

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH, KOLKATA

IA (IB) No.279/KB/2021

in

CP (IB) No. 683/KB/2018

*Application under section 30(6) for approval of Resolution Plan
under section 31(1) of the Insolvency and Bankruptcy Code, 2016*

In the matter of

Bank of India ... Financial Creditor

Versus

Aeon Manufacturing Private Limited ... Corporate Debtor

And

In the matter of

Raj Singhania, Resolution Professional of
Aeon Manufacturing Private Limited ... Applicant

Coram:

Mr. Rajasekhar V.K. : Member (Judicial)

Mr. Harish Chander Suri : Member (Technical)

Appearances:

For the Applicant/RP : Mr Raj Singhania, RP in person

For suspended Board of Directors : Mr Akash Sharma, Advocate

Date of hearing: 24.03.2021

Date of pronouncement: 11.05.2021

ORDER

Per: Rajasekhar V.K., Member (Judicial)

1. This is an Application by Mr. Raj Singhania, Resolution Professional of Aeon Manufacturing Private Limited [CIN: U20293WB2011PTC165514], under section 30(6) read with section 31(1) of the Insolvency and

Bankruptcy Code, 2016 and regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (“*CIRP Regulations*”) for approval of Resolution Plan in respect of Aeon Manufacturing Private Limited, the Corporate Debtor.

2. The underlying company petition bearing CP (IB) No.683/KB/2018 was filed by Bank of India against Aeon Manufacturing Private Limited, the Corporate Debtor, under section 7 of the Insolvency and Bankruptcy Code 2016 (“*the Code*”) which was admitted *vide* order dated 30.10.2019.
3. The IRP made public announcements on 02.11.2019 in *Business Standard (English)* and *Aajkaal (Bengali)* newspapers regarding initiation of CIRP and called for proof of claims from the financial and operational creditors, workers and employees of the Company in the specified forms till 13.11.2019.
4. The Applicant was appointed as the Interim Resolution Professional. He was later confirmed as the Resolution Professional of the Corporate Debtor at the first meeting of the Committee of Creditors (CoC) on 29.11.2019.
5. The claims of financial and operational creditors as existing as on the date of filing the present application is as follows:

I. Claims of Creditors:

(Amount in lakhs)

Sl. No.	Category of Claim and Reference to Clause of the Resolution Plan	Amount admitted as per Information Memorandum	Amount proposed to be paid as per Plan
1	CIRP Costs (approx.) [Clause 1.2.7]	35.00	35.00
2	Financial Creditors [Clause 1.2.7]	10670.1	901.00 (to secured FC)

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Sl. No.	Category of Claim and Reference to Clause of the Resolution Plan	Amount admitted as per Information Memorandum	Amount proposed to be paid as per Plan
3	Operational Creditors [Clause 1.2.7]	3875.00	5.00
4	Employees/Workmen [Clause 1.2.7]	Nil	Nil
5	Others [Clause 1.2.7]	Nil	Nil
	Total	14,580.00	941.00

6. The Applicant states that a total of Sixteen CoC meetings have been held during CIRP period, as follows:

Particulars	Date of CoC Meeting
1 st CoC Meeting	29.11.2019
2 nd CoC Meeting	31.12.2019
3 rd CoC Meeting	07.02.2020
4 th CoC Meeting	17.06.2020
5 th CoC Meeting	08.07.2020
6 th CoC Meeting	26.08.2020
7 th CoC Meeting	04.09.2020
8 th CoC Meeting	22.09.2020
9 th CoC Meeting	15.10.2020
10 th CoC Meeting	21.11.2020
11 th CoC Meeting	04.12.2020
12 th CoC Meeting	09.12.2020
13 th CoC Meeting	04.01.2021
14 th CoC Meeting	08.01.2021
15 th CoC Meeting	15.01.2021, adjourned & concluded on 18.01.2021
16 th CoC Meeting	15.02.2021, e-voting completed on 24.02.2021

7. The Applicant submits that in terms of the provisions of section 25(2)(h) of the Code read with regulation 36A(1) of CIRP Regulations, 2016, invitations in Form 'G' for Expressions of Interest (EoIs) from potential resolution applicants were issued on three occasions – dated 13.01.2020 published in "*Financial Express*" (English) and "*Ekdin*" (Bengali), 12.02.2020 published in "*Financial Express*" (English) and "*Aajkal*" (Bengali) and 03.09.2020 published in "*Financial Express*" (English) and "*Aajkal*" (Bengali), for submission of resolution plans for the Corporate Debtor.
8. It is submitted that due the nationwide lockdown imposed, the CoC in its eighth CoC meeting held on 22.09.2020 decided to extend the CIRP for a further period on 90 days. Accordingly, the RP filed an application with this Adjudicating Authority for excluding the lockdown period and also for approval of the extension of CIRP period by 90 days under section 12(2). This Adjudicating Authority *vide* order dated 20.10.2020, allowed the said application.
9. The Applicant/RP submits that in response to the EoI published on 03.09.2020, he received EoI from four prospective Resolution Applicants namely, (i) Meghalaya Steel Limited, (ii) Sunglow Impex LLP, (iii) Vani Electric Vehicles Private Limited (iv) RSH Amit Projects LLP. The Applicant/RP then shared the Information Memorandum, Evaluation Matrix and Request for Resolution Plan (RFRP) with all the prospective Resolution Applicants (RA) *vide* e-mail dated 25.09.2020. The Applicant submitted that out of these four RAs, three withdrew their names and did not submit a Resolution Plan.
10. The Applicant submits that, thereafter from time to time, a few more interested RA approached the RP for submission of Resolution Plans. But the RP rejected them since the last date for submission of EoI was over. Thereafter, all such RAs approached this Adjudicating Authority for condonation of delay which was allowed.

