



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

**IA (IBC) (PLAN) No. 14 of 2024  
in  
CP(IB) No.107/Chd/Chd/2020  
(Admitted)**

(An application under Sections 30 (6) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of The National Company Law Tribunal Rules, 2016)

**Through:**

**Mr. Rajiv Khurana**  
**Resolution Professional For M/S Gilco Exports Ltd.**  
Office at:  
House No. 1299, Sector 15B,  
Chandigarh – 160015

.....Applicant

**In the matter of CP(IB) No. 107/Chd/Chd/2020**

(An application under section 7 of the Insolvency & Bankruptcy Code)

**IN THE MATTER OF:**

UCO BANK

...Petitioner/Financial Creditor

vs.

M/S GILCO EXPORTS LTD.

...Corporate Debtor

**Order delivered on : 11.07.2025**

**Coram: MR. HARNAM SINGH THAKUR, MEMBER (JUDICIAL)  
MR. KAUSHALENDRA KUMAR SINGH, MEMBER (TECHNICAL)**

**Present :-**

**For the Applicant :** Mr. Viren Sharma, Mr. Yash Srivastava,  
Advocates, with Mr. Rajiv Khurana, RP in person  
through video-conferencing mode

**ORDER**

1. The present application has been filed on 21.10.2024 by Mr. Rajiv Khurana, 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 Rule 11 of The National Company Law Tribunal Rules, 2016 and the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (hereinafter referred to as the **“CIRP Regulations”**), seeking approval of the resolution plan of Mr. Pardeep Singh Kahlon (hereinafter referred to as the **“Successful Resolution Applicant”** or **“SRA”** or **“RA”**), dated 15.06.2024 (as revised after initiations) in respect of **Gilco Exports Ltd.** (hereinafter referred to as the **“Corporate Debtor”**) which was approved with a 71.61% voting share of the Committee of Creditors (hereinafter referred to as the **“COC”**) in its 14th meeting, which was held on 04.10.2024.

2. The corporate debtor is an unlisted Company and is classified as ‘company limited by shares’ and incorporated on 28.03.1988. The corporate debtor was in the business of steel fabrication till 2005. Thereafter it entered into the business of manufacturing airport passenger baggage trolleys, airport terminal chairs and baggage handling systems. The dues owed by the Corporate Debtor to the secured



Financial Creditors arose from the guarantee given by the Corporate Debtor to the loan availed by principal borrower namely M/s Gilco Steels Limited.

3. 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 was admitted in the Corporate Insolvency Resolution Process (CIRP) on 13.10.2023. Mr. Rajiv Khurana was appointed as the Interim Resolution Professional (hereinafter referred to as the “**IRP**”).
- ii. The IRP published Form A dated 16.10.2023 inviting claims from the stakeholders of the Corporate Debtor in Indian Express (English) and Tribune (Hindi) and Punjabi Tribune (Punjabi) newspapers on 17.10.2023.
- iii. Pursuant to the above, the IRP received claims from two financial creditors namely UCO Bank and Central Bank of India. The IRP constituted the Committee of Creditors (“CoC”) with two financial creditors. The voting share of the respective CoC members is as under:

<b>SI. No.</b>	<b>Name of Creditor</b>	<b>Voting Share (%)</b>
<b>1.</b>	UCO Bank	71.61%
<b>2.</b>	Central Bank of India	28.39%
<b>Total</b>		<b>100%</b>

- iv. In the first CoC meeting dated 10.11.2023, the applicant herein was appointed/confirmed to act as the RP.



