



IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH, COURT-II  
KOLKATA

I.A. (IB) No. 345/KB/2023  
in  
CP (IB) No. 1380/KB/2020

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

*In the matter of:*

UCO Bank

... Financial Creditor

Versus

Bhumya Tea Company Private Limited

... Corporate Debtor

*And*

*In the matter of:*

Santanu Brahma, Resolution Professional of  
**Bhumya Tea Company Private Limited**

... Applicant

**Date of pronouncement: 28 August 2023**

*Coram:*

Smt. Bidisha Banerjee, Member (Judicial)

Shri Balraj Joshi, Member (Technical)

*Appearances (via hybrid mode):*

For the Applicant/RP

Mr. Shaunak Mitra, Advocate

Mr. Manas Das, Advocate

Mr, Santanu Brahma, Resolution Professional

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**ORDER**

*Per: Bidisha Banerjee, Member (Judicial)*

1. This Court convened through hybrid mode.

**Preliminary**

2. I.A. (IB) No. 345/KB/2023 is an application under section 30(6) of the Insolvency and Bankruptcy Code, 2016, after approval of the resolution plan by the Committee of Creditors (“CoC”).
3. This application was filed by Mr. Santanu Brahma, Resolution Professional of Bhumya Tea Company Private Limited (CIN: U01409WB2005PTC102542), 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 Bhumya Tea Company Private Limited (“Corporate Debtor”).
4. The underlying Company Petition in C.P. (IB) No. 1380/KB/2020 was filed by UCO Bank, the Financial Creditor to initiate Corporate Insolvency Resolution Process (“CIRP”) against Bhumya Tea Company Private Limited, the Corporate Debtor, under section 7 of the Insolvency and Bankruptcy Code 2016, which was admitted *vide* order dated 05 April 2022.
5. Initially, Mr. Santanu Brahma, (IBBI Reg. No. IBBI/IPA-001/IP-P01482/2018-2019/12251) was appointed as the Interim Resolution Professional (**IRP**). At the 2<sup>nd</sup> meeting of the CoC held on 23 May 2022, the Applicant was appointed as the Resolution Professional and the same was confirmed by this Adjudicating Authority.
6. The period of 92 days from 18 May 2022 to 18 August 2022 was excluded and a period of 90 days was extended *vide* order dated 29

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February 2023 in I.A. (IB) No. 1079/KB/2022 and I.A. (IB) No.  
1080/KB/2022.

**Constitution of CoC**

7. The IRP made public announcement on 07 April 2022 in *Financial Express (English) (Kolkata Edition)*, *The Assam Rising (English) (Assam edition)*, *Ekdin (Bengali) (Kolkata Edition)* and *Dainandin Barta (Assamese) (Assam edition)* newspapers regarding initiation of Corporate Insolvency Resolution Process (**CIRP**) and called proof of claims from the financial and operational creditors, workers and employees of the corporate debtor in the specified forms till 15 September 2021.
8. The CoC was constituted and a report of the constitution of the CoC as on 25 April 2022, was filed before the Adjudicating Authority on 26 April 2022. The CoC was reconstituted on 21.05.2022, 15.06.2022 and on 06.07.2022. The CoC constituted of one secured Financial Creditor and five Unsecured Financial Creditors comprising of the following:

Financial Creditors	Voting percentage
UCO Bank (secured)	24.3%
Consolidated Infracon (unsecured)	0.1%
Bank of Baroda (unsecured)	5.6%
Indian Bank (unsecured)	6.5%
Punjab National Bank (unsecured)	53.6%
State Bank of India (unsecured)	9.9%

9. The Applicant states that a total of eleven 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	04.05.2022
2 <sup>nd</sup> CoC Meeting	23.05.2022
3 <sup>rd</sup> CoC Meeting	20.06.2022
4 <sup>th</sup> CoC Meeting	08.07.2022
5 <sup>th</sup> CoC Meeting	24.08.2022
6 <sup>th</sup> CoC Meeting	26.09.2022
7 <sup>th</sup> CoC Meeting	11.10.2022
8 <sup>th</sup> CoC Meeting	08.11.2022
9 <sup>th</sup> CoC Meeting	19.11.2022
10 <sup>th</sup> CoC Meeting	29.11.2022 adjourned to 03.12.2022
11 <sup>th</sup> CoC Meeting	24.01.2023

**Collation of claims**

10. The amounts claimed and admitted are summarised below:

**Amount in INR/Lakh**

Nature of creditor	Amount claimed	Amount admitted
Financial Creditors		
UCO Bank	7604.18	7604.18
Consolidated Infracon	39.88	39.88
Bank of Baroda	2415.97	1750.00
Indian Bank	2032.63	2032.63
Punjab National Bank	17,023.92	16,817.54
State Bank of India	3,109.16	3,109.16
Operational Creditors		

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<b>Nature of creditor</b>	<b>Amount claimed</b>	<b>Amount admitted</b>
Assam Tea Employees PF Organisation (Government)	213.31	213.31
Amra Traders (other)	30.00	30.00
Jain Hardware Stores	0.44	0.44
Other Creditors		
Darjeeling Organic Tea Estates Private Limited	10,157.00	7,439.93
<b>Total</b>	<b>42,626.49</b>	<b>39,037.07</b>

**CIRP and compliances**

11. The Applicant submits that in terms of the provisions of section 25(2)(h) of the Code read with regulation 36A(1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, invitations in Form 'G' for Expressions of Interest (**EoI**) from potential resolution applicants was issued on 19 June 2022 in *Financial Express, (English) (Kolkata edition), Amar Bangla (Ek Din) (Bengali) (Kolkata edition), The Assam Rising (English) Assam edition* and *Dainandin Barta (Assamese) (Assam edition)* newspapers wherein the last date of receiving EoI was 06 July 2022.
12. The notice was also published on the website of the Insolvency and Bankruptcy Board of India (**IBBI**).
13. The Applicant submits that in response to the invitation for EoI published on 19 June 2022, several EoIs were received. The provisional list of prospective Resolution Applicants was issued on 16 July 2022 and the Final list of eligible Resolution Applicants was issued on 26 July 2022. The RP then shared the Information Memorandum, Evaluation Matrix and Request for Resolution Plan (**RFRP**) with the Prospective Resolution Applicants on 19 July 2022. The Information Memorandum

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was updated on 22 November 2022 and the same was distributed to the prospective Resolution Applicants.

14. As per regulation 35(2) of the CIRP Regulations, after receipt of the Resolution Plan, the RP informed the fair value and liquidation value of the Corporate Debtor to the CoC.

