



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

**I.A. NO. 537/ND/2021**

**IN**

**Company Petition No. (IB)-1617(ND)/2019**

**IN THE MATTER OF:**

**M/s Sunlarge Industries Private Limited**

**... Applicant/Operational Creditor**

**Versus**

**M/s H.L Tech Fabrics Limited**

**... Respondent**

**AND IN THE MATTER OF IA. NO. 537/ND/2021:**

**Mr. Pawan Kumar Singal**

Resolution Professional of

H.L. Tech Fabrics Limited

8/28 (3<sup>rd</sup> Floor), WEA,

Abdul Aziz Road, Karol Bagh,

New Delhi - 110005

**... Applicant**

**Order Delivered on: 05.06.2023**

**SECTION: Section 30(6) read with Section 31 of IBC 2016**

**CORAM**

**SH. ASHOK KUMAR BHARDWAJ, HON'BLE MEMBER (J)**

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

**PRESENT:**

**For the Applicant** : Adv. Aditya Sharma for Resolution Applicant

**For the RP** : Mr. Abhinav Dubey

**For the ROC** : Adv. Kapil Gulati, Gwalior ROC



## **ORDER**

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

The present IA No. 537 of 2021 has been preferred by Mr. Pawan Kumar Singal, Resolution Professional (hereinafter referred to as, the “**Applicant**”) of M/s H.L. Tech Fabrics Limited (hereinafter referred to as, the “**Corporate Debtor**”) under Section 30(6) read with Section 31 and Section 60(5) of IBC 2016 seeking the following reliefs:

- “a) allow the present Application;*
- b) pass necessary order(s)/direction(s) under Section 31 of the Code, approving the Resolution Plan submitted by the Resolution Applicant Shree Varun Infratech (formerly known as M/s. Varun Scrap Suppliers), which has been duly approved by the Committee of Creditors of M/s H.L Tech Fabrics Ltd. with 100% voting share;*
- c) pass necessary order(s)/direction(s) declaring that upon approval of the Resolution Plan by this Hon’ble Tribunal, the provisions of the Resolution Plan shall be binding on the Corporate Debtor, its creditors, guarantors, members, employees, workmen, statutory authorities and other stakeholders in accordance with Section 31 of the Code and shall be given effect to and implemented, without any deviation, pursuant to the order of this Hon’ble Tribunal;*
- d) pass necessary order(s)/direction(s) in favour of the Resolution Applicant absolving him from/of all/any financial/statutory liabilities of the M/s. H.L Tech Fabrics Ltd. accrued prior to the commencement of the CIRP except whatever stated in the Resolution Plan;*



- e) *pass necessary order(s)/direction(s) vacating the moratorium on M/s. H.L. Tech Fabrics Ltd. imposed under Section 14 of the Code;*
- f) *pass necessary order(s)/direction(s) approving the appointment of the monitoring agency as stipulated in the Resolution Plan;*
- g) *pass necessary order(s)/direction(s) discharging the Resolution Professional Mr. Pawan Kumar Singal from the duties of the resolution professional of CD;*
- h) *pass necessary order(s)/direction(s) granting the requisite relief as sought under the Resolution Plan;*
- i) *pass necessary order(s)/direction(s) as this Hon'ble Tribunal may deem fit and proper.”*

2. To put the facts succinctly, the underlying main Petition CP (IB)-1617/ND/2019 was filed by M/s Sunlarge Industries Private Limited against the Corporate Debtor namely, M/s H.L. Tech Fabrics Limited under Section 9 of IBC, 2016, which was admitted vide Order dated 10.02.2020 of this Adjudicating Authority and the Corporate Insolvency Resolution Process (CIRP) in respect of the Corporate Debtor was initiated. The Corporate Debtor at present is represented through its Resolution Professional (RP) Mr. Pawan Kumar Singal.

3. Through this application, the RP has sought approval of the Resolution Plan submitted by one Mr. Jitendra Kumar Nagwani, Proprietor of M/s Shree Varun Infratech (formerly “Varun Scrap Suppliers”) (hereinafter termed as **“Successful Resolution Applicant”** or **“SRA”**).



4. It is stated by the RP that the Resolution Plan submitted by the SRA is approved by the CoC comprising of the sole member i.e., Canara Bank with 100% votes in the 7<sup>th</sup> meeting of CoC held on 15.12.2020 with voting through Ballot Paper that ended on 13.01.2021. The relevant Resolution approved by 100% votes of the CoC is reproduced below:

**PAWAN KUMAR SINGAL**

Resolution Professional of **H.L.TECH FABRICS LIMITED**

CIN: U72900DL2008PLC182983

E-Mail: hitechfabrics.cirp@gmail.com

**VOTING RESULTS FOR THE RESOLUTION(S) AT THE 7<sup>th</sup> (SEVENTH) MEETING OF COMMITTEE OF CREDITORS (COC) OF H.L. TECH FABRICS LIMITED (CORPORATE DEBTOR) HELD ON TUESDAY 15<sup>th</sup> DAY OF DECEMBER, 2020 AT 03:00 P.M. AT 8/28, 3RD FLOOR, W.E.A. ABDUL AZIZ ROAD, KAROL BAGH, NEW DELHI-110005 THROUGH VIDEO CONFERENCING, VOTING FOR WHICH WAS CONDUCTED THROUGH BALLOT PAPER. VOTING WINDOW OPENED ON 17<sup>TH</sup> DECEMBER, 2020 AND ENDED ON 13<sup>TH</sup> JANUARY, 2021**

**ITEM B-1: TO DISCUSS & APPROVE RESOLUTION PLAN**

**"RESOLVED THAT** Resolution Plan received from Varun Scrap Suppliers, for a value of Rs 133.05 lacs (Rupees one hundred & thirty three lacs and five thousand only) without the release of Personal guarantee (s) of existing Directors of the Corporate Debtor, copy of which duly initialled by the Chairman for purpose of identification was placed on the table of the meeting, be and is hereby approved."

**"RESOLVED FURTHER THAT** Resolution Professional be and is hereby authorised to submit Resolution Plan, as approved herein above, to Adjudicating Authority along with Compliance Certificate in Form H of the Schedule and to do all such acts and deeds as may be necessary and expedient relating thereto."

**"RESOLVED FURTHER THAT** Resolution Professional be and is hereby authorised to issue Letter of Intent (LOI) to the successful Resolution Applicant as per the terms contained in RFRP and Resolution Plan, as approved hereinabove by the COC."

