



**NATIONAL COMPANY LAW TRIBUNAL**  
**NEW DELHI BENCH (COURT-II)**

**IA. NO. 1077/ND/2020**

**IN**

**Company Petition No. (IB)-71(ND)/2019**

**IN THE MATTER OF:**

**Edelweiss Asset Reconstruction Company Limited**

**...Applicant/Financial Creditor**

**Versus**

**M/s. Pawan Doot Estate Private Limited**

**...Respondent**

**AND IN THE MATTER OF IA-1077/ND/2020:**

**Mr. Darshan Singh Anand**

Resolution Professional

For Pawan Doot Estates Private Limited

**...Applicant**

**VERSUS**

**1. Mr. Pradeep Kumar Lathar**

House No. 6, Deep Farm,  
IOC Road, Bijwasan, Delhi - 110061

**...Respondent No. 1**

**2. Mehar Footwear Private Limited**

**(now, known as M/s. Mehar Bhoomi Bhawan Private Limited)**

Property No. 72/11/2,  
First Floor, Deep Chambers,  
Swarn Park, Mundka, Delhi - 110041

**...Respondent No. 2**

**Order Delivered on: 18.01.2023**

**SECTION: 30(6) read with 31(1) of the IBC, 2016**

**CORAM:**

**SH. BACHU VENKAT BALARAM DAS, HON'BLE MEMBER (J)**

**SH. L. N. GUPTA, HON'BLE MEMBER (T)**

**PRESENT:**

**For the Applicant** : Mr. Sanjay Bhatt, Ms. Apoorva Chowdhary Advs.

**For the Respondent** : Adv. Riya Thomas, for Resolution Applicant



## ORDER

**PER: SHRI L. N. GUPTA, MEMBER (T)**

Mr. Darshan Singh Anand, Resolution Professional of M/s. Pawan Doot Estates Private Limited (**“Applicant/ Resolution Professional”**) has filed the present IA No. 1077 of 2020 under Section 30(6) read with Section 31(1) of the Insolvency and Bankruptcy Code, 2016 read with Regulation 39(4) of the IBBI (Insolvency Resolution Process of Corporate Persons) Regulations 2016, for approval of the Resolution plan submitted by a consortium of Mr. Pradeep Kumar Lathar and M/s. Mehar Footwear Private Limited (**“Successful Resolution Applicants” / “SRA”**), seeking the following reliefs :

- a) *Pass an order under Section 31(1) of the Code for approval of the resolution plan submitted by Consortium of Mr. Pardeep Lather and Mehar Footwears Private Limited as approved by the committee of creditors by 100% voting under sub-section (4) of the section 30 as the said resolution plan meets the requirements as referred to in sub-section (2) of the Section 30 of the Code;*
- b) *Pass such other further order/ order(s) as may be deemed fit and proper in the facts and circumstances of the case and in the interest of justice.”*

2. To put succinctly, the facts of the present case are that M/s. Edelweiss Asset Reconstruction Company Ltd (EARCL) filed an application under Section 7 of IBC, 2016 for initiating CIR Process against the Corporate Debtor M/s. Pawan Doot Estates Private Limited. The said Application was admitted by this Tribunal vide Order dated 10.05.2019 and Mr. Darshan Singh Anand was appointed as the Interim Resolution




Professional (IRP) of the Corporate Debtor. Later, the IRP Mr. Darshan Singh Anand was confirmed and continued as RP of the Corporate Debtor.

3. It is submitted by the Applicant that in terms of Regulation 6(1) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the said IRP made a Public Announcement in Form-A on 24.05.2019 to invite claims, which was uploaded on the website of Insolvency and Bankruptcy Board of India (IBBI).

4. It is further submitted that the Resolution Professional constituted a Committee of Creditors (CoC) comprising of the following members:

S.No.	NAME OF THE FINANCIAL CREDITOR	VOTING SHARE (%)
1	Edelweiss Asset Reconstruction Company Limited	54.21%
2	Canara Bank	31.67%
3	Bank of India	14.12%

