

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

**IA (IB) No.368/KB/2021  
in  
CP (IB) No.146/KB/2019**

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

**In the matter of:**

Reliance Commercial Finance Limited ... Financial Creditor

Versus

Vista Mining Private Limited

CIN: U27310WB2011PTC161584 ... Corporate Debtor

And

**In the matter of:**

Soumitra Lahiri, Resolution Professional of

Vista Mining Private Limited ... Applicant

Date of hearing: 11.06.2021

Date on which clarification sought: 23.06.2021

Date on which clarification obtained: 01.07.2021

Date of pronouncement: 13.07.2021

**Coram:**

Shri Rajasekhar V.K., Member (Judicial)

Shri Harish Chander Suri, Member (Technical)

**Appearances (via video conference):**

For the applicant/RP : Mr Vikram Wadehra, Advocate  
Ms Vidushi Chokhani, Advocate  
Dr Soumitra Lahiri, RP

**ORDER**

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

1. This Court convened through video conferencing.

2. IA (IB) No.368/KB/2021 is an application under section 30(6) of the Code after approval of the Resolution Plan by the Committee of Creditors (CoC).
3. This application was moved on 11.06.2021 by Dr. Soumitra Lahiri, Resolution Professional ("**RP**") of Vista Mining Private Limited (CIN: U27310WB2011PTC161584), by invoking the provisions of section 30(6) of the Insolvency and Bankruptcy Code, 2016 ("**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 ("**CIRP Regulations**") for approval of a Resolution Plan in respect of Vista Mining Private Limited ("**Corporate Debtor**").
4. The underlying Company Petition in CP (IB) No.146/KB/2019 was filed by Reliance Commercial Finance Limited against Vista Mining Private Limited, the Corporate Debtor, under section 7 of the Code, which was admitted vide order dated 25.02.2020 in CP (IB) No.146/KB/2019.
5. Initially, Mr. Kanchan Dutta was appointed as the Interim Resolution Professional (IRP). At its second meeting on 10.06.2020, the CoC resolved to replace the Interim Resolution Professional by a voting share of 85.31%. Dr. Soumitra Lahiri, the Applicant herein (IBBI Reg No.IBBI/IPA-001/IP-P00734/2017-2018/11232) was appointed as the RP of the Corporate Debtor pursuant to the order dated 03.08.2020 passed by this Bench.
6. The IRP made public announcement on 29.02.2020 in *Business Standard (English) (Kolkata Edition)* and *Aajkal (Bengali) (Kolkata Edition)* newspapers regarding initiation of CIRP and called for proof of claims from the financial and operational creditors, workers and employees of the Company in the specified forms till 12.03.2020.
7. The CoC was constituted on 21.03.2020. The applicant states that a total of fifteen CoC meetings have been held during CIRP period, as follows:

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Particulars	Date of CoC meeting
1 <sup>st</sup> CoC Meeting	15 <sup>th</sup> May, 2020
2 <sup>nd</sup> CoC Meeting	10 <sup>th</sup> June, 2020
3 <sup>rd</sup> CoC Meeting	14 <sup>th</sup> July, 2020
4 <sup>th</sup> CoC Meeting	24 <sup>th</sup> August, 2020
5 <sup>th</sup> CoC Meeting	9 <sup>th</sup> September, 2020
6 <sup>th</sup> CoC Meeting	30 <sup>th</sup> September, 2020
7 <sup>th</sup> CoC Meeting	9 <sup>th</sup> October, 2020
8 <sup>th</sup> CoC Meeting	21 <sup>st</sup> October, 2020
9 <sup>th</sup> CoC Meeting	18 <sup>th</sup> November, 2020
10 <sup>th</sup> CoC Meeting	27 <sup>th</sup> November, 2020
11 <sup>th</sup> CoC Meeting	11 <sup>th</sup> December, 2020
12 <sup>th</sup> CoC Meeting	08 <sup>th</sup> January, 2021
13 <sup>th</sup> CoC Meeting	20 <sup>th</sup> January, 2021
14 <sup>th</sup> CoC Meeting	12 <sup>th</sup> February, 2021
15 <sup>th</sup> CoC Meeting	26 <sup>th</sup> February, 2021

8. The Applicant submits that in terms of the provisions of section 25(2)(h) of the Code read with regulation 36A(1) of the CIRP Regulations, invitations in Form ‘G’ for Expressions of Interest (“**EoI**”) from potential resolution applicants were issued. Form ‘G’ was published on 16.09.2020 and thereafter on 05.11.2020 for submission of resolution plans for the Corporate Debtor. This was published in *Business Standard (English)* and *Ekdin (Bengali)* in Kolkata Edition newspapers and *The Indian Express (English)* and *Seema Sandesh (Hindi)* in Jaipur Edition newspapers of 05.11.2020. The last day of submission of EOI was 20.11.2020.<sup>1</sup> The notice

<sup>1</sup> Annexure 7 in the 4<sup>th</sup> Progress Report.

was also published on the website of the Insolvency and Bankruptcy Board of India (“IBBI”).

9. The Applicant submits that in response to the invitation for EoI, three EoIs were received and the Resolution Professional submitted the final list of eligible Prospective Resolution Applicants on 05.12.2020.<sup>2</sup> However, only one Resolution Plan was received till the last date, i.e., 30.11.2020, from Mr. Manohar Wadhupal Mulchandani and Ms. Tamanna Tikram Tahiliani. Mr. Manohar Wadhupal Mulchandani and Ms. Tamanna Tikram Tahiliani submitted Resolution Plan on 28.12.2020 and a revised plan on 22.02.2021.
10. The revised plan was discussed in the 15<sup>th</sup> CoC meeting, held on 26.02.2021 and the Resolution Plan was approved by 82.45% voting percentage through the e-voting process conducted from 28.02.2021 and 03.03.2021. The voting result has been annexed with the application as Annexure “8”.<sup>3</sup>
11. The Resolution Applicant issued a cheque of ₹10,00,000 as EMD dated 09.12.2020. A copy of the cheque has been annexed with the application and marked as Annexure “4”.<sup>4</sup>
12. The amounts claimed and admitted are summarised below:

Sl. No.	Name of Creditors	Amount claimed (in Rs.)	Amount admitted (in Rs.)
<b>Secured Financial Creditors</b>			
1.	Hinduja Leyland Finance Limited	14,74,03,343	14,74,03,343
2.	Reliance Commercial Finance Ltd	3,99,45,892	3,97,66,987
3.	SREI Equipment Finance Ltd	1,06,52,195	1,06,52,195

<sup>2</sup> Annexure 8 in the 5<sup>th</sup> Progress Report.

<sup>3</sup> Page 232 of the I.A.

<sup>4</sup> Page 189 of the I.A.

