



**IN THE NATIONAL COMPANY LAW TRIBUNAL  
ALLAHABAD BENCH, PRAYAGRAJ**

**IA (Plan) NO.03/2024 IN CP (IB) NO.151/ALD/2019**

*(An application under Section 30(6) read with Section 31 of the Insolvency and Bankruptcy Code, 2016 read with Regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process of Corporate Persons) Regulations, 2016.)*

**IN THE MATTER OF:**

**BABITA JAIN**

Resolution Professional

M/s KRP Infrastructure & Builders Pvt. Ltd.

IBBI/IPA-002/IP-N00321/2017-2018/10926

35B/6 Madhokunj, Rammohan Plaza, Allahbad-211002

Email: [jainbabita06@gmail.com](mailto:jainbabita06@gmail.com)

Mobile No. : 9335115227/7379777752

.....**Applicant**

**AND IN THE MATTER OF:**

M/s Pruthvi Steels

..... **Operational Creditor**

***Versus***

KRP Infrastructures & Builders Private Limited

..... **Corporate Debtor**

**Order pronounced on: 08<sup>th</sup> November, 2024**

**CORAM:**

Sh. Praveen Gupta : Member (Judicial)

Sh. Ashish Verma : Member (Technical)

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***Appearances:***

Sh. Mohd. Nazim Khan, PCS with : *For the Applicant/RP*

Sh. Satyendra Sharma, and *Ms. Babita Jain*

Ms. Saba Noor, Adv. *present in person*

Ms. Sapna Chaudhary, Adv. : *For the SRA, Mr. Yogesh  
Mittal present in person*

**ORDER**

***Preliminary***

1. The present Interlocutory Application bearing IA No. (Plan) 03/2024 has been filed by **Mrs. Babita Jain**, Resolution Professional ("**RP**") of KRP Infrastructures & Builders Private Limited under the provisions of Section 30(6) r.w.s. 31 of the Insolvency & Bankruptcy Code, 2016 along with Section 60(5) of the Insolvency & Bankruptcy Code, 2016 (hereinafter referred to as ("**the Code**" or "**IBC**") read with Regulation 39(4) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 ("**CIRP Regulations**") for approval of the Resolution Plan in respect of M/s KRP Infrastructures & Builders Private Limited ("**Corporate Debtor**").

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2. The underlying Company Petition CP (IB) No.151/ALD/2019 filed by the Operational Creditor i.e. M/s Pruthvi Steels under Section 9 of the Code for initiation of Corporate Insolvency Resolution Process (“**CIRP**”) against the Corporate Debtor, namely M/s KRP Infrastructures & Builders Private Limited which was admitted by this Adjudicating Authority *vide* its order dated 22.08.2023 (“**Admission Order**”). On that date, *i.e.*, 22.08.2023 (“**Insolvency Commencement Date**”), Mrs. Babita Jain (IBBI/IPA-002/IP-N00321/2017-18/10926) was appointed as IRP and was subsequently appointed as Resolution Professional in the first meeting of the Committee of Creditors (hereinafter referred as ‘COC’) held on 21.09.2023.

***Collation of claims by RP***

3. It is stated in the Resolution Plan that the public announcement was made on 25.08.2023 in *Financial Express (English)* and *Jansatta (Hindi)*, the COC was constituted on 05.09.2023, and the RP filed the list of creditors and report of constitution of COC before this tribunal on 15.09.2023.

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4. Pursuant to the collation and verification of claims received, the COC was constituted with three Operational Creditors in accordance with Regulation 16 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, owing to the absence of claims from any Financial Creditors. The list of Operational Creditors and their voting share are as under:

<b>Sr. No.</b>	<b>Name of Operational Creditors</b>	<b>Class of Creditors</b>	<b>Voting Share (%)</b>
1.	M/s Relcon InfraProjects Ltd.	Unsecured Operational creditor	75.40%
2.	M/s Bigbloc Construction Ltd.	Unsecured Operational creditor	14.80%
3.	M/s Pruthvi Steels	Unsecured Operational creditor	9.80%
<b>TOTAL</b>			<b>100%</b>

5. The details of claims submitted are as follows:

<b>Particulars</b>	<b>Amount Claimed in Rupees</b>	<b>Claim Admitted in Rupees</b>
Secured Financial Creditor	NIL	NIL
Unsecured Financial Creditors	NIL	NIL

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Workmen & Employees	NIL	NIL
Government Dues	NIL	NIL
Operational Creditor (other Workmen & Employees and Government Dues )	1,08,76,558	51,00,343
<b>Total</b>	<b>1,08,76,558</b>	<b>51,00,343</b>

