

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

IA No. 1790 of 2021
IN
CP No. (IB) 2833/ (MB)/ CV-IV/ 2019

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

In the matter of:

Mr. Naren Sheth

*Resolution Professional
of the Corporate Debtor*

In the matter of:

Oriental Bank of Commerce

...Financial Creditor

Versus

Perfect Industries Private Limited

...Corporate Debtor

Order delivered on 11.01.2023

Coram:

Shri Manoj Kumar Dubey
Hon'ble Member (Technical)

Shri Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Applicants : Mr Shavez Mukri a/w. Mr. Vaibhav kamble i/b A&G Legal Associates LLP, for the Resolution Professional.

Dr. S.K Jain, for Resolution Applicant.

ORDER

Per: Kishore Vemulapalli, Member (Judicial)

1. The Bench is convened by videoconference today.
2. This is an Application under Section 30(6) and Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the Code) filed by the Resolution Professional seeking approval of the Resolution Plan submitted by the Resolution Applicant Lasenor India Private Limited, which is approved by 80.74% of the voting share of the members of the Committee of Creditors (hereinafter referred to as 'COC').
3. The facts leading to the Application are as under:
 - A. The Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor was initiated by this Bench by an order dated 10.06.2020 under section 7 of the Insolvency and Bankruptcy Code 2016 (hereinafter referred to as 'the Code') (Admission Order) and Mr. Naren Sheth, was

appointed as Interim Resolution Professional. The CoC in its 1st meeting held on 11.08.2020 appointed (the present Applicant) as the Resolution Professional (RP). The IRP published a public announcement as per Section 13 & 15 of the Code, inviting claims from the creditors of the Corporate Debtor.

- B. The CoC was constituted on 11th August, 2020 with 04 members, being State Bank of India (61.32%) , Punjab National Bank(5.04%), Union Bank of India (19.26%), Canara Bank (14.38%) voting right in the CoC.
- C. The Applicant states that, a total of 08 (Eight) CoC meetings have been held during CIRP period, as follows:

Particulars	Date of CoC meeting
01 st CoC Meeting	11 th August, 2020
02 nd CoC Meeting	18 th September, 2020
03 rd CoC Meeting	28 th October, 2020
04 th CoC Meeting	04 th January, 2021
05 th CoC Meeting	11 th January, 2021
06 th CoC Meeting	01 st March, 2021
07 th CoC Meeting	17 th March, 2021
08 th CoC Meeting	19 th April, 2021

- D. 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 were issued. Form ‘G’ was published on 29.10.2020 for submission of Resolution Plans for the Corporate Debtor. The last date for receipt of EoIs was 13th November, 2020. This was published in Indian Express (English) (Nagpur edition) and Loksatta (Marathi Language) (Nagpur edition) newspapers of Nagpur, Maharashtra. The notice was also published on the website of the Insolvency and Bankruptcy Board of India [hereinafter referred to as “**IBBI**”].

- E. The Applicant submits that in response to the invitation for EoI, upto the last date, i.e., 13th November, 2020 EoIs were received from the following PRA’s;
1. M/s Satyendra Agrawal (Prop. Satyanarayan Agrawal);
 2. Mr. Pawan Chokhani;
 3. Lasenor India Pvt. Ltd.

Information Memorandum, Valuation Matrix and request for Resolution Plan was issued to the three Prospective Resolution Applicants on 21.11.2020 and the last date for submission of Resolution Plan was 24.12.2020. Till the last date of submissions of Resolution Plan i.e., till 24.12.2020, only Lasenor India Pvt. Ltd. submitted their Resolution Plan.

- F. The Applicant had appointed Two Registered Valuers for valuation to determine the fair and the Liquidation value of the Corporate Debtor in accordance with Regulation 35. The valuers submitted their reports mentioning the fair and Liquidation value after computing the same in

accordance with accepted valuation standards and physical verification of the available inventory and fixed assets of the Corporate Debtor. The Applicant states that the liquidation value and fair value as per the valuation reports submitted by the valuers is as under:

Sr. No	Name of the Valuer	Fair Value (As on 09.07.2020)	Liquidation Value (As on 09.07.2020)
1.	Manoj Narendra Nashine & Pranav Hemant Ambaselkar	17,38,74,430	11,18,00,000
2.	Ashutosh Kaushik & Himanshu Shekhar Mishra	18,57,77,677	12,08,32,525
	Average Value	17,98,26,054	11,63,16,263

