



**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (COURT-I), KOLKATA**

**IA (IB)No. 1490/(KB)/2023
in
C.P. (IB)No. 2179/KB/2019**

An application under Section 30(6) and Section 31 of the Insolvency & Bankruptcy Code, 2016 along with Regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016;

In the matter of:

- 1. Sunny Trading Co., Partnership Firm**
- 2. Mr. Narendra Kumar Jalan, Partner**
- 3. Mr. Sunil Jalan, Partner**

Having address for correspondence at 2 B.D. Saha Road, Kolkata-700002, West Bengal.

...Operational Creditor

Versus

Indian Pulp & Paper Private Limited, a company incorporate under the Companies Act, 1956 and being a company within the meaning of Companies Act, 2013 and having Corporate Identification No-U221093WB2004PTC098305 and having its registered office at-17, Brabourne Road, 2nd Floor, Kolkata-700001, in the State of West Bengal.

...Corporate Debtor

In the matter of:

Avishek Gupta, Resolution Professional of **Indian Pulp & Paper Private Limited**, having his office at CK-104, Sector-2, Salt Lake Kolkata, West Bengal-700091.

...Applicant

Date of pronouncement of order: 20.12.2024

CORAM:

SMT. BIDISHA BANERJEE, HON'BLE MEMBER (JUDICIAL)

SHRI BALRAJ JOSHI, HON'BLE MEMBER (TECHNICAL)

Appearances (via Video Conferencing/Physical)

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Mr. Joy Saha, Sr. Adv.] For the Applicant in IA 1407/2023
Mr. Rishav Banerjee, Adv.]
Ms. Madhuja Barman, Adv.]

Mr. Swatarup Banerjee, Adv.] For the Applicant in IA 1325/2023
Mr. Nirmalya Dasgupta, Adv.]
Mr. Jitendra Patnaik, Adv.]

Mr. K. K. Thakker, Sr. Adv.] For the Applicant in IA 1450/2023
Mr. Arik Banerjee, Adv.]
Mr. Vikas Baisya, Adv.]
Ms. Ranjana Seal, Adv.]
Mr. Sourasish Das, Adv.]

Mr. Jishnu Chowdhury, Sr. Adv.] For CoC
Mr. Sailendra Kr. Tiwari, Adv.]
Mr. Jayesh Choradia, Adv.]
Ms. Muskan Jalan, Adv.]

Mr. Shaunak Mitra, Adv.] for SRA
Mr. Saurav Jain, Adv.]

Ms. Manju Bhuteria, Sr. Adv.] For the RP
Ms. Swati Dalmia, Adv.]
Ms. Neha Sinha, Adv.]
Ms. Arundhati Barman Roy, Adv.]

Mr. Avishek Gupta, RP] RP in person

O R D E R

Per Bidisha Banerjee, Member (Judicial):

1. The Court congregated through a hybrid mode.
2. Ld. Sr. Counsels / Counsels for the parties were heard at length.
3. This application has been preferred to seek approval of Resolution Plan in its entirety along with annexure, Schedule, Appendixes including the claims contained therein as submitted by **Pinax Paper Mills Pvt. Ltd.** and reliefs and concessions sought for under the Plan.



4. The CoC has approved the Resolution Plan of **Pinax Paper Mills Pvt. Ltd.** by **96.05%** vote through E-Voting in respect of the Corporate Debtor.

5. Brief facts of the Case:

5.1. The corporate insolvency resolution process (“CIRP”) of Indian Pulp & Paper Private Limited (“Corporate Debtor”) vide Company Petition No.(IB) 2179/KB/2019 was initiated by an order dated 22nd July, 2022 read with corrigendum dated 27th July, 2022 this Tribunal and moratorium by Section 14 of the Insolvency and Bankruptcy Code, 2016 (“Code”) was also declared in respect of the Corporate Debtor.

5.2. By order dated 22nd July, 2022, this Tribunal had appointed Mr. Swarup Ghosh, as the Interim Resolution Professional (“IRP”) to oversee the insolvency resolution process and a corrigendum to the same vide order dated 27th July, 2022 passed by this Tribunal.

5.3. On 27th July, 2022, the IRP made public announcement in Aajkal (in Bengal Language) and in Financial Express (in English Language) and called for proof of claims from the financial creditors, operational creditors, workers, employees of the Corporate Debtor in the specified forms. Copy of the public

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announcement made by the IRP is annexed with the Petition and marked with the **letter 'A-2'**.