6. The RP submits that a total of 12 CoC meetings have been held during the whole CIRP period.

***Evaluation and voting***

7. It is stated in the Resolution plan that the 2<sup>nd</sup> CoC was held on 31.10.2023 whereby the CoC interalia approved the publication of Form G for invitation of expression of interest, Evaluation Matrix, and eligibility criteria. Accordingly, invitations for Expression of Interest (EoIs) in Form-G were published wherein the last date of receipt of the EoIs was fixed as 26.11.2023.
8. In pursuance thereto, the Resolution Professional received one EoI for submission of the Resolution plan. The PRA who submitted the EoI is given as under:-
- 1) Mr. Yogesh Mittal
9. The sole Resolution Applicant, Mr. Yogesh Mittal, submitted his Resolution Plan on 25.01.2024, which

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was presented for consideration before the members in the 4th and 5th CoC meetings held on 02.02.2024 and 10.02.2024, respectively. During the 6th CoC meeting on 04.03.2024, it was brought to the CoC's attention that a settlement proposal had been offered by the suspended director, Mr. Rahul Pathak, which included a one-time settlement offer along with a commitment to pay the CIRP costs in full. Further, in the 7th CoC meeting held on 07.03.2024, the CoC unanimously rejected the Resolution Plan submitted by Mr. Yogesh Mittal, taking into consideration the settlement proposal offered by the suspended director.

10. In regards to the settlement proposal, the suspended director made a part payment of ₹4,00,000/- towards the CIRP cost and, through an email dated 02.04.2024, assured the remaining payment by 10.04.2024. A settlement agreement was subsequently entered into between the suspended director and the members of the CoC, stipulating that the dues would be settled by 15.04.2024. However, during the 10th CoC meeting held on 19.04.2024, the CoC unanimously concluded that

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despite being given ample opportunities, the suspended director had failed to settle the dues related to Big Block Constructions Limited. As a result, the CoC rejected the suspended director's request for further extension of the settlement timeline and further unanimously decided to re-engage with Mr. Yogesh Mittal for further deliberations/negotiations rather than issuing a fresh Form-G or opting for liquidation.

11. Subsequently, after detailed deliberations/negotiations and discussions with the members of the CoC during the 11th CoC meeting held on 03.05.2024 and 04.05.2024 respectively, Mr. Yogesh Mittal submitted a revised Resolution Plan. This Resolution Plan was then approved by 100% voting from all CoC members during the 12th CoC meeting. The Resolution Professional filed an application for approval of the Resolution Plan with this Tribunal on 20.05.2024. The relevant agenda item no. B7, passed unanimously by all three CoC members, collectively having 100% voting shares in the 12th CoC meeting held on 16.05.2024, is annexed as Annexure-3 (Colly) to the petition and is reproduced hereunder: -

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**ITEM NO. B7: TO DISCUSS, CONSIDER AND APPROVE**  
**THE REVISED RESOLUTION PLAN UNDER SECTION**  
**30(3) AND 30(6) OF THE INSOLVENCY AND**  
**BANKRUPTCY CODE, 2016 (IBC) READ WITH**  
**APPLICABLE RULES AND REGULATIONS OF THE IBC**

**RESOLUTION -**

**"RESOLVED THAT** pursuant to Section 30(3) of the Insolvency and Bankruptcy Code, 2016 (IBC) and other applicable provisions of the Insolvency and Bankruptcy Code, 2016 and Rules and Regulations framed there under, the Resolution Plan dated 14.05.2024 of Mr Yogesh Mittal be and is hereby approved by the COC."

**"RESOLVED FURTHER THAT** pursuant to the provisions of Section 30(6) and other applicable provisions of the Insolvency and Bankruptcy Code, 2016 and Rules and Regulations framed there under, the Resolution Professional be and is hereby authorized to submit the Resolution Plan as approved by the Committee of Creditors to the Hon'ble Adjudicating Authority and to do all such acts, deeds and things as may be required or considered necessary or incidental thereto in connection with."

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<i>S N o.</i>	<i>Name of the Creditor</i>	<i>Voting Share (%)</i>	<i>Assent</i>	<i>Diss ent</i>	<i>Abs tain</i>
1	<i>M/s Relcon Infraprojects Ltd.</i>	75.40	75.40		
2	<i>M/s Bigbloc Construction Ltd.</i>	14.80	14.80		
3	<i>M/s Pruthvi Steels</i>	9.80	9.80		
	<b>Total</b>	<b>100%</b>	<b>100.00</b>		

**Approved with 100% voting rights**

**12.** A compliance Certificate in terms of prescribed Form H under regulation 39(4) of the CIRP Regulations was filed with this petition and further a revised Form H was filed before this Tribunal through an additional affidavit dated 26.06.2024. As per FORM H, the fair value and the liquidation value of the corporate debtor, as determined by the Registered Valuers' Reports, is Nil.

