

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA**

**I.A. No. 290/KB/2021
in
C.P. (IB) No. 1911/KB/2019**

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

In the matter of

Ajit Kumar

... Operational Creditor

Versus

Hail Tea Limited

CIN: U17111WB1992PLC055566

... Corporate Debtor

And

In the matter of

Mr. Madhur Agarwal,

Resolution Professional of Hail Tea Limited

... Applicant

Date of hearing: 22.11.2021

Date of pronouncement: 03.01.2022

Coram:

Shri Rajasekhar V.K.

: Member (Judicial)

Shri Balraj Joshi

: Member (Technical)

Appearances:

For the Applicant/RP

**: 1. Mr. Shaunak Mitra, Advocate
2. Mr. Madhur Agarwal,**

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH

In Re Resolution Plan of Hail Tea Limited
I.A. No. 290/KB of 2021 in CP (IB) No. 1911/KB/2019

Resolution Professional

For the Successful Resolution : 1. Mr. Joy Saha, Senior Advocate
Applicant 2. Mr. Rahul Auddy, Advocate

ORDER

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

1. Preamble

- 1.1. This Court convened through video conferencing.
- 1.2. I.A. (IB) No.290/KB/2021 is an application filed by Mr. Madhur Agarwal, Resolution Professional of Hail Tea Limited, under section 30(6) read with section 31(1) of the Insolvency and Bankruptcy Code, 2016 and regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (*CIRP Regulations*) for approval of the Resolution Plan in respect of Hail Tea limited, the Corporate Debtor.
- 1.3. The underlying Company Petition in C.P. (IB) No. 1911/KB/2019 was filed by Ajit Kumar against Hail Tea Limited, the Corporate Debtor, under section 9 of the Insolvency and Bankruptcy Code, 2016, which was admitted *vide* order dated 21.01.2020.
- 1.4. Initially, the Resolution Professional Mr. Madhur Agarwal (IBBI Reg. No. IBBI/IPA-001/IP-P00653/2017-2018/11127) was appointed as the Interim Resolution Professional (IRP). The Interim Resolution Professional was later confirmed as the Resolution Professional (“RP”) of the Corporate Debtor *vide* order dated 25.11.2020.
- 1.5. During the pendency of the I.A. (IB) No.290/KB/2021, it was noted that the payment made to the Operational Creditors was not in equal proportion. Therefore, the successful Resolution Applicant (“SRA”) filed an affidavit dated 27.07.2021, wherein the SRA

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH

In Re Resolution Plan of Hail Tea Limited
I.A. No. 290/KB of 2021 in CP (IB) No. 1911/KB/2019

proposed to make equal proportionate payments to the Operational Creditors.

1.6. The Resolution Professional requested the SRA to file a revised Resolution Plan. The SRA filed a revised the Resolution Plan from Pages 21 to 30, incorporating the change in the payment schedule for the Operational Creditors. The Resolution Professional forwarded the revised Resolution Plan to the CoC *vide* letter dated 10.09.2021 and the CoC approved the revised Resolution Plan *vide* letter dated 17.09.2021.

2. ***Constitution of Committee of Creditors***

2.1. The IRP made public announcement in *Form A* dated 25.01.2020 in **Financial Express** (English) Kolkata edition newspaper regarding initiation of Corporate Insolvency Resolution Process (“CIRP”) and called for proof of claims from the financial and operational creditors, workers and employees of the Corporate Debtor till 05.02.2020.

2.2. The Committee of Creditors (“CoC”) was constituted with five Financial Creditors out of which only one Financial Creditor *viz.* UCO Bank, had voting right. A report of the constitution of CoC dated 11.02.2020 was filed before the Adjudicating Authority on 12.02.2020.

