

**NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH, CHANDIGARH**

IA (IBC) (PLAN) No. 20 of 2024
in
CP(IB) No.133/Chd/Chd/2022
(Admitted)

(An application under Sections 30(6) 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 and Rule 11 of the National Company Law Tribunal Rules, 2016)

Through:

Parminder Singh Bhullar
Resolution Professional
For Sarv Awas Housing Bhiwadi Private Limited

Office at:

E-10/313, Mangal Puri Gali,
Ghanupur Road, Khandwala,
Near Water Tank, Amritsar- 143104,
Punjab

.....Applicant

In the matter of CP(IB) No. 133/Chd/Chd/2022

(An application under section 9 of the Insolvency and Bankruptcy Code)

IN THE MATTER OF:

Manoj Kumar (Proprietor M/s Volunteer Associates)

...Petitioner/Operational Creditor

Vs.

Sarv Awas Housing Bhiwadi Private Limited

...Corporate Debtor

Order delivered on : 12.06.2026

**Coram: MR. KAUSHALENDRA KUMAR SINGH, MEMBER (TECHNICAL)
MR. KHETRABASI BISWAL, MEMBER (JUDICIAL)**

Present :-

For the Applicant : Mr. Atul V. Sood, Mr. Rohan Sood, Advocates along with Mr. Parminder Singh Bhullar, RP

For the SRA : Mr. Arora Vishwas Kumar, Advocate

ORDER

The present Application has been filed on 22.12.2024 by Mr. Parminder Singh Bhullar, Resolution Professional (hereinafter referred to as the **“RP”**) under Sections 30(6) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the **“Code”** or **“IBC”**), read with Regulation 39(4) Of the Insolvency And Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (hereinafter referred to as the **“CIRP Regulations”**) and Rule 11 of the National Company Law Tribunal Rules, 2016, for seeking approval of the Resolution Plan by Consortium of Sh. Rawal Ram and Sh. Sanjeev Chadha (hereinafter referred to as the **“Successful Resolution Applicant”** or **“SRA”**), in respect of Sarv Awas Housing Bhiwadi Private Limited (hereinafter referred to as the **“Corporate Debtor”**) which has been approved with a 100% voting share of the Committee of Creditors (hereinafter referred to as the **“CoC”**) in its 13th CoC meeting held on 24.11.2024.

FACTS

2. The averments made by the Applicant/Resolution professional in the present application and as argued by the Learned Counsel are summarized as under:

- (i) The Corporate Debtor is a private limited company that was incorporated on April 10th, 2013 with its registered office at C- 40 3rd Floor,

Vyapar Kendra, Palam Vihar Gurgaon, Haryana-122017. The Company was engaged in the business of Real Estate.

(ii) The Corporate debtor was admitted in the Corporate Insolvency Resolution Process (CIRP) on 15.09.2022. Mr. Parminder Singh Bhullar was appointed as the Interim Resolution Professional (hereinafter referred to as the “**IRP**”). In the first CoC meeting dated 14.10.2022, the Applicant herein was appointed to act as the RP.

(iii) The Constitution of the CoC (revised) and the voting share of the respective Members has been as under:

SI. No.	Particulars	Number of claims received from creditors (all categories)	Number of claims admitted
1.	Reconstitution of CoC as on 19.05.2023	237	226

SI. No.	Name of CoC Members	Voting Share (%)
1.	Financial Creditors in a Class (allottees)	100%
Total		100%

(iv) As against the total claim received at Rs. 27,31,68,253/-, the IRP had admitted the claim to the extent of Rs. 25,50,47,070/-

(v) Pursuant to publication of Form G for inviting of Expression of Interest (EOI) twice on 14.11.2022 and thereafter on 23.03.2023, no Resolution Plan was initially received. Consequently, the CoC in its 6th meeting held on 27.05.2023, resolved with 100% voting share to liquidate the Corporate Debtor and an application under Section 33(2) of the Code seeking liquidation was filed before this Adjudicating Authority.

Subsequently, interest was expressed by Mr. Rawal Ram in submitting a Resolution Plan for the Corporate Debtor. Accordingly, Form G was published for the third time on 09.08.2024, pursuant to which only one Resolution Plan was received from the Consortium of Rawal & Chadha. The RP examined the Resolution Plan in accordance with provisions of Section 30 of the Code and CIRP Regulations. Several meetings were conducted by the Authorised Representative (AR) with homebuyers to discuss the Resolution Plan submitted by the Successful Resolution Applicant. The only Resolution Plan submitted by the **Consortium of Rawal & Chadha** (Resolution Applicant) was approved by 100% in its 13th CoC meeting held on 24.11.2024.

(vi) The RP filed this Application on 22.12.2024 seeking approval of the Resolution Plan.

(vii) The prescribed period 180 days of the CIRP had ended as on 14.03.2023 and thereafter, the period has been extended vide order dated 28.02.2023, 07.08.2024 and 21.07.2025 and the extended period of the CIRP ended as on 22.12.2024.

(viii) The valuers arrived at Fair value and Liquidation value as under:

S. No.	Name of Valuer	Asset	Fair Value	Liquidation Value
1.	Pensar Valuation Private Limited	Land & Building	7,85,88,000	6,28,70,400
		Securities or Financial Assets	0	0
2.	Anil Kumar Saxena	Land & Building	8,45,51,364	7, 18,68,659
		Securities or Financial Assets	0	0

On that basis, the average of the Fair value and Liquidation value amounted to Rs. 8,15,69,682 and Rs. 6,73,69,529 respectively.

(ix) The Resolution Plan value amounts to Rs. 25,71,99,452/- and the SRA has proposed to pay the total amount to the Stakeholders within 90 days from the NCLT approval date.

