

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH-I**

**IA (IB) No.842/KB/2021**

**in**

**CP (IB) No.1231/KB/2019**

*In the matter of*

An application under section 30(6) read with section 31(1) of the Insolvency & Bankruptcy Code, 2016 for approval of Resolution Plan

*In the matter of*

Allahabad Bank (merged with  
Indian Bank w.e.f 01.04.2020) ...

Financial Creditor

Versus

Jharkhand Mega Food Park Private Limited  
[CIN: U15132JH2009PTC002802] ...

Corporate Debtor

And

*In the matter of*

Niraj Agrawal, Resolution Professional of  
Jharkhand Mega Food Park Private Limited...

Applicant

**Date of hearing: 09.11.2021**

**Date of pronouncement: 10.02.2022**

*Coram:*

Shri Rajasekhar V.K.

: Member (Judicial)

Shri Balraj Joshi

: Member (Technical)

*Appearances (via video conference):*

For the Applicant/RP

: Mr. Shaunak Mitra, Advocate  
Mr. Niraj Agrawal, RP in person

**ORDER**

*Per: Rajasekhar V.K., Member (Judicial)*

**1. Preliminary**

1.1. This Court convened through video conferencing.

1.2. This Application was filed by Mr Niraj Agrawal, Resolution Professional (RP) of **Jharkhand Mega Food Park Private Limited (CIN: U15132JH2009-PTC002802)** under section 30(6) read with section 31(1) of the Insolvency and Bankruptcy Code, 2016 (“the Code” or “IBC”) for approval of the Resolution Plan in respect of Jharkhand Mega Food Park Private Limited (“the Corporate Debtor”).

- 1.3. The Applicant/RP filed the present application on 14.09.2021 for approval of the Resolution Plan, which was approved by 100% CoC vote on 28.08.2021. The said Application came up for hearing on 09.11.2021, when it was reserved for orders.
- 1.4. The underlying Company Petition being CP (IB) No.1231/KB/2019 was filed by Allahabad Bank (*now Indian Bank w.e.f 01.04.2020*) against the Corporate Debtor under section 7 of the Code, which was admitted into Corporate Insolvency Resolution Process (CIRP) *vide* order dated 10.01.2020.
- 1.5. Mr. Niraj Agrawal was appointed as the Interim Resolution Professional (IRP), and the Committee of Creditors (CoC) in its meeting held on 06.02.2020, confirmed the appointment of Mr. Niraj Agrawal [Reg. No.IBBI/IPA-001/IP-P00130/2017-18/10272] as the Resolution Professional (RP) with 100% voting.

**2. IBC compliances**

- 2.1. The Applicant submits that the public announcement in Form A was made on 15.01.2020 in *The Times of India (English)* and *Sanmarg (Hindi)*, calling for proof of claims from the creditors of the Corporate Debtor as envisaged under the Code. The last date for receipt of claims was 27.01.2020.
- 2.2. The claims existing as on the date of filing the present application are as follows:

Sl. No.	Category of claim	Amount claimed (in rupees)	Amount admitted (in rupees)
1.	CIRP costs (approx.)	-----	₹75,00,000/-
2.	Financial Creditor (Allahabad Bank)	₹49,64,49,609 /-	₹49,63,69,395/-
3.	Operational Creditors:		
	(a) Shri Prodip Kumar Mondal, Under Secretary, GoI, on behalf of the President of India.	₹69,08,05,000/-	₹69,08,05,000/-
	(b) Rakesh Kumar Sahay	₹4,56,500/-	₹4,56,500/-

Sl. No.	Category of claim	Amount claimed (in rupees)	Amount admitted (in rupees)
<b>Total</b>		₹1,18,77,11,109/-	₹1,18,76,30,895/-

2.3. The IRP constituted the Committee of Creditors in accordance with section 21(2) of the Code, as amended which comprised of one financial creditor on 31.01.2020 and filed a report certifying the constitution of CoC along with the list of creditors before this Adjudicating Authority.

2.4. The Applicant submits that a total of thirteen CoC meetings have been held during CIRP period as follows:

Particulars	Date of CoC meeting
1 <sup>st</sup> CoC meeting	06-02-2020
2 <sup>nd</sup> CoC meeting	17-03-2020
3 <sup>rd</sup> CoC meeting	27-08-2020
4 <sup>th</sup> CoC meeting	01-10-2020
5 <sup>th</sup> CoC meeting	15-12-2020
6 <sup>th</sup> CoC meeting	15-01-2021
7 <sup>th</sup> CoC meeting	04-03-2021
8 <sup>th</sup> CoC meeting	31-03-2021
9 <sup>th</sup> CoC meeting	17-05-2021
10 <sup>th</sup> CoC meeting	08-06-2021
11 <sup>th</sup> CoC meeting	07-08-2021
12 <sup>th</sup> CoC meeting	28-08-2021
13 <sup>th</sup> CoC meeting	04.09.2021 adjourned and concluded on 06.09.2021

2.5. Invitation in Form 'G' for Expression of Interest ("EoI") from potential resolution applicants was published twice- on 23.03.2020 in **Business Standard (English)** and **Dainik Jagran (Hindi) (Jharkhand Edition)** and again on 05.10.2020 in **Business Standard (English)** and **Sanmarg (Hindi) (Jharkhand Edition)**, for submission of resolution plans for the Corporate Debtor, in terms of section 25(2)(h) of the Code read with regulation 36A(1)

of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 [“CIRP Regulations”]. The last date of submission of EoI was as per Form G was 30.10.2020.

- 2.6. The Applicant filed IA (IB) No.1239/KB/2020 for exclusion of 190 days (*i.e.*, from 25.03.2020 to 30.09.2020) and IA (IB) No.410/KB/2021 for exclusion of 61 days (*i.e.*, from 01.10.2020 to 30.11.2020) from the CIRP period and filed IA (IB) No.1457/KB/2020 for extension of 90 days, which were allowed *vide* orders dated 25.11.2020, 20.04.2021 and 07.01.2021 respectively. The RP filed IA (IB) No.544/KB/2021 seeking for exclusion of 94 days from 29.04.2021 till 31.07.2021 which was allowed *vide* order dated 24.08.2021.
- 2.7. The Applicant submits that as per the EoI, the Applicant received Resolution Plan from only one resolution applicant, *i.e.*, Indian Ocean Group Pte. Ltd. The RP issued the final list of eligible resolution applicants on 18.11.2020 in compliance of the regulation 36A(10) of the CIRP Regulations.
- 2.8. The Prospective Resolution Applicant submitted the Resolution Plan on 25.12.2020. As per regulation 35(2) of the CIRP Regulations, the RP provided the fair value and the liquidation value to the CoC on 06.01.2021 after receipt of the Resolution Plan on 25.12.2020.
- 2.9. A copy of the Compliance Certificate dated 10.01.2020 in Form H as required by regulation 39(4) of CIRP Regulations is also filed by the Applicant.<sup>1</sup>

### **3. *Evaluation and voting***

- 3.1. The RP placed the Resolution Plan for discussion in the sixth CoC meeting held on 15.01.2021, wherein the Resolution Applicant was requested to revise the Resolution Plan.
- 3.2. Thereafter further negotiations took place in the seventh, eighth CoC meeting. The final revised Resolution Plan was placed for discussion before the CoC in its eleventh CoC meeting held on 07.08.2021 and was put for e-voting in the twelfth CoC meeting held on 28.08.2021.