*Darshan*

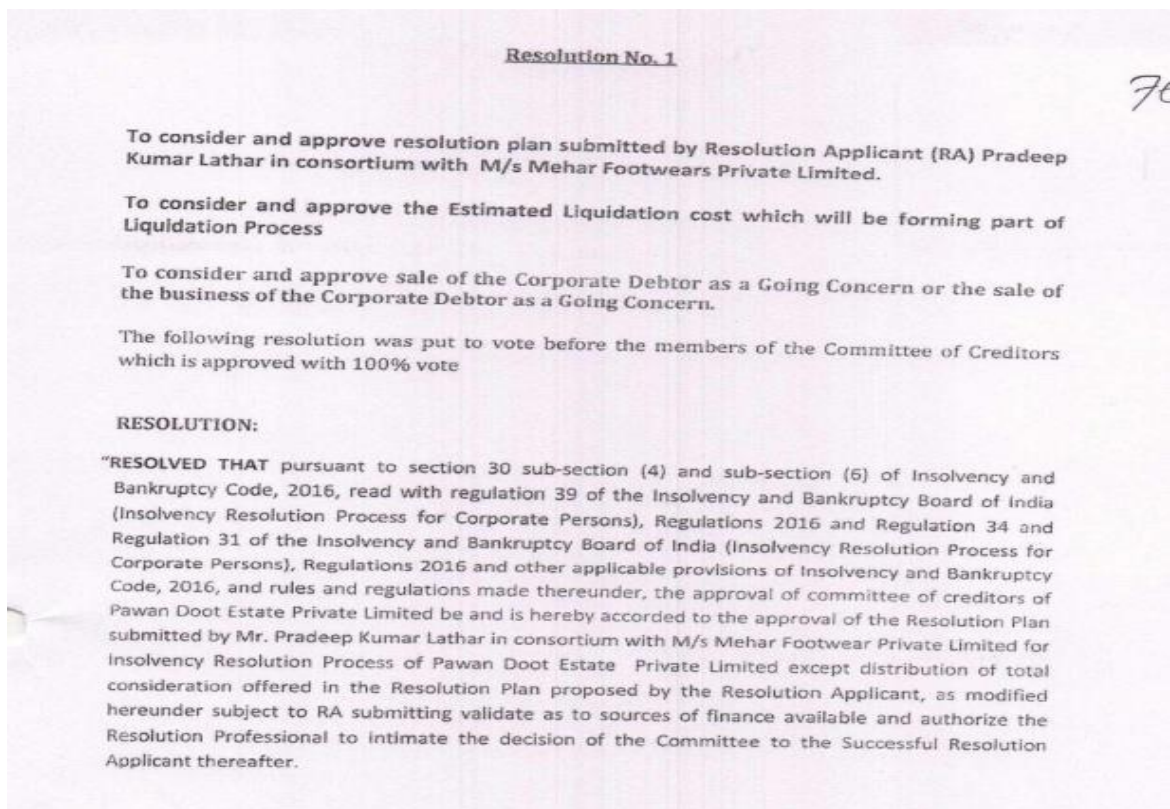


5. It is stated by the Applicant that the 'Form-G' was published on 20.02.2019 in the daily newspapers, namely, Free Press Journal (English), Navshakti (Marathi) in Mumbai Edition, Financial Express (English) & Jansatta (Hindi) in Delhi Edition. It is added that as per the Form G, the last date for submission of Resolution Plans was 07.09.2019.

6. It is further stated that the Applicant received total 03 Expressions of Interest (EOIs) from the Prospective Resolution Applicants (PRAs), namely, Meher Footwear Pvt. Ltd., City Infrastructure Pvt. Ltd. and Art Constructions Pvt. Ltd.



7. It is further stated by the Applicant that the only Resolution Plan received was from a consortium of Mr. Pradeep Kumar Lathar and M/s. Mehar Footwear Private Limited (**“Successful Resolution Applicants” / “SRA”**) on 07.09.2019 along with bid bond Guarantee of Rs. 1 (one) Crore.
8. After negotiations on the plan amount with the SRA, the Final Resolution Plan was placed before the CoC in its 10<sup>th</sup> meeting held on 06.01.2020, which considered and approved the following resolution -



9. During the course of hearing of the Resolution Plan application on 26.03.2021, this Adjudicating Authority had observed in its order that the aforesaid resolution was subject to certain exception, modification and the Resolution Applicant submitting the validated source of finance. The scanned copy of the order dated 26.03.2021 is reproduced overleaf for the sake of convenience:



7

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
NEW DELHI COURT - II**

Item No. 225  
(IB)-71(ND)2019  
IA/1077/2020

**IN THE MATTER OF:**

**M/s. Edelweiss Asseats Reconstruction ... Applicant/Petitioner  
Company Ltd.**

**Versus**

**M/s. Pawan Doot Estate Pvt. Ltd. ... Respondent**

**Under Section: 7 of IBC, 2016**

**Order delivered on 26.03.2021**

**CORAM:**

**SHRI. ABNI RANJAN KUMAR SINHA  
HON'BLE MEMBER (J)**

**SHRI L.N. GUPTA,  
HON'BLE MEMBER (T)**

**PRESENT:**

**Mr. Sanjay Bhatt, Ms. Niharika Sharma & Mr. Rahul Mendiratta, Advs  
for the Resolution Professional**

**ORDER**

In the course of hearing, we notice that on page-76 of the Application, the Resolution No. 1 was discussed, which is quoted as below:

*"RESOLVED THAT pursuant to section 30 sub-section (4) and sub-section (6) of Insolvency and Bankruptcy Code, 2016, read with regulation 39 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons), Regulations 2016 and Regulation 34 and Regulation 31 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons), Regulations 2016 and other applicable provisions of Insolvency and Bankruptcy Code, 2016, and rules and regulations made thereunder, the*

Signa

*approval of committee of creditors of Pawan Doot Estate Private Limited be and is hereby accorded to the approval of the Resolution Plan submitted by Mr. Pradeep Kumar Lathar in consortium with M/s Mehar Footwear Private Limited for insolvency Resolution Process of Pawan Doot Estate Private Limited except distribution of total consideration offered in the Resolution Plan proposed by the Resolution Applicant, as modified hereunder subject to RA submitting validate as to sources of finance available and authorize the Resolution Professional to intimate the decision of the Committee to the Successful Resolution Applicant thereafter".*

On perusal of the Resolution, we notice from the language of the aforesaid Resolution that there is no clear and unconditional approval of the Resolution Plan. Rather, it is subject to certain exception, modification and Resolution Applicant submitting validated source of finance.

