

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

IA/37/2024

In

C.P.(IB)/271(MB)2021

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

*Mr. Dhiren Shah*

*...Resolution Professional of the Corporate Debtor*

*In the matter of:*

*Tata Capital Financial Services Limited*

*...Financial Creditor*

*Versus*

*High Ground Enterprises Private Limited*

*...Corporate Debtor*

**Order delivered on 13.08.2024.**

*Coram:*

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

Mr. Kishore Vemulapalli  
Hon'ble Member(Judicial)

*Appearances:*

For the Applicant : Mr. Aniruth Purushothaman

ORDER

1. This Application has been filed on 12.01.2024 by the Resolution Professional under Section 30(6) of the Insolvency and Bankruptcy Code, 2016 on behalf of the Committee of Creditors seeking approval of the Resolution Plan submitted by the Successful Resolution Applicant and approved by 100% of the voting share of the members of the Committee of Creditors (hereinafter referred to as 'CoC') of the Corporate Debtor viz. High Ground Enterprises Limited (hereinafter referred to as 'Corporate Debtor').

**Brief Facts:-**

- 1.1. Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor was initiated vide an order dated 17.02.2023 of this Court in C.P.(IB)-271(MB)/2021 on an application filed by Tata Capital Financial Services Limited (Financial Creditor) under Section 7 of the Insolvency and Bankruptcy Code 2016. Mr. Dhiren Shantilal Shah (Reg. No.: IBBI/IPA-001/IP-P00220/2017-2018/10419 was appointed as Interim Resolution Professional (IRP), who was confirmed as Resolution Professional (RP) in the First CoC meeting held on 24.03.2023. The Applicant made a public announcement in the newspapers (in Mumbai) in Form-A on 25.02.2023 inviting claims from the creditors, workers/employees of the Corporate Debtor and from government bodies. IRP constituted the Committee of Creditors (CoC) based on the claims received by him and the first meeting of the CoC held on 24.03.2023.

1.2. Form G was published on 19.04.2023 and the last date for submission of the resolution plan was 20.06.2023 which was extended further to 05.07.2023. The following Application for seeking extension under section 12(2) was filed and sought:

Sr. No.	Order Dated	Extension Granted	Period
1.	30.08.2023	90 Days	16.08.2023-14.11.2023
2.	23.02.2024	60 Days	15.11.2023-13.01.2023

1.3. The Applicant submits that there were 6 Expression of Interest's received from Prospective Resolution Applicant (PRAs) out of which 2 PRAs has submitted the Resolution Plan i.e. Shanti G D Ispat and Power Limited and Mr. Pradeep Khandagale.

1.4. The Resolution Plan submitted by the Resolution Applicant viz. Shanti G D Ispat and Power Limited was approved by the CoC in the 9<sup>th</sup> meeting held on 05.12.2023 and the same was put for e-voting which concluded on 31.12.2023, approving the Resolution Plan submitted by Shanti G D Ispat and Power Limited *unanimously with 100% voting*. The resolution is reproduced below-

*“Resolved that, CoC hereby approves the Resolution Plan submitted by Shanti G D Ispat and Power Limited.”*

1.5. The Applicant submits that the Successful Resolution Applicant has submitted the Performance Bank Guarantee of Rs. 25,00,000/- (Rupees Twenty-Five Lakhs only) dated 27.06.2023 in favour of Bank of Baroda.

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

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

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

- i. The amount due to the Operational Creditors under resolution plan shall be given priority in payment over Financial Creditors.
- ii. It has dealt with the interest of all Stakeholders including Financial Creditors and Operational Creditors of the CD.
- iii. A statement that neither the Resolution Applicants nor any related parties have failed to implement nor have contributed to the

failure of implementation of any other Resolution Plan approved by the AA in the past.

iv. The terms of the plan and its implementation schedule.

v. The management and control of the business of the CD during its term.

vi. Adequate means of Supervising its implementation.

vii. The Resolution Plan Demonstrates that it addresses

a. The cause of the Default

b. It is feasible and viable

c. Provision for effective implementation

d. Provisions for approvals required and the time lines for the same.

e. Capability to Implement the Resolution Plan

1.8. The Resolution Applicant viz. Shanti G D Ispat and Power Limited is a Company having 15 MW Biomass based power plant at village: Madula, Tehsil: Champa, Dist: Janjgir-Champa, Chattisgarh which is running successfully since 2013 and the Company is having 20 years of Power Purchase Agreement (PPA) for the sale of its entire generation of power with state government of Chhattisgrah, having registered office at 504, 4th Floor, Rajeev Gandhi Complex, Balashram Compound, Kutchery Chowk, Raipur- 492001. The Resolution Applicant confirmed that it is eligible to submit Resolution Plan as per Section 29A of Insolvency and Bankruptcy Code.