**Evaluation and voting**

15. The Resolution Professional received only one Resolution Plan from North East Plantations & Commercial Private Limited on 18 August 2022. The Resolution Plan was opened by the Resolution Professional in the presence of the CoC on its 5<sup>th</sup> CoC meeting held on 24 August 2022. The Resolution Plan was placed for discussion before the CoC in the 6<sup>th</sup> CoC meeting held on 26 September 2022, the 7<sup>th</sup> CoC meeting held on 11 October 2022, 8<sup>th</sup> CoC meeting held on 08 November 2022 and the 9<sup>th</sup> CoC meeting held on 19 November 2022.
16. The CoC requested the prospective Resolution Applicant to revise the Resolution Plan. The prospective Resolution Applicant filed the revised/modified Resolution Plan 26 November 2022.
17. The Revised Resolution Plan was discussed in the 10<sup>th</sup> CoC meeting held on 03 December 2022 wherein the feasibility and the viability of the Resolution Plan was considered. After due discussions the Resolution Professional placed the said Resolution Plan before the CoC for e-voting, the e-voting started on 05 December 2022 and concluded on 06 January 2023, wherein the Resolution Plan submitted by North East Plantations & Commercial Private Limited (“**Successful Resolution Applicant**”) having CIN: U01403AS2010PTC010303 was first approved with 90% voting share and subsequently State Bank of India having 9.9% voting share approved the Resolution Plan via email dated

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13 January 2023, hence the Resolution Plan was approved with 99.9% voting share<sup>1</sup>.

18. The Applicant issued the Letter of Intent to the Successful Resolution Applicant which was duly acknowledged by the Successful Resolution Applicant.
19. In accordance with regulation 36B(4A) of the CIRP Regulations, the Successful Resolution Applicant has deposited the Performance Bank Guarantee of Rs.2,15,00,000/- (Rupees Two Crore and Fifteen Lakh only) being Bank Guarantee No. 1071555BG0090 dated 17 January 2023 issued by the Assam Cooperative Apex Bank Limited<sup>2</sup>.

**Compliance of the approved Resolution Plan with various provisions**

20. The Applicant has filed a Compliance Certificate in prescribed form, i.e., Form 'H' in compliance with regulation 39(4) of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.<sup>3</sup>
21. The Applicant has submitted details of various compliances as envisaged within the Code and the CIRP Regulations which a Resolution Plan should 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):**

<b>Clause of s.30(2)</b>	<b>Requirement</b>	<b>How dealt with in the Plan</b>
1.	Plan must provide for payment of CIRP cost in priority to payment of other debts of CD in the manner specified by the Board.	Clause 6.4(b) at Pages 23-24 of the Resolution Plan.

<sup>1</sup> Annexure A-4 at pages 58-60 and Annexure 5 at Page 83 of the I.A.

<sup>2</sup> Annexure A-8 at pages 212-217 of the I.A.

<sup>3</sup> Annexure A-7 at pages 201-210 of the I.A.

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Clause of s.30(2)	Requirement	How dealt with in the Plan
2.	<p>(i) Plan must provide for payment 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;</p> <p>(ii) Plan must provide for payment 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;</p> <p>(iii) provides for payment of debts of financial creditors who do not vote in favour of the resolution plan, in such manner as may be specified by the Board.</p>	<p>Clause 6.4(a) (i) and Clause 6.4 (a) (ii) at Page 23 and Clause 6.4 (c) at page 24 of the Resolution Plan.</p> <p>Clause 6.4(a) (i) and Clause 6.4 (a) (ii) at Page 23 and Clause 6.4 (c) at page 24 of the Resolution Plan.</p> <p>Clause 8 at Page 42 of the Resolution Plan.</p>
(c)	Management of the affairs of the Corporate Debtor after approval of the Resolution Plan.	Clause 9 at pages 43-45 of the Resolution Plan.
(d)	Implementation and Supervision	Clause 9 (f) and Clause 9 (g) at Pages 44-45 of the Resolution Plan.
(e)	Plan does not contravene any of the provisions of the law for the time being in force.	Resolution Plan does not contravene any of the provisions of the law for the time being in force <sup>4</sup> .

<sup>4</sup> Form H, Annexure A-7 at Page No. 206 of the I.A.



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Clause of s.30(2)	Requirement	How dealt with in the Plan
(f)	Conforms to such other requirements as may be specified by the Board.	Clause 10(h) at Page 48 of the Resolution Plan

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

Particulars	Relevant Page of the Revised Resolution Plan dealing aforesaid compliance with Regulation
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: -	
(a) transfer of all or part of the assets of the corporate debtor to one or more persons;	Clause 6.5 (a) at Page 30 of the Resolution Plan.
(b) sale of all or part of the assets whether subject to any security interest or not;	Clause 6.5 (b) at Page 30 of the Resolution Plan.
(ba) restructuring of the corporate debtor, by way of merger, amalgamation and demerger;	Clause 6.5 (c) at Page 30 of the Resolution Plan.
(c) the substantial acquisition of shares of the corporate debtor, or the merger or consolidation of the corporate debtor with one or more persons;	Clause 6.5 (d) at Pages 30-31 of the Resolution Plan.
(ca) cancellation or delisting of any shares of the corporate debtor, if applicable;	Clause 6.5 (d) at Pages 30-31 of the Resolution Plan.

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<b>Particulars</b>	<b>Relevant Page of the Revised Resolution Plan dealing aforesaid compliance with Regulation</b>
(d) satisfaction or modification of any security interest;	Clause 6.5 (e) at Page 31 of the Resolution Plan.
(e) curing or waiving of any breach of the terms of any debt due from the corporate debtor;	Clause 6.5 (f) at Page 31 of the Resolution Plan.
(f) reduction in the amount payable to the creditors;	Clause 6.5 (g) at Page 31 of the Resolution Plan.
(g) extension of a maturity date or a change in interest rate or other terms of a debt due from the corporate debtor;	Clause 6.5 (f) at Page 31 of the Resolution Plan.
(h) amendment of the constitutional documents of the corporate debtor;	Clause 6.5 (h) at Page 32 of the Resolution Plan.
(i) issuance of securities of the corporate debtor, for cash, property, securities, or in exchange for claims or interests, or other appropriate purpose;	Clause 6.5 (i) at Page 33 of the Resolution Plan.
(j) change in portfolio of goods or services produced or rendered by the corporate debtor;	Clause 6.5 (j) at Page 33 of the Resolution Plan.
(k) change in technology used by the corporate debtor; and	Clause 6.5 (j) at Page 33 of the Resolution Plan.
(l) obtaining necessary approvals from the Central and State Governments and other authorities.	Clause 11(h) at Page 51 of the Resolution Plan.

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<b>Particulars</b>	<b>Relevant Page of the Revised Resolution Plan dealing aforesaid compliance with Regulation</b>
(m) sale of one or more assets of corporate debtor to one or more successful resolution applicants submitting resolution plans for such assets; and manner of dealing with remaining assets.	Not proposed in the Resolution Plan.