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Sl. No.	Name of Creditors	Amount claimed (in Rs.)	Amount admitted (in Rs.)
4.	IndusInd Bank Ltd	70,31,540	69,17,283
5.	The Karur Vysya Bank Ltd	35,38,227	35,38,227
6.	Tata Capital Financial Services Ltd	97,14,741	97,14,741
7.	HDFC Bank Ltd	2,56,83,173	2,55,06,893
<b>Unsecured Financial Creditors</b>			
1.	Jindal Saw Ltd	9,03,96,502	9,03,96,502
2.	SREI Equipment Finance Ltd	3,62,98,076	3,62,98,076
3.	IndusInd Bank Ltd	1,16,95,741	1,13,37,620
4.	Darjeeling Dooars Plantations (Tea) Ltd	1,82,698	1,64,812
5.	Gujarat Flourochem Ltd	1,14,98,630	1,14,03,002
<b>Total dues to Financial Creditors</b>		<b>39,40,40,758</b>	<b>39,30,99,681</b>
<b>Operational Creditors</b>			
1.	Shivam Transolutions Private Ltd	55,33,782	55,33,782
2.	I C Sancheti & Co	12,11,990	10,16,579
<b>Total dues to Operational Creditors</b>		<b>67,45,772</b>	<b>65,50,361</b>
<b>Total claims</b>		<b>40,07,86,530</b>	<b>39,96,50,042</b>

13. The Applicant has filed a Compliance Certificate in prescribed form, *i.e.*, Form 'H' in compliance with regulation 39(4) of the CIRP Regulations, which has been annexed to the application as Annexure "12".<sup>5</sup>

<sup>5</sup> Pages 243-250 of the I.A.

14. The Applicant submits details of various compliances as envisaged within the Code and the CIRP Regulations which requires a Resolution Plan to adhere to, which 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):**

Clause of s.30(2)	Requirement	How dealt with in the Plan
(a)	Plan must provide for payment of CIRP cost in priority to repayment of other debts of CD in the manner specified by the Board.	Clause 9.1 at Page 20 of the Resolution Plan.
(b)	(i) Plan must provide for repayment of debts of OCs in such manner as may be specified by the Board which shall not be less than the amount payable to them in the event of liquidation u/s 53; or	Clause 9.3 (b) and 9.3 (d) (ii) at Page 21 and Page 23 of the Resolution Plan.
	(ii) Plan must provide for repayment of debts of OCs in such manner as may be specified by the Board which shall not be not less than amount that would have been paid to such creditors, if the amount to be distributed under the resolution plan had been distributed in accordance with the order of priority in sub-section (1) of section 53, whichever is higher and	Clause 9.4 at Page 26 of the Resolution Plan.

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Clause of s.30(2)	Requirement	How dealt with in the Plan
	(iii) provide 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.	Clause 9.3(d)(i) at Page 23 of the Resolution Plan.
(c)	Management of the affairs of the Corporate Debtor after approval of the Resolution Plan.	Clause 22 at Page 45 of the Resolution Plan.
(d)	Implementation and Supervision.	Clause 20.2 at Page 41 & 42 and Clause 24 at Page 46 of the Resolution Plan.
(e)	Plan does not contravene any of the provisions of the law for the time being in force.	Clause 5.6 at Page 14 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:***

Compliance required	Relevant Page of the Revised Resolution Plan dealing the aforesaid compliance
A resolution plan shall provide for the measures, as may be necessary, for insolvency resolution of the corporate debtor for maximisation of value of its assets, including but not limited to the following: -	

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<b>Compliance required</b>	<b>Relevant Page of the Revised Resolution Plan dealing the aforesaid compliance</b>
(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.
(c) restructuring of the corporate debtor, by way of merger, amalgamation and demerger;	Not proposed by the Resolution Applicant.
(d) the substantial acquisition of shares of the corporate debtor, or the merger or consolidation of the corporate debtor with one or more persons;	Clause 14(b)(i) at page 32, Clause 18.2 (b) at page 39 of the Resolution Plan.
(e) cancellation or delisting of any shares of the corporate debtor, if applicable;	Clause 9.5 at pages 26 and 27 of the Resolution Plan.
(f) satisfaction or modification of any security interest;	Not given in the Resolution Plan.
(g) curing or waiving of any breach of the terms of any debt due from the corporate debtor;	Clause 9.3 (e) at page 23 - 25 of Resolution Plan.
(h) reduction in the amount payable to the creditors;	Clause 9.3 (d) (iii) at page 23 of the Resolution Plan.
(i) extension of a maturity date or a change in interest rate or other terms	Not given in the Resolution Plan.

<b>Compliance required</b>	<b>Relevant Page of the Revised Resolution Plan dealing the aforesaid compliance</b>
of a debt due from the corporate debtor;	
(j) amendment of the constitutional documents of the corporate debtor;	Not given in the Resolution Plan.
(k) issuance of securities of the corporate debtor, for cash, property, securities, or in exchange for claims or interests, or other appropriate purpose;	Not given in the Resolution Plan.
(l) change in portfolio of goods or services produced or rendered by the corporate debtor;	Not proposed by the Resolution Applicant
(m) change in technology used by the corporate debtor; and	Not proposed by the Resolution Applicant
(n) obtaining necessary approvals from the Central and State Governments and other authorities.	Not provided in the Resolution Plan.

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

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Regulation	Requirement	How dealt with in the Plan
38(1)	The amount due to the operational creditors under a resolution plan shall be given priority in payment over financial creditors.	Clause 9.3 (d) (ii) at Page 23 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 9 at Pages 20 to 29 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.	No report on the part of the Resolution Applicant (Schedule 11 at Page 89 of the Resolution Plan)
38(2)	A resolution plan shall provide:	
	(a) the term of the plan and its implementation schedule;	Clauses 24 and 25 at Pages 46 and 47 of the Resolution Plan.
	(b) the management and control of the business of the corporate debtor during its term; and	Clause 20 at pages 41 and 42 of the Resolution Plan.

<b>Regulation</b>	<b>Requirement</b>	<b>How dealt with in the Plan</b>
	(c) adequate means for supervising its implementation.	Clause 20.2 (a)(ii) at page 41 of the Resolution Plan.
38(3)	A resolution plan shall demonstrate that –	
	(a) it addresses the cause of default;	Clause 5.2 (e) at Page 13 of the Resolution Plan.
	(b) it is feasible and viable;	Part C, Clause 7 and Clause 8 at Pages 17-19 of the Resolution Plan.
	(c) it has provisions for its effective implementation;	Part G, Clauses 22, 23, 24 and 25 at Pages 45–47 of the Resolution Plan.
	(d) it has provisions for approvals required and the timeline for the same; and	Not provided in the Resolution Plan.
	(e) the Resolution Applicant has the capability to implement the resolution plan.	Schedule 7, 9 and 10 at Pages 84, 86, 87 and 88 of the Resolution Plan.

15. The Resolution Applicants have submitted certificate of eligibility under section 29A of the Code, which is annexed to the application as Annexure “3”.<sup>6</sup>

<sup>6</sup> Pages 183-188 of the I.A.

**Details of Resolution Plan/Payment Schedule**

16. The Applicant submits the relevant information with regard to the amount claimed, amount admitted and the amount proposed to be paid by the Resolution Applicant, i.e., Mr. Manohar Wadhmal Mulchandani and Ms. Tamanna Tikram Tahiliani, under the said Resolution Plan is tabulated as under:

Sl. No.	Name of Claimant	Amount Claimed (in Rs.)	Amount Admitted (in Rs.)	Amount proposed (in Rs.)	Percentage
1.	Secured Financial Creditors	24,39,69,111	24,34,99,669	2,71,69,587	11.16
2.	Unsecured Financial Creditors	15,00,71,647	14,96,00,012	1,12,20,001	7.50
3.	Operational Creditors	67,45,772	65,50,361	11,79,065	18.00
4.	CIRP costs	54,31,350	54,31,350	54,31,350	100.00
5.	Working Capital	----	----	4,00,00,000	----
	<b>Total cost</b>	<b>40,62,17,880</b>	<b>40,50,81,392</b>	<b>8,50,00,003</b>	----

17. Summary of the financial proposal/payment under the Resolution Plan dated 22.02.2021, is tabulated hereunder:

Particulars	Amount
Admissible Debt to be paid upfront to the CIRP	₹54,31,350 (Rupees fifty-four lakh thirty-one thousand three hundred and fifty only) to be paid within 30 days from the Effective Date.