11. By 31.12.2020, the Applicant/RP received the Resolution Plan from the five prospective RAs, *viz.*, (i) Sunglow Impex LLP, (ii) Sunflag Infrastructure Limited, (iii) Indo Polysack Private Limited, (iv) Swadeshi Marketing Private Limited and (v) Nortech Property Private Limited in sealed covers. These were opened at the thirteenth CoC meeting held on 04.01.2021 in the presence of the representatives of the RAs. Thereafter, all the five RAs were called upon to present their respective Resolution Plans and discuss it with the CoC in order to enable the CoC to evaluate the feasibility and viability of the Resolution Plan submitted.
12. It is submitted that the Resolution Plans were discussed at the fourteenth CoC meeting held on 08.01.2021. The RP called the representatives of all the Resolution Applicants and requested them to revise their financial offers for maximisation of value of the CD. During the meeting, the CoC, in consultation with the RP, framed a modality wherein the Resolution Applicants will be given multiple opportunities for revising their financial offers in various rounds of negotiation which again will be determined in accordance with the elimination process. In this way, on the very same day the bidding of financial offer by the Resolution Applicants was concluded. Post such bidding process, all the Resolution Applicants were requested to submit their revised Resolution Plan after incorporating the changes in financial bid and other terms offered by them during the meeting. Thereafter the CoC requested the RP to check the compliance at the earliest and inform any other technical changes, if any, in the Resolution Plans.
13. After doing the due diligence of the final Resolution Plans submitted by the RAs, in the fifteenth CoC Meeting, the RP placed all the compliant Resolution Plans for its consideration. CoC reviewed the revised submitted plans and evaluated the same *vis-à-vis* the Evaluation Matrix. As per the Evaluation Matrix, the Resolution Plan submitted by Indo Polysacks Pvt. Ltd. obtained the highest score.

14. In the sixteenth CoC meeting held on 15.02.2021, the five Resolution Plans were put for e-voting and the e-voting process was completed on 24.02.2021. The Resolution Plan submitted by Indo Polysacks Private Limited was approved with 100% voting share in its favour and declared as Successful Resolution Applicant. A copy of the sixteenth CoC meeting along with the voting results are attached to the Application as **Annexure Cat** pages 30 to 44.
15. Upon receipt of the approval from the CoC, the RP issued Letter of Intent (LoI) to the successful Resolution Applicant on 25.02.2021. The Resolution Applicant received and accepted the LoI along with its contents. Since Performance Security amounting to ₹50,00,000/- (Rupees fifty lakh only) had already been paid as Performance Security Bank Guarantee (PSBG), the Successful Resolution Applicant submitted a Demand Draft for ₹50,00,000/- (Rupees fifty lakh only) into the CIRP account of the Corporate Debtor maintained by the RP with a covering, thereby making it a total of ₹1,00,00,000 (Rupees one crore only) as per the RFRP.
16. The Applicant has submitted details of various compliances as envisaged within the Code and the CIRP Regulations which a Resolution Plan is required to adhere to. These compliances are reproduced hereunder:

<i>Clause of s. 30(2)</i>	<i>Requirement</i>	<i>How dealt with in the Plan</i>
(a)	Plan must provide for payment of CIRP cost in priority to repayment of other debts of CD in the manner specified by the Board.	Clause 3.2 at Page 25 of the Resolution Plan
(b)	(i) Plan must provide for repayment of debts of OCs in such manner as may be specified by the Board which shall not be less than the amount payable to them in the event of liquidation u/s 53; or (ii) Plan must provide for repayment of debts of OCs in such manner as may be specified by the Board which shall not be	(i) Clauses 3.3 at Page 25 of the Resolution Plan (ii) Clauses 3.3 at Page 25 of the Resolution Plan

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<i>Clause of s. 30(2)</i>	<i>Requirement</i>	<i>How dealt with in the Plan</i>
	not less than amount that would have been paid to such creditors, if the amount to be distributed under the resolution plan had been distributed in accordance with the order of priority in sub-section (1) of section 53, whichever is higher and (iii) provides for payment of debts of financial creditors who do not vote in favour of the resolution plan, in such manner as may be specified by the Board.	(iii) Clause 3.4 at Page 26 of the Resolution Plan
(c)	Management of the affairs of the Corporate Debtor after approval of the Resolution Plan.	Clause 5.1 at Page 27 of the Resolution Plan
(d)	Implementation and Supervision	Clause 4 at Page 33 of the Resolution Plan
(e)	Plan does not contravene any of the provisions of the law for the time being in force.	Clause 5.7.3 at Page 38 of the Resolution Plan
(f)	Conforms to such other requirements as may be specified by the Board	Clause 3.1 at pages 19-24 of the Resolution Plan

I. Measures required for implementation of the Resolution Plan in terms of regulation 37 of CIRP Regulations:

<i>Particulars</i>	<i>Relevant Page of the Revised Resolution Plan dealing aforesaid compliance with Regulation</i>
<i>A resolution plan shall provide for the measures, as may be necessary, for insolvency resolution of the corporate debtor for maximisation of value of its assets, including but not limited to the following:-</i>	
(a) transfer of all or part of the assets of the corporate debtor to one or more persons;	Not Proposed by RA.
(b) sale of all or part of the assets whether subject	Not Proposed by RA.

