

IN THE NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH COURT III



I.A. 1227 of 2022

IN

C.P.(IB)/4345 (MB)/C-III/2019.

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

Amit C. Poddar

The Resolution Professional of
M/s. Prince SWR Systems Pvt Limited.
Having Registered Address at:
A101/102, 1st Floor, Sunshine Plaza,
Naigaum Cross Road, Dadar (East),
Mumbai- 400014.

.... Applicant/ Resolution Professional

In the matter of

M/s. Midas Impex Private Limited

.... Petitioner/ Operational Creditor

Versus

Prince SWR Systems Private Limited

.... Corporate Debtor/ Respondent

Order pronounced on: 27.03.2025



Coram:

Hon'ble Ms. Lakshmi Gurung, Member (Judicial)

Hon'ble Sh. Charanjeet Singh Gulati Member (Technical)

Appearances:

For Applicant Adv. Rohit Gupta, Adv. Krishnan Iyer, Adv. Rahul Pillai i/b. Pragnya Legal.


PER: MS. LAKSHMI GURUNG, MEMBER (JUDICIAL)

ORDER

1. I.A No.1227/2022:

This I.A. is filed by, **Mr. Amit Chandrasekhar Poddar, the Resolution Professional of M/s. Prince SWR Systems Private Limited ('the Applicant')** under section Section 30(6) of the Insolvency and Bankruptcy Code, 2016 (**'the Code'**) read with Regulation 39(4) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, (**'CIRP Regulations'**) 2016 seeking following reliefs:

- a) *Allow the present Application and approve the Resolution Plan submitted for the Corporate Debtor by 'Chemtrade Overseas Private Limited' in terms of Section 31(1) of the Insolvency and Bankruptcy Code, 2016;*
- b) *Direct that the Resolution Plan approved/ sanctioned by this Hon'ble Adjudicating Authority shall be binding on the Corporate Debtor, its employees, members/ shareholders, creditors, guarantors and other stakeholders involved in the Resolution Plan;*
- c) *Exclude the abovementioned 30 days from the statutory 270 days of CIRP period which was lost while conducting the CIRP of the Corporate Debtor.*



d) *Pass such other orders or further orders as this Hon'ble Adjudicating Authority may deem fit and proper in facts and circumstances of the case.*

2. Before filing the present application, the applicant has also filed I.A bearing No.854 of 2022 seeking exclusion of 30 days to conclude the CIRP period which was getting expired on 02.04.2022. Vide order 13.05.2022, this tribunal had allowed the said application and the CIRP period was extended upto 02.05.2022 and the present plan approval application has been filed on 30.04.2022 and therefore prayer (c) has become infructuous.

Brief Facts:

1. M/s. Prince SRW Systems Private Limited (**'the Corporate Debtor'**) was incorporated as a company limited by shares under Companies Act, 1956 on 29.03.1995. The authorized share capital is Rs. 12,50,00,000/- and paid-up share capital is Rs. 9,87,76,000/-. The Corporate Debtor has its registered office at A101/102, 1st floor, Sunshine Plaza, Naigaon Cross Road, Dadar East, Mumbai- 400014.
3. The Corporate Insolvency Resolution Process (**'CIRP'**) of the Corporate Debtor was initiated by this Tribunal vide Order dated 16.04.2021 under Section 7 of the Insolvency and Bankruptcy Code, 2016 and Mr. Hirachand Bafna was appointed as the Interim Resolution Professional (**"IRP"**).
4. Subsequently a Public announcement for submission of claims was made on 03.05.2021 in the Free Press Journal (English) Navshakti (Marathi).

CoC Meetings:

5. Pursuant to receipt of claims, the IRP constituted a Committee of Creditors ("COC") and the report Certifying Constitution of CoC was filed

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by the erstwhile IRP and the first CoC meeting was held on 29.05.2021. The RP, pursuant to change in the CoC formation due to classification of few creditors from other creditors to Unsecured Financial Creditors, filed revised report dated 13.01.2022, certifying constitution of CoC in terms of regulation 17(1) of the CIRP Regulations, on 22.01.2022. A copy of revised CoC report are annexed as **Exhibit H** to the Application.

6. A summary of claims admitted by the Applicant (updated as 02.04.2022) is as under:

Amount in Rs.

