**IN THE NATIONAL COMPANY LAW TRIBUNAL**
**ALLAHABAD BENCH, PRAYAGRAJ**

**IA (IB) No.374/ALD/2021**

**in**

**CP (IB) No.355/ALD/2019**

*In the matter of:*

*Application under sections 30(6) r/w 31(1) of the Insolvency & Bankruptcy Code, 2016 for approval of Resolution Plan*

In the matter of:
Ram Alloy Casting Private Limited

………..Financial Creditor

Versus

Trimurti Concast Private limited
CIN: U27104UP1989PTC011063

……….Corporate Debtor

And

In the matter of:
Sumit Shukla, Resolution Professional of
Trimurti Concast Private Limited

…………….Applicant

**Date of hearing: 07.02.2022**
**Date of pronouncement: 22.03.2022**

**Coram:**

| | | |
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| Shri Rajasekhar V.K. | : | Member (Judicial) |
| Shri Virendra Kumar Gupta | : | Member (Technical) |

**Appearances (via videoconference):**

| | | |
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| For the RP | : | Ms. Babita Jain, Advocate |

**O R D E R**

*Per: Virendra Kumar Gupta, Member (Technical)*

***Preliminary***

1. This Application – **IA (IB) No.374/Ald/2021 –** was moved on behalf of Sumit Shukla , Resolution Professional *(“RP”)* of Trimurti Concast Private Limited (CIN:U27104UP1989PTC011063), invoking the provisions of section30(6) of the Insolvency&BankruptcyCode,2016 [hereinafter referred to as **“the Code**” or **“IBC”**] read with regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (**“***CIRP Regulations***”**) for



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approval of the Resolution Plan in respect of Trimurti Concast Private Limited *("the Corporate Debtor")*which was approved by 100% CoC on 18th COC meeting held on 17.11.2021.

2. The underlying Company Petition in CP(IB)No. 355/ALD/2019 was filed by Ram Alloys Casting Pvt Ltd against the Corporate Debtor herein under section 7 of the Insolvency and Bankruptcy Code 2016, which was admitted *vide* order dated 24.12.2019. Mr. Sanjay Kumar Dewani was appointed as the Interim Resolution Professional *("IRP")vide* order dated 24.12.2019 who was later replaced by Mr. Sumit Shukla (IBBI Reg.No. IBBI/IPA-003/IP-N00064/2017-2018/10550) as the Resolution Professional *vide* order dated 05.05.2020.
3. In the present matter, the period of 180-days of CIRP of the Corporate Debtor had expired on 21-06.2020, after extension of 90 days as well as exclusion of 97 days granted by this Adjudicating Authority *vide* order dated 09.09.2020. Further an exclusion of 91 days was granted by this Adjudicating Authority *vide* order dated 23.12.2020 and another exclusion of 60 days was granted vide order dated 09.07.2021and further exclusion was granted for 60 days on 25.08.2021.

***IBC Compliance***

4. The IRP made public announcement on 27.12.2019 in *Times of India* (English) and *Amar Ujala* (Hindi) (covering Muzaffarnagar region) newspapers regarding initiation of Corporate Insolvency Resolution Process *("CIRP")* and called for proof of claims from the financial and operational creditors, workers and employees of the Company in the specified form still 07.01.2021. In response, claims were received from one financial creditors and nine operational creditors.
5. Details of financials creditor with Voting share-

| **Sl. No.** | **Name of Creditor** | **Claim submitted** | **Claim admitted** | **Voting %** |
|---|---|---|---|---|
| 1. | Canara Bank | 2578.53 lakhs | 2578.53 lakhs | 100% |
| | **Total** | 2578.53 lakhs | 2578.53 lakhs | **100%** |