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to any security interest or not;	
(ba) restructuring of the corporate debtor, by way of merger, amalgamation and demerger	Not Proposed by RA.
(c) the substantial acquisition of shares of the corporate debtor, or the merger or consolidation of the corporate debtor with one or more persons;	As per Annexure 2.
(ca) cancellation or delisting of any shares of the corporate debtor, if applicable;	3.9.2 at page 31 of the Resolution Plan.
(d) satisfaction or modification of any security interest;	Clause 3.11.2 at page 32 read with Clause 10 of Part 1 of Part D at page 43 of the Resolution Plan.
(e) curing or waiving of any breach of the terms of any debt due from the corporate debtor;	Not proposed by RA.
(f) reduction in the amount payable to the creditors;	Clause 3.8.5 at page 30 of the Resolution Plan.
(g) extension of a maturity date or a change in interest rate or other terms of a debt due from the corporate debtor;	Not proposed by RA.
(h) amendment of the constitutional documents of the corporate debtor;	Not proposed by RA.
(i) issuance of securities of the corporate debtor, for cash, property, securities, or in exchange for claims or interests, or other appropriate purpose;	As per Annexure 2.
(j) change in portfolio of goods or services produced or rendered by the corporate debtor;	Clause 5.5 at page 37 of the Resolution Plan.
(k) change in technology used by the corporate debtor;	Not proposed by RA.
(l) obtaining necessary approvals from the Central and State Governments and other authorities.	Clause 35 of Part 1 of Part D at page 48 read with Annexure 3 at page

II. Mandatory contents of Resolution Plan in terms of regulation 38 of CIRP Regulations:

<i>Ref. to relevant Reg</i>	<i>Requirement</i>	<i>How dealt with in the Plan</i>
38(1)	The amount due to the operational creditors under a resolution plan shall be given priority in payment over financial creditors.	Clause 3.5 at page 26 of the Resolution Plan.
38(1A)	A resolution plan shall include a statement as to how it has dealt with	Clause 3.5 at page 26 of the Resolution

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<i>Ref. to relevant Reg</i>	<i>Requirement</i>	<i>How dealt with in the Plan</i>
	the interests of all stakeholders, including financial creditors and operational creditors of the corporate debtor.	Plan.
38(1B)	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.	Clause 4.2 at page 33 of the Resolution Plan.
38(2)	A resolution plan shall provide:	Clause 4.1 at page 33 of the Resolution Plan
	(a) the term of the plan and its implementation schedule;	
	(b) the management and control of the business of the corporate debtor during its term; and	Clause 5 at page 35 of the Resolution Plan
	(c) adequate means for supervising its implementation.	Clause 4 at page 33 of the Resolution Plan.
38(3)	A resolution plan shall demonstrate that –	
	(a) it addresses the cause of default;	Clause 1.1 at page 5 of the Resolution Plan.
	(b) it is feasible and viable;	Clause 5.8 at page 38 of the Resolution Plan.
	(c) it has provisions for its effective implementation;	Clause 4 at page 33 of the Resolution Plan.
	(d) it has provisions for approvals required and the timeline for the same; and	Clause 4.4 at page 35 of the Resolution Plan.
	(e) the Resolution Applicant has the capability to implement the resolution plan.	Clause 2.4 at page 35 of the Resolution Plan.

17. The Applicant submits that the successful Resolution Applicant has submitted an Affidavit of eligibility under section 29A of the Code, which has been annexed as **Annexure ‘T’** at pages 128 to 133 of the Application.

18. The Resolution Professional has filed a Compliance Certificate in Form 'H' in compliance with regulation 39(4) of the CIRP Regulations which has been annexed as **Annexure "H"** at pages 120 to 137 of the Application.

Details of Resolution Plan/Payment Schedule

19. The Applicant submits the relevant information with regard to the amount claimed, amount admitted, and the amount proposed to be paid by the Successful Resolution Applicant, *i.e.*, Indo Polysacks Private Limited under the said Resolution Plan is tabulated as under:

(Rupees in crores)

Particulars	Claim Admitted (As per IM)	Final Resolution Amount (as per Res. Plan)
Corporate Insolvency Resolution Process Cost	0.35 (Approx)	0.35 (Approx)
Financial Creditors	106.70	9.01
Operational Creditors (Revenue Authorities)	38.75	0.05
Employee/Workmen	Nil	Nil
Others	Nil	Nil
Total	145.80	9.41

20. Summary of the financial proposal/payment under the Resolution Plan of Indo Polysacks Private Limited is tabulated hereunder for sake of clarity:

Sl. No.	Liabilities	Amount admitted (In Rs. Crore)	Manner
1	Corporate Insolvency Resolution Process Cost	0.35 (Approx)	It has been provided in the Resolution Plan that the CIRP Cost shall be paid in priority upon approval and

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Sl. No.	Liabilities	Amount admitted (In Rs. Crore)	Manner
			confirmation of the Resolution Plan.
2	Secured Financial Creditors: Bank of India	106.70	Total payment proposed in the Resolution Plan: Rs. 9.01 crores being 8.44% of the total admitted claim. a. Upfront payment of Rs. 9.01 crores to be made within 30 days of approval of plan by the Adjudicating Authority.
3	Unsecured Financial Creditors:	Nil	Not Applicable
4	Payment to dissenting financial creditor	Nil	Not Applicable
5	Payment to Operational Creditors including Government dues	38.75	Payment of Rs. 0.05 crores to be made within 30 days of approval of plan by the Adjudicating Authority.
6	Payment to Workmen/Worker	Nil	Not Applicable
7	Others	Nil	Not Applicable

21. The Resolution Plan defines “*Effective Date*” as the date of the Order of Approval of Resolution Plan by the Adjudicating Authority.