Creditors	Claimed Filed	Claims Admitted
A. Financial Creditors	181,66,37,817	181,66,37,817
B. Unsecured Financial Creditors	1,15,54,20,027	1,15,54,20,027
C. Operational Creditors		
• Suppliers	22,82,43,460	22,82,43,460
• Workmen & Employees	3,24,08,275	3,24,08,275
• Statutory Liabilities	6690	6690
Total Operational Creditors (C)	30,58,07,103	26,06,58,425
D. Other creditors (other than financial and operational)	-	-
Total (A+B+C+D)	3304522,401	3232716269

7. The breakup of the claims of CoC with their voting percentage updated as on 02.04.2022 is as under:

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Name of the Creditor	Claim filed	Claim Admitted	Voting Shares (%)
Axis Bank Limited	30,36,82,613	30,36,82,613	20.3511
Standard Chartered Bank	43,45,79,090	43,45,79,090	14.6222
ICICI Bank Limited	51,54,84,057	51,54,84,057	24.6854
Canara Bank	52,51,93,736	52,51,93,736	36.3663
Siemens Financial Services Private Limited	3,76,98,321	3,76,98,321	1.2684
Unsecured Financial Creditors			
Axis Bank Limited	30,11,63,313	30,11,63,313	-
ICICI Bank	21,81,80,778	21,81,80,778	-
Canara Bank	55,56,32,672	55,56,32,672	-
National Realty Private Limited	5,49,40,000	5,49,40,000	1.8486
American Express Banking Corporation	2,33,96,287	2,33,96,287	0.7872
Tata Capital Financial Services Limited	21,06,977	21,06,977	0.0709
Bajaj Finance Limited	4411409.6	0	-
Rajesh Balwantraai Parekh	22246044	0	-
Total			100.00%

8. The Applicant submits that 28 (Twenty-Eight) CoC meetings have been held during CIRP period.



9. Subsequently on 18.10.2021 the Applicant was appointed as the Resolution Professional (“RP”).

Valuation:

10. The Applicant submits that, in accordance with Regulation 27 & 35 of IBBI (CIRP), Regulations 2016, below mentioned Registered Valuers have been appointed to determine the Fair Value and Liquidation Value of the Corporate Debtor.

Sr.No	Category	Details of Professional
1.	Registered Valuer (Land and Building)	a) Mr. Babu Dan Singh Tanwar (IBBI/RV/09/2021/077) b) Kunal K.Vikamsey (IBBI/RV/07/2018/10066)
2.	Registered Valuer (Plant and Machinery)	a) Govind Panchal (IBBI/RV/10/2019/11513) b) Kunal K. Vikamsey (IBBI/RV/07/2019/10883) c)Anil Bhaskar Kakode (IBBI/RV/07/2019/10735)
3.	Registered Valuer (Securities and Financial Assets)	a) Gyaneshwar Sahai (IBBI/RV/03/2018/10226) b) Dharmesh Lalitkumar Trivedi (IBBI/RV/06/2019/11302)



11. Further, the above mentioned valuers have submitted their Valuation Reports to the Applicant. Copies of the Valuation Reports submitted by the Registered Valuers are annexed as **Annexure L** to the Petition. A summary of the Fair Market Value, Liquidation value and Average Valuation determined by the Valuers are reproduced herein under:

(Rs. In Lakhs)

Valuers	Fair Market Value	Liquidation Value
I. Land and Building		
Mr.Babu Dan Singh Tanwar	5216.17	3651.32
Mr.Kunal K.Vikamsey	4530.82	3290.04
Average Valuations	4873.50	3470.68
II. Plant and Machinery		
Mr. Govind Panchal	508.88	369.29
Mr. Kunal K. Vikamsey	1737.37	999.74
Mr.Anil Bhaskar Kakode	1687.11	1012.26
Average Valuations	1712.24	1006.00
III. Securities and Fin Assets		
Mr. Gyaneshwar Sahai	0.00	0.00
Mr. Dharmesh Trivedi	661.25	322.81
Grand total of I+II+III	6916.36	4638.09

12. For Plant and Machinery, the 1st valuer i.e Mr. Govind Panchal gave total fair valuation of 508.88 and Liquidation value of 369.29. The Second valuer i.e. Mr. Kunal K. Vikamsey gave total fair market valuation of 1737.37 and total Liquidation value of 99.74. As there was



significant difference in the both the valuations the CoC directed the Applicant to appoint third valuer to conduct valuation of Plant and Machinery. Accordingly Mr. Anil Bhaskar Kakode was appointed who gave average fair value of 1687.11 and Liquidation value of 1012.26. The Valuation given by the second and third being the closest is considered in the table given above and Accordingly the average fair market value is 1712.24 and Liquidation value is 1006.00.

Extension and Exclusion:

13. As 180 days of CIRP was getting over on 27.10.2021 the erstwhile IRP filed an interlocutory Application No. 2478 of 2021 seeking extension and exclusion of CIRP. This Tribunal vide its order dated 26.10.2021 granted extension and exclusion up to 01.02.2022.

