



IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI
BENCH, COURT-I

IA No. 105 of 2024

IN

CP(IB) No. 131 (MB) of 2023

Under Section 30(6) of the Insolvency
and Bankruptcy Code, 2016.

IA No. 105 of 2024

In the Application of

Mr. Rathin Majmudar (Resolution
Professional of AAA Facilities
Solution Private Limited)

...Resolution Professional/Applicant

In the matter of

**Global Wind Infrastructure and
Services Private Limited**

...Operational Creditor/Petitioners

Versus

AAA Facilities Private Limited

...Corporate Debtor/Respondents

Order Delivered on : 07.04.2025

Coram:

Shri. Prabhat Kumar
Hon'ble Member (Technical)

Justice V. G Bisht
Hon'ble Member (Judicial)

Appearances:

For the Applicant (RP) :

Ld. Counsel, Aniruth Purusothaman



ORDER

1. The present Application is moved by **Mr. Rathin Majmudar (“Applicant”)**, Resolution Professional of AAA Facilities Solution Private Limited (**“Corporate debtor”**) under Section 30(6) of the Insolvency and Bankruptcy Code, 2016 (**“Code”**) for seeking approval of the Resolution Plan submitted by **M/s West End Investment and Finance Consultancy Private Limited (“Successful Resolution Applicant/SRA”)**, approved by Committee of Creditors with 100% voting. This application is filed for the following reliefs:

- (a) Be pleased to approve the Resolution Plan along with the Addendum thereto, annexed at Exhibit X of this application, which has been duly approved by majority of the members of the CoC in accordance with Section 30 (4) of Insolvency & Bankruptcy Code 2016.*
- (b) Ad-interim and Interim Reliefs in terms of Clause (A).*
- (c) Such other reliefs as the Hon’ble Tribunal may deem fit.*

Particulars of Parties

2. The **Applicant, Mr. Rathin Majmudar, (IBBI Reg. No: IBBI/IPA-001/IP-P02576/ 2021-22/13928)** is the Resolution Professional of the Corporate Debtor, having registered office address at 604, Scarlet Gateway, Opp. Riveira Antilla, Near Prahladnagar Garden, Corporate Road, Ahmedabad, Gujarat —380 015.

3. AAA Facilities Private Limited (**“Corporate Debtor”**) CIN: U74210MH2006PTC160639 is a company incorporated on 22.03.2016 under the Companies Act, 2013 having its registered office at Floor 6, Plot - 90, 8 Manek Mahal, Veer Nariman Road, Churchgate, Mumbai, Maharashtra - 400 020. The company is engaged in the business of setting up of Wind Farms.

Brief facts of the case

4. The Corporate Debtor was admitted into the Corporate Insolvency Resolution Process ("**CIRP**") vide order dated 31.07.2023, in the application filed by Global Wind Infrastructure and Services Private Limited ("**Operational Creditor**") for initiating CIRP before the National Company Law Tribunal, Mumbai Bench ("**NCLT**") under Section 9 of the Insolvency and Bankruptcy Code, 2016 ("**Code**") in Company petition bearing number, C.P.(IB)/131(MB)2023. Mr. Rathin Mujumdar ("**Resolution Professional/RP**") was appointed as Interim Resolution Professional vide the same order and later on confirmed as Resolution Professional in 2nd CoC meeting held on 13.10.2023.
5. In furtherance to the CIRP proceedings, the IRP made a public announcement in Form A on 22.08.2023 on the IBBI website and in the Free Press Journal (English language) and Navshakti (Marathi language) in the Mumbai for inviting claims from the creditors. After verification of claims, CoC comprising of 2 creditors was constituted.
6. Subsequently the 3rd COC Meeting was held on 20.10.2023 wherein the appointment of Registered valuers, essential criteria for the Expression of Interest ("**EOI**") and information about opening of a CIRP A/c with Union Bank of India, in accordance with CIRP Regulations, 2016 were decided.
7. Form-G was published on 24.10.2023 as per Regulation 36A of CIRP Regulations for inviting EOIs from the prospective resolution applicants ("**PRA**"), and the last date of submission of the EOIs was 08.11.2023. The Resolution Professional received Earnest Money Deposit from 5 PRAs and an expert team for the evaluation of the PRAs and compliance to Section 29A of the Code was appointed.
8. In the 5th CoC meeting held on 25.01.2024, the applicant had informed the CoC members that Resolution plans were received from 3 PRAs and



presented the Resolution plans to the CoC with a request to communicate their respective opinion of the same. The meeting also discussed about the receipt of a letter from the SRA herein with an interest to submit their Resolution Plan after a delay of 77 days.

9. In the 6th CoC meeting held on 06.02.2024, the CoC in light of instructions from their management, opined to reject the aforesaid Resolution plans received from the 3 PRAs in accordance with Section 30(4) of the Code. and to issue fresh Form- G, thereby inviting the EOIs again in respect of Corporate Debtor. The CoC also granted their approval to seek an extension of the CIRP process from this Tribunal as 180 days had expired. This Tribunal granted an extension of 90 days period in the CIRP of Corporate Debtor vide an order dated 05.04.2024 passed in IA 1526/2024 filed by the Applicant.
10. As per the decision of the CoC, fresh Form-G was published again on 10.02.2024 with the last date for submission of the Resolution Plan was 08.04.2024. Consequently, a 'Provisional List of PRAs' in respect of Corporate Debtor was published on 01.03.2024 and 'Final List of PRAs' in respect of Corporate Debtor was published on 07.03.2024 by the Applicant.
11. During the 7th CoC meeting held on 21.03.2024, the applicant apprised the COC Members about the receipt of 6 EOIs, the non-response of the Recovery Notices to 2 debtors and the liabilities owed by the Corporate Debtor to several entities amounting to Rs. 28,57,56,875/- (Rupees Twenty-Eight crores Fifty-Seven lakhs Fifty-Six Thousand Eight hundred and Seventy-Five only). The CoC approved extension in the last date of submission of the Resolution Plan to 17.04.2024, and the RFRP and the evaluation matrix received along.
12. In the 8th CoC meeting held on 24.04.2024, the Applicant had opened the Resolution Plans received from the 5 entities in the presence of the CoC



members and the representatives of the PRAs. The agenda regarding the existence of Avoidance transaction based on the Transaction Audit Report dated 06.02.2024 was also put up for discussion in this meeting.