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

<b>Ref to relevant Reg.</b>	<b>Requirement</b>	<b>How dealt with in the Plan</b>
38(1a)	The amount payable to the operational creditors under a resolution plan shall be given priority in payment over financial creditors.	Clause 6.4(a) (i) and Clause 6.4 (a) (ii) at Page 23 and Clause 6.4 (c) at page 24 of the Resolution Plan.
38(1b)	The amount payable to the financial creditors, who have right to vote and did not vote in favour of the resolution plan, shall be paid in priority over financial creditors who voted in favour of the plan.	Clause 8 at Page 42 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 6.4 (a) at Page 22 of the Resolution Plan.

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<b>Ref to relevant Reg.</b>	<b>Requirement</b>	<b>How dealt with in the Plan</b>
38(1B)	A resolution plan shall include a statement giving details if the resolution applicant or any of its related parties has failed to implement or contributed to the failure of implementation of any other resolution plan approved by the Adjudicating Authority at any time in the past.	Clause 10(d) at Page 46 of the Resolution Plan.
38(2)	A resolution plan shall provide:	
	(a) the term of the plan and its implementation schedule;	Clause 8 at Pages 41-42 of the Resolution Plan.
	(b) the management and control of the business of the corporate debtor during its term; and	Clause 9 at pages 43-45 of the Resolution Plan.
	(c) adequate means for supervising its implementation.	Clause 9 (f) and Clause 9 (g) at Pages 44-45 of the Resolution Plan.
	(d) Provides for the manner in which proceedings in respect of avoidance transactions, if any, will be pursued after the approval of the resolution plan and the manner in which the proceeds, if any, from such proceedings shall be distributed.	Clause 10 (e) at Pages 46-47 of the Resolution Plan.

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<b>Ref to relevant Reg.</b>	<b>Requirement</b>	<b>How dealt with in the Plan</b>
38(3)	A resolution plan shall demonstrate that –	
	(a) it addresses the cause of default;	Clause 7.1 at Page 34 of the Resolution Plan.
	(b) it is feasible and viable;	Clause 4.4 at Page 15 of the Resolution Plan.
	(c) it has provisions for its effective implementation;	Clause 9 (g) at Pages 44-45 of the Resolution Plan.
	(d) it has provisions for approvals required and the timeline for the same; and	Clause 8 at Pages 41-42 of the Resolution Plan.
	(e) the Resolution Applicant has the capability to implement the resolution plan.	Clause 4.2 and Clause 4.3. at Page 14 of Resolution Plan.

22. The Resolution Applicant has submitted affidavit of eligibility under section 29A of the Code, affirmed on 10 August 2022<sup>5</sup>.

**Details of Resolution Plan/Payment Schedule**

23. The Applicant submits that the Resolution Applicant had filed a Resolution Plan on 17 August 2022 which was further revised on 25 November 2022.
24. The relevant information with regard to the amount admitted and the amount proposed to be paid by the Successful Resolution Applicant, *i.e.*, North East Plantations & Commercial Private Limited under the said

<sup>5</sup> Annexure A-6at pages 172-177 of the I.A.

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Resolution Plan dated 17 August 2022 updated on 25 November 2022, is tabulated hereunder:

Sl. No.	Name of Claimant	Claim admitted (in Rs.)	Amount proposed (in Rs.)
1.	CIRP Costs (approx.)	---	actual
2.	Financial Creditors		
a.	UCO Bank	7604.18 <i>Lakh</i>	1350 <i>Lakh</i>
b.	Consolidated Infracon	39.88 <i>Lakh</i>	0.44 <i>Lakh</i>
c.	Bank of Baroda	1750 <i>Lakh</i>	19.29 <i>Lakh</i>
d.	Indian Bank	2032.63 <i>Lakh</i>	22.40 <i>Lakh</i>
e.	Punjab National Bank	16817.54 <i>Lakh</i>	185.34 <i>Lakh</i>
f.	State Bank of India	3109.16 <i>Lakh</i>	34.27 <i>Lakh</i>
3.	Operational Creditors		
a.	Assam Tea Employees PF Organisation (Government)	231.31 <i>Lakh</i>	237.62 <i>Lakh</i>
b.	Workmen & Employee	---	200.64 <i>Lakh</i>
c.	Amra Traders (Other)	30.00 <i>Lakh</i>	--
d.	Jain Hardware Stores	0.44 <i>Lakh</i>	--
4.	Other Creditor		
a.	Darjeeling Organic Tea Estates Private Limited	7439.93 <i>Lakh</i>	---
	<b>Total</b>	<b>39037.08 <i>Lakh</i></b>	<b>2050 <i>Lakh</i> +CIRP</b>

25. Clause 9 (c) at page 43 of the Resolution Plan states that “the cost of engagement of the Supervisory Committee shall be borne by the CD and be

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*paid out of internal accruals of the CD. In absence of the internal accruals of the CD, the cost of the Supervisory Committee shall be paid by the Resolution Applicant which shall be over and above the Resolution Amount as stated in the Resolution Plan.”*

26. The Resolution Plan defines “**Effective Date**” as “*the date of pronouncement of order on which the Resolution Plan is approved by the Adjudicating Authority (i.e. Hon’ble NCLT, Kolkata) under Section 31 of IBC. Also being denoted as ‘X’ in various tables of the annexed Resolution Plan*”.

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

27. The Resolution Plan also provides for –
- a. Management of company after resolution in Clause 9 at pages 43-45 of the Resolution Plan.
  - b. Term of the resolution plan in Clause 8 at Pages 41-42 of the Resolution Plan.
  - c. Implementation and Supervision of the resolution plan in C Clause 9 (f) and Clause 9 (g) at Pages 44-45 of the Resolution Plan. It has been stated in Clause 9 (f) that the Supervisory Committee shall supervise the mechanism for payment to the stakeholders of the CD until complete implementation of the Resolution Plan.

**Relinquishment/Waiver of liabilities and Approvals**

28. 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.

