



NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH
COURT NO. 1

ITEM No.1
IA/152(MP)2024
in
TP 199 of 2019 [CP(IB) 424 of 2019]

Proceedings under Section 30 (6) r.w. Sections 31 & 60(5) of IBC, 2016

IN THE MATTER OF:

Satyendra Prasad Khorania, RP of CMM Infraprojects LtdApplicant

Order delivered on 11/11/2024

Coram:

Chitra Ram Hankare, Hon'ble Member(J)
Kaushalendra Kumar Singh, Hon'ble Member(T)

PRESENT:

For the Applicant :
For the Respondent :

ORDER

IA/152(MP)2024

The case is fixed for pronouncement of the order.

The order is pronounced in open Court *vide* separate sheet.

-SD-

KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)

-SD-

CHITRA RAM HANKARE
MEMBER (JUDICIAL)

A. Bhadauria





THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH

IA/152/MP/2024

In

TP/199/MP/2019, CP(IB)/424/2019

IA/152/MP/2024

(An application under section 30(6) of the Insolvency & Bankruptcy Code, 2016 for approval of resolution plan)

Through:

Mr. Satyendra Prasad Khorania

Resolution Professional of

CMM Infraprojects Limited

Address: 402, 4th Floor,

OK Plus DP Metro, Opp. Pillar No. 94,

New Sanganer Road, Jaipur,

Rajasthan- 302019

.....Applicant

In the matter of TP/199/MP/2019, CP(IB)/424/2019:

(An application under section 9 of the Insolvency & Bankruptcy Code, 2016)

Ram Dev Infra

.....Operational Creditor

Versus

CMM Infraprojects Limited

.....Corporate Debtor

Order pronounced on: 11.11.2024

Coram: Chitra Ram Hankare, Member (J)

Kaushalendra Kumar Singh, Member (T)

Appearance:

For the Applicant: Ld. Adv. Mr. Amol Vyas a.w.

Ld. Adv. Mr. Ankit Jain &

Mr. Satyendra Prasad Khorania





JUDGMENT

1. This application is filed on 20.02.2024, under section 30(6) of the Insolvency and Bankruptcy Code, 2016 by Mr. Satyendra Prasad Khorania, Resolution Professional (RP) of the corporate debtor i.e., CMM Infraprojects Limited for approval of the resolution plan submitted by M/s Effulgence Trading and Services Private Limited & Shree Naivedya Fincom Private Limited (Jointly).

2. The corporate debtor is a public limited company listed in the National Stock Exchange Mumbai, incorporated under the provision of the Companies Act, 1956, bearing CIN No. L45201MP2006PLC018506, and having its registered address office at 108, Shalimar Corporate Center 8- South Tukoganj, Indore, Madhya Pradesh. The corporate debtor caters to diversified infrastructure segments. It currently caters to the construction of commercial & institutional buildings, roads and bridges, canal and irrigation works.

3. The averments made by the applicant/resolution professional in the present application and as argued by the learned counsel are summarized as under:

(i) The corporate debtor was admitted in Corporate Insolvency Resolution Process (CIRP) on 15.12.2022. Mr. Naveen Khandelwal was appointed as Insolvency Resolution Professional (IRP). On 01.01.2023 the IRP made a public announcement of the CIRP of the corporate debtor thereby calling upon its creditors to submit their claim with requisite proof. Initially, the Committee of Creditors (CoC) was constituted with five financial creditors. Thereafter, the RP vide IA/217/MP/2023 submitted its report regarding the amendment in the constitution of CoC having voting percentages based on their debt value as follows:

Sr.	Name of Creditor	Voting (%)
1.	Bank of Baroda	79.51
2.	HDFC Bank	11.64





3.	ICICI Bank	2.44
4.	SERI Equipment Finance Limited	0.53
5.	Atman Infra Projects LLP	4.68
6.	R K Resin Plast Private Limited	0.92
7.	Budhiya Commercial Private Limited	0.29
Total		100%

(ii) In the fourth CoC meeting dated 09.03.2023, the applicant herein was appointed as the RP, and this Adjudicating Authority vide order dated 27.04.2023 confirmed the said appointment.

(iii) In the seventh CoC meeting dated 20.05.2023, the CoC resolved to publish Form-G calling upon the prospective resolution applicants to submit the EoI/Resolution Plans for the corporate debtor.

