



**NATIONAL COMPANY LAW TRIBUNAL  
INDORE BENCH**

**IA No. 29 of 2024  
in  
CP(IB) 37 of 2022**

**IA No. 29 of 2024**

*[Under Section 30(6) of the Insolvency and Bankruptcy Code, 2016 and read with Regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016]*

**IN THE MATTER OF:**

**CA Pankaj Shah**

Resolution Professional for  
M/s Premshree Prime Properties Private  
Limited  
203, Shrinagar Main, Indore, MP-452001

**...Applicant**

**In the matter of CP(IB) 37 of 2022:**

[An application under Section 7 of the Insolvency & Bankruptcy Code, 2016]

**Kalyan Toll Infrastructure Private Limited**

**Financial Creditor**

**Versus**

**Premshree Prime Properties Private  
Limited**

**Corporate Debtor**

**Order Pronounced on: 14.05.2025**

**Coram: Mrs. Chitra Ram Hankare, Member (Judicial)**

**Mr. Kaushlendra Kumar Singh, Member (Technical)**

**Appearance:**

For the Applicant

Ld. PCS Mr. Pratik Tripathi

**ORDER**

1. This application is filed on 29.12.2023 under Section 30(6) of Insolvency & Bankruptcy Code, 2016 by CA Pankaj Shah Resolution Professional (RP) of the corporate debtor Premshree Prime properties Private Limited for obtaining approval of the Resolution Plan submitted by Kalyan Toll Infrastructure Limited.

2. The corporate debtor Premshree Prime Properties Private Limited was incorporated on 11.02.2008 under the provisions of the Companies Act,



1956. The company was engaged in the business of builders; contractors; construction of buildings, houses, apartments, structures, or residential office etc., preparing building sites, constructing, reconstructing, erecting, altering etc.

The corporate debtor had undertaken two projects for construction of buildings i.e Corridor Exotica and Saffron Exotica at Super Corridor, gram Palakhedi, Tehsil Hatod, Indore (M.P.). Both the projects were registered with RERA.

3. The project Corridor Exotica was undertaken for construction of residential complex upon the land owned by the corporate debtor itself. However, the project Saffron Exotica was for construction of residential complex upon the land owned by Mrs. Anupama Bhatewara and Mrs. Jyotsna Jaiswal as per the JV Agreement dated 14.12.2016. This project was to come up upon the piece of land situated (i) at Survey Nos. 285/3/2/4 admeasuring 0.253 Hectare, Village Palakhedi, Patwari Halka No. 36, Tehsil Hatod, District Indore, M.P. and (ii) at Survey Nos. 285/3/2/3 admeasuring 0.253 Hectare, Village Palakhedi, Patwari Halka No. 36, Tehsil Hatod, District Indore, M.P.

4. The averments made by the applicant/ resolution professional in the present application and as argued by the learned counsel are summarized as under:

(i) The corporate debtor was admitted in the Corporate Insolvency Resolution Process (CIRP) on 17.02.2023. Mr. Pankaj Shah was appointed as an Insolvency Resolution Professional (IRP). On 20.02.2023 the IRP made a public announcement of the CIRP of the corporate debtor thereby calling upon its creditors to submit their claim with requisite proof. The Committee of Creditors (CoC) was constituted as under:



Sr.	Name of Creditor	Voting Share	Secured/ Unsecured Creditor
1.	Madhya Pradesh Financial Corporation	36.96%	Secured Creditor
2.	Kalyan Toll Infrastructure Limited	9.02%	Unsecured Creditor
3.	Home Buyer being identified as Financial Creditors in Class being represented by their authorised representative	54.02%	Unsecured Creditor
	<b>Total</b>	100%	

The CoC resolved to appoint the IRP Mr. Pankaj Shah as RP of the corporate debtor.

(ii) The applicant has also appointed two Registered Valuers i.e. Mr. Shailesh Papdiwal and Mr. Rajeev Bumb. The RP published Form-G on 24.05.2023 in widely circulated English as well as local language newspapers. In response thereto, he received only 2 resolution plans from Kalyan Toll Infrastructure Limited and Prakash Asphalting & Toll Highways India Limited.

(iii) The CoC discussed the resolution plan, in its various meetings. Following that, the revised resolution plan was submitted by the said prospective resolution applicant time and again. Subsequent to the sixth CoC meeting held on 09.11.2023, the revised resolution plan was discussed and was put to vote. The resolution plan from Kalyan Toll Infrastructure Limited was approved by the CoC with 100 % votes. However, later the amendments in the resolution plan as suggested by this Adjudicating Authority were made and the same were placed before the CoC & were approved by 100% votes.