**13.** This Adjudicating Authority has granted extensions/exclusions in the whole CIR Process, which are in tabular form as follows: -

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<b>Particulars</b>	<b>Timelines</b>
CIRP commencement date	22.08.2023
180 days	18.02.2024
Extension of 90 days beyond 180 days (Granted vide NCLT order dated 26.02.2024)	18.05.2024

### ***Details of Resolution Plan/ Payment Schedule***

**14.** The Successful Resolution Applicant i.e. Mr. Yogesh Mittal, is an individual residing at House No. A-11, Nirman Vihar, East Delhi, New Delhi-110092, with a net worth of ₹199.68 lakhs as of 31.03.2023. The Applicant submits the relevant information about the amount proposed to be paid by the Successful Resolution Applicant, i.e., Mr. Yogesh Mittal under the said Resolution Plan which is tabulated as under: -

***The amount proposed in the Resolution Plan are tabulated below:***

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<b>Sl. No.</b>	<b>Particulars</b>	<b>Basis</b>	<b>Amount (Rs.)</b>
1.	CIRP Cost	To the extent	5,00,000 or actual, whichever is less
2.	Secured Financial Creditors, Unrelated, Having No Voting Right	Not Applicable	nil
3.	Secured Financial Creditors, related, Having Voting Right	Not Applicable	nil
4.	Unsecured Financial Creditors, Unrelated, Having Voting Right	Not Applicable	nil
5.	Operational Creditors other than Workmen and Employees	51,00,343 (25.49% of admitted claims)	13,00,000
6.	Workmen Dues	Not Applicable	nil
7.	Employees	Not Applicable	nil
8.	Government Dues i.e., Department of Trade and Taxes (Delhi GST)	Not Applicable	nil
9.	Others	Not Applicable	nil
10.	Contingency	Not Applicable	nil
	<b>Total</b>		<b>18,00,000/-</b>

- \* *In case the CIRP Cost is lower than Rs. 5,00,000, the excess amount remaining after CIRP cost shall be used for working capital of the Corporate Debtor. However, this is clarified that the SRA shall pay CIRP cost to tune of Rs. 5,00,000. In case this unpaid CIRP goes beyond Rs. 5,00,000, the unpaid CIRP cost above Rs. 5,00,000 shall be borne by the COC members in proportion to their voting rights.*
- \* *The entire consideration including CIRP Cost will be paid within 90 days from the date of receipt of a certified true copy of the order approving the Resolution Plan by the Adjudicating Authority.*
- \* *The funds recovered from the IA-03/2024 shall be firstly utilized for payment of the expenses incurred in the said recovery and then be paid to the operation*

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creditors to the extent of admitted claims i.e. Rs. 38,00,343 (Rs. 51,00,343 less Rs. 13,00,000) of the Corporate Debtor and remaining amount, if left shall be utilized for the purpose of business operations of the Transferee Company. However, the proceeds from the IA-03/2024 shall be distributed equally between the SRA and CoC to the extent of balance of admitted claim, henceforth, any amount received from the IA- 03/2024 beyond Rs 76,00,686) shall be retained by the SRA.

- \* If any amount is not recovered from the said IA then there is no liability on the Resolution applicant to pay any amount to creditors of the Corporate Debtor.

**Estimated Total Amount Proposed to be brought in the Corporate Debtor for the turnaround of the Corporate Debtor:**

<b>S.No</b>	<b>Particulars</b>	<b>In Rupees</b>
<b>A</b>	CIRP Cost	5,00,000
<b>B</b>	<b>Total Upfront Cash Payment as part of Resolution Plan (A)</b>	5,00,000
<b>C</b>	Financial Creditors	NIL
<b>D</b>	Workmen & Employee/due/claim retirement benefit	NIL
<b>E</b>	Operational Creditor	13,00,000
<b>F</b>	Other Creditors	NIL
<b>G</b>	<b>Payment to outside party (B+C+D+E+F)</b>	18,00,000
<b>H</b>	Repairs/Refurbishment (To be brought through equity)	NIL
<b>I</b>	Working capital margin (To be brought through equity)	NIL
<b>J</b>	<b>Total Fund Required (G+H+I)</b>	18,00,000

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**15.** The Resolution Plan submitted by the Successful Resolution Applicant, as outlined in Clause 4.4.3, establishes that the duration of the plan shall be one year from the date of approval by this Tribunal.