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Sl. No.	Relief, concessions and approvals sought
1.	<p><u>Access to Assets of the Company:</u></p> <p>On payment of full &amp; final resolution amount committed to the financial creditor, each of the lessors/owners of the assets where the Company conducts its business shall provide unrestricted access to the Resolution Applicant and the Company. Each of the respective, representatives, employees, officers and agents of the Resolution Applicant and the Company shall have unrestricted access to such locations without holding any asset of the Company. The Resolution Applicant agrees that it will be granted control and custody of all the assets of the corporate debtor only from the Final date. The control and custody of all the assets of the corporate debtor shall remain with the Supervisory Committee from the NCLT Approval date (i.e Effective Date) till final date.</p>
2.	<p><u>Share Capital</u></p> <p>This Resolution Plan contemplates cancellation of the existing 71,50,000 numbers of equity shares of face value INR 10/- each of the Corporate Debtors and simultaneous issue of fresh equity shares of equivalent number i.e. 71,50,000 numbers of equity shares of INR 10/- each, fully paid up on infusion of funds by the Resolution Applicant</p> <p>The Corporate Debtor shall undertake cancellation of the entire existing equity share capital held by the existing shareholders that is, 71,50,000 equity shares shall stand compulsorily cancelled without requirement of writing the words "and reduced" in the corporate name and style of the Corporate Debtor.</p> <p>The proposed cancellation of shares shall be applicable to all existing shareholders of the Corporate Debtor and shall be pursuant to the order of the Adjudicating Authority approving this Resolution Plan, and shall not require any other procedure as required under the Companies Act, including that under section 66 of the Companies Act or regulations of the SEBI; shall not require the consent of any of the creditors of the Corporate Debtor or approval of the shareholders of the Corporate Debtor,</p>



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Sl. No.	Relief, concessions and approvals sought										
	<p>as the Resolution Plan upon being approved by the Adjudicating Authority shall be binding on the Corporate Debtor and its stakeholders (including its creditors and shareholders);</p> <p>Simultaneous to the cancellation of all existing shareholding in the Corporate Debtor, the initial tranche of the resolution amount of INR 715 Lacs to be infused Resolution Applicant shall be considered towards subscription of 71,50,000 nos. of equity shares, with face value of INR 10/- each, of the Corporate Debtor. The capital structure of the Corporate Debtor post cancellation of all existing shareholding in the Corporate Debtor and infusion of funds by the Resolution Applicant is proposed to be as follows:</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: center;">Sl. No.</th> <th style="text-align: center;">Name and Category of Shareholder</th> <th style="text-align: center;">Face Value (INR)</th> <th style="text-align: center;">Number of Shares</th> <th style="text-align: center;">% Holding</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">1</td> <td style="text-align: center;">North East Plantations &amp; Commercials Pvt. Ltd.</td> <td style="text-align: center;">10/-</td> <td style="text-align: center;">71,50,000</td> <td style="text-align: center;">100%</td> </tr> </tbody> </table> <p>The Resolution Applicant prays before the Hon'ble NCLT, Kolkata to grant relief from procedural and statutory formalities at the time of cancellation of existing equity shares and issue of fresh equity shares in the manner as envisaged above</p>	Sl. No.	Name and Category of Shareholder	Face Value (INR)	Number of Shares	% Holding	1	North East Plantations & Commercials Pvt. Ltd.	10/-	71,50,000	100%
Sl. No.	Name and Category of Shareholder	Face Value (INR)	Number of Shares	% Holding							
1	North East Plantations & Commercials Pvt. Ltd.	10/-	71,50,000	100%							
3.	<p><u>Change of Name of CD</u></p> <p>The Resolution Applicant prays to Adjudicating Authority to pass necessary orders / to give appropriate directions to such effect that upon approval of this Resolution Plan it shall be deemed that all necessary compliances relating to 'change of name of the CD' as per the provision of Section 13(2) of Companies Act 2013 and Rule 29(1) of the Companies (Incorporation) Rules, 2014 is automatically achieved and be deemed to be complied. The CD under new management of RA shall be considered to have complied with all procedural formalities relating to conducting shareholders meeting, obtaining any permission etc. However, relating to selection of</p>										

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	the (new) name, the RA confirms to abide by the provision of Section 4(2) and 4(3) of the Companies Act and Rule 8 of the Companies (Incorporation) Rules, 2014.
4.	<p><u>Change in Registered Address of the CD</u></p> <p>The Resolution Applicant prays to Adjudicating Authority to pass necessary orders / to give appropriate directions to such effect that upon approval of this Resolution Plan it shall be deemed that all necessary compliances relating to 'change of registered address of the CD' from the state to West Bengal (under jurisdiction of RoC, Kolkata) to the state of Assam (under jurisdiction of RoC, Guwahati) in respect of the provision of Section 12 and 13 of the Companies Act read with Rules made under the Companies (Incorporation) Rules, 2014 is automatically achieved and be deemed to be complied. The CD under new management of RA shall be considered to have complied with all procedural formalities relating to conducting shareholders meeting, obtaining any permission, giving public notice and advertisement etc. The intimation of the order of the Adjudicating Authority approving the Resolution Plan to the respective jurisdiction authorities shall be considered to be sufficient for the purpose of change in the existing registered office of the CD to new address at Jamguri Tea Estate, Assam.</p>
5.	<p><u>Transfer of title of immovable properties of the CD</u></p> <p>As per the information in the IM, the land of Jamguri Tea Estate, Assam is appearing in the name other than that of CD. This Resolution Plan has been made envisaging that this asset as part of the Corporate Debtor and the title of the same is held as equitable mortgage with UCO Bank, the Secured FCs. The</p>

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	proposed settlement includes the settlement of dues of UCO Bank (the Secured FC) and hence, the Resolution Applicant prays to the Adjudicating Authority to pass necessary orders / give directions to the Deputy Commissioner, Golaghat District; Additional Deputy Commissioner Revenue, Golaghat District, Circle Officer, Golaghat District and any other competent authorities to facilitate the execution of transfer of the title of the land of Jamguri Tea Estate, Assam in the name of the CD (or any new name as may be approved by the Registered of Companies as per clause 11(c), above) and execute all necessary documents in relation to the same within a period of 90 (ninety) days from the date of approval of the Resolution Plan by the Adjudicating Authority
6.	<p><u>Transactions with Related Parties:</u></p> <p>The Resolution Applicant prays before the Hon'ble NCLT for permitting related party transaction as a part of normal course of the business of resolution Applicant with precedents.</p>
7.	<p><u>Consents and Permits:</u></p> <p>Upon approval of this Resolution Plan by Adjudicating Authority, 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 Clearances or the like that has been granted to the Company or for which the Company has made an application for renewal or grant.</p>
8.	<p><u>Licenses, Consents and approvals:</u></p> <p>The Resolution Applicant has also considered that by virtue of the order of the Adjudicating Authority approving this Resolution Plan and since the Resolution Applicant would acquire the Company on a 'going concern' basis, all consents, licenses, approvals, rights, entitlements, benefits and privileges whether under law, contract, lease or license, granted in favor of</p>