- v. In the third CoC meeting dated 20.12.2023, the CoC resolved to publish Form-G calling upon the prospective resolution applicants to submit the EoI/Resolution Plans for the corporate debtor.
- vi. The RP published Form-G, and the last date for submission for EoI was stipulated as 06.01.2024. No response was received in respect of the Form G issued by the Applicant, however some prospective resolution applicants had approached the Applicant after the last date of submission of the expression of interest as prescribed in the Form G dated 22.12.2023.
- vii. The Applicant convened the 5th meeting of CoC on 21.02.2024 where the CoC members decided that Form G be republished. Pursuant to the above, the Applicant issued second Form G dated 01.03.2024 for invitation of expression of interest to submit a resolution plan. The last date for submission of expression of interest was stipulated as 15.03.2024.
- viii. In response thereto, RP received 3 resolution plans out of total 3 prospective resolution applicants (hereinafter referred to as **“PRA”**) i.e. (i) Jalpa Enterprises Sole Proprietorship of Shri. Amar Singh, (ii) Shri Pardeep Singh Kahlon s/o Shri Santokh Singh Kahlon, and (iii) Kazmi Enterprises Sole Proprietorship of Mohammad Kashif Kazmi.
- ix. The CoC discussed the proposal, which was received in the form of resolution plans, in its 9th, 10th, 11th, 12th, 13th meetings. The Applicant convened the 14th COC meeting on 04.10.2024, wherein Applicant placed the agenda for voting on the Resolution Plan submitted by the prospective Resolution Applicants in the matter of the Corporate Debtor. The COC



members voted on the resolution and it was approved with 71.61% voting share which is more than the requisite majority under Section 30(4) of the Code. UCO Bank comprising 71.61% of the voting share has assented to the Resolution whereas Central Bank of India comprising 28.39% of the voting share has abstained from Voting. Accordingly, the Resolution Plan submitted by Mr. Pardeep Singh Kahlon was approved with 71.61% voting share of the COC.

x. The resolution applicant has proposed to Provide a sum of Rs. 8,25,00,000/- to the various stakeholders as given in the table below:

<b>Particulars</b>	<b>Amount of Claim Filed (Rs.)</b>	<b>Amount of Claim admitted (Rs.)</b>	<b>Amount provided under the Plan (Rs.)</b>	<b>Amount provided to the amount claimed %</b>
Secured Financial Creditors	200,84,26,361	200,84,26,361	8,22,43,424 *	0.04%
Unsecured Financial Creditors	0.00	0.00	0.00	0.00
Staff & Workmen	0.00	44,423	44,423	100%
Operational Creditors (other than workmen and Employees and Government Dues)	0.00	3,94,168	39,417	10%
Related Party (includes Unsecured Financial Creditors & Operational Creditor)	0.00	2,42,635	0.00	0



*Statutory Liabilities	0.00	1,65,428	1,65,428	100%
*Any other liability, including contingent liability	0.00	73,078	7,308	10%
<b>Total</b>	<b>200,84,26,361</b>	<b>200,93,46,093</b>	<b>8,25,00,000</b>	

\* Includes CIRP cost

xi. The RP has examined the resolution plan and the compliance. 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?	Page 9; Part-I, Clause 1	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?		Yes
Section 30(2)	Whether the resolution plan- (a) Provides for the payment of Insolvency Resolution Process Cost?  (b) Provides for the payment to the operational creditors?  (c) Provides for the payment to the Financial Creditors who did not	Clause 2(a)(i), Page 18  Clause 2(a)(iv to viii), Page 21-26  Clause 2(a)(i), Page 19	