14. Further the Applicant filed an Interlocutory Application No.49 of 2022 for exclusion of period spent for legal proceedings. This Tribunal vide its order dated 19.01.2022 granted exclusion of 60 days computation of CIRP Period.

Issuance of FORM G

15. Further, the advertisement for inviting Expression of Interest (**“EoI”**) in Form G was published on 16.07.2021 in six newspapers namely:

- i. Free Press Journal – Mumbai Edition.
- ii. Navshakti- Mumbai Edition.
- iii. Silvassa Mirror- Silvassa – Daman Edition
- iv. Janadesh- Silvassa/ Daman Edition.
- v. Business Standard- Hyderabad Edition.
- vi. Praja Darbar- Hyderabad Edition.

16. Pursuant thereto two (**‘PRA’**) were shortlisted however no resolution plans were received within the stipulated time therefore a second Form



G for inviting resolution Applicant was published on 29.10.2021 in the same newspapers as mentioned hereinabove. The last date for submitting EOI was on or before 13.11.2021. In response of the same the Resolution Professional received 8 EOI.

17. In the Resolution Professional issued RFRP, Evaluation Matrix and Information Memorandum to the PRA.

18. Further in the 8th COC meeting held on 15.12.2021, it was decided to extend the last date for submission of Resolution Plan from 28.12.2021 to 03.01.2022 which was further extended to 10.01.2022.

19. By 10.01.2022 the Applicant received 3 resolution Plans from the following resolution Applicants:

- i. Chemstar Overseas Private Limited
- ii. Prakash Dall & Flour Mills
- iii. Mr. Surender Kumar Bansal.

20. Further During the 9th CoC meeting held on 11.01.2022 the Applicant informed the CoC that the Applicant had received on 29.12.2021 email from Mr.Nihar Chedda the VP strategy of Prince Pipes and Fittings limited showing interest in acquiring the Corporate Debtor.

21. As Prince Pipes and Fittings limited was found to be ineligible to participate in the resolution process of the Corporate Debtor the CoC decided to go ahead with existing resolution Plans.

22. Further on the request of the Applicant the Resolution Applicants submitted revised legally complaint Resolution Plans which were considered and deliberated by the members of the CoC. After various rounds of negotiations, the Resolution Plans were put for e-voting on 30.03.2022.



23. The Applicant herein accordingly filed Interlocutory Application No.854 of 2022 seeking exclusion of 30 days.

Approval of Resolution Plan by the Committee of Creditors:

24. Further on 11.04.2022 the e-voting was concluded and the Resolution Plan submitted by Chemtrade Overseas Private Limited was approved by the members of the CoC with 97.29% majority vote. Accordingly, Chemtrade Overseas Private Limited was declared as the successful Resolution Applicant. Further, the revised resolution plan submitted by Chemtrade Overseas Private Limited is annexed as **Exhibit A** to the Company Petition.

25. Pursuant to the same the Resolution Professional issued a Letter of Intent (**'LoI'**) to SRA on 13.04.2022 and the said LoI was accepted unconditionally by the SRA. A copy of Letter of Intent dated 13.04.2022 is annexed as **Exhibit CC**.

26. The Applicant has filed a Compliance Certificate i.e. Form- 'H' dated 29.04.2022 in compliance with Regulation 39(4) of the CIRP Regulations, 2016, which has been annexed to the petition as **Exhibit BB**.

27. It is pertinent to note that Prince Pipes and Fittings Limited Filed Interlocutory Application No. 894 of 2022 on 04.04.2021 seeking direction from this Tribunal, to direct the Applicant to convene a meeting of the Committee of Creditors and place the Resolution Plan submitted by Prince Pipes and Fittings Limited for consideration. This Tribunal directed the Applicant herein to file an Affidavit in reply to the Interlocutory Application. In the meanwhile, the resolution plans submitted by the resolutions applicants were put for e-voting and successful Resolution Applicant was declared on 11.04.2022 wherein this tribunal directed the Applicant to seek views from all members of the COC of the Corporate Debtor as to whether they want to consider

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the resolution plan submitted by Prince Pipes and Fittings Limited herein. The CoC members with majority voting share informed the Applicant herein that the Resolution Plan submitted by Prince Pipe and Fittings Limited maybe put before COC members for further deliberations provided Prince Pipe and Fittings Limited is eligible under Section 29A of IBC. Further this Tribunal vide its order dated 10.01.2024 has dismissed the Interlocutory Application No. 894 of 2022 Prince Pipes and Fittings Limited.