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Particulars	Amount
	However, if the CIRP cost certified by CoC is less than ₹54,31,350 (Rupees fifty-four lakh thirty-one thousand three hundred and fifty only) the balance amount will be paid to the Secured Financial Creditors. The actual amount, if higher, will be discussed with the resolution applicant and will be deducted from the amount payable to the Secured Financial Creditors.
Admissible Debt to be paid upfront to the Operational Creditors	₹11,79,065 (Rupees eleven lakh seventy-nine thousand sixty-five only) 18% of the admitted claim to be paid within 30 days from the effective date.
Admissible Debt to be paid to unsecured Financial Creditors	₹1,12,20,001 (Rupees one crore twelve lakh twenty thousand one only) being 7.50% of the admitted claim to be paid within 30 days from the effective date.
Admissible Debt to be paid to secured Financial Creditors	₹2,71,69,584 (Rupees two crore seventy-one lakh sixty-nine thousand five hundred eighty-four only) being 11.16% of the admitted claim to be paid within 30 days from the effective date.
Working Capital	₹4,00,00,000 (Rupees four crore only) to be paid within six months from the completion date.

18. The Resolution Plan defines “**Effective Date**” as the date on which the Resolution Plan is approved by the NCLT.

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

19. The Resolution Plan also provides for –

- 
- (a) Management of Company after resolution in Clause 22 at Page 45 of the Resolution Plan.
- (b) Term of the resolution plan in Clause 25 at Page 47 of the Resolution Plan.
- (c) Implementation and Supervision of the resolution plan in Clause 24 at Page 46 of the Resolution Plan.
20. 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.

**Relinquishment/ Waiver of liabilities and Approvals**

Sl No	Reliefs, concessions & approvals sought	Orders thereon
1.	<u>Consents and approvals, authorizations etc.</u>	
	Upon approval of this Resolution Plan by the NCLT, all actions stated in this Resolution Plan shall be deemed to be approved. Accordingly, any action or implementation of this Resolution Plan shall not be a ground for termination of any consents, approvals, concessions, authorizations, permits or the like that has been granted to the Corporate Debtor or for which the Corporate Debtor has made an application for renewal or grant. A detailed list of consents, approval and authorization are provided under Schedule 15 (Part E, Clause 17 (a) at Page 34)	Schedule 15 does not contain any such list.

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Sl No	Reliefs, concessions & approvals sought	Orders thereon
2.	<u>Licenses, Approvals/Contractual Rights and Benefits</u>	
i.	The Resolution Applicant has assumed that upon approval of this Resolution Plan by the NCLT and since the Resolution Applicant will acquire the Corporate Debtor, which, at present, is not a going concern, all subsisting consents, licenses, approvals, rights, entitlements, benefits and privileges whether under law, contract, lease or license, granted in favour of the Corporate Debtor or to which the Corporate Debtor is entitled or accustomed to shall, notwithstanding any provision to the contrary in their terms, be deemed to continue without disruption for the benefit of the Corporate Debtor. (Part E, Clause 17 (b) (i) at Page 34)	This deals with “subsisting” consents etc., and the Corporate Debtor shall continue to be available to the Corporate Debtor till completion of the term of such consents etc.
ii.	For the avoidance of doubt, it is hereby clarified that all consents, licenses, approvals, rights, entitlements, benefits and privileges whether under law, contract, lease or license, granted in favour of the Corporate Debtor or to which the Corporate Debtor is entitled or accustomed to, which have expired as of the Completion Date, shall be deemed to continue without disruption for the benefit of the Corporate Debtor for a period of 12 months or until renewed by the relevant authorities, whichever is	The Resolution Applicant shall apply to the concerned authorities who shall then consider the application keeping in mind the objectives of the Code.  Any conditions attached to the grant of such permits shall be duly complied with by the Corporate Debtor

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Sl No	Reliefs, concessions & approvals sought	Orders thereon
	<p>later. Without any liability for the non-compliance during the time specified above, the Resolution Applicant undertakes to cause the Corporate Debtor to expeditiously identify such expired consents, licenses, approvals, rights, entitlements, benefits and privileges whether under law, contract, lease or license, granted in favour of the Corporate Debtor or to which the Corporate Debtor is entitled or accustomed to, evaluate the steps required to address the same and take steps to remedy the same to the extent practically possible. (Part E, Clause 17 (b) (ii) at Page 34-35)</p>	<p>under the successful Resolution Applicant.</p>
iii.	<p>Upon approval of this Resolution Plan by the NCLT, any claims by any person (<i>whether admitted or not, due or contingent, asserted or unasserted, crystallised or uncrystallised, known or unknown, secured or unsecured, disputed or undisputed, present or future</i>) against the Corporate Debtor accruing due to the commencement or pendency of insolvency proceedings against the Corporate Debtor, whether arising under the terms of subsisting consents, licenses, approvals, rights, entitlements, benefits and privileges whether under law, contract, lease or license, granted in favour of the Corporate</p>	<p>Para 95 of the judgment of the Hon'ble Supreme Court in <b><i>Ghanashyam Mishra &amp; Sons Pvt Ltd v Edelweiss Asset Reconstruction Company Ltd.</i></b><sup>7</sup> 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</p>

<sup>7</sup> Civil Appeal No. 129/2019 a/w Civil Appeal No. 1554/2021 and WP (civil) No. 1177/2020, dated 13.04.2021.

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Sl No	Reliefs, concessions & approvals sought	Orders thereon
	Debtor or any contractual arrangements entered into by the Corporate Debtor, shall, notwithstanding any provision to the contrary in their terms, stand extinguished without any recourse (Part E, Clause 17 (b)(iii) at Page 35)	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 person will be entitled to initiate or continue any proceeding in respect to a claim which is not part of the resolution plan.
3.	During the Interim Period, neither the Resolution Professional nor any creditor (including any Financial Creditor and Government agency) or any stakeholder involved in this Resolution Plan or otherwise connected with this Resolution Plan, the CoC, the Monitoring Agency nor the Corporate Debtor shall:	
i.	take any of the actions specified in Section 28 of the Code without the approval of the NCLT; (Part E, Clause 17 (c) (i) at Page 35)	This is not in consonance with the Code. Post approval of the Resolution Plan, the

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		Adjudicating Authority has an extremely limited role to play.
ii.	take any action or omission that could reasonably be expected to have a material adverse impact, directly or indirectly, on the Resolution Plan or its successful implementation; or (Part E, Clause 17 (c) (ii) at Page 35)	A blanket concession of this nature cannot be granted since it is fraught with great risks. Specific actions ought to have been highlighted.
iii.	Institute or continue any proceedings against the Corporate Debtor or transfer, encumber, alienate or dispose of any of the assets or interests of the Corporate Debtor or enforce any encumbrance or security interest created by the Corporate Debtor or on the securities of the Corporate Debtor. (Part E, Clause 17 (c) (iii) at Page 35)	Approval of the resolution Plan leads to extinguishment of liabilities except and to the extent and manner specified in the Resolution Plan. Para 95 of the judgment of the Hon'ble Supreme Court in <i>Ghanashyam Mishra &amp; Sons Pvt Ltd v Edelweiss Asset Reconstruction Company Ltd.</i> <sup>8</sup> lays down that when the resolution plan is approved by NCLT, the claims as provided in the

<sup>8</sup> Civil Appeal No. 129/2019 a/w Civil Appeal No. 1554/2021 and WP (civil) No. 1177/2020, dated 13.04.2021.