13. The second extension for 60 days was granted by this Tribunal vide an order dated 25.06.2024 passed in IA 3255/2024 filed by the Applicant.
14. In the 9th CoC meeting held on 23.05.2024, the representative of the respective Resolutions Plan presented their Plans and discussions regarding the selection process of the Resolution Plan took place.
15. In the 10th CoC meeting convened on 21.06.2024, the applicant informed the CoC members regarding evaluation and verification of the 3 revised Resolution Plans, finally received, by the expert team. CoC decided to select the Resolution Plan through challenge mechanism. will be done from the resolution plans thus received.
16. In the 11th CoC meeting held on 28.06.2024, the base price was determined by the Applicant taking into consideration the highest price offered by the one of the PRAs. The challenge mechanism process ended in fourth round and all the resolution plans were placed for voting of CoC at the earliest. In 12th Meeting held on 11.07.2024, the team member of the Applicant apprised the CoC that evaluation of Resolution Plans has been suggested by CIRP Consultancy Services Pvt. Ltd. and that the plans shall be put for voting of the CoC within 2 to 3 days' time.
17. This Tribunal granted another extension of 31 days beyond 330 days expiring on 15.08.2024 to the Applicant under Application No. IA 3979/2024 vide order dated 20.08.2024.
18. On 23.07.2024, the CoC of the Corporate debtor had voted in favour of the Resolution Plan submitted by the SRA herein with 100% majority along with the Scheme of arrangement dated 11.07.2024.



19. As per the valuation report submitted by the appointed valuers the valuation of the assets of the Corporate debtor is given as below:

Rupees	Valuer 1		Valuer 2		Average	
	FV	LV	FV	LV	FV	LV
Land & Building	49,15,000	39,32,000	47,52,000	38,00,000	48,33,500	38,66,000
Plant & Machinery	8,18,37,210	6,13,77,908	8,24,60,000	6,18,45,000	8,21,48,605	6,16,11,454
Securities & Financial Assets	5,59,98,000	4,38,18,000	4,57,80,576	4,57,80,576	5,08,89,288	4,47,99,288
Total					13,78,71,393	11,02,76,742

Salient Features of the Resolution Plan

20. The key features and summary of the final Resolution Plan submitted by the Resolution Applicant and as approved by the COC are as under:

A) AMOUNT UNDER THE RESOLUTION PLAN

(i) The Resolution proposes an amount of Rs. 4,85,00,000 (Rupees Four Crore Eighty Five Lakhs only) which is inclusive of the Estimated CIRP costs of Rs. 60.00 Lakhs which shall be paid within 90 days of approval of the Resolution Plan by this Tribunal along with other payouts as per the Resolution Plan. The summary of the proposed payments are given as below:

Sr. No.	Description	Amount	Timeline for Payment
1	Estimated Insolvency Resolution Process Costs	60,00,000/-	90 days from the date of approval of the Resolution Plan by this Tribunal.
2	To the Operational Creditors (Workmen's Dues)	NIL	



3	Payment to Operational Creditor (other than workmen and employees and statutory dues)	1,35,54,063/-	90 days from the date of approval of the Resolution Plan by this Tribunal.
4	Operational Creditors (Statutory Dues)	Not Applicable	-
5	Upfront amount to the Secured Financial Creditor	Not Applicable	-
6	Payment to Preference Shareholders of Corporate Debtor	1,00,00,000/-	90 days from the date of approval of the Resolution Plan by this Tribunal.
7	Payment to Equity Shareholders of Corporate Debtor	1,89,46,000/-	90 days from the date of approval of the Resolution Plan by this Tribunal.

B) TREATMENT OF CIRP COSTS

(i) As per the Resolution plan, the SRA proposes to pay Rs. 60 Lakhs towards CIRP Costs within 21 working days from the date of approval of the Resolution Plan by this Tribunal or the approval date. The CIRP costs shall be paid from the liquid assets/cash flows of the Corporate Debtor.

In case any amount remains unpaid then the Resolution Applicant will make the payment towards the balance unpaid portion of the CIRP Costs (“Unpaid CIRP Costs”) out of the Total Resolution Amount on the Closing Date. It is clarified that any interim finance raised by the Resolution Professional from the Financial Creditors which has been utilized towards the payment of CIRP Costs shall be treated as part of the Unpaid CIRP Costs.

C) TREATMENT OF OPERATIONAL CREDITORS (OTHER THAN WORKMEN AND STATUTORY DUES)



- (i) The Operational creditors had filed for a claim of Rs. 1,91,34,784/- (Indian Rupees One Crore Ninety One Lakhs Thirty Four Thousand Seven Hundred Eighty Four Only) and the amount admitted by the Applicant herein is Rs. 1,35,54,063/- (Rupees One crore Thirty Five lakhs Fifty Four thousands And Sixty Three only) which is proposed to be paid within 90 days from the approval of the Resolution Plan from this Tribunal.
- (ii) The SRA makes it clear in the Resolution plan that from the effective date all Claims, Debt, and liabilities including contingent liabilities of the Corporate Debtor towards Operational Creditors (other than Statutory Dues, Employees and Workmen Dues) including Taxes (whether or not contingent, recorded, assessed, unassessed, disputed, undisputed, whether or not in relation to or on account of assessment, non-compliance non-filing, non-preparation of documents, reports including but not limited to pursuant to any surveys or summons) shall be NIL and taken as permanently discharged or settled in all terms by the SRA.
- (iii) The Operational Creditors shall be paid in accordance with Section 30(2)(b), Section 53, Section 53(1) of the Code. The list of the operational creditors (other than statutory authorities, workmen and employees) as on the date of commencement of CIRP is given as below:

S. No	Name of Operational Creditor	Amount claimed	Amount Admitted	Amount not admitted
1	Global Wind Infrastructure & Services Pvt Ltd.	19,082,832	13,554,063	55,28,769
2	Reliance ADA Group Pvt Ltd	51,952	NIL	51,952
Total		1,91,34,784	1,35,54,063	55,80,721

D) TREATMENT OF SECURED FINANCIAL CREDITORS

There are no secured financial creditors who have filed the claim.

E) TREATMENT OF UNSECURED FINANCIAL CREDITORS



- (i) The total claim received from the unsecured financial creditors amounted to Rs. 2925,95,45,588/- (Rupees Two Thousand Nine Hundred Twenty Five Crores Ninety Five Lakhs Forty Five Thousand Five Hundred Eighty Eight Only) from which no payment has been admitted by the Resolution Professional.
- (ii) As per the Information Memorandum dated 04.03.2024 and updated list of claims dated 15.02.2024 circulated by the Applicant, below are the details of claims received and provisionally admitted by the Applicant:

S. No.	Name of the FC	Category of the Creditor	Amount claimed (Rs)	Amount Admitted (Rs)	Amount not admitted
1.	Triumvirate Sons Enterprises Private Limited - under CIRP	Un-Secured	2925,93,75,000	NIL	2925,93,75,000
2.	Reliance Big Private Limited - under CIRP	Un-Secured	170,588	NIL	170,588
Total			2925,95,45,588	NIL	2925,95,45,588

F) TREATMENT OF OPERATIONAL CREDITOR (STATUTORY DUES)

There are no operational creditors (statutory dues) who have filed the claim.