1.9. The Resolution Applicant has confirmed that –

i. its connected persons are not convicted for any offence

during the preceding five years and no criminal proceedings are pending against any person.

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

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

Fair Value	Rs. 2,39,00,000/-
Liquidation Value	Rs. 1,97,00,000/-

1.11. Resolution Plan for the Corporate Debtor (the key features of the Resolution Plan submitted by Shanti G D Ispat and Power Limited is summarized below):

*\*The value of the said Resolution Plan is Rs. 3,00,00,000/- which includes the payments towards the Secured Financial Creditors and Unsecured Financial Creditor and the summary of payment is enumerated below:*

Sr. No	Particulars	Amount (Rs)
1	Corporate Insolvency Resolution Process Cost	In Full

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2	Payment to Secured Financial Creditor	2,98,00,000/-
3	Payment to Unsecured Financial Creditor	2,00,000/-
4	Payment to the Operational Creditor (other than Workmen/employees and other Statutory dues)	NIL
5	Government dues	NIL
	Total	3,00,00,000/-

*\*It is submitted that the Successful Resolution Applicant has proposed to pay the amounts as per the Resolution Plan within 90 days of the date of approval of the Resolution Plan by the Adjudicating Authority and CIRP cost on priority within 30 days.*

1.12. The Applicant submits that the Applicant convened the 10<sup>th</sup> CoC meeting of the Corporate Debtor on 05.08.2024, wherein the Applicant presented the addendum dated 01.08.2024 to the approved Resolution Plan and the said CoC approved the same with a majority of 100% vote. An addendum dated 01.08.2024 submitted by the Applicant states that *“Recovery, if any, made pursuant to the order passed by the Hon’ble NCLT under Section (undervalued transactions), Section 50 (extortionate credit transaction), and Section 66 (fraudulent transactions) of the Code, shall be exclusive right of the Financial Creditor. The Financial Creditor shall pursue all the applications filed under the above mentioned sections.”*

1.13. It is submitted by the Applicant in the Resolution Plan

that a monitoring Committee shall be constituted from the effective date to oversee the implementation of the Resolution Plan. The Monitoring Committee shall comprise of the following members:

- a. Two representatives appointed by members of the Committee of Creditors of the Corporate Debtor.
- b. Two representatives of Resolution Applicant; and
- c. Existing Resolution Professional.

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

## **FORM H**

### **COMPLIANCE CERTIFICATE**

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

I, Dhiren Shantilal Shah, an Insolvency Professional enrolled with IIPICAI and registered with the Board with registration number IBBI/IPA-001/IP-P00220/2017- 18/10419, am the Resolution Professional for the Corporate Insolvency Resolution Process (CIRP) of High Ground Enterprise Limited.



2. The details of the CIRP are as under:

<b>Sr. No.</b>	<b>Particulars</b>	<b>Description</b>
1	Name of the CD	High Ground Enterprise Limited
2	Date of Initiation of CIRP	17.02.2023
3	Date of Appointment of IRP	17.02.2023
4	Date of Publication of Public	25.02.2023
5	Date of Constitution of CoC	17.03.2023 Reconstituted on 11.04.2023 and revised list of creditors presented to the CoC in the 9 <sup>th</sup> meeting held on 05.12.2023.
6	Date of First Meeting of CoC	24.03.2023
7	Date of Appointment of RP	29.03.2023
8	Date of Appointment of Registered Valuers	03.04.2023 and 23.10.2023
9	Date of Issue of Invitation for EoI	19.04.2023
10	Date of Final List of Eligible Prospective Resolution Applicants	22.05.2023
11	Date of Invitation of Resolution Plan	19.05.2023