	<p>vote in favour of the resolution plan?</p> <p>(d) Provides for the management of the affairs of the corporate debtor?</p> <p>(e) Provides for the implementation and supervision of the resolution plan?</p> <p>(f) Contravenes any of the provisions of the law for the time being in force?</p>	<p>Clause 1, Page 15</p> <p>Part-VI, Clause-I, Page 41</p> <p>Page 45 Clause 30(2)(c)</p>	
Section 30(4)	<p>Whether the resolution plan (a) is feasible and viable, according to the COC?</p> <p>(b) has been approved by the COC with 66% voting share?</p>	<p>Yes</p> <p>Yes</p>	<p>Yes</p>
Section 31(1)	<p>Whether the resolution plan has provisions for its effective implementation plan, according to the COC?</p>	<p>Yes</p>	<p>Yes</p>
Regulation 38(1)	<p>Whether the amount due to the operational creditors under the resolution plan has been given priority in payment over financial creditors?</p>	<p>Clause 2(a)(iv to viii), Page 21-26</p>	<p>Yes</p>
Regulation 38(1)(a)	<p>Whether the resolution plan includes a statement as to how it has dealt with the interest of all stakeholders?</p>	<p>Clause 2, Page 18 to Clause 11, Page 30</p>	<p>Yes</p>
Regulation 38(1)(b)	<p>(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.</p> <p>(ii) If so, whether the resolution applicant has submitted the statement giving details of such non-implementation?</p>	<p>Page 2</p> <p>NA</p>	<p>Yes</p>
Regulation 38(2)	<p>Whether the resolution plan provides:</p> <p>(a) the term of the plan and its implementation schedule?</p> <p>(b) for the management and control</p>	<p>Clause 2-11, Page 18-30</p> <p>Clause 1, Page</p>	<p>Yes</p>



	of the business of the corporate debtor during its term? (c) adequate means for supervising its implementation?	15 Part-VI, Clause 1, Page 41	
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?	Page 13  Yes (Recorded in Minutes of 14th meeting of CoC)  Clause 4, Page 42  Page9; Part-I, Clause 1	Yes
Regulation 39(2)	Whether the RP has filed application in respect of transactions observed, found or determined by him?	In process	In process
Regulation 39(4)	Provide details of performance security received as referred to in sub-regulation (4A) of Regulation 36B	Sought from Resolution Applicant and sought liberty to place on record once provided	

4. We have heard the learned counsel for the RP and on perusal of records. It is noted that the CoC approved the resolution plan of Mr. Pardeep Singh Kahlon by 71.61% voting share and 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. It shows that the fair



value of the assets of the corporate debtor is Rs 4,14,77,547/- whereas, the liquidation value of the corporate debtor is Rs 3,26,19,308/-. The plan value as proposed by the successful resolution applicant is Rs 8,25,00,000/-.

5. 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:

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.

[Section 30(2)(e)];

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.

[CIRP Regulation 38(3)]



6. In view of the above provisions of the Code, the resolution plan submitted before us has been examined as follows:

i. The resolution plan provides for the payment of unpaid CIRP cost on priority to the repayment of other debts of the corporate debtor. The resolution plan does disclose that the CIRP Cost shall be paid in priority to all other classes of creditors, in terms of the provisions of Section 30 (2) of the IBC. Since CIRP costs are ongoing and cannot be crystallized at the time of submission of resolution plan, the RA proposes that the CIRP costs upto the effective date shall be deducted and paid from the payment proposed to be made to the Financial Creditors on pro-rata basis. In view thereof, provisions of section 30(2)(a) are complied with.

ii. There are no dissenting financial creditors. The resolution plan has been approved by the CoC with 71.61% voting shares of one Financial Creditor UCO Bank whereas Central Bank of India comprising 28.39% of the voting share abstained from Voting. It is also noted that as against the total admitted dues of Operational Creditor (other than workmen and Employees and Government Dues), only an amount of Rs. 39,417 have been provided under the plan which is 10% of their admitted claims. 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. 3,26,19,308/- as on the date of initiation of the CIRP of the Corporate Debtor and the Resolution Plan value is Rs. 8,25,00,000/-. The admitted claim of financial creditor's amounts to Rs. 200.84 Cr. 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.