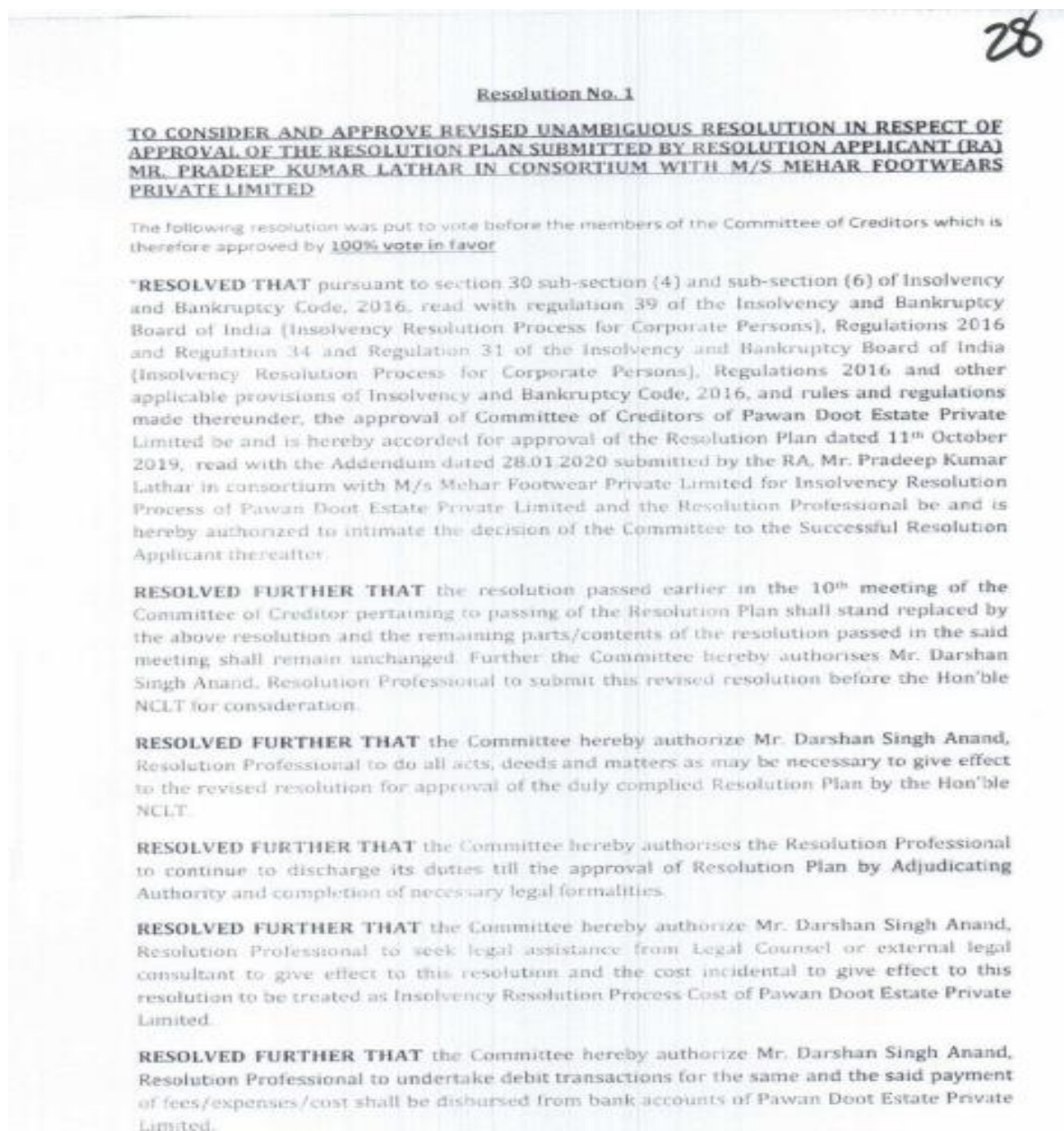
In the course of hearing, Ld. Counsel appearing for the RP submitted that due to typographical error such a language appears in the Resolution and in fact, the Resolution Applicant has submitted his intent letter.

Therefore, the Petitioner is well advised to file the revised and clear resolution approved by the CoC.

List the matter on 12<sup>th</sup> April 2021.