G) TREATMENT OF OPERATIONAL CREDITOR (WORKMEN DUES/ EMPLOYEE DUES)

There are no operational creditors (workmen dues/ employee dues) who have filed the claim.

H) TREATMENT OF DISSENTING FINANCIAL CREDITORS

- (i) As per the requirement of Section 30(2)(b) of the Code, all the Financial Creditors who dissent to the Resolution Plan shall be paid minimum amount as is required under the aforesaid Section, which shall form part of Admitted Financial debt. This payment will be



made with priority over the Assenting Financial Creditors of the Resolution Plan, as mandated by Regulation 38(1)(b) of the CIRP Regulations and this amount shall not be less than the amount to be paid to such Financial Creditors in accordance with subsection (1) of Section 53 of the Code in the event of a liquidation of the Corporate Debtor.

I) TREATMENT OF FINANCIAL CREDITOR'S DEBT

- (i) All bank guarantees and letters of credit including accrued or unpaid interest, penal interest, fees, commission, charges etc. in relation to the Financial Debt of the Company, issued by Financial Creditors whether part of the admitted financial debt or not will be permanently cancelled/written off and extinguished once the Resolution Plan is approved by this Tribunal along with in accordance with Regulation 37 of the CIRP Regulations. This applies to all related liabilities, whether known or unknown, disputed or undisputed. The Corporate debtor and Resolution Applicant will not be liable for any such obligations arising before the Effective Date or due to the Resolution Plan.

J) PAYMENT TO SHAREHOLDERS

- (i) As per the Resolution, it is proposed that upon the discharge of the of the admitted claims, such as CIRP costs and the operational creditors (other than employees dues/ workmen dues/statutory dues), the remaining sum of Rs. 2,89,46,000 (Rupees Two Crore Eighty Nine Lakh Forty Six Thousand only) shall be allocated to the shareholders of the Corporate Debtor.
- (ii) Preference shareholders shall be paid Rs 1,00,00,000/- (Rupees One Crore only), and Rs 1,89,46,000/- (Rupees One Crore Eighty Nine Lakh Forty Six Thousand only) shall be paid to the equity



shareholders.

- (iii) The payment to the shareholder will done on last priority after all other obligations is satisfied, post which the existing paid up share capital of the Corporate Debtor, whether as equity or preference shares, along with any share application monies shall be reduced to NIL and extinguished and cancelled pursuant to the capital reduction as contemplated in this Resolution Plan.
- (iv) Post disbursement of the payment to the shareholders all the rights of any persons associated with Corporate debtor shall stand terminated and not be effective and binding any more, and all shareholder agreements, voting covenants etc. shall immediately stand terminate and the Corporate Debtor and the SRA will be released from all obligations thereto, whether express or implied.

K) SUPERVISION & IMPLEMENTATION OF THE PLAN

- (i) Upon the approval of the resolution plan by this Tribunal, it is proposed that the implementation of the Resolution Plan will continue to be managed by the SRA under the guidance and supervision of a Monitoring Committee (**“Monitoring Committee”**), which will comprise of 1 representative of Committee of Creditors, an independent insolvency professional (as per decision of the SRA) and 1 representative of the SRA. During this period the Monitoring Committee shall, subject to the provisions of this Resolution Plan, be deemed to have the same rights, powers and privileges which the Applicant has during the CIRP.
- (ii) The costs associated with the implementation of the Resolution Plan, and the fees of the Monitoring Committee, as the Corporate debtor is a going concern, shall be subject to the approval of the Resolution Applicant and shall be borne by the Corporate debtor’s internal accruals at the first instance, however in case of shortfall, the same shall be borne by the SRA.



- (iii) The tenure of the Monitoring Committee shall come to an end on the Closing Date. From the date of approval by CoC till the Approval Date from this the SRA shall fulfill all the statutory obligations financial or otherwise, undertaken by it under this Resolution Plan towards the Assenting Financial Creditors, and any other stakeholders.
- (iv) The Corporate debtor is proposed to be acquired by RA/SPV2 which will be under the control of M/S West End Investment and Finance Consultancy Pvt. Ltd. It is also proposed that wind power project be demerged and transferred to SPV 1 which will be under the control of M/S West End Investment and Finance Consultancy Pvt. Ltd.. Thereafter, the Corporate debtor shall be merged with SPV2.

L) CASHFLOW OF THE SRA

The SRA has proposed a business plan for the Corporate debtor, showcasing the cashflow analysis for 3 consecutive year starting from Financial year 2025. The SRA proposes to demerge the Wind Power Projects, thereby allowing for their continued operation and future expansion as a sustainable venture. The projections for 3MW Windmills which is major revenue sector for the Corporate is given as below:

		Rs in Cr		
SI	Particulars	FY 2025 E	FY 2026 E	FY 2027 E
1	Generation of Power (KWH) (Rs in Cr)	0.54	0.57	0.59
2	Sell price per KWH	3.39	3.39	3.39
3	Total Revenue	1.83	1.93	2.00
4	O&M Expenses	0.74	0.77	0.80
5	Other Expenses	0.29	0.30	0.31
6	Total Expenses	1.03	1.07	1.11
7	EBIDTA	0.80	0.86	0.89
8	Depreciation	0.64	0.64	0.64
9	Profit/(Loss) before Tax	0.16	0.22	0.25
10	Tax	-	-	-
11	Profit/(Loss) after Tax	0.16	0.22	0.25

M) CONCESSIONS AND RELIEFS



- i) In para 14.1 of the Resolution Plan, the SRA has sought certain waivers/ reliefs/concessions, dispensations, other rights and benefit as provided in Regulation 37(1) of the CIRP regulations:
- ii) In para 14.1, the SRA has sought to direct relevant authorities to waive fees, charges, stamp duty, and registration fees (including ROC fees) for actions under the Resolution Plan, such as capital reduction, increase in authorized share capital, and issuance of equity shares. Further, it is sought that ROC fees for amending corporate documents and allotting shares to the Resolution Applicant and its nominees be waived, and relevant forms under the Companies Act, 2013 be approved without fee payment.
 - a) In para 14.2, the SRA has sought permission to the carry forward business losses (whether or not corporate tax return has been filed for respective financial years) with opportunity of being heard to the jurisdictional Principal Commissioner or Commissioner as per the Income Tax Act, 1961.
 - b) The SRA has sought immunity from any past and existing defaults / non-compliance/ lapses/penalties (of any nature)/prosecution under various laws for any non-compliance of laws in relation to the Corporate debtor and the fees payable to the Registrar of Companies (“ROC”) in respect of the increase of authorized share capital and amendment of memorandum of association and articles of association of the Corporate Debtor for allotment of fresh shares to the Implementing Entity and / or its nominees, to be/shall be waived.
 - c) The SRA has sought exemption of payments to statutory authorities, tax and levy of stamp duty applicable with respect to the Resolution Plan along with increase in Authorized Share Capital of the Corporate Debtor along



with its Affiliates, subsidiaries, associate company and in relation to Transfer of Investments, Real Estate and other assets as contemplated in this Resolution Plan.