***Sources of Funds***

**16.** The overall Resolution Plan is for a total amount of approximately Rs.18,00,000/- (inclusive of Rs.5,00,000 or actual CIRP cost, whichever is less) and the said amount shall be infused within 90 days from the effective date.

**17.** The Resolution Applicant shall bring funds from internal accruals, its own resources/reserves and from relatives. Further, the funds recovered from the IA-03/2024 (Application on behalf of Resolution Professional u/s 66 for seeking necessary directions against the suspended directors of the corporate debtor) shall be firstly utilized for payment of the expenses incurred in the said recovery and then be paid to the operational creditors to the extent of admitted claims i.e. Rs. 38,00,343 (Rs. 51,00,343 less Rs. 13,00,000) of the Corporate Debtor and the remaining amount, if any shall be utilized for

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the purpose of business operations of the Transferee Company. If any amount is not recovered from the said IA then there is no liability on the Resolution applicant to pay any amount to creditors of the Corporate Debtor.

- 18.** The Applicant has submitted the details of various compliances as envisaged by the Code and the CIRP Regulations, which a Resolution Plan is required to adhere to, as follows:

<b>Section of the Code/ Regulation No.</b>	<b>Requirement with respect to the Resolution Plan</b>	<b>Clause of Resolution Plan</b>	<b>Compliance (Yes/No)</b>
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?	<i>Provided in Clause 2.5 of the Resolution Plan</i>	Yes Page 432 (Page 16 of Resolution Plan)
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?	<i>Provided in Clause 7.6 of the Resolution Plan</i>	Yes Page 476 (Page 60 of Resolution Plan) Annexure E (page 489)

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Section 30(1)	Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?	<i>Provided in Clause 7.6 of the Resolution Plan</i>	Yes Page 476 (Page 60 of Resolution Plan) Annexure E (page 489)
Section 30(2)	Whether the Resolution Plan-		
	(a) Provides for the payment of insolvency resolution process costs?	Provided in Clause 6.2.1 of the Resolution Plan	Yes, Page no.469 (Page 53 of Resolution Plan)
	(b) Provides for the payment to the operational creditors?	Provided in Clause 6.6 of the Resolution Plan	Yes, Page no.470-471 (Page 54-55 of Resolution Plan)
	(c) Provides for the payment to the financial creditors who did not vote in favour of the resolution plan?	Not Applicable since no financial creditors	-
	(d) provides for the management of the affairs of the corporate debtor?	Provided in Clause 5 (Chapter-V) of the Resolution Plan	Yes, Page no.461-463 (Page 45-47 of Resolution Plan)

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	(e) provides for the implementation and supervision of the resolution plan?	Provided in Clause 4.9 of the Resolution Plan	Yes, Page no.449 (Page 33 of Resolution Plan)
	(f) contravenes any of the provisions of the law for the time being in force?	Provided in Clause 7.8 of the Resolution Plan (Declaration in Annexure-G of the Plan)	Yes, Page no.478 (Page 62 of Resolution Plan)
Section 30(4)	Whether the Resolution Plan		
	(a) is feasible and viable, according to the CoC?	Provided in Clause 7.11 of the Resolution Plan	Yes, Page no.478 (Page 62 of Resolution Plan)  (Declaration in Annexure-G of the Plan, Page 494 of the application)
	(b) has been approved by the CoC with	Provided in Annexure 3 (Colly)	Yes, Page no. 190 of

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	66% voting share?		the application
Section 31(1)	Whether the Resolution Plan has provisions for its effective implementation plan, according to the CoC?	Provided in Clause 4.10 of the Resolution Plan	Yes, Page 450 (Page 34 of Resolution Plan)
Regulation 38 (1)	Whether the amount due to the operational creditors under the resolution plan has been given priority in payment over financial creditors?	Provided in Clause 6.6 of Resolution Plan  (Also in Clause 7.2 of the Resolution Plan)	Yes, Page no.470-471 (Page 54-55 of Resolution Plan)  Page no.475 (Page 59 of Resolution Plan)
Regulation 38(1A)	Whether the resolution plan includes a statement as to how it has dealt with the interests of all stakeholders?	Provided in Clause 7.3 of Resolution Plan	Yes, Page 475 (Page 59 of Resolution Plan)
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	Provided in Clause 7.13 of Resolution Plan	No, Page 479 (Page 63 of Resolution Plan)

