

IN THE NATIONAL COMPANY LAW TRIBUNAL

KOLKATA BENCH

KOLKATA

(Special Bench)

IA No. 1195/KB/2020

In

CP (IB) No. 180/KB/2019

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

In the matter of

ATO (I) Limited ...
(CIN: U63090WB1983PLC035817)

Financial Creditor

Versus

Gandhmardhan Sponge Industries ...
Private Limited
(CIN: U27102WB1977PTC030909)

Corporate Debtor

And

In the matter of

Pradeep Kumar Goenka
Resolution Professional of
Gandhmardhan Sponge Industries (in
CIRP)

...Applicant

Date of hearing: 04.01.2021

Date of Pronouncement: 25.03.2021

Coram:

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

Appearances (through video conference):

For the Applicant/RP : 1. Mr. Pranay Agarwal, Advocate
2. Ms. Ankita Baid, Advocate
3. Mr. Pradeep Kumar Goenka, RP
in person.

ORDER

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

1. This is an application by Mr. Pradeep Kumar Goenka, Resolution Professional of Gandhmardhan Sponge Industries Private (CIN: U27102WB1977PTC030909) under section 30(6) read with section 31(1) of the Insolvency and Bankruptcy Code, 2016 (the Code) for approval of a Resolution Plan in respect of Gandhmardhan Sponge Industries Private, the Corporate Debtor.
2. The underlying company petition in CP (IB) No. 180/KB/2019 was filed by the ATO (I) Limited against Gandhmardhan Sponge Industries Private, the Corporate Debtor under section 7 of the Code which was admitted into Corporate Insolvency Resolution Process (CIRP) *vide* order dated 04.10.2019.
3. Initially, the Applicant (Reg No. IBBI/IPA-002/IP-N00294/2017-2018/10851) was appointed as the Interim Resolution Professional. He was confirmed as the Resolution Professional (RP) of the Corporate Debtor at the first meeting of the Committee of Creditors (CoC) held on 01.11.2019; the same was recorded by this Adjudicating Authority in the order dated 18.11.2019
4. The RP made public announcements on 07.10.2019 in Orissa Post (English) and *Pratidin* (Odiya) newspapers of the Bhubaneshwar editions, and on 10.10.2019 in Financial Express (English) and *Aajkal* (Bengali) newspapers of the Kolkata editions regarding initiation of CIRP and called for proof of claims from the creditors of the Company till 18.10.2019. The newspaper advertisements are annexed to the first progress report and marked as Annexure 'A' at pages 7 to 10.
5. The claim of the creditors as on the date of filing the present application is as follows:-

I. Claims of Creditors as per clause 13.1 of the Resolution Plan

(Amount in lakh)

Sl. No.	Category of Claim and Reference to Clause of the Resolution Plan	Amount admitted/balance as per books	Amount proposed to be paid as per Plan
1.	CIRP Costs	_____	80.00
2.	Financial Creditors	485.67	485.67
3.	Operational Creditors	147.15	147.15
4.	Other Creditors	2116.90	_____
5.	Employees/Workmen	61.39	61.39
6.	Others	39,775.21	2,225.79
	Total	42586.32	3000.00

6. A total of nine CoC Meetings have been held during the CIRP period, as follows:-

Particulars	Date of CoC Meeting
1 st CoC Meeting	01.11.2019
2 nd CoC Meeting	12.11.2019
3 rd CoC Meeting	29.11.2019
4 th CoC Meeting	23.12.2019
5 th CoC Meeting	02.03.2020
6 th CoC Meeting	28.07.2020
7 th CoC Meeting	22.09.2020
8 th CoC Meeting	28.10.2020
9 th CoC Meeting	31.10.2020

7. In terms of the provisions of section 25(2)(h) of the Code read with regulation 36A(1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, invitations in Form 'G' for Expressions of Interest (EoIs) from potential

resolution applicants were issued on 24.12.2019. This was published in Orissa Post (English) and *Pratidin* (Odiya) newspapers of the Bhubaneswar editions, and in Business Standard (English) and *Aajkal* (Bengali) newspapers of the Kolkata editions. The last date for receipt of EoIs was 08.01.2020. The newspaper advertisements are annexed to the second progress report and marked as Annexure 'G' at pages 67 to 70.

8. The Applicant received four EoIs before the said last date for receipt of EoIs. Despite the four EoIs, the Applicant/RP did not receive any resolution plan till the last date for submission of Resolution Plan. Therefore, in the fifth CoC meeting held on 02.03.2020 the CoC resolved to republish the Form G with modified eligibility criteria. Since the CIRP period was going to end on 01.04.2020, the CoC in the same meeting resolved to apply for the extension of CIRP period before the Adjudicating Authority through the Applicant/RP. Both these resolutions were passed with 77.57% voting shares. Copy of minutes of meeting are annexed to the present application and marked as Annexure 'B' at pages 33 to 43.
9. The Applicant submits that an application for extension of CIRP was filed by the Applicant herein on 13.03.2020. However, due to a nationwide lockdown announced from 25.03.2020 in the wake of the Covid-19 pandemic, the said application could not be listed for hearing. Consequently, two applications bearing IA No. 682/KB/2020 and IA No. 688/KB/2020 for urgent listing and extension of time and for exclusion of time respectively, from the CIRP period were filed. The said applications were heard and allowed by this Adjudicating Authority *vide* order dated 03.09.2020. Copies of the orders in the said applications are annexed to the present application and marked as Annexure 'C' at pages 44 to 47.
10. Form G was republished on 05.09.2020 in Orissa Post (English) and *Pratidin* (Odiya) newspapers of the Bhubaneswar editions, and in Business Standard (English) and *Aajkal* (Bengali) newspapers of the Kolkata editions. The last

date for receipt of EOIs was 21.09.2020. The newspaper advertisements are annexed to the present application and marked as Annexure 'D' at pages 48 to 51.

11. Pursuant to the said invitation for EoI, a Resolution Plan was received from one M/s. Bhuwalka Developments Pvt. Ltd. The said Resolution Plan was opened in eighth CoC meeting held on 28.10.2020 wherein it was decided that the same would be voted upon in the ninth CoC meeting.
12. The amount in resolution plan submitted by M/s. Bhuwalka Developments Pvt. Ltd. is higher than the average liquidation value of the corporate debtor as valued by four valuers, the relevant extracts of which are annexed to the application and marked as Annexure 'H' at pages 142 to 164.
13. The ninth CoC meeting was held on 31.10.2020 wherein the Resolution Plan was discussed in detail. The CoC, in the said meeting, resolved to approve the said Resolution Plan by 77.57% vote. Financial Creditor having 22.43% voting share dissented from approving the Resolution Plan. Copies of the minutes of ninth CoC meeting along with its voting sheets, attendance sheet and evaluation matrix are collectively annexed to the present application and marked as Annexure 'F' at pages 54 to 71.
14. The Applicant has submitted details of various compliances as envisaged by the Code and CIRP Regulations which a resolution plan is required to adhere to. These compliances are reproduced hereunder:

I. Submission of Resolution Plan in terms of section 30(2) of the Code:

<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.	S.No.1 of chapter 13 at page 27 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>
(b)	<p>(i) 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</p> <p>(ii) Plan must provide for repayment of debts of OCs in such manner as may be specified by the Board which shall not be 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</p> <p>(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.</p>	<p>(i) Not Applicable</p> <p>(ii) S.No.5 of chapter 13 at page 27 of the Resolution Plan.</p> <p>(iii) S.No.8 of chapter 13 at page 28 of the Resolution Plan.</p>
(c)	Management of the affairs of the Corporate Debtor after approval of the Resolution Plan.	Chapter 16 at page 36 of the Resolution Plan.
(d)	Implementation and Supervision.	Chapter 17 at pages 37 & 38 of the Resolution Plan.
(e)	Plan does not contravene any of the provisions of the law for the time being in force.	Point no. 2 of Chapter 18 at page 9 of the Resolution Plan.
(f)	Conforms to such other requirements as may be specified by the Board.	Chapter 9 at page 20 of the Resolution Plan

II. Measures required for implementation of the 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:-

Particulars	Relevant Page/Portion of the Resolution Plan dealing aforesaid compliance with Regulation
(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 to any security interest or not;	Not Proposed by RA
(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;	Chapter 15 at page 34 of the Resolution Plan
(ca) cancellation or delisting of any shares of the corporate debtor, if applicable;	Chapter 15 at page 35 of the Resolution Plan
(d) satisfaction or modification of any security interest;	Not proposed by RA.
(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;	S.No.4 of chapter 13 at page 27 and chapter 13.1 at pages 30 and 31 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.

<i>Particulars</i>	<i>Relevant Page/Portion of the Resolution Plan dealing aforesaid compliance with Regulation</i>
(h) amendment of the constitutional documents of the corporate debtor;	Chapter 15 (e) at page 35 of the Resolution Plan.
(i) issuance of securities of the corporate debtor, for cash, property, securities, or in exchange for claims or interests, or other appropriate purpose;	Not proposed by RA.
(j) change in portfolio of goods or services produced or rendered by the corporate debtor;	S.No. 6 of chapter 5 at page 11 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.	Chapter 11 at page 25 of the Resolution Plan [as under Regulation 38(3)(d)]

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

<i>Reference to relevant Regulation</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.	S.No. 5 of chapter 13 at page 27 of the Resolution Plan
38(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 of the corporate debtor.	Chapter 14 at page 33 and chapter 18 at page 39 of the Resolution Plan.
38(1B)	A resolution plan shall include a statement giving details if the resolution applicant or any of its	Not proposed by RA.

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<i>Reference to relevant Regulation</i>	<i>Requirement</i>	<i>How dealt with in the Plan</i>
	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.	
38(2)	A resolution plan shall provide: (a) the term of the plan and its implementation schedule;	Chapter 13 at pages 27 to 31 of the Resolution Plan.
	(b) the management and control of the business of the corporate debtor during its term; and	Chapter 16 at page 36 of the Resolution Plan.
	(c) adequate means for supervising implementation	Chapter 17 at page 37 of the Resolution Plan.
38(3)	A resolution plan shall demonstrate that – (a) it addresses the cause of default; (b) it is feasible and viable; (c) it has provisions for its effective implementation; (d) it has provisions for approvals required and the timeline for the same; and (e) the Resolution Applicant has the capability to implement the resolution plan.	 Para 3 of chapter 6 at page 14 of the Resolution Plan Chapter 11 at page 25 of the Resolution Plan. Chapter 17 at page 37 of the Resolution Plan. Chapter 17 at page 37 of the Resolution Plan. Point No. 3 of chapter 5 at page 10 of the Resolution Plan.

15. 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 ‘J’ at pages 173 to 181 of the present Application.

16. The Applicant has filed a Compliance Certificate in prescribed form, *i.e.*, Form ‘H’ in compliance 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 “K” at pages 182 to 192 of the present Application.

Details of Resolution Plan/Payment Schedule

17. 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, *i.e.*, M/s. Bhuwalka Developments Pvt. Ltd., under the said Resolution Plan is tabulated as under:

(Rupees in lakh)

S.No.	Particulars	Admitted Claims/ Balance as per Books	Final Resolution Amount	Within 30 days	Within 6 months	Within 12 months
1.	CIRP Cost	-	80.00	80.00	-	-
2.	Workmen and Employee Dues	61.39	61.39	15.35	46.04	-
3.	Unsecured Financial Creditors – other than related parties	485.67	485.67	121.42	364.25	-
4.	Other unsecured creditors – related parties	2116.90	0.00	-	-	-
5.	Operational Creditors – other than related parties	147.15	147.15	147.15	-	-
6.	Commissioner of Customs	352.88	28.23	-	-	28.23
7.	Commissioner of Income Tax (Central),	5546.42	443.71	-	-	443.71

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S.No.	Particulars	Admitted Claims/ Balance as per Books	Final Resolution Amount	Within 30 days	Within 6 months	Within 12 months
	Visakhapatnam					
8.	Shareholders	-	19.93	19.93	-	-
9.	Payments proposed to liabilities ascertained/claims admitted	8710.41	1266.08	383.85	410.29	471.94
	Proposal to clear contingent liabilities					
10.	The Mining Officer, Keonjhar – compensation for excess mining*	33935.92	600.00*	-		600.00*
11.	Contingencies / unforeseen costs		33.92	-	-	33.92
	Total payments under the Plan	42586.32	1900.00	383.85	410.29	1105.86
12.	Capital Expenditure for development of 2 plots of land near Dhamra Port and at Keonjhar including working capital funds		1100.00			1100.00
	Overall plan size	42586.32	3000.00	383.85	410.29	2205.86

* a) The mining department is holding stock of Iron Ore at the mine head aggregating to approx. 3,00,000 MT which has realisable value of approx. Rs.450.00 lakh at the average realisation value of Rs. 1500/- per MT. Resolution Applicant proposes that the said stock may be sold by the Mining officer and adjusted against full and final settlement of the demand raised by the mining officer.

