

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

I.A. NO. 3461 OF 2023

In

COMPANY PETITION (IB) No. 37/MB-IV/2018

Under Section 30(6) of the Insolvency and
Bankruptcy Code, 2016.

Manohar Lal Vij, Resolution Professional
...**Applicant**

In the Matter of

C.P. (IB) No. 37/MB-IV/2018

Gandhar Oil Refinery Limited

...**Petitioner**

v/s.

Siddheshwar Industries Private Limited

...**Respondent**

Order Pronounced on: 24.11.2023

Coram:

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

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances:

CP (IB) No. 37/MB-IV/2021

For the Applicant/ RP :

Mr. Pulkit Sharma a/w Mr.
Naveen Arora and Mr. Abhishek

Devgan, Ld. Counsel for the
Applicant/ RP

ORDER

1. The present Application has been filed on 09.08.2023 by Mr. Manohar Lal Vij, the Applicant Resolution Professional ('**RP**') of Siddheshwar Industries Pvt. Ltd. ('**Corporate Debtor**'), under Section 30(6) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the '**IBC, 2016**') on behalf of the Committee of Creditors seeking approval of the Resolution Plan submitted by Mr. Vikas Bapurao Takwane & Ors. (the '**Successful Resolution Applicant**') and approved by 98.77% (ninety-eight point seven-seven percent) of the voting share of the members of the Committee of Creditors (hereinafter referred to as '**CoC**') of the Corporate Debtor for a resolution amount of INR 33.93Cr.

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

2.1 Corporate Insolvency Resolution Process ('**CIRP**') of the Corporate Debtor was initiated *vide* an order dated 14.05.2018 of this Tribunal in C.P.(IB)-37(MB)/2018, on an application filed by Gandhar Oil Refinery Limited ('**Operational Creditor**') under Section 9 of the IBC, 2016. In furtherance thereof, Mr. Shrikant Zawar (IBBI Reg. No.: IBBI/IPA-001/IP-P00156/2017-18/10325 was appointed as Interim Resolution Professional ('**IRP**'). The IRP made a public announcement informing the commencement of CIRP of the Corporate Debtor and invited claims from creditors, by way of publication in two newspapers dated 24.05.2018. Once the claims received from the Creditors were duly collated and verified, the IRP

prepared a report on the constitution of CoC and filed the same along with list of creditors before this Tribunal.

- 2.2 The IRP conducted the first meeting of CoC on 18.06.2018, wherein it was informed to the members of the CoC that the Hon'ble High Court of Bombay *vide* its order dated 19.04.2018 in C.P. No. 1305 of 2015 and C.P. No. 725 of 2016, had appointed the Official Liquidator of the Corporate Debtor. Thereafter, the IRP convened the second meeting of CoC on 04.07.2018 wherein the proposed resolution for confirmation of IRP as the RP was rejected by members of CoC holding 93.11% (ninety-three point one-one percent) of voting share. Subsequently, the IRP convened the third meeting of CoC on 11.07.2018, wherein the resolution for the appointment of RP (other than erstwhile IRP) was proposed and thereafter put to vote. The members of the COC representing 75.56% (seventy-five point five-six percent) voting share voted in favour of appointing one Mr. Dipak Panpaliya as the RP.
- 2.3 Accordingly, members of the CoC filed an Application bearing M.A. No. 745/2018 with this Tribunal seeking confirmation for appointment of one Mr. Dipak Panpaliya as Resolution Professional, pursuant to Section 22(3)(b) of IBC, 2016. However, the said application was subsequently withdrawn on 11.05.2022 on account of withdrawal of consent of Mr. Panpaliya *via* email dated 25.08.2021.
- 2.4 Pursuant to appointment of the Official Liquidator by Hon'ble Bombay High Court, this Tribunal *vide* order dated 13.07.2018 directed the IRP to maintain status-quo on the CIRP proceedings without interfering with any proceedings of the Hon'ble High Court of Bombay. Accordingly, the CIRP Process against the Corporate Debtor was stayed by this Tribunal. Thereafter, the Hon'ble High

Court of Bombay *vide* Order dated 12.08.2021 passed in C.P. No. 723 of 2016 and C.P. No 1305 OF 2015, closed the liquidation proceeding against the Corporate Debtor and the matter was sent back to this Tribunal. *Vide* order dated 21.03.2022, this Tribunal was pleased to vacate the stay order dated 13.07.2018 and listed the main petition for review on 13.06.2022.

