

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH-IV**

**IA-5262/2023**

Under Section 30(6) of Insolvency &  
Bankruptcy Code, 2016

**Mr. Arunava Sidar**

Resolution Professional/  
...Applicant

In the matter of

**CP (IB) No.900/MB/C-IV/2021**

**Opensky Shopping LLP**

...Operational Creditor  
Vs.

**Sagar E-Shop Private Limited**

...Corporate Debtor

**Order Pronounced on: 19.12.2023**

*Coram:*

Ms. Anu Jagmohan Singh  
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli  
Hon'ble Member (Judicial)

For the Applicant/RP : Mr. Sinha Shrey Nikhilesh,  
Ld Counsel for the Resolution  
Professional Present.Mr. Arunava  
Sikdar, Resolution Professional  
present in person.

**ORDER**

1. This Application has been filed on 07.11.2023 by the Resolution Professional under Section 30(6) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the 'the Code') on behalf of the Committee of Creditors seeking

approval of the Resolution Plan submitted by the Successful Resolution Applicant and approved by 100% of the voting share of the members of the Committee of Creditors (hereinafter referred to as 'CoC') of the Corporate Debtor viz. Sagar E-Shop Private Limited (hereinafter referred to as 'Corporate Debtor').

2. **The brief facts of the Application are as follows:**

- 2.1 Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor was initiated vide an order dated 03.03.2023 of this Court in C.P.(IB)-5260(MB)/2023 on an application filed by Opensky Shopping LLP (Operational Creditor) under Section 9 of the Insolvency and Bankruptcy Code 2016. Mr. Arunava Sikdar (Reg. No.: IBBI/IPA-001/IP-P00022/2016-17/10047 was appointed as Interim Resolution Professional (IRP), who was confirmed as Resolution Professional (RP) in the First CoC meeting held on 31.03.2023. The Applicant made a public announcement in the newspapers (in Mumbai) in Form-A on 01.04.2023 inviting claims from the creditors, workers/employees of the Corporate Debtor and from government bodies. IRP constituted the Committee of Creditors (CoC) based on the claims received by him and the first meeting of the CoC held on 31.03.2023.
- 2.2 Form G was published on 02.05.2023 for inviting Expression of Interest and the last date for submission

of the resolution plan was 17.07.2023. Only one Prospective Resolution Applicant i.e., M/s My Stuff Logistics LLP, which submitted the Resolution plan.

- 2.3 The Resolution Plan submitted by the Resolution Applicant viz. M/s My Stuff Logistics LLP was approved by the CoC in the 8<sup>th</sup> meeting held on 03.10.2023 through e-voting by 100% of the CoC member voting in favor of the Resolution Plan. The resolution is reproduced below -

*“Resolved that, the Revised Resolution Plan dated 24.062023 submitted by M/S My Stuff Logistics LLP and as circulated to the members do and is hereby approved.”*

- 2.4 However, it was observed that the date of revised resolution plan in the resolution passed in the 8<sup>th</sup> CoC Meeting had been inadvertently put as 24.06.2023 instead of its actual date i.e. 24.09.2023. In order to rectify the said inadvertent error, the Resolution Plan was again put for voting in 9<sup>th</sup> CoC Meeting held on 30.10.2023 which was approved by the members of CoC with 100 % voting share in accordance with the provisions of the Code and its allied regulations. The relevant extract of the Resolution is reproduced below:

*“Resolved that the revised resolution plan dated 24.09.2023 submitted by M/s My Stuff Logistics LLP*

and as circulated to the members do and is hereby approved.”

- 2.5 Thereafter in the Resolution Plan, the Resolution Applicant gives them declaration that the Resolution Applicant shall pay the amount of Performance Bank Guarantee of an amount equivalent to 10% of the Bid consideration amount, within five business days of issuance of LOI (Letter of Intent) by the RP/CoC, in favour of the Corporate Debtor, in the form of Bank Guarantee, as per the terms mentioned in Request for resolution Process document. The Resolution Applicant is depositing a sum of Rs. 10.00 Lakhs as Earnest Money Deposit. Therefore, RP states that the Resolution Plan approved by the CoC is in compliance with the requirements of Section 30(2) of the Code.

