurisdictional Registrar of Companies to take on record such appointments and resignations of Directors of the Corporate Debtor (as may be identified by the Resolution Applicant), and all relevant forms and necessary actions in this regard to affect such reconstitution.
21)	The Ministry of Corporate Affairs, SEBI and the Hon'ble NCLT shall permit the Face Value Reduction and the Promoter Capital Reduction in the manner contemplated in this Resolution Plan, by exempting compliance with the requirements set out in Companies Act, 2013 (and the rules framed thereunder) and under any other Applicable Laws (including any circulars issued by the SEBI in this regard), with respect to reduction of share capital.
22)	22. The Hon'ble NCLT, by virtue of approval of this Resolution Plan,

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	be deemed to have permitted an increase in the Authorized Capital of the Corporate Debtor and issuance of Equity Shares to RA against receipt of the Equity Subscription Amount, without the requirement of following the process for such increase / issuance under the Companies Act, 2013 (and the rules framed thereunder).
23)	23. The Hon'ble NCLT shall, by virtue of the approval of this Resolution Plan, be deemed to have directed a notification to all beneficiaries of guarantees issued by the Corporate Debtor, if any, to the effect that on and from the Effective Date all Liabilities of the Corporate Debtor with respect to such guarantees shall stand extinguished and such recipients shall not thereafter be entitled to raise any claims against the Corporate Debtor.
24)	24. Notwithstanding the terms of the relevant agreements, the Hon'ble NCLT shall, by virtue of approval of this Resolution Plan, be deemed to have directed that prior approval of the counterparties shall not be required to be obtained for change in control / constitution of the Corporate Debtor pursuant to the terms of this Plan and such counterparties: (1) shall waive all objections / liabilities of the Corporate Debtor arising out of the initiation of corporate insolvency resolution / bankruptcy proceedings involving the Corporate Debtor, appointment of the Resolution Professional and in respect of the implementation of this Plan; (ii) shall waive the right to suspend these agreements due to any previous delays / failures by the Corporate Debtor to make payments under such agreements; and (iii) shall not terminate the relevant agreements or take any adverse actions against the Corporate Debtor.
25)	The Corporate Debtor/ RA shall be allowed a Stamp Duty waiver on Registration of this Resolution Plan and any documents executed in pursuance to the same.
26)	Schemes announced by Ministry of Textiles such as Technology Upgradation Funds Scheme (TUFS) is to be restored/ validated.
27)	All rights of the Corporate Debtor and in relation to the Assets,

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	including but not limited to the assets specified in the Books of Accounts of the Corporate Debtor, notwithstanding the change in ownership and / or management of the Corporate Debtor without the requirement for any express approval or consent of any party; All the deposits lying in the name of Corporate Debtor shall be continue to vest with the Corporate Debtor.
28)	The Hon'ble NCLT, by virtue of approval of this Resolution Plan, will be deemed to have permitted the RA to liquidate the assets of CD which are not in capital requirement. use in the opinion of RA to meet the working capital requirement.
29)	The Hon'ble NCLT, by virtue of approval of this Resolution Plan, will be deemed to have permitted the RA to use the surplus land for any activities as seems fit/ appropriate to RA such as construction of warehouse/building etc. during the quarterly payment period. 30. Subject to the RA submitting necessary undertaking, the submission of this Resolution Plan shall not in any manner prejudice or affect the ability of the RA/ its affiliates to be a 'resolution applicant' under the IBC in respect of any other person or in respect of any other corporate insolvency resolution process under the IBC.
30)	31. All agreements/ arrangements between the Corporate Debtor and the persons currently classified as promoter or promoter group (including the existing promoter group), persons acting in concert with promoters, holding companies, subsidiary companies, associate companies, group companies and / or their respective affiliates/ associates shall stand terminated, with no liability to the Corporate Debtor (including but not limited to with regard to any previous breaches). However, it is clarified that all claims of the Corporate Debtor against such Related Parties (and all liabilities of such Related Parties towards the Corporate Debtor) shall remain outstanding, due and payable in accordance with their terms. 32. Upon receipt of the approval of the NCLT under Section 30 of the IBC, the terms and provisions of this Plan shall have effect, notwithstanding anything inconsistent



	contained herein with the provisions of any other law for the time being in force or any other instrument having such effect by virtue of any law.
31)	he RP must file necessary application before NCLT and/ or any other court/forum/ authority for removal of attachments of PF and Tax Authorities.
32)	All the attachment on all the properties of CD of any government/non-government agencies including but not limited to immovable properties, movable properties, stock, equity shares shall be withdrawn.

10. A bare perusal of the extracts / excerpts from the Plan establishes that the **Resolution Plan has been approved with 100% voting share**. As per the CoC, the plan meets the requirement of being viable and feasible for revival of the Corporate Debtor. By and large, all the compliances have been mentioned by the RP and the Resolution Applicant for effective implementation of the Resolution Plan.
11. On perusal of the documents on record, supported by an affidavit of the Resolution Professional, we accord our satisfaction that the Resolution Plan as approved by the CoC, is in accordance with sections 30 and 31 of the IBC and also complies with regulations 38 and 39 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, as enumerated supra.
12. We have also perused the reliefs, waivers and concessions as sought and as given in Annexure 3 of page 175 to 178 of the Resolution Plan. While some of the reliefs, waivers and concessions sought by the Resolution Applicant come within the purview of the Code and the Companies Act 2013, many others fall under the power and jurisdiction of different government authorities/departments. This Adjudicating Authority has power to grant reliefs, waivers and concessions only with respect to the reliefs, waivers and concessions that are directly in relation to the Code and the Companies Act 2013 (within the powers of the NCLT), and these are granted keeping in mind the object of the Code. Reliefs, waivers and concessions that fall within the domain of other government department/authorities are not granted.