28. Earlier summarized payment schedule proposed to made by the SRA.

Particulars	Admitted Claims	Final Resolution Amount	Within 30 days	Within 31-90 days
CIRP Cost		105,00,000	105,00,000	
Secured financial Creditors	1,81,66,37,817	55,44,23,000	18,06,08,000	37,38,15,000
Unsecured Financial Creditors	1,15,54,20,027	28,88,550	28,88,550	-
Operational Creditors (Workmen and Employees Dues (Employees))	1,64,67,151	50,25,639	50,25,639	-
Operational Creditors (Government Dues)	6,690	6,690	6,690	-
Operational creditors (other than workmen and employees dues and govt	22,56,12,130	22,56,121	22,56,121	-

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dues				
Total		57,51,00,000	20,12,85,000	37,38,15,000

Additional Affidavit dated 10.01.2025 filed by the Applicant:

29. During the course of the hearing on 25.09.2024 this Tribunal was apprised that CIRP Cost has exceeded the estimated cost of Rs.1.05 crores as provided in the Resolution Plan. Vide order dated 25.09.2024 the Tribunal directed the Applicant to clarify following:

- i. Whether Resolution Applicant is willing to bear additional Costs of CIRP over and above the amount of Rs. 1.05 Crores provided in the Resolution Plan?
- ii. To produce the Net Worth Certificate issued by the Chartered Accountant for the Resolution Applicant.
- iii. Explanation of the amounts payable to the employees in accordance with the provisions of Section 53 of the Code, vis-a-vis the amount offered in the Resolution Plan.

30. Pursuant to the above order dated 25.09.2024, an Additional Affidavit dated 10.01.2025 was filed stating as follows:

- i) The SRA was asked to bear the additional CIRP cost beyond Rs.1.05 crores which would be Rs.2.95 crores. However the SRA refused to bear any additional CIRP Costs. Therefore, it was resolved by the members of the CoC, with a vote of 80.10%, that the CIRP expenses over and above Rs. 1.05 Crores shall be deducted from the share of the Secured Financial Creditors. Accordingly, the distribution pattern for the Secured Financial Creditors was revised and a revised Form H was annexed as **Exhibit E** to the said affidavit.



- ii) The net worth Certificate dated 12.11.2021 issued by Chartered Accountant certifying the net worth of the Resolution Applicant is annexed as **Exhibit F** to the said Affidavit.
- iii) The claims of employees as received and admitted during CIRP was Rs. 1,64,67,151/-. The SRA had proposed to pay a total amount of Rs. 50,25,639/- to the employees in its Resolution Plan. Further the Authorised Representative of the employees submitted their revised claim of Rs.3,87,24,008/- in the last week of December, 2021, which was rejected by the Resolution Professional as the claim was filed belatedly. Thereafter, the Authorised Representative of the employees approached this Hon'ble Tribunal through Interlocutory Application No. 78/2022. This tribunal vide its order dated 16.03.2022 allowed the application and directed the Resolution Professional to consider belated claims on merits. Accordingly, the Resolution Professional after verification of claims admitted a claim of Rs. Rs.3,22,02,387/- against the claim amount of Rs.3,87,24,008/- thereby making total admitted claim to Rs.324,08,275/-. Out of Rs.3,22,02,387/- gratuity amount was estimated at Rs.1,51,02,777/- and other than gratuity was estimated to Rs.1,70,99,610/-.
- iv) It is submitted that the Resolution Professional took constant follow ups from the representatives of the employees but they were unable to provide the precise calculations for the gratuity amount payable to them. Therefore, on the basis of available information and data, which was shared with the staff of the Corporate Debtor at Mumbai office and with the representations of the employees for their objections if any, however no objections were received. Thereafter, the gratuity amount has been finalised at Rs.1,23,06,575/- and other than Gratuity at Rs.2,01,01,700/-.



v) Further the Committee of Creditors with the consent of Successful Resolution Applicant decided that the 50% of the amount of gratuity would be paid by the Secured Financial Creditors from their share and the balance 50% would be paid by the Successful Resolution Applicant.

vi) It was further submitted that as per waterfall mechanism under section 53 of the Code, the amount due to the employees fall under section 53(i)(c) which is after payment to Secured Financial Creditors as the secured Creditors are getting only 28.56% the employees are not entitled to any amount as per the provisions of Section 53 of the Insolvency and Bankruptcy Code, 2016. However, they will be paid a sum of Rs.50,25,639/- as already mentioned in the original Resolution Plan over and above the full gratuity of Rs.1,23,06,575/-.