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	<p>approved under the Code.</p> <p>(ii) If so, whether the Resolution Applicant has submitted the statement giving details of such non-implementation?</p>		Not Applicable
Regulation 38(2)	<p>(a) The term of the plan and its implementation schedule?</p> <p>(b) For the management and control of the business of the corporate debtor during its term?</p> <p>(c) Adequate means for supervising its implementation?</p>	<p>Provided in Clause 4.4 of the Resolution Plan</p> <p>Provided in Clause 7.5 of Resolution Plan (Also in Chapter V of the Resolution Plan)</p> <p>Provided in Clause 4.9 of the Resolution Plan</p>	<p>Yes, Page 446 (Page 30 of Resolution Plan)</p> <p>Yes, Page 476 (Page 60 of Resolution Plan)</p> <p>Yes, Page 449 (Page 33 of Resolution Plan)</p>

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	(d) Provides for the manner in which proceedings in respect of avoidance transactions, if any, under Chapter III or fraudulent or wrongful trading under Chapter VI of Part II of the Code, will be pursued after the approval of the resolution plan and the manner in which the proceeds, if any, from such proceedings shall be distributed:	Provided in Clause 4.11.14 of the Resolution Plan	Yes, Page 455 (Page 39 of Resolution Plan)
Regulation 38(3)	Whether the resolution plan demonstrates that -  (a) It addresses the cause of default?  (b) It is feasible and viable?	Provided in Clause 2.5 of the Resolution Plan  Provided in Clause 7.11 of the Resolution Plan	Yes, Page 432 (Page 16 of Resolution Plan)  Yes, Page 478 (Page 62 of Resolution Plan)

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	(c) It has provisions for its effective implementation?	Provided in Clause 4.4 of the Resolution Plan	Yes, Page 446 (Page 30 of Resolution Plan)
	(d) It has provisions for approvals required and the timeline for the same?	Provided in Clause 4.4.1 of the Resolution Plan	Yes, Page 446 (Page 30 of Resolution Plan)
	(e) The resolution applicant has the capability to implement the resolution plan?	Provided in Clause 4.11.13 of the Resolution Plan	Yes, Page 454 (Page 38 of Resolution Plan)
Regulation 39(2) (c)	Whether the RP has filed applications in respect of transactions observed, found or determined by him?	Provided in Clause 4.11.14 of the Resolution Plan	Yes, Page 455 (Page 39 of Resolution Plan)
Regulation 39(4)	Provide details of performance security received, as referred to in sub-regulation (4A) of regulation 36B.		Yes (Page 542 of the application)

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**Measures provided in Resolution Plan in terms of Regulation 37 of CIRP Regulations.**

<b>Regulation 37 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016</b>	<b>Relevant Clause of Resolution Plan</b>	<b>Page Number of Application</b>
a) transfer of all or part of the assets of the corporate debtor to one or more persons;	Clause 4.1.4 and 4.1.10	Page 442 and 443 of Application
b) sale of all or part of the assets whether subject to any security interest or not;	No	Not applicable
ba) restructuring of the corporate debtor, by way of merger, amalgamation and demerger;	Clause 4.1.1	Page 441 of Application
c) the substantial acquisition of shares of the corporate debtor, or the merger or the consolidation of the corporate debtor with one or more persons;	Clause 4.1.2	Page 441 of Application
ca) cancellation or delisting of any shares of the corporate debtor, if applicable;	No	Not applicable
d) satisfaction or modification of any security interest;	Clause 4.1.12	Page 444 of Application

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e) curing or waiving of any breach of the terms of any debt due from the corporate debtor;	No	Not applicable
f) reduction in the amount payable to the creditors;	Clause 4.2	Page 444-446 of Application
g) extension of a maturity date or a change in interest rate or other terms of a debt due from the corporate debtor;	No	Not applicable
h) amendment of the constitutional documents of the corporate debtor	No	Not applicable
i) issuance of securities of the corporate debtor, for cash, property, securities, or in exchange for claims or interests, or other appropriate purpose;	No	Not applicable
j) change in portfolio of goods or services produced or rendered by the corporate debtor;	No	NA
k) change in technology used by the corporate debtor; and	No	NA
l) Obtaining necessary approvals from Central and State Governments and other authorities	Not applicable	Not applicable
m) Sale of one or more assets of corporate debtor to one or more successful resolution applicants submitting resolution plans for such assets; and manner of dealing with remaining assets	Not applicable	Not applicable

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**Details of Monitoring Committee:**

Name(s) of the proposed member(s) of implementation and monitoring committee	Brief description of the Proposed member(s) of the I & M committee
Chapter 4, Clause 4.9, Page No 449, Volume-III	The Monitoring Agency shall consist of Babita Jain having Registration Number IBBI/IPA-002/IP-N00321/ 2017-18/10926 as the Chairman, Mohd Nazim Khan having IBBI Registration No: IBBI/IPA-002/IP- N00076/2017-18/10207 as the Joint Chairman, one representative from COC having majority voting rights and one representative from the Successful Resolution Applicant