- G. In the fifth CoC meeting, held on 11th January, 2021 the plans were discussed and the Resolution Applicant sought time to revise and improve its offer.
- H. In the Seventh CoC meeting convened on 17th March, 2021, there were further discussions and negotiations between the CoC members and the Resolution Applicant to enhance the payments to the Financial Creditors and certain modifications in the Resolution Plan and the Resolution Applicant agreed to submit the revised resolution plan.
- I. In the Eight CoC meeting, held on 19th April, 2021, the revised Resolution Plan came to be discussed with the Resolution Applicant. The Resolution Applicant agreed to enhance Rupees Five Lakhs to the existing amount. After detailed discussion it was decided to put the

revised plan for e-voting. The Resolution Plan submitted by Lasenor India Pvt. Ltd. was approved by 80:74% E-voting percentage.

- J. The Applicant issued Letter of Intent on 14th July, 2021 and the same was accepted by the successful Resolution Applicant on 14th July, 2021.
- K. The amounts admitted and provided are summarised below:

Particulars	Claim Admitted Rs.	Claim Provided Rs.
Secured Financial Creditors	1,83,03,34,313	11,65,00,000
Unsecured Financial Creditors (except related party)	-	-
Staff & Workmen	-	-
Operational Creditors (statutory dues)	3,26,61,684	5,00,000
Working Capital	NA	2,00,00,000
Payments Towards CIRP Cost	NA	50,00,000
Related Party (includes Unsecured Financial Creditors & Operational Creditor	-	-
Total	1,86,29,95,997	14,20,00,000

#	Particulars	Amount Admitted by RP			Amount to be Paid by HIPL			Remarks
		Related	Unrelated	TOTAL	Related	Unrelated	TOTAL	
1	CIRP Cost	-	50,00,000	50,00,000	-	50,00,000	50,00,000	100% Payment Within 90 days from Trigger Date.
2	Employees' Dues	-	-	-	-	-	-	-
3	Secured Financial Creditors	-	1,83,03,34,313	1,83,03,34,313	-	11,65,00,000	11,65,00,000	100% Payment Within 90 days from Trigger Date.
4.1	Operational Creditors (Other than Related Party)	-	3,26,61,684	3,26,61,684	-	5,00,000	5,00,000	100% Payment Within 90 days from Trigger Date.
4.2	Operational Creditors (Related Party)	-	-	-	-	-	-	
	TOTAL Operational Creditors	-	-	-	-	5,00,000	5,00,000	
5.1	Unsecured Financial Creditors (Other than Related Party)	-	-	-	-	-	-	
5.2	Unsecured Financial Creditors (Other than Directors)	-	-	-	-	-	-	
5.3	Unsecured Financial Creditors (Directors)	-	-	-	-	-	-	
	TOTAL Unsecured Financial Creditors	-	-	-	-	-	-	
6	Provision for essential services	-	-	-	-	-	-	
7	Working Capital	-	-	-	-	-	2,00,00,000	
	TOTAL					-	14,20,00,000	

i. Financial Creditors

Name of the Lenders	Amount Claimed Rs. in Cr.	Amount Admitted Rs. in Cr.
State Bank of India	112,24,08,238.00	112,24,08,238.00
Union Bank of India	35,25,86,461.00	35,25,86,461.00
Punjab National Bank	9,23,31,699.00	9,23,31,699.00
Canara Bank	26,30,07,916.00	26,30,07,916.00
Total	183,03,34,314.00	183,03,34,314.00

ii. Operational Creditors

Name of the Creditors	Amount Claimed Rs. in Cr.	Amount Admitted Rs. in Cr.
Names of creditors to be entered as per the case	3,26,61,684	3,26,61,684
Total	3,26,61,684	3,26,61,684

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

1. The Resolution Plan also provides for –

- i. Management of Company after resolution in 15 (fifteen) days from the effective date, the Resolution Applicant shall reconstitute the Board of Directors of the Corporate Debtor.
- ii. Term of the resolution plan as per defined in the Chapter V- Table 1.1 of the Resolution Plan provides for the Total Plan amount of a sum of Rs. 14,20,00,000/- and the Plan Tenure i.e., 90 (ninety) days

from effective date. (Chapter XI Page 27 of the Resolution Plan and Page 107 of the Interlocutor Application and chapter V Page no. 12 of the Resolution Plan and 92 of the Interlocutory Application).