2.3. A total of eight CoC meetings have been held during CIRP period, as follows:

Particulars	Date of CoC meeting
1 st CoC Meeting	21 st February, 2020
2 nd CoC Meeting	6 th March, 2020
3 rd CoC Meeting	13 th March, 2020
4 th CoC Meeting	26 th June, 2020
5 th CoC Meeting	01 st September, 2020

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH**

***In Re* Resolution Plan of Hail Tea Limited
I.A. No. 290/KB of 2021 in CP (IB) No. 1911/KB/2019**

Particulars	Date of CoC meeting
6 th CoC Meeting	29 th October, 2020
7 th CoC Meeting	20 th November, 2020
8 th CoC Meeting	05 th December, 2020

3. *Collation of claims*

3.1. The claims of financial and operational creditors as existing as on the date of filing of the present application are as follows:

Name of Creditor	Amount claimed	Amount of claim admitted
Secured Financial Creditors	₹14,43,30,743/-	₹14,43,30,743/-
Financial Creditors (related party)	₹7,44,95,600/-	₹7,44,95,600/-
Operational Creditors	₹7,87,50,932/-	₹3,63,50,932/-
TOTAL	₹29,75,77,275/-	₹25,51,77,275/-

4. *CIRP and compliances*

4.1. The Resolution Professional issued invitations in Form 'G' for Expressions of Interest ("EoI") from potential resolution applicants on two occasions, the second Form 'G' was published on 10.08.2020 fixing the last date for receipt of resolution plans as 19.10.2020, 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 ("CIRP Regulations"). Form G was published in *Financial Express* (Kolkata Edition), *The Assam Tribune* (Guwahati Edition), English dailies and *Nagabrata* (Bengali newspaper of Guwahati edition).

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH

In Re Resolution Plan of Hail Tea Limited
I.A. No. 290/KB of 2021 in CP (IB) No. 1911/KB/2019

- 4.2. It is submitted that in response to the 2nd invitation for EoI, five EoIs were received. Thereafter, till the extended last date of submission Resolution Plan i.e. 19.10.2020, the Resolution Professional submits that three resolution plans were received from viz. (i) Shubham Bidasaria; (ii) M Sharma and (iii) Giriraj Plantation (P) Ltd.
- 4.3. The Prospective Resolution Applicants were given time till 07.11.2020 to review and revise their resolution plans which was extended to 14.11.2020 at their requests and final Resolution Plans were submitted by all three Resolution Applicants.
- 4.4. On 05.12.2020, the Resolution Plans were discussed in the 8th CoC meeting. The Resolution Plans were put for evoting, the CoC upon due consideration approved the Resolution Plan of M. Sharma dated 03.11.2020, a partnership firm, with 100% voting share¹ in the e-voting held on 09.12.2020 to 11.12.2020.
- 4.5. The RP issued the Letter of Intent² (“LoI”) to the Resolution Applicant (“RA”) on 15.12.2020. Subsequent to this, the RA furnished a performance security³ amounting to Rs.25,00,000/- (Rupees Twenty-Five Lakhs only) on 19.12.2020.
- 4.6. The Resolution Professional sought for further clarifications from the Resolution Applicant and the Resolution Applicant filed a revised resolution plan from Point 2.16 onwards on 10.09.2021 (pages 21 to 30).
5. ***Compliances with statutory provisions***
- 5.1. The successful Resolution Applicant has submitted a certificate/affidavit of eligibility⁴ under section 29A of the Code. It is further submitted that the Corporate Debtor is a MSME under section 240(a) of the Code, hence the Resolution Applicant is eligible to file a Resolution Plan.

¹ Annexure F; Pages 63 to 65 of I.A.

² Annexure G; Pages 66 to 67 of I.A.

³ Annexure C; Pages 12 to 16 of Supplementary Affidavit

⁴ Annexure M; Page 140 of I.A.

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH**

In Re Resolution Plan of Hail Tea Limited
I.A. No. 290/KB of 2021 in CP (IB) No. 1911/KB/2019

5.2. The Resolution Professional filed a Compliance Certificate in prescribed form, i.e., Form 'H'⁵ in compliance with regulation 39(4) of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

5.3. The details of various compliances as envisaged within the Code and the CIRP Regulations which requires a Resolution Plan to adhere to, is reproduced hereunder:

I. Submission of Resolution Plan in terms of sub-section (2) of section 30 of the Code (as amended vide Amendment dated 16 August 2019):

<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	Clauses 3.0 & 3.1 at Pages 21-22 of the Resolution Plan.
b.	<p>i. Plan must provide for repayment of debts of OC in such manner as may be specified by the Board which shall not be less than the amount payable to them in the event of liquidation u/s53; or</p> <p>ii. Plan must provide for repayment of debts of OC in such manner as may be specified by the Board which shall not be less than amount that would have been paid to such creditors, if the amount to</p>	Clause 3.4 at page 26 of the Resolution Plan.