18. Summary of the financial payment under the Resolution Plan of M/s. Bhuwalka Developments Pvt. Ltd. as provided in the Resolution Plan is tabulated hereunder for sake of clarity:

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Particulars	Amount
Admitted Debt to be paid upfront to the CIRP	<p>Resolution Applicant proposes to pay entire CIRP cost to the extent unpaid in priority of any other payments, within 30 days from the date of approval of Resolution Plan by this Adjudicating Authority. The RA has estimated the total insolvency resolution process cost at Rs.80,00,000 (Rupees eighty lakh only).</p> <p>CIRP cost incurred till the date of approval of Resolution Plan by this Adjudicating Authority shall be apportioned in priority of any other payments out of total consideration.</p>
Admitted Debt to be paid to the Workmen and Employees	RA proposes to pay a sum of Rs. 61.39 lakh towards full and final settlement of dues of all the workmen and employees after verification of records.
Admitted Debt to be paid to the Operational Creditors	RA proposes to pay amount of Rs. 147.15 lakh to all the Operational Creditors (excluding statutory dues) to be distributed on proportionate basis amongst all as per the claims admitted and dues as per books of the CD. The payment will be made within 30 days from the date of approval of Resolution Plan by this Adjudicating Authority.
Admitted Debt to be paid to Financial Creditors	<p>(a) RA proposes to pay a sum of Rs. 485.65 lakh to the Unsecured Financial Creditor. Twenty-five percent of the amount will be paid within a period of 30 days from the date of approval of the Resolution Plan by this Adjudicating Authority. The balance amount shall be paid within 6 months from the date of approval of plan by this Adjudicating Authority.</p> <p>(b) RA proposes to arrange to make payment of such amount which shall not be less than liquidation value to dissenting Financial Creditors and such funds will be brought in separately by RA over and above upfront amount proposed under the plan.</p> <p>(c) Resolution Applicant does not propose to make any payment to related parties. The entire amount due to other Unsecured Financial Creditors is proposed be waived on approval of Resolution</p>

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Particulars	Amount												
	Plan by this Adjudicating Authority.												
Admitted Statutory Liabilities to be paid	<p>Resolution Applicant proposes to pay an amount of Rs. 471.94 lakh towards Statutory liabilities of Rs. 5899.30 lakhs within a period of 12 months from the date of approval of plan.</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: center;">Nature of Liability</th> <th style="text-align: center;">Amount due</th> <th style="text-align: center;">Amount proposed</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">Commissioner of Customs</td> <td style="text-align: center;">352.88</td> <td style="text-align: center;">28.23</td> </tr> <tr> <td style="text-align: center;">Commissioner of Income Tax (Central), Visakhapatnam</td> <td style="text-align: center;">5546.42</td> <td style="text-align: center;">443.71</td> </tr> <tr> <td style="text-align: center;">TOTAL</td> <td style="text-align: center;">5899.30 lakh</td> <td style="text-align: center;">471.94 lakh</td> </tr> </tbody> </table> <p>RA proposes for waiver of all interest and penalties levied by the authorities in respect of the above dues. RA further proposes that all other dues in respect of statutory liabilities till the date of approval of plan by AA shall be waived.</p>	Nature of Liability	Amount due	Amount proposed	Commissioner of Customs	352.88	28.23	Commissioner of Income Tax (Central), Visakhapatnam	5546.42	443.71	TOTAL	5899.30 lakh	471.94 lakh
Nature of Liability	Amount due	Amount proposed											
Commissioner of Customs	352.88	28.23											
Commissioner of Income Tax (Central), Visakhapatnam	5546.42	443.71											
TOTAL	5899.30 lakh	471.94 lakh											
Shareholders	The RA proposes to acquire 100% equity shares of the Corporate Debtor at Rs. 19,93,375/- i.e., at the reduced value of the shares (the existing shareholding of the Corporate Debtor will be reduced to Rs. 19,93,375/- by way of reducing paid value of equity share from Rs. 10/- per share to Rs. 1/- per share).												
Contingent Liabilities	<p>RA proposes to settle the demand raised by Mining Officer, Keonjhar as stated here-in-below:-</p> <p>(a) RA shall pay a sum of Rs.600.00 lakh to the mining department towards full and final settlement of all its claims and dues within 12 months of approval of the plan by this Adjudicating Authority.</p> <p>(b) The mining department is holding stock of Iron Ore at the mine head aggregating to approx. 3,00,000 MT which has realisable value of approx. Rs.450.00 lakh at the average realisation</p>												

Particulars	Amount
	value of Rs. 1500/- per MT. Resolution Applicant proposes that the said stock may be sold by the Mining officer and adjusted against full and final settlement of the demand raised by the mining officer. (c) All or any other demands or levies which are not proposed to be paid under this resolution plan including any interest, penalty thereon shall be waived

19. The Resolution Plan defines “Effective Date” as the first day of the month succeeding the previous month in which the Resolution Plan is approved by the Adjudicating Authority.

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

20. The Resolution Plan also provides–

- a) That a Monitoring Committee shall be appointed within ten days of approval of this plan by this Adjudicating authority in the chart entailing compliances under regulation 38 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process For Corporate Persons) Regulations, 2016 at chapter 11, page 23 of the Resolution Plan. The plan talks of its powers in chapter 17 at page 37.
- b) Management of the company after resolution in chapter 16 at Page 36; and
- c) Term and implementation of the resolution in chapter 17 at Pages 36 & 37.

Reliefs and Concessions

21. 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

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against each.

S. No.	Ref. to Page no. of the Resoluti on Plan	Relief and/or Concessions Sought	Orders thereon
1.	29 & 30	<p><u>With respect to the demand raised by Mining Officer, Keonjhar</u></p> <p><i>a. On approval of resolution plan by Adjudicating Authority, Government of Odisha through Mining officer, Keonjhar circle shall renew the mining lease in respect of Putlipani Iron ore mines to the Resolution Applicant as per provisions of MM (D&R) Act, 1957, to continue the mining business of the CD.</i></p> <p><i>b. On approval of resolution plan by adjudicating Authority, mining officer, Keonjhar circle shall settle the demand raised against the CD as per proposal stated above.</i></p> <p><i>c. On approval of resolution plan by adjudicating Authority, mining officer, Keonjhar circle shall not take any adverse/coercive action for the deposit/settlement of the demand raised against CD.</i></p> <p><i>d. There are guidelines issued by government authorities or provided in the Act/Rules that where outstanding demand is disputed before Appellate Authority, a percentage of the dispute amount is required to be deposited to grant stay of demand till disposal of first appeal. On approval of resolution plan by Adjudicating Authority, there will be waiver of the requirement of pre-deposit, if any, to accept filing of</i></p>	<p>These are not in the nature of a waiver, concession or approval requiring the attention of this Adjudicating Authority. The percentage of claim that is sought to be paid back to the creditors is a call to be taken by the Committee of Creditors while approving the Resolution Plan. This Adjudicating Authority has no role to play in this behalf.</p> <p>So far as waivers from the government authorities are concerned, it is upto the authorities</p>

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S. No.	Ref. to Page no. of the Resolution Plan	Relief and/or Concessions Sought	Orders thereon												
		<p><i>appeal before any appellate authority and to grant stay of the demand.</i></p> <p><i>e. On approval of resolution plan by adjudicating Authority, there will be waiver of all penal Interest and penalty on any Demand, tax, duty or other government levies determined against the CD till the date of order.</i></p>	concerned to consider.												
2.	45	<i>Cut-off date is assumed as 01.01.2021</i>	No orders necessary.												
3.	45	<p><u>Statutory Liabilities:</u> <i>The Statutory Dues shall be paid as per para 13.6. The Respective authorities shall waive all other outstanding balances including any Interest/Penalties/ Liquidated damages, etc on the said amounts, as under</i></p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: center;"><i>Nature of Liability</i></th> <th style="text-align: center;"><i>Amount due</i></th> <th style="text-align: center;"><i>Amount proposed</i></th> </tr> </thead> <tbody> <tr> <td style="text-align: center;"><i>Commissioner of Customs</i></td> <td style="text-align: center;">352.88</td> <td style="text-align: center;">28.23</td> </tr> <tr> <td style="text-align: center;"><i>Commissioner of Income Tax (Central), Visakhapatnam</i></td> <td style="text-align: center;">5546.42</td> <td style="text-align: center;">443.71</td> </tr> <tr> <td style="text-align: center;"><i>Total</i></td> <td style="text-align: center;"><i>5899.30 lakh</i></td> <td style="text-align: center;"><i>471.94 lakh</i></td> </tr> </tbody> </table>	<i>Nature of Liability</i>	<i>Amount due</i>	<i>Amount proposed</i>	<i>Commissioner of Customs</i>	352.88	28.23	<i>Commissioner of Income Tax (Central), Visakhapatnam</i>	5546.42	443.71	<i>Total</i>	<i>5899.30 lakh</i>	<i>471.94 lakh</i>	<p>This is not in the nature of a waiver, concession or approval requiring the attention of this Adjudicating Authority. The percentage of claim that is sought to be paid back to the creditors is a call to be taken by the Committee of Creditors while approving the Resolution Plan.</p> <p style="text-align: center;">This Adjudicating</p>
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S. No.	Ref. to Page no. of the Resoluti on Plan	Relief and/or Concessions Sought	Orders thereon
			Authority has no role to play in this behalf.
4.	45	<u>Operational Creditors:</u> <i>Claims against old dues of the operational creditors for supply of goods and services shall be carved out as Resolution amount and the said dues shall be paid without interest as per para 13.</i>	This is not in the nature of a waiver, concession or approval requiring the attention of this Adjudicating Authority. The percentage of claim that is sought to be paid back to the creditors is a call to be taken by the Committee of Creditors while approving the Resolution Plan. This Adjudicating Authority has no role to play in this behalf.
5.	45	<u>Financial Creditors:</u> <i>Unsecured Financial Creditors: 100% of the claims of unsecured Financial Creditors shall be carved out as</i>	These are not in the nature of a

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S. No.	Ref. to Page no. of the Resoluti on Plan	Relief and/or Concessions Sought	Orders thereon
	46	<p><i>Resolution amount and the said dues shall be paid without any interest as per para 13. The balance amount including accumulated interest/penalty/liquidated damages, etc till the date of approval of plan by AA shall be waived.</i></p> <p>Other Unsecured Financial Creditors: <i>No payment is proposed to be made under the plan to other Unsecured Financial Creditors who are related parties. Entire claim/ balance standing in the books of the CD shall be waived by the said old unsecured lenders including accumulated interest/penalty, etc. till the date of approval of plan by the AA.</i></p>	<p>waiver, concession or approval requiring the attention of this Adjudicating Authority. The percentage of claim that is sought to be paid back to the creditors is a call to be taken by the Committee of Creditors while approving the Resolution Plan.</p> <p>This Adjudicating Authority has no role to play in this behalf.</p>
6.	46	<p><u>Legal Suits:</u> <i>All the legal suits filed by the financial creditors/operational creditors till date which are pending before various court/quasi-judicial bodies shall be withdrawn upon sanction of the resolution plan and no action shall be taken by the financial creditors/operational creditors against the company / promoters.</i></p>	<p>Strictly in accordance with</p>

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
(Special Bench)

IA No. 1195/KB/2020
In CP (IB) No. 180/KB/2019

S. No.	Ref. to Page no. of the Resoluti on Plan	Relief and/or Concessions Sought	Orders thereon
		<p>a) <i>The legal suits include the suits/proceeding initiated by financial creditors. It will be only logical that once NCLT approves the Resolution Plan, the financial creditors who are also a part of the plan should withdraw the suits filed by them with the respective judicial authorities, otherwise it will defeat the very purpose of the Resolution Plan.</i></p> <p>b) <i>In as much as suits initiated by other operating creditors are concerned, once the Resolution Plan is approved, the company will be individually settling with all of them as provided in the Plan and as a part of the settlement process the company will insist they have to withdraw the suits.</i></p>	<p>section 32A; as regards the promoters, both old and new. However, as regards the company, the relief sought for is granted.</p>
7.	46	<p><u>Contingent Liabilities</u> <i>Claim of Mining Officer, Keonjhar</i> <i>The claim of Mining officer, Keonjhar Circle shall be paid as per para 13.9. The Balance amount shall be waived by the Mining officer, Keonjhar circle including any Interest/Penalties/ Liquidated damages, etc. on the said amounts till the date of order of AA.</i></p>	<p>This is not in the nature of a waiver, concession or approval requiring the attention of this Adjudicating Authority. The percentage of claim that is sought to be</p>

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KOLKATA BENCH
(Special Bench)

IA No. 1195/KB/2020
In CP (IB) No. 180/KB/2019

S. No.	Ref. to Page no. of the Resoluti on Plan	Relief and/or Concessions Sought	Orders thereon
			paid back to the creditors is a call to be taken by the Committee of Creditors while approving the Resolution Plan. This Adjudicating Authority has no role to play in this behalf.
8.	46	<p><u>CBDT, Central Govt., New Delhi:</u> <i>The waive interest and penalty charged against the dues of the income tax authority till date and no additional interest/penalty shall be charged for the dues till the date. The said dues shall be repaid as per the Resolution Plan.</i> <i>To consider to exempt the company from the applicability of provisions of sections 41(1), Section 79 and Section 115 JB of the income Tax, 1961.</i> <i>To consider to waive interest and penalty charged u/s 271C, 272A (2), 201, 206, 234A, 234B, 234C, 234D and 234E of the Income Tax Act, 1961 for various assessment years till date and resultant effect thereto.</i></p>	This is upto the authorities concerned to consider.
9.	47	<p><u>PF & ESI Authorities:</u> <i>To consider and grant exemption/</i></p>	This is upto the

IN THE NATIONAL COMPANY LAW TRIBUNAL
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In CP (IB) No. 180/KB/2019

S. No.	Ref. to Page no. of the Resolution Plan	Relief and/or Concessions Sought	Orders thereon
		<i>immunity to the company for payment of penalty and damages and against future criminal proceedings.</i>	authorities concerned to consider.
10.	47	<p><u>Ministry of Corporate Affairs, Govt of India:</u></p> <p>i) <i>To exempt the company for taking permission/approval of capital reduction proposed in the scheme.</i></p> <p>ii) <i>To exempt the company from the compliance of the provisions of the Act for reduction in the equity share capital of the company as envisaged in the scheme.</i></p>	The company shall file all necessary forms along with applicable fee with the Registrar of Companies.
11.	47	<p><u>DGFT, Ministry of Commerce, New Delhi:</u></p> <p><i>Commissioner of Customs shall release machinery imported by the CD and seized by the Customs Department on payment of resolution amount as per para 13.6.</i></p>	Granted
12.	47	<i>All licenses and Government Approvals granted to the company whether lapsed, expired, suspended, cancelled, revoked, terminated, shall be renewed for the period for which they were originally granted, starting from the plan effective date without any additional fees, charges or penalty or interest and the company shall be permitted to continue to operate its business and asset in the manner that all the approvals and licenses are valid until renewal/ extension of such licenses and approvals. It will be treated as the company is compliant with them without</i>	All such licences, permits and things of such nature shall be applied for afresh with the competent authority.

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S. No.	Ref. to Page no. of the Resoluti on Plan	Relief and/or Concessions Sought	Orders thereon
		<i>initiating any investigations, actions or proceeding in relation to such Non-compliances and the adjudicating authority shall pass an order to that effect.</i>	
13.	47	<i>That all the relevant Governmental Authorities to waive any and all demand or notice of demand in relation to making payments towards the transfer charges or unearned amount that may be applicable in relation to the properties of the company on account of the transaction contemplated in this resolution plan.</i>	This is upto the authorities concerned to consider.
14.	47	<i>All Governmental Authorities to waive all penalties, taxes, dues, charges, levies and cess on past non-compliances of the company under applicable laws, and the Resolution Applicant shall not be liable for any non-compliances under applicable laws for the period prior to the cut-off date and the adjudicating authority shall pass as order to that effect.</i>	Strictly as envisaged under the Code.
15.	47	<i>All Governmental authorities to waive the non-compliances of the company prior to the cut-off date, including but not limited to Companies Act, 2013, Industrial Dispute Act, 1947, Labor Laws, Income Tax Act, 1961, VAT, Service Tax Act, GST, Sales Tax, the relevant Shops and Establishment Acts and rules, circulars and regulations of each of the above legislations and to consider providing relief to the company from all litigations pending at different levels and provide waiver from tax dues including interest</i>	Not granted at this stage.