- 2.5 In the fourth CoC meeting convened by IRP on 19.04.2022, owing to the withdrawal of consent of Mr. Panpaliya, the members of the CoC approved the resolution for appointment of Mr. Manohar Lal Vij as the Resolution Professional with 94% (ninety-four percent) voting share. Accordingly, an Application on behalf of the members of the CoC bearing IA No. 1229/2022 was filed with this Tribunal, seeking confirmation for the appointment of Mr Manohar Lal Vij, as the Resolution Professional of the company. During the pendency of the aforesaid Application, the erstwhile IRP convened fifth CoC meeting on 06.05.2022, wherein the members of the CoC were pleased to approve appointment and fees of the registered valuers for carrying out the valuation of all the assets of the Corporate Debtor including the enterprise valuation, in terms of Regulation 27 of the IBBI (CIRP) Regulations, 2016.
- 2.6 The afore-mentioned Application bearing IA No. 1229/2022 seeking appointment of the RP was allowed by this Tribunal, *vide* order dated 11.05.2022 and Mr. Manohar Lal Vij, the Applicant herein, was appointed as Resolution Professional (hereinafter '**RP**') of the Corporate Debtor.
- 2.7 In the meantime, the following Applications were filed for Exclusion and Extension during the CIRP period, and have been tabulated hereinafter:

S. No.	I.A. No.	Filed by	Relief Sought	Status
01	I.A. 1252/2022	IRP	Exclusion of 1358 days	Allowed <i>vide</i> Order dt. 11.08.2022
02	I.A. 2006/2022	RP	Exclusion of 78 days	Allowed <i>vide</i> Order dt. 28.07.2022
03	I.A. 3197/2022	RP	Extension of 90 days beyond 180 days	Allowed <i>vide</i> Order dt. 03.11.2022
04	I.A. 1543/2022	RP	Extension of 60 days beyond 270 days	Allowed <i>vide</i> Order dt. 28.04.2023
05	I.A. 1024/2023	RP	Extension of 90 days beyond 330 days	Allowed <i>vide</i> Order dt. 28.04.2023
06	I.A. 2505/2023	RP	Extension of 30 days beyond 420 days	Allowed <i>vide</i> Order dt. 16.06.2023

2.8 The RP convened sixth CoC meeting on 14.06.2022 in which the members of the COC were appraised about the ongoing business operations of the Corporate Debtor during the period of stay granted by the Hon'ble High Court of Bombay i.e. from 13.07.2018 to 31.03.2022 and informed that admitted claims of most of the operational creditors had become invalid due to payment of part/full amount during the stay period. Accordingly, CoC approved a resolution for updation of claims as on 19.05.2022 through suitable

public advertisement with 67.84% (sixty-seven point eight-four percent) voting share. Accordingly, the Applicant RP filed an Application bearing IA No. 1782/2022 seeking updation of claims as on 19.05.2022 which was allowed by this Tribunal *vide* order dated 06.07.2022. Pursuant to this, the RP published fresh Form A dated 06.07.2022, inviting claims from the creditors outstanding as on 19.05.2022, in three Newspapers (at Pune) and verified the claims in pursuance thereof.

- 2.9 Form G was published by the Applicant on 03.07.2022 for inviting Expression of Interest ('EOI') from the Prospective Resolution Applicants ('PRAs') on or before 29.07.2022 *via* three newspapers at Pune. This deadline was further extended by one week in eighth CoC meeting held on 28.07.2022, and the notice for the same was accordingly published on 29.07.2022.
- 2.10 Based on publication of the amended Form G, the Applicant received EOIs from Two (2) PRAs and conducted due diligence of the EOIs in terms of Regulation 36A (8) of the CIRP Regulations. Upon such verification, the Applicant issued the provisional list comprising of One (1) PRA which was duly noted by the members of the COC in the ninth COC meeting held on 18.08.2022, and the final list of the PRAs consisting of the aforementioned One (1) PRA was issued on 20.08.2022.
- 2.11 The Applicant received Resolution Plan from the one PRA only i.e. Mr. Vikas Bapurao Takawane along with his two immediate family members upto the last date of submission of Resolution Plan i.e. 29.09.2022. After having received the feasibility and viability report on the revised Resolution Plan, the members of the COC in the 17th COC meeting held on 08.06.2023, sought to approve the Resolution

Plan with 98.77% voting share in its favor. The resolution is reproduced below:

“RESOLVED THAT revised Resolution Plan dated 27.04.2023 along with addendum thereto (hereinafter referred as “Resolution Plan”), received from Vikas Bapurao Takawane along with his family members, having a Resolution Plan Value of Rs. 33,93,00,000,- (Rupee thirty three crore & ninety three lacs only), a copy of which duly initialled by the Chairman for purpose of identification was placed on the table of the meeting, be and is hereby approved in the CIR Process of Siddheshwar Industries Private Limited, Corporate Debtor.”