**"RESOLVED FURTHER THAT** consent be and is hereby accorded for payment of all expenses to be incurred by the Resolution Professional as CIRP cost during the period from the date of this CoC Meeting till the date of Order of Hon'ble Adjudicating Authority approving the Resolution Plan or Liquidation of the Corporate Debtor, as the case may be, on the basis of amount and/or rates already approved by the Committee of Creditors in its meeting(s) for payment of Remuneration to Resolution Professional (including fee payable to his IPE for providing support services), Security Agency Charges, Advocate Fees, Electricity Charges, Audit Fee/Charges, E-Voting Charges, Application Filing Charges with Hon'ble Adjudicating Authority etc."

**"RESOLVED FURTHER THAT** after the date of Order of Hon'ble Adjudicating Authority approving the Resolution Plan, all expenses to be incurred by the Resolution Professional including the professional fees payable to Resolution Professional, if appointed, for monitoring the implementation of Resolution Plan from the date of Order of Hon'ble Adjudicating Authority till implementation of Resolution Plan, as approved by Monitoring Committee appointed in terms of the Resolution Plan, shall be paid by successful Resolution Applicant."

Correspondence Address:

**AVM Resolution Professionals LLP (IPE)**

**8/28, 3<sup>rd</sup> Floor, W.E.A., Abdul Aziz Road, Karol Bagh, New Delhi - 110005**

Website: [www.avmresolution.com](http://www.avmresolution.com); E-mail : pawansingal@avmresolution.com; Landline No. 011-41486026/27  
Regd. Add. with IBB: MP-114, PitamPura, Delhi 110034 E-Mail: pawansingal 50@gmail.com, mobile:9560508482





**PAWAN KUMAR SINGAL**

Resolution Professional of **H.L.TECH FABRICS LIMITED**  
CIN: U72900DL2008PLC182983  
E-Mail: hltechfabrics.cirp@gmail.com

**VOTING RESULT**

S.No.	Name of CoC member having Voting Power	Voting share of Member	Votes in favour of Resolution	Votes against Resolution	Abstained from Voting
1	Canara Bank	100.00%	100.00%	0.00%	0.00%
	<b>Total</b>	<b>100.00%</b>	<b>100.00%</b>	<b>0.00%</b>	<b>0.00%</b>

**RESULT**

Approval of Agenda Item required 66% voting in favour of the Agenda Item. As the votes in favour of the Agenda Item B-1 are more than 66% of votes casted on the Agenda Item, hence the Resolution / Agenda Item B-1 is taken as **approved** unanimously.

5. The Affidavit of the SRA stating that it is not disqualified under Section 29A of IBC, 2016 to submit the Resolution Plan is also placed on record by the Applicant/RP. The same is reproduced below:



मध्य प्रदेश MADHYA PRADESH

BK 929419



**FORMAT XIII**

**AFFIDAVIT**

[To be submitted by each Resolution Applicant and in case the Resolution Applicant is a consortium, then to be submitted by each member of such consortium]

[To be stamped with adequate value under the Stamp Act applicable to the particular state and duly attested by Notary Public]

**Jitendra Nagwant** (Prop. Varun Scrap Supplier) Resolution Applicant, son of **Shri Asha Ram Nagwant**, aged about 48 Years, currently residing at **D-1, Phase-1, Garden Homes, Alkapuri, City Centre, Gwalior (M P) 474011** and having Aadhaar No.215643748117 / Passport number, on behalf of **(name of the resolution applicant)** having registered office at **(Resolution Applicant)** pursuant to authorization of the Board of the Resolution Applicant dated **(date)** (as enclosed herewith) do solemnly affirm and state to the committee of creditors ("CoC") and Resolution Professional ("RP") of **H.L.TECH FABRICS LIMITED ("Corporate Debtor")** as follows:

I That I am duly authorized and competent to make and affirm the instant affidavit for and on behalf of the Resolution Applicant in terms of [resolution of its board of directors/ power of attorney dated 07/09/2020. I hereby unconditionally state, submit and confirm that the document is true, valid and genuine.

**TESTED**  
**P. PANDAY**  
**NOTARY PUBLIC (M.P.)**

I hereby unconditionally state, submit and confirm that the Resolution Applicant is not disqualified from submitting a Resolution Plan in respect of the Corporate Debtor, pursuant to the provisions of the Insolvency and Bankruptcy Code, 2016 ("IBC 2016").

For Varun Scrap Supplier's  
**(Signature)**  
Proprietor



3. I hereby state, submit and declare that neither the (i) Resolution Applicant nor (ii) any person acting jointly or in concert with the Resolution Applicant nor (iii) any person who is a connected person (as defined under the provisions of the Code of (a) the Resolution Applicant or (b) any person acting jointly or in concert with the Resolution Applicant);

INDIA

- a) is an undischarged insolvent;
- b) is a willful defaulter in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act,1949;
- c) has been disqualified to act as a director under Companies Act,2013;
- d) has been convicted for any offence punishable with imprisonment-

- i. for two years or more under any statute specified under the Twelfth Schedule of the Code and two years have not passed from the date of release from such imprisonment; or
- ii. for seven years or more under any law for the time being in force and two years have not passed from the date of release from such imprisonment.

- e) is prohibited from trading in securities or accessing the securities markets;
- f) has been a promoter or in the management of or control of a corporate debtor in which any preferential transaction or undervalued transaction or extortionate credit transaction or fraudulent transaction has taken place and in respect of which an order has been made by the Hon'ble National Company Law Tribunal (or its appellate tribunal / court) under the IBC 2016 (other than a preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction which has taken place prior to the acquisition of the corporate debtor by the Resolution Applicant pursuant to a resolution plan approved under IBC 2016 or pursuant to a scheme or plan approved by a financial sector regulator or a court, and the Resolution Applicant has not otherwise contributed to the preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction);

g) is subject to any of the aforesaid conditions under any law in a jurisdiction outside India.

h) Has a connected person not eligible under clause (a) to (g) above.

4. That the Resolution Applicant unconditionally and irrevocably represents, warrants and confirms that it is eligible under the terms and provisions of IBC 2016 and the rules and regulations there under to submit a resolution plan and that it shall provide all documents, representations and information as may be required by the Resolution Professional ("RP") or the CoC to substantiate to the satisfaction of the RP and the CoC that the Resolution Applicant is eligible under IBC 2016 and the rules and regulations there under to submit a resolution plan in respect of the Corporate Debtor.