(iv) The RP published Form-G on 23.05.2023, and the last date for submission for EoI was stipulated as 12.06.2023. In response thereto, RP received 2 resolution plans out of total 3 prospective resolution applicants i.e. (i) Effulgence Trading and Services Private Limited & Shree Naivedya Fincom Private Limited (Jointly), and (ii) Shree Metals (Mujibi) Private Limited.

(v) The CoC discussed the proposal, which was received in the form of resolution plans, in its 10th, 11th and 12th meetings. In its 12th CoC meeting dated 18.12.2023, the said resolution plans were discussed and put to vote. The resolution plan from Effulgence Trading and Services Private Limited & Shree Naivedya Fincom Private Limited (Jointly) was approved by the CoC with 79.50% votes.

(vi) The resolution applicant- Effulgence Trading and Services Private Limited & Shree Naivedya Fincom Private Limited (Jointly) has proposed to infuse a sum of Rs 17,07,52,000/- which include working capital of Rs 3,05,52,000/- plus Rs 1,00,00,000/- as reserve CIRP cost (the resolution applicant proposed to pay the actual unpaid CIRP cost





over and above to resolution plan amount). The details of the proposed payment to the stakeholders are as follows:

SI 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	NA	NA	NA	NA
		(b) Other than (a) above: (i) who did not vote in favour of the resolution plan	NIL	NIL	NIL	NA
		(ii) Who voted in favour of the resolution plan	93,11,69,029/-	92,35,09,474/-	12,93,61,411/-	14%
		Total [(a)+(b)]	93,11,69,029/-	92,35,09,474/-	12,93,61,411/-	14%
2.	Unsecured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	NIL	NIL	NIL	NA
		(b) Other than (a) above: (i) who did not vote in favour of the resolution plan	28,02,973/-	28,02,973/-	5,00,000/-	0.86%
		(ii) who voted in favour of the resolution plan	45,69,48,881/-	5,49,22,161/-		
		Total [(a)+(b)]	45,97,51,854/-	5,77,25,134/-	5,00,000	0.86%
3.	Operational Creditors	(a) Related Party of Corporate Debtor	NIL	NIL	NIL	NA
		(b) Other than (a) above: (i) Government	28,41,26,615/-	28,21,15,715/-	1,00,000/-	0.035%
		(ii) Workmen & employees (including Gratuity, PF & ESIC)	25,31,487/-	2,29,500/-	2,29,500/-	100%
		(iii) Other operational	13,71,07,345/-	5,58,37,285/-	9,089/-	0.016%
		Total [(a)+(b)]	43,27,65,447/-	33,81,82,500/-	3,38,589/-	0.10%
4	Other debts and dues		NIL	NIL	NIL	NA
Grand Total			1,81,46,86,330/-	1,31,94,17,108/-	13,02,00,000/-	9.87%





(vii) The RP has examined the resolution plan and the compliance. For ready reference, the compliances examined by the RP are reproduced hereunder:

Section of the Code/Regulation No.	Requirement with respect to the Resolution Plan	Clause of the Resolution Plan	Compliance (Yes/No)
Section 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?	EOI, Eligibility Documents, Affidavit	Yes
Section 29A	Whether the resolution applicant is eligible to submit resolution plan as per final list of RP or Order, if any, of the Adjudicating Authority?	Undertaking dated 10.06.2023 Final list of Resolution applicants dated 05.07.2023	Yes
Section 30(1)	Whether the resolution applicant has submitted an affidavit stating that it is eligible?	Affidavit dated 08.06.2023	Yes
Section 30(2)	Whether the resolution plan- (a) Provides for the payment of Insolvency Resolution Process Cost? (b) Provides for the payment to the operational creditors? (c) Provides for the payment to the Financial Creditors who did not vote in favour of the resolution plan? (d) Provides for the management of the affairs of the corporate debtor? (e) Provides for the implementation and supervision of the resolution plan? (f) Contravenes any of the provisions of the law for the time being in force?	(a) Clause 7.3(b) Page No. 21 (b) Clause 7.3(c) and (d) Page No. 21 (c) Clause 7.3(e)(h) Page No. 27 (d) Clause 7.3(f) Page No. 30 (e) Clause 16.1 Page No. 37 (f) No	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?	As per the minutes of 12 th CoC Meeting	Yes
Section 31(1)	Whether the resolution plan has provisions for its effective implementation plan, according to the COC?	As per the minutes of 12 th CoC Meeting	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?	Clause 7.3(c) Page No. 21	Yes
Regulation 38(1)(a)	Whether the resolution plan includes a statement as to how it has dealt with the interest of all stakeholders?	Clause 20 (m) Page No. 46	Yes