10. In compliance of the directions dated 26.03.2021, the Applicant then filed the Additional Affidavit 09.04.2021 and stated that the Resolution Plan was again put to vote in the 12<sup>th</sup> meeting of CoC held on 05.04.2021. The Applicant has also placed on record the voting sheet of the 12<sup>th</sup> meeting of CoC, whereby the Resolution plan is approved by the 100% of its votes. The copy of the relevant minutes and voting sheet, as placed on record, are reproduced below, for the sake of convenience:



Resolution No. 1

<b>TO CONSIDER AND APPROVE REVISED UNAMBIGUOUS RESOLUTION IN RESPECT OF APPROVAL OF THE RESOLUTION PLAN SUBMITTED BY RESOLUTION APPLICANT (RA) MR. PRADEEP KUMAR LATHAR IN CONSORTIUM WITH M/S MEHAR FOOTWEARS PRIVATE LIMITED</b>							
						Abstained	
Names of Members	Voting share	Mode of Voting	Voted For	Voted against	By voting	By not voting	
Edelweiss Asset Reconstruction Company Limited	54.21%	Through voice vote and show of hand during meeting held through audio video mode	54.21%	--	--	--	
Bank of India	14.12%	Through voice vote and show of hand during meeting held through audio video mode	14.12%				
Canara Bank	31.67%	Through voice vote and show of hand during meeting held through audio video mode	31.67%				
<b>Total</b>	<b>100%</b>		<b>100%</b>	<b>-</b>	<b>-</b>	<b>-</b>	

The resolution to that extent was approved by 100% votes in its favour.

11. As regards to the compliances under the Resolution Plan, the Applicant has submitted the following in the Form 'H' filed along with the Application:

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?	Point 2.7, Page 13 read with Point 2.3, 2.4, 2.5, 2.6 on Page 11, 12, 13, 14	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?	RP has verified the eligibility of Resolution Applicant on the basis of documents and information available in public record and as per Affidavit submitted by the Resolution Applicant and basis a report from Arun Kumar Singh, Advocate, RBS Legal..	Yes



Section 30(1)	Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?	Annexure VII-C	Yes
Section 30(2)	Whether the Resolution Plan: (a) provides for the payment of insolvency resolution process costs? (b) provides for the payment of the debts of operational creditors? (c) provides for the management of the affairs of the Corporate debtor? (d) provides for the implementation and supervision of the resolution plan? (e) contravenes any of the provisions of the law for the time being in force?	Point 4.1.1.2 (A), Page 18 Point 4.1.1.2 (B), Pages 18 to 23 Point 9, Page 47 to 51 Point 10, Page 52 read with Schedule-I, Page 62-65 Point 11, Page 53	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?	(a) Yes (b) Yes	Yes
Section 31(1)	Whether the Resolution Plan has provisions for its effective implementation plan, according to the CoC?	Yes point 7, 8 and 9 on pages 45 to 51	Yes
Regulation 35A	Where the Resolution Professional made a determination if the corporate debtor has been subjected to any transaction of the nature covered under sections 43, 45, 50 or 66, before the one hundred and fifteenth day of the insolvency commencement date, under intimation to the Board?	(As per Transaction Review Audit Report there are no transactions under section 43,45,49,50 and 66 of IBC, 2016)	Yes
Regulation 38 (1)	Whether the Resolution Plan identifies specific sources of funds that will be used to pay the - insolvency resolution process costs?  liquidation value due to operational creditors?	Point 4.1.2, Page 27 to 29	Yes
	liquidation value due to dissenting financial creditors?		
Regulation 38(1A)	Whether the resolution plan includes a statement as to how it has dealt with the interests of all stakeholders?	Point 12, Page 54 read with Point 4.1.1, Page 16 to 17	Yes
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?	Point 7, Page 45 read with Point 10, Page 52 read with Schedule-I (Part-B), Page 62-65 Point 9.1.1 to 9.1.16, Page 47-51 Point 9 and 10 on Pages 47 to 52	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?	Point 3.1, Page 15 Point 3.3, Page 15 Point 9, Page 47 read with Point 10, Page 52 and Schedule-I, Page 62 to 65 Schedule-3, Para (g), (h), Page 68-69 Point 2.7 read with Point 2.5 and 2.6, Page 12,13 and 14	Yes Yes Yes Yes Yes
39(2)	Whether the RP has filed applications in respect of transactions observed, found or determined by him?	(As per Transaction Review Audit Report there are no transactions under section 43,45,49,50 and 66 of IBC, 2016)	N.A.