In compliance of Section 30(2) of IBC, 2016, the Resolution Professional has examined the Resolution plan of the Successful Resolution Applicant and confirms that this Resolution Plan:

- a. Provides for payment of Insolvency Resolution Process cost in a manner specified by the Board in the priority to the payment of other debts of the corporate debtor;
- b. Provides for management of the affairs of the Corporate Debtor after approval of Resolution Plan;

- c. The implementation and supervision of Resolution Plan;
- d. Does not prima facie contravene any of the provisions of the law for time being in force,
- e. Conforms to such other requirements as may be specified by the Board.
- f. As per the Affidavit received and the further documents submitted, the Resolution applicants are not covered under 29A.

In compliance of Regulation 38 of CIRP Regulations, the Resolution Professional confirms that the Resolution plan provides that:

- i. The amount due to the Operational Creditors under resolution plan shall be given priority in payment over Financial Creditors.
- ii. It has dealt with the interest of all Stakeholders including Financial Creditors and Operational Creditors of the CD.
- iii. A statement that neither the Resolution Applicants nor any related parties have failed to implement nor have contributed to the failure of implementation of any other Resolution Plan approved by the AA in the past.
- iv. The terms of the plan and its implementation schedule.
- v. The management and control of the business of the CD during its term.

- vi. Adequate means of Supervising its implementation.
- vii. The Resolution Plan Demonstrates that it addresses
  - a. The cause of the Default
  - b. It is feasible and viable
  - c. Provision for effective implementation
  - d. Provisions for approvals required and the time lines for the same.
  - e. Capability to Implement the Resolution Plan

2.6 The Resolution Applicant viz. M/s My Stuff Logistics LLP is a company with an objective to provide quality, affordable, unique products from across the world to customers in India, in the name of " M/s My Stuff Logistics LLP" having office at 307, Floor 3, A Wing, Shri Pimpleshwar CHS, Mahado Palav Marg, Curry Road Naka, Delhi Road, NA Mumbai, Maharashtra 400013. The Resolution Applicant confirmed that it is eligible to submit Resolution Plan as per Section 29A of Insolvency and Bankruptcy Code.

- 2.7 The Resolution Applicant has confirmed that -
- i. its connected persons are not convicted for any offence during the preceding five years and no criminal proceedings are pending against any person.
  - ii. not disqualified under Companies Act, 2013 to act as a Director.

- iii. not identified as a willful defaulter by any bank of financial institution or consortium thereof in accordance with the guidelines of the Reserve Bank of India.
- iv. not debarred from accessing to, or trading in securities markets under any order or directions of the Securities and Exchange Board of India.

2.8 As per the RP the Fair Value and Liquidation Value determined by the registered Valuer are as follows:

Fair Value Rs. 44,31,061/-

Liquidation Value Rs. 26,52,208/-

3. **Resolution Plan for the Corporate Debtor (the key features of the Resolution Plan submitted by M/s My Stuff Logistics LLP is summarized below):**

3.1 *The value of the said Resolution Plan is Rs. 44.69 Lakhs which includes the cash payments towards the CIRP cost, payment to unsecured Financial Creditors, payment to Statutory dues and payment to the Operational Creditor(other than Workmen/employees and other Statutory dues) and the summary of payment is enumerated below:*

Sr. No	Particulars	Amount Rs in Lakhs	Timeline from the effective date i.e date of approval of Resolution Plan
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1	Estimated Insolvency Resolution Process Cost	Rs. 32.50	60 days
2	Payment to <i>Unsecured Financial Creditors</i> - Mahavir Agarwal 0.50 Eporchilight LLP 9.93	Rs. 10.43	90 days
3	Payment of Workmen /Employees	NIL	--
4	Payment of Statutory dues	Rs. 0.34	60 days
5	Payment to the Operational Creditor (other than Workmen/employees and other Statutory dues)	Rs. 1.42	60 days
6	Payment to Equity Shareholders	0.00	
	Total	Rs. 44.69	

4. Ld. Counsel for the Resolution Professional has annexed a certificate of the Form-H to the Application under Regulation 39(4) In Form-H of the CIRP Regulations, 2016 to certify that the Resolution Plan has approved by the CoC meets all the requirements of the IBC and its Regulations.