- iii. Immediately upon the Upfront Cash Infusion Date, the Resolution Applicant shall reconstitute the Board of Directors of the Corporate Debtor ("Reconstituted Board"). Immediately after formation of the Reconstituted Board, the Corporate Debtor shall be managed by the Reconstituted Board. Thereafter, the day — to — day operation and management of the Corporate Debtor shall be responsibility of the Resolution Applicant, in accordance with the terms and conditions of this Resolution Plan.

- iv. Implementation and Supervision of the Resolution Plan is by the Monitoring Agency who will be responsible for completing the Monitoring Agency Actions, prior to the Upfront Equity Infusion date in accordance with the terms of the Resolution Plan. Immediately upon completion of the Monitoring Agency Actions and no later the one day from the completion of the same a monitoring committee shall be appointed for the corporate debtor. The Monitoring Committee shall comprise of the Resolution Professional, one representative of the CoC and one member nominated by the Resolution Applicant. The Monitoring committee shall supervise the implementation of the Resolution Plan and shall be required to do all acts, deeds, matter and things as may be necessary, desirable or expedient in order to supervise implementation of the resolution plan and shall act under the

supervision of the NCLT. All decisions of the Monitoring Committee shall be taken by the majority decision of the members of the monitoring committee and the Resolution Applicants consent will be required for all transactions (Chapter XI Page 27 of the Resolution Plan and Page 107 of the Interlocutory Application).

4. **Resolution Plan:**

- i. The Applicant submits details of various compliances as envisaged within the Code and the CIRP Regulations which requires a Resolution Plan to adhere to, which is reproduced hereunder:

Submission of Resolution Plan in terms of sub-section (2) of section 30 of the Code (as amended vide Amendment dated 16 August 2019):

<i>Clause of s.30(2)</i>	<i>Requirement</i>	<i>How dealt with in the Plan</i>
(a)	Plan must provide for payment of CIRP cost in priority to repayment of other debts of CD in the manner specified by the Board.	<i>Chapter No. V, Point 2, Table No. 2.1 and Chapter No. VIII at Pages 12 and 23 of the Resolution Plan. (Page No. 92 and 103 of the Interlocutory Application)</i>

(b)	<p>(i) Plan must provide for repayment of debts of OCs in such manner as may be specified by the Board which shall not be less than the amount payable to them in the event of liquidation u/s 53; or</p> <p>(ii) Plan must provide for repayment of debts of OCs in such manner as may be specified by the Board which shall be not less than amount that would have been paid to such creditors, if the amount to be distributed under the resolution plan had been distributed in accordance with the order of priority in sub-section (1) of section 53, whichever is higher and</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><i>Chapter No. V, Point 2, Table No. 2.1 and Chapter No. VIII at Pages 12 and 23 of the Resolution Plan. (Page No. 92 and 103 of the Interlocutory Application)</i></p>
(c)	<p>Management of the affairs of the Corporate Debtor after approval of the Resolution Plan.</p>	<p><i>Chapter No. X, at Pages 26 of the Resolution Plan. (Page No. 106 of the Interlocutory Application)</i></p>
(d)	<p>Implementation and Supervision.</p>	<p><i>Chapter No. XI, Clause d at Pages 27 of the Resolution Plan. (Page No. 107 of the Interlocutory Application)</i></p>
(e)	<p>Plan does not contravene any of the provisions of the law for the time being in force.</p>	<p><i>Chapter VIII, Clause F Page 25 of the Resolution Plan. (Page No. 105 of the Interlocutory Application)</i></p>

(f)	Conforms to such other requirements as may be specified by the Board.	Chapter V, Chapter IX and Chapter XI. Pages 12,27 of the Resolution Plan. (Page No. 92,107, of the Interlocutory Application)
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- ii. Measures required for implementation of the Resolution Plan in terms of Regulation 37 of CIRP Regulations:

<i>Particulars</i>	<i>Relevant Page of the Resolution Plan dealing aforesaid compliance with Regulation</i>
<i>A resolution plan shall provide for the measures, as may be necessary, for insolvency resolution of the corporate debtor for maximization of value of its assets, including but not limited to the following: -</i>	
(a) the substantial acquisition of shares of the corporate debtor, or the merger or consolidation of the corporate debtor with one or more persons;	<i>Chapter IX Page 26 of the Resolution Plan. (Page No. 106 of the Interlocutory Application)</i>
(b) cancellation or delisting of any shares of the corporate debtor, if applicable;	<i>Chapter IX Point 5 Page 22 of the Resolution Plan. (Page No. 106 of the Interlocutory Application)</i>
(c) amendment of the constitutional documents of the corporate debtor;	<i>Chapter VI Page 26 of the Resolution Plan. (Page No. 102 of the Interlocutory Application)</i>

(d) obtaining necessary approvals from the Central and State Governments and other authorities.	<i>Chapter XII Page 30 of the Resolution Plan. (Page No. 110 of the Interlocutory Application)</i>
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iii. Mandatory contents of Resolution Plan in terms of Regulation 38 of CIRP Regulations:

Reference to relevant Regulation	Requirement	How dealt with in the Plan
38(1)	The amount due to the operational creditors under a resolution plan shall be given priority in payment over financial creditors.	<i>Chapter No. VIII Page 27 of the Resolution Plan. (Page No. 103 of the Interlocutory Application)</i>
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.	<i>Chapter V Clause 6 (j) at Pages 17 of the Resolution Plan. (Page No. 97 of the Interlocutory Application)</i>
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.	<i>Chapter VIII, Clause H Pages 25 of the Resolution Plan. (Page No. 105 of the Interlocutory Application)</i>

38(2)	A resolution plan shall provide: (a) the term of the plan and its implementation schedule;	<i>Chapter XI Pages 27 of the Resolution Plan. (Page No. 107 of the Interlocutory Application)</i>
	(b) the management and control of the business of the corporate debtor during its term; and	<i>Chapter X Pages 26 of the Resolution Plan. (Page No. 106 of the Interlocutory Application)</i>
	(c) adequate means for supervising its implementation.	<i>Chapter XI, Pages 27 of the Resolution Plan. (Page No. 107 of the Interlocutory Application)</i>
38(3)	<i>A resolution plan shall demonstrate that –</i> (a) <i>it addresses the cause of default;</i>	<i>Chapter VIII, Clause F Pages 25 of the Resolution Plan. (Page No. 105 of the Interlocutory Application)</i>
	(b) <i>it is feasible and viable;</i>	<i>Chapter IV, Chapter V- Table 1.2 Pages 11,12 of the Resolution Plan. (Page No. 91,92 of the Interlocutory Application)</i>

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	<i>(c) it has provisions for its effective implementation;</i>	<i>Chapter XI, Pages 27 of the Resolution Plan. (Page No. 107 of the Interlocutory Application)</i>
	<i>(d) it has provisions for approvals required and the timeline for the same; and</i>	<i>Chapter XII, Page 30 of the Resolution Plan. (Page No. 110 of the Interlocutory Application)</i>
	<i>(e) the Resolution Applicant has the capability to implement the resolution plan.</i>	<i>Chapter IX, Page 26 and Annexure 1 of the Resolution Plan. (Page No. 106 and 115 of the Interlocutory Application)</i>

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- iv. The Applicant submits that the successful Resolution Applicant has submitted a declaration of eligibility under section 29A of the Code.

Details of Resolution Plan/Payment Schedule

- Already paid Rs.30,00,000 EMD/EOI deposit to be paid to the secured financial creditors.
- Upfront amount of Rs.1,41,00,000 value shall be paid within 30 days of the COC approval.

1st Installment

Value payable to the Secured Financial creditors is Rs. 3,30,00,000 (Three crore thirty lakh only). Such value shall be paid to the secured financial creditors *within 90 days* from the effective date. The term effective date means plan approved by the Adjudicating authority under section of the IBC.

2nd instalment

Value shall be payable to the Secured Financial creditors is Rs. 3,30,00,000 (Three crore thirty lakh only). Such value shall be paid to the secured financial creditors *within 180 days* from the effective date.

3rd installment

Value shall be payable to the Secured Financial creditors is Rs. 3,30,00,000 (Three crore thirty lakhs only). Such value shall be paid to the secured financial creditors *within 240 days* from the effective date.