(x) The Resolution Plan provides for the payment towards the CIRP cost of Rs. 2,01,11,656/- and to the various Stakeholders as given in the Table below:

Particulars	Amount of Claim Filed (Rs.)	Amount of Claim admitted (Rs.)	Amount provided under the Plan (Rs.)	Amount provided to the amount claimed %
CIRP cost	-	-	2,01,11,656	-
Secured Financial Creditors	-	-	-	-
Unsecured Financial Creditors (237 Homebuyers-Allo ttees)	23,67,23,352	22,72,57,901	22,72,57,901	96%
Other Homebuyers who paid Initial Token payment and filed their Claim but allotment letter/builder buyer agreement was not issued-54 Creditors	2,01,86,143	1,15,30,412	57,65,206	28.56%
Staff & Workmen	-	-	-	-
Operational Creditors (other than workmen and Employees and Government Dues)	1,62,58,757	1,62,58,757	40,64,689	24.99%
Total			25,71,99,452	

(xi) The RP has examined the Resolution Plan and the compliances required. For ready reference, the compliances examined by the RP are reproduced hereunder:

Section of the Code/Regulation No.	Requirement with respect to the Resolution Plan	Clause of the Resolution Plan	Compliance (Yes/No)
Section 25(2)(h)	Whether the Resolution Applicant meets the criteria approved by the CoC having regard to the complexity and scale of operations of business of the CD?	Net worth certificate submitted along with EOI Documents	Yes
Section 29A	Whether the resolution applicant is eligible to submit a Resolution Plan as per final list of RP or Order, if any, of the Adjudicating Authority?		Yes
Section 30(1)	Whether the resolution applicant has submitted an affidavit stating that it is eligible?	Clause i (b) of Section-2 at page no. 34 (Declaration u/s 29A of the Code) - RA submitted an affidavit stating its eligibility under section 29A along with EOI documents.	Yes
Section 30(2)	Whether the Resolution Plan- (a) Provides for the payment of Insolvency Resolution Process Cost?	Clause (ii) (a) of Section-2 at page no. 34	Yes
	(b) Provides for the payment to the operational creditors?	Clause (ii)(b) of Section-2 at page no. 35	Yes
	(c) Provides for the management of the affairs of the corporate debtor?	Clause (ii)(c) of Section-2 at page no. 35	Yes
	(d) Provides for the implementation and supervision of the Resolution Plan?	Clause (ii)(d) of Section-2 at page no. 35	Yes
	(f) Contravenes any of the	Clause (ii)(e) of	Yes

	provisions of the law for the time being in force? (g) Conforms to such other requirements as may be specified by the Board?	Section-2 at page no. Yes 35 Clause (ii)(f) of Section-2 at page no. 35	Yes
Section 30(4)	Whether the Resolution Plan (a) is feasible and viable, according to the CoC? (b) has been approved by the CoC with 66% voting share?	The CoC has approved Resolution Plan after satisfying its feasibility and Viability. The Resolution Plan has been approved by the CoC with 100% of voting share.	Yes Yes
Section 31(1)	Whether the Resolution Plan has provisions for its effective implementation plan, according to the CoC?	Clause (viii) at page no. 39-40	Yes
Regulation 38(1)	Whether the amount due to the operational creditors under the Resolution Plan has been given priority in payment over financial creditors?	Clause (f) at page no. 27-28	Yes
Regulation 38(1)(a)	Whether the Resolution Plan includes a statement as to how it has dealt with the interest of all stakeholders?	Clause iv (c) at page no. 37 and (x) at page no. 43	Yes
Regulation 38(1)(b)	(i) Whether the resolution applicant or any of its related parties has failed to implement or contribute to the failure of implementation of any Resolution Plan approved under the Code.	Clause iv (d) at page no. 37	Yes
Regulation 38(2)	Whether the Resolution Plan provides: (a) the term of the plan and its implementation schedule? (b) for the management and control of the business of the corporate	Clause v at page no. 37- 38 Clause vi at page no. 38	Yes

	debtor during its term? (c) adequate means for supervising its implementation?	Clause vii at page no. 39	
Regulation 38(3)	Whether the Resolution Plan demonstrates 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 of the same? (e) the resolution applicant has the capability to implement the Resolution Plan?	Clause ix at page no. 21 and (ix)(a) at page no. 41 Clause (ix) (b) at page no. 41 Clause viii at page no. 39-40 and Clause (ix) (c) at page no. 41 Clause (ix) (d) at page no. 41-42 Clause (ix) (e) at page no. 43	Yes
Regulation 39(2)	Whether the RP has filed application in respect of transactions observed, found or determined by him?	Application u/s 66 of IBC has been filed by the RP.	Yes
Regulation 39(4)	Provide details of performance security received as referred to in sub-regulation (4A) of Regulation 36B	The successful Resolution Applicant has complied by furnishing the required performance security of 75 Lacs in the form of Bank Guarantee in favour of the Corporate Debtor on 10.12.2024.	Yes

3. During the course of hearing on 14.07.2025, this Adjudicating Authority took note of the submission that the Corporate Debtor was engaged in a real-estate project involving construction of approximately 900 flats and that 237 claims had been admitted and considered under the Resolution Plan. The Plan proposes to complete the construction of the project and to deliver possession of the flats to the respective claimants, subject to payment of outstanding dues along with cost escalation of 30% in the original rates. Considering the nature of the project and the proposed treatment of stakeholders under the Resolution Plan, the Resolution Professional was directed to clarify whether the sales reflected in the books of accounts and other records exceeded the number of 237 claims included in the Resolution Plan. The Resolution Professional was further directed to place on record a brief note indicating the number of towers comprising the project, the total number of flats therein and the stage of completion of the project at the commencement of CIRP.