6. The RP submits that a total of eighteen CoC meetings have been held during CIRP period as follows:

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| Particulars | Date of CoC meeting |
|---|---|
| 1stCoCMeeting | 22.01.2020 |
| 2ndCoC Meeting | 02.13.2020 |
| 3rdCoC Meeting | 25.06.2020 |
| 4thCoC Meeting | 05.09.2020 |
| 5thCoC Meeting | 05.10.2020 |
| 6thCoC Meeting | 05.12.2020 |
| 7thCoC Meeting | 12.02.2021 |
| 8thCoC Meeting | 23.02.2021 |
| 9thCoC Meeting | 08.03.2021 |
| 10thCoC Meeting | 18.03.2021 |
| 11thCoC Meeting | 25.03.2021 |
| 12thCoC Meeting | 07.05.2021 |
| 13thCoC Meeting | 15.05.2021 |
| 14thCoC Meeting | 19.06.2021 |
| 15thCoCMeeting | 31.07.2021 |
| 16th COC meeting | 27.08.2021 |
| 17th COC meeting | 13.10.2021 |
| 18th COC meeting | 17.11.2021 |

7. The Applicant submits that the 1st Form G was published by the IRP and no resolution plan was received primarily due to nation wide lock down on account of COVID Pandemic and accordingly as per the decision of the COC member the RP published 2nd Form G on 17th August 2020 by the RP and one resolution plan from the PRA Sponge Sales (India) Private Limited was received however after the negotiations between COC and the RA, the same was further revised by the RA, however the same was found unviable by the COC member having 100% vote share and hence not voted in its favour. The Applicant further submits that in the 11th COC meeting which was held on 25th March 2021 wherein the COC member reviewed the further developments and accordingly approved a resolution to publish 3rd Form G to keep the Corporate Debtor as a going concern as well as to maximize the valuations of the CD's. Accordingly as per the decision of the Committee 3rd Form G was published on 11th April 2021 in the Amar Ujala in Hindi (Delhi, Meerut & Dehradun), the Hindustan Times in English (Western UP and

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Uttrakhand) as well as on the IBBI website as per the provisions of the Code.

8. The Applicant submits that in response to the Form G the following PRAs had submitted the Expression of Interests:

- Sarvottam Rolling Mills Pvt Ltd.
- Shree Shailja Iron and Steels Pvt Ltd.
- Ammadoes Trading & Consultants Pvt Ltd
- Vishal Aggarwal, Pankaj Agarwal & Amit Garg, joint RA.

9. The Applicant issued the final list of prospective resolution applicants on 16.05.2021 wherein four prospective resolution applicants, *i.e.*,Sarvottam Rolling Mills Pvt Ltd., Shree Shailja Iron and Steels Pvt Ltd., Ammadoes Trading & Consultants Pvt Ltd and Vishal Aggarwal, Pankaj Agarwal & Amit Garg, joint RA were eligible to submit Resolution Plan. The last date for submission of Resolution Plan as per latest revised EOI was 05.06.2021.

10. The COC members held discussions and negotiations with all the four resolution applicants in the 14th COC meeting held on 19th June 2021 wherein the COC member asked all the resolution applicants to revise their respective plans by way of addendum affidavit. Thereafter subsequent to the negotiations held between the COC members and the PRAs, two PRAs revised their resolution plans by way of addendums on affidavit *i.e.,* Sarvottam rolling mills Pvt Ltd. and Shree Shailja Iron and Steels Pvt Ltd. and the other two RAs expressed in writing their inability to further improve their resolution plans.

11. Thereafter on 15th July 2021, the COC member further negotiated the resolution plan with Sarvottam Rolling Mills Pvt Ltd. and accordingly on 19th July 2021, Sarvottam Rolling Mills Pvt Ltd further revised the resolution plan by way of addendum affidavit on 4th August 2021.