Regulation 38(1)(b)	(i) Whether the resolution applicant or any of its related parties has failed to implement or contribute 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?	No such failure, clause 3.5 Page No. 14 No applicable	No
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?	(a) Clause 16 and 17 Page No. 37 (b) Clause 16 Page No. 37 (c) Clause 16 and 19 Page No. 37 & 42	Yes
Regulation 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 of the same? (e) the resolution applicant has the capability to implement the resolution plan?	(a) Clauses 4, 5 Page No. 15 (b) Clauses 6,7,8,9 (c) Clause 16 & 19 Page No. 37 & 42 (d) Clause 19.3 Page No. 42 (e) Clause 5 Page No. 15	Yes
Regulation 39(2)	Whether the RP has filed application in respect of transactions observed, found or determined by him?	Yes. IA Has Been Filed Before the Adjudicating Authority, which is pending.	Yes
Regulation 39(4)	Provide details of performance security received as referred to in sub-regulation (4A) of Regulation 36B	In accordance with RFRP, the SRA shall furnish a performance security within 7 business days of issuance of LOI by the CoC or such other extended date as may be notified by the resolution professional. Amount of performance guarantee is Rs 1 Crore.	Yes





4. We have heard the learned counsel for the RP and on perusal of records it is noted that the CoC approved the resolution plan of M/s Effulgence Trading and Services Private Limited & Shree Naivedya Fincom Private Limited (Jointly) by 79.50% votes.

5. Before considering the matter for approval, we consider it appropriate to list the salient features and proposals as made by the SRA through the resolution plan:

(i) The resolution plan provides for payment of the CIRP cost of Rs 1,00,00,000/- as estimated as on the day of the submission of the resolution plan.

(ii) Upon successful approval of the resolution plan, the consortium shall participate in the common fixed capital contribution of the corporate debtor and the same will be as follows:

Nature of issuance	Shareholders	No. of shares	Share capital in Rs.	Face Value	Shareholding percentage
Fresh Issuance	RA & its representative	30,55,200	3,05,52,000/-	10	95%
Existing shares	Public Shareholders	1,60,800	16,08,000/-	10	5%
TOTAL		32,16,000	3,21,60,000/-		100%

(iii) The corporate debtor has equity shares whereas the promoter & promoter groups hold 35.88% of the paid-up equity share capital and 64.12% are with public shareholders. The shareholding pattern of the corporate debtor is set out below:

Shareholders	No. of Shares	Share Capital (in Rs)	Shareholding Percentage
Promoter and Promoter Group	56,23,260	5,62,32,600/-	35.88%
Public Shareholders	1,00,50,000	10,05,00,000/-	64.12%
Total	1,56,73,260	15,67,32,600/-	100%





(iv) As per the resolution plan the shareholding of the promoter and promoter group of 35.88% shall stand fully extinguished as a part of the resolution plan within 60 days from the effective date.

(v) The share capital of the corporate debtor shall be reconstituted in such a manner that the share capital of the existing public shareholders of the corporate debtor equivalent to Rs 10,05,00,000/- divided into 1,00,50,000 equity shares shall stand reduced from a face value of Rs 10/- each to face value of Rs 0.16/- each (reduction in share capital). After reduction in share capital, the shareholding pattern of the corporate debtor will be as follows:

Proposed	No. of Shares	Share Capital in Rs	Shareholding %	Face Value in Rs
Promoters % Promoters Group	-	-	-	-
Public Shareholders	1,00,50,000	16,08,000/-	100%	0.16/-
Total	1,00,50,000	16,08,000/-	100%	

Immediately upon the reduction in share capital, the shares shall be consolidated into equity shares with a face value of Rs 10/- each. An indicative table is set out below:

Proposed	No. of Shares	Share Capital in Rs	Shareholding %	Face Value in Rs
Promoters % Promoters Group	-	-	-	-
Public Shareholders	1,60,800	16,08,000/-	100%	10/-
Total	1,60,800	16,08,000/-	100%	

(vi) The resolution applicant will ensure that the public shareholding in the corporate debtor will be restored to at least 25% within a maximum period of 2 years in each case from the date of the tranche issuance of equity shares to the resolution applicant.