(iv) Meantime, the CIRP period of 180 days was about to get over, the RP, as per the resolution passed by the CoC requested this Adjudicating Authority to extend the CIRP period by 90 days and accordingly, the CIRP period was extended by this Adjudicating Authority vide its order dated 24.08.2023 for 90 days. Thereafter, the RP filed another application for further extension of CIRP period by 60



days beyond 270 days and accordingly, the CIRP period was extended by this Adjudicating Authority vide its order dated 21.12.2023 for 45 days.

(v) The applicant appointed Transaction Auditor- M/s Dassani & Associates to conduct the transaction audit of the corporate debtor to identify Preferential, Undervalued, Extortionate and fraudulent transactions if any carried out by the corporate debtor. Based on the report dated 01.11.2023 of the said auditor, the applicant filed an application IA No.368 of 2023 under section 43, 49 and an application IA No.30 of 2024 under section 66 of the Code before this Hon'ble Tribunal.

(vi) The resolution applicant Kalyan Toll Infrastructure Limited has through addendum to the resolution plan added a clause that in case of any transaction is avoided/ set aside by this Adjudicating Authority in terms of the aforesaid sections and any amount is recovered from the aforesaid transactions then the same is to be transferred to the creditors and distributed amongst them in proportion after deduction of legal cost and the above said applications will be pursued by the resolution applicant subsequent to the approval of the resolution plan.

(vii) The resolution applicant through another addendum has inserted a clause in the resolution plan under the heading Payment of Workmen and Employees Dues, wherein the resolution applicant has undertaken to pay the liabilities which are due and payable as per the provisions of the Employees Provident Fund & Miscellaneous Provisions Act, 1952 and rules made thereunder with respect to the contribution of employees provident fund of the corporate debtor.

(viii) Further, the resolution applicant through another addendum to the resolution plan undertook to continue the JV agreement dated



14.12.2016 with the landowners to complete the project- Saffron Exotica.

(ix) The resolution applicant Kalyan Toll Infrastructure Limited has proposed to infuse a sum of Rs.29,59,66,062/-. Further, the resolution applicant also proposed to pay Rs.40,00,000/- towards CIRP cost and refund of Rs.1,38,000/- towards home buyer of Saffron Exotica Project and Rs.5.28 crore towards working capital in addition to the infusion of the above-said amount.

The details of the proposed payment to the stakeholders are as follows:

(Amount in Rs.)

SI No.	Category of Stakeholder	Sub-Category of Stakeholder	Amount claimed (Rs.)	Amount Admitted (Rs.)	Amount Provided under the Plan	Amount Provided to the Amount Claimed %
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	Secured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	NIL	NIL	NIL	NIL
		(b) Other than (a) above:				
		(i) who did not vote in favour of the resolution	NIL	NIL	NIL	NA
	Madhya Pradesh Financial Corporation	(ii) Who voted in favour of the resolution plan	13,47,27,545	13,47,27,545	7,19,00,000	53.34%
		Total [(a)+(b)]	13,47,27,545	13,47,27,545	7,19,00,000	53.34%
2.	Unsecured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	NIL	NIL	NIL	NA
		(b) Other than (a) above:				
		(i) who did not				



		vote in favour of the resolution plan	NIL	NIL	NIL	NIL
	Kalyan Toll Infrastructure Limited	(ii) who voted in favour of the resolution plan	3,28,69,613	3,28,69,613	3,28,69,613	100%
	Dara Shah	(Claim rejected)	8,91,000	-	-	-
	Home Buyers	Voted in favour of resolution plan	30,00,30,867	20,66,50,904	19,11,36,449	63.71%
		Total [(a)+(b)]	33,37,91,480	23,95,20,517	22,40,06,062	67.11%
3.	Operational Creditors	(a) Related Party of Corporate Debtor	NIL	NIL	NIL	NIL
		(b) Other than (a) above:				
		(i) Operational Creditors other than government workmen and employees	50,94,671	32,46,080	-	0.00%
		(ii) Government	NIL	NIL	NIL	NIL
		(iii) Workmen	NIL	NIL	NIL	NIL
		(iv) Employees	NIL	NIL	NIL	NIL
		Total [(a)+(b)]	50,94,671	32,46,080	NIL	NIL
4	Other debts and dues		-	-	-	-
Grand Total			47,36,13,696	37,74,94,142	29,59,66,062	62.49%