- 5.4. Further it is stated that the claims were received from various creditors of the Corporate Debtor and in relation to the claims received, the same were collected and collated and the initial list of creditors was prepared in accordance with section 18(1)(b) of the Code, read with Regulations 13(1) and 13(2) of the CIRP Regulations.
- 5.5. On 11th August, 2022, the Committee of Creditors (“COC”) was constituted as per Section 18(1)(c) and Section 21(1) of the Code read with Regulation 17(1) of the CIRP Regulations and a copy of the report of the Constitution of CoC was filed before this Tribunal. The Report certifying the constitution of the CoC filed by the IRP with this Tribunal on 12th August, 2022 is annexed with the Petition and marked as letter ‘A-3’.
- 5.6. By an order dated 30th September, 2022 this Tribunal confirmed the appointment of the Applicant herein as the Resolution Professional of the Corporate Debtor. A copy of the order dated 30th September, 2022 is annexed herewith and marked with letter ‘A-4’. The first CoC meeting held on 18th August, 2022 (e-voting closed on 24th August, 2022) and in the said CoC Meeting, the COC unanimously had taken a decision to replace Swarup




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Ghosh, the erstwhile IRP with Mr. Avishek Gupta, the present Applicant herein to act as the Resolution Professional of the Corporate Debtor.

5.7. On 29th November, 2022 7th meeting CoC was held and the CoC in the said meeting approved (the e-voting of which concluded on 6th December, 2022) the fees to be incurred for engaging two registered valuers for determining the fair value and liquidation value of the assets of the Corporate Debtor.

5.8. On 16th November, 2022 the Applicant appointed 4 Registered Valuers, i.e., (i) Raj Kamal Saraogi (ii) Dhiraj Jaiswal, (iii) Bhavin Patel (for valuing all three class of assets) and (iv) Vishvesh Prakash Sardesai. However, due to deviation of more than 25% in the estimated liquidation value of Land and Building, the Applicant on 20th February, 2023 appointed a third valuer namely (v) Vivek Jagtap for determining the fair value and liquidation value of the Land and Buildings of the Corporate Debtor. The Valuation reports were submitted by the registered valuers and the Applicant intimated the same to the members of the CoC on 21st March, 2023.

5.9. Thereafter, upon receiving requests from the member of the CoC and after obtaining confidentiality undertaking, the Applicant herein shared the aforesaid valuation reports with the members

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of the CoC on 21st March, 2023 and 22nd March, 2023. The copies of the valuation report as obtained from (i) Raj Kamal Saraogi, (ii) Dhiraj Jaiswal, (iii) Bhavin Patel, (iv) Vishvesh Prakash Sardessai and (v) Vivek Jagtap are annexed with the and collectively marked with the **letter 'A-5'**.

5.10. The average of the fair value and liquidation value of the assets of the Corporate Debtor as determined by the aforesaid Registered valuers are as follows: -

	Name of the Registered Valuer	Fair Value	Liquidation Value
1.	Raj Kamal Saraogi (SFA)	7,88,287.63/-	5,72,97.63/-
2.	Bhavin Patel (Plant/Machinery)	7,42,51,513/-	5,91,47,508/-
3.	Bhavin Patel (Land and Buildings)	23,10,82,000/-	20,79,73,800/-
4.	Bhavin Patel (SFA)	7,14,115/-	5,66,115/-
5.	Vishvesh Prakash Sardessai(Plan/Machinery)	6,94,23,000/-	5,90,09,000/-
6.	Vivek Jagtap (Land and Building)	24,05,90,000/-	21,65,31,000/-
7.	AVERAGE	30,84,74,458/-	27,19,00,190/-
8.	Dhiraj Jaiswal (Land and Building)	54,16,62,000/-	32,49,97,000/-

5.11. It is further stated that on 1st September, 2022 the IRP appointed V. Singhi & Associates for conducting Transaction

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Audit of the Corporate Debtor for the financial years 2018-19, 2019-20, 2020-21, 2021-22 and the period commencing from 01.04.2022 to 21.07.2022.

