



IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT – IV

IA/45/2024
In
C.P.(IB)/541(MB)2021

(Under Section 30(6) and Section 31 of the Insolvency and Bankruptcy Code, 2016 r/w Regulation 39(4) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.)

IA/45/2024

Mr. Anand Sonbhadra ...Resolution Professional of the
Champalalji Financial Private Limited / Applicant

In the matter of:

Edelweiss Asset Reconstruction Company Limited ...***Financial Creditor***

Versus

Champalalji Finance Private Limited ...***Corporate Debtor***

Order delivered on 29.10.2024

Coram:

Ms. Anu Jagmohan Singh
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member(Judicial)

Appearances:

For the Applicant/RP

:Mr. Amar Vivek, Ld. Counsel
for Resolution Professional.
Mr. Anand Sonbhadra,
Resolution Professional
Present in Person.



ORDER

IA-45/2024

1. This Application has been filed on 27.04.2024 by the Resolution Professional under Section 30(6) of the Insolvency and Bankruptcy Code, 2016 on behalf of the Committee of Creditors seeking approval of the Resolution Plan submitted by the Successful Resolution Applicant and approved by 100% of the voting share of the members of the Committee of Creditors of the Corporate Debtor viz. Champalalji Finance Private Limited (hereinafter referred to as 'Corporate Debtor').

2. Brief Facts: -

2.1. Corporate Insolvency Resolution Process of the Corporate Debtor was initiated vide an order dated 17.03.2023 of this Court in C.P.(IB)-541(MB)/2021 on an application filed by Edelweiss Asset Reconstruction Company Limited (Financial Creditor) under Section 7 of the Insolvency and Bankruptcy Code 2016. Mr. Anand Sonbhadra (Reg. No.: IBBI/IPA-001/IP-P00739/2017-18/11771) was appointed as Interim Resolution Professional (IRP), who was confirmed as Resolution Professional (RP) in the First CoC meeting held on 26.04.2023. The Applicant made a public announcement in the newspapers (in Financial Express(English) and Navkal(Marathi)) in Form-A on 25.03.2023 inviting claims from the creditors, workers/employees of the Corporate Debtor and from government bodies. IRP constituted the Committee of Creditors (CoC) based on the claims received by him and the first meeting of the CoC held on 26.04.2023.

2.2. The Applicant submits that there were 17 CoC meetings held and 2 Invitation for Expression of Interest (EoI's) were issued in Form G, i.e., on 20.05.2023(First EoI) and republished on 07.11.2023(Second EoI)

were issued and the last date for submission of the resolution plan was on 02.01.2024. In Response, the Resolution Professional had received Two Resolution Plan from (a) Devrat Developers Private Limited and (b) Dev Land and Housing Private Limited, Odyssey Corporation Limited and Pecan Partners Associate LLP (in consortium) Limited out of which the CoC had approved the Resolution Plan submitted by Dev Land and Housing Private Limited, Odyssey Corporation Limited and Pecan Partners Associate LLP (in consortium) Limited.

- 2.3. The Applicant RP submits that the Application were filed for extension during the CIRP period, and the same have been duly tabulated herein-under:

S. No.	I.A. No.	Filed by	Relief Sought	Status
1.	I.A 4386/2023	RP	Extension of 90 days	Allowed vide Order dt. 03.10.2023
2.	I.A 5749/2023	RP	Extension of 60 days	Allowed vide Order dt. 22.12.2023
3.	I.A 1581/2024	RP	Extension of 60 days	Allowed vide Order dt. 17.04.2024
4.	I.A 2294/2024	RP	Extension of 30 days	Allowed vide Order dt. 03.06.2024

- 2.4. The Resolution Plan submitted by the Resolution Applicant viz. Dev Land and Housing Private Limited, Odyssey Corporation Limited and Pecan Partners Associate LLP (in consortium) Limited which was approved by the CoC in the 16th meeting held on 05.04.2024 and the same was put for e-voting which concluded on 20.04.2024 by 100% of the CoC member voting in favor of the Resolution Plan. The resolution is reproduced below: -

“RESOLVED THAT the Resolution Plan submitted by the Consortium of Dev Land and Housing Private Limited, Odyssey Corporation Limited and Pecan Partners Associate LLP be and is hereby approved in accordance with Section 30(4) of the Insolvency and Bankruptcy Code, 2016 in the matter of Champalalji Finance Private Limited”.