⁵ Annexure L; Pages 135 to 139 of I.A.

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH**

In Re Resolution Plan of Hail Tea Limited
I.A. No. 290/KB of 2021 in CP (IB) No. 1911/KB/2019

<i>Clause of s. 30(2)</i>	<i>Requirement</i>	<i>How dealt with in the Plan</i>
	<p>be distributed under the resolution plan had been distributed in accordance with the order of priority in subsection (1) of section 53, whichever is higher.</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>There is only one financial creditor in the CoC. Hence, no question arises for provision of dissenting financial creditor in the Resolution Plan.</p>
c.	Management of the affairs of the Corporate Debtor after approval of the Resolution Plan.	Clause 3.6 at Page 27 of the Resolution Plan.
d.	Implementation and Supervision	Clause 3.8 at Page 29 of the Resolution Plan.
e.	Plan does not contravene any of the provisions of the law for the time being in force.	clause 4.5 at Page 35 of the Resolution Plan
f.	Conforms to such other requirements as may be specified by the Board.	-

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

Particulars	Relevant Page of the Revised Resolution Plan dealing with compliance with Regulation
--------------------	---

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH**

In Re Resolution Plan of Hail Tea Limited
I.A. No. 290/KB of 2021 in CP (IB) No. 1911/KB/2019

Particulars	Relevant Page of the Revised Resolution Plan dealing with compliance with Regulation
A resolution plan shall provide for the measures, as may be necessary, for insolvency resolution of the corporate debtor for maximization of value of its assets, including but not limited to the following:	
a. transfer of all or part of the assets of the corporate debtor to one or more persons;	Not proposed by the Resolution Applicant.
b. sale of all or part of the assets whether subject to any security interest or not;	Not proposed by the Resolution Applicant.
ba. restructuring of the corporate debtor, by way of merger, amalgamation and demerger	Not proposed by the Resolution Applicant.
c. the substantial acquisition of shares of the corporate debtor, or the merger or consolidation of the corporate debtor with one or more persons;	Clause 3.6 at Page 27 of the Resolution Plan.
ca. cancellation or delisting of any shares of the corporate debtor, if applicable;	clause 3.6 at Page 27 of the Resolution Plan.
d. satisfaction or modification of any security interest;	clause 4.1 at Page 31 of the Resolution Plan. (relinquishment/waiver of liabilities)
e. curing or waiving of any breach of the terms of any debt due from the corporate debtor;	clause 4.1 at Page 31 of the Resolution Plan. (relinquishment/waiver of liabilities)
f. reduction in the amount	clause 4.1 at Page 31 of the

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH**

***In Re* Resolution Plan of Hail Tea Limited
I.A. No. 290/KB of 2021 in CP (IB) No. 1911/KB/2019**

Particulars	Relevant Page of the Revised Resolution Plan dealing with compliance with Regulation
payable to the creditors;	Resolution Plan (relinquishment/waiver of liabilities)
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 the Resolution Applicant
h. amendment of the constitutional documents of the corporate debtor	Not proposed by the Resolution Applicant
i. issuance of securities of the corporate debtor, for cash, property, securities, or in exchange for claims or interests, or other appropriate purpose;	clause 3.6 at Page 27 of the Resolution Plan.
j. change in portfolio of goods or services produced or rendered by the corporate debtor	Not proposed by the Resolution Applicant
k. change in technology used by the corporate debtor; and	Not proposed by the Resolution Applicant
l. obtaining necessary approvals from the Central and State Governments and other authorities.	Clause 4.2 at Page 32 of the Resolution Plan

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

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH**

In Re Resolution Plan of Hail Tea Limited
I.A. No. 290/KB of 2021 in CP (IB) No. 1911/KB/2019

<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.	clause 3.4 at pages 24-26 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.	Clause 3.0 at Page 21 of the Resolution Plan.
38(1B)	A resolution plan shall include a statement giving details if the resolution applicant or any of its related parties has failed to implement or contributed to the failure of implementation of any other resolution plan approved by the Adjudicating Authority at any time in the past.	Clause 4.9 at Page 40 of the Resolution Plan.
38(2)	A resolution plan shall provide:	
	a) the term of the plan and its implementation schedule;	Clauses 3.7; 3.8 at Pages 28-29 of the Resolution Plan.
	b) the management and control of the business of the corporate debtor during its term; and	Clause 3.6 Page 27 of the Resolution Plan.
	c) Adequate means for	Clause 3.8 Page 29