5.12. Further, on 10th November, 2022 the Applicant formed an opinion that preferential transactions had been entered into by the erstwhile management of the Corporate Debtor. Thereafter, upon further inspection into the documents of the Corporate Debtor, on 12th December, 2022 the Applicant made a determination on the said transactions and conveyed the same to the Insolvency and Bankruptcy Board of India on 12th December, 2022.

5.13. Ld. Counsel for the Applicant further states that signed copy of the Forensic Audit Report from V. Singhi & Associates on 5th January, 2023 through email. That immediately upon receipt of the said report by email, the Applicant reviewed the same and circulated the same with the members of the COC prior to the commencement of the 11th COC meeting of the Corporate Debtor.

5.14. Ld. Counsel for the Applicant further submits that Audit Report was placed before the COC of the Corporate Debtor at its 11th meeting held on 30th January, 2023. Since the report did not

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include inputs and discussions points as conveyed by the Applicant to the said Auditor, the Applicant admitted the said Auditor to the meeting through audio-visual mode wherein, in the presence of the said Forensic Auditor, they discussed the points that were not included in the Audit Report i.e., transactions with related party being Mangal Enterprises and Mangal Impex, payment by the Corporate Debtor of EMI/Loan of motor car bought by the directors and repayment of unsecured creditors in priority to the secured lenders. The Applicant requested the Auditor to specifically categorise and quantify the aforesaid points.

5.15. Pursuant to the aforesaid, the said auditor submitted a Supplementary Report on 15th February, 2023. The Applicant reviewed the same and thereafter filed an application bearing No. I.A. (IB) 552/KB/2023 before this Tribunal under Sections 43 and 66 of the Code for an aggregate sum of Rs.4.43 crores. The said application (without annexures) along with the transaction audit report is annexed herewith and collectively marked with the **letter 'A-6'**.

5.16. In response thereto, the Applicant received 8 EOIs from the prospective resolution applicants and accordingly, the final list of the prospective resolution applicant had been issued by the Applicant on 19th November, 2022. Subsequently, copies of the

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Request for Resolution Plan, Information Memorandum along with the Evaluation Matrix were made available to the prospective resolution applicants. After providing several extensions (in consultation with the members of the CoC, the last date for submission of resolution plan had been fixed on 10th January, 2023.

5.17. Ld. Counsel for the Applicant further submits that the Applicant received three resolution plans and the same were opened before the members of the CoC in the 10th CoC meeting held on 13th January, 2023. Subsequently, after making a preliminary review of the three resolution plans, the Applicant in the 11th CoC meeting held on 30th January, 2023 informed the members of the CoC that there are several compliance lag/issues in the three plan and all of which would require revision/modification.

5.18. Further, the Applicant received an EoI from a prospective bidder and was also contacted by two other prospective bidders, all evincing interest in submitting a resolution plan in relation to the Corporate Debtor. The Applicant apprised the same to the members of the CoC in the 12th CoC meeting held on 9th February, 2023, and after detailed deliberation and in order to achieve value maximization in an expedited manner, the

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members of the CoC in its commercial wisdom agreed to extend the timelines for submission of EoI and, thereafter the resolution applicants who have already submitted their resolution plan will be given equal opportunity to participate in the bidding process along with all other prospective resolution applicants, the same will lead with wider participation without any prejudice being caused to the existing resolution applicants. Accordingly, the Applicant had been directed to issue fresh communication informing all concerned, that the last date for submission of EoI had been extended upto 15th February, 2023 and the submission of resolution plan upto 27th February, 2023.

5.19. Considering the extension of the timeline for submission of EoIs and upon receiving fresh EoIs from the prospective resolution applicants in accordance with Regulation 36A of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the Applicant issued the revised final list of the prospective resolution applicants on 28th February, 2023. Copy of the revised final list of prospective resolution applicants is annexed with the Petition and marked with the letter 'A-9'.

5.20. Upon receiving the request from the prospective resolution applicants, the last date for submission plan had been extended to 2nd March, 2023.