5. That the Resolution Applicant unconditionally and irrevocably undertakes that it shall provide all data, documents and information as may be required to verify the statements made under this affidavit.

**ATTESTED**



6. That the Resolution Applicant understands that the CoC and the RP may evaluate the resolution plan to be submitted by the Resolution Applicant or any other person acting jointly with it and such evaluation shall be on the basis of the confirmations, representations and warranties provided by the Resolution Applicant under this affidavit.

OF INDIAN

That the Resolution Applicant agrees that each member of the CoC and the R P are entitled to rely on the statements and affirmations made in this affidavit for the purposes of determining the eligibility and assessing, agreeing and approving the resolution plan submitted by the Resolution Applicant.

8. That in the event any of the above statements are found to be untrue or incorrect, then the Resolution Applicant unconditionally agrees to indemnify and hold harmless the RP and each member of the CoC against any losses, claims or damages incurred by the RP and / or the members of the CoC on account of such ineligibility of the Resolution Applicant.

9. That the Resolution Applicant agrees and undertakes to disclose/inform forthwith, to the RP and the members of the CoC, if the Applicant becomes aware of any change in factual information in relation to it or its connected person (as defined under the IBC 2016) which would make it ineligible to submit a resolution plan under any of the provisions of IBC 2016 or the detailed invitation for expression of interest or the request for resolution plans for the Corporate Debtor at any stage of the corporate insolvency resolution process of the Corporate Debtor, after the submission of this affidavit.

10. That this affidavit shall be governed in accordance with the laws of India and the courts of [insert] shall have the exclusive jurisdiction over any dispute arising under this affidavit.

SOLEMNLY AFFIRMED AT Gwalior ON THIS 7<sup>th</sup> day of the September 2020.

For Varun Scrap Solutions  
Proprietor

DEPONENT

**VERIFICATION:**

I, *Jitendra Nagwani* [name of the chairman/managing director/director/authorized person of resolution applicant, authorized by the Board of the resolution applicant (in case of a company) for giving such affidavit], the deponent above named, on behalf of [name of the resolution applicant], having registered office at *D-1, Phase-1, Garden Homes, Alkapuri, City Centre, Gwalior (M P) 474011*, do hereby verify and state that the contents of the above affidavit are true to the best of my knowledge and nothing material has been concealed therein.

Verified at *Gwalior*, on this 7<sup>th</sup> day of September 2020.

For Varun Scrap Solutions  
Proprietor

DEPONENT

**ATTESTED**  
*Kad*



6. The Applicant/RP has filed the Compliance Certificate in “Form H” (pages 228-235 of the Application), which reads thus:

**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. **Pawan Kumar Singal**, an insolvency professional enrolled with **Indian Institute of Insolvency Professionals of ICAI** and registered with the Board with registration number **IBBI/IPA-001/IP-P01172/2018-19/12229**, am the resolution professional for the corporate insolvency resolution process (CIRP) of **H.L. Tech Fabrics Limited**.

2. The details of the CIRP are as under:

Sl No.	Particulars	Description
1	Name of the CD	<b>H.L. Tech Fabrics Limited</b>
2	Date of Initiation of CIRP	<b>10.02.2020</b>
3	Date of Appointment of IRP	<b>10.02.2020</b>
4	Date of Publication of Public Announcement	<b>19.02.2020</b>
5	Date of Constitution of CoC	<b>07.03.2020</b>
6	Date of First Meeting of CoC	<b>16.03.2020</b>
7	Date of Appointment of RP	<b>20.05.2020 (Copy of order received on 22.05.2020)</b>
8	Date of Appointment of Registered Valuers	<b>02.06.2020</b>
9	Date of Issue of Invitation for EoI	<b>02.07.2020</b>
10	Date of Final List of Eligible Prospective Resolution Applicants	<b>02.08.2020</b>
11	Date of Invitation of Resolution Plan	<b>01.08.2020</b>
12	Last Date of Submission of Resolution Plan	<b>31.08.2020 extended to 10.09.2020.</b>
13	Date of Approval of Resolution Plan by CoC	<b>13.01.2021</b>
14	Date of Filing of Resolution Plan with Adjudicating Authority	<b>29.01.2021</b>
15	Date of Expiry of 180 days of CIRP	<b>15.10.2020</b>
16	Date of Order extending the period of CIRP	<b>13.01.2021</b>
17	Date of Expiry of Extended Period of CIRP	<b>13.01.2021</b>
18	Fair Value	<b>Rs.1,84,60,649/-</b>
19	Liquidation value	<b>Rs. 1,29,89,649/-</b>
20	Number of Meetings of CoC held	<b>7 (Seven)</b>



3. I have examined the Resolution Plan received from Resolution Applicant M/s Shree Varun Infratech (formerly Varun Scrap Suppliers) and approved by Committee of Creditors (COC) of H.L.Tech Fabrics 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 Shree Varun Infratech (formerly Varun Scrap Suppliers) has submitted an affidavit pursuant to section 30(1) of the Code confirming its eligibility under section 29A of the Code to submit resolution plan. The contents of the said affidavit are in order.

(iii) the said Resolution Plan has been approved by the COC in accordance with the provisions of the Code and the CIRP Regulations made thereunder. The Resolution Plan has been approved by 100% of voting share of financial 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 Ballot paper / electronic voting system which was kept open at least for 24 hours as per the regulation 26.

5. The list of financial creditors of the H.L. Tech Fabrics Limited being members of the COC and distribution of voting share among them is as under:

Sl. No.	Name of Creditor	Voting Share (%)	Voting for Resolution Plan (Voted for / Dissented / Abstained)
1	Canara Bank (erstwhile Syndicate Bank).	100%	Voted for Resolution Plan

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.