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Sl No	Reliefs, concessions & approvals sought	Orders thereon
		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 person will be entitled to initiate or continue any proceedings in respect to a claim which is not part of the resolution plan.
4.	<u>Liability for past actions or omissions.</u>	
i.	The Resolution Applicant will acquire control over the Corporate Debtor pursuant to the order of the NCLT by the Completion Date and not pursuant to the usual acquisition process which would	Granted, but only in terms of section 32A of the Code.

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<b>Sl No</b>	<b>Reliefs, concessions &amp; approvals sought</b>	<b>Orders thereon</b>
	<p>ordinarily include a detailed due diligence and representation, warranties and indemnities in relation to the affairs of the Corporate Debtor from its existing promoters. Therefore, the Resolution Applicant may take some time to discover any non-compliances that may exist in relation to the Corporate Debtor on the date of acquisition of control by the Resolution Applicant over the Corporate Debtor. As such the Resolution Applicant may take some time to identify such non compliances and to address them.</p> <p>In light of this, the Resolution Applicant and the Corporate Debtor shall have immunity from any actions and penalties (of any nature) under any laws for any non-compliance of laws in relation to the Corporate Debtor or by the Corporate Debtor, as well as with the terms of any agreement or arrangement entered into by the Corporate Debtor, which was existing as on the Completion Date and which continues for a period of up to 12 months after the acquisition of control by the Resolution Applicant over the Corporate Debtor. Without any liability for the non-compliance during the time specified above, the Resolution Applicant undertakes to cause the Corporate Debtor to expeditiously identify such non-compliances, evaluate the steps required to address such non-compliances and take</p>	

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Sl No	Reliefs, concessions & approvals sought	Orders thereon
	steps to remedy such non-compliances to the extent practically possible. The Resolution Applicant and the Corporate Debtor shall be entitled to apply to and approach the NCLT for relief for continued implementation of the approved Resolution Plan before or after any coercive action is taken against the Corporate Debtor or the Resolution Applicant, especially in view of the limited due diligence offered to the Resolution Applicant. (Part E, Clause 17 (d) (i) and (ii) at Page 36)	
ii.	This Resolution Plan will be implemented pursuant to an order of the NCLT, and all actions stated in this Resolution Plan shall be deemed to be approved by the NCLT. Accordingly, any action or implementation of this Resolution Plan shall not be a ground for termination of any contracts entered into by the Corporate Debtor. (Part E, Clause 17 (d) (iii) at Page 36)	Granted.
5.	Inquiries. investigations etc.	

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Sl No	Reliefs, concessions & approvals sought	Orders thereon
i.	<p>Upon approval of this Resolution Plan by the NCLT, all inquiries, investigations and proceedings, whether civil or criminal, notices, causes of action, suits, claims, disputes, litigation, arbitration or other judicial, regulatory or administrative proceedings against, or in relation to, or in connection with the Corporate Debtor or the affairs of the Corporate Debtor, pending or threatened, present or future, <i>(including without limitation, any investigation, action, proceeding, prosecution, whether civil or criminal, by the Central Bureau of Investigation, the Enforcement Directorate or any other regulatory or enforcement agency)</i>, in relation to any period prior to the Completion Date or arising on account of the acquisition of control by the Resolution Applicant over the Corporate Debtor pursuant to this Resolution Plan shall stand withdrawn or dismissed and all liabilities or obligations in relation thereto, whether or not set out in the balance sheets of the Corporate Debtor or the profit and loss account statements of the Corporate Debtor, will be deemed to have been written off in full and permanently extinguished and the Corporate Debtor or the Resolution Applicant shall at no point of time be, directly or indirectly, held responsible or liable in relation thereto notwithstanding</p>	<p>Granted, but only in terms of section 32A of the Code.</p> <p>However, it is observed that schedule 17 is a blank list and no approval ought to have been sought.</p>

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Sl No	Reliefs, concessions & approvals sought	Orders thereon
	<p>any adverse order that may be passed in respect of the same by any authority prior to or after the Completion Date. Upon approval of this Resolution Plan by the NCLT, all new inquiries, investigations, whether civil or criminal, notices, suits, claims, disputes, litigation, arbitration or other judicial. regulatory or administrative proceedings will be deemed to be barred and will not be initiated or admitted against the Corporate Debtor in relation to any period prior to the acquisition of control by the Resolution Applicant over the Corporate Debtor or on account of the acquisition of control by the Resolution Applicant over the Corporate Debtor pursuant to this Resolution Plan.</p> <p>A detailed list of all the pending inquiries and investigations against the Corporate Debtor are provided under Schedule 17. (Part E, Clause 17 (e) at Pages 36-37)</p>	
6.	<u>Tax exemptions</u>	
i.	<p>With the approval of this Resolution Plan by the NCLT, it is assumed that an exemption shall be deemed to have been granted to the Corporate Debtor from the obligation to pay taxes in accordance with the exemptions granted under the Finance</p>	<p>No general reliefs can be granted in the manner sought for. It is for the appropriate taxing authorities to consider the same in</p>

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Sl No	Reliefs, concessions & approvals sought	Orders thereon
	Act 2018. (Part E, Clause 17 (f) (i) at Page 37)	accordance with the relevant law.
ii.	The Corporate Debtor shall be entitled to carry forward the unabsorbed depreciation and accumulated losses under Income tax and minimum alternate tax and to utilise such amounts to set off future tax obligations as applicable under Income Tax Act (Part E, Clause 17 (f) (ii) at Page 37).	No general reliefs can be granted in the manner sought for. It is for the appropriate taxing authorities to consider the same in accordance with the relevant law.
7.	<u>Anti-corruption provisions and immunity</u>	
i.	As the Resolution Applicant will acquire control over the Corporate Debtor pursuant to the order of the NCLT and not pursuant to the usual acquisition process which would ordinarily include a detailed due diligence and representation, warranties and indemnities in relation to the affairs of the Corporate Debtor from its existing promoters, the Resolution Applicant may take some time to discover all the non-compliances that may exist in relation to the Corporate Debtor on the date of acquisition of control by the Resolution Applicant over the Corporate Debtor. (Part E, Clause 17 (g) (i) at Page 37)	This has been addressed in point 4(i) supra.
8.	Contracts	

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	For a period of 6 months from the Completion Date, all subsisting contracts and arrangements entered into by the Corporate Debtor shall continue to be in subsistence, including but not limited to the following: (Part E, Clause 17 (h) (i) at Page 37)	
i.	For a period of 6 months from the Completion Date, the Corporate Debtor shall have a right to review and terminate any contract that was entered into prior to the Completion Date. (Part E, Clause 17 (h) (ii) at Page 38)	If there is any such condition in any specific contract, then this should be specifically mentioned in the Resolution Plan. A <i>carte blanche</i> of this nature cannot be granted in favour of the corporate debtor.
ii.	If during such review, the Corporate Debtor terminates any contracts then the Corporate Debtor shall not be liable towards any claims with respect to termination of such contracts, including but not limited to any claims, penalty, damages (liquidated or otherwise), arbitration claims or claims for specific performance. (Part E, Clause 17 (h) (iii) at Page 38)	A <i>carte blanche</i> of this nature cannot be granted in favour of the corporate debtor.
iii.	All contracts between the Corporate Debtor and related parties (as defined in Section 5(24) of the Code shall stand terminated with effect from the Completion Date unless otherwise notified by the Resolution Applicant by	Granted.