Payment and Settlement of Stakeholders:

31. According to the revised Form H dated 09.01.2025, the amounts provided for the stakeholders under the Resolution Plan are as under:

(Rs. in Lakh)

Sl	Category of stakeholder*	Sub - Category of stakeholder	Amt claimed	Amt Admitted	Amt provided under the Plan	Amt provided to the Amt Claimed (%)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	Secured Financial Creditors	(a)Creditors Not having a right to vote under subsection (2) of Section 21	-	-	-	-

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		(b) Other than (a) above: (i) who did not vote in favour of the Resolution Plan	-	-	-	-
		(ii) who voted in favour of the Resolution Plan	18166.38	18166.38	5187697	28.56
		Total of (a) + (b)	18166.38	18166.38	5187697	28.56
2.	Unsecured Financial Creditors	(a)Creditors Not having a right to vote under subsection (2) of Section 21	266.574	42.50	0.10585	0.25
		b) Other than (a) above: (i) who did not vote in favour of the Resolution Plan	804.43	804.43	2.00371	0.25
		ii) who voted in favour of the Resolution Plan	10749.77	10749.77	26.77593	0.25
		Total (a)+ (b)	11820.774	11596.70	28.88550	0.25
3.	Operational Creditors	(a)Related Party of the Corporate Debtor				
		Other than a above				
		i) Government	606.256	606.256	0.0669	0.01
		ii) Workmen	0	0	0	0
		iii) Employees	389.499	324.0828	173.3221	53.48
		iv) Other Operational Creditors	2387.713	2282.435	22.56121	0.99
		Total (a) + (b)	3383.468	3212.774	195.9503	6.10
4	Other debts and dues	-	-	-	-	-
	Grand total		33370.622	32975.85	5412.533	16.41

CIRP Cost:

The SRA has offered estimated CIRP Cost at Rs.2.95 crores which is not included in the above mentioned table



32. The SRA further proposes to infuse additional amounts of Rs 5,00,00,000/- for making the plant operational and Rs. 10,00,00,000/- towards working capital for running of the plant which will be infused as equity funds.
33. Considering the above, the total revised Resolution Plan amount is Rs.70.17 crores

Payment Terms:

34. The SRA has offered to make upfront payment of Rs.20,12,85,000 within 30 days and payment of the balance amount within 90 days from the date of approval of the resolution plan by the Adjudicating Authority from the funds available with the SRA, its group companies, directors and affiliate which would be infused as equity funds on behalf of the SRA.

Performance Security:

35. The Performance Guarantee of Rs.5 crores as stipulated in the RFRP has been paid by SRA. An amount of Rs.75,00,000/- was paid as plan participation fee as stipulated in the terms of the RFRP and was deposited with the Resolution Plan vide DD No 801578 dt.07.01.2022 and the balance amount of Rs 4,25,00,000/- was paid within 7 days of issuance of LOI.

Details of the Resolution Applicant:

36. The Resolution Applicant Chemtrade Overseas Private Limited was established in the year 1992, is a leading and reputed exporter, importer, indenter, supplier of basic chemicals and pharmaceutical intermediates including: Agro Chemicals, Paints and Coatings, API & Bulk Drugs Pigments & Printing links, Breweries & Beverages, Plywood & laminates, Dyes & Intermediates Polymers & Elastomers, Herbal & Biotech Resins & Adhesives, Perfumes & Cosmetics Textile



Auxilaries, Butylamine, Cyclohexylamine, Methylamine, Ethylamine, Ethylhexamine, Isopropylamine, Propylamine and others.

Supervision and Implementation of the Plan:

37. The Implementation of the plan will be under the supervision of a Monitoring Committee which shall consist of Resolution Professional or an Insolvency Professional, one representative from Financial Creditors and one representative of the SRA to monitor and supervise the implementation of the Resolution Plan. The monitoring committee will be formed within 10 days of approval of plan by the Hon'ble Adjudicating Authority. The SRA proposes that Mr Ashish Shah shall be the authorised representative of the SRA for being part of the Monitoring Committee.

Appointment of New Board of Directors:

38. The powers of the suspended Board of directors of the Corporate Debtor shall stand extinguished on approval of the Resolution Plan. The SRA shall appoint new Board of directors consisting of Mr Ashish Shah and Mr. Viral Shah.

Restructured Capital:

39. As a part of the Resolution plan the restructuring of the authorised and paid up capital shall be as under:

The resources available under the Resolution Plan are insufficient to pay even the Financial Creditors fully, thus the amount payable to any shareholder is NIL. Hence as a part of the Resolution Plan the paid up capital and the right of all shareholders shall be fully extinguished and the paid off share capitals are deemed to be nil and cancelled.