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- 5.21. On 2nd March, 2023, the Applicant received 4 resolution plans, from (i). Pinax Paper Mills Private Limited (lead) in consortium with Pinax Steel Industries Private Limited, (ii). Brand Steel & Power Private Limited in consortium with Bhagwati Vintrade Private Limited (replacing their earlier resolution plan), (iii) Green Valley Industries Limited (relied on the resolution plan submitted earlier without any change) and (iv). RKG fund (relied on the resolution plan submitted earlier without any change).
- 5.22. On 6th March, 2023, 13th CoC meeting was held and in the said CoC meeting the Applicant opened the aforesaid resolution plans in presence of the representative of the respective resolution applicant and highlighted the commercial details as offered in the respective plan to the CoC. The Applicant further informed the CoC that he would go through each plan in detail and verify whether the same are in compliance with the Code.
- 5.23. Thereafter, in the 14th CoC Meeting held on 21st April, 2023, the Applicant upon verification of the aforesaid plan, the representatives of all the 4 resolution applicants were called upon one by one to present their resolution plan before the CoC. Since the amounts offered in the plans were lower than that expected by the CoC and there were certain irregularities in the plans, upon instruction from the CoC the Applicant requested

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all the 4 resolution applicants to submit their enhanced financial proposals.

5.24. Ld. Counsel for the Applicant further submits that the Applicant received resolution plans from all the 4 resolution applicants and the said applicants were requested to discuss their revised plan and their feasibility and viability before the CoC in the 15th meeting held on 6th May, 2023. It was observed during the said discussion that only 2 resolution applicants, viz., Pinax Paper Mills Private Limited in consortium with Pinax Steel Industries Private Limited and Brand Steel & Power Private Limited in consortium with Bhagwati Vintrade Private Limited had revised their financial proposal.

5.25. Thereafter, in the 16th COC meeting held on 30th May, 2023 the Applicant and the members of CoC discussed the feasibility and viability of all the 4 resolution plans and concluded that all the 4 plans were feasible and viable. In the said meeting, the Applicant brought to the attention of CoC that the plan submitted by Green Vailley Industries Limited was conditional with respect to the leasehold land of the Corporate Debtor. He informed the CoC that he had written to the representative of Green Valley Industries Limited requesting them to resubmit their plan after removing such condition, although the said

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Resolution Applicant did not respond to the email, they had informed by way of telephonic conversation that they were not willing to modify the plan.

- 5.26. Thereafter the plans were further discussed in the CoC meetings. The Applicant also submitted a compliance report on each Resolution Plan to the members of the CoC on 6th July, 2023. A copy of the said compliance report is annexed with the Petition and marked with the letter “A-11”.
- 5.27. During the 20th CoC meeting held on 11th July, 2023 (which continued on 14th July, 2023) upon a detailed deliberation on resolution plans and after considering the scoring on the resolution plan as determined on the basis of Evaluation Matrix the CoC decided that 3 resolution plans would be put up for voting.
- 5.28. However, upon certain discoveries made and upon deliberations made by the CoC at the 21st meeting held on 25th July, 2023 the aforesaid Evaluation Matrix, the Resolution Plan submitted by Pinax Paper Mills Pvt Ltd. in consortium with Pinax Steel Industries Pvt. Ltd. obtained the highest score, i.e., 88.05, whereas the plan submitted by RKG Fund obtained 60.59 and

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Brand Steel & Power Pvt. Ltd. in consortium with Bhagwati Vintrade Pvt. Ltd. obtained 80.00.

5.29. Ld. Counsel for the Applicant further submits that all 3 (three) resolution plans have been placed before the CoC for their consideration and approval. The members of the CoC sought for e-voting facility and it was decided that the e-voting period would begin on 19th July, 2023 and end on 11th August, 2023. At the end of the e-voting period, the members of CoC have with **96.05% voting share, approved the resolution plan submitted by Pinax Paper Mills Pvt. Ltd.** in consortium with Pinax Steel Industries Pvt. Ltd. (hereinafter, referred to as the 'Successful Resolution Applicant/Resolution Applicant').

5.30. Since the CIRP could not be completed within the extended period, i.e., 330 days and considering the likelihood of resolution of the Corporate Debtor, the Applicant had filed another application bearing I.A. (IB) No.1186/KB/2023 in C.P.(IB) No. 2179/KB/2019 before this Tribunal, inter alia, praying for further extension of 30 days in the CIRP period of the Corporate Debtor. The said application came up for hearing before this Tribunal on 11th July, 2023, and the Tribunal had been pleased to grant extension of 30 days. A copy of the said

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order dated 11th July, 2023 passed by this Tribunal is annexed hereto and marked with the letter “A-19”.

