



**IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH-I**

IA No. 77 of 2025

IN

CP(IB) No.113 of 2024

In the matter of Section 30 of the Insolvency and Bankruptcy Code, 2016 read with Regulation 39 (4) of the Insolvency and Bankruptcy Board of India And In the matter of approval of Resolution Plan of the Corporate Debtor.

IA No. 77 of 2025

In the Application of

Truee IPE (P) LLP

Resolution Professional of M/s. Thwink Big Content Private Limited

...Resolution Professional/Applicant

In the matter of

M/s. Reliance Commercial Finance Private Limited

...Financial Creditor/Applicant

Versus

M/s. Thwink Big Content Private Limited

...Corporate Debtor/Respondent

Order pronounced on 25.09.2025

Coram:

Shri. Prabhat Kumar

Hon'ble Member (Technical)

Shri Sushil Mahadeorao Kochey

Hon'ble Member (Judicial)



Appearances:

For the Applicant : TAPLEGAL

ORDER**Brief Facts:**

1. The present Application is filed by Resolution Professional **Truue IPE LLP** (hereinafter referred to as the “**Applicant/Resolution Professional**”) under section 30 (6) read with section 31 (1) of Insolvency and Bankruptcy Code, 2016 (“**Code**”) read with Regulation 39(4) of the Insolvency and Bankruptcy Board of India Regulations, 2016 (“**Regulations**”) for seeking approval of the Resolution Plan dated 10th January 2025 for **M/s. Thwink Big Content Private Limited** (hereinafter referred to as “**Corporate Debtor**”) submitted by **M/s. Micro Capitals Private Limited** (hereinafter referred to as “**Resolution Applicant**”) which was approved by the members of the Committee of Creditors (“**CoC**”) within the e-voting period stipulated from 07th March 2025 to 14th March 2025. Hence, the current application is filed before this Tribunal for appropriate orders as it deems fit.
2. The Corporate Debtor is a public limited company bearing CIN U74993MH2018PTC308308 was incorporated on 20th April 2018 having its registered address at Manek Mahal, 6th Floor, 90 Veer Nariman Road, Mumbai, Maharashtra, India 400020.
3. The Resolution Applicant (“**RA**”) is a private company limited by shares having CIN: U70109MH1991PTC224575 incorporated as on date 13th August 1991 under the Companies Act, 2013 and having its corporate office Shop No.37, Ground Floor, Raj Life Style CHSL, Opp. GCC Club, Mira Bhayander, Mira Road East, Thane Vasai Thane Maharashtra 401107 India. It’s authorised capital is Rs.1,30,00,000/- (Rupees One Crore and Thirty Lacs Only).



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4. The C.P.(IB) No.113 of 2024 was filed under Section 7 of IBC, 2016 by M/s. Reliance Commercial Finance Limited which was admitted into CIRP vide Order dated 26th July 2024 passed by this Bench thereby appointing Truee IPE LLP (formerly known as Truee IPE Private Limited) as the Interim Resolution Professional (“**IRP**”) of the Corporate Debtor.
 5. CoC was constituted by the IRP on 21st August 2024 in accordance with Section 21 of the Code and Regulation 17(1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and filed the CoC formation report with this Tribunal.
 6. The IRP convened the 1st meeting of the COC on 29th August 2024 in accordance with Section 21 of the Code, wherein the IRP apprised the members of the status of claims received and the constitution of the COC based on admitted claims. The sole member at the time was Authum Investment and Infrastructure Limited.
 7. The Applicant issued notice on 24th September 2024 for convening the 2nd Meeting of the COC which was held on 30th September 2024. Prior to the meeting, on 27th September 2024, the Applicant had shared a confidential undertaking with the COC members for their approval. In the 2nd COC meeting, the Applicant placed for consideration the clarification required from the COC regarding the SEBI order dated 22nd August 2024, which indicted the COC for disbursing a series of large GPC loans to financially weak borrowers.
 8. Vide appointment letter dated 28th September 2024, M/s. Chaturvedi & Co., Chartered Accountants, were appointed to conduct a Transaction Audit for the period 22nd July 2022 to 26th July 2022. In the same meeting, the COC approved Form G for publication, which was accordingly published on 02nd October 2024 in the ‘Free Press Journal’ and ‘Navshakti’ newspapers.