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

22. The Resolution Plan also provides–

- a. Appointment of Monitoring Committee at clause 4.4 at page 34 and clause 5.2 at page 35 of the Resolution Plan.

- b. Management of the company after resolution in clause 5.1 at page 35 of the Resolution Plan; and

Reliefs and Concessions

23. The Reliefs, Concessions and Waivers sought by the Resolution Applicant from the Adjudicating Authority are set out below for the successful implementation of the Resolution Plan. The orders thereon are indicated against each.

Sl. No.	Ref. to Clause	Relief and /or Concessions Sought	Orders thereon
1	1.1, Part-D.	The approval of the Adjudicating Authority and the CoC shall constitute adequate approval and cancellation of the existing share capital and accordingly, no approval/ consent shall be necessary from any other person/governmental authority in relation to either of these actions under any agreement, the constitutional documents or under any Applicable Law. It is also clarified that the Resolution Applicant shall not be required to deal with the dissenting / abstaining Financial Creditors in any manner other than as provided under the Code.	So far as share capital is concerned, the company shall file all necessary forms along with applicable fee with the Registrar of Companies. So far as dealing with the any kind of creditors is concerned, it shall be strictly as envisaged under the Code.
2	1.2, Part-D.	Approval of this plan shall be deemed approval for waiver from filing of statutory returns (including but not limited to any filings for registrar of Companies, Direct and indirect tax authorities, plant related annual filings, etc.) for a period prior to the Approval date. Certified copy of the order approving Resolution Plan shall be a direction on such statutory	This is upto the authorities concerned to consider.

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Sl. No.	Ref. to Clause	Relief and /or Concessions Sought	Orders thereon
		authorities to allow AMPL to do compliance(s) with effect from and after the approval date.	
3	1.3, Part-D.	Approval of this plan shall be deemed approval for removal of directors from the record of the Company as appearing on the MCA portal/ website/ income tax website/ any indirect website. Certified copy of the order approving Resolution Plan shall be a direction on such statutory authorities to do the needful	The company shall file all necessary forms along with applicable fee with the Registrar of Companies.
4	1.4, Part-D.	The change in the shareholding of the Corporate Debtor pursuant to this Resolution Plan approved by the Adjudicating Authority shall not result in lapse of any losses of the Corporate Debtor that are brought forward under the provisions of section 79 read with section 2(18) Income-tax Act,1961	The assessment concerns the corporate debtor and not the individual shareholders. Therefore, no orders are necessary on this score.
5	1.5, Part-D.	The requirement of obtaining a no-objection certificate under section 281 of the Income-tax Act, 1961 and provisions of taking over its predecessor's Tax liability under section 170 of the Income-tax Act, 1961 shall not be applicable. Similarly, any requirements to obtain waivers from any Tax authorities including in terms of section 79 and section 115JB of the Income-tax Act, 1961, is deemed to have been granted upon approval of this Resolution Plan and with effect from the Approval Date.	This is upto the authorities concerned to consider.

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Sl. No.	Ref. to Clause	Relief and /or Concessions Sought	Orders thereon
6	1.6, Part-D.	The Central Board of Excise and Customs to not void the transactions contemplated under the Resolution Plan (including a potential sale of Assets) under section 81 of the Central Goods and Service Tax Act, 2017 and not to impose any successor liability on the Resolution Applicant and/or the Corporate Debtor.	This is upto the authorities concerned to consider.
7	1.7, Part-D.	Act as necessary directions to Central Board of Direct Taxes:	
	1.7(a), Part-D.	For exemption from the provisions of Income Tax Act, 1961, including but not limiting to the provisions of Minimum Alternate Tax, arising as a result of giving effect to the Resolution Plan, including write-back of liabilities.	This is upto the authorities concerned to consider.
	1.7(b), Part-D.	For Claim set-off of the entire Minimum Alternate Tax (MAT) credit as available to the Corporate Debtor, against the normal income-tax as would be payable by the Corporate Debtor post the Approval Date, i.e., no normal taxation should be applicable until the MAT credit is adjusted/utilised in full.	This is upto the authorities concerned to consider.
8	1.8, Part-D.	Act as grant of exemption and relief to the Corporate Debtor from the provisions of ss.41(1), 45, 72(3), 43-B, 56, 79, 80 r/w139, 115JB, 269-SS, 269-T & 281 of Chapter XVII of the Income Tax Act, effective from the Approval Date for implementation of the Resolution Plan.	This is upto the authorities concerned to consider.

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Sl. No.	Ref. to Clause	Relief and /or Concessions Sought	Orders thereon
9	1.9, Part-D.	All the assets of the Corporate debtor including but not limiting to the current assets, bank balances and fixed deposits will vest to the benefit of the Corporate Debtor and under control of the Resolution Applicant. Any attachment and/or freezing order against the assets of the Corporate Debtor by any authority, including but not limited to IT, GST, ED will stand vacated and the Corporate Debtor will be free to use the assets to its benefits to ensure that the unit continues to be a going concern.	Granted.
10	1.10, Part-D.	On the date of Adjudicating Authority order approving the resolution plan, all encumbrances, security interest, liens and/or attachments (<i>including pursuant to applicable law</i>) created or suffered to exist over the assets of the Corporate debtor, whether by contract or by applicable law shall be allowed to exist only to the extent of the balance amount as contemplated in the resolution plan due to the creditors and commenced by any person over any assets of the corporate debtor or over any securities of the corporate debtor shall stand irrevocably released and reversed upon full & final settlement of the dues of the secured FCs as contemplated in the resolution plan without the requirement of any further deed or actions on part of the RA.	Granted.