- 2.5. The Applicant submits that the Performance Bank Guarantee amounting to sum of Rs. 10,00,00,000/- (Rupees Ten Crore) was received on 16.04.2024 from the Successful Resolution Applicant.
- 2.6. The Resolution Professional submits that with regards to the value of the Resolution Plan viz. liquidation value that “in terms of the Form - H submitted by the RP dated 23.04.2024, the fair value of the Corporate Debtor is Rs. 49,13,36,159/- (Rupees Forty-Nine Crores Thirteen Lakhs Thirty-Six Thousand One Hundred and Fifty-Nine Only) and the Liquidation value of the Corporate Debtor is Rs. 41,75,85,835/- (Rupees Forty-One Crores Seventy-Five Lakhs Eighty-Five Thousand Eight Hundred Thirty-Five Only) and the amount proposed to be paid by the Resolution Applicant in terms of the approved Resolution Plan as submitted by the consortium consisting of (A) Dev Land and Housing Pvt. Ltd. (B) Odyssey Corporation Ltd. (C) Pecan Partners Ltd. is Rs. 40,00,000/- (Rupees Forty Lakhs Only) for CIRP Costs and Rs. 36,00,00,000/- (Rupees Thirty-Six Crores Only) for the payment to financial creditors.

That the primary asset of the Corporate Debtor is Plot No. 543, located at Bandra, while the asset of the Subsidiary is Plot No. 534, situated on the Khar Bandra Linking Road. It is further pertinent to note herein that the Plot No. 543 lies behind Plot No. 534, and an amalgamation of these two plots would enhance the viability of any project, given that their respective sizes are approximately 660 and 680 square meters.

That the Plot No. 543 is currently occupied by a long-term tenant, and the tenant's eviction has been stayed by the Hon'ble National Company Law Appellate Tribunal (NCLAT). That for Plot No. 534, the front retail portion is owned by Metro Shoes, which imposes limitations on any prospective buyer's ability to fully exploit the retail frontage. These factors have been highlighted by the valuers in the course of conducting the valuation of these land parcels. The valuations were accepted, considering the existing encumbrances and challenges in fully exploiting the project. That auctioning these plots during the liquidation process may not fetch a favourable price, as each plot, when sold independently, may not be commercially attractive to bidders. Furthermore, the Subsidiary's plot, being an asset of the

Subsidiary and not the Corporate Debtor, would have to be sold separately by the lender under the SARFAESI Act.


The form G was published twice and inspite of healthy response in terms of Expression of Interest (5 Prospective Resolution Applicants and 6 Prospective Resolution Applicants against the 1st & 2nd Form G, respectively), due to encumbrances / issues, we received Plan from only one applicant against 1 form G and two applicants against 2nd form G. One of applicants against 2nd Form -G, chose not to correct defects and allowed his plan to be rejected by CoC. That considering these factors the CoC decided to accept and approve Plan value for less than liquidation value.

That on 03.03.2024, the Resolution Professional received a mail from Odyssey Corporation Limited on behalf of Odyssey Corporation Limited and Pecan Partners Associate LLP (in Consortium), Resolution Applicant requesting for change in the consortium by adding one member namely Dev Land and Housing Private Limited (PLN) to the consortium along with the 29A declaration by the proposed member. That during the course of the 15th Meeting of the CoC dated 01.04.2024, it was decided that the Resolution Plan may be submitted by the Prospective Resolution Applicants till the end of the day on 01.04.2023.

That during the 16th meeting of the Committee of Creditors (CoC) held on 05.04.2024, two resolution plans were presented by Devvrat Developers Private Limited and a consortium of Dev Land and Housing Private Limited, Odyssey Corporation Limited, and Pecan Partnera Associate LLP. The CoC found the plan by Devvrat Developers to be non-compliant due to conditional remittance of performance security, leaving the consortium's plan as the only compliant option. After seeking clarifications from the consortium, the CoC, with 100% voting approval, passed a resolution to accept their plan and authorized the Resolution Professional to submit it to the adjudicating authority. The consortium was declared the Successful Resolution Applicant.”