4. In compliance with the above order dated 14.07.2025, the RP filed an affidavit giving following details

(i) The status of Units sold and claims filed is tabulated as under:

S. No.	Description	No. of Units
1.	Units sold prior to CIRP date	571
Breakup of 571 units		
a.	Only Initial Token payment received in 2014-2015. No Application Form signed/payments made despite public notice in 2016 (Annexure-A). No allotment letter/builder buyer agreement. Claim filed*	54
b.	Only Initial Token payment received in 2014-2015. No Application Form signed/payments made despite public notice in 2016 (Annexure-A). No allotment letter/builder buyer agreement. No claim filed.**	248
c.	Surrendered units (refunded units, prior to	32

	CIRP)- 32 claims not filed.	
d.	Balance units $[1-(a+b+c)]$	237
2.	Claims filed by Home Buyers (with allotment letters and builder buyers agreement)	237

**These have been included in the category of "other creditors".*

***As per clarification issued by RA, even if claim is filed after the approval of Resolution Plan by the CoC, it will pay an amount equal to 5% of the claim amount (Annexure -B). This clarification was circulated to CoC along with Resolution Plan. The treatment has been recorded in Minutes of 13th CoC Meeting held on 24.11.2024 (Relevant at Vol. 2, page 286, para i), page 287 para vii). Hence, treatment has been provided even to those who have not filed their claim.*

- (ii) 5 towers were proposed under the project and only 1% of the work was completed at the time of initiation of CIRP. Accordingly, no flats have been constructed or used.

5. During the course of hearing on 21.07.2025, this Adjudicating Authority considered the compliance affidavit filed by the Resolution Professional pursuant to the earlier directions of the Bench. From the material placed on record, it was noted that out of 900 units in the project, 571 units had been sold prior to commencement of CIRP, whereas claims had been filed by only 237 allottees in whose favour allotments had been made and/or Builder Buyer Agreements had been executed. It was further noticed that 54 persons, from whom only token amounts had been received without execution of any application form, allotment letter or Builder Buyer Agreement, had filed claims and were treated under the Resolution Plan as "Other Creditors". The Bench also took note of the existence of another 248 similarly situated persons who had paid token amounts but had not filed claims during the CIRP. In these circumstances, the Resolution Professional was directed to explain the differential treatment proposed under the Resolution Plan and to place on record the details of such persons. In compliance of the above, the RP filed an affidavit stating the following:

(i) The referred 54 Creditors (who have filed their claims) and 248 Creditors (who have not filed their claims) are those creditors who have paid only a token amount for Advance Registration and no application forms, allotment letters or Builder Buyer Agreements had ever been executed in their favour .

(ii) A public notice was also issued by the Corporate Debtor in 2016, which was published in Rajasthan Patrika Newspaper, prior to admission into CIRP, whereby it was notified that all applicants were to regularize their accounts by 30.06.2016, failing which it will amount to discontinuation.

(iii) As per Section 5(8)(f) of the Code, in order to qualify as creditor in a class-homebuyer under a real estate project, a person has to be an "allottee" within the meaning of Section 2(d) of Real Estate (Regulation and Development) Act, 2016 ("RERA").

(iv) In absence of any allotment in operation, the category of 54 and 248 are not homebuyers/unsecured, Financial creditors and have been kept in the category of "other creditors".

(v) The Resolution Professional also placed on record a list of the aforesaid 248 persons and stated that the Successful Resolution Applicant, by way of an affidavit-cum-undertaking dated 31.07.2025, had agreed to extend to such 248 persons the same treatment as proposed for the 54 similarly situated creditors under the Resolution Plan.

6. The Bench also observed that there had been a change in the consortium of the Successful Resolution Applicant and directed the RP to clarify whether such a change was permissible post-publication of the final list of PRAs. The RP submitted that the Resolution Plan was submitted by 'Consortium of Rawal and Chadha' wherein the consortium member Mr. Rawal Ram was replaced by his nephew, Mr. Prem Khileri, a related party and as such the Consortium is the same.

7. During the hearing, it was noted that the Income Tax Department(ITD) has filed a claim of Rs. 4.19 crore. The RP submitted that the claim was filed belatedly on 24.04.2025, much after CoC approval was made on 24.11.2024. The RP submits that such belated claims cannot be entertained as they would derail the CIRP, prejudice the stakeholders, and jeopardize the viability of the Resolution Plan. The RP also clarified that in response to his query dated 07.11.2024 regarding the treatment of statutory claims, the SRA had proposed to pay 5% of the amount, if any such claim is received before approval of the Resolution Plan by the Adjudicating Authority.

8. During the course of hearing on 01.08.2025, this Adjudicating Authority considered the compliance affidavit filed by the Resolution Professional pursuant to the earlier directions of the Bench. It was brought to the notice of this Adjudicating Authority that the Successful Resolution Applicant had, by way of an affidavit, proposed to extend the same treatment to the 248 persons who had merely paid booking amounts and had not filed claims during the CIRP as was proposed for the 54 creditors who had filed claims. It was further submitted on behalf of the Income Tax Department that, although its claim had been filed belatedly, the underlying demand had been communicated to the Resolution Professional during the CIRP and had also been referred to in proceedings concerning revival of the struck-off Corporate Debtor. Upon consideration of the submissions and material placed on record, this Adjudicating Authority observed that the Resolution Professional had advised the Income Tax Department to file its claim in the prescribed form, however the same had not been done and the claim came to be filed only after approval of the Resolution Plan by the Committee of Creditors. Nevertheless, considering the proposals placed through the respective affidavits, this Adjudicating Authority directed that suitable provisions be incorporated in the Resolution Plan by way of an addendum and be placed before the Committee of Creditors for consideration

and approval and thereafter before this Adjudicating Authority for further consideration.