5.31. Further, as the CIRP was again nearing expiry, therefore, it was thought fit to claim another extension of 30 days beyond 360 days. Accordingly, an application bearing I.A(IBC) 1396/KB/2023 has been filed by the Applicant seeking further extension of CIRP period for 30 days. Further, with a view to complete the CIR Process, this Tribunal has granted 30 days further opportunity vide order dated 11th of August, 2023.

5.32. The decision of the CoC was forthwith communicated by the Applicant to the Successful Resolution Applicant (SRA) and thereafter, the Applicant issued the **Letter of Intent** to the SRA and the same was accepted by the Successful Resolution Applicant namely **Pinax Paper Mills Pvt. Ltd.** in consortium with Pinax Steel Industries Pvt. Ltd. The Successful Resolution Applicant in accordance with Regulation 36B(4A) of the CIRP Regulations has also submitted the Performance Bank Guarantee on 14th August, 2023 having Bank Guarantee No. 11640100018224. A copy of the Letter of Intent dated 14th August, 2023 issued by the Applicant accepted by the Successful Resolution Applicant along with performance bank

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guarantee are annexed hereto and collectively marked with the letter "A-13".

5.33. The Resolution Plan of the Successful Resolution Applicant dated 27th February, 2023 (updated as on 11th May, 2023) along with addendum is annexed and marked with the letter "A-14".

5.34. The Applicant submits that the Successful Resolution Applicant has submitted an Affidavit under **Section 29A of the Code**, which has been annexed thereto and marked with the letter "A-15".

6. The Successful Resolution Applicant / Pinax Paper Mills Private Limited in Consortium with Pinax Steel Industries Private Limited under this Resolution Plan has provided for a total plan value for the Corporate Debtor of Rs. **30,92,72,166.00 (Rupees Thirty Crores Ninety-two Lakhs Seventy-two Thousand One Hundred and Sixty-six only)** . The amount claimed, amount admitted and payout to creditors as provided under the Resolution Plan, is enumerated below:

(Amount in INR)

Category of stakeholder	Sub-Category of Stakeholder	Amount claimed	Amount Admitted	Amount provided under the Plan
A. CIRP Cost	-	2,68,92,781	-	2,68,92,781

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Category of stakeholder	Sub-Category of Stakeholder	Amount claimed	Amount Admitted	Amount provided under the Plan
B. Secured Financial Creditors	-	69,95,06,887	65,12,59,777	28,00,00,000
C. Unsecured Financial Creditors		9,10,28,984	9,10,28,984	1,00,000
D. Operational Creditors	(a) Employee	25,58,225	25,58,225	12,79,113
	(b) Government Dues	6,79,02,087	3,36,79,437	10,00,272
	(c) Other than Workmen, Employee & Govt. dues	19,38,60,408	19,32,79,998	0
	(d) Other than FC & OC	12,31,79,314	12,31,79,314	0
	Total		38,75,00,034	35,26,96,974
Grand Total (A+B+C+D)		1,20,49,28,686	1,09,49,85,735	30,92,72,166

7. Synopsis of mandatory Provisions / Sections / Regulations and their compliance are as under:

Section of the Code/Regulation No.	Requirement with respect to Resolution Plan	Clause of Resolution Plan
25(2)(h)	Whether the Resolution Applicant meets the criteria approved by the CoC having regard to the	Yes

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Section of the Code/Regulation No.	Requirement with respect to Resolution Plan	Clause of Resolution Plan
	complexity and scale of operations of business of the CD?	
Section 29A	Whether the Resolution Applicant is eligible to submit resolution plan as per final list of Resolution or Order, if any, of the Adjudicating Authority?	Yes
Section 30(1)	Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?	Yes
Section 30(2)	Whether the Resolution Plan- (a) provides for the payment of insolvency resolution process costs? (b) provides for the payment to the operational creditors? (c) provides for the payment to the	Yes. Clause 8.1.1 and Point 4 of page no.3 of the addendum Yes. Clause 8.4.1

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Section of the Code/Regulation No.	Requirement with respect to Resolution Plan	Clause of Resolution Plan
	<p>operational creditors? (d) provides for the management of the affairs of the Corporate Debtor? (e) provides for the implementation and supervision of the resolution plan? (f) contravenes any of the provisions of the law for the time being in force?</p>	<p>Yes. Clause 9.5.4 Yes. Clause 1.1.9 and Clause 10 Yes. Clause 1.1.10 Yes. Clause 2.6.1</p>
Section 30(4)	<p>Whether the Resolution Plan (a) Is feasible and viable, according to the CoC? (b) Has been approved by the CoC with 66% voting share?</p>	<p>Yes. Affirmed by CoC in 16th CoC meeting Yes, via e-voting</p>
Section 31(1)	<p>Whether the Resolution Plan has provisions for its effective</p>	<p>Yes</p>