2.7. The Resolution Professional states that the Resolution Plan approved by the CoC is in compliance with the requirements of Section 30(2) of the Code. In compliance of Section 30(2) of IBC, 2016, the Resolution Professional has examined the Resolution plan of the Successful Resolution Applicant and confirms that this Resolution Plan:

- a. Provides for payment of Insolvency Resolution Process cost in a manner specified by the Board in the priority to the payment of other debts of the corporate debtor;

- 
-
- b. Provides for management of the affairs of the Corporate Debtor after approval of Resolution Plan;
 - c. The implementation and supervision of Resolution Plan;
 - d. Does not prima facie contravene any of the provisions of the law for time being in force,
 - e. Conforms to such other requirements as may be specified by the Board.
 - f. As per the Affidavit received and the further documents submitted, the Resolution applicants are not covered under 29A.

2.8. In compliance of Regulation 38 of CIRP Regulations, the Resolution Professional confirms that the Resolution plan provides that:

- i. The amount due to the Operational Creditors under resolution plan shall be given priority in payment over Financial Creditors.
- ii. It has dealt with the interest of all Stakeholders including Financial Creditors and Operational Creditors of the CD.
- iii. A statement that neither the Resolution Applicants nor any related parties have failed to implement nor have contributed to the failure of implementation of any other Resolution Plan approved by the AA in the past.
- iv. The terms of the plan and its implementation schedule.
- v. The management and control of the business of the CD during its term.
- vi. Adequate means of Supervising its implementation.
- vii. The Resolution Plan Demonstrates that it addresses
 - a. The cause of the Default
 - b. It is feasible and viable



-
- c. Provision for effective implementation
 - d. Provisions for approvals required and the time lines for the same.
 - e. Capability to Implement the Resolution Plan

2.9. The Resolution Applicant herein-under (in consortium comprising of) are as follows:

1. Dev Land and Housing Private Limited is a company involved in the business activities of Real Estate Development having office at 10th Floor, Dev Plaza, Opp. Andheri fire station, S.V. Road, Andheri (West), Mumbai- 400058;
2. Odyssey Corporation Limited is a company involved in the business activities of Operations in Corporate Finance and Advisory services having office at A-2, Haridarshan, Bhogilal Fadiya Road, Near SVP Primary Road, Kandivali West, Mumbai Suburban, Maharashtra, 400067;
3. Pecan Partners Limited involved in the business activities of Real Estate, including Development Management, Consultancy, etc., having office at 407, Windfall, Sahar Plaza Complex, Andheri Kurla Road, J.B Nagar, Andheri (East), Mumbai 400059.

2.10. The Resolution Applicant confirmed that it is eligible to submit Resolution Plan as per Section 29A of Insolvency and Bankruptcy Code.

2.11. The Resolution Applicant has confirmed that -

- i. its connected persons are not convicted for any offence during the preceding five years and no criminal proceedings are pending against any person.



- ii. not disqualified under Companies Act, 2013 to act as a Director.
- iii. not identified as a willful defaulter by any bank of financial institution or consortium thereof in accordance with the guidelines of the Reserve Bank of India.
- iv. not debarred from accessing to, or trading in securities markets under any order or directions of the Securities and Exchange Board of India.

2.12. As per the RP submission, the Fair Value and Liquidation Value determined by the registered Valuer are as follows:

Fair Value	Rs. 49,13,36,159/-
Liquidation Value	Rs. 41,75,85,835/-

2.11 Resolution Plan for the Corporate Debtor (the key features of the Resolution Plan submitted by Dev Land and Housing Private Limited, Odyssey Corporation Limited and Pecan Partners Associate LLP (in consortium) Limited is summarized below):

The value of the said Resolution Plan is Rs. 36,40,00,000/- which includes the payments towards the CIRP cost and payment to Financial Creditors and the summary of payment is enumerated below:

Sr. No.	Particulars	Amount	Timeline for payment
1.	Insolvency Resolution Process Cost	40,00,000/-	Triger Date
2.	Payment to Financial Creditor	36,00,00,000/-	X+90 days
3.	To the Operational Creditors (Workmen's Dues)	N.A	
4.	Payment to the Unsecured Financial Creditor	N.A	

5.	Financial Creditors in class	N.A	
6.	Operational Creditor	N.A	
7.	Payment to the other creditors- Form F	N.A	
TOTAL PAY-OUTS UNDER THE RESOLUTION PLAN		36,40,00,000/-	

** Trigger Date means 60th Day from the date on which the certified copy of the NCLT Approval Order is received by the Successful Resolution Applicant Consortium and no stay/injunction is granted by any court/tribunal with respect to the Resolution Plan.*

** X being the day on which the Certified Copy of the Order of the NCLT sanctioning the Resolution Plan is received.*

2.12 It is submitted by the Applicant that proceedings in terms of sections 43,45,49,50,66,68,70,71,72,73,74 of the code, such avoidance applications if any shall be continued by the CoC and any amount is received by the Resolution Professional or the Corporate Debtor in furtherance thereof, whether prior to the NCLT Approval Date or after the NCLT Approval Date, such sums shall be solely for the benefit of the CoC.