(x) The RP has examined the resolution plan and the compliances required. For ready reference, the compliances examined by the RP are reproduced hereunder:

Section of the Code/Regulation No.	Requirement with respect to Resolution Plan	Clause of Resolution Plan	Compliance (Yes/No)
25 (2) (h)	Whether the Resolution Applicant meets the criteria approved by the CoC having regard to the complexity and scale of operations of business of the CD?	Eligibility Criteria resolution applicant for in terms of section 25(2)(h) approved by COC in its third meeting Minimum Net Worth of INR 10 Crores as on 31.03.2022 and average turnover for last three years to be minimum INR 25 Crore or above .Page 102 of IA	Yes



Section 29A	Whether the Resolution Applicant is eligible to submit resolution plan as per final list of Resolution Professional or Order, if any, of the Adjudicating Authority?	Page 116 of IA Fourth Meeting of COC	Yes
Section 30 (1)	Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?	Page 40/44 of Additional Affidavit dated 05.04.2024 in compliance of order dated 22.03.2024  Affidavit dated 31 July 2023 along with list of Annexures  Page 220 to 224 of IA	Yes
Section 30 (2)	Whether the Resolution Plan- (a) provides for the payment of insolvency resolution process costs?	Page 43/46 of Additional Affidavit dated 05.04.2024 in compliance of order dated 22.03.2024	Yes
	(b) provides for the payment to the operational creditors?	Page 48/53-55 of Additional Affidavit dated 05.04.2024 in compliance of order dated 22.03.2024 Chapter VII Funding Plan and Sources of Fund Para C, D, E	Yes
	(c) provides for the payment to the financial creditors who did not vote in favour of the resolution plan?	Page 60 of Additional Affidavit dated 05.04.2024 in compliance of order dated 22.03.2024	Yes
	(d) provides for the management of the affairs of the corporate debtor?	Page 67-68 of Additional Affidavit dated 05.04.2024 in compliance of order dated 22.03.2024	Yes
	(e) provides for the implementation and supervision of the resolution plan?	Page 65-66 of Additional Affidavit dated 05.04.2024 in compliance of order dated 22.03.2024 Implementation and Supervision	Yes
	(f) contravenes any of the provisions of the law for the time being in force?	Page 29 of Additional Affidavit dated 05.04.2024 in compliance of order dated 22.03.2024.  Chapter-VI Mandatory contents of plan	Yes
Section 30(4)	Whether the Resolution Plan (a) is feasible and viable, according to the CoC?	Page 610-611 of IA Sixth Meeting of COC	Yes
	(b) has been approved by the CoC with 66% voting share?	Unanimously by 100% Page 611 of IA	Yes
Section 31(1)	Whether the Resolution Plan has provisions for its effective implementation plan, according to the CoC?	Page 65 of Additional Affidavit dated 05.04.2024 in compliance of order dated 22.03.2024	Yes



Regulation 38(1)	Whether the amount due to the operational creditors under the resolution plan has been given priority in payment over financial creditors?	Page 51 of Additional Affidavit dated 05.04.2024 in compliance of order dated 22.03.2024	Yes
Regulation 38(1A)	Whether the resolution plan includes a statement as to how it has dealt with the interests of all stakeholders?	Page 43 of Additional Affidavit dated 05.04.2024 in compliance of order dated 22.03.2024	Yes
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.	Page 45 of Additional Affidavit dated 05.04.2024 in compliance of order dated 22.03.2024	Yes
	(ii) If so, whether the Resolution Applicant has submitted the statement giving details of such non-implementation	-	-
Regulation 38(2)	Whether the Resolution Plan provides: (a) the term of the plan and its implementation schedule?	Term of the plan Page 65 of Additional Affidavit dated 05.04.2024 in compliance of order dated 22.03.2024 Chapter XII Page 69 of Additional Affidavit dated 05.04.2024 in compliance of order dated 22.03.2024 Implementation Schedule	Yes
	(b) for the management and control of the business of the corporate debtor during its term?	Page 67 of Additional Affidavit dated 05.04.2024 in compliance of order dated 22.03.2024	Yes
	(c) adequate means for supervising its implementation?	Page 49 of Additional Affidavit dated 05.04.2024 in compliance of order dated 22.03.2024	Yes
38(3)	Whether the resolution plan demonstrates that-		
	(a) it addresses the cause of default?	Page Additional 45 of Affidavit dated 05.04.2024 in compliance of order dated 22.03.2024	Yes
	(b) it is feasible and viable?	Page Additional 45 of Affidavit dated 05.04.2024 in compliance of order dated 22.03.2024	Yes
	(c) it has provisions for its effective implementation?	Page 69 of Additional Affidavit dated 05.04.2024 in compliance of order dated 22.03.2024	Yes
	(d) it has provisions for approvals required and the timeline for the same?	Page 69 Additional of Affidavit dated 05.04.2024 in compliance of order dated 22.03.2024	Yes
	(e) the resolution applicant has the capability to implement the resolution plan?	Page 49 of Additional Affidavit dated 05.04.2024 in compliance of order dated 22.03.2024	Yes
39(2)	Whether the RP has filed applications in respect of transactions observed, found or determined by him?		Yes