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

iii. The mechanism for management and control of the affairs of the corporate debtor after approval of the resolution plan till its implementation has been provided in the resolution plan itself whereby, Monitoring and supervision of implementation of the Resolution Plan, in terms of Provisions of section 30(2)(d) of the Code read with Regulation 38(2)(c) of the CIRP Regulations shall be done by a Monitoring Committee appointed in consultation with COC on such mutually agreed terms as approved by the COC Members for the period with effect from the Date of Approval of Resolution Plan by NCLT. Such monitoring committee shall comprise RP as its Chairman and one representative each of the COC and the RA as its members. The fee proposed to be payable to the said Chairman of this monitoring committee shall be Rs 50,000/- per month or part thereof, plus applicable GST. It is provided that from the effective date & till the



constitution of the Monitoring committee the Resolution Professional shall supervise the implementation of the Resolution Plan. Thereby, section the provisions of Section 30(2)(c) r.w. CIRP Regulations 38(2)(b) and Section 30(2)(d) r.w. with CIRP Regulation 38(2)(c) has been complied in the plan.

iv. 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.

v. The resolution plan also confirms to other IBBI Regulations as given hereunder:

a. 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 neither the resolution applicant nor any of its related parties have at any time failed to implement or contributed to the failure of implementation of any other resolution plan which was approved by the Adjudicating Authority. Thereby, the plan is in compliance with CIRP Regulation 38(1B).

c. The term of the plan and its implementation schedule is given in Clause 2-11, Page 18-30 of the Resolution plan.



Sr. No.	Activity	Timeline
1.	Approval of the plan by the Adjudicating Authority (Effective Date)	Approval of the resolution plan by the Adjudicating Authority
2.	Upfront payment to financial creditors	Within 7 days of the effective date
3.	Proposed deferred payments to financial creditors	Within 14 days of the effective date
4.	Upfront payment towards outstanding employees and workmen dues	Within 7 days of the effective date
5.	Upfront payment to operational creditors (other than workmen and government dues)	Within 7 days of the effective date
6.	Upfront payment to operational creditors (government dues)	Within 7 days of the effective date
7.	Other creditors	Within 7 days of the effective date

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.

7. An Affidavit dated 03.03.2025 was filed vide Diary No. 03123/2 in pursuance of directions given by this Adjudicating Authority vide order dated 03.02.2025 to file reconciliation of assets and liabilities of the Corporate Debtor as on CIRP date with



assets considered for the purposes of valuation and liabilities forming part of the resolution plan. Copy of the reconciliation statement and audited financial statement for the F.Y. 2022-23 and as on date of CIRP is annexed with the affidavit.

8. The Resolution Applicant had filed an Additional Affidavit dated 14.05.2025, vide Diary No. 03123/4 in pursuance of directions given by this Adjudicating Authority vide order dated 14.05.2025 to file affidavit relating to PUFÉ transactions. As stated therein, the secured financial creditor shall pursue the avoidance application if the resolution plan is approved in the matter of the Corporate Debtor. It is stated in the Affidavit that:

i. the Resolution Plan submitted by the SRA has provided treatment of PUFÉ Applications in Clause 4 (Page 156 of the Application), which was approved by the COC in its commercial wisdom with requisite majority, has stated as under:

*“In the event of any transaction being ordered to be avoided/set aside by the AA in terms of Sections 43, 45, 47, 49, 50 or 66 of the IBC and any amount is received by the Resolution Professional or the CD as a result thereof, such sums shall be for the benefit of the Secured Financial Creditors on pro-rata basis. Further all the expenses to pursue/ prosecute the above said litigations shall be borne by the said beneficiaries. After the RP, the beneficiary of the above amount shall pursue and prosecute such avoidance applications.”*

ii. The agenda for pursuing PUFÉ Applications after approval of resolution plan was discussed in the 14<sup>th</sup> CoC meeting dated 04.10.2024 wherein it was deliberated as under:



*“The RP informed the CoC that the report of the forensic audit is likely to be received shortly and the application for avoidance of transaction based on the said report shall have to be filed thereafter. As per the terms of the resolution plan approved herein, the beneficiary of the proceeds from the adjudication of the said application shall be the two CoC members herein and the cost of pursuing the said application shall also be to their account in the ratio of their debt (voting share).”*

iii. The Applicant in compliance with directions passed by this Adjudicating Authority sent email to the Secured Financial Creditors to inform details of financial creditor and designation of official who shall pursue avoidance application after approval of resolution plan. The Applicant has also received an email from Central Bank of India, member of the COC (having 28.39% voting share), giving no objection to the PUFEE Applications being pursued by UCO Bank.