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<sup>1</sup> Page 150-159 of the IA

- 3.3. The Resolution Plan in respect of the Corporate Debtor was approved by 100% voting of CoC<sup>2</sup> in its twelfth CoC meeting.
- 3.4. The Resolution Professional issued the Letter of Intent (LoI) to the Resolution Applicant on 30.08.2021. Upon receipt of the LoI, the Resolution Applicant sought modification of the Performance Security criteria *i.e.*, 5% of the Resolution Plan amount amounting to ₹30,000/- (Rupees Thirty Thousand only).
- 3.5. In the thirteenth CoC meeting held on 04.09.2021,<sup>3</sup> the CoC after due negotiation, the CoC agreed for the modification in the terms of Performance Security to be given by the Resolution Applicant and resolved that the amount of ₹10,000/- (Rupees ten thousand only) that was received by the Resolution Professional as earnest Money Deposit would be adjusted with the Performance Security and the Resolution Applicant would only have to deposit ₹20,000/- (Rupees twenty thousand only).
- 3.6. It was further resolved that clause 26.4 (Implementation) of the Resolution Plan of Indian Ocean Group Pte. Ltd. approved by the CoC in its twelfth meeting held on 28.08.2021 would be modified in accordance with the resolution passed in the thirteenth meeting.
- 3.7. The Resolution Applicant provided the performance security of ₹20,00,000/- (Rupees Twenty Lakh only) on 13.09.2021.<sup>4</sup>

#### **4. *Salient features of the approved Resolution Plan***

- 4.1. The Applicant has also placed the liquidation value in Form H<sup>5</sup> and also the Fair Value obtained from the appointed Registered Valuer.<sup>6</sup> The amount being paid through the Resolution Plan is higher than the average liquidation value.

#### **5. *Compliance of the successful Resolution Plan with various provisions***

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<sup>2</sup> Voting results at Annexure-F Page 49 of the IA

<sup>3</sup> Annexure G at Page 60 of the I.A.

<sup>4</sup> The copy of the Bank statement along with the email to the CoC Member intimating the receipt of performance security at Annexure-H; Page 69-70 of the IA

<sup>5</sup> Annexure K at page 150 of the IA

<sup>6</sup> Annexure E at page 151 of the IA

5.1. The Applicant has submitted the details of various compliances as envisaged by the Code and the CIRP Regulations which a Resolution Plan is required to adhere to, as follows:

***Compliance with section 30(2) of the Code:***

Clause of sec. 30(2)	Requirement	How dealt with in the Plan
(a)	Plan must provide for payment of CIRP cost in priority to repayment of other debts of CD in the manner specified by the Board.	Point 9.1(d) at Page 14 of the Resolution Plan.
(b)	i. Plan must provide for repayment of debts of Operational Creditors in such manner as may be specified by the Board which shall not be less than the amount payable to such creditors in the event of liquidation under section 53	Point 9.3(d)(ii), Page 16 of the Resolution Plan.
	ii. Plan must provide for repayment of debts of OCs in such manner as may be specified by the Board which shall not be less than amount that would have been paid to such creditors, if the amount to be distributed under the resolution plan had been distributed in accordance with the order of priority in sub-section (1) of section 53, whichever is higher.	Point 9.3(d)(ii), Page 16 of the Resolution Plan.
	iii. provides for payment of debts of financial creditors who do not vote in favour of the resolution plan, in such manner as may be specified by the Board.	Not Applicable.
(c)	Management of the affairs of the Corporate Debtor after approval of the	Point 22, Page 36 of the Resolution Plan.

Clause of sec. 30(2)	Requirement	How dealt with in the Plan
	Resolution Plan.	
(d)	Implementation and supervision of Resolution Plan.	Point 22, Page 37 of the Resolution Plan.
(e)	Plan does not contravene any of the provisions of the law for the time being in force.	No contravention observed.
(f)	Conforms to such other requirements as may be specified by the Board.	Yes

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

<b>Particulars</b>	<b>Relevant Page of the Revised Resolution Plan dealing aforesaid compliance with Regulation</b>
A resolution plan shall provide for the measures, as may be necessary, for insolvency resolution of the corporate debtor for maximisation of value of its assets, including but not limited to the following: -	
(a) transfer of all or part of the assets of the corporate debtor to one or more persons;	Not proposed by the Resolution Applicant.
(b) sale of all or part of the assets whether subject to any security interest or not;	Not proposed by the resolution Applicant.
(c) restructuring of the corporate debtor, by way of merger, amalgamation and demerger;	Not proposed by the resolution Applicant.

<b>Particulars</b>	<b>Relevant Page of the Revised Resolution Plan dealing aforesaid compliance with Regulation</b>
(d) the substantial acquisition of shares of the corporate debtor, or the merger or consolidation of the corporate debtor with one or more persons;	Point 14.1(b) at Page 24 of the Resolution Plan.
(e) cancellation or delisting of any shares of the corporate debtor, if applicable;	Point 9.5 at Page 19 of the Resolution Plan .
(f) satisfaction or modification of any security interest;	Point 9.3(e)(i) at Page 17 of the Resolution Plan.
(g) curing or waiving of any breach of the terms of any debt due from the corporate debtor;	---
(h) reduction in the amount payable to the creditors;	Point 9 at Pages 14-18 of the Resolution Plan.
(i) extension of a maturity date or a change in interest rate or other terms of a debt due from the corporate debtor;	Not proposed by the Resolution Applicant.
(j) amendment of the constitutional documents of the corporate debtor;	Point 26.7 (a) at Page 39 of the Resolution Plan.
(k) issuance of securities of the corporate debtor, for cash, property, securities, or in exchange for claims or interests, or other appropriate purpose;	Point 14.1(b) at Page 24 of the Resolution Plan.
(l) change in portfolio of goods or	Not proposed by the Resolution

<b>Particulars</b>	<b>Relevant Page of the Revised Resolution Plan dealing aforesaid compliance with Regulation</b>
services produced or rendered by the corporate debtor;	Applicant.
(m) change in technology used by the corporate debtor; and	Not proposed by the Resolution Applicant.
(n) obtaining necessary approvals from the Central and State Governments and other authorities.	Schedule 14 at Page 68 of the Resolution Plan.

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

Regulation	Requirement	How dealt with in the Plan
38(1)	(a) The amount payable to the operational creditors under a resolution plan shall be paid in priority over financial creditor.	Point 9.3(d)(ii), Page 16 and page 38 of the Resolution Plan.
	(b) The amount payable to the financial creditors under a resolution plan, who have a right to vote under section 21(2) and did not vote in favour of the resolution plan shall be paid in priority over financial creditors who voted in favour of the Plan.	Not applicable, as there is only one Financial Creditor.
38(1A)	A resolution plan shall include a statement as to how it has dealt with the interests of all stakeholders, including financial creditors and operational creditors of the corporate debtor.	Point 9-13 at Pages 14-23 of the Resolution Plan.
38(1B)	A resolution plan shall include a statement giving details of the	No such case observed.

Regulation	Requirement	How dealt with in the Plan
	resolution applicant or any of its related parties has failed to implement or contributed to the failure of implementation of any other resolution plan approved by the Adjudicating Authority at any time in the past.	
38(2)	<b>A resolution plan shall provide:</b>	
	(a) the term of the plan and its implementation schedule;	Point 24, Page 37 of the Resolution Plan.
	(b) the management and control of the business of the corporate debtor during its term; and	Point 22, Page 36 of the Resolution Plan.
	(c) Adequate means for supervising its implementation.	Point 20, Page 32-34 Point 24, Page 37 of the Resolution Plan
38(3)	<b>A resolution plan shall demonstrate that-</b>	
	(a) it addresses the cause of default;	Point 5 (e) at Page 10 of the Resolution Plan.
	(b) it is feasible and viable;	Point 20, Page 32-34 of the Resolution Plan.
	(c) it has provisions for its effective implementation;	Point 24, Page 37 of the Resolution Plan.
	(d) it has provisions for approvals required and the timeline for the same; and	Page 68 of the Resolution Plan.
	(e) The Resolution Applicant has the capability to implement the resolution plan.	Pages 58-65 of the Resolution Plan.

5.2. The Applicant submits that the successful resolution applicant has submitted a certificate of eligibility<sup>7</sup> under section 29A of the Code, as required by regulation 39(1)(a) of the CIRP Regulations. An undertaking dated

<sup>7</sup> Certificate of eligibility at Annexure L Page160-169 of the IA

25.12.2020<sup>8</sup> has also been submitted by the successful Resolution Applicant, as mandated in terms of regulation 39(1)(c) of the CIRP Regulations.