Regulation 39 (4)	Provide details of performance security received, as referred to in sub-regulation (4A) of regulation 36B.	620-625 of IA	Yes.
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5. We heard the learned counsel for the RP. On perusal of records it is noted that the CoC approved the resolution plan of Kalyan Toll Infrastructure Limited by 100% votes. This resolution applicant is a unsecured financial creditor and one of the COC member. It is noted that the corporate debtor had undertaken two projects for construction of buildings at Super Corridor, Gram Palakhedi, Tehsil Hatod, Indore, M.P under the name of 'Corridor Exotica' and 'Saffron Exotica' respectively.

6. It is noted that the project Corridor Exotica is constructed at corporate debtors' land and project Saffron Exotica is constructed at the land owned by Mrs. Anupama Bhatewara and Mrs. Jyotsna Jaiswal for which the corporate debtor had entered into a JV Agreement dated 14.12.2016 with landowners i.e. Mrs. Anupama Bhatewara and Mrs. Jyotsna Jaiswal for construction of building of 6 floors at their properties situated at Village Palakhedi, Tehsil Hatod, District Indore, M.P.

7. It is noted that the status of the projects as provided by the RP through Information Memorandum of the corporate debtor are as under:

i. 'Corridor Exotica'-

Block	Flat Constructed	Under Construction	Unsold flat
Block A	30	Nil	5
Block B	24	Nil	2
Block C	30	Nil	6
Block D	NA	NA	NA
Block E	72	Nil	16
Block F	72	Under final stage of construction	54
Block G	104	90% Structure work completed	101
Block H	NA	NA	NA



ii. 'Saffron Exotica'- 156 flats of 1 BHK is to be constructed, for which construction has not yet commenced. However, all the formalities such as approvals etc. are sought and granted by the relevant Authorities.

8. Moreover, the said landowners have filed an application IA 8 of 2025 seeking direction to the RP/Resolution Applicant to amend the resolution plan in such manner that there will be no right/interest extended/ created in favour of the corporate debtor/ resolution applicant on the immovable properties of those landowners. However, this Adjudicating Authority vide an order of even date in IA 8 of 2025, has directed to continue the JV Agreement dated 14.12.2016 in accordance with the same terms stipulated therein. The Resolution applicant has also inserted a clause in the resolution plan by way of an addendum to that effect.

9. Before considering the resolution plan for approval, we consider it appropriate to list the salient features and proposals as made by the Resolution Applicant Kalyan Toll Infrastructure Limited through the resolution plan:

- (i) The resolution plan provides for payment of the CIRP cost in priority to the repayment of other debts of the corporate debtor.
- (ii) It provides for payment of Rs 7,19,00,000/- to the secured financial creditors against the admitted claims of Rs 13,47,27,545/-.
- (iii) It provides for payment of Rs 22,40,06,062/- to the unsecured financial creditors against the admitted claims of Rs 23,95,20,517/-.
- (iv) It does not provide any payment to the operational creditors against their admitted claims of Rs 32,46,080/-.
- (v) It provides for the Infusion of Capex and required working capital to restart the operations of the Corporate Debtor.



(vi) The authorized share capital of the corporate debtor is Rs 1,00,00,000/- and the paid-up capital is Rs 99,23,500/-. In total there are 9,92,350 subscribed equity shares of face value of Rs 10/- each. As provided in the resolution plan, such share capital of the corporate debtor shall stand extinguished without any payment to the existing shareholders of the corporate debtor.

(vii) The Resolution Applicant has concrete plans for the management and ongoing operations of the corporate debtor.

(viii) There are adequate plans for supervision and implementation of the resolution plan.