(vii) It provides for payment of Rs 12,93,61,411/- to the secured financial creditors against the admitted claims of Rs 92,35,09,474/-. Rs 3,00,00,000/- is to be paid within 60 days from the effective date. The balance amount of Rs 9,93,61,411/- is proposed to be paid in monthly instalment of Rs 1,41,94,487/- and final instalment will be of Rs 1,41,94,489/-.

(viii) It provides for payment of Rs 5,00,000/- to the unsecured financial creditors (For both who voted in favour of the resolution plan and who did not vote in favour of the resolution plan) against the admitted claims of Rs 5,77,25,134/-. Proposed amount is to be paid within 365 days from the effective date.

(ix) It provides for payment to the operational creditors (other than workmen employees, Government dues) of Rs 9,089/- only, which is 0.016% of the admitted claim of Rs 5,58,37,285/-. Rs 9,089/- is to be paid within 60 days from the effective date. It also provide for payment of operational creditor- Government dues of Rs 1,00,000/- and Workmen and employees dues of Rs 2,29,500/-.

(x) The SRA in its plan vide an addendum filed through an affidavit dated 30.09.2024 has included a clause No. 22 at page No. 48 of the resolution plan regarding the payment of EPFO dues and the same was approved by the CoC by 91.15% votes. For ready reference the same is reproduced as under:

“Notwithstanding anything contents anywhere in the resolution plan, the resolution applicant will also make the payment of the claim amount of the EPFO which was due as on the CIRP commencement date, subject to adjudication of the said claim by appropriate forum and the same attains finality over and above to the amount mentioned in clause 7.2 of this resolution plan and this payment will not make any impact over the payment proposed to other creditors in the resolution plan.”





- (xi) The SRA has concrete plans for the management and ongoing operations of the corporate debtor. (Refer Clause 16.1)
- (xii) There are adequate plans for supervision and implementation of the resolution plan. (Refer Clause 16.1)
- (xiii) The sources and uses of funds outlining the cost of the resolution plan and means of finance in order of priority of the payment waterfall as per section 53(1) of the Code is clearly outlined. (Refer Clause 9.1)
- (xiv) The resolution plan assumes several reliefs and waivers being sought from relevant government departments consequent to the approval of the resolution plan by the CoC. (Refer Clause 12)

6. We proceed to examine the plan in light of provisions contained in sections 30(2) and 31 of the Code r.w. Regulation 38 of the IBBI (CIRP of the Corporate Debtor) Regulations, 2016. The resolution professional has placed on record the compliance certificate in Form-H. It shows that the fair value of the assets of the corporate debtor is Rs 13,18,75,950/- whereas, the liquidation value of the corporate debtor is Rs 10,76,27,180/-. The plan value as proposed by the successful resolution applicant is Rs 17,07,52,000/-.

7. In order to obtain the approval of the Adjudicating Authority, the resolution plan should adhere to the following requirements as per section 30(2) of the Code:

- (i) It should provide for the payment of corporate insolvency resolution process costs in priority to the repayment of other debts of the corporate debtor.

{Section 30(2)(a)}

- (ii) The repayment of the debts of operational creditors should not be less than the amount to be paid to such creditors in the event of liquidation of the corporate debtor under section 53 of the Code, or the amount that would have been paid to the said creditor if the amount to be distributed under the resolution plan had been distributed in accordance of section 53(1) of the Code.





(b) The resolution plan should include a statement giving details as to whether the resolution applicant or any of its related parties has at any time failed to implement or caused to the [CIRP Regulation 38 (1A)]

(a) The resolution plan should include statement as to how it has dealt with the interests of all stakeholders including financial creditors and operational creditors of the corporate debtor.

(a) The resolution plan should include statement as to how it has dealt with the interests of all stakeholders including financial creditors and operational creditors of the corporate debtor. Such other requirements of the resolution plan as detailed in IBCI (Resolution Process for Corporate Persons) Regulations, 2016 which are not covered above, are as under:

(a) The resolution plan should include statement as to how it has dealt with the interests of all stakeholders including financial creditors and operational creditors of the corporate debtor. Such other requirements of the resolution plan as detailed in IBCI (Resolution Process for Corporate Persons) Regulations, 2016 which are not covered above, are as under:

(v) It does not contravene any of the provisions of the law for the time being in force.