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<b>Sl. No.</b>	<b>Relief, concessions and approvals sought</b>
	<p>the Company or to which the Company is entitled or accustomed to shall, notwithstanding any provision to the contrary in their terms and notwithstanding that they may have already lapsed or expired due to any non-compliance or efflux of time, be deemed to continue without disruption for the benefit of the Company and the Resolution Applicant for a period of 12 months from the NCLT Approval Date or until the period mentioned in such Business Licenses, whichever is later.</p> <p>The Company shall be granted permission from the NCLT Approval Date to apply with competent authorities for renewal of all consent, licenses, clearances, permissions required to carry the operational activity of the unit.</p> <p>The Company shall be granted a period of 12 months from the NCLT Approval Date to comply with the statutory obligations without suffering any adverse implications including any revocation of licenses or levy of penalties or any other fees or costs.</p> <p>At the time renewal of licenses, approvals, consents, permissions attached to the company, all the fees, cost or penalty pertaining to the period prior to NCLT Approval Date shall be waived off and the Resolution Applicant shall not be liable to pay any old fees/costs/penalty whether due or not.</p> <p>It is hereby clarified that neither the Resolution Professional nor the CoC/ Financial Creditors shall be responsible in any manner whatsoever for obtaining any of the required approvals. However, the Resolution Professional and CoC / Financial Creditors shall provide necessary cooperation if needed in getting any consents/ approvals.</p>
9.	<p>It is proposed that upon full and final payment of resolution amount committed to financial creditor, the original ownership documents of all the assets of the company, if any, free from any</p>

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	charge or hypothecation shall be transferred to the Company and after NCLT Approval Date the Resolution Applicant can perform its business. Further, the Company shall be the legal and beneficial owner of the assets.
10.	<p><u><i>Treatment of ongoing litigation and violations:</i></u></p> <p>On Hon'ble NCLT Approval, all ongoing litigations or violations in the name of the Company shall stand extinguished and void w.e.f. the Hon'ble NCLT Approval Date.</p> <p>The liabilities which occur by way of any order, judgments, or decisions passed by any competent authority in respect of any application, petition, or complaint filed by any person in the matter of transactions entered by the company prior to the NCLT approval date shall be rendered infructuous and not be borne by the resolution applicant and no criminal action shall be taken against Resolution Applicant and the Company in relation to any breach of law committed by anybody connected with the corporate debtor.</p>
11.	All domain names, and servers, being currently used by the Company to the extent not owned shall continue to be available for use by the Company for a period of 6 months from the Hon'ble NCLT Approval Date.
12.	There shall be no adverse effect on the rights of the Company over its immovable properties.
13.	On and from the date of final payment, the Resolution Applicant shall have the right to replace the existing auditors of the Company and appoint new auditors as deemed fit by the

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	Resolution Applicant. During the pendency of the Resolution Plan, the same shall be decided by the Supervisory Committee.
14.	Each of the directors whose offices are being vacated pursuant to the provisions of the Resolution Plan, the Related Parties whose Contracts are being terminated pursuant to this Resolution Plan shall have no claim against the Company (save and except the terms, if any, mentioned in the Resolution Plan in this regard) either in law or tort including on account of any loss of office, profit or repute.
15.	<p><i>16. <u>Handover of books of accounts, clearances, permissions, approvals</u></i></p> <p>On final date, the Resolution Professional or Monitoring Committee/ Financial Creditors shall handover all the books of accounts, documents, returns, forms, clearances, permissions, approvals or any other documents, which is in their possession, of the company for the period prior to Hon'ble NCLT Approval Date to the Resolution Applicant. If any documents are not available with Resolution Professional or Monitoring Committee or Financial Creditors, the Hon'ble NCLT shall record its non-availability and shall waive any liabilities arising from such documents including but not limited to submission, filing of such documents with the respective authorities.</p>
17.	<p><i><u>Financial Statements</u></i></p> <p>It appears from the IM that due to non-cooperation from the Corporate Debtor updated financial statement and records are not available and neither the same has been filed with the regulatory authorities. In order to ensure that the financial statements of the Corporate Debtor reflect the true financial position of the</p>

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	<p>Corporate Debtor, the Corporate Debtor's assets and liabilities will be re-casted with the intent that the Corporate Debtor has been restructured and reborn. The following steps shall be completed by the Resolution Applicant:</p> <ul style="list-style-type: none"><li>i) The financial statements of the Corporate Debtor will be restated based on applicable accounting standards to reflect the true and fair value of the assets and liabilities.</li><li>ii) The cut-off date for the above-mentioned exercise should be the date of acceptance of the Resolution Plan by the Adjudicating Authority. The RA under the guidance of the Supervisory Committee shall perform the necessary exercise in this regard.</li></ul> <p>Accounting of the Resolution Plan: Any write-back / gain on settlement/ waiver of liability(s) arriving out of settlement of all dues as proposed in the Resolution Plan shall be transferred to a separate reserve (hereinafter called "Business Reorganization Reserve" or "BRR") which may subsequently be transferred to General Reserve as and when the newly constituted Board of Directors of the Corporate Debtor may deem fit, once the resolution plan is executed and implemented in totality.</p>
18.	<p>For all cases, claims etc filed by any person or competent authority, pertaining to the period prior to Hon'ble NCLT Approval Date, the Corporate Debtor/ Resolution Applicant shall not be held responsible. No such prior cases, claims, etc shall stand valid after approval of the plan from Hon'ble NCLT. No liabilities of such prior claims, cases etc shall be on the Resolution Applicant w.e.f Hon'ble NCLT Approval Date.</p>
19.	<p><u>Benefits granted to the sick unit:</u> Benefits, concessions, exemptions, grants, subsidies etc that are granted to any sick unit, by any competent authority or</p>

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	department, under any Law, Act, Policies or Rules, whether under State or Central Government, which is in effect at present, shall be granted to the Company and Resolution Applicant, with effect from Hon'ble NCLT Approval Date.
20.	<u>Shareholders' Approval</u> The approval of the shareholders of the Corporate Debt or to the transactions contemplated under the Plan shall be deemed to have been given on the approval of the Plan by the Hon'ble NCLT.
21.	<u>Benefits granted to new unit:</u> All the benefits that is granted to any newly set up unit, in any form viz. rebate, exemption, subsidy, grants etc. by any competent authority or department, whether by Central or State Government or any industrial policy, which is in order at present, shall be granted to the Company with effect from Hon'ble NCLT Approval Date.
22.	<u>NCLT final Order to prevail</u> The approval of this Plan by Hon'ble NCLT shall constitute adequate and final approval of Hon'ble NCLT for all actions and purposes of this plan and no further consent of any creditors (Financial Creditor, Operational Creditor or otherwise) shall be required to implement the Resolution Plan.
23.	<u>No Dues Certificate / Consent Letter</u> For avoidance of any doubt, after payment of full resolution amount to financial creditors, the CoC shall immediately provide the following documents:



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	<p>i. Certificate from all the financial creditors stating that there are no dues outstanding against the company and none of our account is marked NPA. The unpaid balance amount towards the debt of the corporate debtor, claimed by the financial creditors, will not be payable by the corporate debtor / resolution applicant to the financial creditors. All the liabilities, guarantee, corporate guarantee provided by the Company through execution of documents by the erstwhile promoters/directors/guarantors of the Corporate Debtor shall be extinguished and financial creditors. The amount provided to the Financial Creditors shall be considered as a full and final settlement of all and any dues against the Company i.e. the Corporate Debtors.</p> <p>ii. Satisfy all charge created on assets of the corporate debtor, if any, in the records of the Registrar of Companies/ Ministry of Corporate Affairs.</p> <p>Title deeds in original and other relevant documents as mortgaged or hypothecated with them which is in possession of the Financial Creditor or any other creditors or claimants of the CD, shall be released to the Resolution Applicant upon satisfactory payment of the amount under this Resolution Plan with immediate effect</p>
24.	25. No-effect of Non-Compliance made by Corporate Debtor before Hon'ble NCLT Approval Date: All Governmental Authorities to waive the Non-Compliances of the Corporate Debtor prior to the Hon'ble NCLT Approval Date

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	including without limiting to failure to obtain any approval from the Government Authorities with respect to change in control of the Corporate Debtor as per the terms of the Plan.
26.	<p><u>Carry Forward losses:</u></p> <p>Pursuant to Finance Act 2018, the Resolution Plan approved by the Hon'ble NCLT shall not result to lapse of any brought forward losses of the Corporate Debtor, and Hon'ble NCLT shall accord its approval to the Resolution Plan under the Code after affording a reasonable opportunity of being heard to the jurisdictional principal commissioner or commissioner of Income tax. Moreover, the Resolution Applicant shall be deemed to be eligible to avail carry forward of losses and the losses mentioned herein are presumed to be free from any dispute.</p> <p>Further pursuant to the Finance Act 2018, in case of a company against whom an application for CIRP has been admitted under IBC, the amount of Accumulated Losses and Unabsorbed Depreciation, even though written off in the books of account shall be available to carry forward and set-off in the years following Hon'ble NCLT order for the purpose of computation of book profit as per the provisions of Section 115JB or any other relevant sections/rules/regulations of the Income Tax Act</p>
27.	<p><u>RBI confirmation on the status of the Account:</u></p> <p>From Hon'ble NCLT Approval Date, the status of accounts of the Corporate Debtor shall stand regularized and their asset classification shall be "standard" for the purposes of all RBI Applicable Laws and the name of the Corporate Debtor shall be removed from the list of defaulters/black list of RBI/NHB. The same will be classified as per RBI/NHB guidelines only.</p>
28.	<p><u>Power Connection:</u></p>

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	<p>The power connection shall be continued and restored by the competent authority/board on payment of requisite security deposit as required, provided the same stands adjusted, partly or fully as on the insolvency commencement date. However, the Resolution Applicant or the Company shall not be liable to pay any old fees, costs or penalties whether due or not pertaining to the period prior to Insolvency Commencement Date and such fees, costs or penalty shall be entirely waived off</p>
29.	<p><u>Carry forward of Subsidies /Grants</u></p> <p>Any subsidies, grants sanctioned to Corporate Debtor prior to Hon'ble NCLT Approval Date by any government authority and which are not been fully availed (including the remaining period) by the Corporate Debtor due to closure of operational activity of the company, such unutilized amount and the period between the closure of operations and till Hon'ble NCLT Approval Date should be considered exempt for the said subsidies, grants and the remaining amount or period shall continue to be carried forward w.e.f. Hon'ble NCLT Approval Date.</p>
30.	<p><u>Relief from payment of indirect taxes</u></p> <p>The relevant tax authorities to consider providing relief from the applicability of and payment of taxes under provisions of all indirect tax laws (including GST and others) which may arise as a result of the implementation of the Plan either on the Resolution Applicant or the Corporate Debtor or any other person who is likely to be impacted due to implementation of the Plan. Further, the relevant tax authorities to consider providing waiver/relief/exemption from applicability of or payment of taxes, interest or penalty levied/ proposed to be levied pertaining</p>

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	to the period prior to the Hon'ble NCLT Approval Date relating to and including but not limited to central excise, goods and services taxes, customs, central sales tax and entry tax laws) in respect of which proceedings have been initiated against the Corporate Debtor or the Resolution Applicant or in respect to proceedings which may be initiated in the future under the indirect tax laws and the goods and services tax laws applicable from July 1, 2017.
31.	<p><u>Eligibility for other business plan</u></p> <p>Neither the Resolution Applicant nor any of its Affiliates will be disqualified from or considered ineligible under the Code for proposing and / or implementing a plan in relation to the insolvency resolution of any Person, merely on account of the implementation of this Plan by the Resolution Applicant.</p> <p>All Governmental Authorities to grant any relief, concession or dispensation as may be required for the implementation of the transactions contemplated under the Plan in accordance with its terms and conditions</p>
32.	<p><u>Cases prior to NCLT approval Date</u></p> <p>All pending or threatened legal, regulatory or administrative proceedings in respect of the Subsidiaries or the affairs of the Corporate Debtor, all inquiries, investigations, notices, causes of action, whether already arisen or expected to arise (and including without limitation civil, criminal, extant exchange control laws, securities laws, any anti-corruption laws applicable to the Corporate Debtor and its Subsidiaries and Tax related Claims) in relation to any period prior to the Hon'ble NCLT Approval Date shall be disposed of and all liabilities or obligations in relation thereto.</p>
33.	<p><u>Regularization of Non-Compliance</u></p>

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	On and from the Approval Date, all non-compliances by the Corporate Debtor and/or its Subsidiaries shall stand regularized and any interest, cost, penalty or such other amounts levied or threatened to be levied shall stand extinguished for the purposes of all Applicable Laws.
34.	<p>35. <u>Creditors to Withdraw all proceedings</u></p> <p>All creditors of the Corporate Debtor to withdraw all legal proceedings commenced against the Corporate Debtor in relation to Claims, including all criminal proceedings, proceedings under Section 138 of the Negotiable Instruments Act, 1881 and proceedings under SARFAESI and RDDBFI, after full and final payment made as per Resolution Plan.</p>
36.	<p>36. <u>Right to terminate old contracts/agreements</u></p> <p>The Corporate Debtor shall be entitled to terminate contracts including contracts with related parties of the Corporate Debtor prior to the Insolvency Commencement Date. The financial creditors shall, after the final date, not undertake any recovery proceeding against the corporate debtor or the guarantors or the resolution applicant in respect of the debts of the corporate debtor</p>
37.	<p>37. <u>Waiver of Non-Compliance:</u></p> <p>All Governmental Authorities shall waive the non-compliances of the Corporate Debtor prior to the Approval Date including without limitation with regard to the following: (A) any non-compliances pertaining to environment laws; (B) any non-compliances pertaining to Fuel Supply Agreement; (C) any non-compliances pertaining to Electricity Department and (D) waiver of all penalties / costs / interests payable by the Corporate Debtor</p>