- 5.3. The Applicant has filed a Compliance Certificate in prescribed Form 'H' in compliance with regulation 39(4) of the CIRP Regulations.<sup>9</sup> Evidence of receipt of Performance Bank Guarantee (PBG) as required under regulation 36B(4A) is placed on record as Annexure H.<sup>10</sup>

**6. Details of Resolution Plan/Payment Schedule**

- 6.1. The relevant information with regard to the amount claimed, amount admitted, and the amount proposed to be paid by the Resolution Applicant, *i.e.*, Indian Ocean Group Pte. Ltd., under the said resolution plan is tabulated as under:

Sl No	Creditor	Amount claimed (in Rs.)	Amount admitted (in Rs.)	% to be paid	Amount proposed in Resolution Plan (in Rs.)
<b>CIRP Cost</b>					
1.	CIRP costs	75,00,000	75,00,000	100.00	75,00,000
<b>Financial Creditors</b>					
2.	Allahabad Bank ( <i>now Indian Bank w.e.f. 01.04.2020</i> )	49,64,49,609	49,63,69,395	0.40	20,00,00,000
<b>Operational Creditors</b>					
3.	Operational creditors	69,08,05,000	69,08,05,000	0.01	1,00,000
4.	Employee/ Workmen		4,56,500		
Total		<b>1,19,47,54,609</b>	<b>1,19,51,30,895</b>	-	<b>20,76,00,000</b>

Summary of the financial proposal/payment under the Resolution Plan dated 02.08.2021, is tabulated hereunder:

<sup>8</sup> Confidential Undertaking at Annexure L Page160

<sup>9</sup> Annexure K Page 150-159 of the IA

<sup>10</sup> Page 69-70 of the IA

Particulars	Amount
<p>Admissible Debt to be paid as CIRP costs.</p>	<p>₹75,00,000/- is proposed to be paid upfront within 30 days of the effective date.</p> <p>If the CIRP cost is less than ₹75,00,000/-, the balance amount will to the financial creditors.</p> <p>If the CIRP cost is above ₹75,00,000/-, the balance amount shall be adjusted against the payment to Secured Financial Creditors and the final payment to the Secured Financial Creditors shall reduce to that extent.</p>
<p>Admissible Debt to be paid to the Secured Financial Creditors: Allahabad Bank (<i>now Indian Bank w.e.f 01.04.2020</i>)</p>	<p>Total payment proposed in the Resolution Plan: ₹20,00,00,000/- (Rupees twenty crore only) being 40.29% of the total admitted claim.</p> <p>a. Upfront payment of ₹4,50,00,000/- (Rupees four crore fifty lakh only) to be made within 30 days from the date of approval of the Resolution Plan by the Adjudicating Authority.</p> <p>b. Second payment of ₹3,75,00,000/- (Rupees three crore seventy-five lakh only) to be made within 18 months from the effective date.</p> <p>c. Third payment of ₹4,00,00,000/- (Rupees four crore only) within 24 months from the effective date.</p> <p>d. Fourth payment of ₹4,00,00,000/- (Rupees four crore only) within 30 months from the effective date.</p> <p>e. Final payment of ₹3,75,00,000/- (Rupees three crore seventy-five lakh only) within 36 months from the</p>

Particulars	Amount
	effective date.
Admissible Debt to be paid to Operational Creditors	₹10,00,000/- (Rupees ten lakh only) being 0.01% of the claim admitted, proposed to be payable upfront within 30 days of the effective date.

6.2. The Resolution Plan defines “*Effective Date*” as the date on which this Resolution Plan is approved by the NCLT. The upfront payment will be made within 30 days from the date of the order.

7. ***Details on Management / Implementation and Relief as per the Resolution Plan- Salient Features***

7.1. The Resolution Plan also provides for –

- a. The Resolution Applicant together with its nominees shall hold 100% shareholding in the restructured share capital of the Corporate Debtor after resolution (*Point 9.5 at internal page no.19 of the Resolution plan along with Point 14.1 at internal page 24 of the Resolution Plan*).
- b. Management of Company after resolution (*Point 22 at internal page No.106 of the Resolution plan*).
- c. Term of the Resolution Plan<sup>11</sup> (*Point 25 at internal page No.107 of the Resolution plan*).
- d. Implementation and Supervision of the resolution plan<sup>12</sup> (*Point 24 at internal page No.107 of the Resolution plan*).

8. ***Waivers, Reliefs and Exemptions***

8.1. The reliefs and concessions sought by the Resolution Applicant from the Adjudicating Authority are set out below for the successful implementation of the Resolution Plan. The orders thereon are indicated against each:

Sl. No.	Waivers, Reliefs and Exemptions (Concessions) sought from NCLT	Orders thereon
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<sup>11</sup> Page 87 of the IA

<sup>12</sup> Page 89-90 of the IA.

Sl. No.	Waivers, Reliefs and Exemptions (Concessions) sought from NCLT	Orders thereon
1.	Consents and approvals, authorisations etc.	
	<p>a. Upon approval of this Resolution Plan by the NCLT, all actions stated in this Resolution Plan shall be deemed to be approved. Accordingly, any action or implementation of this Resolution Plan shall not be a ground for termination of any consents, approvals, concessions, authorisations, permits or the like that has been granted to the Corporate Debtor or for which the Corporate Debtor has made an application for renewal or grant. A detailed list of consents, approval and authorization are provided under <b>Schedule 14.</b></p>	<p>Granted. The Resolution Applicant is directed to do the same within one year as prescribed under section 31(4) of the Code.</p>
	<p>b. Ministry of Food Processing Industries, Govt of India (MoFPI) <i>vide</i> its letter dated 24.09.2019 has cancelled/terminated the final approval granted to the Corporate Debtor for setting up a Mega Food Park at Village Getalsud, Ranchi. The approval from MoFPI for setting up a Mega Food Park is an integral and one of the most important parts in reviving the Corporate Debtor under this CIRP, failing which the entire exercise under this CIRP shall be rendered futile. Consequently, upon approval of this Resolution Plan by the NCLT the final approval granted to the Corporate Debtor for setting up a Mega Food Park at Village Getalsud, Ranchi shall stand</p>	<p>We are convinced that the success of the Resolution Plan is entirely dependent on the approval to be granted by the MoFPI and RIADA.</p> <p>Therefore, we strongly recommend that MoFPI reconsider and reverse its decision to cancel the final approval granted to the Corporate Debtor, since it is integral to the success of the Resolution Plan for revival of the Corporate Debtor.</p> <p>This will be in line with the object and intent of the Insolvency &amp; Bankruptcy</p>

Sl. No.	Waivers, Reliefs and Exemptions (Concessions) sought from NCLT	Orders thereon
	<p>revived, and the Resolution Applicant shall not be required to separately seek approval of the same.</p> <p>c. The premises of the Corporate Debtor's Food Park at Getalsud, Ranchi is a 56 acre land taken on lease from Ranchi Industrial Area Development Authority (RIADA) for a 30-year term renewable twice at an interval of 30-30 years. The success of the Resolution Plan depends entirely upon the availability of the aforesaid land on a fresh land lease from RIADA for a period of 30 years renewable twice at an interval of 30-30 years. Upon approval of this Resolution Plan by the NCLT, RIADA shall immediately provide the aforesaid land on a fresh lease for a period of 30 years term renewable twice at an interval of 30-30 years and on the same terms and conditions as originally entered into with the Corporate Debtor.</p>	<p>Code, 2016, and also various judgments of the Hon'ble Supreme Court, which have held that the basic purpose of the insolvency resolution process is to enable a fresh start for the Corporate Debtor under a new management.</p> <p>On its part, the Resolution Applicant shall apply to the appropriate authority for renewal or revival of the licence granted to the petitioner for setting up the Mega Food Park at Village Getalsud, Ranchi.</p> <p>On similar lines, the RIADA shall also grant renewable leases to the Corporate Debtor under new management, in line with the judgment of the Hon'ble Supreme Court in <i>Ghanashyam Mishra and Sons Pvt Ltd vs Edelweiss Asset Reconstruction Company Limited.</i><sup>13</sup></p>
2.	<p><b>Licences/ approvals/ contractual rights and benefits</b></p> <p>a. The Resolution Applicant has assumed that upon approval of this Resolution Plan by the NCLT and</p>	<p>Granted in line with the judgment of the Hon'ble Supreme Court in</p>

<sup>13</sup> 2021 SCC OnLine SC 313, decided on 13.04.2021. Paras 86, 87, 91, 94, 95 of the judgment refer.