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S. No.	Ref. to Page no. of the Resoluti on Plan	Relief and/or Concessions Sought	Orders thereon
		<i>and penalty on such litigations.</i>	
16.	48	<i>All Governmental Authorities to grant any relief, concession or dispensation as may be required for implementation of the transactions contemplated under the resolution plan in accordance with its terms and conditions.</i>	No general orders can be granted to this effect.
17.	48	<u>Restructuring of Capital</u> <i>To allow restructuring of capital as proposed in para [chapter] 15 hereinabove [of the Resolution Plan].</i>	Granted
18.	48	<i>The resolution applicant reserves the right to amend or modify any waives or conditions sought in the present plan after approval of the same by COC, at any time before the plan is submitted for consideration of the NCLT. It is clarified that no such amendment or modification would have any impact on the right of the COC under this plan. The COC undertakes that no such modification or amendment shall entitle them to withdraw their approval for the plan.</i>	This does not require any specific order at this stage.

Findings

22. In regard to the Monitoring Committee mentioned in para 20(a) *supra*, nothing on its appointment or constitution has been envisaged in the body of the Resolution Plan. It has only been mentioned in the chart entailing compliances under regulation 38 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process For Corporate Persons) Regulations, 2016 at chapter 11, page 23 of the Resolution Plan; this should have been

mentioned in the body of the Resolution Plan.

23. On hearing the submissions made by the learned Counsel for the Resolution Professional, and perusing the record, I find that the Resolution Plan has been approved with 77.57% 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 Resolution Applicant for making the plan effective after approval by this Bench. There is no opposition from any quarter as regards the Resolution Plan.
24. Only a part of the amount due to the Mining Officer, Keonjhar in furtherance of the Hon'ble Supreme Court's Judgment in W.P. (C) No. 114/2017 dated 02.08.2017, is being paid and the same has been categorised under "contingent liability" in the Resolution Plan. However, I fail to understand as to how this amount falls under the contingent liability category.
25. In terms of the judgment of Hon'ble Supreme Court in *Committee of Creditors of Essar Steel India Ltd v. Satish Kumar Gupta and others*,¹ and *Maharashtra Seamless Ltd v. Padmanabhan Venkatesh and others*² as referred to in *Kalpraj Dharamshi & Anr. v. Kotak Investment Advisors Ltd. & Anr.*,³ the Adjudicating Authority cannot interfere on merits with the commercial wisdom of the Committee of Creditors. Therefore, it is not for this Adjudicating Authority to really comment on the actual amounts being paid to the various categories in terms of the Resolution Plan.
26. Apart from the aforementioned findings, on perusal of the documents on record, I am satisfied that the Resolution Plan is in accordance with sections

¹ (2019) SCC OnLine SC 1478.

² [2020] 113 taxmann.com 421 (SC).

³ Civil Appeal Nos. 2943-2944 of 2020 with Civil Appeal Nos.3138-3139 of 2020, Civil Appeal No. 2949-2950 of 2020 and Civil Appeal No. 847-848 /2021.

- 30 and 31 of the Code and also complies with regulations 38 and 39 of the Insolvency and Bankruptcy Board of India (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, where 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, I hereby accord my 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 EMD amount already paid 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. 1195/KB/2020** along with the Company Petition bearing **CP (IB) No. 180/KB/2019** are disposed of accordingly.
38. Additionally, the Registry shall send e-mail copy of this order to the Registrar of Companies, West Bengal, to all the parties and their Id. Counsel for information and for taking necessary steps.
39. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

Rajasekhar V.K.
Member (Judicial)
25.03.2021

SR (LRA)

Resolution Plan in the matter of Gandhmardhan Sponge Industries Pvt. Ltd.
Submitted by Bhuwalka Developments Pvt. Ltd., Resolution Applicant

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Submitted by Bhuwalka Developments Pvt. Ltd., Resolution Applicant**

1. DEFINITIONS

In this Resolution Plan:

- 1.1** “**2013 Act**” means the Companies Act, 2013 (to the extent notified and in force) including and rules and regulations there under and any modifications, clarifications, re-enactments or amendments thereto from time to time.
- 1.2** “**Adjudicating Authority**” shall mean the Kolkata Bench at Kolkata of the Hon’ble National Company Law Tribunal acting in capacity as the ‘Adjudicating Authority’ under the Code;
- 1.3** “**Affiliate**” means in respect of any Person, any other Person that directly or indirectly, through one or more intermediate Person, Controls, is Controlled by, or is under the common Control of such Person and in case of Persons who are natural persons, any other Person who is a Relative of such Person and any other Person Controlled by such Person or the relative of such Person;
- 1.4** “**Applicable Law**” means any applicable national, federal, central, international, foreign, state, provincial, local or other law including applicable provision of all (a) constitutions, decrees, treaties, statues, laws (including the common law), codes, notifications, rules, regulations, policies, guidelines, circulars, directions, directives, ordinances, orders, notes, clarifications, releases or any other forms of delegated legislation of any Governmental Authority, statutory authority, court, tribunal or other judicial or quasi-judicial authority; (b) orders, decisions, injunctions, judgments, award, findings, requirements and decrees of or agreements with any Governmental Authority, statutory authority, court, tribunal or other judicial or quasi-judicial authority; and (c) any modifications or re-enactments thereof;
- 1.5** “**Board**” means the board directors of the Corporate Debtor;
- 1.6** “**Business Day**” means a day (not being a Saturday or Sunday or a public holiday) when banks in Kolkata are open for general banking business;
- 1.7** “**CIRP**” means Corporate Insolvency Resolution Process under Insolvency and Bankruptcy Code, 2016;



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- 1.8 **“CIRP Regulations”** means the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, as amended and applicable;
- 1.9 **“CIRP Commencement Date / Insolvency Commencement Date”** means the date of issue of the order by NCLT, Kolkata i.e. **04.10.2019** for all practical purposes;
- 1.10 **“Claim”** has the meaning ascribed to it Part II of the Code;
- 1.11 **“CoC”** means the Committee of Creditors that has been constituted pursuant to Section 21 of the Code;
- 1.12 **“Code”** means the Insolvency and bankruptcy Code, 2016 (to the extent notified and in force) including any rules and regulations framed there under and any modifications, clarifications, re-enactments or amendments thereto from time to time;
- 1.13 **“Company” or “Corporate Debtor” or “CD” or “GSIPL”** Means **GANDHMARDHAN SPONGE INDUSTRIES LIMITED** incorporated in India on **08.03.1977** with corporate identity number: **U27102WB1977PTC030909**;
- 1.14 **“Control”** means with respect to any Person: (i) the direct or indirect ownership of more than 50% (fifty Percent) or more of the equity shares or other voting securities of such Person; or (ii) the possession of the power to direct the management and policy decision of such Person; or (iii) the power to appoint a majority of the directors, managers, partners or other individuals exercising similar authority with respect to such Person by virtue of ownership of shareholding, voting securities or management rights or shareholders agreements or contracts or in any other manner, whether: (a) formal or informal; (b) directly or indirectly, including through one or more other Persons; and the term “Common Control” shall be construed accordingly;
- 1.15 **“Cut Off Date”** means the first day of the month succeeding the previous month in which this Resolution Plan is approved by the Adjudicating Authority under section 31 of the Code.
- 1.16 **“Effective Date / Plan Effective Date”** means the first day of the month succeeding the previous month in which the Resolution Plan is approved by the Adjudicating Authority and the conditions precedent required to make the Successful Resolution Applicant(s) Contribution as set out in the Resolution Plan have been satisfied by the Successful Resolution Applicant(s);



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- 1.17 **“Equity Shares”** means equity shares of the Company having a face value of INR 10/- per share;
- 1.18 **“Financial Proposal”** shall mean the detailed proposal to be submitted by the Potential Resolution Applicant in a separate envelope, containing inter alia, details of proposal for repayment of Outstanding Debt of the company, funding proposal, proposal for asset acquisition, consideration proposed for such assets, payment timelines and mechanism and which shall for all purpose constitute part of the Resolution Plan;
- 1.19 **“Employee Dues”** means dues, as of the CIRP Date owed to employees of the Corporate debtors;
- 1.20 **“Financial Creditors”** has the meaning as prescribed to it in the code;
- 1.21^c **“Information Memorandum/IM”** Means the information Memorandum prepared by the Resolution Professional pursuant to Regulation 36 of the CIRP Regulations;
- 1.22^r **“IRP Costs”** means Insolvency Resolution Process costs as defined in section 5(13) of Code;
- 1.23 **“Operational Creditors”** means the operational creditors as defined in the Code who have lodged a Claim against the Corporate Debtor with the Resolution Professional and includes any creditor who has lodged a Claim against the Corporate Debtor with the Resolution Professional in Forms as prescribed under Regulation 9A of the CIRP Regulations (save and except Persons whose Claims are covered under IRP cost, Workmen Dues, Employee Dues, Central / State Government Dues and the IRP Costs);
- 1.24 **“Person”** shall include an individual, natural person, corporation, partnership, joint venture, incorporated or unincorporated body or association, company, Governmental Authority and in case of a company and a body corporate shall include their respective successor and assigns and in case of any individual his or her respective legal representative, administrators, executors and heirs and in case of trust shall include the trustee(s) for the first time being and from time. The term **“Person”** shall be constructed;
- 1.25 **“Promoter Group”** means Promoter(s) and every member of the promoter group of the Corporate Debtor; each of their respective Affiliates, related parties, persons acting in concert with them or otherwise connected with them. For purposes of this definition and its usage, **“Promoter”, Promoter Group” “Persons acting in the concert”;**



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- 1.26 **“Relative”** has the meaning given to it under the Companies Act, 2013 and as defined under the Insolvency Bankruptcy Code, 2016.
- 1.27 **“Resolution Applicant”** means Resolution Applicant **Bhuwalaka Developments Pvt. Ltd.**
- 1.28 **“Resolution Plan”** Means this resolution plan dated **20.10.2020** submitted to the Resolution Professional and the CoC for the proposed insolvency resolution of the CD in accordance with the Code in supersession of an overriding all carrier resolution plans submitted by the **Resolution Applicant**;
- 1.29 **“Resolution Professional”** means **Mr. Pradeep Kumar Goenka**, Insolvency Professional with Registration Number **IBBI/IPA-002/IP-N000294/2017-18/10851**, who was appointed and confirmed as the Resolution Professional for the Company.
- 1.30 **“RFRP”** means the Request for Proposal for Submission of Resolution Plans issued by the Resolution Professional on 23.09.2020(as revised).
- 1.31 **“Secured Financial Creditors”** means the financial creditors, in whose favour any security interest is created by the Corporate Debtor.
- 1.32 **“VDR”** Means the virtual data room created by the Resolution Professional for the purpose of enabling due diligence of GSIPL, which was open for access to the Resolution Applicant. Also, it includes the information on the website of the corporate debtor.
- 1.33 **“Workmen Dues”** means dues, as on the Insolvency Commencement Date, owed to Workmen of the Corporate Debtor.
- 1.34 **“Unsecured Financial Creditor”** means the financial creditor, in whose favour no security interest is created by the Corporate Debtor.



2. INTERPRETATIONS

In this Resolution Plan, unless a contrary intention appears:

Expression defined in the Code or the CIRP Regulations, have the meaning assigned therein.

2.1 Any reference to any statute or statutory provision shall include

- a) All subordinate legislation made from time to time under that provision (whether or not amended, modified, re-enacted or consolidated);
- b) Such provision as from time to time amended, modified, re-enacted or consolidated (Whether before or after the date of this Resolution Plan) to the extent such amendment, modification, re-enactment or consolidation applies or is capable of applying to any transactions entered into under this Resolution Plan prior to the Effective Date and (to the extent liability there under may exist or can arise) shall include any past statutory provision (as from time to time amended, modified, re-enacted or consolidated) which the provision referred to has directly or indirectly replaced.

2.2 Unless the context otherwise requires, works in the singular shall include the plural and the plural shall include the singular.

2.3 References to the masculine, the feminine and the neuter shall include each other.

2.4 References to a "Company" shall include a company, corporation or other body corporate, wherever and however incorporated or established.

2.5 A reference to this **Resolution Plan** or **any other document** shall be construed as references to this Resolution Plan or that other document as amended, varied, notated, supplemented or replaced from time to time.

2.6 A reference to **this Clause** shall, unless followed by reference to a specific provision, be deemed to refer to the whole Clause (not merely the sub-clause, paragraph or other provision) in which the expression occurs.

2.7 Headings to Clauses, parts and paragraphs and schedules are for convenience only and do not affect the interpretation of this Resolution Plan.

2.8 A reference to "**in writing**" includes and communication made by letter or E-mail or fax **but not text messages or what's app messages or messages sent through any**



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similar mobile app or similar interest platform (unless otherwise expressly provided in this Resolution Plan)

- 2.9** Unless otherwise specified, any reference to a time of day is to Indian Standard Time.
- 2.10** Any words following the terms **including, in particular, for example or any similar expression** shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 2.11** Where the contest permits, **other** and **otherwise** are illustrative and shall not limit the sense of the works preceding them.