**FORM H**  
**COMPLIANCE CERTIFICATE**

)Under Regulation 39)4( of the Insolvency and Bankruptcy Board of India )Insolvency Resolution Process for Corporate Persons( Regulations, 2016

I, Arunava Sikdar, an insolvency professional enrolled with IIIPA of ICAI and registered with the Board with registration number IBBI/IPA-001/IP-P00022/2016-17/10047, am the resolution professional for the corporate insolvency resolution process )CIRP( of Sagar E-Shop Private Limited.

2. The details of the CIRP are as under:

<b>Sl. No.</b>	<b>Particulars</b>	<b>Description</b>
1	Name of the CD	<b>Sagar E-Shop Private Limited</b>
2	Date of Initiation of CIRP	03.03.2023
3	Date of Appointment of IRP	<b>03.03.2023</b>
4	Date of Publication of Public Announcement	<b>05.03.2023</b>
5	Date of Constitution of CoC	<b>25.03.2023</b>
6	Date of First Meeting of CoC	<b>31.03.2023</b>
7	Date of Appointment of RP	<b>31.03.2023</b>
8	Date of Appointment of Registered Valuers	<b>11.04.2023</b>
9	Date of Issue of Invitation for EoI	<b>02.05.2023</b>

10	Date of Final List of Eligible Prospective Resolution Applicants	<b>11.06.2023</b>
11	Date of Invitation of Resolution Plan	01.06.2023
12	Last Date of Submission of Resolution Plan	17.07.2023
13	Date of Approval of Resolution Plan by CoC	30.10.2023
14	Date of Filing of Resolution Plan with Adjudicating Authority	<b>06.11.2023</b>
15	Date of Expiry of 180 days of CIRP	30.08.2023
16	Date of Order extending the period of CIRP	13.10.2023
17	Date of Expiry of Extended Period of CIRP	28.11.2023
18	Fair Value	4431061
19	Liquidation value	2652208
20	Number of Meetings of CoC held	9

3. I have examined the Resolution Plan received from Resolution Applicant M/S My Stuff Logistics LLP and approved by Committee of Creditors )CoC( of Sagar E-Shop Private Limited.

4. I hereby certify that-

i) ( the said Resolution Plan complies with all the provisions of the Insolvency and Bankruptcy Code 2016 )Code(, the Insolvency and Bankruptcy Board of India )Insolvency Resolution Process for Corporate

Persons( Regulations, 2016 )CIRP Regulations( and does not contravene any of the provisions of the law for the time being in force.

)ii( the Resolution Applicant (My Stuff Logistics LLP) has submitted an affidavit pursuant to section30)1( of the Code confirming its eligibility under section 29A of the Code to submit resolution plan. The contents of the said affidavit are in order.

)iii( the said Resolution Plan has been approved by the CoC in accordance with the provisions of the Code and the CIRP Regulations made thereunder. The Resolution Plan has been approved by 100 % of voting share of financial creditors after considering its feasibility and viability and other requirements specified by the CIRP Regulations.

)iv( I sought vote of members of the CoC by electronic voting system which was kept open at least for 24 hours as per the regulation 26.

5. The list of financial creditors of the CD Sagar E-Shop Private Limited being members of the CoC and distribution of voting share among them is as under:

Sl. No.	Name of Creditor	Voting Share )%(	Voting for Resolution Plan )Voted for / Dissented / Abstained(
1	Eporchlight LLP	95.20%	Voted For
2	Mahavir Agarwal	04.80%	Voted For

6. The Resolution Plan includes a statement under regulation 38)1A( of the CIRP Regulations as to how it has dealt with the interests of all stakeholders in compliance with the Code and regulations made thereunder.