Sl. No.	Waivers, Reliefs and Exemptions (Concessions) sought from NCLT	Orders thereon
	<p>since the Resolution Applicant will acquire the Corporate Debtor on a going concern basis, all subsisting consents, licenses, approvals, rights, entitlements, benefits and privileges whether under law, contract, lease or license, granted in favour of the Corporate Debtor or to which the Corporate Debtor is entitled or accustomed to shall, notwithstanding any provision to the contrary in their terms, be deemed to continue without disruption for the benefit of the Corporate Debtor.</p>	<p><b><i>Ghanashyam Mishra and Sons Pvt Ltd vs Edelweiss Asset Reconstruction Company Limited.</i></b><sup>13</sup></p>
	<p>b. For the avoidance of doubt, it is hereby clarified that all consents, licenses, approvals, rights, entitlements, benefits and privileges whether under law, contract, lease or license, granted in favour of the Corporate Debtor or to which the Corporate Debtor is entitled or accustomed to, which have expired as of the Completion Date, shall be deemed to continue without disruption for the benefit of the Corporate Debtor for a period of 12 months or until renewed by the relevant authorities, whichever is later. Without any liability for the non-compliance during the time specified above, the Resolution Applicant undertakes to cause the Corporate Debtor to expeditiously identify such expired consents, licenses, approvals, rights, entitlements, benefits and privileges whether under law, contract, lease</p>	<p>The Corporate Debtor under the successful resolution applicant shall make appropriate applications to the authorities concerned for renewal of permits etc. expeditiously, and in any case, within a period of twelve months, as warranted by section 31(4) of the Code.</p>

Sl. No.	Waivers, Reliefs and Exemptions (Concessions) sought from NCLT	Orders thereon
	<p>or license, granted in favour of the Corporate Debtor or to which the Corporate Debtor is entitled or accustomed to, evaluate the steps required to address the same and take steps to remedy the same to the extent practically possible</p> <p>c. Upon approval of this Resolution Plan by the NCLT, any claims by any person (whether admitted or not, due or contingent, asserted or unasserted, crystallised or uncrystallised, known or unknown, secured or unsecured, disputed or undisputed, present or future) against the Corporate Debtor accruing due to the commencement or pendency of insolvency proceedings against the Corporate Debtor, whether arising under the terms of subsisting consents, licenses, approvals, rights, entitlements, benefits and privileges whether under law, contract, lease or licence, granted in favour of the Corporate Debtor or any contractual arrangements entered into by the Corporate Debtor, shall, notwithstanding any provision to the contrary in their terms, stand extinguished without any recourse.</p>	<p>Granted in line with the judgment of the Hon'ble Supreme Court in <i>Ghanashyam Mishra and Sons Pvt Ltd vs Edelweiss Asset Reconstruction Company Limited</i>.<sup>13</sup></p>
3.	<p>During the Interim Period, neither the Resolution Professional nor any creditor (including any Financial Creditor and Government agency) or any stakeholder involved in this Resolution Plan or otherwise connected with this Resolution Plan, the CoC, neither the Monitoring Agency nor the Corporate</p>	<p>Granted.</p>

Sl. No.	Waivers, Reliefs and Exemptions (Concessions) sought from NCLT	Orders thereon
	<p>Debtor shall:</p> <ul style="list-style-type: none"> <li>(i) take any of the actions specified in Section 28 of the Code without the approval of the NCLT;</li> <li>(ii) take any action or omission that could reasonably be expected to have a material adverse impact, directly or indirectly, on the Resolution Plan or its successful implementation; or</li> <li>(iii) Institute or continue any proceedings against the Corporate Debtor or transfer, encumber, alienate or dispose of any of the assets or interests of the Corporate Debtor or enforce any encumbrance or security interest created by the Corporate Debtor or on the securities of the Corporate Debtor.</li> </ul>	
4.	<p><b>Liability for past actions or omissions</b></p> <p>a. The Resolution Applicant will acquire control over the Corporate Debtor pursuant to the order of the NCLT by the Completion Date and not pursuant to the usual acquisition process which would ordinarily include a detailed due diligence and representation, warranties and indemnities in relation to the affairs of the Corporate Debtor from its existing promoters. Therefore, the Resolution Applicant may take some time to discover any non-compliances that may exist in relation to the Corporate Debtor on the date of acquisition of control by the Resolution Applicant over the Corporate Debtor. As such the Resolution Applicant may take some</p>	<p>(a) and (b): The insolvency resolution process envisaged under the Code does not prohibit any due diligence on the part of any prospective resolution applicants. So this cannot be an excuse. Having said that, whatever protection is available to the corporate debtor and the successful resolution Applicant in terms of section 32A of the Code shall be available, nothing more and nothing less.</p>

Sl. No.	Waivers, Reliefs and Exemptions (Concessions) sought from NCLT	Orders thereon
	time to identify such non-compliances to address them.	
	<p>b. In light of this, the Resolution Applicant and the Corporate Debtor shall have immunity from any actions and penalties (of any nature) under any laws for any non-compliance of laws in relation to the Corporate Debtor or by the Corporate Debtor, as well as with the terms of any agreement or arrangement entered into by the Corporate Debtor, which was existing as on the Completion Date and which continues for a period of up to twelve months after the acquisition of control by the Resolution Applicant over the Corporate Debtor. Without any liability for the non-compliance during the time specified above, the Resolution Applicant undertakes to cause the Corporate Debtor to expeditiously identify such non-compliances, evaluate the steps required to address such non-compliances and take steps to remedy such non-compliances to the extent practically possible. The Resolution Applicant and the Corporate Debtor shall be entitled to apply to and approach the NCLT for relief for continued implementation of the approved Resolution Plan before or after any coercive action is taken against the Corporate Debtor or the Resolution Applicant, especially in view of the limited due diligence offered to the Resolution</p>	

Sl. No.	Waivers, Reliefs and Exemptions (Concessions) sought from NCLT	Orders thereon
	Applicant.	
	c. This Resolution Plan will be implemented pursuant to an order of the NCLT, and all actions stated in this Resolution Plan shall be deemed to be approved by the NCLT. Accordingly, any action or implementation of this Resolution Plan shall not be a ground for termination of any contracts entered into by the Corporate Debtor.	Granted.
<b>5.</b>	<b>Inquiries and investigations</b>	
(a)	Upon approval of this Resolution Plan by the NCLT, all inquiries, investigations and proceedings, whether civil or criminal, notices, causes of action, suits, claims, disputes, litigation, arbitration or other judicial, regulatory or administrative proceedings against, or in relation to, or in connection with the Corporate Debtor or the affairs of the Corporate Debtor, pending or threatened, present or future, (including without limitation, any investigation, action, proceeding, prosecution, whether civil or criminal, by the Central Bureau of Investigation, the Enforcement Directorate or any other regulatory or enforcement agency), in relation to any period prior to the Completion Date or arising on account of the acquisition of control by the Resolution Applicant over the Corporate Debtor pursuant to this Resolution Plan shall stand withdrawn or dismissed and all liabilities or	In <i>Ghanashyam Mishra &amp; Sons Pvt Ltd v. Edelweiss Asset Reconstruction Company Ltd</i> , <sup>14</sup> the Hon'ble Supreme Court held in para 95(i) that once a Resolution Plan is approved, a creditor cannot initiate proceedings for recovery of claims which are not part of the Resolution Plan. The provisions of section 32A of the IBC will also apply. Therefore, the reliefs sought for are granted, in terms of the judgment of the Hon'ble Supreme Court in so far as extinguishment of liabilities that are not part of the resolution plan.