12. The details of the distribution of the resolution plan amount, as submitted in Form 'H', amongst the stakeholders is reproduced below –

(Amount in Rs. lakh)

Sl. No.	Category of Stakeholder*	Amount Claimed	Amount Admitted	Amount Provided under the Plan#	Amount Provided to the Amount Claimed (%)
1	Dissenting Secured Financial Creditors	-	-	-	-
2	Other Secured Financial Creditors	38326.12	38326.12	1000.00	2.61
3	Dissenting Unsecured Financial Creditors	-	-	-	-
4	Other Unsecured Financial Creditors	45380.96	45380.96	409.71	0.90
5	Operational Creditors	0.77	0.29	0.29	37.66
	Government	-	-	-	-
	Workmen	-	-	-	-

*Darshan Singh Anand*  
- 3  
DARSHAN SINGH ANAND  
Resolution Professional

	Employees	-	-	-	-
	.....	-	-	-	-
6	Other Debts and Dues	1157.88	1157.88	-	-
<b>Total</b>		<b>84865.73</b>	<b>84865.25</b>	<b>1410</b>	<b>1.66</b>

\*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.

13. As per the Form 'H' filed by the Applicant on record, the Fair Market Value of the Corporate Debtor is Rs.15,16,56,850/- and the Liquidation Value of the Corporate Debtor is Rs. 10,61,59,745/-. The amount provided under the Plan is Rs. 14.10 Crore.



14. The Applicant has also filed the Affidavit of the Successful Resolution Applicant stating that they are not barred under Section 29A to submit the Resolution Plan. In addition, the Consortium Agreement of the Resolution Applicants has also been placed on record.

15 It is further stated by the Applicant in its application and during the hearing that in terms of the Regulation 36B(4A) of the IBBI (Insolvency Resolution Process of Corporate Persons) Regulations, 2016, the Applicant on 04.02.2020 has received the Performance Security from the SRAs by way of Demand draft drawn in favour of “Pawan Doot Estate Private Limited” issued by Axis Bank Ltd, Paschim Vihar Branch, New Delhi, vide DD No. 182108 for a sum of Rs. 1,41,00,000/-.

16. On perusal of the Resolution Plan, it is seen that the SRAs have sought the following reliefs and concessions in the Resolution Plan –

**14 Reliefs, concessions and dispensation sought from NCLT**

14.1 Subject to approval of the resolution plan by the NCLT and the implementation of the resolution plan by the Resolution Applicant in full compliance of the terms thereof on or before the Deferred Payment period, all the Financial Creditors be directed to handover the title documents as available which have been deposited with them in respect of the assets of the Corporate Debtor within a time period as may be directed by NCLT.

14.2 All inquiries, investigations, notices, causes of action, suits, claims, disputes, litigation, arbitration or other judicial, regulatory or administrative proceedings against the Corporate Debtor or the affairs of the Corporate Debtor, pending or threatened, present or future and the proceedings, in relation to any period on or before the Effective Date or arising out of or in connection with or in relation to or consequent to the acquisition of control or management by the Resolution Applicant over the Corporate Debtor pursuant to this Resolution Plan, shall be permanently extinguished and stands withdrawn. By virtue of the order of NCLT approving this Plan, all new inquiries, investigations, notices, suits, claims, disputes, litigation, arbitration or other judicial, regulatory, or administrative proceedings in relation to any period on or before the Effective Date or arising out of or in connection with or in relation to or consequent to the acquisition of control or management by the Resolution Applicant over the Corporate Debtor pursuant to this Resolution Plan shall be settled at NIL value as against any amount, determined to be paid by the Corporate Debtor and accordingly, shall not be initiated or admitted against the Corporate Debtor, its future directors, shareholders, employees, officers of the Corporate Debtor.



17. The matter was heard on 02.12.2022 and was reserved for orders. However, on perusal of the records, it was noticed that though the Resolution plan is submitted by a consortium of Mr. Pradeep Kumar Lathar and M/s. Mehar Footwear Private Limited, the Affidavit under Section 29A of IBC, 2016 was only placed on record for the Mehar Footwear Private Limited, by only one Director, namely, Mr. Amit Narula. It was also noticed that the proof of the Performance Guarantee, averred to have been submitted by the SRA, was also not placed on the record.

18. Accordingly, vide order dated 03.01.2022, this Adjudicating Authority directed the applicant/RP of the Corporate Debtor to bring on record (a) the proof of Performance Guarantee submitted by the Resolution Applicants, (b) Affidavit of Mr. Pradeep Kumar Lathar (the other member of the consortium) clearly affirming that he is no barred under Section 29A of IBC, 2016, (c) Affidavit of at least two Directors of M/s. Mehar Footwear Pvt. Ltd. that M/s. Mehar Footwears Pvt. Ltd. is not barred under Section 29A of IBC, 2016 to submit the Resolution Plan; and (d) latest master data of M/s. Mehar Footwear Pvt. Ltd. available on MCA website, by filing an affidavit within 03 days.