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Sl No	Reliefs, concessions & approvals sought	Orders thereon
	the Completion Date, and the Corporate Debtor shall not be liable towards any claims with respect to termination of such contracts, including but not limited to, any claims, penalty, damages (liquidated or otherwise), arbitration claims, claims for specific performance or claims for interim relief. (Part E, Clause 17 (h) (iv) at Page 38)	
iv.	All financial obligations under any contract to which the Corporate Debtor is a party, relating to a period prior to the Completion Date, if not provided for under this Resolution Plan, shall stand extinguished. (Part E, Clause 17 (h) (v) at Page 38)	Granted.
9.	The Resolution Applicant requests the State Government of West Bengal and Rajasthan to grant it suitable tax and financial incentives as per the prevailing policy of the State Governments or any other policy for revival of distressed companies, considering the revival of the Corporate Debtor in order to achieve financial viability of the Corporate Debtor. (Part E, Clause 17 (i) at Page 38)	This is for the concerned governments to consider.
10.	On the basis of information provided by the Resolution Professional this Resolution Plan assumes that, on the Completion Date the Corporate Debtor	Why this is mentioned under reliefs is not clear.

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	will not have any realizable gross current assets (inventory, receivables and cash). (Part E, Clause 17 (j) at Page 38)	
11.	The Resolution Applicant has assumed that since this is a NCLT approved plan under a statutory process and is binding on all stakeholders under Sections 31 (l) and 238 of the Code, all concerned regulators, including RBI, shall give expeditious approvals to facilitate the Resolution Plan of the Corporate Debtor and its implementation. (Part E, Clause 17 (k) at Page 38)	No orders can be passed on the assumptions of the Resolution Applicant.
12.	The Resolution Applicant has assumed that the Code is a complete code and the NCLT acting under the Code is empowered to grant a single window clearance for all actions as provided in a resolution plan approved by the NCLT. (Part E, Clause 18.1 at Page 39)	
13.	Accordingly, the process stipulated under the Code for implementation of a resolution plan is a final and binding process and therefore, any action undertaken pursuant to a resolution plan approved by the NCLT under the Code does not require compliance with procedural requirements under other laws, to the extent permissible under the Code, including the requirements with	All matters requiring any shareholder approval or approval of the Board for implementation of the Resolution Plan shall be deemed to be granted. However, all filing-related compliances shall be completed and

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	respect to the following, that shall stand complied and approved upon approval of this Resolution Plan by the NCLT: (Part E, Clause 18.2 at Page 39)	no waiver can be granted in this regard.
a.	The vacation of office by the directors who comprised the suspended board of directors, or the appointment of new directors on the board of the Corporate Debtor (for the interim Period and/or by the Completion Date, as the case may be) shall not require any corporate action by the Corporate Debtor or any other approvals and the Corporate Debtor may file the order of the NCLT to inform the Registrar of Companies regarding such vacation and appointment. (Part E, Clause 18.2 (a) at Page 39)	All matters requiring any shareholder approval or approval of the Board for implementation of the Resolution Plan shall be deemed to be granted. However, all filing-related compliances shall be completed and no waiver can be granted in this regard.
b.	The increase in authorised share capital of the Corporate Debtor, as contemplated in Clause 14, shall not require any corporate action by the Corporate Debtor or any other approvals, and the increased authorised share capital and the revised Memorandum of Association, as set-out in Schedule 8 shall take effect pursuant to approval of this Resolution Plan by the NCLT, and the Corporate Debtor may file the order of the NCLT to inform the Registrar of Companies regarding such increase in authorised share capital and amendment to the Memorandum of	All matters requiring any shareholder approval or approval of the Board for implementation of the Resolution Plan shall be deemed to be granted. However, all filing-related compliances shall be completed and no waiver can be granted in this regard.

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Sl No	Reliefs, concessions & approvals sought	Orders thereon
	Association. (Part E, Clause 18.2 (b) at Page 39)	
c.	The cancellation of existing equity share capital and existing preference share capital~ as contemplated in Clause 9.5 shall not require any corporate action by the Corporate Debtor or any other approvals~ and the Corporate Debtor may file the order of the NCLT to inform the Registrar of Companies regarding such cancellation. (Part E, Clause 18.2 (c) at Page 39)	All matters requiring any shareholder approval or approval of the Board for implementation of the Resolution Plan shall be deemed to be granted. However, all filing-related compliances shall be completed and no waiver can be granted in this regard.
d.	The issuance and allotment of equity shares to the Resolution Applicants, as contemplated in Clause 14 shall not require any corporate action by the Corporate Debtor or any other approvals, and the Corporate Debtor may file the order of the NCLT to inform the Registrar of Companies regarding such issuance and allotment. (Part E, Clause 18.2 (d) at Page 39)	All matters requiring any shareholder approval or approval of the Board for implementation of the Resolution Plan shall be deemed to be granted. However, all filing-related compliances shall be completed and no waiver can be granted in this regard.

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Sl No	Reliefs, concessions & approvals sought	Orders thereon
e.	The issuance and allotment of equity shares to Resolution applicant, as contemplated in Clause 14 shall not require any corporate action by the Corporate Debtor or any other approvals, and the Corporate Debtor may file the order of the NCLT to inform the Registrar of Companies regarding such issuance and allotment. (Part E, Clause 18.2 (e) at Page 39)	All matters requiring any shareholder approval or approval of the Board for implementation of the Resolution Plan shall be deemed to be granted. However, all filing-related compliances shall be completed and no waiver can be granted in this regard.
f.	Removal of the existing auditors and substitution by another duly qualified auditor for the Corporate Debtor. (Part E, Clause 18.2 (f) at Page 39)	All matters requiring any shareholder approval or approval of the Board for implementation of the Resolution Plan shall be deemed to be granted. However, all filing-related compliances shall be completed and no waiver can be granted in this regard.
14.	Pursuant to approval of this Resolution Plan by the NCLT and upon payment to workmen in accordance with this Clause 9.2(a) and 9.2 (b), any and all rights and entitlements of, claims or demands made by or liabilities or obligations owed or payable to, any present or past, direct or	Approval of the resolution Plan leads to extinguishment of liabilities except and to the extent and manner specified in the Resolution Plan. Para

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	indirect, permanent or temporary workman of the Corporate Debtor, whether filed/admitted/verified or not, due or contingent, asserted or unasserted, crystallised or uncrystallised, known or unknown, disputed or undisputed, present or future, in relation to any period prior to the Completion Date or arising on account of the acquisition of control by the Resolution Applicant over the Corporate Debtor pursuant to this Resolution Plan, shall stand permanently extinguished and the Corporate Debtor or the Resolution Applicant shall at no point of time, directly or indirectly, have any obligation, liability or duty in relation thereto. (Clause 9.2 (c) at Page 20)	95 of the judgment of the Hon'ble Supreme Court in <i>Ghanashyam Mishra &amp; Sons Pvt Ltd v Edelweiss Asset Reconstruction Company Ltd.</i> <sup>9</sup> 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 person will be entitled to initiate or

<sup>9</sup> Civil Appeal No. 129/2019 a/w Civil Appeal No. 1554/2021 and WP (civil) No. 1177/2020, dated 13.04.2021.