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9. On 12th October 2024, a public notice was issued modifying the Earnest Money Deposit (“**EMD**”) amount to Rs.5,00,000/- from the earlier Rs.10,00,000/- and amending the terms of the Expression of Interest (“**EOI**”). The last date for submission of EOI was fixed as 18th October 2024. On 21st October 2024, the provisional list of Prospective Resolution Applicants (“**PRAs**”) was circulated.
 10. The Applicant thereafter issued notice on 22nd October 2024 for convening the 3rd COC meeting on 25th October 2024, wherein the draft Request For Resolution Plan (“**RFRP**”) and Evaluation Matrix were placed and duly approved. The final list of PRAs, namely M/s. Micro Capitals Limited and M/s. Rohstoffe International Private Limited, was published on 28th October 2024.
 11. The Information Memorandum was first shared with the CoC on 31st October 2024. Lever Up Consultancy was appointed to carry out of the due diligence of the PRA under Section 29A, on 11th November. Meanwhile, the last date for submission of resolution plans was set as 29th November 2024. On 25th November 2024, a fresh claim was filed by Invent Assets Securitization Pvt. Ltd. which resulted in the reconstitution of the CoC on 04th December 2024, and duly admitted it as a CoC member.
 12. The 4th COC meeting was issued on 02nd December 2024 for 05th December 2024, in which the sole Resolution Plan received from M/s. Micro Capitals Private Limited on 29th November 2024 was opened. S.L. Gupta & Associates were appointed. The Transaction Audit Report was circulated on 25th December 2024, followed by the final valuation report on 28th December 2024.
 13. The 5th COC meeting was held on 30th December 2024, where the Resolution Plan and evaluation summary were discussed. The 6th COC meeting was held on 06th January 2025, wherein the PRA was asked to submit



a revised plan, and a forensic audit was produced as on request of the CoC members for the period 01st November 2018 to 25th July 2022.

14. On 08th January 2025, the Applicant updated SEBI regarding the CIRP proceedings. The revised Resolution Plan, dated 10th January 2025, was received on 11th January 2025. The 7th COC meeting was conducted on 15th January 2025, wherein it was resolved to place the Resolution Plan for e-voting. Considering the CIRP expiry on 25th January 2025, an application for extension of 60 days was approved by the COC on 20th January 2025 and filed before the NCLT on 21st February 2025. This Tribunal approved the said application for the extension of the period of 60 days.
15. The e-voting on the Resolution Plan commenced on 30th January 2025. At the request of the COC, it was extended multiple times between 03rd February 2025 and 21st February 2025. Ultimately, the Applicant issued notice on 22nd February 2025 for convening the 8th COC meeting, which was held on 24th February 2025. The final round of e-voting was conducted from 07th March 2025 to 14th March 2025, resulting in approval of the Resolution Plan by 94.67% voting share.

Salient Features of the Resolution Plan:

16. The total outlay of the Resolution Plan is as follows (“Total Resolution Plan Amount”)(*Amount in crores*) :

Sr. No	Stakeholders/ Costs	Amount Admitted	Proposed payout	Percentage of realizable amount	Remarks
1.	Outstanding CIRP Costs	12,00,000	12,00,000	57.14%	Within 90 days from the closing date



2.	Secured Financial Creditors	6,14,07,79,181	8,00,000	38.10%	90 days from closing date
3.	Unsecured Financial Creditors	32,98,36,551	1,00,000	4.76%	90 days from closing date
	Total Payment	6,47,18,15,732/-	21,00,000/-	100%	

16.1. The Applicant submits that **Monitoring Committee** shall be constituted consisting of;

- i) 1 (One) representatives of the CoC;
- ii) 1 (One) representatives of the Successful Resolution Applicant;
- iii) 1 independent Insolvency Professional along with the CoC shall be bound to undertake the actions required for the implementation of this Resolution Plan. Further, the Monitoring Agent appointed by the Interim Board shall be responsible for the supervision and implementation of the Resolution Plan.

16.2. **Source of Funds:** Equity/ Debt by Resolution Applicant and/ or its nominees/ affidavits/ associates/ SPV/ SPC/ Holding Company, within 90 days of the Closing Date.