(ix) The source of funds outlining the cost of the resolution plan and means of finance in order of priority of the payment as per section 53(1) of the Code is clearly outlined.

(x) The resolution plan assumes several reliefs and waivers being sought from relevant Government departments consequent to the approval of the resolution plan by the CoC. However the approval of resolution plan is not at all subject to grant of any such relief and waivers so sought.

(xi) 103 home buyers claims were received for Corridor Exotica amounting to Rs.29,98,92,867/- against which Rs.20,65,12,904/- was admitted; and 1 home buyer claim was received for Saffron Exotica amounting to Rs.1,38,000/- which was fully admitted.

(xii) The resolution applicant proposes to complete the development of sold units with all the facilities and amenities as per the agreement and to execute respective sale deeds by receiving balance consideration of Rs.4,57,83,603/- in accordance with the payment schedule provided in original agreement with the respective home buyers with the corporate debtor. The resolution applicant proposes additional



incidental cost of Rs.1,25,000/- from such real estate allottees within 180 days from the effective date.

That in case of failure in payment of balance consideration along with additional cost by any home buyer on or before the completion of the unit within a period of 6 months from the effective date, then the resolution applicant is entitled to forfeit their respective rights, interests and amount paid provided that such forfeiture is subject to notice of further 30 days, subsequent to which all rights of the respective home buyer would get cancelled and extinguished.

(xiii) The plan contains a clause that in case any home buyer is not interested in getting booked flat, then amount paid by them would be refunded. Moreover, in case of project Saffron Exotica, claim from only one home buyer was received, to which principal amount is proposed to be refunded.

(xiv) The stages for implementation of the resolution plan are as follows:

Stage 1: The Resolution Applicant Kalyan Toll Infrastructure Limited proposes to complete the construction of partially completed units in respect of real estate allottees and sold units within 180 days from the effective date in relation to Project F and Project G where the home buyers have made part payment. The Resolution Applicant proposes a plan in which the home buyers will pay balance amount due from them (as per the original contract with the Corporate Debtor) and mentioned in IM and a marginal additional amount to take into consideration the increase in cost of project in last 5 years from the time the project has come to halt. The Resolution Applicant proposes to complete the process in 180 days and handover the flat after completing the balance work. The time period is subject to deposit of money by home buyers within a fixed time.



Stage 2: The Resolution Applicant Kalyan Toll Infrastructure Limited proposes to infuse amount of Rs. 7.19 Crores within 365 days and the same will be used to pay of the Secured Creditors in full & final settlement of their claims.

Stage 3: As the Financial Creditors and other creditors will be settled in 365 days, the Resolution Applicant proposes that the Monitoring Committee will be dissolved after a period of 365 days.

Stage 4: The Resolution Applicant Kalyan Toll Infrastructure Limited proposes to develop the unsold units/un booked flats in blocks F & G. The cost of balance construction cost estimated for the Blocks F & G is Rs. 5.28 crores (net of Balance receivables from Home buyers including additional consideration of Rs. 1.14 crores towards escalation cost). Further Resolution Applicant proposes to develop and build the flats unsold in blocks D and H. The flats build on the remaining land /Project will be sold.

The Resolution Applicant Kalyan Toll Infrastructure Limited proposed to infuse the estimated fund required (net of advance received from prospective buyers of these flats) for developing the land and building the flats. The amount realized out of sale of these property will be used to pay the lenders (public or private) or banks from whom the fund if required will be raised for development of the property.

The time period proposed for the development/completion of these units is 6 months to 30 months.

(xv) In addition to the above, the resolution plan is thrice amended and the same are approved by the CoC. The addendums to the resolution plan are as under:

- a. Addendum dated 05.04.2024 was filed pursuant to the order dated 22.03.2024 of this Adjudicating Authority, wherein, it was observed that there are no express provisions made in the plan



as regards the Project Saffron Exotica and the rights of the landowners over the said project. Therefore, by way of an addendum, a clause was inserted to continue the JV Agreement dated 14.12.2016.

For ready reference the relevant extract of the said addendum is as under:

*Resolution Applicant propose to honour the JV agreement dated 14.12.2016 entered by Corporate Debtor with Mrs. Anupama Bhatewara and Mrs. Jyotsana Jaiswal along with existing terms and condition respect to the project 'Saffron Exotica' and will follow the JV agreement in letter and spirit and good faith. Kindly note that with respect to the project 'Saffron Exotica' only one claim was received by the Resolution Professional of Rs. 1,38,000/- which is admitted and repayment of clause of the claim is already mentioned in the resolution plan.*

b. Addendum dated 11.10.2024 was filed in pursuance to the hearing dated 23.09.2024 of this Adjudicating Authority, to consider the creditors as the proposed beneficiaries of the proceeds from avoidance transactions.