2.13 It is submitted by the Applicant in the Resolution Plan that a monitoring Committee shall be constituted from the approval date by this Tribunal to oversee the implementation of the Resolution Plan. The Monitoring Committee shall comprise of the following members:

- a. One Representative of the CoC.
- b. Monitoring Professional.
- c. Representative of Resolution Applicant viz. Dev Land and Housing Private Limited (Lead Member).

2.14 Ld. Counsel for the Resolution Professional has annexed a certificate of the Form-H to the Application under Regulation 39(4) In Form-H of the CIRP Regulations, 2016 to certify that the Resolution Plan has approved by the CoC meets all the requirements of the IBC and its Regulations:

**FORM H
COMPLIANCE CERTIFICATE**

(Under Regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016

I, Anand Sonbhadra, an insolvency professional enrolled with Indian Institute of Insolvency Professional of ICAI and registered with the Insolvency and Bankruptcy Board of India with registration number [IBBI/IPA-001/IP-P00739/2017-2018/11771], I am the resolution professional for the corporate insolvency resolution process (CIRP) of Champalalji Finance Private Limited.

2. The details of the CIRP are as under:

Sl. No.	Particulars	Description
1	Name of the CD	Champalalji Finance Private Limited
2	Date of Initiation of CIRP	17.03.2023 (Copy of order received on 23.03.2023)
3	Date of Appointment of IRP	17.03.2023
4	Date of Publication of Public Announcement	25.03.2023
5	Date of Constitution of CoC	20.04.2023
6	Date of First Meeting of CoC	26.04.2023
7	Date of Appointment of RP	26.04.2023(Voting concluded on 05.05.2023)
8	Date of Appointment of Registered Valuers	03.05.2023
9	Date of Issue of Invitation for EoI	20.05.2023 (Reissued on 07.11.2023)
10	Date of Final List of Eligible Prospective Resolution Applicants	04.07.2023, 03.12.2023
11	Date of Invitation of Resolution Plan	20.05.2023 (Reissued on 07.11.2023)
12	Last Date of Submission of Resolution Plan	02.01.2024 (As per 2 nd Form G published.

IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT – IV

IA/45/2024
In
C.P.(IB)/541(MB)2021

13	Date of Approval of Resolution Plan by CoC	11.04.2024 as per voting sheet dated 11.04.2024 of 16 th CoC meeting held on 05.04.2024
14	Date of Filing of Resolution Plan with Adjudicating Authority	In the process of filing
15	Date of Expiry of 180 days of CIRP	13.09.2023
16	Date of Order extending the period of CIRP	Order dated 03.10.2023 (90 days extension beyond 180 days) CIRP Period concluding on 12.12.2023 as per Order Order Dated 22.12.2023(60 days extension beyond 270 days) CIRP period concluded on 11.02.2024 Order dated 17.04.2024 (60 days extension beyond 330 days) CIRP period concluded on 11.04.2024.
17	Date of Expiry of Extended Period of CIRP	11.04.2024
18	Fair Value	<u>49,13,36,159</u>
19	Liquidation value	41,75,85,835
20	Number of Meetings of CoC held	17

3. I have examined the Resolution Plan received from Resolution Applicant (Consortium of Dev Land and Housing Private Limited, Odyssey Corporation Ltd and Pecan Partners Associate LLP) and approved by Committee of Creditors (CoC) of Champalalji Finance Private Limited.

4. I hereby certify that-

(i) the said Resolution Plan complies with all the provisions of the Insolvency and Bankruptcy Code 2016 (Code), the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP Regulations) and does not contravene any of the provisions of the law for the time being in force.

(ii) the Resolution Applicant (Consortium of Dev Land and Housing Private Limited, Odyssey Corporation Ltd and Pecan Partners Associate LLP) has submitted an affidavit pursuant to section 30(1) of the Code confirming its eligibility under section 29A of the Code to submit resolution plan. The contents of the said affidavit are in order.