“RESOLVED FURTHER THAT the Resolution Professional be and is hereby authorised to submit Resolution Plan, as approved by the CoC herein above, to Adjudicating Authority along with compliance certificate in “Form H”, as specified in Schedule to the IBC 2016 and to do all such acts and deeds as may be necessary and expedient relating thereto.”

“RESOLVED FURTHER THAT Resolution Professional be and is hereby authorised to issue Letter of Intent (LOI) to the Successful Resolution Applicant as per the terms contained in RFRP and Resolution Plan, as approved hereinabove by the CoC”.

- 2.12 Pursuant to the approval of the Resolution Plan by the COC, the RP issued a Letter of Intent dated 07.07.2023 to the Successful Resolution Applicant (“**SRA**”), which was unconditionally accepted by the SRA on 10.07.2023. The SRA, due to certain unavoidable reasons, could not deposit a part of the Performance Security amount of INR 5 crore (Rupee five crore only) upto 22.07.2023, being the last date of deposit, in the CIRP account of the Corporate Debtor. Consequently, the members of the COC in the 18th COC meeting held on 25.07.2023

were sought to extend the last date of depositing the remaining performance security upto 31.07.2023 by approving the extension resolution with 85.04% votes casted in favour. Accordingly the remaining Performance Security amount was deposited upto 31.07.2023 and thereafter converted into FDR by the Applicant. Therefore, RP states that the Resolution Plan approved by the CoC is in compliance with the requirements of Section 30(2) of the Code.

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

- a. Provides for payment of Insolvency Resolution Process cost in a manner specified by the Board in the priority to the payment of other debts of the corporate debtor;
- b. Provides for management of the affairs of the Corporate Debtor after approval of Resolution Plan;
- c. The implementation and supervision of Resolution Plan;
- d. Does not prima facie contravene any of the provisions of the law for time being in force;
- e. Conforms to such other requirements as may be specified by the Board.
- f. As per the Affidavit received and the further documents submitted, the Resolution applicants are not covered under 29A.

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

- i. The amount due to the Operational Creditors under resolution plan shall be given priority in payment over Financial Creditors.

- ii. It has dealt with the interest of all Stakeholders including Financial Creditors and Operational Creditors of the CD.
 - iii. A statement that neither the Resolution Applicants nor any related parties have failed to implement nor have contributed to the failure of implementation of any other Resolution Plan approved by the AA in the past.
 - iv. The terms of the plan and its implementation schedule.
 - v. The management and control of the business of the CD during its term.
 - vi. Adequate means of Supervising its implementation.
 - vii. The Resolution Plan Demonstrates that it addresses
 - a. The cause of the Default
 - b. It is feasible and viable
 - c. Provision for effective implementation
 - d. Provisions for approvals required and the time lines for the same.
 - e. Capability to Implement the Resolution Plan
3. The Resolution Applicant *viz* Mr. Vikas Bapurao Takawane & Ors. are promoters of the Corporate Debtor, being an MSME entity with Udyog Aadhar Registration Certificate bearing Udhyam Registration No. UDHYAM-MH-26-0252578. The Resolution Applicant confirmed that it is eligible to submit Resolution Plan as per Section 29A of Insolvency and Bankruptcy Code, 2016.
4. The Resolution Applicant has confirmed that –
- i. its connected persons are not convicted for any offence during the preceding five years and no criminal proceedings are pending against any person.

- ii. not disqualified under Companies Act, 2013 to act as a Director.
- iii. not identified as a wilful defaulter by any bank of financial institution or consortium thereof in accordance with the guidelines of the Reserve Bank of India.
- iv. not debarred from accessing to, or trading in securities markets under any order or directions of the Securities and Exchange Board of India.