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

(Amount in Rs. lakh)

Sl. No.	Category of Stakeholder**	Sub-Category of Stakeholder	Amount Claimed	Amount Admitted	Amount Provided under the Plan#	Amount Provided to the Amount Claimed (%)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	Secured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	NIL	NIL	NIL	NIL



		(b) Other than (a) above:				
		(i) who did not vote in favour of the resolution Plan	NIL	NIL	NIL	NIL
		(ii) who voted in favour of the Resolution Plan	19,36,69,975/-	17,41,22,160/-	1,03,00,000/-	5.92%
		Total[(a) + (b)]	19,36,69,975/-	17,41,22,160/-	1,03,00,000/-*	5.92%
2	Unsecured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	NIL	NIL	NIL	NIL
		(b) Other than (a) above:				
		(i) who did not vote in favour of the resolution Plan	NIL	NIL	NIL	NIL
		(ii) who voted in favour of the resolution plan	NIL	NIL	NIL	NIL
		Total[(a) + (b)]	NIL	NIL	NIL	NIL
3	Operational Creditors	(a) Related Party of Corporate Debtor	NIL	NIL	NIL	NIL
		(b) Other than (a) above:				
		(i)Government	NIL	NIL	NIL	NIL
		(ii)Workmen	NIL	NIL	NIL	NIL
		(iii)Employees	NIL	NIL	NIL	NIL

		(iv) Goods and Services in day to day business.	23,70,170/-	10,55,699/-	5,000/-	0.21%
		Total[(a) + (b)]	23,70,170/-	10,55,699/-	5000/-	0.21%
4	Other debts and dues	NIL	NIL	NIL	NIL	NIL
Grand Total			19,60,40,145/-	17,51,77,859/-	1,03,05,000/-	5.26%

\* To be adjusted if there is any increase in CIRP beyond estimated value.

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

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

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

Sl. No	Category of Share Holder	No. of Shares held before CIRP	No. of Shares held after the CIRP	Voting Share (%) held before CIRP	Voting Share (%) held after CIRP
1	Equity	49,71,225	NIL	100	NIL
2	Preference	NIL	NIL	NIL	NIL

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?	Undertaking in EOI	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?	Format XIII	Yes
Section 30(1)	Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?	Format XIII	Yes
Section 30(2)	Whether the Resolution Plan-		
	(a) provides for the payment of insolvency resolution process costs?	Part B (Page No. 12)	Yes
	(b) provides for the payment to the operational creditors?	Part D (Page No. 20)	Yes
	(c) provides for the payment to the financial creditors who did not vote in favour of the resolution plan?	Part C, Clause 6 (Page No. 16)	Yes
	(d) provides for the management of the affairs of the corporate debtor?	Part M (Page No. 41)	Yes
	(e) provides for the implementation and supervision of the resolution plan?	Part N (Page No. 42)	Yes
	(f) contravenes any of the provisions of the law for the time being in force?	Part R, Clause 4 (Page No. 46)	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?	Yes (Noted in Seventh COC meeting)  Yes, approved unanimously by the members of COC on 13.01.2021.	Yes  Yes
Section 31(1)	Whether the Resolution Plan has provisions for its effective implementation plan, according to the CoC?	Part L (Page No. 37- 41)	
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?	The RP obtained a transaction audit report in the matter of Corporate Debtor. However, in the opinion of the Resolution Professional no transaction in the nature of 43, 45, 50 or 66 of the Code.	Yes
Regulation 38 (1)	Whether the amount due to the operational creditors under the resolution plan has been given priority in payment over financial creditors?	Part D, Clause b (Page No. 20)	Yes
Regulation 38(1A)	Whether the resolution plan includes a statement as to how it has dealt with the interests of all stakeholders?	Part L, Clause 7 (Page No. 39)	Yes
Regulation 38(1B)	(i) Whether the Resolution Applicant or any of its related parties has failed to implement or contributed to the failure of implementation of any Resolution Plan approved under the Code.  (ii) If so, whether the Resolution Applicant has submitted the statement giving details of such non-implementation?	Part R, Clause 4 (Page No. 46)  N.A.	Yes  N.A.
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?	Part N (Page no. 42-44)  Part M (Page No. 41-42)  Part L (Page No. 37-41)	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?	Part L, Clause 3 (Page 38) Part L, Clause 6 (Page 38) Part L, Clause 4-10 (Page No. 38-41)  Part R, Clause 3 (Page 46)  Part L, Clause 4-7 (Page 38- 39)	Yes Yes Yes  Yes  Yes
39(2)	Whether the RP has filed applications in respect of transactions observed, found or determined by him?	N.A.	N.A.
Regulation 39(4)	Provide details of performance security received, as referred to in sub-regulation (4A) of regulation 36B.	Performance Guarantee of Rs 50 Lacs. received through Demand Draft.	

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

Section of the Code / Regulation No.	Description of Activity	Latest Timeline under regulation 40A	Actual Date
Section 16(1)	Commencement of CIRP and Appointment of IRP	T	T
Regulation 6(1)	Publication of Public Announcement	T+3	T+9
Section 15(1)(c) / Regulation 12 (1)	Submission of Claims	T+14	T+22
Regulation 13(1)	Verification of Claims	T+21	T+26
Section 26(6A) / Regulation 15A	Application for Appointment of Authorised Representative, if necessary	T+23	N.A.
Regulation 17(1)	Filing of Report Certifying Constitution of CoC	T+23	T+26
Section 22(1) and regulation 17(2)	First Meeting of the CoC	T+30	T+35
Regulation 35A	Determination of fraudulent and other transactions	T+115	T+115
Regulation 27	Appointment of two Registered Valuers	T+47	T+45
Regulation 36 (1)	Submission of Information Memorandum to CoC	T+54	T+54
Regulation 36A	Invitation of EoI	T+75	T+75
	Publication of Form G	T+75	T+75
	Provisional List of Resolution Applicants	T+100	T+100
	Final List of Resolution Applicants	T+115	T+106
Regulation 36B	Issue of Request for Resolution Plan, which includes Evaluation Matrix and Information Memorandum to Resolution Applicants	T+105	T+105
Section 30(6) / Regulation 39(4)	Submission of CoC approved Resolution Plan	T+165	N.A.
	Revised date of submission of CoC approved Resolution Plan.	T+255	T+286
Section 31(1)	Approval of Resolution Plan	T=180	N.A.
		T=270	T+270