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11	1.11, Part-D.	The losses already lapsed/ not lapsed as on the date of approval of the Resolution Plan shall be allowed to be carried forward for a period of eight (8) Assessment Years from the Financial Year relevant to the Assessment Year in which Resolution Plan is approved.	This will be in accordance with the provisions of the Income Tax Act, 1961.
12	1.12, Part-D.	There arising no liability of the Resolution Applicant in respect of any reassessment, reopening, revision, review or other proceedings under the Income-tax Act, 1961, or any other law or statute for any period prior to the Effective Date.	Strictly as envisaged under the Code
13	1.13, Part-D.	There being waiver of interest and penalty on delayed payment of income tax and tax deducted at source, or any other statutory liability, if any, for any period prior to the Effective Date	This is upto the authorities concerned to consider.
14	1.14, Part-D.	There being waiver of the penalty in respect of late filing of TDS returns or returns under any other law for any period prior to the Effective Date.	This is upto the authorities concerned to consider.
15	1.15, Part-D.	There being waiver of the penalty levied under the Income Tax Act, 1961, and all pending penalty proceedings under the Income Tax Act, 1961 to stand closed.	This is upto the authorities concerned to consider.
16	1.16, Part-D.	There being no issue to be raised by the Income Tax Department or any other Statutory body or authority under any law to question any acts, deed/s or thing/s as maybe carried	Granted.

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		out by the Corporate Debtor and/or any person in control of or acting under instruction of the Corporate Debtor or <i>vice-versa</i> , for which a demand, liability or charge can be framed on the Corporate Debtor; and accordingly, issues raised and/or proceeding outstanding or pending to stand closed and/or dropped, as the case maybe.	
17	1.17, Part-D.	No claim, demand/ reassessment/ liabilities whether crystallised or otherwise, present or future, unseen or foreseen, by whatever name or under any head whatsoever will be raised by any creditors and/or statutory authorities including but not limiting to the Income Tax department pertaining to the period prior to the effective date after the Effective date.	Strictly as envisaged under the Code.
18	1.18, Part-D.	The Corporate Debtor and the Resolution Applicant shall not be required to deal with the Dissenting Financial Creditors in any manner other than as provided in the Code.	Since there are no dissenting financial creditors, the question does not arise.
19	1.19, Part-D.	The approval of resolution Plan by Adjudicating Authority shall constitute adequate and final approval of the Adjudicating Authority for:(a) cancellation of the share capital of the Corporate Debtor (as may be agreed upon) in terms of provisions of the Companies Act, 2013 and other Applicable Law without any compliance of any	Granted, however, wherever applicable the company shall file all necessary forms along with applicable fee with the Registrar of Companies.

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Sl. No.	Ref. to Clause	Relief and /or Concessions Sought	Orders thereon
		provisions of the Act which shall stand exempted without any further actions on part of any Party; (b) for issuance of new Equity Shares/ preference shares and/or convertible securities as may be considered appropriate to issue in terms of the Section 42 and Section 62(1)(c) of the Companies Act, 2013 and other Applicable Law and accordingly; and (c) the amount infused by the Resolution Applicant in the Corporate Debtor for payment of dues of financial creditors as per this Resolution Plan shall not be termed as deposits under section 73 to 76 of the Companies Act, 2013 and the rules made thereunder, shall be effective without following the provisions of the Companies Act, 2013, and that no approval/ consent shall be necessary from any other Person in relation to any of these actions including under any agreement, the constitution documents of the Corporate Debtor or any Applicable Law.	
20	1.20, Part-D.	Post approval of Resolution Plan by CoC, all the penal interest, interest, damages and penalties charged or chargeable for non-compliance of the various clauses of the SEBI (Listing Obligation and Disclosures Requirements) Regulations, 2015 and other SEBI Regulations read with SEBI Circulars issued thereunder (if applicable), including	In terms of the documents placed on record, this clause does not appear to be relevant.

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Sl. No.	Ref. to Clause	Relief and /or Concessions Sought	Orders thereon
		balance of the principal amount shall be treated as waived off/extinguished. All the compliances required to relist the Equity Shares of the company and to relist the new structure of equity shares of the company immediately upon filing of the NCLT approval order shall be exempted by stock exchanges in India.	
21	1.21, Part-D.	All relevant authorities (including RBI) to waive and close matters and not to raise any fresh assessment/ demand pertaining to any and all non-compliances/ defaults/ dues of the Corporate Debtor prior to the Effective Date, including but not limited to those relating to Income Tax, Service Tax, Goods and Service Tax, Customs and Excise Act, Foreign Exchange Management Act, Prevention of Money Laundering Act, PMLA, FEMA, CBI, Tax/ Value Added Tax Acts of the relevant State or the Central Government, Real Estate Regulatory Act of the relevant States or the Central Government). All penalties, liabilities and claims by whatever name called, shall in relation to the aforesaid non-compliances/ demand/ defaults/ dues shall stand extinguished permanently. The Resolution Applicant shall be granted a waiver, from all actions, proceedings or penalties under any Applicable Law for any non-	Strictly as envisaged under the Code.