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

Fair Value: INR 42,87,49,900/-	(Rupees Forty-two crores, eighty-seven lakhs, forty-nine thousand and nine-hundred only)
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Liquidation Value: INR 31,57,65,070/-	(Rupees Thirty-one crores, fifty-seven lakhs, sixty-five thousand and seventy only)
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6. The key features of the Resolution Plan for Corporate Debtor submitted by Mr. Vikas Bapurao Takawane & Ors. is summarized below:

AMOUNT PROPOSED AND TIMELINES

Creditors	Amount proposed
Secured Financial Creditors -	29,22,00,120/-
Unsecured Financial Creditors	1,86,01,455
Operational Creditors (Other than Workman and Employees and Govt Dues)	44,88,599
Operational Creditors (Workman and Employees)	1,28,11,480
Statutory Dues	1,09,48,346
Other creditors	2,50,000
Total	33,93,00,000/-

Section 5.2**TERM OF RESOLUTION PLAN AND PAYMENT TO CREDITORS**

120 days from the date of approval of resolution plan from adjudicating authority

Section 6.1 and 6.2**CIRP COSTS PAYMENT PROPOSAL (AS PER ACTUALS) AND ITS ADJUSTMENT, IF ANY**

CIRP cost is paid on regular basis from the cash profits earned by the Company but if any CIRP Cost remains to be unpaid as on the date of approval then it shall be paid on priority basis before any payment under section 30(2)(a)

Section 5.1

MONITORING COMMITTEE**COMPOSITION/CONSTITUTION**

Monitoring Committee shall comprise of one person nominated by Secured Financial Creditors, One representative of RA and one IP nominated by Secured Financial Creditors. The insolvency professional shall act as the monitoring agent.

(In adourned 15th CoC meeting held on 16.05.2023 it was decided that Mr. Manohar Lal Vij will be act as head of the monitoring committee as nominated by the Secured Financial Creditors and RA and Secured Financial Creditors nominated SBI as their representative in Monitoring Committee.

The Monitoring Agent shall be paid monthly fees as mutually agreed between the RA and the Monitoring Agent besides reimbursement of actual expenses for implementation period i.e. from the NCLT approval date till full payment of resolution Plan amount.

Section 3.5**HANDOVER OF MANAGEMENT & CONTROL TO SRA**

Management and control of corporate debtor shall be handed over to SRA on payment of full resolution amount which is 120 days from the date of approval of Resolution Plan.

Section 6.2**TREATMENT OF EXISTING EMPLOYEES**

All existing employees and workers who are in employment shall continue on the approval of Resolution Plan and their services will be termed as continuing service.

Section 6.3 (j)

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

FORM H
COMPLIANCE CERTIFICATE

(Under Regulation 39(4) of the Insolvency and Bankruptcy Board of India

(Insolvency Resolution Process for Corporate Persons) Regulations, 2016

I, Manohar Lal Vij, an insolvency professional enrolled with Indian Institute of Insolvency Professionals of ICAI and registered with the Board with registration number **IBBI/IPA-001/IP-P01480/2018-2019/12269**, am the resolution professional for the corporate insolvency resolution process (CIRP) of Siddheshwar Industries Private Limited.

2. The details of the CIRP are as under:

Sl. No.	Particulars	Description
1	Name of the CD	Siddheshwar Industries Private Limited
2	Date of Initiation of CIRP	14.05.2018 (Order uploaded on 22.05.2018)

3	Date of Appointment of IRP	14.05.2018 (Order uploaded on 22.05.2018)
4	Date of Publication of Public Announcement	24.05.2018 (IRP) and 14.07.2023 (RP) pursuant to NCLT order dated 06.07.2022
5	Date of Constitution of CoC	12.06.2018 and 04.08.2022 (Re-constituted) pursuant to NCLT order dated 24.08.2022
6	Date of First Meeting of CoC	18.06.2018
7	Date of Appointment of RP	11.05.2022
8	Date of Appointment of Registered Valuers	06.05.2022
9	Date of Issue of Invitation for EoI	03.07.2022
10	Date of Final List of Eligible Prospective Resolution Applicants	19.08.2022
11	Date of Invitation of Resolution Plan	19.08.2022
12	Last Date of Submission of Resolution Plan	29.09.2022
13	Date of Approval of Resolution Plan by CoC	16.5.2023 (Voting window closed on 8.6.2023)
14	Date of Filing of Resolution Plan with Adjudicating Authority	-

15	Date of Expiry of 180 days of CIRP	16.10.2022
16	Date of Order extending the period of CIRP	03.11.2022
17	Date of Expiry of Extended Period of CIRP	14.01.2023
18	Date of Order extending the period of CIRP	28.05.2023
19	Date of Expiry of Extended Period of CIRP	14.03.2023
20	Date of Order extending the period of CIRP	28.05.2023
21	Date of Expiry of Extended Period of CIRP	11.06.2023
22	Fair Value	42,87,49,900/-
23	Liquidation value	31,57,65,070/-
24	Number of Meetings of CoC held	18

***Hon'ble NCLT allowed exclusion of 78 and 1358 days vide its order dated 28.07.2022 & 11.08.2022 respectively, due to suspension of CIRP on account of initiation of Liquidation process on the Order of Hon'ble High Court vide order dated 13th July 2018.**

3. I have examined the Resolution Plan received from Resolution Applicant (Mr. Vikas Bapurao Takawane with immediate family members) and approved by Committee of Creditors (CoC) of Siddheshwar Industries Private Limited.