**7.** The amounts provided for the stakeholders under the Resolution Plan is as under:

(Amount in Rs. lakh(

Sl. No.	Category of Stakeholder*	Sub-Category of Stakeholder	Amount Claimed	Amount Admitted	Amount Provided under the Plan#	Amount Provided to the Amount

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						Claimed (%)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	Secured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	0	0	0	0
		(b) Other than (a) above:	0	0	0	0
		(i) who did not vote in favour of the resolution Plan				
		(ii) who voted in favour of the resolution plan				
		Total[(a) + (b)]	0	0	0	0
2	Unsecured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	0	0	0	0
		(b) Other than (a) above:				

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		(i) who did not vote in favour of the resolution Plan	0	0	0	0
		(ii) who voted in favour of the resolution plan	208.50	208.50	10.43	5.00
		Total[(a) + (b)]	208.50	208.50	10.43	5.00
3	Operational Creditors	(a) Related Party of Corporate Debtor	0	0	0	0
		(b) Other than (a) above:	34.04	0	0.34	1.00
		(i) Government	0	0	0	0
		(ii) Workmen	0	0	0	0
		(iii) Employees	141.64	141.64	1.42	1.00
		(iv) Other Operational Creditors				
		Total[(a) + (b)]	175.68	141.64	1.76	1.00
4	Other debts and dues		0	0	0	0
Grand Total			384.18	350.14	12.19	3.48

\*If there are sub-categories in a category, please add rows for each sub-category.

# Amount provided over time under the Resolution Plan and includes estimated value of non-cash components. It is not NPV.]

8. The interests of existing shareholders have been altered by the Resolution plan as under:

Sl. No	Category of Share Holder	No. of Shares held before CIRP	No. of Shares held after the CIRP	Voting Share )%( held before CIRP	Voting Share )%( held after CIRP
1	Equity	100000	0	100	0
2	Preference	0	0	0	0

9. The compliance of the Resolution Plan is as under:

Section of the Code / Regulation No.	Requirement with respect to Resolution Plan	Clause of Resolution Plan	Compliance )Yes / No(
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?	Documents submitted alongwith EOI	YES
Section 29A	Whether the Resolution Applicant is eligible to submit resolution plan as per final list of Resolution Professional or Order, if any, of the Adjudicating Authority?	Clause 5.2.6 (page 22)	YES
Section 30)1(	Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?	YES	YES
Section 30)2(	Whether the Resolution Plan- (a) provides for the payment of insolvency resolution process costs?	Clause	

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	(b) provides for the payment to the operational creditors?	6.1 (Page 26)	YES
	(c) provides for the payment to the financial creditors who did not vote in favour of the resolution plan?	Clause 6.4 and 6.5 (Pages 28 to 30)	YES
	(d) provides for the management of the affairs of the corporate debtor?	Clause 6.2.1(b) (Page 28)	YES
	(e) provides for the implementation and supervision of the resolution plan?	Clause 7.2 (Pages 35, 36)	YES
	(f) contravenes any of the provisions of the law for the time being in force?	Clause 7.2A and 7.2D (Pages 35, 38)	YES
		Clause 4.3	YES

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		(Page 19)	
Section 30)4(	Whether the Resolution Plan a) is feasible and viable, according to the CoC? b) has been approved by the CoC with 66% voting share?	Clause 6.7 (Page 33) 100%	YES
Section 31)1(	Whether the Resolution Plan has provisions for its effective implementation plan, according to the CoC?	Clause 7.2 A (Pages 35, 36)	YES
Regulation 38 )1(	Whether the amount due to the operational creditors under the resolution plan has been given priority in payment over financial creditors?]	Clause 6.8 (Page 33)	YES
Regulation 38)1A(	Whether the resolution plan includes a statement as to how it has dealt with the interests of all stakeholders?	Clause 6.8 (Page 33)	YES
Regulation 38(1B)	(i) Whether the Resolution Applicant or any of its related parties has failed to implement or contributed to the failure of implementation of any resolution plan approved under the Code.  (ii) If so, whether the Resolution Applicant has submitted the statement giving details of such non-implementation?]	Clause 5.2.14 (Page 25)  NA	YES  NA
Regulation 38)2(	Whether the Resolution Plan provides:  (a) the term of the plan and its implementation schedule?		