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		compliance, for an additional period of 12 (twelve) months starting from the day following the Effective Date, which is considered necessary and essential for the effective implementation of this Resolution Plan.	
22	1.22, Part-D.	The Resolution Applicant is free to re-organise the business of the Corporate Debtor and to adopt suitable measure, including re-aligning the manpower requirement and changing the use of its land in such manner as is likely to benefit in the turnaround process of AMPL.	This is not in the nature of a waiver, concession or approval requiring approval of this Adjudicating Authority.
23	1.23, Part-D.	All assets (<i>including movable & immovable properties whether freehold, leasehold or license basis and intangible assets including technical knowhow, licenses, patents, copyrights, logo, knowledge, brand, franchise agreement etc.</i>) held by the Corporate Debtor shall be re-vested with the Corporate Debtor from the Effective Date, free and clear off all Encumbrances and with good and marketable title and possession with full and unrestricted right to own, hold, possess, use for any purpose and transfer, deal with and dispose of the same or any portion thereof in any manner whatsoever without any interference or hindrance or requirement of any consent or no objection from any Person, except for charge created on Fixed Assets by respective Secured	This is not in the nature of a waiver, concession or approval requiring approval of this Adjudicating Authority.

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		Lenders of the corporate debtor till the Closing Date.	
24	1.24, Part-D.	The Resolution Applicant shall not be liable for any advance licenses, EPCG benefit availed by the Corporate Debtor, which remained undischarged as on the Approval Date and there shall be complete waiver of any interest, penalty or prosecution against the Corporate Debtor, Resolution Applicant and its nominees.	Strictly as envisaged under the Code.
25	1.25, Part-D.	The Resolution Applicant (and its Affiliates) and any future buyers of the Assets of the Corporate Debtor shall not be liable, in any way, for any criminal proceedings or actions that have been initiated against the Corporate Debtor or its existing or former promoters, shareholder or directors, employees, officers, at any point of time, before or after the Approval Date.	This shall be in terms of section 32A of the Code.
26	1.26, Part-D.	The Department of Registration and Stamps, local municipal taxes (if pending) and any other relevant authorities of West Bengal and/or Other State Governments where the Corporate Debtor or the Resolution Applicant carries on its business and operations or where its Assets are located, shall exempt the Resolution Applicant and the Corporate Debtor from the levy of stamp duty and fees, applicable in relation to this Resolution Plan and its	Not granted. The stamp duty and registration charges shall be payable wherever necessary. Local municipal taxes stand as operational debt in relation to the corporate debtor and so shall be treated accordingly.

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		implementation, including issuance of Equity Shares as provided in this Resolution Plan.	
27	1.27, Part-D.	The Ministry of Corporate Affairs shall exempt the Resolution Applicant and the Corporate Debtor from the levy of duties and fees applicable in relation to this Resolution Plan and its implementation, including issuance of Equity Shares as provided in this Resolution Plan.	Not granted. All applicable fee and other charges shall be payable.
28	1.28, Part-D.	Upon approval of the Resolution Plan by the Adjudicating Authority:	
	1.28(a), Part-D.	moratorium granted to the Corporate Debtor from any actions/ penalties under any Laws for any non-compliance, existing on or prior to the Approval Date will continue from Approval Date to Effective Date and post Effective Date for such time as is considered necessary and essential for effective implementation of this Resolution Plan; and	The Adjudicating Authority is not expected to travel beyond the contours of the Code to accommodate such requests. The moratorium shall come to an end on the date of approval of the Resolution Plan, as envisaged under section 31(3)(a) of the Code.
	1.28(b), Part-D.	waiver shall be deemed to have been granted to the Corporate Debtor from all actions, proceedings or penalties under a Law for any non-compliance, post Effective Date, for such term as is considered necessary and effective	Strictly as envisaged under the Code. Also, this is upto the authorities concerned to consider. No blanket waivers can be granted at this stage.

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		implementation of this Resolution Plan.	
29	1.29, Part-D.	All relevant Governmental Authorities to grant relief/ waiver from payment of stamp duty for the successful implementation of the Plan, <i>inter alia</i> , including but not limited to the increase in authorised share capital, issuance/ transfer of shares or debentures (<i>optionally convertible debentures / non-convertible debentures</i>) etc.	Not granted.
30	1.30, Part-D.	All Governmental Authorities (<i>including but not limited to Income Tax Authority, Service tax Department, VAT Department and GST Department</i>) to waive the non-compliances of the Corporate Debtor or further claims of the Governmental Authorities on the Corporate Debtor arising out of or in relation to the past claims, and/or actions, deed/s or thing/s prior to the Insolvency Commencement Date.	Strictly as envisaged under the Code. Also, this is upto the authorities concerned to consider.
31	1.31, Part-D.	All Governmental Authorities (<i>including but not limited to Income Tax Authority, Service tax Department, VAT Department and GST Department</i>) to provide relief to the Corporate Debtor from all past litigations pending and or proposed to be raised at different levels and provide waiver from tax dues, including interest and penalty on such litigations as on insolvency Commencement Date.	Strictly as envisaged under the Code. Also, this is upto the authorities concerned to consider.
32	1.32,	All creditors (<i>including but not limited to the Financial Creditors and other</i>	Granted.