<sup>14</sup> 2021 SCC OnLine SC 313 decided on 13.04.2021.

Sl. No.	Waivers, Reliefs and Exemptions (Concessions) sought from NCLT	Orders thereon
	<p>obligations in relation thereto, whether or not set out in the balance sheets of the Corporate Debtor or the profit and loss account statements of the Corporate Debtor, will be deemed to have been written off in full and permanently extinguished and the Corporate Debtor or the Resolution Applicant shall at no point of time be, directly or indirectly, held responsible or liable in relation thereto notwithstanding any adverse order that may be passed in respect of the same by any authority prior to or after the Completion Date. Upon approval of this Resolution Plan by the NCLT, all new inquiries, investigations, whether civil or criminal, notices, suits, claims, disputes, litigation, arbitration or other judicial, regulatory or administrative proceedings will be deemed to be barred and will not be initiated or admitted against the Corporate Debtor in relation to any period prior to the acquisition of by the Resolution Applicant over the Corporate Debtor or on account of the acquisition of control by the Resolution Applicant over the Corporate Debtor pursuant to this Resolution Plan.</p> <p>A detailed list of all the pending inquiries and investigations against the Corporate Debtor are provided under <b>Schedule 16</b>.</p>	
6.	<b>Tax Exemption</b>	
	<p>a. With the approval of this Resolution Plan by the NCLT, it is assumed that an exemption shall be deemed to have been granted to the Corporate</p>	<p>This is for the Income Tax authorities to consider.</p>

Sl. No.	Waivers, Reliefs and Exemptions (Concessions) sought from NCLT	Orders thereon
	<p>Debtor from the obligation to pay taxes in accordance with the exemptions granted under the Finance Act 2018.</p> <p>b. The Corporate Debtor shall be entitled to carry forward the unabsorbed depreciation and accumulated losses under Income tax and minimum alternate tax and to utilize such amounts to set off future tax obligations.</p>	
<b>7.</b>	<b>Anti- Corruption Provisions and immunity</b>	
	<p>As the Resolution Applicant will acquire control over the Corporate Debtor pursuant to the order of the NCLT and not pursuant to the usual acquisition process which would ordinarily include a detailed due diligence and representation, warranties and indemnities in relation to the affairs of the Corporate Debtor from its existing promoters, the Resolution Applicant may take some time to discover all the non-compliances that may exist in relation to the Corporate Debtor on the date of acquisition of control by the Resolution Applicant over the Corporate Debtor.</p>	<p>The insolvency resolution process envisaged under the Code does not prohibit any due diligence on the part of any prospective resolution applicants. So this cannot be an excuse. Having said that, whatever protection is available to the corporate debtor and the successful resolution Applicant in terms of section 32A of the Code shall be available, nothing more and nothing less.</p>
<b>8.</b>	<b>Contracts</b>	
	<p>For a period of six months from the Completion Date, all subsisting contracts and arrangements entered into by the Corporate Debtor shall continue to be in subsistence, including but not limited to the following:</p> <p>a. For a period of six months from the Completion Date, the Corporate</p>	<p>No <i>carte blanche</i> of this nature can be granted at this stage.</p>

<b>Sl. No.</b>	<b>Waivers, Reliefs and Exemptions (Concessions) sought from NCLT</b>	<b>Orders thereon</b>
	<p>Debtor shall have a right to review and terminate any contract that was entered into prior to the Completion Date.</p> <p>b. If during such review, the Corporate Debtor terminates any contracts then the Corporate Debtor shall not be liable towards any claims with respect to termination of such contracts, including but not limited to any claims, penalty, damages (liquidated or otherwise), arbitration claims or claims for specific performance.</p> <p>c. All contracts between the Corporate Debtor and related parties (as defined in Section 5(24) of the Code shall stand terminated with effect from the Completion Date unless otherwise notified by the Resolution Applicant by the Completion Date, and the Corporate Debtor shall not be liable towards any claims with respect to termination of such contracts, including but not limited to, any claims, penalty, damages (liquidated or otherwise), arbitration claims, claims for specific performance or claims for interim relief.</p> <p>d. All sub-lease agreements executed by the Corporate Debtor with sub-lessees shall stand terminated as on effective date and the Corporate Debtor shall not be liable towards any claims with respect to termination of such contracts/agreements, including but not</p>	

Sl. No.	Waivers, Reliefs and Exemptions (Concessions) sought from NCLT	Orders thereon
	<p>limited to any claims, penalty, damages (liquidated or otherwise), arbitration claims or claims for specific performance.</p> <p>e. All financial obligations under any contract to which the Corporate Debtor is a party, relating to a period prior to the Completion Date, if not provided for under this Resolution Plan, shall stand extinguished.</p>	
9.	<p>Upon approval of this Resolution Plan by the NCLT, the relevant creditor shall file necessary modification(s) of charge, with the concerned Registrar of Companies to give formal effect to the provisions of this Resolution Plan;</p>	<p>Granted.</p>
10.	<p>Upon approval of this Resolution Plan by the NCLT, any non-compliance in filing of records / forms / documents / etc. including Annual Returns with Registrar of Companies (RoC) as on Completion Date shall be dispensed with.</p>	<p>There cannot be a gap in filing with RoC. Therefore, this requirement cannot be dispensed with.</p>
11.	<p>The Resolution Applicant requests the State Government of Jharkhand to grant it suitable tax and financial incentives as per the prevailing policy of the State Government or any other policy for revival of distressed companies, considering the revival of the Corporate Debtor in order to achieve financial viability of the Corporate Debtor.</p>	<p>The request shall be made to the Government of Jharkhand, and the appropriate authority is requested to consider the same keeping in view the object of the code, which is to enable a fresh start for the Corporate Debtor.</p>
12.	<p>The Resolution Applicant requests the Ministry of Food Processing Industries, Government of India to provide the Corporate Debtor with the balance amount of the grant due to the</p>	<p>The request shall be made to the Government of Jharkhand, and the appropriate authority is requested to consider the</p>

<b>Sl. No.</b>	<b>Waivers, Reliefs and Exemptions (Concessions) sought from NCLT</b>	<b>Orders thereon</b>
	Corporate Debtor upon fulfilment of the criteria under the Mega Food Park scheme of MoFPI by the Resolution Applicant.	same keeping in view the object of the code, which is to enable a fresh start for the Corporate Debtor.
<b>13.</b>	On the basis of information provided by the Resolution Professional this Resolution Plan assumes that, on the Completion Date, the Corporate Debtor will not have any realizable gross current assets (inventory, receivables and cash)	Since it is in the nature of Assumption, no orders are deemed necessary
<b>14.</b>	The Resolution Applicant has assumed that since this is a NCLT approved plan under a statutory process and is binding on all stakeholders under Sections 31(1) and 238 of the Code, all concerned regulators, including RBI, shall give expeditious approvals to facilitate the Resolution Plan of the Corporate Debtor and its implementation.	No formal orders are necessary.
<b>15.</b>	The vacation of office by the directors who comprised the suspended board of directors, or the appointment of new directors on the board of the Corporate Debtor (for the Interim Period and/or by the Completion Date, as the case may be) shall not require any corporate action by the Corporate Debtor or any other approvals and the Corporate Debtor may file the order of the NCLT to inform the Registrar of Companies regarding such vacation and appointment.	All necessary filings shall be carried out by the Corporate Debtor under the new management, by filing appropriate fee and forms with the RoC. However, any internal approvals such as shareholders meeting shall stand dispensed with.
<b>16.</b>	The increase in authorised share capital of the Corporate Debtor, as contemplated in Clause 14, shall not require any corporate action by the Corporate Debtor or any other	All necessary filings shall be carried out by the Corporate Debtor under the new management, by filing appropriate fee and forms