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	on account of any of the non-compliances specified in (A), (B) and (C)above
38.	<p><u>Cancellation of old negotiable instruments/LC others</u></p> <p>All the outstanding negotiable instruments issued by the Corporate Debtor or by any Person on behalf of the Corporate Debtor including demand promissory notes, post-dated cheques and letters of credit, shall stand terminated and the Corporate Debtor's liability under such instruments shall stand extinguished after full and final payment made to the Financial Creditors as per the Resolution Plan.</p>
39.	<p><u>Clean Titles on movable and immovable property</u></p> <p>All rights, titles and benefits relating to the movable and immovable properties of the Corporate Debtor after receipt of full Resolution Amount by Financial Creditors as per Resolution Plan shall be vested in the hands of the Corporate Debtor free of any title defects or Encumbrances, otherwise that prevailed prior to CIRP commencement.</p> <p>Resolution Applicant shall have "no recourse" against the Financial Creditor regardless of the grant of such reliefs, concessions and entitlements except for instances where the approved terms under this Resolution Plan are not complied with.</p>
40.	<p>41. <u>Old Power of attorney/authority</u></p> <p>All powers of attorney or authorities executed by the Board of the Corporate Debtor or guarantors on or prior to the Hon'ble NCLT Approval Date shall stand revoked, canceled and shall be void.</p>

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42.	<p><u>Past Litigation</u></p> <p>The Hon'ble NCLT to provide relief to the Corporate Debtor from all past litigations pending at different levels and provide a waiver from all Tax dues including interest and penalty on such litigations which may arise in future as well, pertaining to any period prior to the Hon'ble NCLT Approval Date. All the liabilities, corporate guarantee (except for instances specifically provided for in the Resolution Plan) provided by the erstwhile promoters/directors/guarantors of the Corporate Debtor shall be extinguished and financial creditors shall have no right to proceed against the corporate debtor and its new management being the Resolution Applicant. The amount provided to the Financial Creditors shall be considered as a full and final settlement.</p>
43.	<p><u>Future Tax Benefits</u></p> <p>The Hon'ble NCLT to allow the Corporate Debtor to enjoy and avail in future any tax benefits, deductions, or exemptions as per the relevant provisions of the applicable law which the Corporate Debtor was entitled to as on the Hon'ble NCLT Approval Date for the balance period as per the relevant provisions of the Applicable Law.</p>
44.	<p><u>Exemption from taxes</u></p> <p>The Hon'ble NCLT to exempt from levying any type of Taxes and stamp duty, if any, arising on account of transactions consummated or actions undertaken pursuant to the approval of the Resolution Plan by the Hon'ble NCLT in accordance with the Code and not initiate any proceedings there under the provisions of Income Tax Act, 1961 with respect to the transaction, since</p>

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	<p>such taxes and duties, if required to be paid, will render the Plan unviable.</p> <p>Further, the Waiver of principal Loan/ waiver of any creditors amount as well as the waiver of Interest as appearing in the books of accounts of the Corporate Debtor as on the date of Hon'ble NCLT order and written back in the books of account following Hon'ble NCLT order shall not be taxed as perquisite under section 28(iv) and cessation of liability under section 41(1) or any other relevant sections/rules/regulations of the Income Tax Act</p>
45.	<p>Pending Compliances pertaining to Companies Act 1956/2013, Income Act, 1961 or any other laws as applicable to the company</p> <p>The Resolution Professional or the Supervisory Committee shall hand over all books of accounts, records, documents or any other data pertaining to the periods prior to the Hon'ble NCLT Approval Date, which is in their possession. The Resolution Applicant shall not be liable to file required returns, forms or in complying with various provisions of Companies Act 1956/2013, Income Act, 1961 or any other applicable laws for the period prior to Hon'ble NCLT Approval Date.</p> <p>In order to comply with the provisions of applicable law for the period prior to the Hon'ble NCLT Approval Date, the returns/forms, if time barred as per the law, it shall be deemed to be filed within the stipulated period or the competent authority shall provide a reasonable to period to comply with the same.</p> <p>The liability arising on account of the failure of filing returns/forms or complying with necessary provisions of law for the period prior to the Hon'ble NCLT Approval Date shall be waived off.</p>



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	On compliance of the aforementioned returns, the Resolution Applicant shall be eligible for availing and utilizing the carry forward of losses if any
46.	Payments to the creditors under this Resolution Plan do not attract any provision of interest payment due to deferred payment. It implies that upon payment of consideration towards the resolution plan, it would enable the RA to have unencumbered assets, which in turn would enable the Resolution Applicant to offer such assets as security, at their exclusive option and decision.
47.	All title deeds and / or other documents (including charge documents, guarantee documents etc) held by the Financial Creditors or on their behalf shall be immediately returned to the CD upon completion of payment in terms of the Resolution Plan. Notwithstanding the above, upon the discharge of the creditors in the manner set out in Clause 6.4 (above): (A) any event of default has occurred on the part of CD under any of the financing documents entered into by the CD on its own behalf or entered into on behalf of any of its associates to secure or guarantee any of their liabilities, prior to the Effective Date and any claims arising against the CD on account of such defaults shall stand extinguished; (B) all the outstanding, negotiable instruments issued by the CD or any person on behalf of the CD including demand promissory notes, post-dated cheques and letters of credit, shall stand terminated and the CD's liability under such instruments shall stand extinguished; (C) all notifications with regards to defaults filed with Credit Information Bureau (India) Ltd. ("CIBIL"), any Information Utility, Reserve Bank of India

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	(RBI), or any other regulatory authority shall be withdrawn by the respective FCs

**Orders**

29. On hearing the submissions made by the Resolution Professional, and perusing the record, we find that the Resolution Plan filed by North East Plantations & Commercial Private Limited has been approved with 99.9% voting share. As per the CoC, the plan meets the requirement of being viable and feasible for revival of the Corporate Debtor. By and large, all the compliances have been done by the Resolution Professional and the Resolution Applicant for making the plan effective after approval by this Bench.
30. 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 IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
31. As far as the question of granting time to comply with the statutory obligations or seeking approvals from authorities is concerned, the Resolution Applicant is directed to do so within one year from the date of this order, as prescribed under section 31(4) of the Code.
32. We have perused the reliefs, waivers and concessions as sought and as given in Clause 11 at pages 48-60 of the Resolution Plan. While some of the reliefs, waivers and concessions sought by the Resolution Applicant come within the purview of the Code while many others fall under the power and jurisdiction of different government authorities/departments This Adjudicating Authority has power to grant reliefs, waivers and concessions

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only in relation to the Code and the Companies Act 2013 (within the powers of the NCLT) for achieving the objective of the Code. No reliefs, waivers and concessions that fall within the domain of other government department/authorities are granted. The reliefs, waivers and concessions that pertain to other governmental authorities/departments shall be dealt with the respective competent authorities/forums/offices, Government or Semi Government of the State or Central Government with regard to the respective reliefs, waivers and concessions. The competent authorities including the Appellate authorities may consider grant such reliefs, waivers and concessions keeping in view the spirit of the Code.