The Applicant submits the relevant information with regard to the amount claimed, amount admitted and the amount proposed to be paid by the Resolution Applicant, *i.e.*, Lasenor India Pvt. Ltd., under the said Resolution Plan is tabulated as under:

Sr. No.	Category of Creditor	Amount of Claim (Rs. in Cr.)	Claim Admitted (Rs. in Cr.)	Amount provided in the Plan (Rs. in Cr.)
1.	Insolvency Resolution Process Cost	-	50,00,000	-
2.	Operational Creditor (including Statutory Liabilities admitted by RP)	3,26,61,684	5,00,000	5,00,000
3.	Operational Creditor	-	-	-
4.	Workmen/Employees	-	-	-
5.	Financial Creditor	183,03,34,313	11,65,00,000	11,65,00,000
6.	Capex (within 6 months)	---	---	
7.	Working Capital (within 6 months)	---	---	

Summary of the financial proposal/payment under the Resolution Plan of Lasenor India Pvt. Ltd dated is tabulated hereunder:

Particulars	Amount
Admissible Debt to be paid upfront to the CIRP	Rs. 50,00,000/-
Admissible Debt to be paid upfront to the Operational Creditors	Rs. 5,00,000
Admissible Debt to be paid to Financial Creditors	Rs. 11,65,00,000
Admissible Debt to be paid to the Workmen/Employees	Nil (No workmen/employee claims received)
Capex/Working Capital	Rs. 2,00,00,000/-

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

Sr. 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	Since no books of accounts available from the FY 2015 onwards. RP not able to ascertain the transactions. RP requested past directors to construct the books of accounts and produce all documents. Non-cooperation petition filed in the NCLT against the suspended directors/promoters by the RP in this regard.		
2	Undervalued transactions under section 45			
3	Extortionate credit transactions under section 50			
4	Fraudulent transactions under section 66			

5. As upon the Resolution Plan be effective the entire shareholding of the Corporate Debtor including the non- related entities shall be reorganised by writing off the accumulated losses of the Corporate Debtor against the entire

share capital of the Corporate Debtor. The entire Pre-CIRP shareholding of the company on the insolvency commencement date shall stand cancelled and reduced and shall be written off and as such all the existing shareholders shall lose all economic benefits derived from the Corporate Debtor.

6. The payments to the Board as per the IBBI amendment as follows:

Regulatory Fees: -

Parameter	Amount payable to Board in Rs.	Remarks
0.25% of the Realisable value to Crs (in case if it is more than liquidation value)	2,92,500	Average liquidation value being 11.36 Crore. The amount paid to Creditors is 11.70 Crore
1 % on hiring any professional/other or other service -being booked as CIRP costs.	1000	Valuers paid Rs. 1Lakh in total and no other professionals hired
Total	2,93,500	

Description	Amount of Claim in Rs.	% Offered in Resolution Plan	Remarks
Only one statutory due (Claim Received)	3,26,61,684	1.53%	Amount provided for statutory dues is Rs.5,00,000/-

Company does not have any Employee/Workmen dues as company is Non-Operational since 2015	-	-	No dues
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7. The Resolution Plan is not subject to any contingency and is filed 35 days before the expiry of the period of CIRP provided in section 12 of the Code .
8. The Resolution Plan defines “Effective Date” shall mean the later date of either –(a) the date of receipt of the order of the Adjudicating Authority approving the Resolution Plan or; (b) expiry of 10 (ten) days from the date of receipt of last such applicable orders and approvals as per the extent laws as prescribed under the Resolution Plan.
9. Lastly, the Applicant submits that the Resolution Plan is otherwise compliant with various requirements under the Code and the Regulations as stated in detail in the Applicant's compliance certificate. A tabular summary of Applicant's determination of compliance of the Resolution Plan with various provisions and regulations under the Code and CIRP Regulations 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?	Affidavit submitted along with the Resolution	Yes