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

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

12. The Resolution Plan is subject to the following contingencies (Elaborate the contingencies):

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

Sl. No.	Deviation/Non-compliance observed	Section of the Code / Regulation No. / Circular No.	Reasons	Whether rectified or not
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1	Delay (6 days) in Publication of Public Announcement.	Regulation 6(1) of IBBI(CIRP) Regulations, 2016.	Order dated 10.2.2020 for commencement of CIRP received on 17.02.2020 by the Interim Resolution Professional.	YES
2	Delay (8 days) in Submission of Claims	Section 15(1)(c) /Regulation 12 (1) of IBBI(CIRP) Regulations, 2016	. Order dated 10.2.2020 for commencement of CIRP received on 17.02.2020 by the Interim Resolution Professional	YES
3	Delay (5 days) in Verification of Claims	Regulation 13(1) of IBBI(CIRP) Regulations, 2016.	Order dated 10.2.2020 for commencement of CIRP received on 17.02.2020 by the Interim Resolution Professional .	YES
4	Delay (3 days) in Filing of Report Certifying Constitution of CoC	Regulation 17(1) of IBBI(CIRP) Regulations, 2016.	Order dated 10.2.2020 for commencement of CIRP received on 17.02.2020 by the Interim Resolution Professional.	YES
5	Delay (5 days) in First Meeting of the CoC.	Section 22(1) and regulation 17(2) of IBBI(CIRP) Regulations, 2016.	Order dated 10.2.2020 for commencement of CIRP received on 17.02.2020 by the Interim Resolution Professional..	YES
6	Delay (45 days) in filing disclosure of Valuers and Transaction Auditors with the Indian Institute of Insolvency Professionals of ICAI.	IBBI Circular No. IP/005/2018 dated 16th January,2018	Inadvertant delay in receipt of disclosure from Valuers and Auditors and filing.	YES

14. The Resolution Plan is being filed after the expiry of the period of CIRP provided in section 12 of the Code.

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

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



	section 45			
3	Extortionate credit transactions under section 50	N.A.	N.A.	N.A.
4	Fraudulent transactions under section 66	N.A.	N.A.	N.A.

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

- Estimated liquidation cost: Rs 5,00,000/- (excluding Liquidator fees)
- Estimated liquid assets available: Rs. 0
- Contributions required to be made: 500000/-+ liquidator fees
- Financial creditor wise contribution is as under:

Sl. No.	Name of financial creditor	Amount to be contributed (Rs.)
1	Canara Bank	500000/- + liquidator fees
Total		500000/-+ liquidator fees

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

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

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. **No fees approved**

16. I Pawan Kumar Singal 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.

**Pawan Kumar Singal**  
**IBBI/PA-IBBI/IP-P-01172/2018-2019/12229**  
**MP-114 Pitam Pura, New Delhi-110034**  
**pawansingal50@gmail.com**



**Address registered with the Board: MP-114, Pitampura, New Delhi-110034,**  
**Email id registered with the Board: pawansingal50@gmail.com**

7. It is further submitted by the Applicant/RP that the Fair Market Value of the Corporate Debtor is Rs.1,84,60,649/- and its Liquidation Value is Rs. 1,29,89,649/- based on the reports of Registered Valuers.



8. The summary of amounts provided to various stakeholders in the Resolution Plan is as given below:

<b>Nature of Creditor</b>	<b>Amount of Claim admitted (Rs.)</b>	<b>Amount offered in Resolution Plan (Rs.)</b>	<b>% of the Amount provided to Amount claimed</b>
Secured Financial Creditor, who voted in favour of the Plan	17,41,22,160	1,03,00,000	5.92%
Operational Creditors	10,55,699	5,000	0.21%
<b>Total</b>	<b>17,51,77,859</b>	<b>1,03,05,000</b>	<b>5.26%</b>

9. Thus, it is observed that the total amount offered to the stakeholders in the Resolution Plan is Rs. 1,03,05,000/-, which is 5.26% of the total amount claimed, and lower than the Liquidation Value of the Corporate Debtor i.e., Rs. 1,29,89,649/-.

10. Nevertheless, before considering the Resolution Plan on its merits, we would like to examine the objection raised by the Operational Creditor (on whose instance, the CIRP was commenced against the Corporate Debtor) namely, “Sunlarge Industries Private Limited” (hereinafter termed as “**Objector**”) against approval of the Resolution Plan.

11. The Objector has filed its objections to the present application vide its affidavit dated 04.03.2021. The Objector has opposed the proposed Resolution plan mainly on the ground that the Proprietor of SRA (M/s Varun Scrap Suppliers) was barred from submitting a resolution plan under Section 29A of IBC 2016 for being disqualified as



a Director. As per Section 29A (e) of IBC 2016, a person is not eligible to be a resolution applicant when he is disqualified to act as a director under the Companies Act, 2013. In the present case, Mr. Jitendra Nagwani, Proprietor of the SRA has been disqualified under Section 164(2)(a) of the Companies Act, 2013 for the period from 01.01.2016 to 30.10.2021 by the Registrar of Companies ("ROC"), while holding the Directorship in "Shivam Tanks & Vessels Private Limited". It is alleged by him that despite knowledge of the said fact, the RP and the COC (which consists of a single Financial Creditor) have approved the Resolution Plan submitted by Mr. Jitendra Nagwani.

12. Accordingly, taking note of the aforesaid objection, this Adjudicating Authority, during the course of the hearing on 31.08.2022, issued notice and directed ROC, Gwalior to produce the entire records in respect M/s Shivam Tanks & Vessels Private Limited and Mr. Jitendra Nagwani, Director. The said order of this Adjudicating Authority is reproduced below for immediate reference:

**IA-537/2021**: This application has been filed by RP for approval of the Resolution Plan.

During the course of arguments, Ld. Counsel appearing for the Operational Creditor stated that it has filed an objection regarding the Resolution Applicant Mr. Jitendra Kumar Nagwani being barred from submitting Resolution Plan under Section 29A of IBC due to his disqualification while holding Directorship in Shivam Tanks and Vessels Pvt. Ltd. He further submitted that the name of the said company was struck off and he was disqualified under Section 164(2)(a) of the Companies Act 2013.

This Tribunal is of the view that the record of RoC Gwalior in respect of Shivam Tanks and Vessels Pvt. Ltd. in the context of his letter dated 30.07.2021 be called upon. Accordingly, RP is directed to issue notice to the RoC Gwalior for producing the entire record relating to the Shivam Tanks and Vessels Pvt. Ltd. and its Director Mr. Jitendra Kumar Nagwani since its inception.

RoC Gwalior shall remain present in person along with the record before this Tribunal on the next date of hearing. The notice from this Tribunal also shall be sent by the Registry. Compliance Affidavit be filed within 7 days.

List the matter for argument on 28.09.2022.