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH**

In Re Resolution Plan of Hail Tea Limited
I.A. No. 290/KB of 2021 in CP (IB) No. 1911/KB/2019

<i>Reference to relevant Regulation</i>	<i>Requirement</i>	<i>How dealt with in the Plan</i>
	supervising its implementation.	of the Resolution Plan.
38(3)	A resolution plan shall demonstrate that-	
	a) it addresses the cause of default;	Page 13 of the Resolution Plan.
	b) it is feasible and viable;	Clause 3.7 at Page 28 of the Resolution Plan.
	c) it has provisions for its effective implementation;	Clause 3.9 at Page 30 of the Resolution Plan.
	d) it has provisions for approvals required and the timeline for the same; and	Not proposed by the Resolution Applicant
	e) the Resolution Applicant has the capability to implement the resolution plan.	Clause 2.0 at Pages 15-20 of the Resolution Plan.

6. Details of Resolution Plan/Payment Schedule

7. The summary of the financial proposal/payment under the Resolution Plan dated 03.11.2020 and further revised on 10.09.2021 of M. Sharma, is tabulated as under:

Sl. No.	Category of Claim and Reference to clause of the Resolution Plan	Amount Admitted as per Information Memorandum (in Rs.)	Amount Proposed to be paid as per Plan (in Rs.)
1.	CIRP Costs [Clause 3.1]	—	₹35,00,000/-

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH**

In Re Resolution Plan of Hail Tea Limited
I.A. No. 290/KB of 2021 in CP (IB) No. 1911/KB/2019

Sl. No.	Category of Claim and Reference to clause of the Resolution Plan	Amount Admitted as per Information Memorandum (in Rs.)	Amount Proposed to be paid as per Plan (in Rs.)
2.	Secured Financial Creditor [Clause 3.31]	₹14,43,30,743/-	₹10,00,00,000/-
3.	Unsecured Financial Creditors [Clause 3.32]	₹7,44,95,600/-	NIL
3.	Operational Creditors (other than employees and Workmen)[Clause 3.4]	₹1,79,51,438/-	₹91,59,125/-
4.	Employees/Workmen/PF [Clause 3.4]	₹2,83,72,798/-	₹1,44,76,277/-
5.	Payment of Shareholders (Public)	Nil	Nil
	Total	₹26,51,50,579/-	₹12,71,35,402/-

8. *Snapshot of Payment Schedule*

Particulars	Due Amount in Rs.	Proposed Payment in Resolution Plan in Rs.			
		Upfront Payment (in Rs.) (payment within 30 days)	Payment within 18 months (in Rs)	Payment within 24 months (in Rs.)	Total Payment (in Rs.)
Corporate Insolvency Resolution Process cost	₹35,00,000/-	₹35,00,000/-	0.00/-	0.00/-	₹35,00,000/-
Financial Creditors					
- Secured	₹14,43,30,743/-	₹6,00,00,000/-		₹4,00,00,000/-	₹10,00,00,000/-
-Unsecured (Related party)	₹7,44,95,600/-	0.00		0.00	0.00

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH**

In Re Resolution Plan of Hail Tea Limited
I.A. No. 290/KB of 2021 in CP (IB) No. 1911/KB/2019