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	Part-D.	<i>Operational Creditors</i>) of the Corporate Debtor shall withdraw all legal proceedings commenced against the Corporate Debtor in relation to claims, including proceedings commenced against the Corporate Debtor under Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and Recovery of Debt Due to Banks Act, 1993 within a period of ninety days of the Approval Date, and in the meanwhile the creditors shall not pursue the legal and other actions taken by any and/or all of them against the Corporate Debtor.	
33	1.33, Part-D.	The Resolution Applicant seeks a time period of 12 months from the Approval Date to ensure compliances in relation to the non- compliance of Applicable Laws by the Corporate Debtor pertaining to any period up to Approval Date, which shall, if otherwise found to be as per information within the possession of the Resolution Applicant, be considered to be final and effective, without any further costs or liabilities or consequences. Further, the relevant Governmental Authorities shall not initiate any investigations, action or proceedings against the Resolution Applicant or the new management to be appointed by the Resolution Applicant (upon acquisition of control and management of the Corporate Debtor	Granted, but only in terms of section 31(4) of the Code, nothing more and nothing less.

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		by the Resolution Applicant), including the members of the Reconstituted Board of Directors, in relation to any non-compliance with Applicable Laws by the Corporate Debtor pertaining to any period up to Approval Date, including waiver of penalty for any such non-compliance.	
34	1.34, Part-D.	Neither the Resolution Applicant nor the Corporate Debtor nor their respective directors, officers, and employees to be appointed after the Approval Date, be liable for any violations, liabilities, penalties or fines with respect to or pursuant to the Corporate Debtor, amongst others to be extent they pertain to or relate to requisite licenses and approvals required to undertake its business as per Applicable laws and the Resolution Applicant will have a time period of 12 months from the Approval Date, to ensure renewal of such consents/ licenses and approvals.	Granted.
35	1.35, Part-D.	Licenses and approvals held by the Corporate Debtor which expired prior to the Approval Date or which will expire within a period of 12 (twelve) months thereafter shall be renewed/ extended by the relevant Governmental Authorities and the Corporate Debtor shall continue its business and assets in the manner as operated up to the Approval Date.	All such licences, permits and things of such nature shall be applied for afresh with the competent authority. The Code does not envisage automatic renewal.

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36	1.36, Part-D.	The Resolution Applicant assumes that, in compliance of its duties under Regulation 35A of the CIRP Regulations, the Interim Resolution Professional had determined whether the Corporate Debtor has been subjected to any transactions covered under sections 43, 45, 50 or 66 of the Code or not and applied to the Adjudicating Authority for seeking appropriate relief. Accordingly, though the Resolution Applicant reserve its right to institute any investigation pertaining to any transaction(s) carried out by the ex-management of the Corporate Debtor or to file appropriate applications before the court/ tribunal of competent jurisdiction as may be considered necessary for the purposes. The Resolution Applicant and its officers, directors, employees and the new management of the Corporate Debtor, shall not be considered liable or responsible for any such transactions carried out by the ex- management of the Corporate Debtor.	This is not in the nature of a waiver, concession or approval requiring the attention of this Adjudicating Authority at this stage.
37	1.37, Part-D.	With respect to any alleged transfer of property of the Corporate Debtor by the Corporate Debtor to third parties without any proper agreement/sub-lease deeds and where the consideration amount has not been paid to the Corporate Debtor, the Resolution Applicant reserves right to cancel such instruments/	Any such transactions ought to have been identified by the resolution professional in the course of the CIRP. A <i>carte blanche</i> cannot be given in this regard.

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		agreements/ term sheets and upon cancellation the title in such land parcels will continue to be legally vested in the Corporate Debtor without any liability/ obligation to the counter-party or a claim of the latter or legal or other proceeding to be initiated by the latter, and the expression counter party and latter to mean and include any person acting through one or more of such person/s.	
38	1.38, Part-D.	For the purpose of consolidation of the books of the Corporate Debtor with Resolution Applicant, the Effective Date shall be treated as the date on which Corporate Debtor shall issue its equity shares to the Resolution Applicant against upfront amount paid to the Financial Creditors in terms of this Resolution Plan, which eventually results in takeover of the Corporate Debtor by the Resolution Applicant on that day.	Granted.
39	1.39, Part-D.	For a period of three (3) years from the Approval Date the Resolution Applicant shall not in any manner be held to be ineligible in terms of Section 29-A of the Code on account of the implementation of this Resolution Plan.	Whatever is granted by the Code does not need specific approval of the adjudicating authority.
40	1.40, Part-D.	The Adjudicating Authority be pleased to direct all relevant government authorities to provide/ extend to the Corporate Debtor all licenses, permits and approvals	The RA shall apply to the concerned authorities who shall then consider the application keeping in

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		required by the Resolution Applicants for implementation of the terms of this Resolution Plan and for an efficient functioning of the business of the Corporate Debtor. Further, all licenses and permits required by the Corporate Debtor shall be continued to be made available to the Corporate Debtor.	mind the objectives of the Code.
41	1.41, Part-D.	Under the provisions of the Code, namely Section 31(4), a resolution applicant, pursuant to the resolution plan approved under sub-section (1) of section 31 of the Code, is required 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 sub-section (1) of section 31 of the Code or within such period as provided for in such law, whichever is later. Pursuant to the above, all concerned Governmental Authorities shall provide to the Corporate Debtor a period of one year after the approval of the Resolution Plan, to obtain all necessary approvals under the relevant Applicable Laws required for the purpose of implementation of this Resolution Plan, including continuing with the business of the Corporate Debtor.	The RA shall apply to the concerned authorities who shall then consider the application keeping in mind the objectives of the Code.
42	1.42, Part-D.	The local district administration of the respective States where the assets and/ or business activity of the	In case any assistance is needed from any authority, the RA shall