For ready reference the relevant extract of the said addendum is as under:

*"In the event, any transactions is avoided/set aside by the NCLT in term of Sections 43,45,47,49,50 or 66 of the Insolvency and Bankruptcy Code, 2016 and any amount is recovered from the proceeding, then those recoveries shall belong to the Creditors and distributed among the Creditors in their proportions after deduction of cost of legal and recovery proceeding and such application/s pertaining to above referred section will be pursued by the Resolution Applicant."*

c. Addendum dated 16.11.2024 was filed in pursuance to the order dated 13.11.2024 of this Adjudicating Authority in IA No. 5 of 2024 & IA No.409 of 2024, wherein, it was stated to amend the resolution plan for providing payment on EPF dues.



For ready reference the relevant extract of the said addendum is as under:

*“Notwithstanding anything contained in the resolution plan, the Resolution Applicant undertakes to pay the liabilities which are due and payable as per the provisions of the Employees Provident Funds & Miscellaneous Provisions Act, 1952 and rules made thereunder with respect to the contribution of employees provident fund of the Corporate Debtor.”*

10. It is further noted that during the course of argument, the Bench raised a query as to whether two or more claims were received for the same flat, to which the Counsel submitted that only with regards to one flat there are two claims received. However, both the claims are admitted and the Resolution Applicant has proposed to allot the flats to both the home buyers.

11. We proceed to examine the plan in view of section 30(2) and 31 of the Code r.w. Regulation 38 of the IBBI (CIRP of the Corporate Debtor) Regulation, 2016. The RP has placed on record the compliance certificate in Form-H. It shows that the fair value of the assets of the corporate debtor is Rs.27,05,13,989/- whereas, the liquidation value is Rs.21,05,09,000/-. The successful resolution applicant has proposed payment of Rs.29,59,66,062/- in the resolution plan.

12. In order to obtain the approval of the Adjudicating Authority, the resolution plan should adhere to the following requirements as per section 30(2) of the Code:

(i) It should provide for the payment of insolvency resolution process costs in priority to the repayment of other debts of the corporate debtor.

[Section 30(2)(a)]

(ii) The repayment of the debts of operational creditors should not be less than the amount to be paid to such creditors in the event of



liquidation of the corporate debtor under section 53 of the Code, or the amount that would have been paid to the said creditors if the amount to be distributed under the resolution plan had been distributed in accordance of section 53(1) of the Code.

Moreover, the payment to the operational creditor is to be made in priority over the financial creditor;

Further the repayment of the debts of dissenting financial creditors should not be less than the amount that would have been paid to such creditors in the event of liquidation of the corporate debtor under section 53 of the Code and the payment to the said dissenting financial creditor is to be made in priority to the consenting financial creditors.

[Section 30(2)(b) read with CIRP Regulation 38(1)(a) & 38(1)(b)];

(iii) Provides for the management of the affairs of the corporate debtor after approval of the resolution plan.

[Section 30(2)(c) read with CIRP Regulation 38(2)(b)];

(iv) The implementation and supervision of the resolution plan.

[Section 30(2)(d) read with CIRP Regulation 38(2)(c)];

(v) It does not contravene any of the provisions of the law for the time being in force.

[Section 30(2)(e)];

(vi) It conforms to such other requirements as may be specified by the Board.

[Section 30(2)(f)]

Such other requirements of the resolution plan as detailed in IBBI (Resolution Process for Corporate Persons) Regulations, 2016 which are not covered above, are as under:

(a) The resolution plan should include statement as to how it has dealt with the interests of all stakeholders including





financial creditors and operational creditors of the corporate debtor.

[CIRP Regulation 38 (1A)]

- (b) The resolution plan should include a statement giving details as to whether the resolution applicant or any of its related parties has at any time failed to implement or caused to the failure of implementation of any other resolution plan which was approved by the Adjudicating Authority.

[CIRP Regulation 38 (1B)]

- (c) The resolution plan should contain the term of the plan and its implementation schedule.

[CIRP Regulation 38(2)(a)]

- (d) The resolution plan should also demonstrate that it addresses the cause of default; is feasible and viable; has provisions for its effective implementation; has provisions for approvals required and timeline for the same. Further that the resolution applicant has the capability to implement the resolution plan.