3. CORPORATE INSOLVENCY RESOLUTION PROCESS

- 3.1** This Resolution Plan is submitted by the Resolution Applicant pursuant to the Code, for the corporate insolvency resolution of the Company.
- 3.2** ATO (I) Ltd., Financial Creditor filed an application with Hon'ble NCLT, Kolkata Bench (Adjudicating Authority) under Rule 4 of the Insolvency & Bankruptcy (Application to the Adjudicating Authority) Rules, 2016 in the capacity as **Financial Creditor** by invoking the provisions of section 7 of the Insolvency & Bankruptcy code, 2016.
- 3.3** The Hon'ble NCLT, Kolkata Bench vide its order dated **04/10/2019** in Case No. **C.P.(IB) No. 180/KB/2019** admitted the application and as proposed by the **Financial Creditors** appointed **Mr. Pradeep Kumar Goenka** as the Interim Resolution Professional.
- 3.4** As per section 13 of the Code, public announcement of the initiation of the CIRP was issued on 07/10/2019 in Odisha and on 10/10/2019 in Kolkata calling upon the creditors of the company for submission of the claim.
- 3.5** IRP verified the claims received and constituted the Committee of Creditors and conducted the 1st meeting of COC on 01/11/2019.
- 3.6** The Resolution Professional received the certified copy of the NCLT order dated **04/10/2019**. In compliance to the said order, 180 days of CIRP of Gandhmardhan Sponge Industries Pvt. Ltd. ends on 01/04/2020. Extension of 90 days was granted by Hon'ble NCLT on 03.09.2020. NCLT also granted exclusion of 129 days due to Covid Pandemic. CIRP period now expires on 06.11.2020.
- 3.7** The Resolution Professional prepared the information Memorandum that was made available to the Resolution Applicant.
- 3.8** The Resolution Professional, vide the Expression of Interest published in Local newspaper circulating in the State of West Bengal and Odisha on 05.09.2020 invited Expression of interest from the prospective Resolution Applicant to submit a resolution plan, which is in compliance with the provisions of the Code.



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4. EXECUTIVE SUMMARY

- 4.1** The **Resolution Applicant (RA)** is **Bhuwalka Developments Pvt. Ltd.** which is engaged in civil and structural construction for Government and semi-government undertakings since 1996 has submitted **EOI Dated 19.09.2020**.
- 4.2** The participants of the Resolution as required under Regulation 38(3) of the CIRP Regulations are stated in subsequent paragraphs.
- 4.3** The net worth of the **Resolution Applicant** as on **31-03-2019** on the date of submission of the Resolution Plan is Rs. 384.34 Lac (*Rupees three crore eighty four lac and thirty four thousand only*).
- 4.4** The EMD amount of Rs. 40.00 lacs as stipulated in the terms of the **EOI/RFRP** is being submitted along with the Resolution Plan.
- 4.5** The Performance Guarantee shall be deposited as stipulated in the terms of the **EOI/RFRP**.
- 4.6** The Resolution Plan has been proposed based on the limited information given in the IM, management meeting and conference calls, and on the assumptions and other terms and conditions stated in this resolution Plan.
- 4.7** Resolution Applicant will consider recapitalizing the balance sheet of the company with fresh equity and debt. The fresh funds to be brought in by Resolution Applicant shall be primarily utilized for meeting the CIRP Costs, to settle the dues of existing creditors, working capital requirements, and making the necessary capital expenditure, if any, as stakeholders of the Company, in the manner described in subsequent paragraphs.
- 4.8** The Applicant has to the extent possible taken into account the interest of all the stakeholders of the Company and therefore believes that the Resolution Plan will create a sustainable capital structure that will enable the Company to continue as a **“going concern”**. Resolution Applicant is confident of delivering on this Resolution Plan in an expeditious and time bound manner after receiving necessary approvals.



5. BUSINESS AND BACKGROUND OF THE RESOLUTION APPLICANT

1. Business and background of the RA, its history, geography of operations, financial overview

Bhuwalka Developments Pvt Ltd is promoted by a group of well experienced quality motivated contractors and technocrats, established in the year 1996, who have to their credit, execution of varied types of specialized Civil & Structural Construction & Construction Management.

Through these years the confidence of the clients in the company's performance, thoroughness and professional competence by the organization's progress, enhanced our attitude for Multidisciplinary approach to provide comprehensive Quality Construction in industry, Public Utility System & Large Building Projects.

2. Details of group companies and corporate structure, composition and shareholding etc.

None, Hence Not Applicable

3. Experience in the relevant industry/ sector

Bhuwalka's team of technical resources has completed a number of projects of Central Government, State Government and public owned enterprises for over 20 years. The company's track record amply demonstrates its proven competence and patent commitment to the services it offers.

Major Clientele

South Eastern Railways

Haldia Municipality

West Bengal State Marketing Board

BENFED

Apeejay Group

The Jute Corporation of India



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The Embassy of France

University of Jadavpur and University of Kalyani.

4. Brief overview of the management personnel of the RA

The projects of the company are management by Mr Amitabha Dey. He has more than 30 years of experience in successfully execution of the projects.

5. Summary of competitive advantages of the RA

Since Bhuwalka is into construction industry and has a very good track record therefore it has an edge over others to optimum utilise the assets of the company in best possible manner.

6. Business rationale of the proposed resolution plan

- a) RA proposes to revamp the business module of the CD and venture into development of new business areas / avenues.
- b) The RA proposes to continue the business as a going concern. However, the core business i.e. mining of Iron Ore is subject to re-allotment / allocation of Mining lease to the CD by mining department.
- c) The existing hotel at Puri has suffered substantial damages during the "Phani" and "Amphan" Cyclones and needs huge capital infusion. Due to Covid pandemic, the tourism industry has been hit badly and revival may take a very long time. As such, being a non-core activity, it is proposed to give the same on lease to some other hotel chain or dispose off the asset, so that the RA can focus on development of other business avenues.
- d) RA proposes to develop the land owned by the CD at Dhamra Port and also at Keonjhar for industrial / commercial purposes which will give a further boost to the local area development as well as to the local economy including employment and other social responsibilities.
- e) The rich experience of RA in construction field will be leveraged for the execution of resolution plan and also for revival of the unit, in case mining lease is not renewed by the Government in the name of the CD.



6. OVERVIEW OF THE CORPORATE DEBTOR

1. Brief overview of the CD

Gandhamardhan Sponge Industries Private Limited (GSIPL) was incorporated in the year 1977 to engage in the activities of mining of minerals and all types of air transport service, flying club, aviation institute etc. The Company acquired leasehold rights for Iron Ore mining from the Putalipani Mines situated in Keonjhar District of Orissa in the year 1993 which was again renewed in 2015 for five years which has expired as on 31.03.2020.

The original sub-lease of mining of Iron Ores from Putalipani Mines to the Company expired on April 06, 2014 and mining activities of the Company were suspended thereafter for want of renewal of lease.

A Writ Petition (Civil) 114 of 2014 was filed in the Hon'ble Supreme Court by One Mr. Prashant Bhushan against excess / illegal mining in Orrisa. An Interim Order dated 16.05.2014 of the Hon'ble Supreme Court of India stayed the renewal of lease/ operations / productions at the mines listed in the report of CEC.

The leasehold rights for mining of Iron Ores from Putalipani Mines was extended for a further period of 5 years by Orissa Government in September 2015 subject to outcome of result in the matter of aforesaid Writ Petition (Civil) 114 of 2014.

Hon'ble Supreme Court passed the Judgement in Writ Petition (Civil) 114 of 2014 on 02.08.2017 directing to pay 100% compensation (price of the Iron Ore raised) for productions in excess of permission granted.

State Government raised Demand on the CD for payment of compensation of Rs. 273,72,48,438.40 under section 21(5) of the MM (D&R) Act, 1957 on account of excess production of 2959450.00 MT of Iron Ore and interest of Rs. 22,62,82,063/- for delayed period upto 05.06.2018.

Directors apprised the RP that Corporate Debtor endeavoured to arrange for the compensation amount, however due to imposition of substantial interest on delay in



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making payment and additional demand of Rs. 43,00,61,432/- having been raised by the Office of Mining Officer, Keonjhar Circle on 26.10.2017 for granting consent to operate the mines, it failed to make the payment of the compensation amount.

As per IM, the mining operations are still under suspension and mining lease has already expired on 31.03.2020. The CD also owned and operated a 36 bedded Hotel at Puri for a very short period of few months which also became non-operational due to super cyclone FANI which devastated the Hotel Building.

2. Details of the Corporate Structure, Board and Shareholding Pattern of CD

a. Board of Directors

Name of Director	Designation	DIN No.
1. Raj Kumar Agarwal	Director	01413041
2. Saket Agarwal	Director	01232196

b. Names of the Members holding at least 1% stake as on October 04, 2019:

Sr. No.	Name of the Shareholder	No of Shares held (Quantity)	%age
1	Narendra Kumar Gupta	72400	3.63
2	Binod Kumar Agarwal	121800	6.11
3	Raj Kumar Agarwal	306100	15.36
4	Seema Agarwal	134000	6.72
5	Ranju Bala Agarwal	141500	7.10
6	Bishaka Gupta	36000	1.81
7	Saket Agarwal	138000	6.92
8	Sarada Impex Private Limited	183750	9.22
9	Sarada Niketan Private Limited	155000	7.78
10	Bhagirath Madan Agarwal	99500	4.99
11	Manju Bhagirath Agarwal	74000	3.71
12	Sarada Devi Agarwal	123500	6.20
13	Prateek Cine Productions Private Limited	50000	2.51
14	Sarada Overseas Private Limited	50000	2.51
15	Pratik Realcon Private Limited	85625	4.30
16	Attabira Rice Mill Private Limited	67500	3.39
17	Shiv Shakti Airways Services Limited	18125	0.91
18	Shivshakti Ispat Private Limited	134375	6.74
19	Dau Dayal Agarwal	2200	0.11
	Total	1993375	100.00



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3. Understanding of reasons for the current financial distress of the Corporate Debtor

Hon'ble Supreme Court passed the Judgement in Writ Petition (Civil) 114 of 2014 on 02.08.2017 directing to pay 100% compensation (price of the Iron Ore raised) for productions in excess of permission granted.

After declaration of the said order, State Government of Odisha acting through the Mining Officer, Keonjhar raised a demand on the CD for payment of compensation of Rs. 273,72,48,438.40 under section 21(5) of the MM (D&R) Act, 1957 on account of excess production of 2959450.00 MT of Iron Ore and interest of Rs. 22,62,82,063/- for delayed period up to 05.06.2018. All the mining activities were stopped by the Mining department till payment of demand. Even the stock lying at the pit head was not allowed to be lifted. This resulted in serious losses for the CD and it went out of operations. Eventually, company became unable to meet its financial obligations to the Lenders.

The Resolution Applicant for the purpose of revival of the company undertakes to adhere to the conditions as specified in the EOI, RFRP and Bid Evaluation Matrix. The Resolution Applicant is confident & determined to bring back the trust among all the stakeholders by redeveloping and restructuring the company from the Cut Off Date.

4. Debt Profile

a. Secured Financial Debts - Nil

b. Unsecured Financial Debts

(Amount in Lacs)

Sr. No	Name of Creditors	Amount of Claim (Rs.)	Claim Admitted (Rs.)
1	ATO (I) Limited	10,891,644.00	10,891,644.00
2	Pashupati Properties Private Limited	6,655,537.00	6,655,537.00
3	Ankit Commotrade Private Ltd	3,253,699.00	3,253,699.00
4	Bridgestone Vyapaar Private Ltd	6,292,055.00	6,292,055.00
5	Manilinks Enclave Private Ltd	1,952,219.00	1,952,219.00
6	Pum N Puma Marketing Co Private Ltd	3,253,699.00	3,253,699.00
7	Shyambaba Suppliers Private Ltd	3,253,699.00	3,253,699.00
8	Highlife Enclave Consultants Pvt. Ltd	7,158,137.00	7,158,137.00



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9	Highrank Properties Consultants Pvt. Ltd.	2,602,959.00	2,602,959.00
10	K.P. Credit & Traders Private Ltd	3,253,699.00	3,253,699.00
	Total	48,567,347.00	48,567,347.00

c. Statutory Liabilities/Other Legal Liabilities

Sl. No.	Names of the Creditors	Amount claimed (Rs.)	Claim admitted (Rs.)
1.	Asst. Commissioner of Customs, EPCG(MC) Exports	3,52,88,378.00	3,52,88,378.00
	Total	3,52,88,378.00	3,52,88,378.00

d. Operational Creditors / Liabilities

Sl. No.	Names of the Creditors	Amount claimed (Rs.)	Claim admitted (Rs.)
1.	Madan Mohan Sahoo *	75,68,139.00	0.00
2.	Envomines Ores Pvt. Ltd *	78,17,996.00	0.00
	Total	1,53,86,135.00	0.00

* Claims were not admitted due to error in Claim Forms and/ or further requirement of supporting documents which have been sought from the claimants. However, the outstanding to these claimants appears in the Books of the Corporate Debtor and the admissible claims amount shall be admitted after receipt of appropriate response from the claimants.

e. Workers / Employees Liabilities

Sl. no.	Location	Nature of employment	Number	Claims Received (Rs.)
1.	Keonjhar	Worker / Employees	6	61,39,833.00

f. Contingent Liabilities

As on date company has contingent liabilities other than the crystallisation of legal cases as stated herein below.

State of Odisha through The Mining Officer, Keonjhar circle	Amount (Rs.)



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a) Demand for payment of compensation under section 21(5) of the MM (D&R) Act, 1957 on account of excess production of 2959450.00 MT of Iron Ore	273,72,48,438.40
b) Interest up to 05.06.2018	22,62,82,063.00
c) Demand raised on 26.10.2017 for granting consent to operate the mines	43,00,61,432.00
Total Demand	339,35,91,933.00

g. Litigations

Sl. no.	Names of the authority where litigation is pending	Litigation filed by and name of opposite party/ies	Subject matter of the case and amount involved, if any	Amount Involved (Rs.)
1.	Court of Collector & DM, Keonjhar	State of Odisha represented by the Mining Officer, Keonjhar	Compensation U/s 21(5) of MM(D&R) Act, 1957 for violation of Environmental Protection Act, 1986 in pursuance to the Judgment dated 02.08.2017 of the Hon'ble Supreme Court of India passed in W.P.(c) No. 114/2017.	273,12,48,438.00
2.	The High Court of Orissa at Cuttack	Gandhamardhan Sponge Industries Pvt. Ltd Vs. Union of India & Others	W.P.(C) No. 6402 of 2018 in the matter of initiation of proceeding on the alleged ground of violation of Rule 27(1) & (2) of the Mineral Conservation and Development Rules, 2017 for non-furnishing of the Bank Guarantee of the differential amount towards financial assurance, for implementation of the progressive mining closure plan contained in the mining plan.	Penalty for violation of Rule 27(1) & (2) of the Mineral Conservation and Development Rules, 2017.
3.	Commissioner of Customs	Directorate of Revenue Intelligence,	Non- Fulfillment of Export Obligation against	



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		Zonal Unit, Hyderabad	capital goods imported under EPCG Scheme.	
4.	Office of The Pr. Commissioner of Income Tax (Central), Visakhapatnam	Office of The Pr. Commissioner of Income Tax (Central), Visakhapatnam	Payment of Income Tax as per Order of Income Tax Settlement Commission & Prosecution proceedings u/s 276C(2) of the Income Tax Act, 1961.	44,58,33,389.00



7. KEY DEVELOPMENTS AND CAPEX PLAN

GS IPL was incorporated in the year 1977 for the main purpose of mining of Iron ore for commercial purposes. Due to various reasons beyond control of the CD, mining of Iron ore has been stopped and hefty demand has been raised by the mining officer, Keonjhar in terms of order of Hon'ble Supreme Court of India. Mining lease also expired on 31.03.2020 and has to be renewed. Chances of renewal of mining lease are remote due to non payment of demand by the CD.