9. The resolution applicant is a highly qualified and experienced professional. His educational qualification is B.Sc. Engg. (Mechanical), Marine Engineering and MBA (Production). He worked on various types of merchant ships of various international shipping companies in different Engineer officers ranks. He served as Chief Engineer on ships from 1989 till 2022. He has now decided to become an entrepreneur and has enough resources to make the investments as required in this resolution plan. For the source of fund, the resolution plan includes the following:



i. The net worth of the RA is Rs 1080.83 Lac out of which Rs 357.91 Lac is in the form of FDs and Mutual Funds. Hence the payment proposed herein shall be easily met by the RA.

ii. Further, the son of the RA, who is in Canada and has his own business shall contribute as per requirement. Any further shortfall can be met from unsecured loans from friends and relatives.

10. In the Additional Affidavit dated 14.05.2025, the Applicant informed about the amount of carry forward losses of the Corporate Debtor and the extinguishments being sought in accordance with the Resolution plan.

i. The carry forward losses in the matter of the Corporate Debtor as available in Income Tax Records are as under:

<b>S.NO.</b>	<b>PARTICULARS</b>	<b>AMOUNT</b>
1.	Business Losses carried forward:	2,02,81,793/-
2.	Short Term Losses carried forward:	14,68,372/-
3.	Unabsorbed Depreciation carried forward	12,11,367/-

The same is reflected in the Income Tax Return and Computation filed by the Corporate Debtor for the Assessment Year 2023-24 (Financial Year 2022-23) which is immediately preceding the CIRP Commencement date on 13.10.2023.

iv. The dues owed by the Corporate Debtor to the secured Financial Creditors arose from the guarantee given by the Corporate Debtor to the loan availed by principal borrower namely M/s Gilco Steels Limited. That the Resolution Applicant has proposed a sum of Rs. 8,22,43,434/-



(before deducting CIRP Costs incurred till approval of resolution plan by this Hon'ble Adjudicating Authority) to be paid to the Secured Financial Creditors within a period of 14 days, which is much higher than the Liquidation Value of the assets of the Corporate Debtor as determined by the IBBI Registered Valuers which is Rs. 3,26,19,308/-.

11. Relief and Concessions:

i. The Resolution Applicant has sought waiver/ extinguishment of balance liability owed by the Corporate Debtor to the Secured Financial Creditors arising out of the Guarantee Agreement. Since the Corporate Debtor is only a guarantor and not the principal borrower to whom the loan was disbursed, the Financial Statements of the Corporate Debtor do not carry the said liability in its Balance Sheet.

ii. Moreover, the Resolution Applicant has proposed restructuring of share capital of the Corporate Debtor at Clause 1. The Authorised Share Capital of the Corporate Debtor was Rs. 2,30,00,000/- and the Paid Up Share Capital of the Corporate Debtor was Rs. 2,26,63,800/-. The Resolution Applicant has proposed the following restructuring:

*RAs propose cancellation of the complete existing partly/fully paid-up shareholding of the CD. Fresh 5,00,000 equity shares at a face value of Rs 10/- (Rupees Ten) per share shall be issued to the entities of the RAs as under:*