Sl. No.	Waivers, Reliefs and Exemptions (Concessions) sought from NCLT	Orders thereon
	<p>approvals, and the increased authorised share capital and the revised Memorandum of Association, as set out in Schedule 7 shall take effect pursuant to approval of this Resolution Plan by the NCLT, and the Corporate Debtor may file the order of the NCLT to inform the Registrar of Companies regarding such increase in authorised share capital and amendment to the Memorandum of Association.</p>	<p>with the RoC. However, any internal approvals such as shareholders meeting shall stand dispensed with</p>
17.	<p>The cancellation of existing equity shares capital and existing preference share capital, as contemplated in Clause 9.5 shall not require any corporate action by the Corporate Debtor or any other approvals, and the Corporate Debtor may file the order of the NCLT to inform the Registrar of Companies regarding such cancellation.</p>	<p>All necessary filings shall be carried out by the Corporate Debtor under the new management, by filing appropriate fee and forms with the ROC. However, any internal approvals such as shareholders meeting shall stand dispensed with.</p>
18.	<p>The issuance and allotment of equity shares to Resolution applicant, as contemplated in Clause 14 shall not require any corporate action by the Corporate Debtor or any other approvals, and the Corporate Debtor may file the order of the NCLT to inform the Registrar of Companies regarding such issuance and allotment.</p>	<p>All necessary filings shall be carried out by the Corporate Debtor under the new management, by filing appropriate fee and forms with the ROC. However, any internal approvals such as shareholders meeting shall stand dispensed with.</p>
19.	<p>Removal of the existing auditors and substitution by another duly qualified auditor for the Corporate Debtor.</p>	<p>All necessary filings shall be carried out by the Corporate Debtor under the new management, by filing appropriate fee and forms with the ROC. However, any internal approvals such as shareholders meeting shall stand dispensed with.</p>

Sl. No.	Waivers, Reliefs and Exemptions (Concessions) sought from NCLT	Orders thereon
20.	The Resolution Applicant and the Corporate Debtor shall be entitled to share a certified copy of the Resolution Plan and the order of the NCLT approving the Resolution Plan with third parties, including Governmental authorities.	Once the Resolution Plan is approved by the Adjudicating Authority, the Plan is no longer confidential. Therefore, this relief is granted.
21.	The order of the NCLT approving this Resolution Plan shall take effect pursuant to section 238 of the Code, to the extent applicable, that states that <i>“the provisions of this Code shall have effect, notwithstanding anything inconsistent therewith under any law for the time being in force or any instrument having effect by virtue of any such law.”</i>	Granted.
22.	In the application to be made to the NCLT for approval of this Resolution Plan and interim reliefs in accordance with this Plan, a specific prayer will be made for cessation of directorships of the erstwhile management of the Corporate Debtor with immediate effect, appointment of Monitoring Agency and subsequent appointment of a reconstituted board of directors. The directors to be appointed on the Effective Date shall be nominated by the Resolution Applicant prior to making such application and shall be substituted in place and stead of the erstwhile board of directors of the Corporate Debtor (“Reconstituted Board”) with effect from the Completion Date. To this end, all requisite documents for appointment of the Reconstituted Board shall be	Granted.

Sl. No.	Waivers, Reliefs and Exemptions (Concessions) sought from NCLT	Orders thereon
	attached with the application made for this purpose. None of the members of the Reconstituted Board shall be persons disqualified under section 29A of the Code.	
23.	The directors of the reconstituted Board shall not be liable for any past non-compliances with the provisions of applicable laws by the erstwhile Board of Directors of the Corporate Debtor.	Granted in terms of section 32A of the Code.
24.	The Corporate Debtor, pursuant to the provisions of this Resolution Plan and the authority contained therein, shall cause its board of directors to take steps for implementation of the provisions of the Resolution Plan, which <i>inter alia</i> includes – (i) execution of appropriate loan agreement, modifications of previous documents for creating security and filing of appropriate forms under Company Law or other laws, with, amongst others, the Registrar of Companies and Ministry of Corporate Affairs or other statutory authorities; (ii) issuance of shares and instruments as provided in the Resolution Plan; and (iii) other compliances as per the governing law. The Corporate Debtor shall file the order of the NCLT approving this Resolution Plan with the Registrar of Companies and Ministry of Corporate Affairs or any other regulatory authority, instead of resolution of board or the shareholders of the Corporate Debtor that were otherwise required for actions that are affected through an order of the NCLT approving this Resolution Plan, and that shall be sufficient compliance by the	Granted.

Sl. No.	Waivers, Reliefs and Exemptions (Concessions) sought from NCLT	Orders thereon
	Corporate Debtor.	

8.2. In addition to the above, the Successful Resolution Applicant has, in several clauses of the Resolution Plan, sought additional reliefs as follows:

Sl. No.	Further Waivers, Reliefs and Exemptions (Concessions) sought	Orders thereon
1.	<p><b><u>Clause 9.2(c) at page 15:</u></b> Pursuant to approval of this Resolution Plan by the NCLT and upon payment to workmen in accordance with Clause 9.2, any and all rights and entitlements of claims or demands made by or liabilities or obligations owed or payable to, any present or past, direct or indirect, permanent or temporary workman of the Corporate debtor, whether filed/admitted/verified or not, due or contingent, asserted or unasserted, crystallised or uncrystallised, known or unknown, adisputed or undisputed, present or future, in relation to any period prior to the Completion Date or arising on account of the acquisition of control by the resolution Applicant over the Corporate Debtor pursuant to this Resolution Plan shall stand permanently extinguished and the Corporate debtor or the Resolution Applicant shall at no point of time, directly or indirectly, have any obligation, liability or duty in relation thereto.</p>	<p>Granted in line with the judgment of the Hon'ble Supreme Court in <i>Ghanashyam Mishra and Sons Pvt Ltd vs Edelweiss Asset Reconstruction Company Limited</i>.<sup>13</sup></p>
2.	<p><b><u>Clause 9.3(e)(iv) at page 17:</u></b> Other than as specified in Clauses 9.3(a) and 9.3(b) [of the Resolution Plan], any and all other claims or demands made</p>	<p>Granted in line with the judgment of the Hon'ble Supreme Court in <i>Ghanashyam Mishra and</i></p>

Sl. No.	Further Waivers, Reliefs and Exemptions (Concessions) sought	Orders thereon
	<p>by or liabilities or obligations owed or payable to (including any demand for any losses or damages, principal, interest, compound interest, penal interest, liquidated damages, notional or crystallised mark to market losses on derivatives and other charges already accrued/accruing or in connection with any third party claims) to any actual or potential Financial Creditors or in connection with an financial debt of the Corporate Debtor (including any transactions in derivatives), whether filed/admitted/verified or not, due or contingent, asserted or unasserted, crystallised or uncrystallised, known or unknown, secured or unsecured, disputed or undisputed, present or future, whether or not set out in the profit and loss statement, the balance sheets of the Corporate Debtor, in relation to any period prior to the Completion Date or arising on account of the acquisition of control by the Resolution Applicant over the Corporate Debtor pursuant to this Resolution Plan, shall be written off in full and shall stand permanently extinguished and the Corporate Debtor or the Resolution Applicant shall at no point of time be, directly or indirectly, held responsible or liable in relation thereto.</p>	<p><i>Sons Pvt Ltd vs Edelweiss Asset Reconstruction Company Limited.</i><sup>13</sup></p>
3.	<p><b><u>Clause 9.3(e)(v) at pages 17-18:</u></b> Any and all rights and entitlements of any actual or potential Financial Creditors not addressed in Clause 9.3(a) and 9.3(b) [of the Resolution Plan] whether filed/admitted/verified or not,</p>	<p>Granted in line with the judgment of the Hon'ble Supreme Court in <i>Ghanashyam Mishra and Sons Pvt Ltd vs Edelweiss Asset Reconstruction</i></p>