[CIRP Regulation 38(3)]

13. In view of the above provisions of the Code, the resolution plan submitted before us has been examined as follows:

- (i) In the plan, the provision towards CIRP costs is made for Rs.40,00,000/- to be paid immediately on approval of the resolution plan, in priority to the repayment of other debts of the corporate debtor. Thereby, section 30(2)(a) has been complied with. Further, the plan contains a provision that in case the CIRP cost is more than Rs.40,00,000/- then the difference amount would be paid from the consideration proposed to be paid to the financial creditors.



(ii) There are no dissenting financial creditors. The resolution plan has been approved by the CoC with 100% voting shares. Further, in the case of the operational creditors, they should not be paid less than the amount payable to such creditors in the event of liquidation of the corporate debtor under section 53 of the Code, or the amount that would have been paid to the said creditors if the resolution plan value had been distributed in accordance of section 53(1) of the Code.

In the present case, the liquidation value is Rs.21,05,09,000/- and the total admitted claim of secured financial creditors and unsecured financial creditors is Rs.13,47,27,545/- and Rs.23,95,20,517/- respectively. As such if the said liquidation value was to be considered in the event of liquidation as a total amount to be distributed as per section 53 then the operational creditors would have got nothing. Similarly, if the total proposed plan value i.e. Rs.29,59,66,062/- in addition to CIRP Cost of Rs.40 lakhs is to be distributed in accordance with section 53, then also nothing would have remained for the operational creditors.

As such the provisions of section 30(2)(b) read with CIRP Regulation 38(1)(a) & 38(1)(b) are complied with.

(iii) The mechanism for management and control of the affairs of the corporate debtor after approval of the resolution plan till its implementation has been provided in the resolution plan itself whereby a Monitoring Committee consisting of one Insolvency Professional (which may or may not be RP), 2 representatives of the resolution applicant, 2 representatives of CoC to be appointed along with the Chairman of the Implementation & Monitoring Committee who will look after the business of the corporate debtor after approval of the resolution plan and pending its implementation. We hold that thereby provisions of Section 30(2)(c) read with CIRP Regulation 38(2)(b) are complied with.



(iv) The resolution plan contains a provision wherein, the implementation of the said plan will be supervised by the Monitoring Committee. Thereby, Section 30(2)(d) read with CIRP Regulation 38(2)(c) have been complied with.

(v) The RP has submitted that the plan does not contravene any provisions of law. We also noted that the plan does not contravene any provisions of the law for the time being in force. Thereby, Section 30(2)(e) has been complied with.

(vi) The resolution plan also conforms to other IBBI Regulations as given hereunder:

- a) The resolution plan adequately deals with the interests of all stakeholders, including financial creditors and operational creditors of the corporate debtor. Thereby, the plan is in compliance with CIRP Regulation 38 (1A).
- b) It is submitted that neither the resolution applicant nor any of its related parties have at any time failed to implement or contributed to the failure of implementation of any other resolution plan which was approved by the Adjudicating Authority. Thereby, the plan is in compliance with CIRP Regulation 38 (1B).
- c) The term of the Plan is 365 days and its implementation schedule is as under:

Sr.	Activity	Estimated Timeline
1.	NCLT approval date	X (Effective date)
2.	Formation of Monitoring Committee	X+3 Days
3.	Payment of CIRP costs	Within X+30 days
4.	Allotment of entire share capital in favor of resolution applicant or SPV	Within X+30 days
5.	Payment to Workman and Employees as per resolution plan	Within X+6 months
6.	Payment to Operational Creditors and Other Creditors as per resolution plan	Within X+6 months
5.	Payment of Statutory Dues as per resolution plan	On X+6 months



6.	Payment to financial creditors as per resolution plan	Within X+12 months as per schedule given hereunder.
7.	Infusion of Capex and Working Capital	Within X+3 months to 30 months

Thereby CIRP Regulation 38(2)(a) has been complied with.


- d) The resolution plan addresses the cause of default; is feasible and viable; has provisions for its effective implementation; contains provisions for approvals required and the timeline for the same. Further that the resolution applicant has the capability to implement the resolution plan. Thus CIRP Regulation 38(3) has been complied with.

14. The resolution applicant Kalyan Toll Infrastructure Limited is an unlisted company incorporated on 03.07.2002. The resolution applicant is engaged in carrying on the business of EPC contractor (mainly in infrastructure) and also undertakes & executes BOT road projects mainly in the state of MP, Maharastra and Gujarat. The company is registered for construction works with Public Works Department of Maharashtra and Madhya Pradesh as 'A' category contractor, which enables the company to bid for any amount of work.