(iv) The implementation and supervision of the resolution plan. [Section 30(2)(c) read with CIRP Regulation 38(2)(b)];

(iii) Provides for the management of the affairs of the corporate debtor after approval of the resolution plan. [Section 30(2)(b) read with CIRP Regulation 38(1)(a) & 38(1)(b)];

Further the repayment of the debts of dissenting financial creditors should not be less than the amount that would have been paid to such creditors in the event of liquidation of the corporate debtor under section 53 of the Code and the payment to the said dissenting financial creditor is to be made in priority to the consenting financial creditors. priority over the financial creditor;

Moreover, the payment to the operational creditor is to be made in





failure of implementation of any other resolution plan which was approved by the Adjudicating Authority.

[CIRP Regulation 38 (1B)]

(c) The resolution plan should contain the term of the plan and its implementation schedule.

[CIRP Regulation 38(2)(a)]

(d) The resolution plan should also demonstrate that it addresses the cause of default; is feasible and viable; has provisions for its effective implementation; has provisions for approvals required and timeline for the same. Further, that the resolution applicant has the capability to implement the resolution plan.

[CIRP Regulation 38(3)]

8. Taking into account the above provisions of the Code, the resolution plan submitted before us has been examined as follows:

(i) The resolution plan provides for the payment of unpaid CIRP cost on priority to the repayment of other debts of the corporate debtor. The resolution plan does disclose that the unpaid CIRP cost is not known to the resolution applicant and the resolution applicant has estimated CIRP cost to Rs 1,00,00,000/-. Any increment or decrement in the unpaid CIRP cost will be added or deducted as the case may be from the amount offered to the secured financial creditors. In view thereof provisions of section 30(2)(a) is complied with.

(ii) There are some dissenting financial creditors to the resolution plan. The resolution applicant in the resolution plan have stated that it is willing to quantify a consideration to be paid to such dissenting financial creditors. Therefore, the resolution applicant had sought the liquidation value due to the dissenting financial creditors from the RP. However, the liquidation value due to such dissenting financial creditors could not be ascertained. It is proposed that the claims of the dissenting financial creditors shall be paid out of the total consideration





to the financial creditors as laid out in the resolution plan. The distribution of the consideration to the dissenting financial creditors shall be in accordance with section 30(2)(b) at the sole discretion of the RP/CoC.

Further, the resolution plan provides for payment to the operational creditors in priority to the repayment of other debts. According to section 30(2)(b), the operational creditors should not be paid less than the amount payable to such creditors in event of liquidation of the corporate debtor under section 53 of the Code, or the amount that would have been paid to the said creditors if the resolution plan value had been distributed in accordance of section 53(1) of the Code. As stated earlier, the liquidation value is Rs 10,76,27,180/- whereas the total admitted claim of secured financial creditor is Rs 92,35,09,474/-. As such if the said liquidation value was to be considered in the event of liquidation as a total amount to be distributed as per section 53 of the Code, then the operational creditors would have got nothing. Similarly, we find that the proposed plan value is Rs 17,07,52,000/- in the resolution plan and if that was to be distributed in accordance with section 53 of the Code then also nothing would have remained for the operational creditors. However, the resolution applicant has proposed to pay Rs 3,38,589/- to the operational creditors including Government and Workman/Employees.

Furthermore, the Successful Resolution Applicant in its plan vide an addendum filed through an affidavit dated 30.09.2024 has included a clause No. 22 at page No. 48 of the resolution plan regarding the payment of EPFO dues and the same was approved by the CoC by 91.15% votes.

As such the provisions of section 30(2)(b) read with CIRP Regulation 38(1)(a) & 38(1)(b) are complied with.

(iii) The mechanism of management and control of the affairs of the corporate debtor after approval of the resolution plan till its implementation has been provided in the resolution plan itself whereby





the Monitoring Agency shall manage the corporate debtor in trust and shall appoint the CEO/CFO to manage the day-to-day affairs of the corporate debtor under its supervision until the full hand-over of assets of the corporate debtor. Thus, provisions of section 30(2)(c) read with CIRP Regulation 38(2)(b) are complied with.

(iv) The resolution plan contains a provision wherein, the implementation of the said plan will be supervised by the Monitoring Committee consisting of one member of the CoC, RP (in case no consent is given by the RP then on Insolvency Professional) and one nominee appointed by the resolution applicant. Thereby, section 30(2)(d) read with CIRP Regulation 38(2)(c) have been complied with.