The authorised equity share capital consisting of 1,17,00,000 equity shares of face value of Rs 10 amounting to Rs 11,70,00,000 proposed to be 6,00,00,000 equity shares of face value Rs 10 amounting to RS 60,00,00,000/-. The authorised preference share capital consisting 8,00,000 preference shares of Rs 10 each amounting to Rs 8000000/- shall be kept same.

Preferential, Undervalued, Fraudulent and Extortionate Transactions (PUFE):

40. Details of PUFE application filed/ pending are as follows:

<u>S.N</u>	<u>Type of Transaction</u>	<u>Date of filing with Adjudicating Authority</u>	<u>Date of order of the Adjudicating Authority</u>
1.	Preferential transactions under Section 43	Earlier Filed on 20.10.2021 by the	15.09.2023
2.	Undervalued transactions under Section 45	erstwhile IRP which remains unnumbered	
3.	Extortionate credit transaction under section 50	Filed by Resolution Professional on	
4.	Fraudulent transactions under Section 66	05.04.2022	

Vide order dated 15.09.2023 in I.A No. 2729/2021, this tribunal annulled the trademark transferred in favour of Mr. Piyush Chedda and Mrs. Rupal Chedda and further directed the suspended directors to refund amount of Rs.25,95,437/- transferred by the suspended directors after CIRP. The said order is challenged before Hon'ble NCLAT which is pending.



Pending Litigations:

41. There are various litigations pending before NCLT, DRT and other courts details of which are given in the Annexure I to the Plan.
42. All the claims pertaining to pre CIRP period which are not part of the Resolution Plan shall stand extinguished in terms of Ghanshyam Mishra and Sons Private Limited vs Edelwisse Assets Reconstructions Company Limited.
43. Any offences shall be settled subject to 32A of IBC.
44. Any proceedings against the directors of the corporate Debtor in their individual capacity cannot be permitted to be withdrawn.

Compliance Certificate in Form – H

45. Pursuant to Regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the Successful Resolution Applicant has prepared a Compliance Certificate dated 09.01.2025 in **Form H** which is annexed to the Application.

a. Compliance of mandatory requirements under the Insolvency & Bankruptcy Code, 2016:

Sr. No.	Particulars	Compliance
1	<u>Section 25:</u> Whether the Resolution Applicant meets the criteria approved by the CoC having regard to the complexity and scale of operations of business of the Corporate Debtor?	Yes. Page 19- Regulation 39(1)(a), and Page 7 Clause 4(h) Networth
2	<u>Section 29A:</u> Whether Resolution Applicant is	Yes. Page 6, Clause 3 of the

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	eligible to submit resolution plan as per final list of Resolution Professional or Order, if any, of the Adjudicating Authority?	Plan
3	Section 30:	
	(1) Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?	Yes. Page 6 Clause 3 of the Plan
	(2)(a) Whether the Resolution Plan provides for payment of insolvency resolution process costs?	Yes Page 12 Clause 8.2 and Page 15, Clause 8.9 of the of the Plan.
	(2)(b) Whether the Resolution Plan provides for the payment of the debts of operational creditors?	Yes. Page 14, Clause 8.6 and Page 15- Clause 8.9 of the Plan
	(2)(b) Whether the Resolution Plan provides for the payment to the financial creditors who did not vote in favor of the resolution plan?	Yes. Page 13, Clause 8.5 of the Plan
	2(c) Whether the Resolution Plan provides for the management of the affairs of the Corporate Debtor?	Yes. Page 18, Clause 9(i), 9(iii) and Page 23 clause 12 of the Plan
	2(d) Whether the Resolution Plan Provides for implementation and supervision of the resolution plan?	Yes. Page 18 Clause 9(i), 9(iii) Page 23, Clause 12 of the Plan.
	(2)(e) Whether the resolution plan contravenes any of the provisions of the law for the time being in force?	Yes Page 23, Clause 12 of the Plan.
	(4)(a) Whether the Resolution Plan is feasible and viable, according to the CoC?	Yes. Page 19, Clause 9(ii) of the Plan.
	(4)(b) Whether the Resolution Plan has been approved by the CoC with 66% voting share?	Yes.
4	Section 31(1): Whether the Resolution Plan has	Yes. Page 19 Clause 9(iii) and



	provisions for its effective implementation Plan, according to CoC	Page 21 clause 11 of the Plan
5	Section 35A: Whether the resolution professional made a determination if the corporate debtor has been subjected to any transaction of the nature covered under sections 43, 45, 50, or 66, before the one hundred and fifteenth day of the insolvency commencement date, under intimation to the Board?	Yes

b. Compliance under mandatory requirements under IBBI (Insolvency Resolution Process of Said corporate debtors) Regulations, 2016