9. While the discipline of timelines under the CIRP process cannot be compromised by indiscriminate admission of delayed claims, statutory authorities nevertheless remain stakeholders under the Code and their dues, when brought to the notice of the RP during CIRP, require due consideration.

10. As a result thereof, the RP filed an affidavit placing on record stating that the Resolution Applicant submitted an Addendum to the Resolution Plan on 07.08.2025. The addendum was proposed in order to address the concerns noted by this Adjudicating Authority regarding the treatment of statutory dues intimated by the Income Tax Department during the CIRP as well as the treatment of 248 creditors who had paid token amounts towards advance registration of units but had not filed claims during the CIRP. Under the addendum, a provision was made towards the claim of the Income Tax Department and the aforesaid category of 248 persons was also granted treatment at par with the category of 54 admitted "other creditors". The addendum was thereafter placed before the Committee of Creditors in its meeting held on 11.08.2025. After discussion, the matter was put to voting, which was concluded on 16.08.2025 and the same was approved with 100% voting in favour. The RP annexed the Addendum to the Resolution Plan approved by the CoC, and the Amended/Revised Form H dated 20.08.2025.

11. As per the Addendum to the Resolution Plan submitted by the Successful Resolution Applicant and approved by the Committee of Creditors, provision has been made for payment of 5% of the claim amount towards the dues of the Income Tax Department. Further, the 54 admitted "Other Creditors", comprising persons who had paid token amounts towards advance registration of units, have been

proposed to be paid 50% of their admitted claims. The Addendum further extends similar treatment to 248 persons who had paid token amounts towards advance registration of units but had not filed claims during the CIRP, by providing payment of 50% of the principal amount reflected in the records of the Corporate Debtor and treating them at par with the aforesaid category of Other Creditors. Consequently, an additional amount of Rs. 20,98,078/- has been earmarked towards the claim of the Income Tax Department as against their claim of Rs. 4.19 crore and a further amount of Rs. 2,43,18,916/- has been provided towards the aforesaid category of 248 creditors as against aggregate amount received from the said 248 persons, as reflected in the records of the Corporate Debtor, which is Rs. 4,86,37,832/- . Resultantly, the total financial outlay under the Resolution Plan stood enhanced from Rs. 16,94,93,384/- (including CIRP costs of Rs. 2,01,11,656/-) to Rs. 19,60,65,376.75/-. The financial outlay as mentioned in the addendum to the Resolution plan and Fresh Form H filed with previous and enhanced proposals is shown in the table given below.

Stakeholder	Admitted Claim (Rs.)	Amount Admitted (Rs.)	Previous Proposal (Rs.)	Enhanced Proposal (Rs.)
CIRP cost	-	-	2,01,11,656	2,01,11,656
Secured Financial Creditors	Nil	Nil	Nil	Nil
Unsecured Financial Creditors in a class (237 Homebuyers-Allottees)	23,67,23,352	22,72,57,901	22,72,57,901	22,72,57,901*
Other Homebuyers (54 Advance Registration Holders/Token Payment Creditors) who filed claim	2,01,86,144	1,18,40,412	57,65,206	59,20,206
Other homebuyers (248 Advance Registration Holders who did not file claims)	-	4,86,37,832	Nil	2,43,18,916
Operational Creditors-Workmen and Employees	Nil	Nil	Nil	Nil

Operational Creditors (Other than workmen, employees and Statutory dues)	1,62,58,757	1,62,58,757	40,64,689	40,64,689
Government Dues-Income Tax	-	4,19,61,567	Nil	20,98,078
Total			25,71,99,452	28,37,71,446

Note:

*The SRA has proposed to provide completed flats to each claimant. However, in case one requires a refund then only the principal amount is provided in the plan. If each and every claimant seeks refund, then the amount payable would be Rs. 13,95,51,832.

-That after the date of approval of the Plan by the Adjudicating Authority, for any claim which may be filed within 3 months of such date, a provision for payment of 5% of such claim is made if the claim is reflected and verifiable from the records of the Corporate Debtor.

-For any creditor of the Corporate Debtor whether classified as an "Other Creditor" or not holding an order, decree, or judgment passed by the Real Estate Regulatory Authority (RERA) in his/her favour. the Resolution Applicant undertakes to pay such creditor on the same terms and conditions as are being provided to the allottees under the Resolution Plan, including the same payment timelines as applicable to the Unsecured Financial Creditors in a class (allottees) under Clause 4(ii)(h) of the Resolution Plan read with Addendum

12. It is pertinent to note that during the course of consideration of the Resolution Plan this Adjudicating Authority vide order dated 26.11.2025 observed that, the valuation reports placed on record reveal that the valuers have considered only a limited number of unsold units while assessing the Fair Market Value and Liquidation Value of the assets of the Corporate Debtor. As per the material available on record, the project comprised a substantially larger number of residential units, however, the valuation exercise was confined only to certain units shown as unsold on the basis of information furnished by the Resolution Professional. It has further emerged during the course of proceedings that several units, though initially treated as sold/booked, were not backed by allotment letters or Builder Buyer Agreements and only token amounts had been received in respect thereof. Consequently, the actual inventory of unsold units appears to be considerably higher than what was taken into account by the registered valuers.

13. In these circumstances, this Adjudicating Authority found that the valuation reports did not capture the complete asset base of the Corporate Debtor and, therefore, fresh valuation of the entire project/assets was directed to be undertaken so as to ensure compliance with the provisions of the Code and to arrive at a proper determination of the liquidation value and fair market value. It was also observed that while examining compliance under Section 30(2)(b) of the Code, the Resolution Professional was required to take into consideration the dues of statutory authorities, including the Income Tax Department, where such claims/intimations had been made available during the CIRP period, irrespective of delay in filing the claim in prescribed format.