19. The Applicant/RP, in compliance of the aforesaid directions, have filed its Affidavit dated 06.01.2023, which is reproduced overleaf :



**AFFIDAVIT ON BEHALF OF THE RESOLUTION PROFESSIONAL OF PAWAN DOOT ESTATES PVT. LTD. IN COMPLIANCE OF ORDER DATED JANUARY 3, 2023 PASSED BY THIS HON'BLE ADJUDICATING AUTHORITY IN I.A. NO. 1077 OF 2020**

I, Darshan Singh Anand, S/o Sh. Gurbachan Singh, aged about 65 years, the Resolution Professional of Pawan Doot Estates Pvt. Ltd., having its office at B-292, Chandra Kanta Complex, Shop No. 8, Near Metro Pillar No. 161, New Ashok Nagar, New Delhi, do hereby solemnly affirm and declare as under:



1. I am the Resolution Professional (hereinafter, '**RP**') of Pawan Doot Estates Pvt. Ltd. (hereinafter, '**Corporate Debtor**') and duly competent and authorised under the provisions of the Insolvency and Bankruptcy Code, 2016 (hereinafter, '**Code**') to file the present affidavit. The Deponent relies on the contents of I.A. 1077 of 2020 (hereinafter, "**Captioned Application**") which are not repeated herein for the sake of brevity.
2. The present affidavit is being filed in compliance of the order dated January 03, 2023 passed by this Hon'ble Adjudicating Authority in the Captioned Application filed for approval of the Resolution Plan submitted by the consortium of Mr. Pradeep Lather and M/s Mehar Footwear Private Limited (now known as Mehar Bhoomi Bhawan Pvt. Ltd. ) (collectively referred to as, "**Successful Resolution Applicant**") under Section 30(6) read with Section 31(1) of the Insolvency and Bankruptcy Code, 2016 (hereinafter, 'the Code') and Regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (hereinafter, '**CIRP Regulations**').
3. This Hon'ble Adjudicating Authority after hearing the submissions made on behalf of the Deponent was pleased to reserve orders in the Captioned Application on December 2, 2022. Vide order dated January 03, 2023, this Hon'ble Adjudicating Authority sought clarification from the Deponent and directed as under :

*"3. Accordingly, we direct the RP of Corporate Debtor to bring on record (a) the proof of Performance Guarantee submitted by the Resolution Applicants, (b) Affidavit of Mr. Pradeep Kumar Lather (the other member of the consortium) clearly affirming that he is not barred under Section 29A of IBC, 2016, (c) Affidavit of at least two Directors of M/s Mehar Footwear Pvt. Ltd. that M/s Mehar Footwear Pvt. Ltd. is not barred under Section 29A of IBC, 2016 to submit the Resolution Plan; (d) latest master data of M/s Mehar Footwear Pvt. Ltd. available on MCA website."*



4. In compliance of the aforesaid direction passed by this Hon'ble Adjudicating Authority, the Deponent submits as under.

**1. Proof of Performance Guarantee submitted by the Successful Resolution Applicant**

*[Signature]*



5. I state that the Successful Resolution Applicant has submitted Performance Security by way of Demand Draft drawn in favour of "Pawan Doot Estate Pvt. Ltd." issued by Axis Bank Ltd., Paschim Vihar Branch, New Delhi, vide Demand Draft No. 182108 dated February 4, 2020 for a sum of INR 1,41,00,000/- (Indian rupees One Crore and Forty One Lakh Only) which is equivalent to 10% of Total Consideration offered in the Resolution Plan, as required under the request for resolution plan (hereinafter, "RFRP"). A copy of the Performance Guarantee submitted by the Successful Resolution Applicant by way of demand draft 182108 dated February 4, 2020 is annexed herewith and marked as ANNEXURE A-1.

6. It is pertinent to mention that on receipt of the said demand draft, the Deponent deposited the same in bank account no. 922040062496255 in the name of the Corporate Debtor with Axis bank, which is lying deposited as Term Deposit with the aforementioned Bank.. A copy of the latest term deposit receipt valid til February 10, 2023 is annexed herewith and marked as ANNEXURE A-2.

**II. Affidavit of Mr. Pradeep Kumar Lather clearly affirming that he is not barred under Section 29A of the Code.**

7. I state that Mr. Pradeep Kumar Lather have submitted an affidavit dated September 7, 2019 affirming that he is not barred under Section 29A of the Code. The said affidavit under Section 29A of the Code also forms part of the record before this Hon'ble Adjudicating Authority at page 117 of the copy of Resolution Plan filed by the Deponent on September 24, 2022 vide e-filing number 0710102015982020 and physically filed on November 3, 2022 vide filing no. 0710102015982026/2. However, in compliance of the direction issued by this Hon'ble Adjudicating Authority, Mr. Pradeep Kumar Lather has submitted a fresh affidavit under Section 29A of the code, which is being annexed herewith and marked as ANNEXURE A-



III. Affidavit of at least two directors of M/s Mehar Footwear Pvt. Ltd. that M/s Mehar Footwear Pvt. Ltd. is not barred under Section 29A of the Code to submit the Resolution Plan.