- d) The SRA also seeks specific reliefs from the particular regulatory (including but not limited to Collector, Town Planning Authority, Urban Development Authority, Tehsildar, Talathi, Commissioner of Industries, Directorate of Industries or any other central/ state/ local body and / or authority) to regularize the construction or sanction the plans as submitted by the Corporate Debtor with in a period of 90 days from the date of submissions of such applications/ plans.
- e) The SRA sought to grant a 12-month period for obtaining or renewing all regulatory approvals, licenses, certificates, registrations, filings, statutory compliances, and ROC filings, as well as for removing non-compliance status, with no fines or penalties levied during this period, and to ensure that such delays are not treated as non-compliance especially since the Implementing Entity would be acquired by the Corporate Debtor as a 'going concern' hence, all consents, licenses, etc. under law, shall be granted in favour of the Corporate Debtor or affiliates accustomed to obtain, including in relation to the construction, occupation and continuation of its business at its premises or the regularization of land, notwithstanding any provisions to the contrary.
- f) The SRA also seeks reliefs with respect to the financial statements and that no fresh notice, demand, proceedings, etc., whatsoever, shall be issued by any Governmental Authority, for any period prior to the Closing Date.



- g) The SRA has also sought reliefs with respect to revisions and filing of the income tax returns and waiver on tax liabilities as mentioned in Clauses 14.1 (n) & (o) records of the, the irrevocable relinquishment of encumbrances, immunity from disqualification from future bids/plans Section 29A of the Code due to investment in this Resolution Plan.
- h) The SRA sought that all Business Permits, rights, entitlements, benefits, subsidies and privileges whether under applicable Law, contract, lease or license granted in favour of the Corporate Debtor or to which the Corporate Debtor is entitled to or accustomed to, which have expired on the Effective Date, shall be renewed by the relevant Governmental Authority on an expedited basis and pending receipt of such Business Permits, the Corporate Debtor shall be permitted to continue to operate its business as a going concern, without disruption for the benefit of the Corporate Debtor for a period of 36 months or until renewed by the relevant Governmental Authority, whichever is later.
- i) The SRA has sought that the Corporate debtor shall have unfettered right using the trademarks and other intellectual property (including without limitation, the trademarks, service marks, service names, trade dress, logos and corporate names, both primary and secondary, the trade secrets, knowhow and other confidential information, patents, designs and copyright) in a manner as was being used and enjoyed by the Corporate Debtor immediately prior to the Insolvency Commencement Date.
- j) The SRA has also sought for immunity against institution/ continuance of proceedings/execution of judgement against the Corporate debtor in any court or government authority, transfer, encumbrance or disposing off the assets of the Corporate debtor, any actions of foreclose or recovery of



any security interests or any actions under the SARFAESI Act, 2002 and recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.

Statutory Compliances

21. **Section 25(2)(h) of the Code:** invite prospective resolution applicants, who fulfil such criteria as may be laid down by him with the approval of committee of creditors, having regard to the complexity and scale of operations of the business of the corporate debtor and such other conditions as may be specified by the Board, to submit a resolution plan or plans.
22. In compliance to **Section 30(1) of the Code**, the Resolution Professional has examined the Resolution plan of the Successful Resolution Applicant and confirms that this Resolution Plan: A resolution applicant¹ may submit a resolution plan ¹[along with an affidavit stating that he is eligible^{1A} under [section 29A](#)] to the resolution professional prepared on the basis of the information memorandum.
23. 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 payment of debts of Operational Creditor in such manner as may be specified by the board which shall not be less than
 - (i) the amount to be paid to such creditors in the event of liquidation of the Corporate Debtor under Section 53; or



- (ii) the amount that would have been paid to such creditors, if the amount to be distributed under the Resolution Plan had been distribute in accordance with sub-section (1) of Section 53 in the event of liquidation of the corporate debtor.
- (iii) whichever is higher and provides for the payment of debts of financial creditors, who do not vote in favour of the resolution plan, in such manner as may be specified by the Board, which shall not be less than the amount to be paid to such creditors in accordance with sub-section (1) of section 53 in the event of a liquidation of the corporate debtor.
- c) Provides for management of the affairs of the Corporate Debtor after approval of Resolution Plan;
- d) The implementation and supervision of Resolution Plan;
- e) Does not contravene any of the provisions of the law for time being in force,
- f) Confirms to such other requirements as may be specified by the Board.
24. The Resolution Professional as per **Section 30(4) of the Code**, confirms that the Resolution Plan is:
- a) Feasible and viable, according to the CoC
- b) Has been approved by the CoC with 66% voting share.
25. The Resolution Professional as per **Section 31(1) of the Code**, also confirms that the Resolution Plan Resolution Plan has provisions for its effective implementation plan, according to the CoC.
26. The Resolution Professional as per **Regulation 35A of the CIRP Regulations**, confirms that the Resolution Professional has made determination that the corporate debtor has been subjected to any



transaction of the nature covered under sections 43, 45, 50 or 66, before the 150th day of the insolvency commencement date, under intimation to the Board.

27. The Resolution Professional as per **Regulation 37 of the CIRP Regulations**, confirms that the Resolution Plan provides:

c) the substantial acquisition of shares of the Corporate Debtor, or the merger or consolidation of the Corporate Debtor

d) satisfaction modification of any security interest

f) reduction in the amount payable to creditors

h) amendment of the constitutional documents of the corporate debtor

j) Change in portfolio of goods or services produced or rendered by the Corporate Debtor

l) Obtaining necessary approvals from the Central and State Governments and other authorities.

28. In compliance of **Regulation 38(1) of CIRP Regulations**, the Resolution Professional confirms that the Resolution plan provides that

a. The amount payable under the Resolution Plan to the Operational Creditors shall be paid in priority over Financial Creditors.

b. The amount payable under the Resolution Plan to the financial creditors, who have a right to vote under subsection (2) of Section 21 and did not vote in favour of the resolution plan, shall be paid in priority over financial creditors who voted in favour of the plan.