14. Pursuant to the directions issued by this Adjudicating Authority vide order dated 26.11.2025, the Resolution Professional filed a compliance affidavit stating that fresh valuation of the entire assets of the Corporate Debtor was undertaken after approval of the Committee of Creditors in its 21st meeting held on 06.12.2025. In terms thereof, two new registered valuers, namely M/s Bizxpert Valuation Services Private Limited and M/s Axiology Valuetech Private Limited, were appointed to conduct valuation of the entire assets of the Corporate Debtor.

15. The fresh valuation exercise assessed the average **Fair Market Value at Rs. 21,02,24,968/-** and the average **Liquidation Value at Rs. 15,27,41,925/-**. The CoC, in its subsequent meeting, noted that the Resolution Plan value remained higher than the revised liquidation value. The compliance was placed on record with a fresh valuation report filed as Annexure A-3 with the Application and a chart illustrating compliance of Section 30(2) was also placed on record as Annexure A-5 with the Application.

16. It was observed that, by way of an addendum to the Resolution Plan dated 08.04.2026, provision was made for those allottees holding decrees issued by RERA, with a stipulation that such decree-holders shall be treated at par with the other claimant-allottees i.e. Homebuyers. In the 24th CoC meeting, RP placed the Addendum dated 08.04.2026 before CoC; after

deliberations, CoC unanimously resolved (100% voting in favour) to approve the new Addendum and to treat it as an integral part of the Resolution Plan dated 15.10.2024.

17. In the backdrop of aforesaid facts and the addendums, before considering the Resolution Plan for approval, we consider it appropriate to list the salient features and proposals as made by the SRA through the Resolution Plan:

- i. The Resolution Plan provides for payment of the CIRP cost of Rs. 2,01,11,656/- to be paid within 30 days from the effective date.
- ii. The tenure of the Resolution Plan shall be 36 months from the Approval date.
- iii. RA proposes to complete the project and get registered the sold and unregistered units of the allottees and to refund the amount of allottees who are not interested in getting their units registered in the initiated part of the project. Further the non-initiated part of the project shall be reviewed considering the current scenario of the market in the locality to redesign and to get it approved from the concerned authorities.
- iv. As on Insolvency Commencement Date, the admitted claims of Secured Financial Creditors are NIL. The Resolution Applicant proposes to pay nothing under this category.
- v. As per the details given in the Resolution Plan, 237 homebuyers had submitted their claim. The Total admitted claims of unsecured financial creditors in a class are of Rs 22,72,57,901.10 which comprises of Principal amount Rs. 13,95,51,831.75 and interest @8% Rs. 8,77,06,069.37 as per regulation 16A. The RA has proposed handing over to the creditors in class of the allotted units after completion of the construction of the project, if opted for possession on payment of 30% escalation cost on BSP (Basic sale price); or also to settle their claim by refunding the principal amount, if possession not required/taken.

vi. As per the addendum filed by the RP, the total admitted claims of Other Creditors i.e. 54 homebuyers who had paid token advance amounts but do not qualify as “allottees” under the RERA amount to Rs. 1,15,30,412/-.

vii. The Resolution Plan provides for payment of 50% of their admitted claims, i.e., Rs. 57,65,206/-. In addition, there are 248 similarly placed persons who had also paid token advance amounts but did not file claims during CIRP. The Resolution Applicant proposes to treat them at par with the above category and pay 50% of the amount recorded in the books of the Corporate Debtor. Upon such payment, all rights, claims, interests and proceedings of these creditors shall stand fully and finally extinguished, and no further liability shall survive against the Corporate Debtor or the Resolution Applicant for any period prior to the Effective Date.

viii. In case any allottee fails to apply for the refund within three months from the effective date as mentioned above then that allottee shall only be eligible to take possession of the units as per clause h (i) by paying balance principal amount due along with escalation of 30%. However, in case, the allottee fails to apply for refund within period of 3 months and also even fails to take possession of the unit within 42 Months from Effective Date or fails to pay the due amount along with the escalation of 30% within 42 months from Effective Date, in such scenario the RA shall have right to forfeit moneys paid by allottee and cancel the unit allotted to such allottee.

ix. Payment to Other Operational Creditors (Government Dues)- With respect to statutory/government dues, it is noted that no claims have been admitted by the Resolution Professional. The Resolution Plan, however, provides that any claims or demands made by any Government Authority pertaining to the period prior to the Effective Date shall stand finally settled upon payment of 5% of the total amount claimed before approval of the

Plan. Upon such payment, all corresponding liabilities, including tax, interest, penalties and any related proceedings (whether pending or future) shall stand waived, discharged and extinguished, and no further claims shall lie against the Corporate Debtor or the Resolution Applicant in respect thereof. As regards Income Tax dues, however, the RA has proposed to pay Rs. 20,98,078 on the claim of Rs. 4,19,61,567.

x. As per the Information Memorandum, the admitted claims of the Operational Creditors (other than Workmen & Employee Payment and Statutory Dues) are Rs. 1,62,58,757.00. RA proposes to pay 25% of their admitted claims which amounts to Rs 40,64,689 Within Three Months from the Effective date.

xi. Treatment of Unclaimed liabilities-The Resolution Plan further provides that any claim filed within three months from the date of approval of the Plan, and verifiable from the records of the Corporate Debtor, shall be settled at 5% of such claim amount. All other claims, interests, rights and liabilities not so submitted or verifiable shall stand fully and finally waived, discharged and extinguished, and no further liability shall remain upon the Corporate Debtor or the Resolution Applicant in respect thereof.