12. That 15th COC meeting of the COC member was held on 31st July 2021 COC deliberated upon all the four resolution plans which were subsequently put for the voting process and sole COC member had approved the Resolution Plan submitted by Sarvottam Rolling Mills Pvt Ltd with 100% vote on 19th August 2021. However on 20th August 2021 Sarvottam Rolling Mills Pvt Ltd sent an email to the applicant resolution professional intimating the withdrawal as well as seeking the refund of the deposit whereas the RP informed Sarvottam Rolling Mills Pvt Ltd that resolution plan submitted by them has

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been approved by the COC and requested to deposit the performance security as per the terms of the RFRP but in response the Sarvottam Rolling Mills Pvt Ltd reiterated their email decision dated 20th August 2021. Taking note of the email of withdrawal of plan by Sarvottam Rolling Mills Pvt Ltd, on 25th August 2021 the applicant called for the 16th meeting of the COC member on 27th August 2021. Based upon the discussions held in the meeting, the RP file an application before this Adjudicating Authority seeking relief which was listed vide IA No 294/2021 on 5th Oct 2021 and based upon the directions of this Adjudicating Authority vide order dated 5th Oct 2021, the COC asked the RP to call the other three applicants for the discussions on their Resolution Plans. Accordingly on 13th October 2021 the RP called the 17th COC meeting of the COC wherein the following RAs were invited for the discussions i.e. Shree Shailja Iron and Steels Pvt Ltd., Ammadoes Trading & Consultants Pvt Ltd and Vishal Aggarwal, Pankaj Agarwal & Amit Garg, joint RA.

**<u>Evaluation and voting</u>**

13. In 17th COC meeting held on 13th Oct 2021 only one RA i.e. Shree Shailja Iron and Steels Pvt Ltd. attended the meeting wherein after discussions with the COC member, the said RA agreed to revise its resolution plan by way of Addendum affidavit. However other two Resolution applicants i.e. Ammadoes Trading & Consultants Pvt Ltd and Vishal Aggarwal, Pankaj Agarwal & Amit Garg, joint RA neither replied to RP's email dated 9th Oct 2021 nor attended the 17th COC meeting.

14. Thereafter the RA Shree Shailja Iron and Steels Pvt Ltd further revised its resolution plan by way of addendum Affidavits dated 27th Oct 2021 and 15th Nov 2021.

15. On 17.11.2021, the RP in the 18th meeting of COC discussed the Plan and placed it for voting and the same was concluded on 25.11.2021 . The Plan was approved by 100% voting of CoC.

***<u>Salient features of the approved Resolution Plan</u>***

16. The Successful Resolution Applicant has confirmed that the payment of CIRP Cost, Operational Creditors and Financial Creditors in the following manner which are tabulated as below[1]:

[1] Page 37 of the Application

| Sl. No. | Types of debts | Proposed Amount and timelines |
|---|---|---|
| 1. | CIRP Cost | 50 Lakhs/- upfront |
| 2. | Secured Financial Creditors | Rs 1075 Lakhs (Rs 226 lakhs upfront, Rs 283 Lakhs within 180 days and 566 lakhs within 270 days) |
| 3. | Payment to dissenting unsecured financial creditor | Liquidation value payable to these creditors in the event of the liquidation of the Corporate debtor and the amount payable shall be deducted from the sums allocated to the Financial Creditor |
| 4. | Unsecured Financial Creditors based upon the outcome of the application filed by the RP regarding the claim | Nil |
| 5. | Operational Creditors (statutory authorities) | Rs 3 lakhs upfront |
| 6. | Operational Creditors excluding statutory liabilities (workmen, employees, trade payables) | Rs 4 lakhs upfront |
| 7. | Payments to statutory authorities towards contingent claims | NIL |
| **Total** | | **Rs 1132.00 lakhs** |

17. The Applicant has also placed the liquidation value which takes note in Form H,[2] and also the Fair Value. Valuers were appointed by the IRP and on account of the significant variations in the valuation, 3rd valuer was appointed and the closest two valuations has been considered to arrive at fair and liquidation value. RP informed the COC