33. The Resolution Plan has to be consistent with extant law. The Resolution Applicant shall make necessary applications to the concerned regulatory or statutory authorities for renewal of business permits and supply of essential services, if required, and all necessary forms along with filing fees etc. and such authority shall also consider the same keeping in mind the objectives of the Code, which is essentially the resolving of the insolvency of the Corporate Debtor.
34. The reliefs sought with respect to subsisting contracts/agreements can be granted, and no blanket orders can be granted in the absence of the parties to the contracts and agreements.

With respect to the waivers with regard to extinguishment of claims which arose Pre-CIRP and which have not been claimed are granted in terms of **Ghanashyam Mishra and Sons Pvt Ltd v Edelweiss Asset Reconstruction Company Ltd**,<sup>6</sup> wherein the Hon'ble Supreme Court has held that once a resolution plan is duly approved by the Adjudicating Authority under sub-section (1) of section 31, the claims as provided in the resolution plan shall stand frozen and will be binding on the Corporate

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<sup>6</sup> 2021 SCC OnLine SC 313 decided on 13.04.2021.

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Debtor and its employees, members, creditors, including the Central Govt, any State Govt or any local authority, guarantors and other stakeholders.

The relevant part of the **Ghanshyam Mishra judgment(supra)** in this regard is given below:

**61.** *All these details are required to be contained in the information memorandum so that the resolution applicant is aware, as to what are the liabilities, that he may have to face and provide for a plan, which apart from satisfying a part of such liabilities would also ensure, that the Corporate Debtor is revived and made a running establishment. The legislative intent of making the resolution plan binding on all the stake-holders after it gets the seal of approval from the Adjudicating Authority upon its satisfaction, that the resolution plan approved by CoC meets the requirement as referred to in sub-section (2) of Section 30 is, that after the approval of the resolution plan, no surprise claims should be flung on the successful resolution applicant. The dominant purpose is, that he should start with fresh slate on the basis of the resolution plan approved.*

**62.** *This aspect has been aptly explained by this Court in the case of Committee of Creditors of Essar Steel India Limited through Authorised Signatory (supra).*

**107.** *For the same reason, the impugned NCLAT judgment [Standard Chartered Bank v. Satish Kumar Gupta, 2019 SCC OnLine NCLAT 388] in holding that claims that may exist apart from those decided on merits by the resolution professional and by the Adjudicating Authority/Appellate Tribunal can now be decided by an appropriate forum in terms of Section 60(6) of the Code, also militates against the rationale of Section 31 of the Code. A successful resolution applicant cannot suddenly be faced with “undecided” claims after the resolution plan submitted by him has been accepted as this would amount to a hydra head popping up which would throw into uncertainty amounts payable by a prospective resolution applicant who would successfully take over the business of the corporate debtor. All claims must be submitted to and decided by the resolution professional so that a prospective*

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*resolution applicant knows exactly what has to be paid in order that it may then take over and run the business of the corporate debtor. This the successful resolution applicant does on a fresh slate, as has been pointed out by us hereinabove. For these reasons, NCLAT judgment must also be set aside on this count.”*

35. We also place reliance on the recent judgement of Hon’ble High Court of Rajasthan in the matter of **EMC v. State of Rajasthan** wherein it has been *inter-alia* held that :

*“Law is well-settled that with the finalization of insolvency resolution plan and the approval thereof by the NCLT, all dues of creditors, Corporate, Statutory and others stand extinguished and no demand can be raised for the period prior to the specified date.”*

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. The Hon'ble Supreme Court also held that all the dues including the statutory dues owed to the Central Govt, any State Govt or any local authority, if not part of the resolution plan, shall stand extinguished and no proceedings in respect of such dues for the period prior to the date on which the Adjudicating Authority grants its approval under section 31 could be continued.

36. With respect to the waivers sought in relation to guarantors, the judgment of **Lalit Kumar Jain v Union of India & ors,**<sup>7</sup> wherein the Hon'ble Supreme Court held in para 133 that sanction of a resolution plan and finality imparted to it by section 31 does not *per se* operate as a discharge of the guarantor's liability shall apply.


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<sup>7</sup> 2021 SCC OnLine SC 396 decided on 21.05.2021.

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37. With respect to the reliefs and waivers sought for all inquiries, litigations, investigations and proceedings shall be granted strictly as per the section 32A of the Code.
38. In case of non-compliance of this order or withdrawal of Resolution Plan, the payments already made by the Resolution Applicant shall be liable for forfeiture.
39. Subject to the observations made in this Order, the Resolution Plan dated 17 August 2022 updated on 25 November 2022, is hereby **APPROVED** by this Bench. **The Resolution Plan shall form part of this Order and shall be read along with this order for implementation.** The Resolution Plan thus approved shall be binding on the Corporate Debtor and other stakeholders involved in terms of section 31 of the Code, so that revival of the Debtor Company shall come into force with immediate effect.
40. The Moratorium imposed under section 14 of the Code shall cease to have effect from the date of this order.
41. The Resolution Professional shall submit copies of the records collected during the commencement of the proceedings to the Insolvency & Bankruptcy Board of India for their record and also return to the Resolution Applicant or New Promoters.
42. Liberty is hereby granted for moving any application if required in connection with implementation of this Resolution Plan.
43. A copy of this Order is to be submitted to the Registrar of Companies, West Bengal.
44. The Resolution Professional shall stand discharged from his duties with effect from the date of this Order, save and except the duties envisaged in the Resolution Plan.

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45. The Resolution Professional is further directed to handover all records, premises/factories/documents to the Resolution Applicant to finalise the further line of action required for starting of the operation. The Resolution Applicant shall have access to all the records and premises of the corporate debtor through the Resolution Professional to finalise the further line of action required for starting of the operation.
46. In view of the above the **I.A. (IB) No. 345/KB/2023 in C.P. (IB) No. 1380/KB/2020 shall stand disposed of accordingly.**
47. C.P. (IB) No. 1380/KB/2020 shall be listed on **03.10.2023** along with the pending connected I.A.s.
48. The Registry is directed to send e-mail copies of the order forthwith to all the parties for information and for taking necessary steps.
49. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

**Balraj Joshi**  
**Member (Technical)**

**Bidisha Banerjee**  
**Member (Judicial)**

Order signed on the 28<sup>th</sup> day of August 2023.

GGRB\_LRA