CD has been running a hotel at Puri, which was a non core business. Due to Phani and Amphan Cyclones and further due to outbreak of covid pandemic across the world, tourism industry has been hit very badly. It will take considerable time to revive the said hotel.

CD has landed properties at Dhamra near the Port and a parcel of land at Keonjhar, which can be commercially developed. The Applicant being an entity engaged in development of properties has expertise and experience in the field and shall develop both the properties for useful gains.

CAPEX Plan:

The company has consulted various technical people and have devised a plan to make investment in the development of two parcels of land. It is estimated that it will take about 24 months to fully develop the Two plots at an estimated cost of Rs. 10.00 crore which will be arranged by RA in form of equity as well as Loans from commercial banks. Working capital requirement of Rs. 1.00 crore shall be funded through Borrowings from commercial Banks.



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8. RESOLUTION PLAN OVERVIEW

- 8.1** This Resolution Plan is submitted by the Resolution Applicant pursuant to the Code, for the corporate insolvency resolution of the Company.
- 8.2** ATO (I) Ltd., a Financial Creditor filed an application with Hon'ble NCLT, Kolkata (Adjudicating Authority) under Rule 4 of the Insolvency & Bankruptcy (Application to the Adjudicating Authority) Rules, 2016 in the capacity as **Financial Creditor** by invoking the provisions of section 7 of the Insolvency & Bankruptcy code, 2016.
- 8.3** The Hon'ble NCLT, Kolkata Bench vide its order dated **04/10/2019** in **Case No. C.P.(IB) No. 180/KB/2019** admitted the application and as proposed by the **Financial Creditors** appointed **Mr. Pradeep Kumar Goenka** as the Interim Resolution Professional.
- 8.4** As per section 13 of the Code, public announcement of the initiation of the CIRP was issued on 07/09/2019 in Odisha and on 10.10.2019 in Kolkata, West Bengal calling upon the creditors of the company for submission of the claim.
- 8.5** IRP verified the claims received and constituted the Committee of Creditors and conducted the 1st meeting of COC on 01/11/2019.
- 8.6** The Resolution Professional received the certified copy of the NCLT order dated **04/10/2019**. In compliance to the said order, 180 days of CIRP of Gandhmardhan Sponge Industries Pvt. Ltd expires on 06/11/2020.
- 8.7** The Resolution Professional prepared the information Memorandum that was made available to the Resolution Applicant.
- 8.8** The Resolution Professional, vide the Expression of Interest published in Local newspaper circulating in the State of West Bengal and Odisha on 05.09.2020 invited Expression of interest from the prospective Resolution Applicant to submit a resolution plan, which is in compliance with the provisions of the Code.



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9. RESOLUTION PLAN COMPLIANCE WITH SECTION 30 IBC 2016

Sl. No.	Requirement of Code	Status of compliance
Section 30(2)(a)	Provision for payment of Insolvency Resolution Cost	RA proposes to pay unpaid CIRP costs in full in priority to all other dues. The CIRP costs would be payable in priority on Receipt of the NCLT Order from a trench of the Upfront Payment. Capital in the form equity/quasi-equity/unsecured loan proposed to be infused by Resolution Applicant shall be utilized first for payment of unpaid insolvency resolution costs and thereafter for any other payment under the plan.
Section 30(2)(b)	Payment of Operational Creditors shall not be less than liquidation value payable to Operational Creditors	The Resolution Applicant proposes to pay to operational creditors in priority to payment to the financial creditors.
Section 30(2)(c)	Provides for the Management of the Affairs of the Corporate debtor after approval of the Resolution Plan.	On approval of the resolution plan by adjudicating Authority under section 31 (3) of insolvency and Bankruptcy code, 2016, the powers of the Board of Directors shall get restored and Resolution Applicant shall be entitled to reconstitute Board of Directors including Key Managerial Person with the approval of Implementing and Monitoring Committee.
Section 30(2)(d)	The Implementation and Supervision of the Resolution Plan	The resolution applicant has provided for the mechanism to monitor the progress for implementation, which includes constitution of Implementation and Monitoring committee for supervision of the resolution plan.
Section 30(2)(e)	Does not Contravene any of the Provisions of the Law for the time being in force.	The proposed measures and reliefs provided in the resolution plan does not contravene any of the provisions of the law for the time being in force.
Section 30(2)(f)	Conforms to such other Requirements as may be specified by the Board.	Board has notified the required compliance under Regulation 38 of Insolvency and Bankruptcy Board of India (Insolvency



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		resolution process for corporate persons) Regulations, 2016. The compliance thereof is stated in subsequent paragraphs.
Regulation 38(1)(c)	Payment of liquidation value due to dissenting financial creditors	The Resolution Applicant proposes to pay to Dissenting Financial creditors in priority to payment to other financial creditors.



10. RESOLUTION PLAN COMPLIANCE AS PER REGULATION 37

As per regulation 37 of insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, 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: -

- 10.1** Transfer of all or part of the assets of the corporate debtor to one or more persons;
- 10.2** Sale of all or part of the assets whether subject to any Security interest or not;
- 10.3** The substantial acquisition of shares of the corporate debtor, or the merger or consolidation of the corporate debtor with one or more persons;
- 10.4** Cancellation or delisting of any shares of the corporate debtor, if applicable;
- 10.5** Satisfaction or modification of any security interest;
- 10.6** Curing or waving of any breach of the terms of any debt due from the corporate debtor;
- 10.7** Reduction in the amount payable to the creditors;
- 10.8** Extension of a maturity date or a change in interest rate or other terms of a debt due from the corporate debtor;
- 10.9** Amendment of the constitutional documents of the corporate debtor;
- 10.10** Issuance of securities of the corporate debtor, for cash, property, securities, or in exchange for claims or interests or other appropriate purpose;
- 10.11** Change in portfolio of goods or service produced or rendered by the corporate debtor;
- 10.12** Change in technology used by the corporate debtor; and
- 10.13** Obtaining necessary approvals from the Central and State Governments and other authorities.

The Resolution plan provides for the measures, as necessary, for insolvency resolution of the corporate debtor for maximization of value of its assets, including but not limited to the items mentioned above as applicable.



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11. RESOLUTION PLAN COMPLIANCE AS PER REGULATION 38

Sl. No.	Requirement under Regulations	Status of compliance
	Regulation 38(1)(A)	RA proposes to pay unpaid CIRP costs in full in priority to all other dues. The CIRP costs would be payable in priority on Receipt of the NCLT Order from a trench of the Upfront Payment.
	Regulation 38(1)(B)	The Resolution Applicant proposes to pay to operational creditors in priority to payment to the financial creditors.
	Regulation 38(1)(C)	The Resolution Applicant proposes to pay to Dissenting Financial creditors in priority to payment to other financial creditors.
	Regulation 38 (1A)	Resolution applicant confirms that it has considered interest of all stakeholders and has provided for payment to all the stakeholders keeping in view the objective and requirements set out under the Code. Payment offered to various stakeholders is described in <i>Chapter 13 of the Resolution Plan</i> .
	Regulation 38(1B)	Resolution Applicant hereby confirms that neither the Resolution Applicant nor any of its related person have ever failed or ever contributed to the failure of implementation of any other resolution plan approved by the adjudicating Authority at any time in the past.
	Regulation 38(2)(a) The Term of Plan and its Implementation Schedule	The term of the plan will commence from the Cut Off Date. The total plan period is expected to be about 12 months by which time all payments proposed under the plan will be completed. An implementation and monitoring committee will be formed to implement, monitor and supervise the implementation of the Resolution Plan. The implementation of the plan will begin once the plan is approved by COC and NCLT in accordance with IBC. The steps taken for implementation of resolution plan has been mentioned in <i>Chapter 17 of the Resolution Plan</i> .
	Regulation 38(2)(b)	On approval of the resolution plan by Adjudicating Authority under section 31(3) of insolvency and



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	<p>The Management and Control of the Business of Corporate Debtor its term</p>	<p>Bankruptcy Code, 2016, the powers of the Board of Directors shall get restored and Resolution Applicant shall be entitled to reconstitute the Board of Directors with the approval of Monitoring Committee.</p> <p>The management and control of the company will be managed by competent techno-commercial with sound financial abilities to manage the affairs of the company during the implementation period under the overall guidance of the Implementation and Monitoring committee.</p>
	<p>Regulation 38(2)(c) Adequate means for Supervising its Implementation</p>	<p>Resolution plan provides for formation of Implementation and Monitoring Committee consisting of Resolution Professional, 1 representatives from Financial Creditors and 1 representative of the Resolution Applicant to monitor and supervise the implementation of the Resolution Plan. The Implementation and monitoring committee will be formed within 10 days of approval of plan by the Hon'ble Adjudicating Authority.</p>
	<p>Regulation 38(3)(a) Addressing the Cause of Default</p>	<p>Resolution Applicant declares that the cause of default as stated in the Information Memorandum and here-in-below have been properly addressed under the Resolution Plan.</p> <ol style="list-style-type: none"> a. Suspension of mining activities by the Mining officer b. Raising of huge demand by the Mining officer c. Closure of Hotel at Puri due to Phani Cyclone and then due to lockdown imposed by the Government on outbreak of Covid pandemic. d. Cash crunch faced due to non-lifting of stock of Iron ore from mine site after raising of demand <p>The Resolution Applicant will run the operations of the Corporate Debtor as a going concern by infusion of adequate fund to meet the CIRP Costs, Payment to Financial and Operational Creditors and Working Capital Requirement as envisaged in the plan.</p>



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	Regulation 38(3)(b) Resolution Plan is Feasible and Viable	Resolution Applicant declares that the Resolution Plan is feasible and viable and will ensure resolving insolvency and its sustainability.
	Regulation 38(3)(c) Resolution Plan has provisions of Effective Implementation	The Resolution Plan provides for the mechanism to monitor the progress for implementation, which includes formation of implementation and monitoring committee for effective implementation of the resolution plan.
	Regulation 38(3)(d) Resolution Plan has provisions for Approvals required and the Timeline for the same.	Any approvals of any authority or other person that may be required under any law for the time being in force, granted to the company whether lapsed, expired, suspended, cancelled, revoked or terminated, shall be renewed for the period for which they were originally granted, starting from the plan Cut-off date without any additional fees, charges or penalty or interest and the company shall be permitted to operate its business and assets in the manner that all the approvals, it will be treated as the Company is compliant with them without initiating any investigations, actions or proceedings in relation to such non – compliances and the adjudicating Authority shall pass an order to that effect. The Resolution Plan has taken utmost care to address this issue. The plan has taken a period of 6 months from the Cut-off to obtain necessary approval of licenses for commencement of work for development of Land at Dhamra and Keonjhar. .
	Regulation 38(3)(e) Resolution Applicant has capability to implement the Resolution Plan	Resolution Applicant along with, its team members on board holds ample experience and is fully aware about the present status of the company. (please refer Chapter 5 of the Resolution Plan).



12. DECLARATION UNDER SECTION 29 A OF THE CODE

- 12.1** It is to confirm that the Resolution Applicant or any of its directors or key managerial personnel is not disqualified under Section 29A of the Code.
- 12.2** A separate declaration under Section 29A of the Code has already been submitted to the Resolution Professional.



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13. Payment of debt/liabilities under the Resolution Plan

Sr. No	Stakeholder	Interest addressed in Resolution Plan
1	CIRP Cost (as approved by CoC)	<p>Resolution Applicant proposes to pay entire CIRP cost to the extent unpaid in priority of any other payments, within 30 days from date of approval of Resolution Plan by NCLT. The RA has estimated the total insolvency resolution process cost at Rs. 80.00 lacs.</p> <p>CIRP cost incurred till the date of approval of Resolution Plan by NCLT shall be apportioned in priority of any other payments out of total consideration.</p>
2	Workmen and Employees' dues	<p>As per the Information Memorandum, claims of workmen or employees amounting to Rs. 61.39 lacs has not been admitted by the Resolution Professional due to lack of availability of proper records of employees/workmen. However, RA proposes to pay a sum of Rs. 61.39 lacs towards full and final settlement of dues of all the workmen and employees after verification of records.</p> <p>The Resolution Applicant understands that there is no worker or employee on the rolls of CD as on dated, as disclosed in IM.</p>
3	Unsecured Financial Creditors	<p>Ra proposes to pay a sum of Rs. 485.65 lacs against the total admitted claim of Rs. 485.65 lacs from unsecured financial creditors which is 100% of the claim admitted by RP and disclosed under the IM.</p> <p>RA proposes to pay 25% of the resolution amount within a period of 30 days from the date of approval of the Resolution Plan by AA. The balance amount shall be paid within 6 months from the date of Approval of Plan by NCLT.</p>
4	Other unsecured Financial Creditors – related parties.	<p>Resolution Applicant does not propose to make any payment to related parties. The entire amount due to other Unsecured Financial creditors shall be shall be waived on approval of Resolution Plan by the Hon'ble AA.</p>
5.	Operational Creditors	<p>Resolution Applicant proposes to pay amount of Rs. 147.15 lakh as full and final settlement of claims / dues of Rs. 147.15 lakh of all the operational creditors (excluding statutory dues) to be distributed on proportionate basis amongst all as per the claims admitted by the RP / dues as per books of the CD. Proposed pay out to operational creditors is 100% of the admitted claims / book balance and the payment shall be made within 30 days from the date of approval of Resolution Plan by Hon'ble AA.</p>