(iii) the said Resolution Plan has been approved by the CoC in accordance with the provisions of the Code and the CIRP Regulations made thereunder. The Resolution Plan has been approved by 100% of voting share of financial creditor after considering its feasibility and viability and other requirements specified by the CIRP Regulations.

(iv) The voting was held in the meeting of the CoC on 05.04.2024 where all the members of the CoC were present.

5. The list of financial creditors of the CD Champalalji Finance Private Limited being members of the CoC and distribution of voting share among them is as under:

IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT – IV

IA/45/2024
In
C.P.(IB)/541(MB)2021



Sl. No.	Name of Creditor	Voting Share )%(	Voting for Resolution Plan)Voted for / Dissented / Abstained(
1.	Edelweiss Asset Reconstruction Company Limited	100 %	Voted for

6. The Resolution Plan includes a statement under regulation 38(1A) of the CIRP Regulations as to how it has dealt with the interests of all stakeholders in compliance with the Code and regulations made thereunder.

6A. Minutes of the committee meeting relating to discussion and decisions about resolution plan are attached with this certificate.

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

(Amount in Rs. lakh)

Sl. No.	Category of Stakeholder *	Sub-Category of Stakeholder	Amount Claimed	Amount Admitted	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	-	-	-	-
		(b) Other than (a) above:				
		(i) who did not vote in favour of the resolution Plan	-	-	-	-
		(ii) who voted in favour of the resolution plan	1,88,10,21,781/-	1,88,10,21,781/-	36,00,00,000/-	19.40%
		Total[(a) + (b)]	1,88,10,21,781/-	1,88,10,21,781/-	36,00,00,000/-	19.40%
2	Unsecured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	-	-	-	-

IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT – IV

IA/45/2024
In
C.P.(IB)/541(MB)2021



		(b) Other than (a) above:				
		(i) who vote in favour of the resolution Plan	-	-	-	-
		(ii) who NOT voted in favour of the resolution plan	-	-	-	-
		Total[(a) + (b)]	-	-	-	-
3	Operational Creditors	(a) Related Party of Corporate Debtor	NA			
		(b) Other than (a) above:				
		(i)Government				
		(ii)Workmen				
		(iii)Employees	-	-	-	-
		(iv) Other than (Employees and Workmen, and Government dues)				
		Total[(a) + (b)]	-	-	-	-
4	Other debts and dues					
Grand Total			1,88,10,21,781/-	1,88,10,21,781/-	36,00,00,000/-	19.40%

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

Amount provided over time under the Resolution Plan and includes estimated value of non-cash components. It is not NPV.]

8. The interests of existing shareholders have been altered by the Resolution plan as under:

Sl. No	Category of Share Holder	No. of Shares held before CIRP	No. of Shares held after the CIRP	Voting Share)%(held before CIRP	Voting Share)%(held after CIRP
1	Equity	600000	Nil	100	0

IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT – IV

IA/45/2024
In
C.P.(IB)/541(MB)2021



2	Preference	NA	NA	NA	NA
3					

9. The compliance of the Resolution Plan is as under:

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?	Complied	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?	Complied	Yes
Section 30)1(	Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?	Undertaking as per Regulation 39(1) on page 12	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 financial creditors who did not vote in favor of the resolution plan? (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?]	Para 3.1 Para 3.2 & 3.3 Para 3.2 & 3.3 Para 5 Para 6 Refer to terms and condition of the plan	Yes Yes Yes Yes Yes
Section 30)4(	Whether the Resolution Plan)a(is feasible and viable, according to the CoC?)b(has been approved by the CoC with 66% voting share?	7.6 (7.6.3 B) of the Resolution Plan	Yes Yes
Section 31)1(	Whether the Resolution Plan has provisions for its effective implementation plan, according to the CoC?	7.6 (7.6.3 C) of the Resolution Plan	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?]	Para.3.2 & 3.3	Yes
Regulation 38)1A(	Whether the resolution plan includes a statement as to how it has dealt with the interests of all stakeholders?	Para-7.1	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. (ii) If so, whether the Resolution Applicant has submitted the	Para-7.6.2	Yes NA

IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT – IV

IA/45/2024
In
C.P.(IB)/541(MB)2021



	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?)b(for the management and control of the business of the corporate debtor during its term?)c(adequate means for supervising its implementation?	Para- 5 & 6	Yes Yes Yes
38)3(	Whether the resolution plan demonstrates that –)a(it addresses the cause of default?)b(it is feasible and viable?)c(it has provisions for its effective implementation?)d(it has provisions for approvals required and the timeline for the same?)e(the resolution applicant has the capability to implement the resolution plan?	Para- 7.6.3 (A to D)	Yes Yes Yes Yes Yes
39)2(	Whether the RP has filed applications in respect of transactions observed, found or determined by him?	NA	Yes
Regulation 39(4)	Provide details of performance security received, as referred to in sub-regulation (4A) of regulation 36B.]	Para- 4.4	Yes The Resolution Applicant has provided a performance security in the form of a Bank Guarantee to the tune of Rs.10 Crore

10. The CIRP has been conducted as per the timeline indicated as under:

Section of the Code / Regulation No.	Description of Activity	Latest Timeline under regulation 40A	Actual Date
Section 16(1)	Commencement of CIRP and Appointment of IRP	T	17.03.2023 (Copy of order received on 23.03.2023)
Regulation 6(1)	Publication of Public Announcement	T+3	25.03.2023
Section 15(1)(c) /Regulation 12 (1)	Submission of Claims	T+14	08.04.2023
Regulation 13(1)	Verification of Claims	T+21	15.04.2023
Section 26(6A) / Regulation 15A	Application for Appointment of Authorised Representative, if necessary	T+23	NA
Regulation 17(1)	Filing of Report Certifying Constitution of CoC	T+23	20.04.2023
Section 22(1) and regulation 17(2)	First Meeting of the CoC	T+30	26.04.2023
Regulation 35A	Determination of fraudulent and other transactions	T+115	15.06.2023

IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT – IV

IA/45/2024
In
C.P.(IB)/541(MB)2021



Regulation 27	Appointment of two Registered Valuers	T+47	03.05.2023
Regulation 36 (1)	Submission of Information Memorandum to CoC	T+ 54 95	22.06.2023
Regulation 36A	Invitation of EoI	T+75	20.05.2023 & reissued on 07.11.2023
	Publication of Form G	T+75	20.05.2023 & reissued on 07.11.2023
	Provisional List of Resolution Applicants	T+100	26.11.2023
	Final List of Resolution Applicants	T+115	03.12.2023
Regulation 36B	Issue of Request for Resolution Plan, which includes Evaluation Matrix and Information Memorandum to Resolution Applicants	T+105	03.12.2023
Section 30(6) / Regulation 39(4)	Submission of CoC approved Resolution Plan	T+165	In the process of filing
Section 31(1)	Approval of Resolution Plan	T=180	As per the NCLT order

11. The time frame proposed for obtaining relevant approvals is as under:

Sl. No.	Nature of Approval	Name of applicable Law	Name of Authority who will grant Approval	When to be obtained
	Nil			

12. The Resolution Plan is not subject to any contingency.

13. Following are the deviations / non-compliances of the provisions of the Insolvency and Bankruptcy Code, 2016, regulations made or circulars issued thereunder (If any deviation/ non-compliances were observed, please state the details and reasons for the same):

Sl. No.	Deviation/Non-compliance observed	Section of the Code / Regulation No. / Circular No.	Reasons	Whether rectified or not
	NA			

14. The Resolution Plan is being filed 30 days before the expiry of the period of CIRP provided in section 12 of the Code. - No

14A. Whether the resolution professional has, in accordance with regulation 35A,-

- (a) applied to the Adjudicating Authority on or before the one hundred and thirty-fifth day of the insolvency commencement date: No
- (b) filed Form CIRP 8 with the Board on or before the one hundred and fortieth day of the insolvency commencement date: Yes

15. Provide details of section 66 or avoidance application filed / pending.

Sl. No.	Type of Transaction	Date of Filing with Adjudicating Authority	Date of Order of the Adjudicating Authority	Brief of the Order
1	Preferential transactions under section 43	NA	NA	NA

IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT – IV

IA/45/2024
In
C.P.(IB)/541(MB)2021



2	Undervalued transactions under section 45	NA	NA	NA
3	Extortionate credit transactions under section 50	NA	NA	NA
4	Fraudulent transactions under section 66	NA	NA	NA

15A. The committee has approved a plan providing for contribution under regulation 39B as under:

- Estimated liquidation cost: NA
- Estimated liquid assets available: NA
- Contributions required to be made: NA
- Financial creditor wise contribution is as under:

Sl. No.	Name of financial creditor	Amount to be contributed (Rs.)
1.	Edelweiss Asset Reconstruction Company Limited	36,00,00,000/-

15B. The committee has recommended under regulation 39C as under:

- Sale of corporate debtor as a going concern: NA
- Sale of business of corporate debtor as a going concern: NA

The details of recommendation are available with the resolution professional.