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	<p>(b) for the management and control of the business of the corporate debtor during its term?</p> <p>(c) adequate means for supervising its implementation?</p>	<p>Clause 7.1 (Page 35)</p> <p>Clause 7.2 (Page 35)</p> <p>Clause 7.2D (Page 38)</p>	<p>YES</p> <p>YES</p> <p>YES</p>
38)3(	Whether the resolution plan demonstrates that –	<p>Clause 5.1 (Page 20)</p> <p>Clause 6.8 (Page 33)</p> <p>Clause 7.2 A (Pages 35 to 39)</p> <p>Clause</p>	<p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p>

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	<p>a( it addresses the cause of default?</p> <p>b( it is feasible and viable?</p> <p>c( it has provisions for its effective implementation?</p> <p>d( it has provisions for approvals required and the timeline for the same?</p> <p>e( the resolution applicant has the capability to implement the resolution plan?</p>	<p>9.1 (Page 53)</p> <p>Clause 5.2.13 along with Chapter 4 (Page 25)</p>	YES
39)2(	Whether the RP has filed applications in respect of transactions observed, found or determined by him?	No such transaction found	
Regulation 39(4)	Provide details of performance security received, as referred to in sub-regulation (4A) of regulation 36B.]	Rs. 446900.00 received from SRA, being 10% of the Plan value	YES

10. The CIRP has been conducted as per the timeline indicated as under:

	Description of Activity		Actual Date
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Section of the Code / Regulation No.		Latest Timeline under regulation 40A	
Section 16)1(	Commencement of CIRP and Appointment of IRP	T	T (03.03.2023)
Regulation 6)1(	Publication of Public Announcement	T+3	05.03.2023
Section 15)1)c( / Regulation 12 )1(	Submission of Claims	T+14	17.03.2023
Regulation 13)1(	Verification of Claims	T+21	24.03.2023
Section 26)6A( / Regulation 15A	Application for Appointment of Authorised Representative, if necessary	T+23	N A
Regulation 17)1(	Filing of Report Certifying Constitution of CoC	T+23	25.03.2023
Section 22)1( and regulation 17)2(	First Meeting of the CoC	T+30	31.03.2023
Regulation 35A	Determination of fraudulent and other transactions	T+115	09.08.2023
Regulation 27	Appointment of two Registered Valuers	T+47	11.04.2023
Regulation 36 )1(	Submission of Information Memorandum to CoC	T+54]	24.05.2023
Regulation 36A	Invitation of EoI	T+75	01.05.2023
	Publication of Form G	T+75	02.05.2023
	Provisional List of Resolution Applicants	T+100	27.05.2023
	Final List of Resolution Applicants	T+115	11.06.2023
Regulation 36B	Issue of Request for Resolution Plan, which includes Evaluation Matrix and Information Memorandum to Resolution Applicants	T+105	01.06.2023

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Section 30)6( / Regulation 39)4(	Submission of CoC approved Resolution Plan	T+165	06.11.2023
Section 31)1(	Approval of Resolution Plan	T=180	

11. The time frame proposed for obtaining relevant approvals is as under:

Sl. No.	Nature of Approval	Name of applicable Law	Name of Authority who will grant Approval	When to be obtained
1	N A			
2				
3				

12. The Resolution Plan is not subject to any contingency.

or

The Resolution Plan is subject to the following contingencies )Elaborate the contingencies(:

i.....NIL.....

ii.....