xii. The Resolution Applicant (RA) has divided the project into two parts — (i) Initiated & Sold and (ii) Non-Initiated & Unsold — and proposed distinct treatment for each category as under:

a. Initiated & Sold Part-The RA proposes to complete the initiated portion of the project within 42 months from the Effective Date, including 9 months for obtaining statutory approvals (from Urban Development Trust/RERA/Pollution Control Board, etc.) and 3 months for completion and occupation certificates. Allottees shall pay an escalation of 30% of the Basic Sale Price (BSP) as mentioned in their buyer-developer agreements or allotment letters. Any pending principal amount, including escalation, must be paid within 120

days from the Effective Date. Possession shall be offered after receipt of completion and occupation certificates, which shall be deemed the Implementation Date of the Resolution Plan. A one-year window will remain open for registration of flats after issuance of offer letters. All registration expenses shall be borne by the allottees. The RA will charge ₹50,000 per unit for any further transfer of the unit by an allottee.

b. Refund Option to Allottees: Allottees opting for refund shall be paid the principal amount only, without interest, damages, assured returns, or pre-EMI/award amounts. Refund applications must be made within three months from the Effective Date with requisite documents (allotment letter, receipts, BBA/agreement to sell, KYC, NOC from lender, etc.). Upon submission of a refund application, the allottee's rights over the unit shall stand extinguished, and the RA shall be free to deal with the unit. Refunds shall be processed within one month of application and paid in three equal installments — at 60, 90, and 120 days, respectively. The SRA in its plan vide an addendum filed through an affidavit has stated that In case any allottee fails to apply for the refund within three months from the effective date as mentioned above then that allottee shall be eligible to take the possession of the units as per clause h (i) by paying principal amount due along with the escalation of 30%.

c. Non-Initiated & Unsold Part-The RA shall have complete discretion over all unsold units, including the right to sell or otherwise deal with them without any liability. The non-initiated portion will also be completed within 42 months from the Effective Date, with the same timeline for statutory approvals and occupation certificates. Offer of possession and registration window shall follow the same terms as for the initiated portion. Registration expenses and ₹50,000 per-unit transfer charges shall similarly apply. In

accordance with Section 14 of RERA, 2016, any alterations or additions to the sanctioned layout or building plans shall be deemed approved by all existing allottees upon approval of this Resolution Plan. In case of delay in obtaining requisite approvals beyond 9 months, the RA may seek extension of implementation period from the Adjudicating Authority. The implementation of the Resolution Plan shall be deemed complete on the last date of offer of possession issued by the RA

xiii. Besides seeking approval of the Resolution Plan submitted by the SRA, the Applicant has also prayed in Part D of the Resolution Plan for the grant of reliefs, waivers, and concessions to the Resolution Applicant.

ANALYSIS AND FINDINGS

18. We have heard the Learned Counsel for the RP and have carefully pursued all the pleadings placed on the records. It is noted that the CoC approved the Resolution Plan of the Consortium of Sh. Rawal Ram and Sh. Sanjeev Chadha by 100% votes and as such it is not necessary for us to go into details of the commercial wisdom of CoC. We proceed to examine the plan in light of provisions contained in sections 30(2) and 31 of the Code r.w. Regulation 38 of the IBBI (CIRP of the Corporate Debtor) Regulations, 2016. The resolution professional has produced on record the compliance certificate in Form-H. The revised fair value of the assets of the corporate debtor is **at Rs. 21,02,24,968/-** whereas, the liquidation value of the corporate debtor is **Rs. 15,27,41,925/-**. The plan value as proposed by the successful resolution applicant is **Rs 28,37,71,446**. The Successful Resolution Applicant has submitted an affidavit of eligibility under section 29A of the Code as per Annexure A-23.

19. In order to obtain the approval of the Adjudicating Authority, the Resolution Plan should adhere to the following requirements as per section 30(2) of the Code and Regulation 38 of the CIRP Regulations thereunder::

i. It should provide for the payment of corporate insolvency resolution process costs in priority to the repayment of other debts of the corporate debtor.

[Section 30(2)(a)]

ii. The repayment of the debts of operational creditors should not be less than the amount to be paid to such creditors in the event of liquidation of the corporate debtor under section 53 of the Code, or the amount that would have been paid to the said creditors if the amount to be distributed under the Resolution Plan had been distributed in accordance of section 53(1) of the Code.

Moreover, the payment to the operational creditor is to be made in priority over the financial creditor;

Further, the repayment of the debts of dissenting financial creditors should not be less than the amount that would have been paid to such creditors in the event of liquidation of the corporate debtor under section 53 of the Code and the payment to said dissenting financial creditor is to be made in priority to the consenting financial creditors.

[Section 30(2)(b) read with CIRP Regulation 38(1)(a) & 38(1)(b)];

iii. Provides for the management of the affairs of the corporate debtor after approval of the Resolution Plan.

[Section 30(2)(c) read with CIRP Regulation 38(2)(b)];

iv. The implementation and supervision of the Resolution Plan.

[Section 30(2)(d) read with CIRP Regulation 38(2)(c)]

v. It does not contravene any of the provisions of the law for the time being in force.

vi. It conforms to such other requirements as may be specified by the Board.

[Section 30(2)(f)]

Such other requirements of the Resolution Plan as detailed in IBBI (Resolution Process for Corporate Person) Regulations, 2016 which are not covered above, are as under:

- a. The Resolution Plan should include a statement as to how it has dealt with the interest of all stakeholders including financial creditors and operational creditors of the corporate debtor.

[CIRP Regulation 38 (1A)]

- b. The Resolution Plan should include a statement giving details as to whether the resolution applicant or any of its related parties has at any time failed to implement or caused the failure of implementation of any other Resolution Plan which was approved by the Adjudicating Authority.