[2] Page 174 of the Application

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regarding the fair and liquidation value. Computation of the valuations are given as below:

| Particulars | Land & Building | | Plant & Machinery | | Security & Financial Assets | |
|---|---|---|---|---|---|---|
| | Fair Value | Liquidation Value | Fair Value | Liquidation Value | Fair Value | Liquidation Value |
| 1st valuer | 138,406,764.00 | 103,487,485.00 | 58,136,200.00 | 40,695,340.00 | 219,225,257.00 | 105,024,759.00 |
| 2nd Valuer | 110,823,625.00 | 77,576,538.00 | 73,100,000.00 | 54,900,000.00 | 432,876.00 | 432,876.00 |
| 3rd Valuer | 66,810,574.00 | 52,285,000.0 | 58,046,546.00 | 41,737,146.00 | 456,368.00 | 456,368.0 |
| Total of closest two | 249,230,389.00 | 129,861,538.00 | 116,182,746.00 | 82,432,486.00 | 889,244.00 | 889,244.00 |
| Average of closest two | 124,615,194.50 | 64,930,769.00 | 58,091,373.00 | 41,216,243.00 | 444,622.00 | 444,622.00 |
| | | | | | | |
| Fair Value | 183,151,189.50 | | | | | |
| Liquidation value | 106,591,634.00 | | | | | |

***Compliance of the successful Resolution Plan with various provisions***

18. The Applicant has submitted the details of various compliances as envisaged by the Code and the CIRP Regulations which a Resolution Plan is required to adhere to, as follows:

***Compliance with section 30(2) of the Code:***( as amended vide Amendment dated 16 August2019):

| Clause of sec. 30(2) | Requirement | How dealt with in the Plan |
|---|---|---|
| (a) | Provides for the payment of insolvency resolution process costs? | Upfront payment of CIRP cost to the extent Rs 50 lakhs has been proposed by the Resolution Applicant refer Page No 37 read with Page No 62 of the application**.** For the CIRP cost over and above Rs 50 lakhs, COC has filed an application vide IA No294 / 2021 before the Hon'ble adjudicating authority for the recovery of CIRP Cost caused on account of the withdrawal of the Resolution Plan by Sarvottam Rolling Mills Pvt Ltd |
| (b) | Provides for the payment to the operational creditors? | On page 37 of the Application seeking approval on the resolution plan wherein RA has proposed upfront payment to operational creditors in the following manner:-<br>(i) Rs 3 Lakhs towards statutory Authorities and |



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| Clause of sec. 30(2) | Requirement | How dealt with in the Plan |
|---|---|---|
| | | (ii) 4 Lakhs to Workmen, employees & trade payable |
| (c) | Provides for the payment to the financial creditors who did not vote in favour of the resolution plan? | Para 1(c) of the Resolution Plan on page 70 of the application seeking approval on the resolution plan providing for the Proposal for the dissenting financial creditors other than those who are related parties.<br><br>Only one financial creditor who has voted in favor of the Plan.<br><br>The other financial creditor (mentioned under the category of the loan from directors & relatives in the audited financial statements of FY 2017-18) also the applicant financial creditor of the CP No 355/2019 did not remove the defects / reply to the queries of the IRP / RP with respect to the claim filed by them. The directions of this Hon'ble Tribunal vide IA No 228 while disposed of on 11/8/2021 are not being complied with by the respondents and therefore the IA no 331/2021 was filed which is pending for the disposal. |
| (d) | Provides for the management of the affairs of the corporate debtor? | Proposed in para 1(f) of the Resolution Plan at page 73 application seeking approval on the resolution plan |
| (e) | Provides for the implementation and supervision of the resolution plan? | Propsoed in Para 1(e) of the Resolution plan, page 71 and page 74 application seeking approval on the resolution plan |
| (f) | Contravenes any of the provisions of the law for the time being in force? | Provided in Para 1(g)(ii) of the Resolution Plan, page 77 application seeking approval on the resolution plan |

***Mandatory contents of Resolution Plan in terms of regulation 37 of CIRP Regulations:***

| A resolution plan shall provide for the measures, as may be necessary, for insolvency resolution of the corporate debtor for maximization of value of its assets, including but not limited to the following: - | |
|---|---|
| (a) transfer of all or part of the assets of the corporate debtor to one or more persons; | Provided |
| (b) sale of all or part of the assets whether | Plan does not provide for sale of any assets of the |