4. I hereby certify that-

(i) the said Resolution Plan complies with all the provisions of the Insolvency and Bankruptcy Code 2016 (Code), the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP Regulations) and does not contravene any of the provisions of the law for the time being in force.

(ii) the Resolution Applicant (Vikas Bapurao Takawane with immediate family members) have submitted affidavit pursuant to section 30(1) of the Code confirming its eligibility under section 29A of the Code to submit resolution plan. The contents of the said affidavit are in order.

(iii) the said Resolution Plan has been approved by the CoC in accordance with the provisions of the Code and the CIRP Regulations made thereunder. The Resolution Plan has been approved by 98.77 % of voting share of financial creditors after considering its feasibility and viability and other requirements specified by the CIRP Regulations.

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

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

Sl. No.	Name of Creditor	Voting Share (%)	Voting for Resolution Plan (Voted for / Dissented / Abstained)
1.	State Bank of India	51.48	Voted for
2.	Bank of India	12.02	Voted for
3.	Union bank of India (earlier known as Andhra Bank)	12.79	Voted for
4.	RBL Bank Limited	10.22	Voted for
5.	Mahindra & Mahindra Finance Services Limited	5.54	Voted for
6.	HDB Financial Services Limited	1.23	Dissented
7.	The Seva Vikas Co- operative Bank Limited	5.78	Voted for
8.	Madhur Engineers Private Limited	0.94	Voted for

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

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

(Amount in Rs. lakh)

Sl. No.	Category of Stakeholder*	Sub-Category of Stakeholder	Amount Claimed	Amount Admitted	Amount Provided under the Plan#	Amount Provided to the Amount Claimed (%)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	Secured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	NIL	NIL	NIL	NIL
		(b) Other than (a) above:				

		(i) who did not vote in favour of the resolution Plan	194,13,74,864	189,19,29,271	29,22,00,120	15.05%
		(ii) who voted in favour of the resolution plan				
		Total[(a) + (b)]	194,13,74,864	189,19,29,271	29,22,00,120	15.05%
2	Unsecured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	NIL	NIL	NIL	NIL
		(b) Other than (a) above:				
		(i) who did not vote in favour of the resolution Plan	31415140	31019073	930572	2.96%
			80,73,69,546	589029438	1,7670883	2.19%

		(ii) who voted in favour of the resolution plan				
		Total[(a) + (b)]	83,87,8 4,956/-	620048 511/-	1,86,01 ,455/-	2.22%
3	Operational Creditors	(a) Related Party of Corporate Debtor	NIL	NIL	NIL	NIL
		(b) Other than (a) above:	NIL	NIL	NIL	NIL
		(i)Government	25,29,9 4,496	20,71,9 8,249	1,09,48 ,346	4.33%
		(ii)Workmen	(ii) & (iii) 6,43,76 ,905	31,03,7 92	31,03,7 92	9.95%
		(iii)Employees		97,07,6 88	97,07,6 88	9.95%

		(iv) Other than workmen, employees and government	76,20,36,536	44,88,59,905	44,88,599	0.59%
		Total[(a) + (b)]	107,94,07,937/-	66,88,69,634/-	2,82,48,425/-	2.62%
4	Other debts and dues		2,50,00,000/-	2,50,00,000/-	2,50,00,000/-	1%
Grand Total			388,45,67,757/-	320,58,47,416/-	33,93,00,000/-	8.73%

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

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

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

Sl. No	Category of Share Holder	No. of Shares held before CIRP	No. of Shares held after the CIRP	Voting Share (%) held before CIRP	Voting Share (%) held after CIRP
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1	Equity	20,33,113	Nil	100%	Nil
2	Preference	Nil	Nil	Nil	Nil
3					