16.3. **Implementation Schedule of the Resolution Plan :** The RA submits that the plan shall be implemented through acquiring and holding 100% paid up equity capital of the Corporate Debtor through SPV (formed/ to be formed) which will be under the control of M/s Micro Capitals Private Limited. Immediately upon the implementation of the Resolution Plan and issue of equity capital as mentioned in para (a) above, the SPV will be merged with the Corporate Debtor in accordance with the Scheme of Arrangement.

**Statutory Compliance:**

17. 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 payment of debts of Operational Creditor in such manner as may be specified by the board which shall not be less than;
 - (i) the amount to be paid to such creditors in the event of liquidation of the Corporate Debtor under Section 53; or
 - (ii) the 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 sub-section (1) of Section 53 in the event of liquidation of the corporate debtor.
 - c) Provides for management of the affairs of the Corporate Debtor after approval of Resolution Plan;
 - d) The implementation and supervision of Resolution Plan,
 - e) Does not contravene any of the provisions of the law for time being in force,
 - f) Confirms to such other requirements as may be specified by the Board,
 - g) As per the Affidavit, the Resolution Applicant is not covered under 29A.
18. In compliance of Regulation 38 of CIRP Regulations, the Resolution Professional confirms that the Resolution plan provides that;
- a) The amount due to the Operational Creditors under Resolution Plan shall be given priority in payment over Financial Creditors.
 - b) It has dealt with the interest of all Stakeholders including Financial Creditors and Operational Creditors of the Corporate Debtor.
 - c) 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 Adjudicating Authority in the past.

- d) The terms of the plan and its implementation schedule.
- e) The management and control of the business of the Corporate Debtor during its term.
- f) Adequate means of Supervising its implementation.
- g) The Resolution Plan demonstrates that it addresses;
 - i. The cause of the default
 - ii. It is feasible and viable
 - iii. Provision for effective implementation
 - iv. Provisions for approvals required and the time lines for the same.
 - v. Capability to Implement the Resolution Plan.

19. The Resolution Professional has submitted Form-H under Regulation 39(4) of the CIRP Regulations to certify that the Resolution Plan as approved by the CoC meets all the requirements of the IBC and its Regulations, the relevant parts of which are reproduced below (annexed at “Annexure Y”):

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, Chandra Prakash Jain Designated Partner of Truee IPE LLP and registered with the Board with registration number IBBI NO. IBBI/IPE-015/IPA-I/2023-24/50052am the resolution professional for the corporate insolvency resolution process (CIRP) of M/s. Thwink Big Content Private Limited.



20. The details of the CIRP are as under:

<i>Sr. No.</i>	<i>Particulars</i>	<i>Description</i>
1.	<i>Name of the CD</i>	<i>M/s. Thwink Big Content Private Limited</i>
2.	<i>Date of Initiation of CIRP</i>	<i>29.07.2024</i>
3.	<i>Date of Appointment of IRP</i>	<i>29.07.2024</i>
4.	<i>Date of Publication of Public Announcement</i>	<i>31.07.2024</i>
5.	<i>Date of Constitution of CoC</i>	<i>21.08.2024</i>
6.	<i>Date of First Meeting of CoC</i>	<i>29.08.2024</i>
7.	<i>Date of Appointment of RP</i>	<i>06.09.2024</i>
8.	<i>Date of Appointment of Registered Valuers</i>	<i>07.09.2024</i>
9.	<i>Date of Issue of Invitation for EoI</i>	<i>02.10.2024(First) 12.10.2024(Revised)</i>
10.	<i>Date of Final List of Eligible Prospective Resolution Applicants</i>	<i>28.10.2024</i>
11.	<i>Date of Invitation of Resolution Plan</i>	<i>18.10.2024</i>
12.	<i>Last Date of Submission of Resolution Plan</i>	<i>29.11.2024</i>
13.	<i>Date of Approval of Resolution Plan by CoC</i>	<i>13.03.2025</i>
14.	<i>Date of Filing of Resolution Plan with Adjudicating Authority</i>	<i>26.03.2025</i>



15.	<i>Date of Expiry of 180 days of CIRP</i>	<i>25.01.2025</i>
16.	<i>Date of Order extending the period of CIRP</i>	<i>21.04.2025</i>
17.	<i>Date of Expiry of Extended Period of CIRP</i>	<i>26.03.2025</i>
18.	<i>Fair Value</i>	<i>Rs. 80,026</i>
19.	<i>Liquidation value</i>	<i>Rs. 80,026</i>
20.	<i>Number of Meetings of CoC held</i>	<i>9</i>