**19.** The Applicant submits that the Successful resolution applicant has submitted an affidavit in regard to the eligibility under section 29A of the Code, as required by Regulation 39(1)(a) of the CIRP Regulations. An undertaking has also been submitted by the Successful Resolution Applicant, as mandated in terms of regulation 39(1)(c) of the CIRP Regulations. The affidavit under Section 29A is at page no. 489 in the application, which is reproduced there under: -

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*“I, Yogesh Mittal, s/o Shri V.K. Mittal, aged 53 yrs, resident of A-11, Nirman Minal So Vihar Delhi-110092, the Deponent, do hereby solemnly affirm, states and declare as under:*

*1. I understand that an insolvency resolution process has been initiated against (Name of the Corporate Debtor) (Corporate Debtor) vide order dated [Order date] (Admission Order) passed by National Company Law Tribunal, Allahabad Bench (Adjudicating Authority) in an application filed by operational creditor against the Corporate Debtor under Section 9 of the Insolvency and Bankruptcy Code, 2016 (amended up to date) (IBC).*

*2. I state that the present affidavit is sworn by me on behalf of the Resolution Applicant, in compliance of section 29A of the IBC.*

*3. I on behalf of the Resolution Applicant and any other person acting jointly or in concert with the Resolution Applicant hereby confirm that:*

*(i) The Resolution Applicant and any connected person as per the Explanation I provided under section 29A of the IBC is not an un discharged insolvent; or*

*(ii) The Resolution Applicant and any connected person as per Explanation I provided under section 29A of the IBC, is not identified as a willful defaulter in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949; or*

*(iii) At the time of submission of the Resolution Plan, the account of the Resolution Applicant and any connected person as per Explanation I provided under section 29A of the IBC or an account of the corporate debtor under the management or control of such person of whom such person is a promoter, IBC is not classified as non-performing asset in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949 or guidelines of a financial sector regulator issued under any*

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*other law at the time being in force and at least a period of one year or more has lapsed from the date of such classification till the date of commencement of corporate insolvency resolution process of the corporate debtor and that I have not failed to make the payment of all overdue amounts with interest thereon and charges relating to non-performing asset before submission of Resolution Plan; or*

*(iv) The Resolution Applicant and any connected person as per Explanation I provided under section 294 of the IBC have not been convicted for any offence punishable with imprisonment for 2 years or more under any Act specified in the Twelfth Schedule or for seven years or more under any law for the time being in force or a period of two years has expired from the date of release of such imprisonment; or*

*v) The Resolution Applicant and any connected person as per Explanation i provided under section 29A of the IBC have not been disqualified to act as a director under the Companies Act 2013, or*

*(vi) The Resolution Applicant and any connected person as per Explanation I provided under section 29A of the IBC have not been prohibited by the Securities and Exchange Board of India from trading in securities or assessing the securities markets; or*

*(vii) The Resolution Applicant and any connected person as per Explanation I provided under section 29A of the IBC have not indulged in preferential transaction or undervalued transaction or fraudulent transaction in respect of which an order has been made by the Adjudicating Authority under the IBC; or*

*(viii) The Resolution Applicant and any connected person as per Explanation I provided under section 29A of the IBC have not executed a guarantee in favour of a creditor, in respect of a corporate debtor against which an application for Insolvency resolution made by such creditor has been admitted under the IBC*

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and no such guarantee has been invoked by the creditor or remains unpaid in full or part; or

(ix) The Resolution Applicant and any connected person as per Explanation I provided under section 29A of the IBC are not subject to any disability, corresponding to clauses mentioned above under any law in a jurisdiction outside India.

**(i)** That the Resolution Applicant unconditionally and irrevocably agrees and undertakes that it shall make full disclosure in respect of itself and all its connected persons as required under Regulation 38(3) of the CIRP Regulations.

**(ii)** That the Resolution Applicant unconditionally and irrevocably agrees and undertakes that it shall make full disclosure in respect of itself and all its connected persons as per the provisions of the CIRP and the rules and regulations framed there under to submit a resolution plan and that it shall provide all documents, representations and information as may be required by the RP or the COC to substantiate to the satisfaction of the RP and the COC that the Resolution Applicant is eligible under the IBC and the rules and regulations there under to submit a resolution plan in respect of Corporate Debtor.