Particulars	Due Amount in Rs.	Proposed Payment in Resolution Plan in Rs.			
		Upfront Payment (in Rs.) (payment within 30 days)	Payment within 18 months (in Rs)	Payment within 24 months (in Rs.)	Total Payment (in Rs.)
Operational Creditors					
Employee Dues	₹12,59,000/-	₹3,85,418/-	₹2,56,945/-	0.00	₹6,42,363/-
Electric Charges	₹35,00,000/-	₹10,71,455/-	₹7,14,304/-	0.00	₹17,85,759/-
Suppliers of Goods and Services	₹1,40,78,134/-	₹43,09,740/-	₹28,73,160/-	0.00	₹71,82,900/-
Workmen's Due	₹61,00,000/-	₹18,67,393/-	₹12,44,929/-	0.00	₹31,12,322/-
PF Dues	₹2,10,13,798/-	₹64,32,955/-	₹42,88,637/-	0.00	₹1,07,21,592/-
Other Statutory Liabilities	₹3,73,304/-	₹1,14,280/-	₹76,186/-	0.00	₹1,90,466/-
Fresh Investment in CD for revival	----	----	----	₹2,50,00,000/-	₹2,50,00,000/-
Total	₹26,86,50,579/-	₹7,76,81,241/-	₹94,54,161/-	₹6,50,00,000/-	₹15,21,35,402/-

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

9. The Resolution Plan provides for:
1. Management of Company after resolution in clause 3.4 at Page 27 of the Resolution Plan.
 2. Term of resolution plan in clause 3.7 at Page 28 of the Resolution Plan.; and
 3. Implementation and Supervision of the resolution plan in clause 3.8 at Page 29 of the Resolution Plan.

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH**

In Re Resolution Plan of Hail Tea Limited
I.A. No. 290/KB of 2021 in CP (IB) No. 1911/KB/2019

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

Waivers, Reliefs, and Exemptions sought under Clause 4.1 the Resolution Plan at page 31

Sl. No.	Relinquishment/Waiver of Liabilities	Orders thereon
1.	All Corporate / Performance Guarantees issued by corporate debtor in favour of or on behalf of any of its subsidiaries, associates, group companies or any third party. Note: The resolution applicant has given up its claim on waivers of personal and corporate guarantees on behalf of corporate debtor vide its letter dated November 20, 2020 which is annexed to the application at pages 68.	Granted
2.	All securities including Guarantees provided by Directors / Third Party on behalf of the CD	Not granted.
3.	All the dues of the corporate debtor to related parties	Granted.
4.	All the Contingent Liabilities of the corporate debtor	Not Granted. All contingent liabilities to be paid out from the Applicant's investment of Rs. 1.00 Crore as and when the liability may arise.

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH

In Re Resolution Plan of Hail Tea Limited
I.A. No. 290/KB of 2021 in CP (IB) No. 1911/KB/2019

Sl. No.	Relinquishment/Waiver of Liabilities	Orders thereon
5.	All the Statutory dues / Government dues of the corporate debtor	The judgment of the Hon'ble Supreme Court in <i>Ghanashyam Mishra & Sons Pvt Ltd v Edelweiss Asset Reconstruction Company Ltd.</i> ⁶ lays down that when the resolution plan is approved by NCLT, the claims as provided in the resolution plan shall stand frozen and will be binding on the corporate debtor, and its employees, members, creditors, including the central and state government or any local authority, guarantors and other stakeholders. On the date of approval of resolution plan by the Adjudicating Authority, all such claims which are not a part of resolution plan shall stand
6.	All the Current Liabilities of the corporate debtor other than those covered under the Resolution Plan	
7.	All the Litigations / Claims / Suits / legal proceedings against the corporate debtor/ Directors	
8.	Any Operational / Other dues pertaining to any previous transaction or operation or activity whether crystallized or not as on CIRP date would stand Extinguished as part of the Resolution Plan	

⁶ 2021 SCC OnLine SC 313 decided on 13.04.2021.

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH

In Re Resolution Plan of Hail Tea Limited
I.A. No. 290/KB of 2021 in CP (IB) No. 1911/KB/2019

Sl. No.	Relinquishment/Waiver of Liabilities	Orders thereon
		extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim which is not part of the resolution plan.
9.	All other Lenders/Creditors shall also withdraw all proceedings/cases/suits/other litigation against Hail Tea Ltd/Director/Guarantor and issue No Dues Certificate.	In <i>Lalit Kumar Jain v Union of India & others</i> , ⁷ the Hon'ble Supreme Court held in para 125 that approval of a resolution plan does not <i>ipso facto</i> discharge a personal guarantor of her or his liabilities under the contract of guarantee, which arises out of an independent contract. However, in so far as the Corporate Debtor itself is concerned, the same is granted, since the object of the Code is to enable a fresh start for the Corporate Debtor. Further, the judgment