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| subject to any security interest or not; | Corporate Debtor |
| [(ba) restructuring of the corporate debtor, by way of merger, amalgamation and demerger;] | On the Page 40, 68 & 73 application for approval of resolution plan the RA including through its nominee provides for the acquisition of the equity shares or optionally convertible debentures. |
| (c) the substantial acquisition of shares of the corporate debtor, or the merger or consolidation of the corporate debtor with one or more persons;<br><br>[(ca)cancellation or delisting of any shares of the corporate debtor, if applicable;] | Page no 73 & 89 of the application for approval of resolution plan the RA has provided to not to change the capital structure of the CD except to the extent as provided in the Resolution Plan. |
| (d) satisfaction or modification of any security interest; | After complete payment as proposed in the payment |
| (e) curing or waiving of any breach of the terms of any debt due from the corporate debtor; | RA has sought for the extinguishment of unpaid / unsettled liabilities vide para xii. of other considerations which is placed on page 81 of the application. |
| (f) reduction in the amount payable to the creditors; | Yes |
| (g) extension of a maturity date or a change in interest rate or other terms of a debt due from the corporate debtor; | Not applicable |
| (h) amendment of the constitutional documents of the corporate debtor; | Page no 73 of the application for approval of resolution plan the RA has provided the manner for changes in the constitutional documents |
| (i) issuance of securities of the corporate debtor, for cash, property, securities, or in exchange for claims or interests, or other appropriate purpose; | No such proposal during the implementation phase as proposed on page 72 application for approval of resolution plan |
| (j) change in portfolio of goods or services produced or rendered by the corporate debtor; | Page no 75 of the application for approval of resolution plan the RA has proposed for the forward integration strategy for the revival of the business since RA is in to trading of sponge iron and steel products. |
| (k) change in technology used by the corporate debtor; and | No such specific proposal has been made |
| (l) obtaining necessary approvals from the Central and State Governments and other authorities.] | As provided in Annexure 2, Page 88 of the application for approval of resolution plan which provides for various approvals / concessions sought by the |

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| | Resolution Applicant |

***Mandatory contents of Resolution Plan in terms of Regulation 38 & 39 of CIRP Regulations:***

| **Requirements under Regulation 38 & 39 of the CIRP Regulations** | **Compliances and relevant Page number(s) of the IA No 374/2021 for the approval of the Resolution Plan.** |
|---|---|
| [(1) The amount payable under a resolution plan -<br><br>(a) to the operational creditors shall be paid in priority over financial creditors; and | On page 37 of the Application seeking approval on the resolution plan vide IA No. 374/2021 wherein RA has proposed upfront payment to operational creditors in the following manner:-<br><br>(i) Rs. 3 Lakhs towards statutory Authorities and<br><br>(ii) Rs. 4 Lakhs to Workmen, employees & trade payable |
| (b) 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. | Para 1(c) of the Resolution Plan on page 70 application seeking approval on the resolution plan providing for the Proposal for the dissenting financial creditors other than those who are related parties.<br><br>Only one financial creditor who has voted in favor of the Plan.<br><br>The other financial creditor (mentioned under the category of the loan from directors & relatives in the audited financial statements of FY 2017-18) also the applicant financial creditor of the CP No 355/2019 did not remove the defects / reply to the queries of the IRP / RP with respect to the claim filed by them. The directions of this Hon'ble Tribunal vide IA No 228 while disposed off on 11/8/2021 are not being complied with by the respondents and therefore the IA no 331/2021 was filed which is pending for the disposal. |
| (1A)A resolution plan shall include a statement as to how it has dealt with the interests of all stakeholders, including financial creditors and operational creditors, | Para 1(c) of the Resolution Plan on page 63 of the Application seeking approval on the resolution plan vide IA No. 374/2021 |