**(iii)** 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.

**(iv)** 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.

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*(v) That the Resolution Applicant agrees that each member of the COC and the RP 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.*

*(vi) 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.”*

**20.** The Successful Resolution Applicant has provided the performance security of Rs.5,00,000/- (Rupees Five Lakhs Only) dated 17.05.2024 and the same is attached on page no. 542 of the present application and is in compliance with the Regulation 36B (4A) of CIRP Regulations, 2016.

**21.** The Resolution plan size is approximately of Rs.18,00,000/- (inclusive of the CIRP cost determined at Rs.5,00,000/- or actuals, whichever is less). The **“Effective Date”** will be the date on which the Adjudicating Authority approves the Resolution Plan.

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## **Details on Management and Implementation as per the Resolution Plan.**

**22.** The Resolution Plan also provides for details of management and control, implementation, and supervision and term of the Resolution Plan which is set out in Chapter V of the Resolution Plan and Clause 4.4 of the Resolution Plan.

### ***Waivers, Reliefs and Exemptions***

**23.** The SRA has sought/ prayed for the reliefs, waivers and concessions as enumerated under the Resolution Plan approved by the CoC , as detailed below:

- i) All the legal cases, submitted by RP during CIRP Period on behalf of Corporate Debtor will be pleaded/ continued by the Transferee Company including IA No. 03/2024 connected in CP(IB) 151/ALD/2019 and will be handled by the Transferee Company and the funds recovered from the IA-03/2024 shall be firstly utilized for payment of the expenses incurred in the said recovery and then be paid to the operation creditors to the extent of admitted claims i.e. Rs. 38,00,343 (Rs. 51,00,343 less Rs. 13,00,000) of the Corporate Debtor and remaining amount, if any shall

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be utilized for the purpose of business operations of the Transferee Company. If any amount is not recovered from the said IA then there is no liability on the Resolution applicant to pay any amount to creditors of the Corporate Debtor.

- ii) From the Closing Date, all inquiries, investigations and proceedings, whether civil or criminal, suits, claims, disputes, proceedings in connection with CD or affairs of CD (including those initiated by Governmental Authorities such as the SEBI and RBI), pending or threatened, present or future in relation to any period prior to the Effective Date, or arising on account of implementation of this Resolution Plan shall stand withdrawn and dismissed and all liabilities and obligations therefore, whether or not set out in the balance sheets of CD or the profit and loss account statements of CD will be deemed to have been written off fully, and permanently extinguished. No adverse orders passed in the said matters should apply to CD or the Resolution Applicant. Upon approval of this Resolution Plan, all new inquiries, investigations, notices, suits, claims, disputes, litigations, arbitrations or other judicial, regulatory or administrative proceedings will be deemed to be barred and will not be initiated or admitted against CD and/or its new management in relation to any period prior to the Effective Date.

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- iii) The IA-470/2023 filed by the Resolution Professional u/s 19(2) of the IB Code shall not be dismissed by this Tribunal and this IA shall be disposed off on merits by the Adjudicating Authority.
- iv) Upon approval of the Resolution Plan, if any transaction/ agreement/ MOU/ contracts executed within two years prior to the commencement of CIRP is found by the SRA to be preferential, undervalued, fraudulent and extortionate u/s 43, 45, 50 and 66 of the IBC and the said transaction is not captured by the Transaction Auditor, the Chairman of the Monitoring Agency is empowered to take legal action u/s 43, 45, 50 and 66 of the IBC for appropriate relief with the permission of the Monitoring Agency.

### ***Analysis & Findings***

**24.** On hearing the submissions made by the Ld. Counsel for the Resolution Professional and perusing the record, we find that the Resolution Plan has been approved by the CoC with 100% of the members voting in favour of the Resolution Plan. As per the CoC, the Plan meets the requirement of being a viable and feasible revival of the Corporate Debtor. By and large, there are provisions for making the Plan effective after approval by this Bench.

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**25.** On perusal of the documents on record, we are satisfied that the Resolution Plan is in accordance with Sections 30 and 31 of the IBC and also complies with regulations 37, 38 and 39 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

**26.** In compliance with the order dated 07.06.2024, the Resolution Professional filed a supplementary affidavit on 26.06.2024 vide Diary No. 1233, requesting a modification of Clause 4.11.32 (Page 460, Volume III) under "Specific Relief" in the Resolution Plan submitted to this Tribunal. The prayer sought was deleting and substituting Clause 4.11.32 with the following:

*" 3. That the Clause 4.11.32 under the heading "Specific Relief" of the Resolution Plan be and is hereby deleted and substituted as under:*

*"4.11.32 That upon approval of the Resolution Plan, the IA-470/2023 filed by the Resolution Professional u/s 19(2) of the IB Code shall not be dismissed by the Adjudicating Authority. And, this IA shall be disposed off on merits by the Adjudicating Authority."*

Further, through an order dated 09.10.2024, the supplementary affidavit was taken on record and the amendment sought in Clause 4.11.32 (Page No. 460 of Volume III) of the Resolution plan under the heading

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"Specific Relief" was allowed.