(v) The RP has submitted that the plan does not contravene any provisions of law. We note that, as per the requirements made under Rule 19 A (5) of the Securities Contract (Regulation) Rules, 1957, where the public shareholding in a listed company falls below twenty-five percent, as a result of implementation of the resolution plan approved under section 31 of the Code, such company shall bring the public shareholding to twenty-five percent within a maximum period of three years from the date of such fall, in the manner specified by the SEBI. In the present case of the resolution plan, the SRA has proposed to extinguish the share capital of the promoter and promoter groups and also proposed a reduction in share capital whereby the public shareholding of the corporate debtor will be reduced from 64.12% to 5%. The SRA in the plan has also mentioned that the resolution applicant will ensure that the public shareholding in the corporate debtor will be restored to at least 25% within a maximum period of 2 years in each case from the date of the tranche issuance of equity shares to the resolution applicant. Accordingly, the plan complies with the provision made under Rule 19 A (5) of the Securities Contract (Regulation) Rules, 1957. We also note that the plan does not contravene any provisions of the law for the time being in force. Thereby, section 30(2)(e) has been complied with.





(vi) The resolution plan also confirms to other IBBI Regulations as given hereunder:

(a) The resolution plan adequately deals with the interest of all stakeholders, including financial creditors and operational creditors of the corporate debtor. Thereby, the plan is in compliance with CIRP Regulation 38(1A).

(b) It is submitted that neither the resolution applicant nor any of its related parties have at any time failed to implement or contributed to the failure of implementation of any other resolution plan which was approved by the Adjudicating Authority. Thereby, the plan is in compliance with CIRP Regulation 38(1B).

(c) The term of the plan and its implementation schedule is as under:

S No.	Activity	Timeline (Days)
1.	Effective Date	Approval of the resolution plan by the Adjudicating Authority
2.	Upfront payment to Operational Creditors- Statutory dues	Within 60 days from the effective date
3.	Upfront payment to Operational Creditor- other than statutory creditors	Within 60 days from the effective date
4.	Upfront payment towards outstanding employees and workmen dues including gratuity & EPF/ESIC	Within 60 days from the effective date
5.	Upfront payment to Secured Financial Creditors	Rs 3,00,00,000/- within 60 days from the effective date
6.	Proposed deferred payment for Secured Financial Creditors	Monthly instalment of Rs 1,41,94,487/- starts from end of 6 th month from the effective date and final instalment will be of Rs 1,41,94,489/-
7.	Proposed deferred payment for Unsecured Financial Creditors	Within 365 days from the effective date
	Completion Date	Effective Date+ 365 Days

Thereby, CIRP Regulation 38(2)(a) has been complied with.





(d) The resolution plan addresses the cause of default; is feasible and viable; has provisions for its effective implementation; contains provisions for approval required and the timeline for the same. Further, that the resolution applicant has the capability to implement the resolution plan. Thus, CIRP Regulation 38(3) has been complied with.

9. Both the resolution applicant are Private Limited company and has jointly filed this resolution plan. Effulgence Trading and Services Private Limited is engaged in the business of providing services to business by connecting them to global markets, whereas, Shree Naivedya Fincom Private Limited is engaged in the business of providing financial services. For the source of fund, the resolution plan includes the following:

- (i) The resolution applicant proposes the bank to release the fixed deposit inclusive of interest accumulated upto the effective date which is approx. Rs 4,82,76,480/- as per the information memorandum provided by the resolution professional and the same shall be utilised as upfront payment to the secured financial creditors.
- (ii) It also proposes to sell the non-core assets of the corporate debtor within twelve months from the effective date, which will generate inflow of Rs 3,50,00,000/-.
- (iii) Balance Rs 8,74,75,520/- shall be brought in by the proposed investors/shareholders in the equity/warrants/subordinate debt/internal accrual for the broken period of the corporate debtor.

Thus it is noted that effectively the SRA is infusing their own fund to the extent of Rs 8,74,75,520/-. The balance amount of Rs 8,32,76,480/- is out of the assets of the corporate debtor only. The liquidation value of the corporate debtor's assets are estimated at Rs 10,76,27,180/- which includes the investment in Fixed Deposits also.