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Section of the Code/Regulation No.	Requirement with respect to Resolution Plan	Clause of Resolution Plan
	implementation plan, according to the CoC?	
Regulation 38(1)	Whether the amount due to the Operational Creditors under the Resolution Plan has been given priority in payment over Financial Creditors?	Yes. Clause 8.4.1
Regulation 38(1A)	Whether the resolution plan includes a statement as to how it has dealt with the interests of all stakeholders?	Yes. Clause 1.1.6
Regulation 38(1B)	(i) Whether the Resolution Applicant or any of its related parties has failed to implement or contributed to the failure of implementation of any resolution plan approved under the Code. (ii) If so, whether the	NO Clause 2.6.2

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Section of the Code/Regulation No.	Requirement with respect to Resolution Plan	Clause of Resolution Plan
	Resolution Applicant has submitted the statement giving details of such non-implementation?	
Regulation 38(2)	<p>Whether the Resolution Plan provides:</p> <p>(a) The term of the plan and its implementation schedule?</p> <p>(b) For the management and control of the business of the Corporate Debtor during its term?</p> <p>(c) Adequate means for supervising its implementation?</p>	<p>Yes. Clause 10.2 till Clause 10.3.5</p> <p>Yes. Clause 1.1.9 and Clause 10</p> <p>Yes. Clause 10.1</p>
Regulation 38(3)	<p>Whether the resolution plan demonstrate that-</p> <p>(a) It addresses the clause of default?</p> <p>(b) It is feasible and</p>	<p>Yes. Clause 1.1.12</p>

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Section of the Code/Regulation No.	Requirement with respect to Resolution Plan	Clause of Resolution Plan
	<p>viable?</p> <p>(c) It has provisions for its effective implementation?</p> <p>(d) It has provisions for approvals required and the timeline for the same?</p> <p>(e) The resolution applicant has the capability to implement the resolution plan?</p>	<p>Yes.</p> <p>Clause 1.1.12</p> <p>Yes.</p> <p>Clause 1.1.12</p> <p>Yes.</p> <p>Yes.</p> <p>Clause 1.1.12</p> <p>Yes.</p> <p>Clause 1.1.12</p>
Regulation 39(2)	Whether the RP has filed applications in respect of transactions observed, found or determined by him?	Yes, the RP has filed avoidance transaction
Regulation 39(4)	Provide details of performance security received, as referred to in Sub-Regulation (4(A) of Regulation 36B.	Yes. Bank Guarantee Received.

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- 8.** A bare perusal of the extracts / excerpts from the Plan establishes that the **Resolution Plan has been approved with 96.05% voting share**. As per the CoC, the 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 its approval.
- 9.** On perusal of the documents on record, supported by an affidavit of the Resolution Professional, we accord our satisfaction that the Resolution Plan as approved by the CoC, is in accordance with sections 30 and 31 of the IBC and also comply with regulations 38 and 39 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, as enumerated supra.
- 10.** We have also considered whether the reliefs, waivers and concessions have been sought for and as such given in the Resolution Plan. We would note that this Adjudicating Authority has power to grant reliefs, waivers and concessions only with respect to the reliefs, waivers and concessions that are directly in relation to the Code and the Companies Act 2013 (within the powers of the NCLT), and these are granted keeping in mind the object of the Code. No reliefs, waivers and concessions that fall within the domain of other government department/authorities are granted. However, The reliefs, waivers and

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concessions that pertain to other governmental authorities/departments may be dealt with the respective competent authorities/forums/offices, Government or Semi Government of the State or Central Government with regard to the respective reliefs, waivers and concessions whenever sought for.

11. It is almost trite and fairly well settled that the Resolution Plan must be consistent with the extant law. The Resolution Applicant shall make necessary applications to the concerned regulatory or statutory authorities for renewal of business permits and supply of essential services, if required, and all necessary forms along with filing fees etc. and such authority shall also consider the same keeping in mind the objectives of the Code, which is essentially the resolving of the insolvency of the Corporate Debtor.