13. Following are the deviations / non-compliances of the provisions of the Insolvency and Bankruptcy Code, 2016, regulations made or circulars issued thereunder )If any deviation/ non-compliances were observed, please state the details and reasons for the same(:

Sl. No.	Deviation/Non-compliance observed	Section of the Code / Regulation No. / Circular No.	Reasons	Whether rectified or not
1	NIL			
2				
3				

14. The Resolution Plan is being filed 22 days before the expiry of the period of CIRP provided in section 12 of the Code.

14A. Whether the resolution professional has, in accordance with regulation 35A,-

(a) applied to the Adjudicating Authority on or before the one hundred and thirty-fifth day of the insolvency commencement date:

Yes /

No

(b) filed Form CIRP 8 with the Board on or before the one hundred and fortieth day of the insolvency commencement date:

Yes / No]

15. Provide details of section 66 or avoidance application filed / pending.

Sl. No.	Type of Transaction	Date of Filing with Adjudicating Authority	Date of Order of the Adjudicating Authority	Brief of the Order
1	Preferential transactions under section 43	N A	N A	N A
2	Undervalued transactions under section 45	N A	N A	N A
3	Extortionate credit transactions under section 50	N A	N A	N A
4	Fraudulent transactions under section 66	N A	N A	N A

15A. The committee has approved a plan providing for contribution under regulation 39B as under:

a. Estimated liquidation cost: Rs...132610.00

b. Estimated liquid assets available: Rs 0.00

c. Contributions required to be made: Rs...132610.00

d. Financial creditor wise contribution is as under:

Sl. No.	Name of financial creditor	Amount to be contributed (Rs.)
1	Eporchlight LLP	126245.00
2	Mahavir Agarwal	6365.00
Total		132610.00

15B. The committee has recommended under regulation 39C as under:

a. Sale of corporate debtor as a going concern: Yes / No

b. Sale of business of corporate debtor as a going concern: Yes / No

The details of recommendation are available with the resolution professional.

15C. The committee has fixed, in consultation with the resolution professional, the fee payable to the liquidator during the liquidation period under regulation 39D.]

16. I, Arunava Sikdar, hereby certify that the contents of this certificate are true and correct to the best of my knowledge and belief, and nothing material has been concealed therefrom.

)Signature(

Name of the Resolution Professional: ARUNAVA SIKDAR

IP Registration No: IBBI/IPA-001/IP-00022/2016-17/10047

Address as registered with the Board: C-10, LGF, Lajpat Nagar Part III, New Delhi-110024

Email id as registered with the Board: asikdar1990@gmail.com

Date: 06.11.2023

Place: New Delhi

5. In the circumstances mentioned hereinabove, the Applicant has filed Application seeking approval of this Tribunal on the Resolution Plan, submitted by the Resolution Applicant i.e. M/s My Stuff Logistics LLP stating that the plan is in accordance with the Section 30(2) and other provisions laid down under the code.

6. On perusal of the Resolution Plan, it is observed that the Resolution Plan provides for the following:
  - a. Payment of CIRP Cost as specified u/s 30(2)(a) of the Code.
  - b. Repayment of Debts of Operational Creditors as specified u/s 30(2)(b) of the Code.
  - c. For management of the affairs of the Corporate Debtor, after the approval of Resolution Plan, as specified U/s 30(2)(c) of the Code.
  - d. The implementation and supervision of Resolution Plan by the RP and the CoC as specified u/s 30(2)(d) of the Code.
7. The RP has complied with the requirement of the Code in terms of Section 30(2)(a) to 30(2)(f) and Regulations 38(1), 38(1)(a), 38(2)(a), 38(2)(b), 38(2)(c) & 38(3) of the Regulations.
8. The RP has filed Compliance Certificate in Form-H along with the plan. On perusal the same is found to be in order. The Resolution Plan has been approved by the CoC in the 9th meeting held on 30.10.2023 with 100% (Hundred percent).
9. There is no such pending proceedings u/s 66(1) r/w 43(1) and 44(1) of the Code.