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		continue any proceedings in respect to a claim which is not part of the resolution plan.
15.	Pursuant to approval of this Resolution Plan by the NCLT, the following terms shall apply upon payment of the Lender Settlement Amount:	
i.	The entire debt (including but not limited to cost, interest, charges or the like, penal or otherwise) due to the Financial Creditors shall stand satisfied, settled and extinguished, and no claims whatsoever shall subsist or inure, and such rights (including rights over the respective securities) shall stand transferred to the Corporate Debtor. (Clause 9.3 (e) (i) at Page 23)	Approval of the resolution Plan leads to extinguishment of liabilities except and to the extent and manner specified in the Resolution Plan. Para 95 of the judgment of the Hon'ble Supreme Court in <i>Ghanashyam Mishra &amp; Sons Pvt Ltd v Edelweiss Asset Reconstruction Company Ltd.</i> <sup>10</sup> 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
ii.	The financial creditors shall no longer be entitled to exercise any security interest with respect to the debt, whether or not expressly provided for in this Resolution Plan. (Clause 9.3 (e) (ii) at Page 24)	
iii.	Any claim from any person claiming to be Financial Creditor, that has not been filed with the Resolution Professional, or if filed, has not been accepted by the	

<sup>10</sup> Civil Appeal No. 129/2019 a/w Civil Appeal No. 1554/2021 and WP (civil) No. 1177/2020, dated 13.04.2021.

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Sl No	Reliefs, concessions & approvals sought	Orders thereon
	Resolution Professional as payable by the Corporate Debtor, shall stand extinguished and shall no longer be payable. (Clause 9.3 (e) (iii) at Page 24)	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 person will be entitled to initiate or continue any proceedings in respect to a claim which is not part of the resolution plan.
iv.	Other than as specified in Clauses 9.3(a) and 9.3(b), any and all other claims or demands made by or liabilities or obligations owed or payable to (including any demand for any losses or damages, principal, interest, compound interest, penal interest, liquidated damages, notional or crystallised mark to market losses on derivatives and other charges already accrued, accruing or in connection with any third party claims) to any actual or potential Financial Creditors or in connection with any financial debt of the Corporate Debtor ( <i>including any transactions in derivatives</i> ), whether filed/admitted/ verified or not, due or contingent, asserted or unasserted, crystallised or uncrystallised, known or unknown, secured or unsecured, disputed or undisputed, present or future, whether or not set out in the profit and loss statement, the balance sheets of the Corporate Debtor, in relation to any period prior to the Completion Date or arising on account of the acquisition of control by the Resolution Applicant over the Corporate Debtor pursuant to this Resolution Plan, shall be written off in full	

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	and shall stand permanently extinguished and the Corporate Debtor or the Resolution Applicant shall at no point of time be, directly or indirectly, held responsible or liable in relation thereto. (Clause 9.3 (e) (iv) at Page 24)	
v.	Any and all rights and entitlements of any actual or potential Financial Creditors not addressed in Clause 9.3(a) and 9.3(b) whether filed/admitted/verified or not, due or contingent, asserted or unasserted, crystallised or uncrystallised. known or unknown, disputed or undisputed, present or future, in relation to any period prior to the acquisition of control by the Resolution Applicant over the Corporate Debtor pursuant to this Resolution Plan or arising on account of the acquisition of control by the Resolution Applicant over the Corporate Debtor pursuant to this Resolution Plan, shall stand permanently extinguished and the Corporate Debtor or the Resolution Applicant shall at no point of time, directly or indirectly, have any obligation, liability or duty in relation thereto. (Clause 9.3 (e) (v) at Page 24)	

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vi.	Any invocation or appropriation or other enforcement action already undertaken or demand made in respect of any security, guarantee, letter of credit, letter of undertaking, letter of comfort, letter of awareness, pledge, charge, encumbrance, hypothecation or collateral provided by the Corporate Debtor in connection with any financial debt or any other debt or obligation of the Corporate Debtor, at any time prior to the Completion Date, shall stand automatically abated, discharged, revoked and cancelled and deemed null and void and all liabilities and obligations in relation to such security, guarantee, letter of credit, letter of undertaking, letter of comfort, letter of awareness, pledge, charge, encumbrance, hypothecation or collateral shall stand permanently extinguished on the approval of this Resolution Plan by the NCLT. (Clause 9.3 (e) (vi) at Page 24)	
16.	Any remaining claims or debts or other dues from the Corporate Debtor to any person including claim from revenue ,statutory or regulatory authority of or the period prior to the effective Date, that is not expressly provided for in this Resolution Plan, including in relation to any corporate guarantees issued by the Corporate Debtor, or any claims from third parties relating to any contract	Approval of the resolution Plan leads to extinguishment of liabilities except and to the extent and manner specified in the Resolution Plan. Para 95 of the judgment of the Hon'ble Supreme Court in <i>Ghanashyam</i>

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	<p>entered into by the Corporate Debtor including damages on account of termination of such contracts pursuant to this Resolution Plan, claims, of any nature whatsoever, from employees and workmen or claims which are in the nature of recovery, disgorgement, penalty, fees or recoupment of loss, for which payments are not contemplated in this Resolution Plan shall be deemed to have been extinguished upon approval of this Resolution Plan by the NCLT, without any liability whatsoever on the Corporate Debtor. (Clause 9.4 (h) at Page 26)</p>	<p><i>Mishra &amp; Sons Pvt Ltd v Edelweiss Asset Reconstruction Company Ltd.</i><sup>11</sup> 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 person will be entitled to initiate or continue any proceedings in respect</p>

<sup>11</sup> Civil Appeal No. 129/2019 a/w Civil Appeal No. 1554/2021 and WP (civil) No. 1177/2020, dated 13.04.2021.

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		to a claim which is not part of the resolution plan.
17.	Upon approval of this Resolution Plan by the NCLT, all dues (admitted/verified/filed or not) under the provisions of Income Tax Act, 1961, including taxes, duty. penalties, interest, fines, cesses, unpaid tax deducted at source /tax collected at source, whether admitted or not, due or contingent, whether part of above claim of income tax authorities or not, asserted or unasserted, crystallised or uncrystallised, known or unknown, secured or unsecured, disputed or undisputed, present or future, in relation to any period prior to the Completion Date, shall stand extinguished and the Corporate Debtor shall not be liable to pay any amount against such demand. All, assessments/appellate or other proceedings pending in case of the Corporate Debtor, on the date of the order of NCLT relating to the period prior to that date, shall stand terminated and all consequential liabilities, if any, stand abated and should be considered to be not payable by the Corporate Debtor. All notices proposing to initiate any proceedings against the	Approval of the resolution Plan leads to extinguishment of liabilities except and to the extent and manner specified in the Resolution Plan. Para 95 of the judgment of the Hon'ble Supreme Court in <i>Ghanashyam Mishra &amp; Sons Pvt Ltd v Edelweiss Asset Reconstruction Company Ltd.</i> <sup>12</sup> 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

<sup>12</sup> Civil Appeal No. 129/2019 a/w Civil Appeal No. 1554/2021 and WP (civil) No. 1177/2020, dated 13.04.2021.