10. It is also noted that the resolution applicant has sought certain reliefs, concessions and waiver such as:





- (i) All Government Entities to waive all past Non-compliances of the company under applicable laws.
- (ii) Any approval that may be required from Government/semi Government in connection with the implementation of resolution plan.
- (iii) Exempt the corporate debtor and resolution applicant from any tax obligation and stamp duty under various taxing statutes.
- (iv) Extinguishment of all liabilities prior to the approval of the resolution plan due to non-compliance under any law.
- (v) Carry forward and brought forward losses, if any.
- (vi) Relief from all new inquiries, investigations, litigation or proceedings in relation to any period before the acquisition of control by the resolution applicant over the corporate debtor.
- (vii) Any restrictions by NSE/BSE in trading in future & options of the corporate debtor shall be lifted and there shall be no restriction on the trading in future & options contracts of the corporate debtor.
- (viii) Additional moratorium of 6 months from the effective date against the termination of any contract, invocation of bank guarantee, and initiation of penal action against the corporate debtor.

Further, during the hearing, the learned counsel for the applicant has submitted that approval of the resolution plan is not conditional to the grant of reliefs & concessions sought by the resolution applicant.

10.1 As far as reliefs and concessions claimed by the resolution applicant with respect to the unpaid liabilities after the approval of the plan and the claims not filed at all with the RP during the CIRP, the law has been well settled by the Hon'ble Supreme Court in the case of ***Ghanshyam Mishra and Sons Private Limited Vs. Edelweiss Asset Reconstruction Company Limited and Ors. Reported in MANU/SC/0273/2021*** in the following words:





86. “.....The legislative intent behind this is, to freeze all the claims so that the resolution applicant starts on a clean slate and is not flung with any surprise claims. If that is permitted, the very calculations on the basis of which the resolution applicant submits its plans, would go haywire and the plan would be unworkable.

87. We have no hesitation to say, that the word "other stakeholders" would squarely cover the Central Government, any State Government or any local authorities. The legislature, noticing that on account of obvious omission, certain tax authorities were not abiding by the mandate of I&B Code and continuing with the proceedings, has brought out the 2019 amendment so as to cure the said mischief.....”

In view of the above, all unpaid liabilities and those which are not included in the said resolution plan would stand extinguished.

10.2 After the corporate debtor is taken over by the new management, no inquiry, investigation, litigation etc. will be made against the taken over company in relation to the period prior to the CIRP.

10.4 As regards other reliefs and concessions sought by the resolution applicant, we direct the said successful resolution applicant to approach the concerned statutory authorities for those concessions and those authorities will consider the same as per the provisions of law under the relevant Acts keeping in view the intent and object of the IBC.

10.5 The relief which is not specifically provided should not be treated as being allowed.





11. The proviso to section 31 of the Code, 2016 states that before passing any order for approval of the resolution plan, the Adjudicating Authority should also satisfy that the resolution plan has provisions for its effective implementation. We being satisfied, approve the resolution plan submitted by M/s Effulgence Trading and Services Private Limited & Shree Naivedya Fincom Private Limited (Jointly) for the corporate debtor i.e. CMM Infraprojects Limited and proceed to pass the following order:

ORDER

- (i) Application is allowed.
- (ii) The resolution plan of M/s Effulgence Trading and Services Private Limited & Shree Naivedya Fincom Private Limited (Jointly) for the corporate debtor i.e. CMM Infraprojects Limited is approved.
- (iii) The approved 'Resolution Plan' shall become effective from the date of passing of this order.
- (iv) The order of moratorium dated 15.12.2022 passed by this Adjudicating Authority under section 14 of the IBC, 2016 shall cease to have effect from the date of passing of this order.
- (v) The resolution professional shall forthwith send a copy of this order to the participants and the resolution applicant(s).
- (vi) The resolution professional shall forward all records relating to the conduct of the Corporate Insolvency Resolution Process and resolution plan to the Insolvency and Bankruptcy Board of India to be recorded in its database.

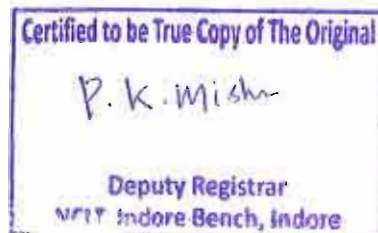
-SD-

KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)

-SD-

CHITRA RAM HANKARE
MEMBER (JUDICIAL)

KN



Date of Pronouncement of Oder 11.11.2024
Date on Which Application for Certified Copy was Made 19.11.24
Date on Which Certified Copy Was Ready 21.11.24
Date on Which Certified Copy Delivered 21.11.24