8. I state that on behalf of Mehar Footwear Pvt. Ltd. (now known as Mehar Bhoomi Bhawan Pvt. Ltd. ), Mr. Amit Narula, being the director, has submitted an affidavit dated September 7, 2019 under Section 29A of the Code and stated that M/s Mehar Footwear Pvt. Ltd. (now known as Mehar Bhoomi Bhawan Pvt. Ltd. ) is not in-eligible under Section 29A of the Code to submit a Resolution Plan for the Corporate Debtor. The said affidavit under Section 29A of the Code also forms part of the record before this Hon'ble Adjudicating Authority at page 71 of the copy of Resolution Plan filed by the Deponent on September 24, 2022 vide e-filing number 0710102015982020 and physically filed the same on November 3, 2022 vide filing no. 0710102015982026/2. However, in compliance of the direction issued by this Hon'ble Adjudicating Authority, the affidavit of Mr. Amit Narula is being annexed herewith for ready reference and marked as ANNEXURE A-4.

9. I state that on behalf of Mehar Footwear Pvt. Ltd. (now known as Mehar Bhoomi Bhawan Pvt. Ltd. ), Mr. Dharmender Narula, being the director has submitted an affidavit dated January 5, 2023 under Section 29A of the Code and stated that M/s Mehar Footwear Pvt. Ltd. (now known as Mehar Bhoomi Bhawan Pvt. Ltd. ) is not in-eligible under Section 29A of the Code to submit a Resolution Plan for the Corporate Debtor. In compliance of the direction issued by this Hon'ble Adjudicating Authority, the affidavit of Mr. Dharmender Narula is annexed herewith and marked as ANNEXURE A-5.

10. I state that on behalf of Mehar Footwear Pvt. Ltd. (now known as Mehar Bhoomi Bhawan Pvt. Ltd. ), Mr. Pradeep Kumar Lather, being the director has submitted an affidavit dated January 5, 2023 under Section 29A of the Code and stated that M/s Mehar Footwear Pvt. Ltd. (now known as Mehar Bhoomi Bhawan Pvt. Ltd. ) is not in-eligible under Section 29A of the Code to submit a Resolution Plan for the Corporate Debtor. In compliance of the direction issued by this Hon'ble Adjudicating





Authority, the affidavit of Mr. Mr. Pradeep Kumar Lather is annexed herewith and marked as ANNEXURE A-6.

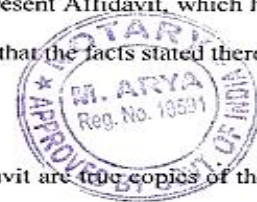
11. Relevant to note here that Mr. Pradeep Kumar Lather and Mr. Pradeep Lather are one and the same person. A copy of affidavit filed by Mr. Pradeep Kumar Lather to that effect is annexed herewith and marked as ANNEXURE A-7.

**IV. Latest master data of M/s Mehar Footwear Pvt. Ltd. available on MCA website.**

12. I state that pursuant to passing of order dated January 3, 2023 seeking clarification by way of this affidavit, the Deponent was informed by the Successful Resolution Applicant that during the pendency of the captioned application, the name of M/s Mehar Footwear Pvt. Ltd., one of the member of consortium has been changed to Mehar Bhoomi Bhawan Pvt. Ltd. with effect from January 8, 2020. A copy of certificate of incorporation pursuant to change of name under rule 29 of the Companies (Incorporation) Rules, 2014 (hereinafter, "**Incorporation Rules**"), as issued by the Registrar of Companies (hereinafter, "**ROC**") is annexed herewith and marked as ANNEXURE A-8.

13. A copy of master data of M/s Mehar Bhoomi Bhawan Pvt. Ltd. , as available on the website of Ministry of Corporate Affairs (MCA) on January 05, 2023 is annexed herewith and marked as ANNEXURE A-9.

14. I state that I have read and understood the contents of the present Affidavit, which has been drafted by the Counsel under my instructions and I say that the facts stated therein are true and correct to my knowledge based on records.



15. I state that the annexures filed along with the present Affidavit are true copies of their respective originals.

16. It is therefore, humbly prayed that this Hon'ble Adjudicating Authority be pleased to take ANNEXURE A-1, ANNEXURE A-2, ANNEXURE A-5 to ANNEXURE A-9 on

record and pass appropriate orders approving the Resolution Plan for the Corporate Debtor, as approved by the Committee of Creditors by 100% majority.

  
DEPONENT



20. On perusal of the aforesaid affidavit, it is observed that the Resolution Applicant Company (R-2) namely, M/s. Mehar Footwear Pvt. Ltd. has changed its name to M/s. Mehar Bhoomi Bhawan Private Limited. Further, the Affidavits in compliance of Section 29A of IBC, 2016 have been filed by the Applicant/RP on behalf of the Successful Resolution Applicants.

21. The Applicant/RP has also filed the proof of the Performance Guarantee in terms of Demand Draft dated 04.02.2020 drawn on Axis Bank amounting to Rs. 1,41,00,000/-. He has stated that the said demand draft has been encashed and the amount is lying in shape of a term deposit with the Axis Bank valid till 10.02.2023.