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Sr. No	Stakeholder	Interest addressed in Resolution Plan												
6.	Statutory Liabilities	<p>Resolution Applicant proposes to pay amount of Rs. 471.94 lakh towards payment of Statutory liabilities of Rs. 5899.30 lakhs (admitted by RP as stated in IM) within a period of 12 months from the date of approval of plan.</p> <table border="1"> <thead> <tr> <th>NATURE OF LIABILITY</th> <th>Amount due</th> <th>Amount proposed</th> </tr> </thead> <tbody> <tr> <td>Commissioner of Customs</td> <td>352.88</td> <td>28.23</td> </tr> <tr> <td>Commissioner of Income Tax (Central), Visakhapatnam</td> <td>5546.42</td> <td>443.71</td> </tr> <tr> <td>TOTAL</td> <td>5899.30 lac</td> <td>471.94 lac</td> </tr> </tbody> </table> <p>RA proposes for waiver of all interest and penalties levied by the authorities in respect of the above dues. RA further proposes that all other dues in respect of statutory liabilities till the date of approval of plan by AA shall be waived.</p>	NATURE OF LIABILITY	Amount due	Amount proposed	Commissioner of Customs	352.88	28.23	Commissioner of Income Tax (Central), Visakhapatnam	5546.42	443.71	TOTAL	5899.30 lac	471.94 lac
NATURE OF LIABILITY	Amount due	Amount proposed												
Commissioner of Customs	352.88	28.23												
Commissioner of Income Tax (Central), Visakhapatnam	5546.42	443.71												
TOTAL	5899.30 lac	471.94 lac												
7.	Equity Shareholders	<p>The existing shareholding of the CD shall be reduced to Rs. 19,93,375/- by way of reducing paid value of equity share from Rs. 10/- per share to Rs. 1/- per share.</p> <p>The RA proposes to acquire 100% equity shares of the CD at Rs. 19,93,375/- i.e at the reduced value of the shares.</p>												
8.	Provision for payment to dissenting financial creditors	<p>RA shall arrange to make payment of such amount which shall not be less than liquidation value to dissenting financial creditors and such funds will be brought in separately by RA over and above upfront amount proposed under the plan.</p>												
9.	Contingent Liabilities	<p>Resolution Applicant proposes to settle the demand raised by Mining Officer, Keonjhar as stated here-in-below:</p> <p>a. RA shall pay a sum of Rs. 600.00 lacs to the mining department towards full and final settlement of all its claims and dues within 12 months of approval of the plan by AA</p>												



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Sr. No	Stakeholder	Interest addressed in Resolution Plan
		<p>b. The mining department is not allowing the CD to lift stocks and thus holding stock of Iron Ore lying at the mine head aggregating to 3,00,000 MT approx. which has a substantial realisable value of Rs. 45.00 crore approx. at the average realisation value of Rs. 1500/- per MT. RA proposes that the said stock may be sold by the Mining officer and adjusted against full and final settlement of the demand raised by the mining officer.</p> <p>RA further requests that following reliefs be granted in case of payment for contingent liabilities.</p> <p>a. On approval of resolution plan by adjudicating Authority, Government of Odisha through Mining officer, Keonjhar circle shall renew the mining lease in respect of Putlipani Iron ore mines to the Resolution Applicant as per provisions of MM (D&R) Act, 1957, to continue the mining business of the CD.</p> <p>b. On approval of resolution plan by adjudicating Authority, mining officer, Keonjhar circle shall settle the demand raised against the CD as per proposal stated above.</p> <p>c. On approval of resolution plan by adjudicating Authority, mining officer, Keonjhar circle shall not take any adverse / coercive action for the deposit / settlement of the demand raised against CD.</p> <p>d. There are guidelines issued by government authorities or provided in the Act/ Rules that where outstanding demand is disputed before Appellate Authority, a percentage of the dispute amount is required to be deposited to grant stay of demand till disposal of first appeal. On approval of resolution plan by Adjudicating Authority, there will be waiver of the</p>



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Sr. No	Stakeholder	Interest addressed in Resolution Plan
		<p>requirement of pre-deposit, if any, to accept filing of appeal before any appellate authority and to grant stay of the demand.</p> <p>e. On approval of resolution plan by adjudicating Authority, there will be waiver of all penal Interest and penalty on any Demand, tax, duty or other government levies determined against the CD till the date of order.</p> <p>All or any other demands or levies which are not proposed to be paid under this resolution plan including any interest, penalty thereon shall be waived.</p>

13.1 Summarised Format of Resolution Amount Payment Schedule

Particulars	Admitted Claims / Balance as per Books	Final Resolution Amount	Within 30 days	Within 6 months	(Rs. in lakh)
					Within 12 months
CIRP Cost	-	80.00	80.00	-	-
Workmen and Employee Dues	61.39	61.39	15.35	46.04	-
Unsecured Financial Creditors – other than related parties	485.67	485.67	121.42	364.25	-
Other unsecured creditors – related parties	2116.90	0.00	-	-	-
Operational Creditors – other than related parties	147.15	147.15	147.15	-	-
Commissioner of Customs	352.88	28.23	-	-	28.23
Commissioner of Income Tax (Central), Visakhapatnam	5546.42	443.71	-	-	443.71
Shareholders	-	19.93	19.93	-	-
Payments proposed to liabilities ascertained / claims admitted	8710.41	1266.08	383.85	410.29	471.94
Proposal to clear contingent liabilities					



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Particulars	Admitted Claims / Balance as per Books	Final Resolution Amount	Within 30 days	Within 6 months	Within 12 months
The Mining Officer, Keonjhar – compensation for excess mining*	29575.30 4300.61	600.00*	-		600.00*
Contingencies / unforeseen costs		33.92	-	-	33.92
Total payments under the Plan	42586.32	1900.00	383.85	410.29	1105.86
Capital Expenditure for development of 2 plots of land near Dhamra Port and at Keonjhar including working capital funds		1100.00			1100.00
Overall plan size	42586.32	3000.00	383.85	410.29	2205.86

* a) The mining department is not allowing the CD to lift stocks and thus holding stock of Iron Ore lying at the mine head aggregating to 3,00,000 MT approx. which has a substantial realisable value of Rs. 45.00 crore approx. at the average realisation value of Rs. 1500/- per MT. RA proposes that the said stock may be sold by the Mining officer and adjusted against full and final settlement of the demand raised by the mining officer.

Note: In case post approval of the Resolution Plan by NCLT, if any claim arises from workmen, employees, operational creditors, unsecured financial creditors or statutory authorities pertaining to the CIRP period or prior period, the payment will be made to them out of the contingency fund of Rs. 33.92 lakhs proposed under the plan on a pro-rata basis.

SOURCE OF FUNDING –

The Resolution applicants plan to fund the Resolution Amount by way of –

Particulars	Rs in lacs	Remarks
Upfront Payment within 30 days	383.85	To be infused by RA as equity/ loans
Payment to __ within 6 months	410.29	To be infused by RA as equity/ loans
Payment to __ within 12 months	1105.86	To be infused by RA as equity/ loans
Total fund required for payment under the plan	1900.00	
Additonal Capex for development of land at Dhamra & Keonjhar including working capital	1100.00	To be arranged through infused by RA as equity / loans from scheduled banks.
Working capital for operations	100.00	To be infused by RA as equity/ loans
Total Plan size	3000.00	



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Note: Evidence of source of availability of funds amounting to Rs. 400.00 lacs which is to be brought in by the RA within 30 days is attached. Balance amount including funds required for additional Capex for development of Land at Dhamra Port and Keonjhar shall be available from sale of non-core assets of the CD as well as borrowings from commercial banks/NBFC.

CREDITORS SUBMITTED CLAIMS AFTER APPROVAL OF RESOLUTION PLAN

- i. The code and the CIRP Regulations entitle all types of creditors of a corporate debtor to submit their claims to the Resolution Professional on or prior to the date on which the resolution plan gets approved by the committee of creditors.
- ii. Provisions has been made for payment / settlement of creditors as per book of accounts of corporate debtor and creditors, who have submitted their claims to the Resolution Professional in the resolution plan. The claims, if any, in respect of creditors of the corporate debtor other than creditors in respect of which provision for payment has been made in the resolution plan will stand extinguished / waived off.



14. INTEREST OF ALL STAKE HOLDERS

In accordance with the newly inserted sub-regulation (1A) of Regulation 38 in the CIRP Regulation 2016 by the CIRP (Second Amendment) Regulation 2017 notified on 05th January, 2017 the **Resolution Plan** has dealt with the interest of all stakeholders including Financial Creditors, Operational Creditors, Statutory Liabilities, Employees and Workmen, Equity Shareholders as well as the Exchequer in a fair and reasonable manner as elaborated in the Plan.



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15. RESTRUCTURING OF THE CAPITAL

As on 04.10.2019 the share capital of the Company as per the table mentioned below and this is based on latest disclosures provided in the Information Memorandum are as follows:

Sr. No.	Name of the Shareholder	No of Shares held (Quantity)	%age
1	Narendra Kumar Gupta	72400	3.63
2	Binod Kumar Agarwal	121800	6.11
3	Raj Kumar Agarwal	306100	15.36
4	Seema Agarwal	134000	6.72
5	Ranju Bala Agarwal	141500	7.10
6	Bishaka Gupta	36000	1.81
7	Saket Agarwal	138000	6.92
8	Sarada Impex Private Limited	183750	9.22
9	Sarada Niketan Private Limited	155000	7.78
10	Bhagirath Madan Agarwal	99500	4.99
11	Manju Bhagirath Agarwal	74000	3.71
12	Sarada Devi Agarwal	123500	6.20
13	Prateek Cine Productions Private Limited	50000	2.51
14	Sarada Overseas Private Limited	50000	2.51
15	Pratik Realcon Private Limited	85625	4.30
16	Attabira Rice Mill Private Limited	67500	3.39
17	Shiv Shakti Airways Services Limited	18125	0.91
18	Shivshakti Ispat Private Limited	134375	6.74
19	Dau Dayal Agarwal	2200	0.11
	Total	1993375	100.00

Restructured Capital

As part of the Resolution Plan, the existing share capital of the company shall be reduced by 90%. Thereafter, 10 equity shares shall be swapped by issue of fresh one equity share each of Rs. 10/-. Any fraction of the equity share shall be disregarded and shall stand cancelled. The RA shall arrange to purchase the entire equity shares from existing shareholders at the reduced value and shall pay them a sum of 19,93,175/-

The Revised Share Capital Structure after the Plan Approval Date and infusion of capital.

Share Capital	Number	Paid-up Vale	Amount in Rs.
Authorised shares	30,00,000	10/-	3,00,00,000.00



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Restructure Issued & Subscribed	19,93,375	1/-	19,93,375.00
Fresh equity capital by RA	30,00,000	1/-	30,00,000.00
Total Paid up capital after restructuring	49,93,375	1/-	49,93,375.00

RA shall arrange to increase the Authorised capital of the CD or consolidate the paid up shares, in such manner as may be required during the implementation of the plan.

The aforesaid restructuring shall take place in the following manner, in the sequence set out below:

The Cancellation of shares and Capital Reduction:

- a. Shall be applicable to all the shareholding held by the existing shareholders of the Company.
- b. Shall be pursuant to the NCLT Approval Order and shall not require any other procedure as required under the Companies Act, including that under Section 66 of the Companies Act or regulations of the SEBI;
- c. Shall not require the consent of any of the creditors of GSIPL or approval of the shareholders of GSIPL as the Resolution Plan upon being approved by the NCLT shall be binding on GSIPL and its stakeholders (including its creditors and shareholders’).
- d. This restructuring does not require increase in authorized share capital of GSIPL, but in case such restructuring requires increase in authorized share capital and consequent amendment of the Memorandum of Association of GSIPL, such increase and amendment shall take place as part of the Resolution Plan. The authorized share capital of GSIPL shall be increased, without any further act, instrument or deed by GSIPL and without any liability for payment of any fees or stamp duty in respect of such increase.
- e. In order to give effect to the Resolution Plan by Applicant, changes (if any) in the constitutional documents, memorandum of association and articles of association, to increase the authorized share capital and change the name of the Company, as required for implementation of the provisions of the Resolution Plan will be made, and the Company, its stakeholders, and the proposed new management of the Company shall be bound by such revised constitutional document.



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16. MANAGEMENT OF THE COMPANY

- The management and control of GSIPL will be taken over by the RA who will reconstitute the Board and shall appoint following persons as its directors replacing all the existing directors of CD.

Sl. No.	Name	Designation
1.	Shri Amitabha Dey	Director
2.	Shri Sibaji Banerjee	Director

- The Resolution Applicant proposes to strengthen the management by appointing experienced professionals in the industry. Further, Resolution Applicant is open to accept any reasonable monitoring arrangement as may be imposed by the COC in this behalf.
- Further, whole-time key managerial personnel, if required, will be appointed as per the requirement of the Companies Act.
- The Resolution Applicant shall be at liberty to appoint the statutory and internal auditor of their choice, subject to Applicable Laws.
- In order to successfully drive the operations of the Company, the team of experts of relevant field will work under the direct supervision and control of the management.

Release of Resolution Professional

RA proposes that the Resolution Professional shall be released with effect from the date of approval of plan by AA.

Going Concern - The company shall continue as going concern and operate in its normal course of business upon implementation of the resolution plan. With effect from cut – off date, the management of affairs company would be done through the Restructured Board under the overall supervision and guidance of the Implementation and monitoring committee.

Continue Corporate Existence - The company shall continue its operations in the normal course of business.

Corporate Action - The company shall take appropriate corporate actions necessary for implementations of the all the provisions of the Resolution plan, which includes filling of appropriate documents of forms amongst others, with the Register of companies and ministry of corporate Affairs and other compliance as per the governing law.



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17. Term of Resolution Plan and its Implementation And Supervision

- The term of the proposed Resolution Plan will commence from the commencement of cut-off date. The implementation of the plan will begin once the plan is approved by COC and NCLT in accordance with the IBC.
- Payment received from Resolution Applicant will be utilized for settlement of dues from the cut-off date and balance will be deployed by corporate debtor as working capital.
- Resolution Applicant will continue to make payment to financial creditors as envisaged in the plan unless otherwise agreed between Resolution Applicant and financial creditors.
- In order to ensure smooth Implementation of the Resolution plan, the Resolution Applicant already has sound business experience. The Resolution Applicant if required shall further induct professionals to manage the day to day affairs of the company whose terms of appointment and duties would be decided by the Restored Board of Directors.
- On the plan effective date, the Implementation and Monitoring Committee may appoint professional(s) who shall monitor and supervise the implementation of the Resolution plan on such fee as will be settled between him and Resolution Applicant. **The period of implementation of the plan (to be monitored by the Monitoring Committee) shall be 6 months** i.e. till the final payments are made to financial creditors (other than related parties). Once plan is satisfactorily implemented, the Monitoring Committee will be dissolved. The fees for monitoring and supervision shall be mutually decided between the Monitoring Professionals and Resolution Applicant and will be paid by Resolution Applicant / corporate debtor.
- The Monitoring Committee shall have the following responsibilities:
 - (i) Coordination amongst the stakeholders for smooth implementation of the plan.
 - (ii) Looking into various compliance as per Resolution plan during implementation period.
 - (iii) Providing specified information to stakeholders regarding implementation of resolution plan.
 - (iv) Issue a certificate that the Resolution plan has been duly implemented and the mandatory payments contemplated in this Resolution plan have been duly completed.