10. In the case of “***K Sashidhar v. Indian Overseas Bank & Others***” (in **Civil Appeal No.10673/2018** decided on 05.02.2019) the Hon’ble Apex Court held that if the CoC had approved the Resolution Plan by requisite percent of voting share, then as per section 30(6) of the Code, it is imperative for the Resolution Professional to submit the same to the Adjudicating Authority (NCLT). On receipt of such a proposal, the Adjudicating Authority is required to satisfy itself that the Resolution Plan as approved by CoC meets the requirements specified in Section 30(2). The Hon’ble Court observed that the role of the NCLT is ‘no more and no less’. The Hon’ble Court further held that the discretion of the Adjudicating Authority is circumscribed by Section 31 and is limited to scrutiny of the Resolution Plan “as approved” by the requisite percent of voting share of financial creditors. Even in that enquiry, the grounds on which the Adjudicating Authority can reject the Resolution Plan is in reference to matters specified in Section 30(2) when the Resolution Plan does not conform to the stated requirements.
11. In **CoC of Essar Steel (Civil Appeal No. 8766-67 of 2019)** decided on 15.11.2019) the Hon’ble Apex Court clearly laid down that the Adjudicating Authority would not have power to modify the Resolution Plan which the CoC in their commercial wisdom have approved. In para 42 Hon’ble Court observed as under:



*“Thus, it is clear that the limited judicial review available, which can in no circumstance trespass upon a business decision of the majority of the Committee of Creditors, has to be within the four corners of section 30(2) of the Code, insofar as the Adjudicating Authority is concerned, and section 32 read with section 61(3) of the Code, insofar as the Appellate Tribunal is concerned, the parameters of such review having been clearly laid down in **K. Sashidhar**(supra).”*

12. In view of the discussions and the law thus settled, the instant Resolution Plan meets the requirements of Section 30(2) of the Code and Regulations 37, 38, 38 (1A) and 39 (4) of the Regulations. The Resolution Plan is not in contravention of any of the provisions of Section 29A of the Code and is in accordance with law. The same needs to be approved. Hence ordered.

### **ORDER**

13. The Application **IA-5262/2023** in CP(IB)/900/(MB-IV)/2021 is **allowed**. The Resolution Plan annexed to the Application is hereby approved. It shall become effective from this date and shall form part of this order.

- 13.1. It shall be binding on the Corporate Debtor, its employees, members, creditors, including the Central Government, any State Government or any

local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force is due, guarantors and other stakeholders involved in the Resolution Plan.

- 13.2. The approval of the resolution plan shall not be construed as waiver of any statutory obligations of the Corporate Debtor and shall be dealt by the appropriate authorities in accordance with law. Further in terms of the judgment of ***Hon'ble Supreme Court*** in the matter of ***"Ghanshyam Mishra And Sons Private Limited V/S Edelweiss Asset Reconstruction Company Limited"***, on the date of approval of the 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 a part of the Resolution Plan.
- 13.3. The Memorandum of Association (MoA) and Articles of Association (AoA) shall accordingly be amended and filed with the Registrar of Companies (RoC), Mumbai, Maharashtra for information and record. The Resolution Applicant, for effective implementation of the Plan, shall obtain all necessary approvals, under any law for the time

being in force, within such period as may be prescribed.

13.4. The moratorium under Section 14 of the Code shall cease to have effect from this date.

13.5. The Applicant shall supervise the implementation of the Resolution Plan and file status of its implementation before this Authority from time to time, preferably every quarter.

13.6. The Applicant shall forward all records relating to the conduct of the CIRP and the Resolution Plan to the IBBI along with copy of this Order for information.

13.7. The Applicant shall forthwith send a certified copy of this Order to the CoC and the Resolution Applicant, respectively for necessary compliance.

14. The Interlocutory Application i.e. IA-5262/2023 in CP(IB)/900(MB)/2021 is allowed accordingly disposed of.

Sd/-

**Anu Jagmohan Singh**

**Member (Technical)**

Sd/-

**Kishore Vemulapalli**

**Member (Judicial)**