		Plan	
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?	Declaration provided by RA	Yes
Section 30 (1)	Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?	Affidavit submitted	Yes
Section 30 (2)	Whether the Resolution Plan- (a) provides for the payment of insolvency resolution process costs? (b) provides for the payment to the operational creditors? (c) provides for the payment to the financial creditors who did not vote in favour of the resolution plan? (d) provides for the management of the affairs of the corporate debtor? (e) provides for the implementation and supervision of the resolution plan? (f) contravenes any of the provisions of the law for the time being in force?	Chapter-V Clause 2 Chapter-V Chapter-VIII,Point. D. Chapter-X Chapter-X Chapter-XI	Yes
Section 30 (4)	Whether the Resolution Plan (a) is feasible and viable, according to the CoC?	Yes, CoC approved and confirmed after verification of credentials of the Resolution Applicant	Yes

	(b) has been approved by the CoC with 66% voting share?	Yes, the Resolution Plan has been approved by the CoC with 80.74 %	Yes
Section 31 (1)	Whether the Resolution Plan has provisions for its effective implementation plan, according to the CoC?	Chapter-XI	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?	Chapter-VIII, Point.C confirms the same.	Yes
Regulation 38 (1A)	Whether the resolution plan includes a statement as to how it has dealt with the interests of all stakeholders?	Chapter-V	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?	Not applicable	No
Regulation 38 (2)	Whether the Resolution Plan provides : (a) the term of the plan and its implementation schedule? (b) for the management and control of the business of the corporate debtor during its term? (c) adequate means for supervising its implementation?	Chapter-IX	Yes
38 (3)	Whether the resolution plan demonstrates that –	Chapter-III & Chapter-XI	Yes

	(a) it addresses the cause of default? (b) it is feasible and viable? (c) it has provisions for its effective implementation? (d) it has provisions for approvals required and the timeline for the same? (e) the resolution applicant has the capability to implement the resolution plan?		
39 (2)	Whether the RP has filed applications in respect of transactions observed, found or determined by him?	Not applicable	NA
Regulation 39(4)	Provide details of performance security received, as referred to in sub-regulation (4A) of regulation 36B.	As per RFRP 10% of the Plan i.e(10% of Rs 14,20,00,000)	1,42,00,000 (One crore fourty two lakhs only)

10. The Resolution Plan has been approved in 8th COC meeting with 80.74% voting share. As per the CoC, the plan meets therequirement of being viable and feasible for revival of the Corporate Debtor.

ORDER

11. The Interlocutory Application No. 1790 of 2021 is allowed. The Resolution Plan submitted by the Resolution Applicant Lasenor India Pvt. Ltd is hereby approved. It shall become effective from this date and shall form part of this order. 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.

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12. The Memorandum of Association (MoA) and Articles of Association (AoA) shall accordingly be amended and filed with the Registrar of Companies (RoC), concerned 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. The moratorium under Section 14 of the Code shall cease to have effect from this date.
 14. The Applicant and the Monitoring Committee shall supervise the implementation of the Resolution Plan and the Applicant shall file status of its implementation before this Authority from time to time, preferably every quarter.
 15. In the view of the above the Bench as decided by COC approves that, even subsequent to the approval of the Resolution plan any other application under Section 43, 45, 49, 50, 66, 68, 70, 71, 72, 73 and 74 of the Insolvency and Bankruptcy Code, 2016, pending would be pursued by the COC.
 16. 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. Any waiver sought in the Resolution Plan, shall be subject to approval by the Authorities concerned.
 17. In terms of the judgement of Hon'ble Supreme Court in the matter of *Ghanshyam Mishra and Sons Private Limited v. 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 part of the resolution plan.”

“95. (i) 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 debtor and its employees, members, creditors, including the Central Government, any State Government or any local authority, guarantors and other stakeholders. On the date of approval of resolution plan by the adjudicating authority, all such claims, which are not a part of the 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;

(ii) 2019 Amendment to Section 31 of the I&B Code is clarificatory and declaratory in nature and therefore will be effective from the date on which the Code has come into effect;

(iii) consequently, all the dues including the statutory dues owed to the Central Government, any State Government 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.”

18. In the view of the above judgement the applicant is entitled to waivers/ concessions/ reliefs as expressly provided under the Code and under any other law for the time being in force.
19. 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.
20. The Applicant shall forthwith send a copy of this Order to the CoC and the Resolution Applicant for necessary compliance.
21. The Interlocutory Application No. 1790/2021 is accordingly allowed and disposed of.

Sd/-
Manoj Kumar Dubey
Member (Technical)
11.01.2023

Sd/-
Kishore Vemulapalli
Member (Judicial)