12	Last Date of Submission of Resolution Plan	20.06.2023 which was further extended to 05.07.2023
13	Date of Approval of Resolution Plan by CoC	31.12.2023
14	Date of Filing of Resolution Plan with Adjudicating Authority	12.01.2024
15	Date of Expiry of 180 days of CIRP	16.08.2023
16	Date of Order extending the period of CIRP	11.08.2023  (90 days extension was granted by the Hon'ble NCLT for completing the CIRP of the Corporate Debtor)

17	Date of Expiry of Extended Period of CIRP	An I.A. bearing No. 5308 of 2023 was filed before this Hon'ble Tribunal seeking extension of period from 15.11.2023 to 13.01.2024. During the course of hearing on 03.01.2024, the Applicant apprised this Hon'ble Tribunal that the e-voting with respect to the approval of the Resolution Plan is completed and that the CIRP process will be completed by 15.01.2024 after which this Hon'ble Tribunal listed the I. A. No. 5308 of 2023 on 17.01.2024
18	Fair Value	Average Fair value is Rs. 2.39 Crores
19	Liquidation value	Average Liquidation value is Rs.1.97 Crores
20	Number of Meetings of CoC held	9 CoC meetings were held

3. I have examined the Resolution Plan received from Resolution Applicant Shanti G D Ispat and Power Limited and approved by Committee of Creditors (CoC) of High Ground Enterprises 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 Shanti G D Ispat and Power 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 financial creditors after considering its feasibility and viability and other requirements specified by the CIRP Regulations.

or

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

[strike off the part that is not relevant]

5. The list of financial creditors of the **High Ground Enterprise 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	Tata Capital Financial Services Limited	7.33	Voted for
2	Bank of Baroda	92.67	Voted for

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

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

(Amount in Rs. Crores)

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Sr. 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	Financial Creditors  To be paid within 90 days of the date of approval of the Resolution Plan by the Hon'ble NCLT	(a) Creditors not having a right to vote under sub-section (2) of section 21	-	-	-	-
		(b) Other than (a) above:	-	-		-
		(i) who did not vote in favour of the resolution Plan	-	-		-
		(ii) who voted in favour of the resolution plan	153.93	147.73	3.00	1.94%
		Total[(a) + (b)]	153.93	147.73	3.00	1.94%

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3	Operational Creditors	(a) Related Party of Corporate Debtor	-	-	-	-
		(b) Other than (a)	5.79	-	-	-
		above:				
		(c) Government	0.007	-	-	-
		(d) Workmen & Employee Dues	-	-	-	-
		(e) Other Creditors	1.53	-	-	-
		Total[(a) + (b)]	-	-	-	-
4	Other debts and dues	-	-	-	-	-
<b>Grand Total</b>		<b>161.25</b>	<b>147.73</b>	<b>3.00</b>	<b>1.86</b>	

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

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

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	115115949	-	100%	0.00%
2	Preference	-	-	-	-

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		Yes
Section 29A	Whether the Resolution Applicant is eligible to	Annexure A to the	Yes
	Resolution Professional or Order, if any, of the	Resolution Plan	
Section 30(1)	Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?	Clause 11 of the Resolution Plan	Yes

Section 30(2)	Whether the Resolution Plan-		
	(a) provides for the payment of insolvency resolution process costs?	Clause 8(a)	Yes
		Clause 8(d)	
	(b) provides for the payment to the operational creditors?	Clause 8(b)	
	(c) provides for the payment to the financial creditors who did not vote in favour of the resolution plan?	Clause 7.1	Yes
		Clause 10.2	Yes
	(d) provides for the management of the affairs of the corporate debtor?	Clause 11	Yes
	(e) provides for the implementation and supervision of the resolution plan?		Yes
	(f) contravenes any of the provisions of the law for the time being in force?		Yes
Section 30(4)	Whether the Resolution Plan (a) is feasible and viable, according to the CoC? (b) has been approved by the CoC	Yes	Yes