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

Section of the Code / Regulation No.	Requirement with respect to Resolution Plan	Clause of Resolution Plan	Compliance (Yes / No)
25(2)(h)	Whether the Resolution Applicant meets the criteria approved by the CoC having regard to the complexity and scale of operations of business of the CD?	Annexure II of EOI	Yes
Section 29A	Whether the Resolution Applicant is eligible to submit resolution plan as per final list of Resolution Professional or Order, if any, of the Adjudicating Authority?	Section 3.4, Pg No. 39	Yes
Section 30(1)	Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?	Given	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?	(a) Pg. No. 51 Section 5.1 Table 19 (b) Pg 44-45 Section 4.4	(a) Yes (b) Yes

	<p>(c) provides for the payment to the financial creditors who did not vote in favour of the resolution plan?</p> <p>(d) provides for the management of the affairs of the corporate debtor?</p> <p>(e) provides for the implementation and supervision of the resolution plan?</p> <p>(f) contravenes any of the provisions of the law for the time being in force?]</p>	<p>Clause (e) (f),(g) read with table 23 on page 61 also Pg 49, Section IX(b)</p> <p>(c) Pg 49, Section IX(b)</p> <p>(d) Pg. No. 40 Section 3.5 Clause (a)</p> <p>(e) Pg 60-63 Section 6.1, 6.2 and Section 6.3 Clause (a)</p>	<p>(c) Yes</p> <p>(d) Yes</p> <p>(e) Yes</p>
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		(f) Pg 66 Section 6.4(1)	(f) Yes
Section 30(4)	Whether the Resolution Plan (a) is feasible and viable, according to the CoC? (b) has been approved by the CoC with 66% voting share?	(a) Pg. No. 66 Section 6.4(3) (b)	(a) Yes (b) Yes
Section 31(1)	Whether the Resolution Plan has provisions for its effective implementation plan, according to the CoC?	Pg 65 Section 6.3 Clause (m) & (n), read with section 4.3 i.e sources of fund on page 42	Yes
Regulation3 8 (1)	Whether the amount due to the operational creditors under the resolution plan has been given priority in payment over financial creditors?]	Pg 44-45 Section 4.4 Clause (e) (f),(g) read with table 23 on page 61	Yes
Regulation	Whether the resolution plan includes a	Pg 51-52	Yes

38(1A)	statement as to how it has dealt with the interests of all stakeholders?	Section 5.1	
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?]	Section 9 on Pg 76 Reg 38 (1)(b)	Yes
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?	(a) Refer Page 60 Para 6.1 & 6.2 (b) Refer Pg 62 Section 6.3 Clause (a) & (b) (c) Pg 62 Section 6.3 Clause (a)	(a) Yes (b) Yes (c) Yes
38(3)	Whether the resolution plan demonstrates that –	(a) Turnaround strategy on Pg 27-28	(a) Yes

	<p>(a) it addresses the cause of default?</p> <p>(b) it is feasible and viable?</p> <p>(c) it has provisions for its effective implementation?</p> <p>(d) it has provisions for approvals required and the timeline for the same?</p> <p>(e) the resolution applicant has the capability to implement the resolution plan?</p>	<p>Section 1.13</p> <p>(b) Pg. No. 66 Section 6.4(3)</p> <p>(c) Pg 65 Section 6.3 Clause (m) & (n), read with section 4.3 i.e sources of fund on page 42</p> <p>(d) Section 6.3 on page 65, Clause (o)</p> <p>(e) Section 4.3 i.e sources of fund on page 42 read with compliance given on page 77, regulation 38(3)(e)</p>	<p>(b) Yes</p> <p>(c) Yes</p> <p>(d) Yes</p> <p>(e) Yes</p>
39(2)	Whether the RP has filed applications in respect of transactions observed, found or	No transaction	NA

	determined by him?	has been determined	
Regulation 39(4)	Provide details of performance security received, as referred to in sub-regulation (4A) of regulation 36B.]	Rs 100 lacs received on -23.09.2023 through electronic transfer as earnest money Balance Rs 400 lacs received on ---through electronic transfer____ _____. Total Rs 500 lacs received	Yes

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

Section of the Code / Regulation No.	Description of Activity	Latest Timeline under regulation 40A	Tentative timelines of Assignme nt	Actual Date
Section 16(1)	Commencement of CIRP and Appointment of IRP.	T	14-05-18	14.05.2018

	(Order uploaded on 22.05.2018)			
Regulation 6(1)	Publication of Public Announcement*	T+3	17-05-18	25.05.2018 (Order uploaded on 22.05.2023) & 14.07.2023 (RP) pursuant of NCLT order dated 06.07.2022
Section 15(1)(c) /Regulation 12 (1)	Submission of Claims*	T+14	28-05-18	04.06.2018 & 27.07.2022
Regulation 13(1)	Verification of Claims*	T+21	04-06-18	11.06.2018 & 03.08.2022
Section 26(6A) / Regulation 15A	Application for Appointment of Authorised Representative, if necessary	T+23	06-06-18	NA
Regulation 17(1)	Filing of Report Certifying Constitution of CoC	T+23	06-06-18	12.06.2018 and 04.08.2022 (Re-constituted) pursuant of