12. The reliefs sought with respect to subsisting contracts/agreements can be granted, and no blanket orders can be granted in the absence of the parties to the contracts and agreements.

13. With respect to the waivers with regard to extinguishment of claims which arose Pre-CIRP and which have not been claimed are granted in terms of **Ghanashyam Mishra and Sons Private Limited vs. Edelweiss Asset Reconstruction Company Limited reported in MANU/SC/0273/2021: (2021)9SCC657: [2021]13SCR737**, wherein

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the Hon'ble Apex Court has held that "*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 Govt., any State Govt. or any local authority, guarantors and other stakeholders.*"

14. In this regard we also rely on the judgement of Hon'ble High Court of Rajasthan in the matter of **EMC v. State of Rajasthan, Civil Writ Petition No. 6048/2020 with 6204/2020 reported in (2023) ibclaw.in 42 HC** wherein it has been inter-alia held that "*Law is well-settled that with the finalization of insolvency resolution plan and the approval thereof by the NCLT, all dues of creditors, Corporate, Statutory and others stand extinguished and no demand can be raised for the period prior to the specified date.*"

15. Thus on the date of approval of resolution plan by the Adjudicating Authority, all such claims, which are not a part of resolution plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim, which is not part of the resolution plan as per the law laid down by the Hon'ble Supreme Court in **Ghanashyam Mishra** supra. The Hon'ble Supreme Court also held that all the dues including the statutory dues owed to the Central Govt, any State Govt or any local

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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.

- 16.** With respect to the waivers sought in relation to guarantors, we seek to place reliance on the judgment of **Lalit Kumar Jain v. Union of India reported in MANU/SC/0352/2021: (2021) 9 SCC 321: (2021) ibclaw.in 61 SC**, wherein the Hon'ble Supreme Court held in para 133 that sanction of a resolution plan and finality imparted to it by section 31 does not per se operate as a discharge of the guarantor's liability shall apply.
- 17.** With respect to the reliefs and waivers sought for all inquiries, litigations, investigations and proceedings shall be granted strictly as per the section 32A of the Code and the provisions of the law as may be applicable.
- 18.** As far as the question of granting time to comply with the statutory obligations/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.

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- 19.** In case of non-compliance of this order or withdrawal of Resolution Plan, the CoC shall have the right to forfeit the EMD amount already paid by the Resolution Applicant.
- 20.** Subject to the observations made in this Order, the Resolution Plan in question is hereby **APPROVED** by this Bench. The Resolution Plan shall form part of this Order.
- 21.** The Resolution Plan is binding on the Corporate Debtor and other stakeholders involved so that revival of the Debtor Company shall come into force with immediate effect.
- 22.** The Moratorium imposed under section 14 shall cease to have effect from the date of this order.
- 23.** The Resolution Professional shall submit the records collected during the commencement of the proceedings to the Insolvency & Bankruptcy Board of India for their record and also return to the Resolution Applicant or New Promoters.
- 24.** Certified copy of this Order be issued on demand to the concerned parties, upon due compliance.

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- 25.** Liberty is hereby granted for moving any Application if required in connection with implementation of this Resolution Plan.
- 26.** A copy of this Order is to be submitted in the Office of the Registrar of Companies, West Bengal.
- 27.** It is not on record that whether the Financial Creditors have invoked Personal Guarantees or not. It is essential for the purpose of maximization for wealth of the Corporate Debtor, personal guarantees need to be invoked. Therefore, we direct the Financial Creditors to invoke Personal Guarantees, if not already done.
- 28.** The Resolution Professional shall stand discharged from his duties with effect from the date of this Order, however, he is required to comply with our direction mentioned in Para 30 of the order subject to comply the direction, which the creditors should bear in mind.
- 29.** The Resolution Professional is further directed to handover all records, premises/factories/documents 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/premises/factories/documents through the Resolution

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

- 30.** The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
- 31.** The Interlocutory Application being **IA (IB) No. 1490 (KB)/2023 along with main Company Petition vide CP(IB) No. 2179(KB)/2019 shall stand disposed of** accordingly.
- 32.** Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

Balraj Joshi
Member (Technical)

Bidisha Banerjee,
Member (Judicial)

Signed on this, the 20th day of December, 2024

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M. Jana (P.S.)