Regulation 38		
1	Whether the amount due to the operational creditors under the resolution plan has been given priority in payment over financial creditors?	Yes. Page 18, Clause 9 and Page 22 Clause 12 (c) of the Plan
1A	Whether the resolution plan includes a statement as to how it has dealt with the interest of all stakeholders?	Yes. Page 18 , Clause 9, and Page 22 Clause 12 of the Plan
1B	i) Whether the Resolution Applicant or any of its related parties has filed to implement or contribute to the failure of implementation of any resolution plan approved under the Code? ii) If so, whether Resolution Applicant has submitted the statement giving details	Yes. Page 18, Clause 9 of the Plan NA

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	of such non-implementation?	
2(a)	Whether the Resolution Plan provides the term of the plan and its implementation schedule?	Yes. Page 18, Clause 9(i) and page 21 clause 11 of the Plan
2(b)	Whether the Resolution Plan provides for the management and control of the business of the corporate debtor during its term?	Yes. Page 18, Clause 9(ii) of the Plan
2(c)	Whether the Resolution Plan provides adequate means for supervising its implementation?	Yes. Page 18, Clause 9(iii) of the Plan
3	Whether the Resolution Plan demonstrates that -	
(a)	It addresses the cause of default?	Yes. Page 18, Clause 9(i) of the Plan
(b)	It is feasible and viable?	Yes. Page 18, Clause 9(ii) of the Plan
(c)	It has provisions for its effective implementation?	Yes. Page 18, Clause 9(iii) of the Plan
(d)	It has provisions for approvals required and the time for the same?	Yes. Clause 9(iv) of the Plan
(e)	The Resolution Applicant has the capacity to implement the Resolution Plan?	Yes. Clause 9(v) of the Plan
Regulation 39		
2	Whether the RP has filed applications in respect of transactions observed, found or determined by him?	Yes
4	Provide details of performance security received as referred to in sub-regulation (4A) of Regulation 36.	Yes. Performance Security of Rs 5.00 crores received in the form of deposit in the bank

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		account of the Corporate Debtor.
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c. The CIRP has been conducted as per the timeline indicated as under:

Section/ Regulation No.	Description of Activity	Latest Timeline under Regulation 40A	Dates according to Regulation 40A	Actual Date
Section 16(1)	Commencement of CIRP and Appointment of IRP	T	30.04.2021	30.04.2021
Regulation 6(1)	Publication of Public Announcement	T+3	03.05.2021	03.05.2021
Section 15(1)(c)/ Regulation 12(1)	Submission of Claims	T+14	14.05.2021	14.05.2021
Regulation 13(1)	Verification of Claims	T+21	21.05.2021	21.05.2021
Section 26(6A)/ Regulation 15A	Application for Appointment of Authorized Representative, if necessary	T+23	-	-
Regulation 17(1)	Filing of Report certifying Constitution of CoC	T+23	23.05.2021	22.05.2021 And 22.01.2022
Section 22(1) and Regulation 17(2)	First Meeting of CoC	T+30	30.05.2021	29.05.2021
Regulation 35A	Determination of fraudulent and other	T+115	23.08.2021	12.09.2021

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	transactions			
Regulation 27	Appointment of two registered Valuers	T+47	16.06.2021	12.08.2021 and 17.12.2021
Regulation 36(1)	Submission of Information Memorandum to CoC	T+95	23.06.2021	24.07.2021
Regulation 36A	Invitation of EoI	T+75	14.07.2021	16.07.2021 Fresh form G on 29.10.2021
	Publication of Form G	T+75	14.07.2021	16.07.2021 Fresh Form G published on 29.10.2021
	Provisional list of Resolution Applicants	T+100	08.08.2021	09.08.2021 New effective due date 23.11.2021
	Final list of Resolution Applicants	T+115	23.08.2021	04.09.2021 New Effective Due Date 08.12.2021 Complied within time
Regulation 36B	Issue of RFRP including Evaluation Matrix, etc	T+105	13.08.2021	04.09.2021 New effective date 28.11.2021



				Issued on 04.12.2021
Section 30(6)/ Regulation 39(4)	Submission of CoC approved Resolution Plan	T+165	12.10.2021	18.03.2022 Allowed by NCLT order dated 19.01.2022

46. On perusal of Form-H, it is seen that the Resolution Plan is in compliance with the mandatory compliances as stipulated under Section 30(2) of the Code. The Resolution Plan also meets the requirements of Regulations 37, 38, 38(1A) and 39 (4) of the IBBI Regulations, 2016.