(1A) A resolution plan includes a statement as to how it has dealt with the interests of all stakeholders, including financial creditors and operational creditors of the Corporate debtor

29. In compliance of **Regulation 38(2) of CIRP Regulations**, the Resolution Professional confirms that the Resolution plan provides that

a) the term of the plan and its implementation schedule;

b) The management and control of the business of the Corporate Debtor during its term.

c) Adequate means of Supervising its implementation.

d) provides for the manner in which proceedings in respect of avoidance transactions, if any, under Chapter III or fraudulent or wrongful trading under Chapter VI of Part II of the Code, will be pursued after the approval of the resolution plan and the manner in which the proceeds, if any, from such proceedings shall be distributed.

30. In compliance of **Regulation 38(3) of CIRP Regulations**, the Resolution Professional confirms that the Resolution plan provides that:

A resolution plan shall demonstrate 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; and



(e) the resolution applicant has the capability to implement the resolution plan

31. The Resolution Professional has submitted Form-H under **Regulation 39(4) of the CIRP Regulations** to certify that the Resolution Plan as approved by the CoC meets all the requirements of the Code and its Regulations, the relevant parts of which are reproduced below:

FORM H
COMPLIANCE CERTIFICATE

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

1. *I, Rathin Amishbhai Majmudar, an insolvency professional enrolled with Indian Institute of Insolvency Professionals of ICAI and registered with the Board with registration number IBBI/IPA-001/IP-P02576/2021-2022/13928, am the Resolution professional for the Corporate Insolvency Resolution Process (CIRP) of AAA Facilities Solution Private Limited.*

2. *The details of the CIRP are as under:*

Sl. No.	Particulars	Description
1	<i>Name of the CD</i>	<i>AAA Facilities Solution Private Limited</i>
2	<i>Date of Initiation of CIRP</i>	<i>21.08.2023 (Order dated 31.07.2023 received by RP on 21.08.2023)</i>
3	<i>Date of Appointment of IRP</i>	<i>21.08.2023</i>
4	<i>Date of Publication of Public Announcement</i>	<i>22.08.2023</i>
5	<i>Date of Constitution of CoC</i>	<i>13.09.2023</i>
6	<i>Date of First Meeting of CoC</i>	<i>20.09.2023</i>

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH- I

IA No. 105 of 2024
IN
CP(IB) No. 131 (MB) of 2023



7	<i>Date of Appointment of RP</i>	20.09.2023
8	<i>Date of Appointment of Registered Valuers</i>	14.10.2023
9	<i>Date of Issue of Invitation for EOI</i>	24.10.2023 & 10.02.2024
10	<i>Date of Final List of Eligible Prospective Resolution Applicants</i>	26.11.2023 & 07.03.2024
11	<i>Date of Invitation of Resolution Plan</i>	08.03.2024
12	<i>Last Date of Submission of Resolution Plan</i>	08.04.2024
13	<i>Date of Approval of Resolution Plan by CoC</i>	23.07.2024
14	<i>Date of Filing of Resolution Plan with Adjudicating Authority</i>	
15	<i>Date of Expiry of 180 days of CIRP</i>	17.02.2024
16	<i>Date of Order extending the period of CIRP for further period of 90 days beyond 180 Days</i>	05.04.2024
17	<i>Date of Expiry of Extended Period of CIRP</i>	16.05.2024
18	<i>Date of Order extending the period of CIRP for further period of 60 days beyond 270 Days</i>	25.06.2024
19	<i>Date of Expiry of Extended Period of CIRP</i>	15.07.2024 (IA for extension is filed on 15.07.2024).
20	<i>Fair Value</i>	13.78 Crores (Average)
21	<i>Liquidation value</i>	11.02 Crores (Average)
22	<i>Number of Meetings of CoC held</i>	12

3. I have examined the Resolution Plan received from Resolution Applicant **M/s West End Investment and Finance Consultancy Private Limited** and approved by Committee of Creditors (CoC) of AAA Facilities Solution 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 M/s West End Investment and Finance Consultancy Private Limited 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 operational creditors after considering its feasibility and viability and other requirements specified by the CIRP Regulations.

(iv) I sought vote of members of the CoC by electronic voting system which was kept open at least for 24 5. hours as per the regulation 26.

5. The list of operational creditors of the CD AAA Facilities Solution Private Limited being sole member of the CoC and distribution of voting share is as under:

<i>Sl. No.</i>	<i>Name of Creditor</i>	<i>Voting Share (%)</i>	<i>Voting for Resolution Plan (Voted for/ Dissented/ Abstained)</i>
<i>1</i>	<i>M/s Global Wind Infrastructure & Services Private Limited</i>	<i>100%</i>	<i>Voted for Resolution Plan</i>

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.

A statement by the Resolution Applicant under regulation 38(1A) of the CIRP Regulations is reproduced as under: -

“As per the requirements of Regulation 38(14) of the CIRP Regulations, the Resolution Applicant believes that this resolution plan for the corporate debtor has dealt with the interests of all stakeholders, including the financial creditors (whether secured or unsecured, assenting or dissenting) and Operational Creditors of the Corporate Debtor as per the terms set out in this Resolution



Plan. The Resolution Applicants or any of their related parties have neither failed to implement nor contributed to the failure of implementation of any other resolution plan approved by the NCLT at any time in the past. Neither of the Resolution Applicants nor their respective Connected Persons have withdrawn from any Resolution Plan after its approval by the relevant CoC. It is hereby clarified that this shall supersede any other undertaking given by the Resolution Applicants in this regard.”