Sources of funds is by way of internal accruals and funds available with the resolution applicant and the funds that may be raised out of established standing of the resolution applicant. The net worth of the resolution applicant is Rs.915.12 crore as on 31.03.2022. The managing director & promoter of the resolution applicant also have sufficient resources to induct funds in the company to meet the proposed investment as envisaged in the resolution plan.

15. It is also noted that the resolution applicant has sought waiver of certain reliefs & concessions such as:

- i. Exemption from all taxes, levies, fees, transfer charges, transfer premiums and surcharges, Regional Transport Office dues and any



other dues of any authorities related to the implementation of the resolution plan;

- ii. The ROC to re-instate all approvals and waive all the financial or other penalties/ interest/ prosecution of all type and nature;
- iii. All designated authorized dealer category/ baks to grant approval or dispensations as may e required for actions contemplated under the plan in accordance with its terms & conditions;
- iv. Waiver of income tax and minimum alternate tax liability or any consequences thereof;
- v. The CBDT to not to take any action with respect to the transactions contemplated under this plan under section 281 of the Income Tax Act;
- vi. All non-compliances, liabilities, defaults, tax, litigations, inquiries, investigations and proceedings, of the corporate debtor for the period prior to the effective date shall be waived of;

Further, the approval of the resolution plan is not conditional to the grant of reliefs & concessions sought by the resolution applicant.

16. As far as reliefs and concessions claimed by the resolution applicant with respect to the unpaid liabilities after approval of the plan and the claims not filed at all with the RP during the CIRP, the law has been well settled by the Hon'ble Supreme Court in the case of **Ghanashyam Mishra and Sons Private Limited Vs. Edelweiss Asset Reconstruction Company Limited and Ors. reported in MANU/SC/0273/2021** in the following words:

86. *“.....The legislative intent behind this is, to freeze all the claims so that the resolution applicant starts on a clean slate and is not flung with any surprise claims. If that is permitted, the very calculations on the basis of which the resolution applicant submits its plans, would go haywire and the plan would be unworkable.*



87. *We have no hesitation to say, that the word "other stakeholders" would squarely cover the Central Government, any State Government or any local authorities. The legislature, noticing that on account of obvious omission, certain tax authorities were not abiding by the mandate of I&B Code and continuing with the proceedings, has brought out the 2019 amendment so as to cure the said mischief....."*

17. In view of the above, all unclaimed unpaid liabilities would stand extinguished. As far as other reliefs and concessions as sought by the resolution applicant, we direct the said successful resolution applicant to approach the concerned authority for those reliefs and concessions and the concerned authorities will consider the same as per the provisions of law under the relevant Acts.

18. The proviso to section 31 of the Code, 2016, states that before passing any order for approval of the resolution plan, the Adjudicating Authority should also satisfy that the resolution plan has provisions for its effective implementation.

19. We being satisfied, approve the resolution plan submitted by Kalyan Toll Infrastructure Limited for Corporate Debtor i.e., Premshree Prime Properties Private Limited and in addition to the above directions, proceed to pass the following order:

- (i) Application is allowed.
- (ii) The resolution plan of Kalyan Toll Infrastructure Limited for Corporate Debtor i.e., Premshree Prime Properties Private Limited stands approved as per Section 31 read with section 30(2) of the IBC, 2016.
- (iii) The approved 'Resolution Plan' shall become effective from the date of passing of this order.



- (iv) The order of moratorium dated 17.02.2023 passed by this Adjudicating Authority under Section 14 of I&B Code, 2016 shall cease to have effect from the date of passing of this order.
- (v) The Resolution Professional shall forthwith send a copy of this Order to the participants and the Resolution Applicant(s).
- (vi) The Resolution Professional shall forward all records relating to the conduct of the corporate insolvency resolution process and Resolution Plan to the Insolvency and Bankruptcy Board of India to be recorded in its database.
- (vii) Accordingly, IA 29 of 2024 in CP(IB) 37 of 2022 is allowed and stands disposed of in terms of the above directions.
- (viii) Urgent certified copy of this order, if applied for, to be issued to all concerned parties upon compliance with all requisite formalities.

**Sd/-**

**Kaushalendra Kumar Singh**  
**Member (Technical)**

**Sd/-**

**Chitra Hankare**  
**Member (Judicial)**

Swati Khandelwal