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- (v) In issuing this certificate if a person has not collected its payment despite the company having notified such person it shall be deemed to be a discharge of company's payment obligations.
- (vi) Issuance of a certificate by the monitoring professional shall be a discharge of the Resolution Applicant from their obligations under this Resolution plan.
- (vii) The Resolution Applicant may request the COC for the removal and substitution of the monitoring professional if the monitoring professional is unable to satisfactorily perform its responsibilities or breaches terms of its appointment.
- In addition to meticulous compliance with the schedules of payments covered under the scheme, the company shall ensure timely payment of all duties accruing after the scheme is implemented in full to the Central and State Governments and statutory Authorities in normal course.
 - The RA / CD shall be authorised to sell, lease or encumber in any manner whatsoever any part of land, building, plant & machinery of equipment or any of its fixed assets without the prior permission of IMC after making upfront payment.
 - Any modification in the terms of this resolution plan post approval by the Hon'ble Adjudicating Authority / NCLAT shall be made with the mutual consent of the Financial Creditors at that stage and the RA/CD and shall be confirmed by the AA. Resolution Applicant shall not be construed to be a violation or an event of default as per the provisions of the code once the amendment is approved by the Hon'ble AA.



18. INTERESTS OF STAKEHOLDERS AND COMPLIANCE WITH PROVISIONS OF THE LAW

- Resolution Applicant confirms that they have considered interests of all stakeholders and has provided for payment / repayment / settlement schedule described above, keeping in view the objective of keeping the company as a going concern, maximization of value and adhering to the requirements set out under the code.
- The Resolution plan does not contravene any of the provisions of the law for the time being in force. In the event it is determined that any provisions of the Resolution Plan is unenforceable and /or in the event any provision of the Resolution Plan becomes invalid for reasons other than by breach by the Resolution Applicant of the terms of the Resolution Plan, the Resolution Applicant reserves the right to apply to the Adjudicating Authority for appropriate modification of such provisions of the Resolution Plan, with prior approval of COC, and such invalidity and/or unenforceability of the provision of the Resolution Plan shall not render the whole Resolution Plan ineffective, unless otherwise directed by an order of the Adjudicating Authority.
- In case any such modification is required in the Resolution Plan after the receipt of Adjudicating Authority's approval, to comply with any applicable laws currently in force or/to apply for certain approvals as required under the Resolution Plan or for any other requirements, without prejudicing to the economic interest of any person entitled to receive any payment as contemplated under this Resolution Plan, the Resolution Applicant can do so only after approval of the Adjudicating Authority.



19. APPROVALS REQUIRED FOR THE PLAN

NCLT

The Resolution plan of the resolution applicant shall be required to be approved by the NCLT under Section 31 of the IBC.

THE COMPANIES ACT

- i. Explanation to section 30 (2) of the code read with MCA circular dated October 25, 2017 bearing No. IBC/01/ 2017 (MCA Notification) provides that there is no requirement of obtaining approval of shareholder /members of a company under insolvency for a particular action, required in resolution plan, which would have been required under the Companies Act or any other law and such an approval is deemed to have been given once the resolution plan has been approved by the NCLT.
- ii. In light of the above, no shareholder's approval under companies Act is required to be obtained by Company for issue of Equity Shares to the Resolution Applicant and its members and the procedure for issuance of shares as set out in section 62 of be followed only to the extent relevant and required in light of Explanation to section 30(2) of the code read with MCA Notification.
- iii. Re-organization of Company's capital
 - a) The Resolution plan provides for a cancellation and reduction initially of performance share capital held by the promoters of Company.
 - b) Section 66 of the companies act, read with the National company Law Tribunal (procedure for reduction of share capital of company) Rules 2016 provides for reduction of share capital by a company.
 - c) Since the cancellation and reduction of share capital of Company is contemplated as part of the resolution plan and will be approved by the NCLT (acting as adjudicating authority under the code), such reduction would be binding on the shareholder and creditors of Company. Further in light of explanation to section 30 (2) of the code read with the MCA clarification shareholders' approval would not be required for reduction of share capital. Therefore a separate order of the NCLT under section 66 of the company act for cancellation and/or reduction of



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shareholding of GSISL shall not be required and cancellation and/reduction of Company's capital can be affected by way of NCLT Approval order. The cancellation of shares and capital reduction shall be applicable to the shareholders of Company in the manner contemplated in chapter XV (Restructuring of capital).

SEBI APPROVALS

Company is a private company. ICDR Regulations 2009 are not applicable.

TAKEOVER CODE EXEMPTION

- i. Company being a private company takeover code is not applicable
- ii. The SEBI (Substantial Acquisition of share and takeovers) code, 2011 has been amended by way of securities and exchange board of India (substantial acquisition of shares and takeover) (Amendment) Regulation, 2017, (SEBI (SAST) Regulations) providing exemption from open offer obligations under the SEBI (SAST) Regulation to the acquisition of equity shares of a target company pursuant to a resolution plan approved by NCLT under section 31 of the code.
- iii. Therefore the resolution Applicant shall not be required to comply with the provisions of the SEBI (SAST) Regulations in respect of open offer obligations. The resolution Applicant shall comply with the disclosure requirement under the SEBI (SAST) Regulations, as applicable.

COMPETITION COMMISSION OF INDIA (CCI)

- i. The Competition Act,2002 (Competition Act) provides de-minimis exemption for the target company. The de-minimis exemption is provided by way of revenue and asset thresholds for the target company. Thus, if GSIPL meets these thresholds, and falls within the de-minimis exemption, a premerger notification can be excluded for a definitive assessment, consolidated audited financial statements of Company for financial year 2018-2019.Consolidated financial statement would mean financial statement consolidating all enterprisers over which GSIPL exercises control.
(Control under the competition Act means 25% voting rights or more ownership or voting rights, ability to appoint members on the board, or the contractual right to veto a company strategic decisions (changes to constitutional/charter documents;



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- appointment of senior management; reorganization of the business; entering new businesses; exiting existing businesses; etc.)
- ii. As per the consolidated financial of Company for the financial year ending 2018-2019, Company's total revenue meets the de-minimis exemption.
 - iii. As per the standalone financial statement of GSIPL for the financial year ending 31 March 2019, GSIPL reported total revenue also falls within the de-minimis exemption.
 - iv. Thus, in the event Company's total revenue; based on its consolidated financial statement (i.e. consolidating financial statements of all companies over which Company exercises control) for financial year ending 2018-2019 is also less than INR 1,000 crores, a pre-merger notification under the competition Act can be ruled out.

SECURITIES CONTRACT REGULATION ACT, 1956 (SCRA), securities contract regulation rules, 1957 (SCRR) and the securities and exchange board of India (Delisting of Equity shares) Regulations, 2009 (Delisting Regulations)

Company is a privately held company and therefore not applicable.



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20. LIMIT ON LIABILITY

- Notwithstanding anything contained in this Resolution Plan, in no event the total payments to the creditors of the corporate debtor shall exceed the amount provided in the resolution plan. Provision for payment has been made in respect of claims submitted by creditors and admitted by Resolution Professional and amount of liability appearing in books of accounts as on the date for commencement of corporate insolvency.
- All claims that may arise in the future, post the plan cut-off date including any claims from any financial creditor, operational creditor statutory creditor or any other creditor and pertaining to the period prior to the cut-off date, shall not sustain and shall be deemed to have been written off/ deleted from the books of the company except as provided in the commercial bid of this resolution plan.
- The resolution applicant shall thus be under no obligation to make any payment to any creditor for any amount apart from what has been proposed and envisaged in this resolution plan.



21. RELIEFS, CONCESSIONS AND WAIVERS

The Primary objective of insolvency and Bankruptcy Code as mentioned on Page 1 of the Code is to consolidate and amend the laws relating to reorganization and insolvency resolution of corporate persons, partnership firms and individuals in a time bound manner. As a measure of consolidation, the Code envisages repeal of certain enactments and also proposes amendments to various Acts so as to ensure that all the provisions related to insolvency and Bankruptcy are consolidated at one place. As per the provisions of Section 252 read with VIII th Schedule of the Code, upon the Code becoming effective, the Sick Industrial Companies (Special Provisions Repeal) Act, 2003 has been made effective so that from November 2016 SICA has been repealed and for all intends and purposes the adjudicating authority NCLT has replaced the-BIFR under SICA.

The Ministry of Corporate Affairs (MCA) in exercise of the powers conferred under sub-section (1) of section 242 of the Insolvency and Bankruptcy Code, 2016 (Code), has notified the Insolvency and Bankruptcy Code (Removal of Difficulties) order, 2017, in light of the difficulties which have arisen regarding.

Review or monitoring of the schemes sanctioned under sub-section (4) or any scheme under implementation under sub-section (12) of section 18 of the Sick Industrial Companies (Special Provisions), Act 1985 in view of the repeal of the Sick Industrial Companies (Special Provisions), Act, 1985.

Substitution of clause (b) of section 4 of Sick Industrial Companies (Special Provisions), Repeal Act 2003 and;

Omission of sections 253 to 269 of the Companies Act, 2013

The Insolvency and Bankruptcy Code (Removal of Difficulties) Order, 2017 provides that in the Code, in Eighth Schedule, relating to amendment to the Sick Industrial Companies (Special Provisions), Repeal Act, 2003 in Section 4(b) after the second proviso, the following provisos shall be inserted namely:-

“Provided also that any scheme sanctioned under sub-section (4) or any scheme under implementation under sub-section 18 of the Sick Industrial Companies (Special Provisions), Act, 1985 shall be deemed to be an approved resolution plan under sub-section (1) of section



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31 of the insolvency and Bankruptcy Code, 2016 and the same shall be dealt with, in accordance with the provisions of part II of the said Code.

By Implication as per the above provisions of laws, any scheme sanctioned by BIFR earlier shall be deemed to be a Resolution Plan as approved by NCLT under Section 31(1) of the Code. Thus, drawing the inference from the above legal position. It is evident that all reliefs and concessions which are customarily provided as a part of the scheme approved by BIFR under SICA should also be included in the debt Resolution Plan as submitted under the IBC, 2016.

The Resolution Applicant seeks the following waivers, relieves and concessions for their resolution plan.

1. Cut-off date is assumed as 01.01.2021.

2. Statutory Liabilities: The Statutory Dues shall be paid as per para 13.6. The Respective authorities shall waive all other outstanding balances including any Interest/Penalties/Liquidated damages, etc on the said amounts, as under

NATURE OF LIABILITY	Amount due	Amount proposed
Commissioner of Customs	352.88	28.23
Commissioner of Income Tax (Central), Visakhapatnam	5546.42	443.71
TOTAL	5899.30 lac	471.94 lac

3. Operational Creditors: Claims against old dues of the operational creditors for supply of goods and services shall be carved out as Resolution amount and the said dues shall be paid without interest as per para 13.

4. Financial Creditors:

- a. **Unsecured Financial Creditors : 100%** of the claims of unsecured Financial Creditors shall be carved out as Resolution amount and the said dues shall be paid without any interest as per para 13. The balance amount including accumulated interest/penalty/liquidated damages, etc till the date of approval of plan by AA shall be waived.

5. Other Unsecured Financial Creditors:

No payment is proposed to be made under the plan to other unsecured financial creditors who are related parties. Entire claim / balance standing in the books of the CD



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shall be waived by the said old unsecured lenders including accumulated interest/penalty, etc. till the date of approval of plan by AA.

6. Legal Suits:

All the legal suits filed by the financial creditors/operational creditors till date which are pending before various court/quasi-judicial bodies shall be withdrawn upon sanction of the resolution plan and no action shall be taken by the financial creditors/ operational creditors against the company / promoters.

- a) The legal suits include the suits/proceeding initiated by financial creditors. It will be only logical that once NCLT approves the Resolution Plan, the financial creditors who are also a part of the plan should withdraw the suits filed by them with the respective judicial authorities, otherwise it will defeat the very purpose of the Resolution Plan.
- b) In as much as suits initiated by other operating creditors are concerned, once the Resolution Plan is approved, the company will be individually settling with all of them as provided in the Plan and as a part of the settlement process the company will insist they have to withdraw the suits.

7. Contingent Liabilities - Claim of Mining Officer, Keonjhar

The claim of Mining officer, Keonjhar Circle shall be paid as per para 13.9. The Balance amount shall be waived by the Mining officer, Keonjhar circle including any Interest/Penalties/ Liquidated damages, etc. on the said amounts till the date of order of AA.

8. CBDT, Central Govt., New Delhi

The waive interest and penalty charged against the dues of the income tax authority till date and no additional interest/penalty shall be charged for the dues till the date. The said dues shall be repaid as per the Resolution Plan.

To consider to exempt the company from the applicability of provisions of sections 41(1), Section 79 and Section 115 JB of the income Tax, 1961.

To consider to waive interest and penalty charged u/s 271C, 272A (2), 201, 206, 234A, 234B, 234C, 234D and 234E of the Income Tax Act, 1961 for various assessment years till date and resultant effect thereto.



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9. PF & ESI Authorities:

To consider and grant exemption/immunity to the company for payment of penalty and damages and against future criminal proceedings.

10. Ministry of Corporate Affairs, Govt of India:

- i) To exempt the company for taking permission/approval of capital reduction proposed in the scheme.
- ii) To exempt the company from the compliance of the provisions of the Act for reduction in the equity share capital of the company as envisaged in the scheme.

11. DGFT, Ministry of Commerce, New Delhi

Commissioner of Customs shall release machinery imported by the CD and seized by the Customs Department on payment of resolution amount as per para 13.6. .