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		Corporate Debtor are situated shall provide and extend assistance to the Resolution Applicant for the implementation of the Resolution Plan.	apply to the concerned authorities who shall then consider the application keeping in mind the objectives of the Code.
43	1.43, Part-D.	The Resolution Applicant, their respective connected persons and related parties shall not be deemed to be ineligible under the provisions of the Code, namely section 29A, from proposing and/or implementing a resolution plan for any other entity/entities under the provisions of the Code and/ or any other Applicable Law based on the fact that they are Resolution Applicant and/ or connected person(s) and/or related party/ parties in respect of Resolution Plan of the Corporate Debtor.	Granted.
44	1.44, Part-D.	That the concerned Registrar of Companies do waive off the fees as may be payable in course of implementation of the Resolution Plan including but not limiting to Fees and charges payable for increase in the Authorised Capital of the Corporate debtor in course of allotment of shares to Financial Creditors for the unsustainable Debts and also increase in authorised capital as maybe required in course of equity infusion by the Resolution Applicant.	No waiver of fee is granted. All applicable fee payable in this regard shall be paid to the Registrar of Companies.
45	1.45, Part-D.	That the concerned Registrar of Companies to associate the Directors	No approval from this adjudicating authority

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		Identification Numbers (DIN) of the Directors who would be taking charge collectively as Reconstituted Board of Directors of the Corporate Debtor pursuant to the approval of the Resolution Plan.	is required for this purpose. The RoC is expected to act in accordance with the statute, just as the applicants are expected to comply with all necessary formalities prescribed under the law.
46	1.46, Part-D.	That the West Bengal State Electricity Distribution Company Limited be directed to approve the application for fresh power connection in the form as may be mandated forthwith to ensure that the units of the corporate debtor are functional	The RA shall apply to the concerned authorities who shall then consider the application keeping in mind the objectives of the Code.
47	1.47, Part-D.	The change in ownership of the Corporate Debtor shall not be construed as a breach of legal obligation or as an event of default by any government/ statutory authority and the same shall not be used as a reason for non-grant/denial of extension of any no objection/ permission/ license as was granted to or is required to be granted to the Corporate Debtor, as the case maybe.	Granted. However, the RA shall apply to the concerned authorities who shall then consider the application keeping in mind the objectives of the Code.

Findings

24. As per clause 3.3.1 at page 25 of the Resolution Plan the “*liquidation value due to the Operational Creditors or the other creditors or stakeholders (including dues to employee other than workmen), government dues, taxes etc., and other creditors and stakeholders is NIL and therefore they will not be entitled to receive any*

payment,” the RA therefore seeks a waiver of the entire sum due towards payment of Operational Creditors. The clause further provides for an amount of ₹5,00,000 (Rupees five lakh only) to meet payment of any Operational Creditor due on its sole discretion based on the business need. As per the scheme of the Code, Operational Creditors are to be paid in priority to the Financial Creditors, the RA shall not, therefore, cherry-pick which Operational Creditor is to be paid and which should not be paid, at least not as part of an approved Resolution Plan, which should treat all creditors of the same class equally.

25. On hearing the submissions made by the RP, and perusing the record, we find that the Resolution Plan has been approved with 100% majority by the CoC, as against the minimum threshold of approval by 66% majority of the CoC. As per the CoC, the Resolution Plan meets the requirement of being viable and feasible for revival of the Corporate Debtor. By and large, all the compliances have been done by the RP and the RA for making the plan effective after approval by this Bench. There is no opposition from any quarter as regards the Resolution Plan.
26. 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 37, 38 and 39 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. No circumstances exist that militate against grant of approval for the Resolution Plan.
27. As far as the question of granting time to comply with the statutory obligations or 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.
28. Any relief sought in the Resolution Plan, in respect of any contract, agreement, understanding, proceeding, action, notice etc. not specifically identified, or is for a future contingency, is, at this point of time, rejected.

29. Therefore, subject to the observations made in this Order, we hereby accord our approval to the Resolution Plan. **The Resolution Plan shall form part of this Order.**
30. The Resolution Plan as approved is binding on the Corporate Debtor and other stakeholders involved so that the revival of the Corporate Debtor can come into force with immediate effect.
31. The Moratorium imposed under section 14 shall cease to have effect from the date of this order.
32. In case of non-compliance of this order or withdrawal of Resolution Plan, the CoC shall forfeit the Performance Security Bank Guarantee by the Resolution Applicant.
33. The RP shall stand discharged from his duties with effect from the date of this Order. He shall, however, perform his duties in terms of the Resolution Plan as approved by this Adjudicating Authority.
34. The Resolution Applicant shall have access to all the Corporate Debtor's records, documents, assets and premises with effect from the date of this Order, to finalise the further line of action required for starting the business operations of the Corporate Debtor.
35. Liberty is hereby granted for moving applications, if required, in connection with implementation of this Resolution Plan.
36. The Resolution Applicant shall file a copy of this Order with the Registrar of Companies, West Bengal, *inter alia* for updating the status of the Corporate Debtor.
37. The application bearing **IA (IB) No.279/KB/2021** along with the Company Petition bearing **CP (IB) No.683/KB/2018** are disposed of accordingly.

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38. Additionally, the Registry shall send a copy of this order to the Registrar of Companies, West Bengal.
39. Certified copy of this Order be issued on demand to the concerned parties, upon due compliance.

Harish Chander Suri
Member (Technical)

Rajasekhar V.K.
Member (Judicial)
11.05.2021

SR(LRA)