22. After going through the Application, Additional Affidavit and all other documents placed by the Applicant/RP on record and hearing the Ld. Counsel appearing on behalf of the applicant, we observe that the CoC of the Corporate Debtor has duly considered and approved the Resolution Plan submitted by the Successful Resolution Applicants by a voting share of 100% in its 12th Meeting held on 05.04.2021.

23. The role of the Adjudicating Authority has been examined by the Hon'ble Supreme Court in a catena of judgements. The relevant portion of the decision of the Hon'ble Supreme Court in **Civil Appeal No. 10673 of 2018 in the matter of K. Sashidhar Vs. Indian Overseas Bank & Ors.** is reproduced below:

*“35. Whereas, the discretion of the adjudicating authority (NCLT) is circumscribed by Section 31 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. Reverting to Section 30(2), the enquiry to be done is in respect of whether the resolution plan provides : (i) the payment of insolvency resolution process costs in a specified manner in priority to the repayment of other debts of the corporate debtor, (ii) the repayment of the debts of operational creditors in prescribed manner, (iii) the management of the affairs of the corporate debtor, (iv) the implementation and supervision of the resolution plan, (v) does not contravene any of the provisions of the law for the time being in force, (vi) conforms to such other requirements as may be specified by the Board. The Board referred to is established under Section 188 of the I&B Code. The powers and functions of the Board have been delineated in Section 196 of the I&B Code. None of the specified functions of the Board, directly or indirectly, pertain to regulating the manner in which the financial creditors ought to or ought not to exercise their commercial wisdom during the voting on the resolution plan under Section 30(4) of the I&B Code. The subjective satisfaction of the financial creditors at the time of voting is bound to be a mixed baggage of variety of factors. To wit, the feasibility and viability of the proposed resolution plan and including their perceptions about the general capability of the resolution applicant to translate the projected plan into a reality. The resolution applicant may have given projections backed by normative data but still in the opinion of the dissenting financial creditors, it would not be free from being speculative. These aspects are completely within the domain of the financial creditors who are called upon to vote on the resolution plan under Section 30(4) of the I&B Code.”*

*“38. Indubitably, the inquiry in such an appeal would be limited to the power exercisable by the resolution professional under Section 30(2) of the I&B Code or, at best, by the adjudicating authority (NCLT) under Section 31(2) read with 31(1) of the I&B Code. No other inquiry would be permissible. Further, the jurisdiction bestowed upon the appellate authority (NCLAT) is also expressly circumscribed. It can examine the challenge only in relation to the grounds*



*specified in Section 61(3) of the I&B Code, which is limited to matters “other than” enquiry into the autonomy or commercial wisdom of the dissenting financial creditors. Thus, the prescribed authorities (NCLT/NCLAT) have been endowed with limited jurisdiction as specified in the I & B Code and not to act as a court of equity or exercise plenary powers.”*

24. In view of the decision referred to Supra, it is a well-settled principle of law that the Adjudicating Authority is not required to interfere with the decision taken by the CoC in its commercial wisdom, save and except the circumstances referred to in Section 30(2) of the IBC, 2016.

25. In sequel to the above, we have no other option but to approve the Resolution Plan as approved by the CoC and as placed by the Applicant before this Adjudicating Authority. **We, therefore, allow the present Application and approve the COC approved Resolution Plan placed before us by the Applicant/RP with the following directions in respect of the Corporate Debtor:**

- (i) The approved Resolution Plan as annexed with COC approved addendums shall become effective from the date of passing of this Order and shall be implemented strictly as per the term of the plan and implementation schedule given therein;
- (ii) The reliefs and concessions as sought by the Resolution Applicants in para 14 of the Resolution Plan are granted subject to their admissibility under relevant law, regulations and rules;



- (iii) The Performance Guarantee of Rs. 1,41,00,000/- reported to have been encashed and kept in shape of a term deposit with the Axis Bank valid till 10.02.2023, shall be renewed in the name of and kept by “Monitoring Committee of the Corporate Debtor- Pawan Doot Estate Pvt. Ltd.” till the Resolution Plan is fully implemented.
- (iv) The Monitoring Committee as provided in the Resolution Plan shall be setup by the Applicant within 07 days of passing of this Order, which shall take all necessary steps for implementation of the Resolution Plan as per approval.
- (v) The order of the moratorium in respect to the corporate debtor passed by this Adjudicating Authority under Section 14 of the IBC, 2016 shall cease to have effect from the date of passing of this Order; and
- (vi) The Resolution Professional shall forward all the records relating to the conduct of the CIRP and the Resolution Plan to the IBBI for its record and database.

26. The Resolution Professional shall forthwith send a copy of this Order to the CoC and the Resolution Applicants for necessary compliance. A copy of this order shall also be sent by the Applicant to the IBBI for their record.

Sd/-  
**(L. N. GUPTA)**  
**MEMBER (T)**

Sd/-  
**(BACHU VENKAT BALARAM DAS)**  
**MEMBER (J)**