Section 31(1)	Whether the Resolution Plan has provisions for its effective implementation plan, according to the CoC?	Clause 10(A) and 10(B)	Yes
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Regulation 35A	Whether 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?	-	Yes. The Resolution Professional has filed an Interlocutory Application u/s 66 of the IBC, 2016. The same is numbered as 2868/2024 and is next listed on 24.07.2024
Regulation 38(1)	Whether the amount due to the operational creditors under the resolution plan has been given priority in payment over financial creditors?	Clause 8(d)	Yes
Regulation 38(1A)	Whether the resolution plan includes a statement as to how it has dealt with the interests of all stakeholders?	Clause 8	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?	Clause 10.2 F(iii)	Yes
Regulation 38(2)	Whether the Resolution Plan provides: (a) the term of the plan and its implementation schedule? (b) for the management and control of the business of the corporate debtor during its term? (c) adequate means for supervising its implementation?	Clause 8	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?	Clause 5(C)  Clause 11  Clause 10 (A) and (B)  Clause 11  Clause 2	Yes  Yes  Yes  Yes  Yes
39(2)	Whether the RP has filed applications in respect of transactions observed, found or determined by him?	Not applicable	Yes
Regulation 39(4)	Provide details of performance security received, as referred to in sub-regulation (4A) of regulation 36B.	Yes	Yes

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

Section of the Code / Regulation No.	Description of Activity	Latest Timeline under regulation 40A	Actual Date
Section 16(1)	Commencement of CIRP and Appointment of IRP	T	17.02.2023
Regulation 6(1)	Publication of Public Announcement	T+3	25.02.2023
Section 15(1)(c) / Regulation 12 (1)	Submission of Claims	T+14	09.03.2023

Regulation 13(1)	Verification of Claims	T+21	16.03.2023
Section 26(6A) / Regulation 15A	Application for Appointment of Authorised Representative, if necessary	T+23	Not Applicable
Regulation 17(1)	Filing of Report Certifying Constitution of CoC	T+23	17.03.2023 revised on 11.04.2023
Section 22(1) and regulation 17(2)	First Meeting of the CoC	T+30	24.03.2023
Regulation 35A	Determination of fraudulent and other transactions	T+115	Not Applicable
Regulation 27	Appointment of two Registered Valuers	T+47	03.04.2023 and 23.10.2023
Regulation 36 (1)	Submission of Information Memorandum to CoC	T+54	12.05.2023
Regulation 36A	Invitation of EoI	T+75	19.04.2023
	Publication of Form G	T+75	19.04.2023
	Provisional List of Resolution Applicants	T+100	14.05.2023
	Final List of Resolution Applicants	T+115	22.05.2023
Regulation 36B	Issue of Request for Resolution Plan, which includes Evaluation Matrix and Information Memorandum to Resolution Applicants	T+105	18.05.2023
Section 30(6) / Regulation 39(4)	Submission of CoC approved Resolution Plan	T+165	12.01.2024
Section 31(1)	Approval of Resolution Plan	T=180	31.12.2023

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	NA	NA	NA	NA

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

- i. The successful implementation of the Resolution Plan is subject to the several reliefs and/or concessions sought for, from the Government and several other Agencies/Authorities by the Resolution Applicant as may be allowed by the Hon'ble NCLT by way of its order approving the present plan.

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

14. The Resolution Plan is being filed before 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.

Sr. No.	Type of Transaction	Date of Filing with Adjudicating Authority	Date of Order of the Adjudicating Authority	Brief of the Order

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1	Preferential transactions under section 43	Not Applicable as no transactions has been determined under section 43	Not Applicable as no transactions has been determined under section 43	Not Applicable
2	Undervalued transactions under section 45	Not Applicable as no transactions has been determined under section 45	Not Applicable as no transactions has been determined under section 45	Not Applicable
3	Extortionate credit transactions under section 50	Not Applicable as no transactions has been determined under section 50	Not Applicable as no transactions has been determined under section 50	Not Applicable
4	Fraudulent transactions under section 66	15.04.2024	10.06.2024	Application was listed for first time

				on 10.06.2024 and notice was issued to Respondents to file replies within two weeks.
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15A. The committee has approved a plan providing for contribution under regulation 39B as under:

- a. Estimated liquidation cost: Rs 18,11,140/-
- b. Estimated liquid assets available: NIL
- c. Contributions required to be made: Rs.18,11,140/-
- d. Financial creditor wise contribution is as under:

Sl. No.	Name of financial creditor	Amount to be contributed (Rs.)
1	Tata Capital Financial Services Limited	1,32,779/-
2	Bank of Baroda	16,78,661/-
Total		18,11,140/-

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

- a. Sale of corporate debtor as a going concern: Yes / ~~No~~
  - b. Sale of business of corporate debtor as a going concern: Yes / ~~No~~
- 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 - The RP has quoted a fees as per the Table

under regulation 4 of Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

16. I, Dhiren Shantilal Shah 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 there from.

Signature)