29 A Compliance:

47. The SRA has submitted an Affidavit dated 30.03.2022 in Annexure B of the Application stating that Resolution Applicant nor any other person who is a connected person (as defined under the IBC) are ineligible under Section 29 A of the IBC. The Resolution Plan is not in contravention of any of the provisions of Section 29A of the Code and is in accordance with law.

48. In ***K Sashidhar v. Indian Overseas Bank & Others (2019) 12 SCC 150***, 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 Apex Court further observed that the role of the NCLT is 'no more and no less'. The Hon'ble Apex 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.

49. In **Committee of Creditors of Essar Steel India Limited through Authorised Signatory Vs. Satish Kumar Gupta & Ors (2020) 8 SCC 531**, 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 has approved.

50. In view of the law laid down by Hon’ble Supreme Court, the commercial wisdom of the COC is to be given paramount importance for approval / rejection of the resolution plan. As the Resolution Plan meets the requirements of the I & B Code and the IBBI Regulations, the same needs to be approved. Accordingly, the **Resolution Plan is approved** with the following directions:

- i. The Additional Affidavit dated 10.01.2025 providing undertakings on behalf of the Applicant forms an integral part of the Resolution Plan and the SRA shall be bound by the undertakings given by it and recorded in the above affidavits.
- ii. Subject to the above, the Resolution Plan submitted by M/s Chemtrade Overseas Private Limited 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.

- iii. No person will be entitled to initiate or continue any proceedings in respect to a claim prior to CIRP which a part of the Resolution Plan is not.
 - iv. The Monitoring Committee shall supervise the implementation of the Resolution Plan and shall review operational performance of the Corporate Debtor.
 - v. The Resolution Professional is further directed to handover all records, premises / documents to Resolution Applicant to finalise further line of action required for starting of the operation as contemplated under the Resolution Plan. The Resolution Applicant shall have access to all the records premises / documents through Resolution Professional to finalise further line of action required for starting of the operations.
 - vi. As per the Resolution Plan, extinguishment of existing shares of the Corporate Debtor, allotment of shares to the Resolution Applicant and to New Investor and reduction of share capital do not require the consent of shareholders as required under the Companies Act or any other authority for implementation of the Resolution Plan.
- i) **Reliefs and Concessions:**
- a) Approval of the Resolution Plan shall not be a ground for termination of any existing consents, approvals, licenses, concessions, authorizations, permits or the



like that has been granted to the Corporate debtor or for which the Corporate Debtor has made an application for renewal, grant permissions, sanctions, consents, approvals, allowances, exemptions etc.

- b) Any exemption as sought for in relation to the payment of registration charges, stamp duty, taxes and fees arising out of the implementation of the Resolution Plan is not granted but the Resolution Applicant is at liberty to approach Competent Authorities for the exemptions if permitted under the law.
- c) For past non-compliances of the Corporate debtor under applicable laws the Resolution Applicant shall not be liable for any liabilities and offences committed prior to the commencement of CIRP and as stipulated under Section 32A of IBC, 2016.
- d) It is hereby clarified that in terms of the Judgement of Hon'ble Supreme Court in the matter of ***Ghanshyam Mishra and Sons Private Limited Vs. 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 of a claim which is not a part of the Resolution Plan.
- e) With regard to other concessions and reliefs, most of them are subsumed in the reliefs granted above. The relief which is not expressly granted above, shall not be



construed as granted. The exemptions if any sought in violation of any law in force, it is hereby clarified that such exemptions shall be construed as not granted.

- ii) Any amount out of the action taken against other persons for Preferential/ Fraudulent Transactions u/s. 43 and 66 of the IBC, 2016 as found in the Audit Report and also Unauthorized Transaction post CIRP order, shall be appropriated towards the unsatisfied claims of Secured Financial Creditors.
- iii) The Memorandum of Association (MoA) and Articles of Association (AoA) shall accordingly be amended and filed with the concerned Registrar of Companies (RoC), 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.
- iv) The moratorium under Section 14 of the Code shall cease to have effect from this date.
- v) 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.
- vi) The Applicant shall forthwith send a certified copy of this Order to the CoC and the Resolution Applicant, respectively for necessary compliance.

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51. Accordingly, the Resolution Plan in 1227 of 2022 is hereby allowed and **approved**.

SD/-

Charanjeet Singh Gulati
Member (Technical)

Apurva LRA

SD/-

Lakshmi Gurung
Member (Judicial)