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

(Amount in Rs. lakh)

<i>Sl. No.</i>	<i>Category of Stakeholder*</i>	<i>Sub-Category of Stakeholder</i>	<i>Amount Claimed</i>	<i>Amount Admitted</i>	<i>Amount Provided under the Plan#</i>	<i>Amount Provided to the Amount Claimed (%)</i>
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	Secured Financial Creditors	<p>(a) Creditors not having a right to vote under sub-section (2) of section 21</p> <p>(b) Other than (a) above:</p> <p>(i) who did not vote in favour of the resolution Plan</p> <p>(ii) who voted in favour of the resolution plan</p> <p>Total[(a) + (b)]</p>				
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	<i>Unsecured Financial Creditors</i>	<i>(a) Creditors not having a right to vote under sub- section (2) of section 21</i>				
		<i>(b) Other than (a) above:</i>				
		<i>(i) who did not vote in favour of the resolution plan</i>				
		<i>(ii) who voted in favour of the resolution Plan</i>				
		Total[(a) + (b)]		<i>Nil</i>	<i>Nil</i>	<i>Nil</i>
3	<i>Operational Creditors</i>	<i>(a) Related Party of Corporate Debtor</i>				
		<i>(b) Other than (a) above:</i>				
		<i>(i) Government (ii) Workmen (iii) Employees</i>				
		<i>(iv) M/s Global Wind Infrastructure & Services Private Limited</i>	<i>191.34</i>	<i>135.54</i>	<i>135.54</i>	<i>100%</i>
		Total[(a) + (b)]	<i>191.34</i>	<i>135.54</i>	<i>135.54</i>	<i>100%</i>
4	<i>Other debts and dues</i>					

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-Payment to Preference Shareholders		2925.93	Nil	100.00	3.41%
-Payment to Equity Shareholders		NA	Nil	189.46	NA
- CIRP Cost (Estimated)		60.00	60.00	60.00	100%
Grand Total		3177.27	195.54	485.00	15.26%

**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:

<i>S I. N o</i>	<i>Category of Shares Holder</i>	<i>No. of shares held before the CIRP</i>	<i>No. of shares held after the CIRP</i>	<i>Voting Share (%) held before CIRP</i>	<i>Voting Share (%) held after CIRP</i>
1	<i>Equity-Existing Promoter Group</i>	<i>30,10,000</i>	<i>Nil</i>	<i>100%</i>	<i>Nil</i>
2	<i>Equity-PRA</i>	<i>-</i>	<i>-</i>	<i>-</i>	<i>-</i>
3	<i>Verified Financial creditors</i>	<i>-</i>	<i>-</i>	<i>-</i>	<i>-</i>
4	<i>Preference</i>	<i>29,25,96,25,000</i>	<i>Nil</i>	<i>Nil</i>	<i>Nil</i>

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

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<i>Section of the Code/Regulation No.</i>	<i>Requirement with respect to Resolution Plan</i>	<i>Clause of Resolution</i>	<i>Compliance (Yes / No)</i>
25(2)(h)	<i>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?</i>		Yes
Section 29A	<i>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?</i>	<i>Undertaking submitted by PRA and also 29A certification taken by RP</i>	Yes
Section 30(1)	<i>Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?</i>	-	Yes
Section 30(2)	<p><i>Whether the Resolution Plan-</i></p> <p><i>(a) provides for the payment of insolvency resolution process costs?</i></p> <p><i>(b) provides for the payment to the operational creditors?</i></p> <p><i>(c) provides for the payment to the financial creditors who did not vote in favour of the resolution plan?</i></p> <p><i>(d) provides for the management of the affairs of the corporate debtor?</i></p>	<p><i>Clause 4.5, Distribution of total financial outlay</i></p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

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	<p><i>(e) provides for the implementation and supervision of the resolution plan?</i></p> <p><i>(f) contravenes any of the provisions of the law for the time being in force?]</i></p>		<p>Yes</p> <p>No</p>
Section 30(4)	<p><i>Whether the Resolution Plan</i></p> <p><i>(a) is feasible and viable, according to the CoC?</i></p> <p><i>(b) has been approved by the CoC with 66% voting share?</i></p>		<p>Yes</p> <p>Yes</p>
Section 31(1)	<p><i>Whether the Resolution Plan has provisions for its effective implementation plan, according to the CoC?</i></p>		Yes
Regulation 38 (1)	<p><i>Whether the amount due to the operational creditors under the resolution plan has been given priority in payment over financial creditors?</i></p>		Yes
Regulation 38(1A)	<p><i>Whether the resolution plan includes a statement as to how it has dealt with the interests of all stakeholders?</i></p>		Yes
Regulation 38(1B)	<p><i>(i) Whether the Resolution Applicant or any of its related parties has failed to implement or contributed to the failure of</i></p>		No

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	<p><i>implementation of any resolution plan approved under the Code.</i></p> <p><i>(ii) If so, whether the Resolution Applicant has submitted the statement giving details of such non-implementation?</i></p>		NA
Regulation 38(2)	<p><i>Whether the Resolution Plan provides:</i></p> <p><i>(a) the term of the plan and its implementation schedule?</i></p> <p><i>(b) for the management and control of the business of the corporate debtor during its term?</i></p> <p><i>(c) adequate means for supervising its implementation?</i></p>		<p>Yes</p> <p>Yes</p> <p>Yes</p>
Regulation 38(3)	<p><i>Whether the resolution plan demonstrates that –</i></p> <p><i>(a) it addresses the cause of default?</i></p> <p><i>(b) it is feasible and viable?</i></p> <p><i>(c) it has provisions for its effective implementation?</i></p> <p><i>(d) it has provisions for approvals required and the timeline for the same?</i></p>		<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

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	<i>(e) the resolution applicant has the capability to implement the resolution plan?</i>		
<i>Regulation 39(2)</i>	<i>Whether the RP has filed applications in respect of transactions observed, found or determined by him?</i>		<i>No</i>
<i>Regulation 39(4)</i>	<i>Provide details of performance security received, as referred to in sub-regulation (4A) of regulation 36B.</i>		<i>Received</i>

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

<i>Section of the Code/Regulation No.</i>	<i>Description of Activity</i>	<i>Latest Timeline under regulation 40A</i>	<i>Actual Date</i>
<i>Section 16(1)</i>	<i>Commencement of CIRP and Appointment of IRP</i>	<i>31.07.2023 (Order Passed) 21.08.2023 (Order received by IRP)</i>	<i>21.08.2023</i>
<i>Regulation 6(1)</i>	<i>Publication of Public Announcement</i>	<i>24.08.2023</i>	<i>21.08.2023</i>
<i>Section 15(1)(c) /Regulation 12 (1)</i>	<i>Submission of Claims</i>	<i>04.09.2023</i>	<i>04.09.2023</i>
<i>Regulation 13(1)</i>	<i>Verification of Claims</i>	<i>T+21</i>	<i>11.09.2023</i>