13. However, the reliefs, waivers and concessions that pertain to other governmental authorities/departments may be dealt with the respective competent authorities/forums/offices, Government or Semi Government of the State or Central Government with regard to the respective reliefs, waivers and concessions, whenever sought for, in the spirit of the code, which is the revival of the Corporate Debtor.
14. It is trite and fairly well settled that the Resolution Plan must be consistent with the extant law. The Resolution Applicant shall make necessary applications to the concerned regulatory or statutory authorities for renewal of business permits and supply of essential services, if required, and all necessary forms along with filing fees etc. and such authority shall also consider the same keeping in mind the objectives of the Code, which is essentially the resolving the insolvency of the Corporate Debtor and putting the Corporate Debtor back on its feet.
15. The reliefs sought with respect to subsisting contracts/agreements cannot be granted, in the absence of the parties to these contracts and agreements and these shall have to be dealt with on terms and conditions of these contracts by the parties themselves.
16. With respect to the waivers with regard to extinguishment of claims which arose Pre-CIRP and which have not been claimed are granted in terms of **Ghanashyam Mishra and Sons Pvt Ltd Vs. Edelweiss Asset Reconstruction Company Ltd**, wherein the Hon'ble Supreme Court has held that once a resolution plan is duly approved by the Adjudicating Authority under sub-section (1) of section 31, the claims as provided in the resolution plan shall stand frozen and will be binding on the Corporate Debtor and its employees, members, creditors, including the Central Govt, any State Govt or any local authority, guarantors and other stakeholders.
17. In this regard we also rely on the judgement of Hon'ble High Court of Rajasthan in the matter of **EMC v. State of Rajasthan** wherein it has been inter-alia held that : *“Law is well-settled that with the finalization of insolvency resolution plan and the approval thereof by the NCLT, all dues of creditors, Corporate, Statutory and others stand extinguished and no demand can be raised for the period prior to the specified date.”*




18. Thus on the date of approval of resolution plan by the Adjudicating Authority, all such claims, which do not form a part of 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 part of the resolution plan as per the law laid down by the Hon'ble Supreme Court in Ghanashyam Mishra (supra).
19. The Hon'ble Supreme Court also held that all the dues including the statutory dues owed to the Central Govt, any State Govt or any local authority, if not part of the resolution plan, shall stand extinguished and no proceedings in respect of such dues for the period prior to the date on which the Adjudicating Authority grants its approval under section 31 could be continued.
20. With respect to the waivers sought in relation to guarantors, we seek to place reliance on the judgment of **Lalit Kumar Jain v Union of India & ors. [(2021) 9 SCC 321]**, wherein the Hon'ble Apex Court held that "*sanction of a resolution plan and finality imparted to it by Section 31 does not per se operate as a discharge of the guarantor's liability*".
21. With respect to the reliefs and waivers sought for all inquiries, litigations, investigations and proceedings shall be granted strictly as per the section 32A of the Code and the provisions of the law as may be applicable.
22. As far as the question of granting time to comply with the statutory obligations/seeking sanctions from governmental authorities is concerned, the Resolution Applicant is directed to do the same within one year as prescribed under section 31(4) of the Code.
23. In case of non-compliance of this order or withdrawal of Resolution Plan, the CoC shall have the right to forfeit the EMD amount already paid by the Resolution Applicant.
24. Subject to the observations made in this Order, the Resolution Plan in question is hereby APPROVED by this Bench. The Resolution Plan shall form part of this Order.
25. The Resolution Plan is binding on the Corporate Debtor and other stakeholders involved so that revival of the Debtor Company shall come into force with immediate effect.

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26. The Moratorium imposed under section 14 shall cease to have effect from the date of this order.
 27. 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.
 28. Certified copy of this Order be issued on demand to the concerned parties, upon due compliance.
 29. Liberty is hereby granted for moving any Application if required in connection with implementation of this Resolution Plan.
 30. A copy of this Order is to be submitted in the Office of the Registrar of Companies, West Bengal.
 31. The Resolution Professional shall stand discharged from his duties with effect from the date of this Order.
 32. The Resolution Professional is further directed to handover all records, premises/factories/documents to the Resolution Applicant to finalise the further line of action required for starting of the operation. The Resolution Applicant shall have access to all the records/premises/factories/documents through the Resolution Professional to finalise the further line of action required for starting of the operation.
 33. The Registry is 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.
 34. The Application being **IA (IB) No. 1539/KB/2022 along with main Company Petition vide CP (IB) No. 482/KB/2019 shall stand disposed of** accordingly.
 35. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

Balraj Joshi
Member (Technical)

Bidisha Banerjee,
Member (Judicial)

Signed on this the 20th day of December, 2023

M. Jana, PS