[CIRP Regulation 38 (1B)]

- c. The Resolution Plan should contain the term of the plan and its implementation schedule.

[CIRP Regulation 38(2)(a)]

- d. The Resolution Plan should also demonstrate that it addresses the cause of default; is feasible and viable; has provisions for its effective implementation; has provisions for approval required and timeline for the same. Further, that the resolution applicant has the capability to implement the Resolution Plan.

20. In view of the above provisions of the Code, the Resolution Plan submitted before us has been examined as follows:

i. As per the information provided by the RP, the unpaid CIRP cost as of September 30, 2024, is Rs.1,25,26,000/- approx. The current estimated expenses of the process for the next 6 months shall be Rs. 3,00,000/- per month. In addition to these expenses there is a possibility of incurring some other expenses such as legal expenses, compliance related expenses and fee of Authorised Representative of Creditors in a class etc., until the Resolution Plan is approved by the NCLT. The RP has availed an Interim Finance which is shown as outstanding to the tune of Rs. 57,85,656.00 as per unaudited balance sheet for the FY 2023-24. The Resolution Applicant proposes to pay 100% of the unpaid CIRP costs in priority to the repayment of any other claims on actual basis. The RP shall provide a certified statement of the CIRP costs as on the date of effective date. If the unpaid CIRP amount exceeds as mentioned above then the increased amount shall be paid additionally from own sources by RA. Payment term is within 30 days from the effective date. In view thereof, provisions of section 30(2)(a) are complied with.

ii. There are no dissenting financial creditors. It is also noted that as against the total admitted dues of Operational Creditor (other than workmen and Employees and Government Dues), out of the admitted claim of Rs. 1,62,58,757 only an amount of 40,64,689 have been provided under the plan which is 25% of their admitted claims. No claims have been received from employees or workmen. As provided under Section 30(2)(b) the repayment of the debts of operational creditors should not be less than the amount to be paid to such creditors in the event of liquidation of the corporate debtor under section 53 of the Code, or the amount that would have been paid to the said creditors if the amount to be distributed under

the Resolution Plan had been distributed in accordance of section 53(1) of the Code. In the present case, the Liquidation Value of the Corporate Debtor is Rs. 15,27,41,925/- as on the date of initiation of the CIRP of the Corporate Debtor and the Resolution Plan value is **Rs 28,37,71,446**. The admitted claim of unsecured financial creditors in a class (Homebuyers) amounts to Rs. 22,72,57,901/- and to other homebuyers (who paid Initial Token payment and filed their Claim but allotment letter/builder buyer agreement was not issued) amounts to Rs. 6,04,78,244 totalling to Rs. 28,77,36,145. As such if the liquidation value or the plan value was to be considered for distribution in accordance with the priority given in section 53, then nothing would have remained for the Operational Creditor. SRA proposes to pay 25% of the admitted amount to operational creditors, and 5% towards income tax dues. It has also been stated that if some additional liability arises due to the compliance of section 30(2)(b) then such additional liability shall be borne by the SRA over and above the proposed amount in this plan.

In view thereof, provisions of section 30(2)(b) of the code read with the CIRP Regulation 38(1)(a) & 38(1)(b) are complied with.

iii. As per the Resolution Plan, after the Effective Date, the Corporate Debtor shall be managed by a reconstituted board according to the provisions of the Companies Act. The Directors on the reconstituted board shall be appointed within 30 days from the Effective Date, without any additional approval from the shareholders. Thereby, section the provisions of Section 30(2)(c) r.w. CIRP Regulations 38(2)(b) has been complied in the plan.

iv. This Resolution Plan provides for the constitution of a Monitoring committee for the implementation and supervision of the Resolution Plan. The appointment shall be at the mutually agreed terms and with approval of CoC Members for the period with effect from the Date of Approval of

Resolution Plan by the NCLT. The monitoring committee as proposed by the Resolution Applicant in the Resolution Plan shall consist of three members consisting of Resolution professional; one representative of the Resolution Applicant and one representative of the CoC. Further, in compliance with Regulation 38(2)(d), the Plan clarifies that any proceedings relating to avoidable transactions under Chapter III, or fraudulent/wrongful trading under Chapter VI of the Code, shall be pursued by the Monitoring Committee on behalf of the Corporate Debtor, and any recoveries therefrom shall be distributed in accordance with Section 53 of the Code. The Resolution Applicant shall not independently pursue such proceedings. Thereby, section the provisions of Section 30(2)(d) r.w. with CIRP Regulation 38(2)(c) has been complied in the plan.

v. The RP has submitted that the plan does not contravene any provisions of law. We also noted that the plan does not contravene any provisions of the law for the time being in force. Thereby, section 30(2)(e) has been complied with.

vi. The Resolution Plan also confirms to other IBBI Regulations as given hereunder:

a. The Resolution Applicant confirms that it has considered interests of all stakeholders and has provided for payment/ repayment/ settlement of all stakeholders keeping in view the objective of the Company as a going concern, maximization of value and adhering to the requirements set out under the Code. The Resolution Plan adequately deals with the interest of all stakeholders, including financial creditors and operational creditors of the corporate debtor. Thereby, the plan is in compliance with CIRP Regulation 38(1A).

b. It is submitted that the Resolution Applicant hereby confirms that neither the Resolution Applicant nor any of its related parties

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. Thereby, the plan is in compliance with CIRP Regulation 38(1B).

c. The term of the Resolution Plan and its implementation schedule is given in Part C Section 2 Clause (v), Page 37-38 of the Resolution plan reproduced below

Sr. No.	Activity	Timeline
Post Approval Process and Settlement of Creditor		
1.	Effective Date	Approval Date +30 days
2.	Payment of CIRP Costs as per clause I of financial proposal	X+30 days
3.	Payment to Unsecured Financial Creditors- upfront amount as per Clause III of financial proposal	As per clause treatment of allottees
4.	Payment to Operational Creditors (other than workmen dues, employees' dues and government dues) as per Clause VII of financial proposal	X+ 90 days
5.	Other creditors	X+ 90 days

Thereby, CIRP Regulation 38(2)(a) has been complied with.

d. The Resolution Plan addresses the cause of default; is feasible and viable; has provisions for its effective implementation; contains provisions for approval required and the timeline for the same. Further, that the resolution applicant has the capability to implement the Resolution Plan. Thus, CIRP Regulation 38(3) has been complied with.