21. *The resolution professional 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 M/s Micro Capitals Private Limited has submitted an 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 94.67 % 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.*



22. *The list of financial creditors of the CD, M/s. Thwink Big Content Pvt. Ltd being members of the CoC and distribution of voting share among them is as under:*

Sr. no.	Name of Creditor	Voting Share (%)	Voting for Resolution Plan
1.	Authum Investments and Infrastructure Ltd	94.67%	Voted For
2.	Invent Assets Securitization & Reconstruction Private Limited	5.33%	Abstained

23. *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.*

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

Category of Stakeholder	Sub-Category of Stakeholder	Amount Claimed(in crores)	Amount Admitted(in crores)	Amount Provided to the Amount Claimed	Amount Provided to the Amount Admitted (%)
Secured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	-	-	-	-



	(b) Other than (a) above: (i) who did not vote in favor of the resolution Plan	-	-	-	-
	(ii) who voted in favor of the resolution plan	14,14,47,08,287	6,14,07,79,181	8,00,000	0.006
	Total [(a) + (b)]	14,14,47,08,287	6,14,07,79,181	8,00,000	0.006
Unsecured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	0	0	-	-
	(b) Other than (a) above: (i) who did not vote in favor of the resolution Plan (ii) who voted in favor of the resolution plan	65,88,58,601	34,59,25,437	1,00,000	0.015
	Total [(a) + (b)] (Refer Note 1)	65,88,58,601	34,59,25,437	1,00,000	0.015
Operational Creditors	(a) Related Party of Corporate Debtor	0	0	0	0
	(b) Other than (a) above: Government	0	0	N.A	N.A
	(ii) Workmen (iii) Employees				



	(iv) For goods and services				
Other debts and dues		-	-		
Grand Total		14,80,35,66,88	6,48,67,04,618	9,00,000	0.006

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

25. *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):*

Sr. No	Deviation/Non - compliance observed	Section of the Code / Regulation No. / Circular No	Reasons	Whether rectified or not
1.	RP not appointed within 30 days commencement insolvency	Section 22(2)	Resolution not passed by CoC for appointment as the approval from higher authorities got delayed	Yes, IRP was appointed as RP 06.09.2024
2.	Filing of Report Certifying Constitution of CoC	Regulation 17(1)	The COC was formed as per time-line however due to some internal issues with Advocate, the filing of IA got delayed	Yes, the IA was filed with Adjudicating Authority 29.08.2024
3.	Invitation of EOI	Regulation 36A	Delay in getting approval from COC for eligibility criteria	Yes, on receiving approval the Form G was published on 02.10.2024



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26. On perusal of the Resolution Plan, we find that the Resolution Plan provides for the following:
- a) Payment of CIRP Cost as specified u/s 30(2)(a) of the Code.
 - b) Repayment of Debts of Operational Creditors as specified u/s 30(2)(b) of the Code.
 - c) For management of the affairs of the Corporate Debtor, after the approval of Resolution Plan, as specified u/s 30(2)(c) of the Code.
 - d) The implementation and supervision of Resolution Plan by the RP and the CoC as specified u/s 30(2)(d) of the Code.
27. 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. The Resolution Plan is not subject to any contingency.
28. 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 by majority of 94.67%, abstaining one of the members of CoC.
29. The salient features of the resolution plan contemplates the payment amounting to Rs.21,00,000/-, out of which CIRP costs amounts to Rs.12,00,000/-, the payment towards Secured Financial Creditors is Rs.8,00,000/- (Rs.3,00,000/- is towards reimbursement of the amount paid by the financial creditor towards payment of CIRP cost as per order of this Tribunal and balance Rs.5,00,000/- against claim admitted), and Rs.1,00,000/- towards Unsecured Financial Creditors. The Prospective Resolution Applicant confirmed compliance with the Insolvency and Bankruptcy Code, 2016 and the relevant regulations, and undertook to assume full control and management of the Corporate Debtor pursuant to NCLT's approval.
30. It is noted that the COC comprised two Financial Creditors namely Authum Investment and Infrastructure Limited with a voting share of
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94.67%, and Invent Assets Securitization and Reconstruction Pvt. Ltd. with a voting share of 5.33% whose claims had been admitted at Rs.6,14,07,79,181/- (Rupees Six Hundred Fourteen Crore Seven Lakh Seventy-Nine Thousand One Hundred Eighty-One only) and Rs.34,59,25,437/- (Rupees Thirty-Four Crore Fifty-Nine Lakh Twenty-Five Thousand Four Hundred Thirty-Seven only) respectively.