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<i>Section 26(6A) /Regulation 15A</i>	<i>Application for Appointment of Authorized Representative, if necessary</i>	<i>T+23</i>	<i>NA</i>
<i>Regulation 17(1)</i>	<i>Filing of Report Certifying Constitution of CoC</i>	<i>T+23</i>	<i>14.09.2023</i>
<i>Section 22(1) and regulation 17(2)</i>	<i>First Meeting of the CoC</i>	<i>20.09.2023</i>	<i>20.09.2023</i>
<i>Regulation 35A</i>	<i>Determination of fraudulent and other transactions</i>	<i>14.12.2023</i>	<i>NA</i>
<i>Regulation 27</i>	<i>Appointment of two Registered Valuers</i>	<i>07.10.2023</i>	<i>14.10.2023</i>
<i>Regulation 36 (1)</i>	<i>Submission of Information Memorandum to CoC</i>	<i>24.11.2023</i>	<i>24.11.2023</i>
<i>Regulation 36A</i>	<i>Invitation of EoI</i>	<i>20.10.2023</i>	<i>24.10.2023</i>
	<i>Publication of Form G</i>	<i>20.10.2023</i>	<i>24.10.2023</i>
	<i>Provisional List of Resolution Applicants</i>	<i>14.11.2023</i>	<i>16.11.2023</i>
	<i>Final List of Resolution Applicants</i>	<i>29.11.2023</i>	<i>26.11.2023</i>
<i>Regulation 36B</i>	<i>Issue of Request for Resolution Plan, which includes Evaluation Matrix and Information Memorandum to Resolution Applicants</i>	<i>T+105</i>	<i>01.12.2023</i>
<i>Section 30(6) /Regulation 39(4)</i>	<i>Submission of CoC approved Resolution Plan</i>	<i>T+165</i>	
<i>Section 31(1)</i>	<i>Approval of Resolution Plan</i>	<i>T+180</i>	<i>NO</i>

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

<i>Sl. No.</i>	<i>Nature of Approval</i>	<i>Name of Applicable Law</i>	<i>Name of Authority who will grant approval</i>	<i>When to be obtained</i>

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1.	<i>Approval from NCLT as the Successful Resolution Applicant</i>	<i>IBC, 2016</i>	<i>NCLT</i>	
2.	<i>No objection Resolution to the Applicant and/ or the Implementing Entity acquiring the ownership of the Corporate Debtor.</i>	<i>IBC, 2016</i>	<i>NCLT</i>	
3.	<i>Change of control of the Corporate Debtor having of certificate registration as a participant from SEBI in terms of SEBI (Depositories and Participants) Regulations, 2018</i>	<i>SEBI Act</i>	<i>SEBI</i>	
4.	<i>Infrastructure clearance certificate</i>	<i>Electricity Act, 2003</i>	<i>Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO)</i>	
5.	<i>Commissioning certificate</i>	<i>Electricity Act, 2003</i>	<i>(a) Tamil Nadu Electricity Board Limited. (b) Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO)</i>	

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6.	<i>No objection certificate for Transfer of ownership</i>	<i>Electricity Act, 2003</i>	<i>Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO)</i>	
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12. *The Resolution Plan is not subject to the following 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): NIL*

14. *The Resolution Plan is being filed 1 days before the expiry of the period of CIRP provided in section 12 of the Code.*

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: Not Applicable

(b) filed Form CIRP 8 with the Board on or before the one hundred and fortieth day of the insolvency commencement date: Not Applicable

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	<i>Preferential transactions under section 43</i>			
2	<i>Undervalued transactions under section 45</i>		NA	



3	<i>Extortionate credit transactions under section 50</i>
4	<i>Fraudulent transactions under section 66</i>

15A. *The committee has approved a plan providing for contribution under regulation 39B as under: Not Applicable*

- a. Estimated liquidation cost :*
- b. Estimated liquid assets available :*
- c. Contributions required to be made :*
- d. Financial creditor wise contribution is as under:*

15B. *The committee has recommended under regulation 39C as under: Not Applicable*

- a. Sale of corporate debtor as a going concern:*
- b. Sale of business of corporate debtor as a going concern:*

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.- Not Applicable*

16. *I Rathin Amishbhai Majmudar 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.*

Findings:

32. Heard learned Counsel for the Applicant and the Respondent in the matter and perused the records.



33. The RP has filed Compliance Certificate in Form-H along with the Plan. On perusal, the same is found to be in order.

34. On perusal of the Resolution Plan, we also find 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.

35. In the matter of *K Sashidhar v. Indian Overseas Bank & Others, (2019) 12 SCC 150*, the Hon'ble Supreme 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”). Hence, in the present application, it can be observed that the CoC has approved the Resolution Plan with requisite majority in the 12th CoC meeting with 100% voting share respectively, therefore in the wisdom of the CoC, the plan meets the requirements of being viable and feasible for the reviving the Corporate Debtor. The Resolution Plan also provides for a detailed implementation schedule with specific timelines and the manner in which the management, control and supervision of the Corporate debtor would lie.

36. Having considered the submissions and judicial precedents in this relation, the Resolution Plan is effective for approval by this Bench. In terms of clarification sought by this Tribunal on 18.03.2025, the



Applicant RP had placed an additional affidavit dated 01.04.2025 with annexed with an undertaking, clarifying that, *in the event the reliefs and concessions as prayed for in the Resolution Plan are not granted in the form as sought or are not granted at all by this Tribunal, the Resolution Applicant shall nevertheless proceed with and implement the Resolution Plan in its entirety, in accordance with the terms and conditions approved by this Hon'ble Tribunal. It is also stated that the Resolution Applicant shall take all necessary steps and actions to ensure the smooth implementation of the Resolution Plan and this Undertaking is binding on the Resolution Applicant.*

37. The Applicant has also clarified in the additional affidavit dated 21.02.2025 that SPV1 is Optivion Ventures Private Limited and SPV2 is Vibryon Ventures Private Limited. Optivion Ventures Private Limited is a Company incorporated with the Registrar of Companies, Mumbai on 12.12.2024 under the Companies Act, 2013. Vibryon Ventures Private Limited is a Company incorporated with the Registrar of Companies, Mumbai on 17.12.2024 under the Companies Act, 2013. These companies have been promoted by one Filter Media Private Limited after the approval of the Resolution Plan by the COC. There is nothing on record to evidence that Filter Media Private Limited is under the control of M/S West End Investment and Finance Consultancy Pvt. Ltd. Accordingly, the Resolution Professional shall undertake compliance of Section 29A of the Code and ensure that the shareholders of newly formed SPV1 & SPV2 are persons under control and ownership of M/s West End Investment and Finance Consultancy Private Limited.
38. The Resolution Plan contemplates the scheme of demerger and merger. The circular IBC/01/2017 dated 25.10.2017 issued by the Ministry of Corporate Affairs only clarifies that the approval shareholders/members of the corporate debtor/company for any corporate action under the Companies Act, 2013 shall be deemed to be in place, if such action is taken pursuant to approval of the resolution plan. This circular does not in any manner do away with the requirement of notice in terms of



Section 230 (5) of the Companies, Act 2013 to be sent to Central Government, the Income Tax authorities' the RBI, the SEBI, the Registrar, the Official Liquidator or sectoral regulators for seeking their representation for the proposed scheme of merger. Accordingly, the SRA shall serve a notice of the proposed scheme within 30 days to Government /Statutory/Sectoral/Regulatory authority, who shall be at liberty to file an objection to the approval granted by this Tribunal within 30 days from the receipt of such notice. It is clarified that the SRA shall not be required to obtain consent of shareholders or creditors of the companies being party to the scheme.