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| of the corporate debtor. | |
| [(IB) A resolution plan shall include a statement giving details if the resolution applicant or any of its related parties has failed to implement or contributed to the failure of implementation of any other resolution plan approved by the Adjudicating Authority at any time in the past.] | Para 4 of the Resolution Plan on page 83 application seeking approval on the resolution plan |
| (2) A resolution plan shall provide:<br><br>(a) the term of the plan and its implementation schedule;<br><br>(b) the management and control of the business of the corporate debtor during its term; and<br><br>(c) adequate means for supervising its implementation. | Annexure 1 of the Resolution Plan (page 85-87) of IA 374/2021<br>Para 1(e) of the Resolution Plan on Page 71 of IA 374/2021<br>Para 1(g) of the Resolution Plan Page 75 of IA 374/2021 |
| 76[(3) A resolution plan shall demonstrate that –<br><br>(a) it addresses the cause of default;<br><br>(b) it is feasible and viable;<br><br>(c) it has provisions for its effective implementation;<br><br>(d) it has provisions for approvals required and the timeline for the same; and<br><br>(e) the resolution applicant has the capability to implement the resolution plan.] | Covered in Para I of the Resolution Plan placed in page 75 to 77 of the IA No 374/2021 |
| ***Regulation 39***<br><br>(1) A prospective resolution applicant in the final list may submit resolution plan or plans prepared in accordance with the Code and these regulations to the resolution professional electronically within the time given in the request for resolution plans under regulation 36B along with | Complied |
| (a) an affidavit stating that it is eligible under section 29A to submit resolution plans; | Affidavit submitted by the Resolution Applicant is attached on page 94 to 97 application seeking approval on the resolution plan |

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| (c) an undertaking by the prospective resolution applicant 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 applicant ineligible to continue in the corporate insolvency resolution process, forfeit any refundable deposit, and attract penal action under the Code. | Para 12 of the resolution applicant's undertaking on Affidavit dated 4th June 2021 affixed on page no 102 application seeking approval on the resolution plan |
| [(1A) The resolution professional may, if envisaged in the request for resolution plan-<br><br>(a) allow modification of the resolution plan received under sub-regulation (1), but not more than once; or<br><br>(b) use a challenge mechanism to enable resolution applicants to improve their plans.<br><br>(1B) The committee shall not consider any resolution plan-<br><br>(a) received after the time as specified by the committee under regulation 36B; or<br><br>(b) received from a person who does not appear in the final list of prospective resolution applicants; or<br><br>(c) does not comply with the provisions of sub-section (2) of section 30 and sub regulation (1).]. | Complied |
| (2) [The resolution professional shall submit to the committee all resolution plans which comply with the requirements of the Code and regulations made thereunder along with the details of following transactions, if any, observed, found or determined by him: - | In the 7th COC meeting held on 11th Feb 2021 the RP had submitted the Report on such transactions before the COC. RP time to time kept informed the COC with respect to the IA No 140/2021 filed by the RP. The same was also updated in the IM and accordingly RA has taken the same in to consideration in the Resolution Plan under para xi. of other considerations which is placed on page 81 of the IA No 374/2021 |
| (4) Particulars of the Performance Security | On page No 60 of the application seeking approval on the resolution plan copy of the fixed deposit receipt No. 838577 dated 30/11/2021 for Rs 1.50 Crores valid till 30/11/2022 has been affixed |

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| Other | On page No 146-173 application Copy of the Compliance Certificate dated 30/11/2021 of the Monitoring Agency of Teri Iron & steel Ltd. has been placed along with the orders of Hon'ble NCLT New Delhi Bench IV dated 21/5/2019 |

19. The Applicant submits that the successful Resolution Applicant has submitted a certificate of eligibility under Section 29A of the Code, which has been annexed as **Annexure 10** at **pages 94 to97** of the Application.

20. The applicant further submits that Resolution Applicant's undertaking which has been enclosed as Annexure 11 wherein copy of the undertaking affidavit dated 04.06.2021 submitted by the RA Shree Shailja Iron & Steels Pvt. Ltd. u/s 30(1) of the Code in compliance to the provisions of Regulation 39(c) of CIRP Regulations and confidentiality undertaking.