				NCLT order dated 24.08.2022
Section 22(1) and regulation 17(2)	First Meeting of the CoC	T+30	13-06-18	18.06.2018
Regulation 35A	Determination of fraudulent and other transactions	T+115	06-09-18	02.12.2023
Regulation 27	Appointment of two Registered Valuers	T+47	30-06-18	06.05.2022
Regulation 36 (1)	Submission of Information Memorandum to CoC	T+54	07-07-18	18.08.2022
Regulation 36A	Invitation of EoI	T+75	28-07-18	03.07.2022
	Publication of Form G	T+75	28-07-18	03.07.2022
	Provisional List of Resolution Applicants	T+100	22-08-18	13.08.2022
	Final List of Resolution Applicants	T+115	06-09-18	19.08.2022
Regulation 36B	Issue of Request for Resolution Plan, which includes Evaluation Matrix and Information Memorandum to Resolution Applicants	T+105	27-08-18	19.08.2022

Section 30(6) / Regulation 39(4)	Submission of CoC approved Resolution Plan	T+165	26-10-18	–
Section 31(1)	Approval of Resolution Plan	T=180	10-11-18	–

*Hon'ble NCLT allowed exclusion of 78 and 1358 days vide its order dated 28.07.2022 & 11.08.2022 respectively, due to suspension of CIRP on account of initiation of Liquidation process on the Order of Hon'ble High Court vide order dated 13th July 2018.

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

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

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

13. Following are the deviations / non-compliances of the provisions of the Insolvency and Bankruptcy Code, 2016, regulations made or circulars issued

thereunder (If any deviation/ non-compliances were observed, please state the details and reasons for the same):

Sl. No.	Deviation/Non-compliance observed	Section of the Code / Regulation No. / Circular No.	Reasons	Whether rectified or not
1	Determination report on preferential and other transactions	Regulation 35A	Due to non-availability of Audited financial statements of 4 years before CIRP commencement date.	Rectified. Filed on 15.12.2022 instead of 12.08.2022
2				
3				

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

14A. Whether the resolution professional has, in accordance with regulation 35A,-
 (a) applied to the Adjudicating Authority on or before the one hundred and thirty-fifth day of the insolvency commencement date: Not required
 (b) filed Form CIRP 8 with the Board on or before the one hundred and fortieth day of the insolvency commencement date: **Yes, on 15.12.2023**

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

Sl. No.	Type of Transaction	Date of Filing with Adjudicating Authority	Date of Order of the Adjudicating Authority	Brief of the Order
1	Preferential transactions under section 43	RP has not determined any transactions covered under sections 43, 45, 50 or 66	NA	NA
2	Undervalued transactions under section 45	RP has not determined any transactions covered under sections 43, 45, 50 or 66	NA	NA
3	Extortionate credit transactions under section 50	RP has not determined any transactions covered under sections 43, 45, 50 or 66	NA	NA
4	Fraudulent transactions under section 66	RP has not determined any transactions covered under	NA	NA

		sections 43, 45, 50 or 66		
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15A. The committee has approved a plan providing for contribution under regulation 39B as under:

- a. Estimated liquidation cost: **Rs 16,55,000/-**
- b. Estimated liquid assets available: Rs Nil
- c. Contributions required to be made: Rs 16,55,000
- d. Financial creditor wise contribution is as under:

Sl. No.	Name of financial creditor	Amount to be contributed (Rs.)
1	State Bank of India	8,60,079
2	Bank of India	2,00,819
3	Union bank of India (earlier known as Andhra Bank)	2,13,683
4	RBL Bank Limited	1,70,746
5	Mahindra & Mahindra Finance Services Limited	92,557
6	HDB Financial Services Limited	20,550
7	The Seva Vikas Co-operative Bank Limited	96,567
Total		16,55,000/-

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

- a. Sale of corporate debtor as a going concern: **Yes**
- b. Sale of business of corporate debtor as a going concern: **Yes**

The details of recommendation are available with the resolution professional.