15C. The committee has fixed, in consultation with the resolution professional, the fee payable to the liquidator during the liquidation period under regulation 39D.- NA

16. I hereby certify that the contents of this certificate are true and correct to the best of my knowledge and belief, and nothing material has been concealed therefrom.

Name of the Resolution Professional: Anand Sonbhadra

IP Registration No: IBBI/IPA-001/IP-P00739/2017-2018/11771

Address as registered with the Board: Flat-2183, Sector- B, Pocket-2, Vasant Kunj, New Delhi 110070

Email id as registered with the Board: sonbhadra65@gmail.com

Date: 23.04.2024

Place: New Delhi

2.15 In the circumstances mentioned hereinabove, the Applicant has filed Application seeking approval of this Tribunal on the Resolution Plan, submitted by the Resolution Applicant i.e. Dev Land and Housing Private Limited, Odyssey Corporation Limited and Pecan Partners Associate LLP (in consortium) Limited stating that the plan is in accordance with the Section 30(2) and other provisions laid down under the code.

2.16 On perusal of the Resolution Plan, it is observed that the Resolution Plan

provides for the following:

- a. Payment of CIRP Cost as specified u/s 30(2)(a) of the Code.
 - b. Repayment of Debts of Operational Creditors as specified u/s 30(2)(b) of the Code.
 - c. For management of the affairs of the Corporate Debtor, after the approval of Resolution Plan, as specified U/s 30(2)(c) of the Code.
 - d. The implementation and supervision of Resolution Plan by the RP and the CoC as specified u/s 30(2)(d) of the Code.
- 2.17 The RP has complied with the requirement of the Code in terms of Section 30(2)(a) to 30(2)(f) and Regulations 38(1), 38(1)(a), 38(2)(a), 38(2)(b), 38(2)(c) & 38(3) of the Regulations.
- 2.18 The RP has filed Compliance Certificate in Form-H along with the plan. On perusal the same is found to be in order. The Resolution Plan has been approved by the CoC in the 16th meeting held on 05.04.2024 with 100% vote.
- 2.19 On a query from the Bench regarding Amalgamation in the nature of merger of the wholly owned subsidiary of the CD i.e. Diamond Head investments and Hotel Private Limited with the CD and as to how this merger can be part of the Resolution Plan approval process as it involves a third party apart from the Corporate Debtor and Successful Resolution Applicant, the RP conducted 21st CoC meeting dated 18.09.2024. The minutes of the said meeting have been filed by way of an Additional Affidavit dated 04.10.2024 wherein in item no. 4 of the agenda it is recorded *“the CoC discussed and decided to separate the Scheme of Amalgamation forming part of Resolution Plan and directed the Successful Resolution Applicant to submit an addendum stating that their*

acceptance of the segregation of scheme of amalgamation and resolution plan. The authorized representatives of SRA consented to the segregation and confirmed that they would submit an addendum. The addendum was received before circulation of this minutes and is enclosed alongwith these minutes.”

- 2.20 In view of the Additional Affidavit filed by Resolution Professional alongwith requisite addendum of the Plan, we hereby make it clear that the proposed scheme of amalgamation between the Corporate Debtor and the third company will not be treated as part of the approved resolution plan and approval of the Adjudicating Authority to the Resolution Plan shall not be construed as approval to the above mentioned proposed scheme of amalgamation. The approval to the Plan accorded by the AA is limited only to the Assets/Business belonging to the CD.
- 2.21 We make it categorically clear that approval of this Resolution Plan does not tantamount to allowance of any relief(s), concession(s) or dispensation(s) that fall within the domain of any government department(s) and/or authorities thereto. The reliefs, concessions and dispensations that pertain to other governmental authorities and/or departments shall be dealt with by the respective competent authorities/fora/offices, Government (State or Central) with regard to the respective reliefs, if any.
- 2.22 In *K Sashidhar v. Indian Overseas Bank & Others (in Civil Appeal No.10673/2018 decided on 05.02.2019)* the Hon’ble Apex Court held that if the CoC had approved the Resolution Plan by requisite percent of voting share, then as per section 30(6) of the Code, it is imperative for the Resolution Professional to submit the same to the Adjudicating Authority (NCLT). On receipt of such a proposal, the Adjudicating Authority is required to satisfy itself that the Resolution Plan as