21. The Resolution Applicants possess experience in real estate, trading and allied commercial sectors and have demonstrated financial capability through their disclosed net worth and funding arrangements.

22. The source of fund for the total Infusion shall be from owned sources and internal accruals.

23. The Resolution Applicant has sought various reliefs, waivers, concessions and directions in the Resolution Plan at Part D Section 1 Clause xii in relation to, inter alia, (i) transfer and vesting of the assets, properties, records and business of the Corporate Debtor; (ii) continuation and restoration of utility services; (iii) extinguishment of claims, demands, penalties, interest, prosecutions and liabilities pertaining to the period prior to the Effective Date; (iv) treatment of direct and indirect tax liabilities, carry forward and set-off of losses and pending proceedings; (v) statutory and regulatory compliances under applicable laws; and (vi) such other approvals, permissions, exemptions and concessions as may be necessary for effective implementation of the Resolution Plan etc. We have considered the prayers so made as regards to Relief and Waivers as sought for and stated in Part D of the Resolution Plan. We have also considered the treatment proposed under the Resolution Plan in respect of claims not forming part of the Resolution Plan and liabilities pertaining to the period prior to the Effective Date.

24. As far as reliefs and concessions claimed by the resolution applicant with respect to the unpaid liabilities after the approval of the plan and the claims not filed at all with the RP during the CIRP, shall get extinguished. Reliance is also placed on the judgement of the Hon'ble Supreme Court in the case of **Ghanshyam Mishra and Sons Private Limited Vs. Edelweiss Asset Reconstruction Company Limited and Ors. Reported in MANU/SC/0273/2021** in the following words:

86. *“.....The legislative intent behind this is, to freeze all the claims so that the resolution applicant starts on a clean slate and is not flung with any surprise claims. If that is permitted, the very calculations on the basis of which the resolution applicant submits its plans, would go haywire and the plan would be unworkable.*

87. *We have no hesitation to say, that the word "other stakeholders" would squarely cover the Central Government, any State Government or any local authorities. The legislature, noticing that on account of obvious omission, certain tax authorities were not abiding by the mandate of I&B Code and continuing with the proceedings, has brought out the 2019 amendment so as to cure the said mischief.....”*

In view of the above, all unpaid liabilities and those which are not included in the said Resolution Plan would stand extinguished.

24.1 After the corporate debtor is taken over by the new management, no inquiry, investigation, litigation etc. will be made against the taken over company in relation to the period prior to the CIRP.

24.2 As regards allowing carryforward losses, it is to be noted that following the process of the CIRP and on extinguishment of the unpaid liabilities, the financial accounts are to be recasted by providing suitable accounting entries whereby the extinguished liabilities, together with the extinguished share capital of the previous management, would get converted into the Capital/General Reserve, and as such, the accumulated losses, if any, will have to be, first of all, set off against such a reserve. For the balance amount, if any, the SRA can approach the Income Tax Authorities.

24.3 As regards other reliefs and concessions sought by the resolution applicant, we direct the said successful resolution applicant to approach the concerned statutory authorities for those concessions and those authorities will consider the same as per the provisions of law under the relevant Acts keeping in view the intent and object of the IBC.

24.4 The relief which is not specifically provided should not be treated as being allowed. Even if no reliefs or concessions are granted by the authorities concerned then also SRA is bound to implement the Resolution Plan effectively without taking shelter of refusal by authorities concerned by non-implementation of the plan.

CONCLUSION

25. In the view of the above discussion, this Adjudicating Authority is satisfied that the Resolution Plan has provisions for its effective implementation. Hence, we being satisfied, hereby accord our approval on the Resolution Plan along with its addendum as approved and recommended by the CoC and submitted by Mr. Parminder Singh Bhullar, RP for the corporate debtor with the following directions:

i. The Resolution Plan shall be binding on the Corporate Debtor, its employees, members, creditors, including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force is due, guarantors and other stakeholders involved in the Resolution Plan.

ii. The approved 'Resolution Plan' shall become effective from the date of passing of this order.

iii. The Order of moratorium dated 15.09.2022 passed by this Adjudicating Authority under section 14 of the IBC, 2016 shall cease to have effect from the date of passing of this Order.

iv. The Resolution Professional shall forthwith send a copy of this Order to the participants and the Resolution Applicant(s).

v. The Monitoring Committee will ensure that all those Homebuyers who have decree from RERA are included and considered at par with the Unsecured Financial Creditors in a class/allottees. The Monitoring Committee will also ensure that each of the 248 homebuyers who had deposited the token money for booking of the flat but did not file the claim

are paid 50% of their deposited money in terms of the Resolution Plan. A report in this regard should also be filed by the Monitoring Committee.

vi. The Resolution Professional shall forward all records relating to the conduct of the Corporate Insolvency Resolution Process and Resolution Plan to the Insolvency and Bankruptcy Board of India to be recorded in its database.

26. As a result, the Application bearing **IA(IBC)(PLAN)20/2024 stands allowed.**

Sd/-

Sd/-

(Khetrabasi Biswal)
Member (Judicial)

(Kaushalendra Kumar Singh)
Member (Technical)

Reet