39. The RP has complied with the requirement of the Code in terms of Section 30(1), Section 30(2)(a) to 30(2)(e), Section 30(4), Section 31(1), Regulation 35A and Regulation 37(c), 37(d), 37(f), 37 (h), 37(i), 37(j) & 37(l), Regulations 38(1), 38(1A), 38(2)(a), 38(2)(b), 38(2)(c), 38(2)(d) & 38(3) (a) to (e)and 39(4) of the Regulations.
40. 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 and subject to following of procedure as may be prescribed. It is clarified that the authorities shall not withhold the approval/consent/extension for the reason of insolvency of the Corporate Debtor or extinguishment of their dues upto approval of Resolution Plan in terms of the approved Plan. Any relief or concession as sought on the Plan shall be subject to the provisions of the relevant Act.
41. In Clause XIV of the Resolution Plan, the SRA has sought certain waivers/ reliefs/concessions, dispensations, other rights and benefits. The reliefs & concessions as prayed in the Resolution Plan shall be available in accordance with the principle laid down by Hon'ble Supreme Court in case of *Ghanshyam Mishra and Sons Private Limited v/s. Edelweiss Asset Reconstruction Company Limited* {(2021) 13 S.C.R



737} and subject to the observations or limitations in the following paras and judicial precedents in case of *Municipal Corporation of Greater Mumbai vs. Abhilash Lal and Ors. (2019) ibclaw.in 480 NCLAT*.

- a. Any increase in the authorized capital shall be subject to payment of prescribed fee, if any applicable, and filing of prescribed forms with the Registrar of Companies.
- b. The Income Tax Department shall be at liberty to examine the tax implications arising from such conversion in terms of Section 2(24), Section 28 and Section 56 of the Income Tax Act, 1961 read with GAAR provisions thereunder.
- c. The Applicant shall file necessary forms and pay prescribed fees, if any, in terms of provisions of the Companies Act, 2013 in relation to reduction in capital and issuance of fresh capital, however, the Registrar of Companies shall waive the additional fees, if any, payable on such filing.
- d. The SRA may approach prescribed authorities for waiver/reduction in fees, charges, stamp duty, and registration fees, if any arising from actions contemplated under the Resolution Plan and such request shall be subject to the relevant law/statute and adherence to the procedure prescribed thereunder.
- e. The SRA may file appropriate application, if required, for renewal of all Business Permits, rights, entitlements, benefits, subsidies and privileges whether under applicable Law, contract, lease or license granted in favour of the Corporate Debtor or to which the Corporate Debtor is entitled to or accustomed to, which have expired on the Effective Date, and follow the dues procedure prescribed for the purpose upon payment of prescribed fees. The contract with third parties shall be subject to consent of such parties. It is clarified that continuance of approvals shall not be refused on account of extinguishment of any dues under Code and extension or renewal thereof shall not be denied on account of past insolvency of the Corporate Debtor. No action shall lie against the Corporate



Debtor for any non-compliances arising prior to the date of approval of Resolution Plan, however, such non-compliances shall be cured, if necessitated to keep the approval in force, after acquisition by the Corporate Debtor within period stipulated in the Resolution Plan.

- f. No orders levying any tax, demand of penalty from the Corporate Debtor in relation to period up to approval of the Resolution Plan shall be passed by any authority and such demand, if created, shall not enforceable as having extinguished in terms of approved Resolution Plan.
- g. The carry forward of losses and unabsorbed depreciation shall be available in accordance with the provisions of Income Tax Act, and the Income Tax Department shall be at liberty to examine the same. Further, the concerned tax authorities shall be at liberty to examine the carry forward of input tax credit available under Indirect Tax for its further carry forward.
- h. An application for compounding/condoning shall be filed in accordance with the procedure specified in respective law or concerned authority, however, no fine or penalty shall be imposed for non-compliances till the date of approval of this Plan or such further period as is permitted in terms of this Order.
- i. ROC shall update the records and reflect the Corporate Debtor as 'Active' upon filing of pending returns/forms after payment of normal fees (not additional fee). In case such filing is not permitted by the e-filing portal, the ROC shall accept such forms/returns in physical format and manage to upload the same by back-end. The Corporate Debtor shall be exempted from using the words "and reduced".
- j. The Compliances under the applicable law for all the statutory appointments by the Corporate Debtor shall be completed within 6 months, whereafter, the necessary consequence under respective law shall follow.



- k. An application for compounding/condoning shall be filed in accordance with the procedure specified in respective law or concerned authority, however, no fine or penalty shall be imposed for non-compliances till the date of approval of this Plan or such further period as is permitted in terms of this Order.
- l. The use of Trademark and other intellectual property (including without limitation, the trademarks, service marks, service names, trade dress, logos and corporate names, both primary and secondary, the trade secrets, knowhow and other confidential information, patents, designs and copyright) shall be subject to concurrence of its holder, as holder of such trademark has not been afforded an opportunity in the matter.
- m. The Resolution Professional has certified that the Resolution plan doesn't contravene any of the provisions of the law accordingly we are of considered view that Clause 6.1.B (ii) relating to amendment to the resolution plan to comply with any applicable law or conditions for grant of any approval cannot vest the right to modify the approved plan in resolution applicant.
42. 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), 38 (1B), 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.
43. The Resolution Plan along with the Addendum thereto annexed to the Application is hereby **approved**. It shall become effective from this date and shall form part of this order with the following directions:
- 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/liabilities of the Corporate Debtor and shall be dealt by the appropriate Authorities in accordance with law. Any waiver sought in the Resolution Plan, shall be subject to approval by the Adjudicating Authority.
- iii. 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.
- iv. The moratorium under Section 14 of the Code shall cease to have effect from this date.
- v. 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.
- vi. 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.

- vii. The Applicant shall forthwith send a certified copy of this Order to the CoC and the Resolution Applicant, respectively for necessary compliance.

34. The Interlocutory Application No.105/2024 in C.P.(IB)/131(MB)2023 is accordingly **allowed and disposed of**.

Sd/-

Prabhat Kumar
Member (Technical)

/JJ/

Sd/-

Justice V.G. Bisht
Member (Judicial)