13. In compliance with the aforesaid direction, the ROC Gwalior filed its report vide letter no. 1286 dated 23.09.2022, which reads thus:



भारत सरकार/GOVERNMENT OF INDIA  
कॉरपोरेट कार्य मंत्रालय/MINISTRY OF CORPORATE AFFAIRS  
कम्पनी रजिस्ट्रार का कार्यालय, मध्यप्रदेश,  
Office of The Registrar of Companies, Madhya Pradesh  
संजय कॉम्प्लेक्स, 'ए' ब्लॉक, तीसरी मंजिल, Sanjay Complex, 'A' Block, 3<sup>rd</sup> Floor,  
जयेंद्रगंज, ग्वालियर - 474 009/ Jayendraganj, Gwalior - 474009.

Tel. 2321907  
2430012  
Fax. 2631853

By Speed Post  
By E-mail  
E.mail: [roc.gwalior@mca.gov.in](mailto:roc.gwalior@mca.gov.in)

No. ROC-G/NCLT Delhi/(IB)-1617(ND)2019/ 1286 Dated: 23 SEP 2022

To,  
The Registrar,  
National Company Law Tribunal,  
Ground 6<sup>th</sup>, 7<sup>th</sup> Floor & 8<sup>th</sup>,  
CGO Complex, Lodhi Road,  
New Delhi.

Subject: In case No. (IB)-1617(ND)2019 IA-537/2021 in the matter of  
Sunlarge Private Limited applicant/petitioner versus H.L. Tech  
Fabrics Limited respondent - reg.

Sir,

With reference to your e-mail dated 05.09.2022 on the subject cited above and please find enclosed documents of Shivam Tanks and vessels Private Limited as per information available on MCA portal as under:

Sl. No.	Particulars/Documents	Page No.
1.	Master data of company	-01-
2.	Incorporation certificate of the company	-02-
3.	F. No. 32 appointment of Sh. Jitendra Kumar Nagwani	03-06
4.	Memorandum of association	7-16
5.	Articles of association	17-31
6.	FTE form filed by company for struck off	32-36
7.	Struck-off certificate of company dated 22.03.2017	-37-
8.	List of disqualification for the period from 01.11.2016 to 30.10.2021 as mentioned at Serial No. 1567	-38-
9.	Details of approval DIN-01986101 of Sh. Jitendra Kumar Nagwani.	-39-

However, as per the record of this office the company Shivam Tank and Vessels Private Limited has made an application for striking off the name of company under the Fast Track Exit (FTE) Mode and filed form FTE vide SRN G31739014 on 30.12.2016 which was taken on record on 22.03.2017. Accordingly, name of the company has been struck off.

As per the provisions of Section 164(2)(a) of the Companies Act, 2013 this office has disqualified to Mr. Jitendra Kumar Nagwani (DIN-01986101) and Mr. Ram Baboo Rathore (DIN-01986128) directors of the company Shivam Tanks and Vessels Private Limited for the period from 01.11.2016 to 30.10.2021 for non-filing of financial statement with this office, since incorporation. However, the disqualification was for period of five years, which have been completed on 30.10.2021 and at present the status of DIN is approved and also showing in MCA21 website. Thus, at present Mr. Jitendra Kumar Nagwani (DIN-01986101) is not disqualified. The status of company namely Shivam Tanks and Vessels Private Limited is showing as strike-off.

Encl: As above.

Yours's faithfully,

  
(Mukesh Kumar Soni, ICLS)  
Registrar of Companies,  
Madhya Pradesh, Gwalior.



14. On perusal of the abovesaid report of ROC Gwalior dated 23.09.2022, it is seen that Mr. Jitendra Kumar Nagwani (DIN-01986101) was disqualified for a period of 5 years i.e., from 01.11.2016 to 30.10.2021. This Adjudicating Authority had taken the aforesaid report of ROC Gwalior on record subject to just exceptions vide its order dated 28.09.2022. Further, the Resolution Professional was given an opportunity to file a reply to the aforesaid Report of ROC Gwalior.

15. During the course of the hearing on 06.01.2023, the Ld. Counsel appearing for the SRA opposed the Report submitted by the ROC Gwalior espousing that the said Report was erroneous. It was further contended by him that the M/s Shivam Tanks and Vessels Pvt. Ltd. (hereinafter referred to as “**Company**”), of which the Proprietor of SRA was a Director, was struck off from the register of ROC on 22.03.2017 under Fast Track Exit (FTE) Scheme and subsequently, on 23.03.2017 under Section 248 of the Companies Act, the Company’s name was struck off by the ROC. Thus, ROC could not take note of the struck-off record dated 23.03.2017 and found the Director Mr. Jitendra Kumar Nagwani as disqualified. He also put forth a stand that subsequently, Mr. Jitendra Kumar Nagwani was appointed as Director of two more Companies during the period from 01.11.2016 to 30.10.2021, and therefore, the stand taken / contents of the affidavit filed by the ROC that he was disqualified from being a Director during the aforementioned period, is not beyond doubt.

16. In view of such contention raised by the Ld. Counsel for the SRA, this Bench considered it appropriate to call for a Report from RD,



Ahmedabad (under whose jurisdiction the ROC Gwalior falls) regarding the disqualification of the Proprietor of the SRA.

17. Accordingly, Mr. L.R. Meena, RD Ahmedabad filed its Report vide affidavit dated 28.02.2023, which reads thus:

**REPORT /REPLY ON BEHALF OF REGIONAL DIRECTOR,  
NORTHWEST, AHMEDABAD BEFORE THE HON'BLE NATIONAL  
COMPANY LAW TRIBUNAL, NEW DELHI, BENCH – II IN  
COMPLIANCE OF THE ORDER DATED 06.01.2023**

**MOST RESPECTFULLY SHOWETH:**

1. That Mr. Jitendra Nagwani the sole proprietor of "Shri Varun Infratech" formerly known as Varun Scrap Supplier, the Resolution Applicant submitted a resolution plan dated 13.01.2021, which was approved by the Committee of Creditors of H L Tech Fabrics Limited (Corporate Debtor) with 100% voting share, subsequently on 28.01.2021 the resolution professional file IA No. 537 of 2021 in CP No. (IB) – 1617 (ND)/ 2019 seeking the approval of resolution plan.