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

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

Manohar Lal Vij

IBBI/IPA-001/IP-P01480/2018-2019/12269

**Address as registered with the Board: 8/28, 3rd Floor, W.E.A. Abdul Aziz
Road, Karol Bagh - 110005**

Email id as registered with the Board: mlvij1956@gmail.com

Date: 12th July, 2023

Place: Delhi

9. In the circumstances mentioned hereinabove, the Applicant has filed Application seeking approval of this Tribunal on the Resolution Plan, submitted by the Resolution Applicant i.e. Mr. Vikas Bapurao Takawane & Ors. stating that the plan is in accordance with the Section 30(2) and other provisions laid down under the code.
10. On perusal of the Resolution Plan, it is observed that the Resolution Plan provides for the following:
- i. Payment of CIRP Cost as specified u/s 30(2)(a) of the Code.
 - ii. Repayment of Debts of Operational Creditors as specified u/s 30(2)(b) of the Code.

- iii. For management of the affairs of the Corporate Debtor, after the approval of Resolution Plan, as specified U/s 30(2)(c) of the Code.
 - iv. The implementation and supervision of Resolution Plan by the RP and the CoC as specified u/s 30(2)(d) of the Code.
11. The RP has complied with the requirement of the Code in terms of Section 30(2)(a) to 30(2)(f) and Regulations 38(1), 38(1)(a), 38(2)(a), 38(2)(b), 38(2)(c) & 38(3) of the Regulations.
 12. The RP has filed Compliance Certificate in Form-H along with the plan. On perusal the same is found to be in order. The Resolution Plan has been approved by the CoC in the 17th COC meeting held on 08.06.2023, with 98.77%. (Ninety-eight point seven-seven percent)
 13. There is no such pending proceedings u/s 66(1) r/w 43(1) and 44(1) of the Code.
 14. In the case of ***K Sashidhar v. Indian Overseas Bank & Others*** (in Civil Appeal No.10673/2018 decided on 05.02.2019) the Hon'ble Apex Court held that if the CoC had approved the Resolution Plan by requisite percent of voting share, then as per section 30(6) of the Code, it is imperative for the Resolution Professional to submit the same to the Adjudicating Authority (NCLT). On receipt of such a proposal, the Adjudicating Authority is required to satisfy itself that the Resolution Plan as approved by CoC meets the requirements specified in Section 30(2). The Hon'ble Court observed that the role of the NCLT is 'no more and no less'. The Hon'ble Court further held that the discretion of the Adjudicating Authority is circumscribed by Section 31 and is limited to scrutiny of the Resolution Plan "as approved" by the requisite percent of voting share of financial creditors. Even in that enquiry, the grounds on which the Adjudicating Authority can reject the Resolution Plan

is in reference to matters specified in Section 30(2) when the Resolution Plan does not conform to the stated requirements.

15. In *CoC of Essar Steel* (Civil Appeal No. 8766-67 of 2019 decided on 15.11.2019) the Hon'ble Apex Court clearly laid down that the Adjudicating Authority would not have power to modify the Resolution Plan which the CoC in their commercial wisdom have approved. In para 42 Hon'ble Court observed as under:

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

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

ORDER

17. The Application IA-3461/2023 in CP(IB)/37/(MBIV)/2018 is allowed. The Resolution Plan annexed to the Application is hereby approved. It shall become effective from this date and shall form part of this order.

17.1. It shall be binding on the Corporate Debtor, its employees, members, creditors, including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force is due, guarantors and other stakeholders involved in the Resolution Plan.

17.2. The approval of the resolution plan shall not be construed as waiver of any statutory obligations of the Corporate Debtor and shall be dealt by the appropriate authorities in accordance with law.

Further in terms of the judgment of Hon'ble Supreme Court in the matter of *Ghanshyam Mishra And Sons Private Limited V/S Edelweiss Asset Reconstruction Company Limited*, on the date of approval of the Resolution Plan by the adjudicating authority, all such claims which are not a part of 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 a part of the Resolution Plan.

17.3. The Memorandum of Association (MoA) and Articles of Association (AoA) shall accordingly be amended and filed with the Registrar of Companies (RoC), Mumbai, Maharashtra for information and record. The Resolution Applicant, for effective implementation of the Plan, shall obtain all necessary approvals, under any law for the time being in force, within such period as may be prescribed.

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

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

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

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

18. The Interlocutory Application i.e. IA No. 3461 of 2023 in CP(IB)/37(MB)/2018 is accordingly allowed and disposed of.

Sd/-
ANU JAGMOHAN SINGH
MEMBER (TECHNICAL)
24.11.2023

Sd/-
KISHORE VEMULAPALLI
MEMBER (JUDICIAL)