31. The Resolution Applicant has already deposited the Earnest Money Deposit (EMD) amount of Rs.5,00,000/- (Rupees Five Lakhs only) via RTGS dated 15th October 2024, and the same stands confirmed by the RP.
32. It is further noted that all statutory requirements under the Code and the CIRP Regulations have been duly complied with, and the Resolution Plan satisfies the conditions under Section 30(2) of the Code, including that operational creditors shall receive payments not less than what they would receive in liquidation.
33. Accordingly, this Bench is satisfied that the Resolution Plan submitted by M/s. Micro Capitals Private Limited and approved by the COC meets the requirements of Section 30(2).
34. The reliefs & concessions set out in the Resolution Plan as “Reliefs concessions and waivers” under Clause 14.1 or any other section of the Resolution Plan shall be in accordance with the principle laid down by Hon’ble Supreme Court in case of *Ghanshyam Mishra and Sons Private Limited v/s. Edelweiss Asset Reconstruction Company Limited* {[2021] 13 S.C.R. 737} and *Municipal Corporation of Greater Mumbai vs. Abhilash Lal and Ors. (2019) [ibclaw.in](https://www.ibclaw.in) 480 NCLAT* subject to the observations or limitations in the following paras.
 - a. As regards to the assignment of the balance unsettled debt by the Creditors to Resolution Applicant or Implementing entity or take over of such debt by alternative structure, this Adjudicating authority has no objection so long as such transfer of unpaid debt is permissible in terms of judicial precedents, whereby the unpaid debt of the Creditors stands



extinguished, or under the Companies Act, 2013 and accounting standards notified thereunder, and subject to necessary procedures and filing as prescribed under the Companies Act, 2013 and FEMA. Any increase in the authorized capital shall be subject to payment of prescribed fee, if any applicable, and filing of prescribed forms with the Registrar of Companies. Further, the Income Tax Department shall be at liberty to examine the tax implications arising from such conversion in terms of Section 2(24), Section 28 and Section 56 of the Income Tax Act, 1961 read with GAAR provisions thereunder in relation to assignment of unpaid debt and/or conversion thereof into equity of the Corporate debtor as well as subsequent treatment of such converted debt in the scheme of amalgamation.

- b. As regards stipulation of merger of Corporate Debtor into the implementing entity, the merger shall be subject to following the prescribed procedure contemplated under the Companies Act, 2013, however, the meeting of shareholders and creditors of Corporate Debtor and implementing entity, if its registered office falls within the jurisdiction of this adjudicating authority, shall stand dispensed with. Further, it noted that the circular No. IBC/01/2017 dated 25.10.2017 issued by the Ministry of Corporate Affairs only clarifies that the approval shareholders/members of the corporate debtor/company for any corporate action under the Companies Act, 2013 shall be deemed to be in place, if such action is taken pursuant to approval of the resolution plan. This circular does not in any manner do away with the requirement of notice in terms of Section 230 (5) of the Companies, Act 2013 to be sent to Central Government, the Income Tax authorities' the RBI, the SEBI, the Registrar, the Official Liquidator or sectoral regulators for seeking their representation for the proposed scheme of merger. Accordingly, the SRA shall serve a notice of the proposed scheme within 30 days to Government /Statutory/Sectoral/Regulatory authority, who shall be at liberty to file an objection to the approval granted by this Tribunal within 30 days from the receipt of such notice.