21. The Applicant has filed a Compliance Certificate in prescribed form, *i.e.*, Form 'H' incompliance with regulation 39(4) of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, which has been annexed as **Annexure 15** at **pages 174 to185** of the Application.

22. The applicant further stated that that the acquisition of the corporate debtor through revival/resolution plan do not qualify as 'Combination' define Under Section 5 of Competition Act 2002 due to threshold limit given in said section. hence, the same is not mentioned in the Resolution Plan as it does not attract the provisions u/s 5 of the Competition Act, 2002.

*<u>Details of Resolution Plan/ Payment Schedule</u>*

23. The Applicant submits the relevant information with regard to the amount claimed, amount admitted and the amount proposed to be paid by the Resolution Applicant under the said Resolution Plan is tabulated asunder:

Amount in lakhs

| Sl. No | Type of creditors | Claims Amount | Admitted claim | Amount provided under the plan | Amount provided to the amount claimed |
|---|---|---|---|---|---|
| 1. | Secured financial creditor | 2578.53 | 2578.53 | 1075.00 | 41.69% |

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| | | | | | |
|---|---|---|---|---|---|
| 2. | Unsecured financial creditor | 359.00 | - | 0.00 | 0.00% |
| 3. | Operational creditors | 6295.71 | 51.79 | 7.00 | 0.11% |
| 4. | Other debts and dues | 0.00 | 0.00 | 0.00 | 0.0%- |
| Grand Total | | 9233.24 | 2630.32 | 1082.00 | 11.72% |

24. The Resolution Plan defines **"Approval Date** "as the date of approval of this Resolution Plan by the NCLT, or any other applicable Adjudicating Authority.

***Details on Management/Implementation and Reliefs as per the Resolution Plan – Salient Features***

25. The Resolution Plan also provides for –

a. Management of Company after resolution in Clause1(e) & 1 (f) at pages71 -75 of the application for the approval of the Resolution Plan;;

b. Term of the resolution plan in Clause1(d) at pages70-71 of the application for the approval of the Resolution Plan; and

c. Implementation and Supervision of the resolution plan in Clause 1(e) at pages71 & 72 of the Resolution Plan.

***Waivers, Reliefs and Exemptions***

26. **The Resolution Applicant claimed various reliefs, waivers and concessions has been claimed in the resolution plan. However, in our view, we cannot grant all such reliefs and concessions for the effective implementation of the Resolution Plan and as per the scheme of IBC read with Regulations made there under and as per the judicially settled position, we grant the reliefs, waiver and claims made by the Resolution Applicant in the following manner and only to this extent: -**

**i. After the payment of the dues to the creditors, as per the resolution plan, all the liabilities of the said stakeholders shall stand permanently**



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**extinguished after the approval of the resolution plan. We further hold that other claims including Government/Statutory Authority, whether lodged during CIRP or not, shall stand extinguished after the approval of the resolution plan. We further hold that contingent/unconfirmed dues shall also stand extinguished.**

ii. **In view of the judgment of *Ghanashyam Mishra & Sons Pvt Ltd v. Edelweiss Asset Reconstruction Company Ltd,*[3] where the Hon'ble Supreme Court held in para 95(i) that once a Resolution Plan is approved, a creditor cannot initiate proceedings for recovery of claims which are not part of the Resolution Plan. Therefore, all claims except provided in the plan shall stand permanently extinguished.**

iii. **On the effective date and with effect from the appointed date, all encumbrances on the assets of the Corporate Debtor prior to the plan stand permanently extinguished on completion of procedural formalities as provided in Companies Act, 2013;**

iv. **For reliefs and concessions sought from the Government/Statutory Authorities, we direct the Resolution Applicant to approach the concerned Authorities who shall decide the issues.**

v. **As regard to the relief prayed under various provisions of Income Tax Act, 1961, the corporate debtor/resolution applicant may approach the Income Tax Authorities who shall take a decision on relief and concessions sought by the Resolution Applicant in accordance with the provisions of Income Tax Act, 1961.**

vi. **We further grant exemption from the provision as regard to Section 281 of the Income Tax Act, 1961, so that the transfer of assets, if any, which is to be done, in terms of provisions of the Resolution plan may be effective.**

vii. **The Resolution Applicant shall entitled to review, revise or terminate any appointments/agreements entered into by or on behalf of the Corporate Debtor in accordance with the terms and conditions of such agreements/MoUs/ contracts;**

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[3] 2021 SCC OnLine SC 313 decided on 13.04.2021.