approved by CoC meets the requirements specified in Section 30(2). The Hon'ble Court observed that the role of the NCLT is 'no more and no less'. The Hon'ble Court further held that the discretion of the Adjudicating Authority is circumscribed by Section 31 and is limited to scrutiny of the Resolution Plan "as approved" by the requisite percent of voting share of financial creditors. Even in that enquiry, the grounds on which the Adjudicating Authority can reject the Resolution Plan is in reference to matters specified in Section 30(2) when the Resolution Plan does not conform to the stated requirements.

2.23 *In CoC of Essar Steel (Civil Appeal No. 8766-67 of 2019 decided on 15.11.2019)* the Hon'ble Apex Court clearly laid down that the Adjudicating Authority would not have power to modify the Resolution Plan which the CoC in their commercial wisdom have approved. In para 42 Hon'ble Court observed as under:


"Thus, it is clear that the limited judicial review available, which can in no circumstance trespass upon a business decision of the majority of the Committee of Creditors, has to be within the four corners of section 30(2) of the Code, insofar as the Adjudicating Authority is concerned, and section 32 read with section 61(3) of the Code, insofar as the Appellate Tribunal is concerned, the parameters of such review having been clearly laid down in K. Sashidhar(supra)."

2.24 In view of the discussions and the law thus settled, the instant Resolution Plan meets the requirements of Section 30(2) of the Code and Regulations 37, 38, 38 (1A) and 39 (4) of the Regulations. The Resolution Plan is not in contravention of any of the provisions of

Section 29A of the Code and is in accordance with law. The same needs to be approved. Hence ordered.

2.25 The **Interlocutory Application No.45/2024** in **C.P.(IB)/541(MB)2021** is *allowed*. The Resolution Plan submitted by *Dev Land and Housing Private Limited, Odyssey Corporation Limited and Pecan Partners Associate LLP (in consortium) Limited* is hereby **approved**. It shall become effective from this date and shall form part of this order.

- i. It shall be binding on the Corporate Debtor, its employees, members, creditors, including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force is due, guarantors and other stakeholders involved in the Resolution Plan.
- ii. The approval of the Resolution Plan shall not be construed as waiver of any statutory obligations of the Corporate Debtor and shall be dealt by the appropriate Authorities in accordance with law.
- iii. We make it expressly clear that **no** reliefs, concessions and dispensations that fall within the domain of other government department/authorities are granted hereto, and the same shall be dealt with by the respective competent authorities/fora/offices, Government (State or Central) with regard to the respective reliefs, if any.
- iv. Further in terms of the Judgment of Hon'ble Supreme Court in the matter of *Ghanshyam Mishra and Sons Private Limited v/s Edelweiss*



Asset Reconstruction Company Limited, on the date of approval of the Resolution Plan by the Adjudicating Authority, all such claims which are not a part of Resolution Plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim which is not a part of the Resolution Plan.

- v. The Memorandum of Association (MoA) and Articles of Association (AoA) shall accordingly be amended and filed with the Registrar of Companies (RoC), Mumbai, Maharashtra for information and record. The Resolution Applicant, for effective implementation of the Plan, shall obtain all necessary approvals, under any law for the time being in force, within such period as may be prescribed.
- vi. The moratorium under Section 14 of the Code shall cease to have effect from this date.
- vii. The Applicant shall supervise the implementation of the Resolution Plan and file status of its implementation before this Authority from time to time, preferably every quarter.
- viii. The Applicant shall forward all records relating to the conduct of the CIRP and the Resolution Plan to the IBBI along with copy of this Order for information.
- ix. The Applicant shall forthwith send a certified copy of this Order to the CoC and the Resolution Applicant, respectively for necessary compliance.

2.26 The **Interlocutory Application No.45/2024** in
C.P.(IB)/541(MB)2021 is accordingly *allowed* and *disposed of*.

Sd/-

ANU JAGMOHAN SINGH
MEMBER (TECHNICAL)

Sd/-

KISHORE VEMULAPALLI
MEMBER (JUDICIAL)