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	Corporate Debtor in relation to the period prior to the date of NCLT order and pending on that date, shall stand abated and should not be proceeded against. Post the order of the NCLT, no re-assessment / revision or any other proceedings under the provisions of the Income Tax Act shall be initiated on the Corporate Debtor in relation to period prior to acquisition of control by the Resolution Applicant and any consequential demand should be considered non-existing and as not payable by the Corporate Debtor. Any proceedings which were kept in abeyance in view of the insolvency process or otherwise shall not be revived post the order of NCLT. (Clause 9.6 (c) at Page 27)	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 person will be entitled to initiate or continue any proceedings in respect to a claim which is not part of the resolution plan.
18.	Upon the approval of this Resolution Plan by the NCLT, and all dues (admitted/verified/filed or not) under the provisions of all the indirect taxes, including but not limited to, the Central Excise Act, 1944, the Finance Act, 1994 (Service Tax), the Customs Act, 1962. GST act and any other indirect tax laws, including taxes, duty, penalties, interest, fines, cesses, charges, unpaid TDS, TCS (to the extent applicable), whether admitted or not, due or contingent, whether part of the above mentioned contingent liability schedule dues or not, whether claimed by the tax authorities or	Approval of the resolution Plan leads to extinguishment of liabilities except and to the extent and manner specified in the Resolution Plan. Para 95 of the judgment of the Hon'ble Supreme Court in <i>Ghanashyam Mishra &amp; Sons Pvt Ltd v Edelweiss Asset Reconstruction Company</i>

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	<p>not, asserted or unasserted, crystallised or uncrystallised, known or unknown, secured or unsecured, disputed or undisputed, present or future, in relation to any period prior to the Completion Date, shall stand extinguished and the Corporate Debtor will not be liable to pay any amount against such demand. Upon approval of this Resolution Plan by the NCLT, all outstanding litigations, demands, assessments/ appellate or other proceedings, including but not limited to any audits, investigations, search and seizure, pending in case of the Corporate Debtor relating to the period prior to the Completion Date, shall stand terminated and all consequential liabilities, if any, will stand abated and shall be considered to be not payable by the Corporate Debtor. All notices proposing to initiate any proceedings against the Corporate Debtor in relation to the period prior to the date of NCLT order and pending on that date, shall be considered abated and shall not be proceeded against. Post the order of the NCLT, no re-assessment /revision or any other proceedings under the provisions of any of the indirect tax laws should be initiated on the Corporate Debtor in relation to the period prior to acquisition of control by the Resolution</p>	<p><i>Ltd.</i><sup>13</sup> 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 person will be entitled to initiate or continue any proceedings in respect to a claim which is not part of the resolution plan.</p>

<sup>13</sup> Civil Appeal No. 129/2019 a/w Civil Appeal No. 1554/2021 and WP (civil) No. 1177/2020, dated 13.04.2021.

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	<p>Applicant and any consequential demand shall be considered non- existing and as not payable by the Corporate Debtor. Any proceedings which were kept in abeyance in view of insolvency process or otherwise shall not be revived post the order of NCLT.</p> <p>(Clause 9.6 (d) at Pages 27-28)</p>	
19.	<p>Upon approval of this Resolution Plan by the NCLT, all liabilities (including without limitation, for any penalty, interest, fines or fees) (admitted/verified/filed or not) or obligations of the Corporate Debtor, in relation to:</p> <p>(A) any investigation, inquiry or show-cause, whether civil or criminal.</p> <p>(B) any non-compliance of provisions of any laws, rules, regulations, directions, notifications, circulars, guidelines, policies, licenses, approvals, consents or permissions.</p> <p>(C) change of control, transfer charges, unearned increase, compensation, or any other such liability whatsoever under any contract, agreement, lease, license, approval, consent, privilege or permission to which the Corporate</p>	<p>Approval of the resolution Plan leads to extinguishment of liabilities except and to the extent and manner specified in the Resolution Plan. Para 95 of the judgment of the Hon'ble Supreme Court in <i>Ghanashyam Mishra &amp; Sons Pvt Ltd v Edelweiss Asset Reconstruction Company Ltd.</i><sup>14</sup> 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</p>

<sup>14</sup> Civil Appeal No. 129/2019 a/w Civil Appeal No. 1554/2021 and WP (civil) No. 1177/2020, dated 13.04.2021.

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Sl No	Reliefs, concessions & approvals sought	Orders thereon
	<p>Debtor or its subsidiaries, joint ventures or associates are entitled.</p> <p>(D) any leasehold rights or freehold rights to movable or immovable properties in the possession of the Corporate Debtor.</p> <p>any contracts, agreements or commitments made by the Corporate Debtor; whether admitted or not, due or contingent, asserted or unasserted, crystallised or uncrystallised, known or unknown, secured or unsecured, disputed or undisputed, present or future, whether or not set out in the balance sheets of the Corporate Debtor or the profit and loss account statements of the Corporate Debtor, in relation to any period prior to the Completion Date or arising on account of the acquisition of control by the Resolution Applicant over the Corporate Debtor pursuant to this Resolution Plan, shall be written off in full and shall stand permanently extinguished and the Corporate Debtor shall at no point of time be, directly or indirectly, held responsible or liable in relation thereto. (Clause 9.6 (e) at Page 28)</p>	<p>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 person will be entitled to initiate or continue any proceedings in respect to a claim which is not part of the resolution plan.</p>
20.	<p>Upon the approval of this Resolution Plan by the NCLT, any and all rights and entitlements, recovery, disgorgement, penalty, fees, recoupment of loss, of the Central government, the State</p>	<p>Approval of the resolution Plan leads to extinguishment of liabilities except and to the extent and manner</p>

IN THE NATIONAL COMPANY LAW TRIBUNAL  
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IA (IB) No.368/KB/2021 in CP (IB) No.146/KB/2019  
*Vista Mining Pvt Ltd Resolution Plan*

Sl No	Reliefs, concessions & approvals sought	Orders thereon
	governments, any regulatory or local authority or body or any agency or instrumentality thereof or any other party or entity (under any agreement, lease, license, approval, consent, privilege or permission or under statute, rules or regulations), whether admitted or not, admitted/verified/filed or not~ due or contingent, asserted or unasserted, crystallised or uncrystallised, known or unknown, disputed or undisputed, present or future, in relation to any period prior to the Completion Date or arising on account of the acquisition of control by the Resolution Applicant over the Corporate Debtor pursuant to this Resolution Plan, shall stand permanently extinguished and the Corporate Debtor or the Resolution Plan shall at no point of time, directly or indirectly, have any obligation, liability or duty in relation thereto. (Clause 9.6 (f) at Page 28)	specified in the Resolution Plan. Para 95 of the judgment of the Hon'ble Supreme Court in <i>Ghanashyam Mishra &amp; Sons Pvt Ltd v Edelweiss Asset Reconstruction Company Ltd.</i> <sup>15</sup> 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

<sup>15</sup> Civil Appeal No. 129/2019 a/w Civil Appeal No. 1554/2021 and WP (civil) No. 1177/2020, dated 13.04.2021.

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		stand 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.
21.	<p>It is clarified that the existing shareholders, managers, directors, officers, employees, workmen or other personnel of the Corporate Debtor shall continue to be liable for all the claims, demand, obligations, penalties etc. arising out of any:</p> <p>(i) proceedings, inquiries, investigations, orders, show causes, notices, suits, litigation etc. (including those arising out of any orders passed by the NCLT pursuant to Sections 43, 45, 49, 50, 66, 68, 70, 71, 72, 73, 74 of the Code), whether civil or criminal, pending before any authority, court, tribunal or any other forum prior to the Completion Date or</p> <p>(ii) that may arise out of any proceedings, inquiries, investigations. orders. show cause, notices, suits, litigation etc. <i>(including any orders that may be passed by the NCLT pursuant to Sections 43, 45, 49, 50, 66, 68, 70, 71, 72, 73, 74 of the Code)</i>, whether</p>	No orders are necessary on “clarificatory” clauses. However, no application in respect of any avoidance transaction or any other application is pending before this Adjudicating Authority in respect of the corporate debtor as on date.