- 12.** All licenses and Government Approvals granted to the company weather lapsed, expired, suspended, cancelled, revoked, terminated, shall be renewed for the period for which they were originally granted, starting from the plan effective date without any additional fees, charges or penalty or interest and the company shall be permitted to continue to operate its business and asset in the manner that all the approvals and licenses are valid until renewal/ extension of such licenses and approvals. It will be treated as the company is compliant with them without initiating any investigations, actions or proceeding in relation to such Non-compliances and the adjudicating authority shall pass an order to that effect.
- 13.** That all the relevant Governmental Authorities to waive any and all demand or notice of demand in relation to making payments towards the transfer charges or unearned amount that may be applicable in relation to the properties of the company on account of the transaction contemplated in this resolution plan.
- 14.** All Governmental Authorities to waive all penalties, taxes, dues, charges, levies and cess on past non-compliances of the company under applicable laws, and the Resolution Applicant shall not be liable for any non-compliances under applicable laws for the period prior to the cut-off date and the adjudicating authority shall pass as order to that effect.
- 15.** All Governmental authorities to waive the non-compliances of the company prior to the cut-off date, including but not limited to Companies Act, 2013, Industrial Dispute Act, 1947, Labor Laws, Income Tax Act, 1961, VAT, Service Tax Act, GST, Sales Tax, the



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relevant Shops and Establishment Acts and rules, circulars and regulations of each of the above legislations and to consider providing relief to the company from all litigations pending at different levels and provide waiver from tax dues including interest and penalty on such litigations.

16. All Governmental Authorities to grant any relief, concession or dispensation as may be required for implementation of the transactions contemplated under the resolution plan in accordance with its terms and conditions.

17. Restructuring of Capital

To allow restructuring of capital as proposed in para 15 hereinabove.

18. The resolution applicant reserves the right to amend or modify any waives or conditions sought in the present plan after approval of the same by COC, at any time before the plan is submitted for consideration of the NCLT. It is clarified that no such amendment or modification would have any impact on the right of the COC under this plan. The COC undertakes that no such modification or amendment shall entitle them to withdraw their approval for the plan.

Note : It is declared that the Approvals / Waivers / Reliefs sought from the NCLT are in the nature of Request and are not conditions under this resolution Plan.

Resolution Applicant hereby confirms that to the best of his knowledge, the resolution plan complies with the various laws and regulations governing the terms and conditions of the Resolution Plan and does not contravene any of the provisions of the law for the time being in force.



22. OTHER KEY TERMS PERTAINING TO THE ACQUISITION OF CONTROL OF THE COMPANY

Applications for approvals;

The Resolution Applicant will sign all applications on behalf of the company that are proposed to be made to any government authorities in order to obtain the necessary approvals for implementation of this resolution plan within timelines set out herein.

Treatment of contracts

All contracts deeds, bonds, agreements, and other similar rights or entitlements whatsoever, schemes, arrangements and other instruments permits, rights, entitlements, licenses (including the licenses granted by any governmental authority, statutory or regulatory bodies) for the purpose of carrying on the business of the company and in relation thereto, and those relating to tenancies, privileges powers, facilities of every kind and description of whatsoever nature in relation to the company, or to the benefit of which the company may be eligible and which are subsisting or having effect immediately before the order was passed by the NCLT, shall by endorsement, delivery or recoding of or by operation of applicable law pursuant to the order of the NCLT sanctioning the resolution plan, and on this resolution plan becoming effective be demand to and continue to be valid and subsisting contracts , deeds, bonds, agreements, indemnities or other similar rights or entitlements whatsoever schemes, arrangements and other instruments, permits, rights, entitlements, licenses (including the licenses granted by any governmental authority) of the company and any termination initiated pursuant to the initiation of the CIRP for any reason (including change of control or liquidation/insolvency related) shall be deemed to have not been terminated. Such contracts, assets, properties and rights described hereinabove shall stand vested in the resolution plan and shall be deemed to be the property and become the property by operation of applicable law as an integral part of the resolution plan. Such contracts, assets, rights and properties described above shall continue to be in full force and continue as effective and shall be the legal and enforceable rights and interests of the company which can be enforced and acted upon as fully and effectually as if there were no default or liabilities accrued to be accrued. In relation to the same, any procedural requirements required to be fulfilled solely by the company (and not by any of its successors), shall be deemed to be fulfilled by the company.



**Resolution Plan in the matter of Gandhmardhan Sponge Industries Pvt. Ltd.
Submitted by Bhuwalka Developments Pvt. Ltd., Resolution Applicant**

Treatment of assets:

Each asset (including [properties, whether freehold, leasehold or licenses basis) of the company shall be vested in the company free and clear of all encumbrances from the plan effective date.

All the permits held or availed of by, and all rights and benefits that have accrued to, the company, shall without any further act, instrument or deed, be transferred to, and vest in, or be deemed to have been vested in, and be available to, the company so as to become as and form the plan effective date, the permits, estates, assets, rights, title, interest and authorities of the company and shall remain valid, effective and enforceable on the same terms and conditions to the extent permissible in applicable laws. Upon the plan effective date the company shall be authorized to carry on business under the relevant license and / or permit and /or approval, as the case may be.

RIGHT TO SHARE ADJUDICATING AUTHORITY'S ORDER AND THIS RESOLUTION PLAN

The resolution applicant and the corporate debtor shall be entitled to share certified copy of this resolution plan and the order of the adjudicating authority approving this resolution plan with third parties including governmental authorities.

CURRENCY OF PAYMENT

All payments proposed to be made pursuant to this resolution plan will be in Indian rupees (INR).

ACCOUNTING TREATMENT

- i. Upon approval of the plan by the adjudicating authority, the resolution applicant be permitted to draw up the financial statements of the company for a period ending on the effective date (or any date closest to that date as may be practicable) in compliance with applicable accounting standards such that it truly reflects the claims verified and the realisable, fair value of the assets as may be determined by restored board of directors.
- ii. For the above purpose, the resolution applicant is permitted to carry out necessary write off of assets, creation of additional liability or expenses or write back of liability or provision (as the case may be)in the books of accounts of the company pertaining to the period between the cut-off date and the effective date.



**Resolution Plan in the matter of Gandhmardhan Sponge Industries Pvt. Ltd.
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- iii. Pursuant to the order of the adjudicating authority approving this resolution plan, any debit or credit, being the balancing figure, shall be adjusted by the company in the capital reserve at its sole discretion and the same shall be deemed to be in compliance with the applicable accounting standards.

GOVERNMENTAL APPROVALS

All licenses and government approvals granted to the company whether lapsed expired, suspended, cancelled, revoked or terminated, shall be renewed for the period for which they were originally granted, starting from the plan effective date without any additional fees, charges or penalty or interest and the company shall be permitted to continue to operate its business and assets in the manner that all the approvals and licenses are valid, until renewal / extension of such licenses and approvals. It will be treated as the company is compliant with them without initiating any investigations, actions or proceedings in relation to such non-compliances and the adjudicating authority shall pass an order to that effect.

OTHER TERMS AND CONDITIONS

i. Governing Law

The company and the new management shall be governed by the laws of India giving effect to adjudicating authority order approving the resolution plan and any agreement, covenants, documents and instruments executed in connection with the resolution plan.

ii. Binding effect

- a) This resolution plan once approved by the CoC and then the adjudicating Authority, along with such conditions as may be considered appropriate by the Adjudicating Authority, shall be binding on the Resolution Applicant, the Company, all holders of claims, Creditors, members, promoters, employees, Central and State Government and all other parties in interest and each of their respective successors and assigns.
- b) All requisite approvals and requirements of law required to give effect to the Resolution Applicant. The Resolution Applicant, without prejudice to its rights and contention to seek remedy before the adjudicating Authority and/or the appropriate forum/s prescribed under the law, undertakes that it shall not suspend the implementation of this Resolution Plan after the approval of the Adjudicating Authority in the event any of the reliefs and concessions the Resolution Applicant sought under this Resolution Plan is not granted by the Adjudicating Authority.



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Submitted by Bhuwalka Developments Pvt. Ltd., Resolution Applicant**

iii. Severability and right to modify

- a) In the event it is determined that any provisions of the Resolution Plan is unenforceable either on its face or as applied to any claims or transaction and/or in the event any provision of the Resolution Plan becomes invalid for reasons other than by breach of any party, Resolution Applicant may apply to the Adjudicating Authority for appropriate modification of such provisions of the Resolution Plan, to satisfaction of the Adjudicating Authority, and such invalidity and/or unenforceability of the provision of the Resolution Plan shall not render the whole Resolution Plan ineffective, unless otherwise directed by the Adjudicating Authority by order.
- b) In case any such modification is required in the Resolution Plan after the receipt of Adjudicating Authority's approval, to comply with any laws currently in force or to apply for certain approvals as required under the Resolution Plan or for any other requirements, not jeopardising the rights of the creditors under the current plan, Resolution Applicant would obtain necessary approval on any modification required to comply with the laws in force and to successfully implement the Plan from the Adjudicating Authority, as maybe required.
- c) The resolution Applicant reserves and retains the right to modify the proposed Resolution Plan on occurrence of any of the following events.
 - (1) In case any additional information is obtained by the Resolution Professional and provided to the Resolution Post submission of this Plan;
 - (2) In case of any information provided by the Resolution Professional is modified, revised or amended post submission of this plan;
 - (3) In case the amount of claims admitted by the Resolution Professional towards any class of creditor is communicated or modified or revised
 - (4) In case the amount proposed in this Plan for settling the dues to the Financial and Other creditors is revised based on discussions between the members of Committee of Creditors and the Resolution Applicant;
- d) The Resolution Applicant has made every possible effort to prepare and submit the Resolution Plan strictly in accordance with the various provisions of the Code and as per the terms mentioned by the Resolution Professional. However, if there is any inadvertent inadequacy/ shortcomings/ defects in the Resolution Plan, the Resolution Applicant shall be given an opportunity for rectifying and removal of such inadequacy/



**Resolution Plan in the matter of Gandhmardhan Sponge Industries Pvt. Ltd.
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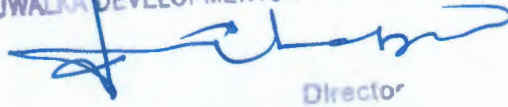
shortcomings/ defects so observed, additional information required with respect to the plan proposed herein and give an opportunity for removal of any defect or deficiency in the resolution plan or documents provided.

Undertaking / Declaration

I, Amitabha Dey, Director of Bhuwalka Developments Pvt. Ltd., the Resolution Applicant in the matter of Gandhmardhan Sponge Industries Pvt. Ltd. do hereby solemnly declare that every information and document provide to in connection with the Resolution Plan is true and correct.

I also solemnly affirm, declare and undertake that discovery of any false information and record provided in connection with or in the Resolution Plan at any time, will render me ineligible to continue the Corporate Insolvency Resolution Process of Gandhmardhan Sponge Industries Pvt. Ltd. and forfeit any refundable deposit made by me and attract penal action against me under provisions of IBC, 2016.

BHUWALKA DEVELOPMENTS PVT. LTD.



Director



Signature :

Name of Signatory : Shri Amitabha Dey

Designation : Director

(RESOLUTION APPLICANT)

**Resolution Plan in the matter of Gandhmardhan Sponge Industries Pvt. Ltd.
Submitted by Bhuwalka Developments Pvt. Ltd., Resolution Applicant**

**Projected Profitability statement
(after Commercial operations after development of 2 parcels of land)**

PARTICULARS	Projected	Projected	Projected	Projected
YEAR	2023-24	2024-25	2025--26	2026-27
Sale of Services	950.00	1,050.00	1,050.00	1,050.00
COST OF PRODUCT.				
Wages & Salaries	84.00	88.20	92.61	97.24
Power & Fuel	120.00	126.00	132.30	138.92
Other operating expenses	30.00	30.00	36.00	42.00
Depreciation	240.00	240.00	240.00	240.00
Total Cost of operations	474.00	484.20	500.91	518.16
Gross Profit	476.00	565.80	549.09	531.84
Other Income	8.00	10.00	12.00	15.00
Interest on Bank loans	144.00	116.00	80.00	48.00
Selling, General Admn.Exp.	24.00	27.00	30.00	30.00
TOTAL	168.00	143.00	110.00	78.00
Profit before Taxation	316.00	432.80	451.09	468.84
Provision for Taxation	63.20	86.56	90.22	93.77
Net Profit	252.80	346.24	360.87	375.08
Retained Profit	252.80	346.24	360.87	375.08
Cash Accruals	492.80	586.24	600.87	615.08



**Resolution Plan in the matter of Gandhmardhan Sponge Industries Pvt. Ltd.
Submitted by Bhuwarka Developments Pvt. Ltd., Resolution Applicant**

**Projected Cash Flow statement
(after Commercial operations after development of 2 parcels of land)**

PARTICULARS	Const. period	2023-24	2024-25	2025--26	2026-27
A. SOURCES OF FUNDS					
Profit After Tax (PAT)		252.80	346.24	360.87	375.08
Depreciation		240.00	240.00	240.00	240.00
Increase in Capital		-	-	-	-
Increase in Unsecured Loan		-	-	-	-
Increase in Term Loan		-	-	-	-
Increase in Bank Borrowing		-	-	-	-
Decrease in Current Assets		-	-	-	-
Increase in Current Liabilities		-	-	-	-
Decrease in Non-Current Assets		-	-	-	-
Total A		492.80	586.24	600.87	615.08
B. DISPOSITION OF FUNDS					
Capital Expenditure		-	-	-	-
Investment		-	-	-	-
Decrease in Unsecured Loan		-	-	-	-
Repayment of Term Loan		400.00	500.00	500.00	600.00
Decrease in Bank Borrowing		-	-	-	-
Decrease in Unsecured Loans		-	-	-	-
Increase in Current Assets		40.00	20.00	30.00	30.00
Decrease in Current Liabilities		-	-	-	-
Increase in Non-Current Assets		-	-	-	-
Total B		440.00	520.00	530.00	630.00
Surplus/Deficit A-B		52.80	66.24	70.87	(14.92)
Opening Balance		-	52.80	119.04	189.91
Closing Balance		52.80	119.04	189.91	174.99



**Resolution Plan in the matter of Gandhmardhan Sponge Industries Pvt. Ltd.
Submitted by Bhuwalka Developments Pvt. Ltd., Resolution Applicant**

Sl. No.	Name of the authority	Nature of concession / Relief / Waiver sought
1.	Waiver of contingent liability in form of Demand raised by the Mining officer, Keonjhar Circle, Odisha	All Demand, penalties, interest, punishment, etc., if any levied by Directorate of Enforcement, Department of Revenue, RBI, Economic Office Wing, Directorate General of Foreign Trade, Ministry of Commerce, etc. on the Corporate Debtor shall stand abated/waived off/extinguished.