<b>Post Resolution - Shareholding Pattern of CD</b>					
<b>S. No.</b>	<b>Name of Shareholders</b>	<b>Amount / Share</b>	<b>No. of Shares</b>	<b>Amount (INR)</b>	<b>Percentage %</b>
1.	Pardeep Singh Kahlon	10	4,49,600	44,96,000	89.92
2.	Ruby Kahlon	10	25,000	2,50,000	5.00
3.	Anita Rani	10	25,000	2,50,000	5.00
4.	Karaj Singh	10	100	1000	0.02
5.	Rajnish Bhardawaj	10	100	1000	0.02
6.	Raju	10	100	1000	0.02
7.	Hasan Preet	10	100	1000	0.02

iii. The Resolution Applicant is seeking certain reliefs and concessions which are in the nature of prayer and not a condition precedent for the implementation of the Resolution Plan. It is submitted that since there is a change in management and control of the Corporate Debtor in the Resolution plan which has been submitted by the SRA and approved by the COC with requisite majority and such change satisfies the conditions stipulated in Section 32A of the Code, therefore the benefit of immunity under Section 32A of the Code shall be applicable to the Resolution Applicant.

12. In the context, the reliefs, concessions and waiver as sought for by the SRA are listed as under:



- i. In terms of the third proviso to Sec. 79 of the Income Tax Act, 1961, the RAs are not required to comply with the provisions of Sec. 79 for carry forward and set off of loss of the CDs. Reasonable opportunity of being heard may be provided to the Jurisdictional Principal Commissioner or Commissioner of Income Tax as required under the extant provisions of the IT Act by the Resolution Professional/ NCLT;
- ii. Allow setting off of losses and unabsorbed depreciation for subsequent period of 8 years from effective date for the purpose of computation of book profit as permitted under section 115JB of Income Tax Act, 1961. The RA and the RA shall not be subject to the consequence of any offence committed by the erstwhile management in terms of the provisions of Section 32A of the IBC.
- iii. Exemption from any tax liability arising due to implementation of the Resolution Plan both in computing total income under the normal provisions of the IT Act and in the computation of book profit u/s 115JB of the IT Act;
- iv. No requirement of filing return of income and/or revised return of income, for the Assessment Years prior to the Effective Date,
- v. The brought forward Business Loss as on the Effective Date shall be deemed to be the Business Loss for the previous year in which the Effective Date falls
- vi. Waiver of any income-tax and Minimum Alternate Tax (MAT) liability or consequences (including interest, fine, penalty, etc.) on Corporate Debtor, RAs and its shareholders on account of various steps as proposed in the Resolution Plan, including but not limited to liabilities if any under Section 41 (1), Section 56, Section 43, Section 43 B, Section 28, Section 115JB and Section 79 of the Income-tax Act, 1961, including, without limitation waiver of MAT and income tax implication arising due to write back/write off of liabilities in the books of accounts of Corporate



Debtor without any impact on brought forward tax and book loss /depreciation, pursuant to this Resolution Plan;

- vii. Any requirements to obtain waivers from any Tax Authorities including in terms of section 79 of the IT Act is deemed to have granted upon approval of this Resolution Plan;
- viii. The statutory departments shall not set off the recoverable if any, from the demand in relation to period before the CIRP date.
- ix. All the Profits as arising due to write back of the Liabilities on account of the Resolution Plan shall be waived/written off.

12.1 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, the law has been well settled by 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.

12.2 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.

12.3 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.

12.4 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.

13. The proviso to section 31 of the Code, 2016 states that before passing any order for approval of the resolution plan, the Adjudicating Authority should also satisfy that the resolution plan has provisions for its effective implementation. We being satisfied, approve the resolution plan submitted by Mr. Pardeep Singh Kahlon for the corporate debtor and proceed to pass the following order:



- i. Application is allowed.
- ii. The resolution plan of Mr. Pardeep Singh Kahlon for the corporate debtor is approved.
- iii. The approved 'Resolution Plan' shall become effective from the date of passing of this order.
- iv. The order of moratorium dated 13.10.2023 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.
- v. The resolution professional shall forthwith send a copy of this order to the participants and the resolution applicant(s).
- 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.

Sd/-

**(Kaushalendra Kumar Singh)**  
**Member (Technical)**

Sd/-

**(Harnam Singh Thakur)**  
**Member (Judicial)**

Reet