**ARI** 2. That, the Operational Creditor raised a dispute that the resolution applicant is disqualified under Section 29(E) of the IBC, 2016 and not eligible to submit the resolution plan which has been denied by the resolution applicant. In the circumstances the Hon'ble NCLT vide Order dated 31.08.2022 call for report from the ROC, Gwalior. The ROC, Gwalior has submitted his report dated 23.09.2022 before the Hon'ble Tribunal and also appear in person on 28.09.2022. The report of ROC was opposed by the resolution applicant on he ground that as per record of the MCA, resolution applicant was disqualified w.e.f. 01.11.2016 to 31.10.2021, however, the resolution applicant hold the office of directors in Mahakal Melt Private Limited and Chirag and Company Private Limited and further he was appointed as director in the said companies on 08.10.2018 and 25.11.2021 respectively, and trying to convince the Court that his disqualification as stated by ROC, Gwalior is / was not in-effect.

3. That, considering the submission made by the resolution applicant and for further clarity on the issue of disqualification the Hon'ble Tribunal vide Order dated 06.01.2023 call for a report from the O/o Regional Director (North-Western Region), Ahmedabad. In compliance of the said direction given by the Hon'ble Tribunal, the Regional Director submits as under :-

3.1 That, the company namely SHIVAM TANKS & VESSELS PRIVATE LIMITED bearing CIN No. U27100MP2008PTC020292 was incorporated on 05.02.2008 within the jurisdiction of ROC, Gwalior. The company has not filed any statutory return i.e. Annual Return and Financial Statement since its date of incorporation.

3.2 That, the provisions of Section 248 to 252 of the Companies Act, 2013 regarding striking off the name of the companies has been notified by the MCA on 26.12.2016 along with the respective rules i.e. "The Companies( Removal of Names of Companies From The Register Of Companies) Rules, 2014" was also notified w.e.f. 26.12.2016.



Further, by virtue of notification of Section 248 to 252 of the Companies Act, 2013 and respective rules framed thereunder, the operation of provisions of Section 560 of the Companies Act, 1956 regarding striking off the name of the company has come to end. Under the Companies Act, 1956 the company may apply for striking off its name by filing the e-form FTE under the Fast Track Exit scheme which has been eliminated by e-form STK-2 under the new regime of the Companies Act, 2013.

3.3 That, the Rule 10 of the Companies (Removal of Names of Companies From The Register Of Companies) Rules, 2014 provides that *"Any application or pending proceeding for striking off or Form-FTE filed with the Registrar of Companies prior to the commencement of these rules (i.e. 26.12.2016) but not disposed of by such authority for want of any information or document shall, on its submission, to the satisfaction of the authority, be disposed of in accordance with the rules made under the Companies Act, 1956 (1 of 1956)."* (A copy of the Gazette notification of the Companies (Removal of Names of Companies From The Register Of Companies) Rules, 2014 is enclosed herewith and marked as Annexure – A.)


3.4 That, the company has filed E-Form FTE on 30.12.2016, i.e. after the enforcement date / notification date of Section 248 to 252 of the Companies Act, 2013 and the respective rules. It may be emphasis here that the company was not eligible to file E-Form FTE after the enforcement date (i.e. 26.12.2016) of new regime of the Companies Act, 2013 and therefore, the FTE Form was consider to be an invalid form as the same was not in existence by the operation of law. Further, any action initiated by the Registrar on the aforementioned invalid and not in existence E-Form FTE filed by the company under the Old Companies Act, 1956 is void-ab-initio and has no legal sanctity.



3.5 That, the Government of India, Ministry of Corporate Affairs in way back-2017 has introduced / launched a special drive to strike off the name of the companies from the register which have not filed any statutory returns for the 02 consecutive financial years. Accordingly, the Registrar of Companies, Gwalior has initiated action under Section 248 (1) (c) of the Companies Act, 2013 and as the company has not filed its annual return and financial statements since its incorporation, the ROC, Gwalior has issued periodical notices i.e. STK-1 dated 24.03.2017 to the Company and its Directors. Further, public notice has also been issued for newspaper publication of the name of the companies, which are going to be struck off by the ROC, Gwalior in Form STK- 5 dated 23.03.2017. Afterwards, as no objection for striking off the name of the company has been received neither from the company nor from the director's of the company. Thus, STK- 7 dated 09.06.2017 i.e. notice in the Official Gazette of India for striking of the name of the company has been published and the name of the company has been accordingly struck off from the registrar of the companies.

3.6 That, the alleged submissions made by the resolution applicant about action initiated by the ROC regarding disqualifying him as the director that ***"The ROC has initiated action inadvertently under Section 248 of the Companies Act, 2013 as the ROC has no scope to initiate action under the said section, since the company was already struck off under section 560 of the Companies Act, 1956 in pursuant to filing of E-Form FTE is not maintainable."***

3.7 The aforementioned submission made by the resolution applicant is not sustainable as the E-Form FTE was not tenable in the eyes of law and the action under 248 of the Companies Act, 2013 by the ROC, Gwalior is valid action because E-Form FTE was neither filed nor




pending on or before the enforcement date of Section 248 to 252 of the Companies act, 2013 and respective rules framed thereunder i.e. 26.12.2016. It may be further reiterated that the company has deceptively filed the e-form FTE which was eliminated under the new regime of the Companies Act, 2013.

3.8 That, the Ministry of Corporate Affairs has launched a scheme under the name and style "Condonation of Delay Scheme, 2018" (CODS, 2018) vide General Circular no. 16 of 2017 dated 29.12.2017 to enable the defaulting companies to file its pending statutory returns subject to payment of Rs. 30,000/- (Rupees Thirty Thousand only) paragraph no. 4 (iii) of the CODS, 2018 may be referred. (A copy of CODS, 2018 is enclosed herewith and marked as **Annexure:-B.**)

3.9 That, to enable the defaulting companies to avail the benefit of CODS, 2018 the DIN of the concerned disqualified directors de-activated on the date of scheme has been temporarily activated for the period from 01.01.2018 to 31.03.2018. However, upon perusal of the MCA records, it appears that Shri Jitendra Nagwani has neither avail the CODS, 2018 with respect to any company wherein he was holding the office of director upon payment of Rs. 30,000/- nor he has applied before any Court of law for removal of his disqualification. Here, emphasis can be given on the fact that the disqualification is under the operation of law envisaged under Section 164 (2) (a) of the Companies Act, 2013 and can be removed by the Court of law only.

3.10 That, it appears that the DIN of Shri Jitendra Nagwani was missed out for deactivation upon completion of the CODS, 2018 due to some technical error and hence he was appointed as a director in 02 companies namely Mahakal Melt Private Limited and Chirag and Company Private Limited on 08.10.2018 and 25.11.2021, respectively, but the said appointment was also not tenable in the eyes



of the law as the period during which he was appointed as a director was the period of his disqualification and the said disqualification was not removed by the competent court of law. Thus, for the period from 01.11.2016 to 30.10.2021 he was a disqualified director under Section 164 (2) (a) of the Companies Act, 2013.