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viii. **The RP shall complete the accounting entries to give effect to the resolution plan in the Books of Account as per the applicable Accounting Standards and provisions of the Companies Act, 2013.**

ix. **The management of the Corporate Debtor shall be handed over to the Board of Directors as may be nominated by the Resolution Applicant for proper running operations of the business of the corporate debtor.**

x. **The Board of Directors of the Corporate Debtor shall also be reconstituted and procedural compliance shall be done to give effect to such reconstitution;**

xi. **The Resolution Applicant shall, pursuant to the resolution plan approved under Section 31(1) of the Code, obtain necessary approvals 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 or within such period as provided for in such law, whichever is later, as the case may be;**

xii. **All the approvals of shareholders/members of the Corporate Debtor shall be deemed to have been obtained and the provisions made in the resolution plan as regard to the restructuring of capital shall be binding on them. This order shall be treated as evidence of compliances of all formalities as may be required in this regard under the provisions of the Companies Act, 2013.**

xiii. **For changing of name and address of the Corporate Debtor the consent of the member/shareholders is deemed to have been obtained and the resolution applicant shall approach the concerned authorities under provisions of the Companies Act, 2013 for complying with the procedural aspects.**

xiv. **On the effective date and with effect from the appointed date, the entire existing share capital of the Corporate Debtor shall stand extinguished without any payment (including any cancelled value of the said equity shares or preference shares) to shareholders of the Corporate Debtor holding such existing share capital. The Resolution Applicant would be entitled to issue new equity share capital in accordance with the provisions**

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**of Companies Act, 2013 read with the rules and regulations made thereunder.**

***Findings:***

27. 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 with100%voting share. As per the CoC, the Plan meets the requirement of being viable and feasible revival of the Corporate Debtor. By and large, there are provisions for making the Plan effective after approval by this Bench.

28. On perusal of the documents on record, we are satisfied that the Resolution Plan 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.

29. 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.

30. In case of non-compliance of this order or withdrawal of Resolution Plan, the CoC shall forfeit the EMD amount already paid by the Resolution Applicant.

***Orders***

31. Subject to the observations made in this Order, the Resolution Plan in question is hereby **approved**. **The Resolution Plan shall form part of this Order.**

32. 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. The Moratorium imposed under section 14 shall cease to have effect from the date of this order.

33. The Resolution Professional shall submit the records collected during the commencement of the proceedings to the Insolvency & Bankruptcy Board of India for their record.

34. Certified copy of this Order be issued on demand to the concerned parties, upon due compliance.

—Sd—

35. Liberty is hereby granted for moving any application if required in connection with implementation of this Resolution Plan.

36. A copy of this Order shall be filed with the Registrar of Companies, Uttar Pradesh as well as to Regional Director.

37. 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 approves Resolution Plan.

38. Resolution Professional is empowered to send the intimation of this orders to the claimants and other concern stakeholders of the Corporate Debtor for their intimation and necessary compliances

39. The Resolution Professional is further directed to hand over 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 and premises through the Resolution Professional to finalise the further line of action required for starting of operations of the Corporate Debtor.

40. Further claim of the applicant in IA No.42/ALD/2022 be considered as the part in the aggregate payment to be made to the operational creditor in resolution plan. Orders in this regard have been passed separately.

41. IA (IB) No.374/ALD/2021 and the main Company Petition, *i.e.*, CP (IB) No.355/ALD/2019 shall stand disposed of accordingly.

42. 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.

43. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

44. File be consigned to the record.

—Sd— —Sd—

Virendra Kumar Gupta
Member(Technical)

Rajasekhar V.K.
Member(Judicial)