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- c. The Applicant shall file necessary forms and pay prescribed fees, if any, in terms of provisions of the Companies Act, 2013 in relation to reduction in capital and issuance of fresh capital, however, the Registrar of Companies shall waive the additional fees, if any, payable on such filing.
- d. Any increase in the authorized capital shall be subject to payment of prescribed fee, if any applicable, and filing of prescribed forms with the Registrar of Companies. The Income Tax Department shall be at liberty to examine the tax implications arising from accounting treatment proposed in the Plan in terms of Section 2(24), Section 28 and Section 56 of the Income Tax Act, 1961 read with GAAR provisions thereunder.
- e. The SRA may approach prescribed authorities for waiver/reduction in fees, charges, stamp duty, and registration fees, if any arising from actions contemplated under the Resolution Plan and such request shall be dealt with subject to the relevant law/statute and adherence to the procedure prescribed thereunder.
- f. The SRA may file appropriate application, if required, for renewal of all Business Permits, rights, entitlements, benefits, subsidies and privileges whether under applicable Law, contract, lease or license granted in favor of the Corporate Debtor or to which the Corporate Debtor is entitled to or accustomed to, which have expired on the Effective Date, and follow the dues procedure prescribed for the purpose upon payment of prescribed fees. It is clarified that continuance of approvals shall not be refused on account of extinguishment of any dues under IBC and extension or renewal thereof shall not be denied on account of past insolvency of the Corporate Debtor. No action shall lie against the Corporate Debtor for any non-compliances arising prior to the date of approval of Resolution Plan, however, such non-compliances shall be cured, if necessitated to keep the approval in force, after acquisition by the Corporate Debtor within period stipulated in the Resolution Plan.
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- g. The contract with third parties shall be subject to consent of such parties.
- h. No orders levying any tax, demand or penalty from the Corporate Debtor in relation to period up to approval of the Resolution Plan shall be passed by any authority and such demand, if created, shall not enforceable as having extinguished in terms of approved Resolution Plan.
- i. The carry forward of losses and unabsorbed depreciation shall be available in accordance with the provisions of Income Tax Act or Rules made thereunder, and the Income Tax Department shall be at liberty to examine the same. Further, applicability of Section 115 JB or other provisions of Income Tax Act shall be subject to and in accordance with the provisions of Income Tax Act or Rules made thereunder. Further, the concerned tax authorities shall be at liberty to examine the carry forward of input tax credit available under Indirect Tax for its further carry forward.
- j. An application for compounding/condoning shall be filed in accordance with the procedure specified in respective law or concerned authority, however, no fine or penalty shall be imposed for non-compliances till the date of approval of this Plan or such further period as is permitted in terms of this Order.
- k. ROC shall update the records and reflect the Corporate Debtor as 'Active' upon filing of pending returns/forms after payment of normal fees (not additional fee). In case such filing is not permitted by the e-filing portal, the ROC shall accept such forms/returns in physical format and manage to upload the same by back-end. The Corporate Debtor shall be exempted from using the words "and reduced".
- l. The Compliances under the applicable law for all the statutory appointments by the Corporate Debtor shall be completed within 12 months or such further period as is stipulated in the plan, where after, the
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necessary consequence under respective law shall follow.

m. It is clarified that any relief, concession or waiver prayed in the Resolution Plan but not specifically dealt with in Para 34(a) to (l) above, save as otherwise permissible in terms of ***Ghanshyam Mishra and Sons Private Limited (supra)*** or specific provisions of the Code read with the Regulations, shall be deemed to be denied or rejected.

35. In ***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 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.

36. 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.

37. The SRA has prayed for transfer of all assets to the Resolution Applicant on approval of the Resolution Plan by NCLT, which in our considered



view stands transferred to the Resolution Applicant in terms of and subject to compliance of the conditions stated in the Resolution Plan.

38. The Resolution Plan is hereby **approved**. It shall become effective from this date and shall form part of this order with the following directions:
- i. 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.
 - ii. The approval of the Resolution Plan shall not be construed as waiver of any statutory obligations/liabilities 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 in light of the Judgment of Supreme Court in ***Ghanshyam Mishra and Sons Private Limited v/s. Edelweiss Asset Reconstruction Company Limited***, the relevant paragraphs of which are extracted herein below:

“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.”

- iii. 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.
- iv. 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. It is clarified that the authorities shall not withhold the approval/consent/extension for the reason of insolvency of the Corporate Debtor or extinguishment of their dues upto approval of Resolution plan in terms of the approved plan. Any relief or concession as sought on the plan shall be subject to the provisions of the relevant Act.
- v. The moratorium under Section 14 of the Code shall cease to have effect from this date.
- vi. 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.
- vii. 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.



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

Sd/-

Prabhat Kumar

Member (Technical)

/VB/

Sd/-

Sushil Mahadeorao Kochey

Member (Judicial)