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	civil or criminal, that may be initiated or instituted post the approval of the Resolution Plan by the NCLT on account of any transactions entered into, or decisions or actions taken by such existing promoters and existing shareholders, managers, directors, officers, employees, Workmen or other personnel of the Corporate Debtor and the Corporate Debtor or Resolution Applicant shall at no point of time be, directly or indirectly, held responsible or liable in relation thereto. (Clause 9.7 (ii) at Page 29)	
22.	Nothing in this Resolution Plan shall affect the rights of the Corporate Debtor to recover any amounts due to the Corporate Debtor from any third party including any related parties of the Corporate Debtor as defined in Section 5(24) of the Code and there shall be no set off of any such amounts recoverable by the Corporate Debtor against any amount paid by the Corporate Debtor or any liability discharged, satisfied or extinguished pursuant to this Resolution Plan. (Clause 10 at Page 30)	Granted
23.	Upon the approval of this Resolution Plan by the NCLT, and in the case of creditors proposed to be paid pursuant to this Plan, upon the receipt by such creditors of such amounts, any and all rights and	Approval of the resolution Plan leads to extinguishment of liabilities except and to the extent and manner

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SI No	Reliefs, concessions & approvals sought	Orders thereon
	<p>entitlements of any actual or potential creditors of the Corporate Debtor or arising on account of the acquisition of control by the Resolution Applicant over the Corporate Debtor pursuant to this Resolution Plan, shall stand permanently extinguished and the Corporate Debtor or the Resolution Applicant shall at no point of time, directly or indirectly) have any obligation, liability or duty in relation thereto. (Clause 13.2 at Page 30)</p>	<p>specified in the Resolution Plan. Para 95 of the judgment of the Hon'ble Supreme Court in <i>Ghanashyam Mishra &amp; Sons Pvt Ltd v Edelweiss Asset Reconstruction Company Ltd.</i><sup>16</sup> 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</p>

<sup>16</sup> Civil Appeal No. 129/2019 a/w Civil Appeal No. 1554/2021 and WP (civil) No. 1177/2020, dated 13.04.2021.

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		stand 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.
24.	All claims that may arise in the future, including any claims from dues arising under any law for the time being in force and payable to any person, including a counter party to a contract or to the Central Government, any State Government or any local authority, resulting from a contract, statute, judicial proceeding .or otherwise, whether admitted .or not, due or contingent, asserted .or unasserted, crystallised or uncrystallised, known or unknown, disputed or undisputed, present or future, in relation to any period prior to the Completion Date, including any claims with respect to any litigation or other proceedings as list out in Schedule 17, shall be subject to the limit specified in this Clause in so far as they relate to the period prior to the Completion Date. (Clause 13.3 at Pages 30-31)	Approval of the resolution Plan leads to extinguishment of liabilities except and to the extent and manner specified in the Resolution Plan. Para 95 of the judgment of the Hon'ble Supreme Court in <i>Ghanashyam Mishra &amp; Sons Pvt Ltd v Edelweiss Asset Reconstruction Company Ltd.</i> <sup>17</sup> 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

<sup>17</sup> Civil Appeal No. 129/2019 a/w Civil Appeal No. 1554/2021 and WP (civil) No. 1177/2020, dated 13.04.2021.

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*Vista Mining Pvt Ltd Resolution Plan*

Sl No	Reliefs, concessions & approvals sought	Orders thereon
		<p>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 person will be entitled to initiate or continue any proceedings in respect to a claim which is not part of the resolution plan.</p>

21. According to regulation 36B(4A) of the CIRP Regulations, the Performance Bank Guarantee is to be given after approval of the Resolution Plan under section 30(4) of the Code. In this matter, regulation 36B(4A) of the CIRP Regulations had not been complied with on the date of hearing. A resolution had been passed by the members of the CoC that the Performance Bank Guarantee shall be given within a span of 30 days from the date of order of approval of the resolution plan<sup>18</sup>. On clarification sought by this Bench on

<sup>18</sup> Point 3, Annexure 9 at Page 238 of the I.A.

23.06.2021, the Resolution Applicant has deposited a sum of ₹1,00,00,000 (Rupees one crore only) towards Performance Security into the Bank Account of the Corporate Debtor in tranches on 28.06.2021, 29.06.2021 and 30.06.2021. It is the duty of the Resolution Professional to check whether the Resolution Plan is compliant as per the CIRP Regulations before placing it before the CoC and the Adjudicating Authority. There is no power conferred either on the CoC or on the Resolution Professional to waive or defer deposit of the Performance Bank Guarantee on the part of the successful resolution applicant upon approval of the plan by the CoC.

**Orders**

22. On hearing the submissions made by the Ld. Counsel for the Resolution Professional, and perusing the record, we find that the Resolution Plan has been approved with 82.45% voting share. CoC with 11.02% voting share has dissented and 6.53% voting share have abstained from voting. 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. No dissenting creditors have approached this Adjudicating Authority. No other circumstances exist that militate against grant of approval of the Resolution Plan.
23. On perusal of the documents on record, we are satisfied that the Resolution Plan is in accordance with sections 30 and 31 of the IBC and also complies with regulations 38 and 39 of the CIRP Regulations.
24. 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.

25. In case of non-compliance of this order or withdrawal of Resolution Plan, the Performance Security Bank Guarantee amount already paid by the Resolution Applicant, shall be liable to forfeiture.
26. Subject to the observations made in this Order, the Resolution Plan in question is hereby **APPROVED** by this Bench. **The Resolution Plan shall form part of this Order.**
27. The Resolution Plan is binding on the Corporate Debtor and other stakeholders involved so that revival of the Debtor Company shall come into force with immediate effect.
28. The Moratorium imposed under section 14 of the Code shall cease to have effect from the date of this order.
29. The Resolution Professional shall submit the records collected during the commencement of the proceedings to the IBBI for their record and also return to the Resolution Applicant or New Promoters.
30. Liberty is hereby granted for moving any Application if required in connection with implementation of this Resolution Plan.
31. A copy of this Order shall be submitted to the Registrar of Companies, West Bengal, Kolkata, for updating the master data status of the corporate debtor.
32. The Resolution Professional shall stand discharged from his duties with effect from the date of this Order.
33. The Resolution Professional is further directed to handover all records, premises, factories, documents to the Resolution Applicant in the manner envisaged in the approved Resolution Plan. The Resolution Applicant shall have access to all the records and premises through the Resolution Professional to finalise the further line of action required for commencing operations.

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*Vista Mining Pvt Ltd Resolution Plan*

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34. **IA (IB) No. 368/KB/2021 and the main Company Petition i.e., CP (IB) No. 146/KB/2019 shall stand disposed of accordingly.**
35. 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.
36. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.
37. File be consigned to the record.

Harish Chander Suri  
Member (Technical)

GGRB [LRA]

**Rajasekhar V K** Digitally signed  
by Rajasekhar V K  
Date: 2021.07.13  
10:03:34 +05'30'

Rajasekhar V.K.  
Member (Judicial)

13<sup>th</sup> July, 2021