Name of the Resolution Professional: Mr. Dhiren Shantilal Shah IP Registration No: IBBI/IPA-001/IP-P00220/2017-18/10419 Address as registered with the Board: 702 Matushree Apartment, Near Natraj Studio, Sir M.V. Road, Andheri – (E), Mumbai, Maharashtra – 400069 Email id as registered with the Board: dss@dss.in

2. In the circumstances mentioned hereinabove, the Applicant has filed Application seeking approval of this Tribunal on the Resolution Plan, submitted by the Resolution Applicant i.e. Shanti G D Ispat and Power Limited stating that the plan is in accordance with the Section 30(2) and other provisions laid down under the code.
3. On perusal of the Resolution Plan, it is observed that the Resolution Plan provides for the following:
  - i. Payment of CIRP Cost as specified u/s 30(2)(a) of the Code.
  - ii. Repayment of Debts of Operational Creditors as specified u/s 30(2)(b) of the Code.
  - iii. 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.

- iv. The implementation and supervision of Resolution Plan by the RP and the CoC as specified u/s 30(2)(d) of the Code.
  - v. Does not prima facie contravene any of the provisions of the law for time being in force;
  - vi. Confirms to such other requirements as may be specified by the Board.
  - vii. As per the Affidavit, the Resolution Applicant is not covered under 29A. 20.
4. The RP has filed Compliance Certificate in Form-H along with the plan. On perusal the same is found to be in order. The Resolution Plan has been approved by the CoC in the 9th meeting held on 05.12.2023 with 100% (Hundred percent).
5. We make it categorically clear that approval of this Resolution Plan does not tantamount to allowance of any relief(s), concession(s) or dispensation(s) that fall within the domain of any government department(s) and/or authorities thereto. The reliefs, concessions and dispensations that pertain to other governmental authorities and/or departments shall be dealt with by the respective competent authorities/fora/offices, Government (State or Central) with regard to the respective reliefs, if any.
6. In *K Sashidhar v. Indian Overseas Bank & Others (in Civil Appeal No.10673/2018 decided on 05.02.2019)* the Hon'ble Apex Court held that if the CoC had approved the Resolution Plan by requisite percent of voting share, then as per section 30(6) of the Code, it is imperative for the Resolution Professional to submit the same to the Adjudicating Authority



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

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

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

8. In view of the discussions and the law thus settled, the instant Resolution Plan meets the requirements of Section 30(2) of the Code and Regulations 37, 38, 38 (1A) and 39 (4) of the Regulations. The Resolution Plan is not in contravention of any of the provisions of Section 29A of the Code and is in accordance with law. The same needs to be approved. Hence ordered.
9. The Application IA-37/2024 in CP(IB)/271/(MB-IV)/2021 is allowed. The Resolution Plan annexed to the Application is hereby approved. It shall become effective from this date and shall form part of this order.
  - i. It shall be binding on the Corporate Debtor, its employees, members, creditors, including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force is due, guarantors and other stakeholders involved in the Resolution Plan.
  - ii. The approval of the Resolution Plan shall not be construed as waiver of any statutory obligations of the Corporate Debtor and shall be dealt by the appropriate Authorities in accordance with law.
  - iii. Further in terms of the Judgment of Hon'ble Supreme Court in the matter *of Ghanshyam Mishra and Sons Private Limited v/s Edelweiss Asset Reconstruction Company Limited*, on the date of approval of the Resolution Plan by the Adjudicating Authority, all such claims which are not a part of Resolution Plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim which is not a part of the Resolution Plan.
  - iv. 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.

- v. The moratorium under Section 14 of the Code shall cease to have effect from this date.
- vi. 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.
- vii. 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.
- viii. The Applicant shall forthwith send a certified copy of this Order to the CoC and the Resolution Applicant, respectively for necessary compliance.

10. The **Interlocutory Application No.37/2024** in **C.P.(IB)/271(MB)2021** is accordingly *allowed* and *disposed of*.

**Sd/-**

**ANU JAGMOHAN SINGH**  
**MEMBER (TECHNICAL)**

**Sd/-**

**KISHORE VEMULAPALLI**  
**MEMBER (JUDICIAL)**