4. That, in view of the facts and circumstances stated hereinabove, it is submitted that Shri Jitendra Nagwani the resolution applicant was disqualified on the date of submission of resolution plan i.e. on 13.01.2021 as his period for disqualification as a director was from 01.11.2016 to 30.10.2021. Shri Jitendra Nagwani is liable to be directed by this Hon'ble Tribunal to tender the strict proof regarding removal of his disqualification and the matter may be decided on merits.

**Submitted before the Hon'ble Tribunal on \_\_ February, 2023.**

**Place: - Ahmedabad**



**(L. R. Meena)**

**Regional Director (NWR)**

18. The RD Ahmedabad in its Report (ibid) has stated that the name of the Company M/s Shivam Tanks and Vessels Pvt. Ltd., in which the Proprietor of the SRA was a Director, was struck off by the *suo motu* action of ROC Gwalior vide STK-7 Notice dated 09.06.2017 under Section 248 of Companies Act, 2013 due to non-filing of annual returns and financial statements by the Company since its incorporation. The RD has further stated the submission made by the SRA is not sustainable as the E-Form FTE was not tenable in the eyes of law and the striking off action under Section 248 of the Companies Act 2013 by the ROC Gwalior was a



valid action because E-Form FTE was neither filed by the Company nor pending on or before the enforcement date of Section 248 to 252 of the Companies Act 2013. RD in its report has further emphasized that the Company had deceptively filed the E-Form FTE, which stood eliminated under the new regime of the Companies Act 2013.

19. It is further stated by the RD Ahmedabad that the appointment of Mr. Jitendra Kumar Nagwani, the proprietor of SRA in the other two Companies on 08.10.2018 and 25.11.2021 happened due to some technical error and those appointments were bad in law as they chanced during the period of Mr. Jitendra Kumar Nagwani's disqualification as Director, which is not removed by the competent Court of law.

20. We heard the submissions of the Objector, SRA, RP, ROC Gwalior, and RD Ahmedabad. The Objector has opposed the Resolution Plan on the ground that Mr. Jitendra Kumar Nagwani Proprietor of the SRA was barred under Section 29A(e) of IBC, 2016 to submit the Resolution Plan, on account of his disqualification being a Director under the Companies Act, 2013.

21. As noted above, both the ROC Gwalior and RD Ahmedabad have separately confirmed the fact that Mr. Jitendra Kumar Nagwani, Proprietor of the SRA was disqualified as Director of M/s Shivam Tanks and Vessels Pvt. Ltd. for a period of 5 years from 01.11.2016 to 30.10.2021, which means that he was disqualified on the date of the submission of the Resolution Plan to RP as well as its consideration for voting by COC on 13.01.2021, which fell within the period of his



disqualification from 01.11.2016 to 30.10.2021 as a director under the Companies Act, 2013.

22. What transpires, from the above, is that on the date on which the Resolution Plan was submitted by SRA, considered and approved by the CoC (i.e., on 13.01.2021), and the date on which the present application has been preferred by the RP seeking approval of Resolution Plan (i.e., 29.01.2021), Mr. Jitendra Kumar Nagwani Proprietor of the SRA was disqualified to act as Director, which in other words signifies that the CoC has approved the Resolution Plan of the SRA, whose Proprietor was disqualified to act as a Director and therefore, ineligible to submit the Resolution Plan to RP/CoC of the Corporate Debtor.

23. We also observe that there is nothing placed or produced on record by the RP or the SRA that the disqualification of Mr. Jitendra Kumar Nagwani was removed by the competent court of law, prior to the date of submission of the present Resolution Plan to RP or its consideration by the COC.

24. In view of the above, we find that the Affidavit dated 07.09.2021 sworn by Mr. Jitendra Kumar Nagwani, Proprietor of the SRA, reproduced in para 5 of this order, affirming at point no. 3 “.....that neither the (i) Resolution Applicant nor (ii) any person acting jointly or in concert with the Resolution Applicant nor (iii) any person who is a connected person (as defined under the provisions of the Code of (a) the Resolution Applicant or (b) any person acting jointly or in concert with the Resolution



Applicant).....“has been disqualified to act as a Director under the Companies Act, 2013” .....is erroneous and bad in law.

25. **Hence, in view of the aforesaid findings, we agree with the objection raised by the Operational Creditor and declare that Mr. Jitendra Kumar Nagwani, Proprietor of the SRA (M/s Varun Scrap Suppliers/now, Shree Varun Infratech) was disqualified to act as a Director under the Companies Act 2013 on the date of submission of the Resolution Plan and therefore, ineligible to submit a Resolution Plan under Section 29A (e) of IBC, 2016.**

26. **In view of the above, we reject the Resolution Plan submitted by the RP, the same being in violation of Section 29A(e) of IBC read with Section 30(2)(e) of IBC 2016, and dismiss the present Application i.e., IA No. 537 of 2021.**

27. Since the maximum permissible period of 330 days for the CIRP has already elapsed, **we have no other option but to order the Liquidation of the Corporate Debtor. Ordered accordingly.** Further, in terms of the provisions of Section 34(4)(a) of IBC, 2016, the current Resolution Professional, Mr. Pawan Kumar Singal IP is replaced by Mr. Vijender Sharma having registration no. IBBI/IPA-003/IP-N00003/2016-2017/10022 (email id: vijender@vsa.net.in) Mobile No. 9810166877 as the Liquidator of the Corporate Debtor, who shall take steps for Liquidation of the Corporate Debtor in accordance with the law.



28. The Applicant/RP is directed to hand over all the records/assets/information relating to the Corporate Debtor to Mr. Vijender Sharma, Liquidator within 03 days from the date of this order.

29. Let a copy of this order be immediately sent by the Registry/Court Officer to Mr. Pawan Kumar Singal - the Applicant/RP, newly appointed Liquidator Mr. Vijender Sharma having registration no. IBBI/IPA-003/IP-N00003/2016-2017/10022 (email id: vijender@vsa.net.in) Mobile No. 9810166877 for needful action and compliance.

30. Let a copy of this order be also sent by the Court Officer/Registry to IBBI for their records.

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

Sd/-  
**(ASHOK KUMAR BHARDWAJ)**  
**MEMBER (J)**