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- 27.** The reliefs, concessions and waivers sought by the Successful Resolution Applicant will be dealt strictly in accordance with the applicable laws.
- 28.** It may be clarified that litigations wherever pending against the corporate debtor would be governed by Section 32A of the Code.
- 29.** It may be clarified that, based on the submissions made by the Authorized Representative of the Resolution Professional during the hearing on 09.10.2024, a PUFEE Application (IA No. 03/2024) is currently pending and shall be pursued by the Monitoring Committee, consisting of the Resolution Professional and one member of the CoC with the highest claim value, along with the SRA. He also further submitted that the proceeds arising out of the above PUFEE application filed vide IA No.03/2024 shall be first utilized for payment of the expenses towards the said recovery and then to be paid to the creditors to the extent of the admitted claims as per Section 53 of the Code.

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- 30.** As far as the question of granting time to comply with the statutory obligations/seeking sanctions from governmental authorities is concerned, the Resolution Applicant is directed to do the same within one year as prescribed under section 31(4) of the Code.
- 31.** In case of non-compliance with this order or withdrawal of the Resolution Plan within the stipulated time, in addition to other consequences which follow under law, the CoC shall forfeit the EMD amount of Rs. 2.5 Lakh already paid by the Resolution Applicant as well as the Performance Security, as referred to in sub-regulation (4A) of regulation 36B, of Rs.5,00,000/-.

### **Orders**

- 32.** The Resolution Plan envisages payment of the CIRP cost as follows:

*“If the CIRP Cost is lower than Rs. 5,00,000, the excess amount remaining after CIRP cost shall be used for working capital of the Corporate Debtor. However, this is clarified that the SRA shall pay CIRP cost to tune of Rs. 5,00,000. In case this unpaid CIRP goes beyond Rs. 5,00,000, the unpaid CIRP cost above Rs. 5,00,000 shall be borne by the COC members in proportion to their voting rights”*

- 33.** The reliefs, concessions and waivers sought/prayed by the Successful Resolution Applicant will be dealt with

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strictly in accordance with the applicable laws including Companies Act, 2013 and Income Tax Act, 1961, etc.

- 34.** The Moratorium imposed under section 14 of the Code shall cease to have effect from the date of this order.
- 35.** The Resolution Professional shall submit the records collected during the commencement of the proceedings to the Insolvency & Bankruptcy Board of India for their record.
- 36.** The Monitory Committee as proposed in the resolution plan is appointed as under:

Name(s) of the proposed member(s) of implementation and monitoring committee	Brief description of the Proposed member(s) of the I & M committee
Chapter 4, Clause 4.9, Page No 449, Volume-III	The Monitoring Agency shall consist of Babita Jain having Registration Number IBBI/IPA-002/IP-N00321/ 2017-18/10926 as the Chairman, Mohd Nazim Khan having IBBI Registration No: IBBI/IPA-002/IP- N00076/2017-18/10207 as the Joint Chairman, one representative from COC having majority voting rights and one representative from the Successful Resolution Applicant

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- 37.** The above Monitory Committee shall ensure timely & successful implementation of resolution plan approved by this order and also effectively pursue the PUFÉ Application (I.A. No. 03/2024) pending with this Tribunal at present, till the final order is passed and do the needful as per the order.
- 38. I.A. No. (Plan) 03/2024** is hereby approved and shall stand disposed of accordingly.
- 39.** A copy of this Order shall be filed by the Resolution Professional with the Registrar of Companies.
- 40.** The Resolution Professional shall stand discharged from his duties with effect from the date of this Order, save and except those duties that are enjoined upon him for implementation of the approved Resolution Plan.
- 41.** The Resolution Professional is further directed to hand over all records, premises/ factories/documents available with it to the Resolution Applicant to finalize the further line of action required for starting of the operation. The Resolution Applicant shall have access to
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Professional to finalize the further course of action required for starting of operations of the Corporate Debtor.

- 42.** The Registry is directed to send copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
- 43.** The registry is further directed to send the copy of the order to the IBBI also for their record.
- 44.** Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.
- 45.** File be consigned to the record.

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**(Ashish Verma)  
Member (Technical)**

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**(Praveen Gupta)  
Member (Judicial)**

**Date: 08<sup>th</sup> November, 2024**