⁷ (2021) 9 SCC 321 : 2021 SCC OnLine SC 396

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH

In Re Resolution Plan of Hail Tea Limited
I.A. No. 290/KB of 2021 in CP (IB) No. 1911/KB/2019

Sl. No.	Relinquishment/Waiver of Liabilities	Orders thereon
		<p>of the Hon'ble Supreme Court in <i>Ghanashyam Mishra & Sons Pvt Ltd v Edelweiss Asset Reconstruction Company Ltd.</i>⁸ lays down that when the resolution plan is approved by NCLT, the claims as provided in the resolution plan shall stand frozen and will be binding on the corporate debtor, and its employees, members, creditors, including the central and state government or any local authority, guarantors and other stakeholders. On the date of approval of resolution plan by the Adjudicating Authority, all such claims which are not a part of resolution plan shall stand extinguished and no</p>

⁸ 2021 SCC OnLine SC 313 decided on 13.04.2021.

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH**

***In Re* Resolution Plan of Hail Tea Limited
I.A. No. 290/KB of 2021 in CP (IB) No. 1911/KB/2019**

Sl. No.	Relinquishment/Waiver of Liabilities	Orders thereon
		person will be entitled to initiate or continue any proceedings in respect to a claim which is not part of the resolution plan.

11. On perusal of the documents, we find that the Public Announcement made on 25.01.2020 was published only in one English newspaper and in no newspaper of regional language. While the law clearly requires publication to be done in newspapers of English as well as regional language, we hold that there is no need to stall the resolution plan for such a detail and allow the same.
12. At page 39 of the resolution Plan, the Resolution applicant has been stated to be “ineligible”, we understand and treat this as a typographical error and that the Resolution Applicant is otherwise eligible. However, the Resolution Applicant is requested to be more careful.
13. On hearing the submissions made by the Resolution Professional, and perusing the record, we find that the Resolution Plan has been approved with 100% voting share. As per the CoC, the plan meets the requirement of being viable and feasible for revival of the Corporate Debtor. By and large, all the compliances have been done by the RP and the Resolution Applicant for making the plan effective after approval by this Bench.
14. We are satisfied that the Resolution Plan is in accordance with sections 30 and 31 of the IBC and also complies with regulations 38 and 39 of the IBBI (Insolvency Resolution Process for Corporate Persons)

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH

In Re Resolution Plan of Hail Tea Limited
I.A. No. 290/KB of 2021 in CP (IB) No. 1911/KB/2019

- Regulations, 2016. No circumstances exist that militate against grant of approval for the Resolution Plan.
15. As far as the question of granting time to comply with the statutory obligations/seeking sanctions from governmental authorities is concerned, the Resolution Applicant is directed to do the same within one year as prescribed under section 31(4) of the Code.
 16. 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.
 17. Therefore, subject to the observations made in this Order, we hereby accord our approval to the Resolution Plan dated 03.11.2020 along with the revised Resolution Plan dated 10.09.2021 (pages 21-30). **The Resolution Plan shall form part of this Order.**
 18. 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.
 19. The moratorium imposed under section 14 shall cease to have effect from the date of this order.
 20. In case of non-compliance of this order or withdrawal of Resolution Plan, the CoC shall forfeit the Performance Security amount already paid by the Resolution Applicant.
 21. The Resolution Professional shall submit the records collected during the commencement of the proceedings to the Insolvency & Bankruptcy Board of India for their record and also return to the Resolution Applicant or New Promoters.
 22. 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.
 23. The Resolution Applicant shall have access to all the Corporate Debtor's records, documents, assets and premises with effect from the

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH**

***In Re* Resolution Plan of Hail Tea Limited
I.A. No. 290/KB of 2021 in CP (IB) No. 1911/KB/2019**

- date of this order, to finalize the further line of action required for starting the business operations of the Corporate Debtor.
24. Liberty is hereby granted for moving applications, if required, in connection with implementation of this Resolution Plan.
25. 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 in the master data.
26. **IA No. 290/KB/2021** along with **CP (IB) No. 1911/KB/2019** are disposed of accordingly.
27. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
28. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.
29. File to be consigned to the record.

**Balraj Joshi
Member (Technical)**

**Rajasekhar V.K.
Member (Judicial)**

03.01.2022

Suman M./GGRB LRA