Sl. No.	Further Waivers, Reliefs and Exemptions (Concessions) sought	Orders thereon
	<p>due or contingent, asserted or unasserted, crystallised or uncrystallised, known. Or unknown, disputed or undisputed, present or future, in relation to any period prior to the acquisition of control by the Resolution Applicant over the Corporate Debtor pursuant to this Resolution Plan or arising on account of the acquisition of control by the Resolution Applicant over the Corporate Debtor pursuant to this Resolution Plan, shall stand permanently extinguished and the Corporate Debtor or the Resolution Applicant shall as no point of time, directly or indirectly, have any obligation, liability or duty in relation thereto.</p>	<p><i>Company Limited.</i><sup>13</sup></p>
<p>4.</p>	<p><b><u>Clause 9.3(e)(vi) at page 18:</u></b> Any invocation or appropriation or other enforcement action already undertaken or demand made in respect of any security, guarantee, letter of credit, letter of undertaking, letter of comfort, letter of awareness, pledge, charge, encumbrance, hypothecation or collateral provided by the Corporate Debtor in connection with any financial debt or any other debt or obligation of the Corporate Debtor, at any time prior to the Completion Date, shall stand automatically abated, discharged, revoked and cancelled and deemed null and void and all liabilities and obligations in relation to such security, guarantee, letter of credit, letter of undertaking, letter of comfort, letter of</p>	<p>Granted in line with the judgment of the Hon'ble Supreme Court in <i>Ghanashyam Mishra and Sons Pvt Ltd vs Edelweiss Asset Reconstruction Company Limited.</i><sup>13</sup></p>

Sl. No.	Further Waivers, Reliefs and Exemptions (Concessions) sought	Orders thereon
	awareness, pledge, charge, encumbrance, hypothecation or collateral shall stand permanently extinguished on the approval of this Resolution Plan by the NCLT.	
5.	<p><b><u>Clause 9.4(b) at page 19:</u></b></p> <p><b>Remaining debts and dues</b></p> <p>Any remaining claims or debts or other dues from the Corporate Debtor to any person including claim from revenue, statutory or regulatory authority for the period prior to the effective Date, that is not expressly provided for in this Resolution Plan, including in relation to any corporate guarantees issued by the Corporate Debtor, or any claims from third parties relation to any contract entered into by the Corporate Debtor including damages on account of termination of such contracts pursuant to this Resolution Plan, claims, of any nature whatsoever, from employees and workmen or claims which are in the nature of recovery, disgorgement, penalty, fees or recoupment of loss, for which payments are not contemplated in this Resolution Plan shall be deemed to have been extinguished upon approval of this Resolution Plan by the NCLT, without any liability whatsoever on the Corporate Debtor.</p>	<p>Granted in line with the judgment of the Hon'ble Supreme Court in <i>Ghanashyam Mishra and Sons Pvt Ltd vs Edelweiss Asset Reconstruction Company Limited.</i><sup>13</sup></p>
6.	<p><b><u>Clause 9.6(c) at page 19:</u></b></p> <p>Upon approval of this Resolution Plan by the NCLT, all dues (admitted/verified/filed or not) under the provisions of Income Tax Act, 1961, including taxes, duty, penalties, interest, fines, cesses, unpaid tax</p>	<p>Granted in line with the judgment of the Hon'ble Supreme Court in <i>Ghanashyam Mishra and Sons Pvt Ltd vs Edelweiss Asset Reconstruction Company Limited.</i><sup>13</sup></p>

Sl. No.	Further Waivers, Reliefs and Exemptions (Concessions) sought	Orders thereon
	deducted at source/tax collected at source, whether admitted or not, due or contingent, whether part of above claim of income tax authorities or not, asserted or unasserted, crystallised or uncrystallised, known or unknown, secured or unsecured, disputed or undisputed, present or future, in relation to any period prior to the Completion Date, shall stand extinguished and the Corporate Debtor shall not be liable to pay any amount against such demand. All, assessments/appellate or other proceedings pending in case of the Corporate Debtor, on the date of the order.	
7.	<p><b><u>Clause 9.6(d) at page 20:</u></b></p> <p>Order of NCLT relating to the period prior to that date, shall stand terminated and all consequential liabilities, of any, stand abated and should be considered to be not payable by the Corporate Debtor. All notices proposing to initiate any proceedings against the Corporate Debtor in relation to the period prior to the date of NCLT order and pending on that date, shall stand abated and should not be proceeded against. Post the order of the NCLT, no re-assessment/revision or any other proceedings under the provisions of the Income Tax Act shall be initiated on the Corporate Debtor in relation to period prior to acquisition of control by the Resolution Applicant and any consequential demand should be considered non-existing and as not payable by the Corporate Debtor. Any</p>	<p>Granted in terms of the judgment of the Hon'ble High Court of Bombay in <i>Murli Industries Limited v. Assistant Commissioner of Income Tax and Others</i>.<sup>15</sup></p>

<sup>15</sup> 2021 SCC Online Bom 6187 dated 23 December 2021

Sl. No.	Further Waivers, Reliefs and Exemptions (Concessions) sought	Orders thereon
	proceedings which were kept in abeyance in view of the insolvency process or otherwise shall not be revived post the order of NCLT.	
8.	<p><b><u>Clause 9.6(e) at page 20:</u></b></p> <p>Upon the approval of this Resolution Plan by the NCLT, and all dues (admitted/verified/filed or not) under the provisions of all the indirect taxes, including but not limited to, the Central Excise Act, 1944, the Finance Act, 1994 (Service Tax), the Customs Act, 1962, GST act and any other indirect tax laws, including taxes, duty, penalties, interest, fines, cesses, charges, unpaid TDS/ TCS (to the extent applicable), whether admitted or not, due or contingent, whether part of the above mentioned contingent liability schedule dues or not, whether claimed by the tax authorities or not, asserted or unasserted, crystallised or uncrystallised, known or unknown, secured or unsecured, disputed or undisputed, present or future, in relation to any period prior to the Completion Date, shall stand extinguished and the Corporate Debtor will not be liable to pay an amount against such demand. Upon approval of this Resolution Plan the NCLT, all outstanding litigations/demands, assessments/appellate/or other proceedings including but not limited to any audits, investigations, search and seizure, pending in case of the Corporate Debtor relating to the period prior to the</p>	<p>Granted in terms of the judgment of the Hon'ble High Court of Bombay in <i>Murli Industries Limited v. Assistant Commissioner of Income Tax and Others</i>.<sup>16</sup></p>

<sup>16</sup> 2021 SCC Online Bom 6187 dated 23 December 2021

Sl. No.	Further Waivers, Reliefs and Exemptions (Concessions) sought	Orders thereon
	<p>Completion Date, shall stand terminated and all consequential liabilities, if any, will stand abated and shall be considered to be not payable by the Corporate Debtor. All notices proposing to initiate any proceedings against the Corporate Debtor in relation to the period prior to the date of NCLT order and pending on that date, shall be considered abated and shall not be proceeded against. Post the order of the NCLT and re-assessment / revision or any other proceedings under the provisions of any of the indirect tax laws should be initiated on the Corporate Debtor in relation to the period prior to acquisition of control by the Resolution Applicant and any consequential demand shall be considered non-existing and as not payable by the Corporate Debtor. Any proceedings which were kept in abeyance in view of insolvency process or otherwise shall not be revived post the order of NCLT.</p>	
<p>9.</p>	<p><b><u>Clause 9.6(f) at pages 20-21:</u></b> Upon approval of this Resolution Plan by the NCLT, all liabilities (including without limitation, for any penalty, interest, fines or fees) (admitted/ verified/ filed or not) or obligations of the Corporate Debtor, in relation to: (A) any investigation, inquiry or show-cause, whether civil or criminal; (B) any non-compliance of provisions of any laws, rules, regulations, directions, notifications, circulars, guidelines, policies, licenses, approvals, consents or permissions; (C) change of control,</p>	<p><b><i>All monetary penalties:</i></b> Granted in line with the judgment of the Hon'ble Supreme Court in <b><i>Ghanashyam Mishra and Sons Pvt Ltd vs Edelweiss Asset Reconstruction Company Limited.</i></b><sup>13</sup></p> <p><b><i>Criminal proceedings:</i></b> Granted in line with the judgment of the Hon'ble Supreme Court in <b><i>Lalit</i></b></p>

Sl. No.	Further Waivers, Reliefs and Exemptions (Concessions) sought	Orders thereon
	<p>transfer charges, unearned increase, compensation or any other such liability whatsoever under any contract, agreement, lease, license, approval, consent, privilege or permission to which the Corporate Debtor or its subsidiaries, joint ventures or associates are entitled; (D) any leasehold rights or freehold rights to movable or immovable properties in the possession of the Corporate Debtor; (E) any contracts, agreements or commitments made by the Corporate Debtor; whether admitted or not, due or contingent, asserted or unasserted, crystallised or uncrystallised, known or unknown, secured or unsecured, disputed or undisputed, present or future, whether or not set out in the balance sheets of the Corporate Debtor or the profit and loss account statement of the Corporate Debtor, in relation to any period prior to the completion date or arising on account of the acquisition of control by the Resolution Applicant over the Corporate Debtor pursuant to this Resolution Plan shall be written off in full and shall stand permanently extinguished and the Corporate Debtor shall at no point of time be directly or indirectly held responsible or liable in relation thereto.</p>	<p><b><i>Kumar Jain v Union of India &amp; others.</i></b><sup>17</sup></p> <p><b><i>Tax reassessments:</i></b> Granted in terms of the judgment of the Hon'ble High Court of Bombay in <b><i>Murli Industries Limited v. Assistant Commissioner of Income Tax and Others.</i></b><sup>18</sup></p>
10.	<p><b><u>Clause 9.6(g) at page 21:</u></b> Upon the approval of this Resolution Plan by the NCLT, any and all rights and entitlements, recovery, disgorgement, penalty, fees,</p>	<p>Granted in line with the judgment of the Hon'ble Supreme Court in <b><i>Ghanashyam Mishra and Sons Pvt Ltd vs Edelweiss</i></b></p>

<sup>17</sup> (2021) 9 SCC 321 : 2021 SCC OnLine SC 396

<sup>18</sup> 2021 SCC Online Bom 6187 dated 23 December 2021

Sl. No.	Further Waivers, Reliefs and Exemptions (Concessions) sought	Orders thereon
	<p>recoupment of loss, of the Central government, the State governments, any regulatory or local authority or body or any agency or instrumentality thereof or any other party or entity (under any agreement, lease, license, approval, consent, privilege or permission or under statute, rules or regulations). Whether admitted or not, admitted/verified/filed or not, due or contingent, asserted or unasserted, crystallised or uncrystallised, known or unknown, disputed or undisputed, present or future, in relation to any period prior to the Completion Date or arising on account of the acquisition of control by the Resolution Applicant over the Corporate Debtor pursuant to this Resolution Plan, shall stand permanently extinguished and the Corporate Debtor or the Resolution Plan shall at no point of time, directly or indirectly, have any obligation, liability or duty in relation thereto.</p>	<p><i>Asset Reconstruction Company Limited.</i><sup>13</sup></p>
<p><b>11.</b></p>	<p><b><u>Clause 9.7(ii) at page 21:</u></b> It is clarified that the existing shareholders, managers, directors, officers, employees, workmen or other personnel of the Corporate Debtor shall continue to be liable for all the Claims, demand, obligations, penalties etc. arising out of any (i) proceedings, inquiries, investigations, orders, show cause notices, suits, litigation etc. (including those arising out of any orders passed by the NCLT pursuant to Sections 43, 45, 49, 50, 66, 68, 70, 71, 72, 73, 74 of the Code), whether civil or criminal, pending before any authority,</p>	<p>Granted in line with the judgment of the Hon'ble Supreme Court in <i>Ghanashyam Mishra and Sons Pvt Ltd vs Edelweiss Asset Reconstruction Company Limited.</i><sup>13</sup> Whatever protection is envisaged under section 32A of the Code alone is granted, nothing more and nothing less.</p>

Sl. No.	Further Waivers, Reliefs and Exemptions (Concessions) sought	Orders thereon
	<p>court, tribunal or any other forum prior to the Completion Date or (i) that may arise out of any proceedings, inquiries, investigations, orders, show-cause, notices, suits, litigation etc. (including any orders that may be passed by the NCLT pursuant to Sections 43, 45, 49, 50, 66, 68, 70, 71, 72, 73, 74 of the Code), whether civil or criminal, that may be initiated or instituted post the approval of the Resolution Plan by the NCLT on account of any transactions entered into, or decisions or actions taken by such existing promoters and existing shareholders, managers, directors, officers, employees. Workmen or other personnel of the Corporate Debtor and the Corporate Debtor or Resolution Applicant shall at no point of time be, directly or indirectly, held responsible or liable in relation thereto.</p>	

**9. Findings**

- 9.1. On hearing the submissions made by the learned Counsel for the Resolution Professional, and perusing the records, we find that the Resolution Plan has been approved with 100% voting share. The CoC in their commercial wisdom has decided to approve the payment of ₹20,00,00,000/- out of ₹49,63,69,395/- to the Financial Creditors and ₹99,934/- out of ₹69,08,05,000/- to the Operational Creditors.
- 9.2. As per the CoC, the Resolution Plan meets the requirement of being viable and feasible for revival of the Corporate Debtor. By and large, all the compliances have been done by the RP and the Resolution Applicant for making the Plan effective after approval by this Bench.
- 9.3. On perusal of the documents on record, we are satisfied that the Resolution

Plan is in accordance with sections 30 and 31 of the Code and complies with regulations 37, 38 and 39 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

9.4. No circumstances exist that militate against grant of approval for the Resolution Plan.

**10. Orders**

10.1. Therefore, subject to the observations made in this Order, we hereby accord our approval to the Resolution Plan. The Resolution Plan shall form part of this Order.

10.2. As far as the question of granting time to comply with the statutory obligations or seeking sanctions from governmental authorities is concerned, the Resolution Applicant is directed to do the same within one year as prescribed under section 31(4) of the Code.

10.3. Any relief sought in the Resolution Plan, where any contract, agreement, understanding, proceeding, action, notice etc. not specifically identified, or is for a future contingency, is, at this point of time, rejected.

10.4. The Resolution Plan as approved is binding on the Corporate Debtor and other stakeholders involved so that the revival of the Corporate Debtor can come into force with immediate effect.

10.5. The Moratorium imposed under section 14 shall cease to have effect from the date of this order.

10.6. The Resolution Professional shall stand discharged from his duties with effect from the date of this Order. However, he shall perform his duties in terms of the Resolution Plan as approved by this Adjudicating Authority.

10.7. The Resolution Professional is further directed to hand over all records, and properties to the Resolution Applicant to finalise the further line of action required for starting of the operation. The Resolution Applicant shall have access to all the records and premises of the corporate debtor through the

Resolution Professional to finalise the further line of action required for starting of the operation.

- 10.8. In case of non-compliance of this order or withdrawal of Resolution Plan, the performance security amount already paid by the Resolution Applicant shall be liable to be forfeited, in addition to such further action as may be permitted under the law.
- 10.9. Liberty is hereby granted for moving any Application if required in connection with implementation of this Resolution Plan.
- 10.10. The Resolution Professional shall file a copy of this Order with the Registrar of Companies, Jharkhand, Ranchi, *inter alia* for updating the status of the Corporate Debtor.
- 10.11. Additionally, the Registry shall send a copy of this order to the Registrar of Companies, Jharkhand, Ranchi.
- 10.12. The application bearing IA No.842/KB/2021 and the main CP (IB) No.1231/KB/2019 shall stand disposed of accordingly.
- 10.13. Certified copy of this Order be issued on demand to the concerned parties, upon due compliance of requisite formalities.

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

**Rajasekhar V.K.**  
**Member (Judicial)**

**10 February 2022**

*GGRB/Sneh (LRA)*