

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT-III**

**I. A. No. 2409 of 2020
IN
C. P. No. 281/I&B/2019**

Under Section 30(1) & (6) and Order
under Section 31(1) of Insolvency &
Bankruptcy Code 2016.

In the matter of
Steel and Scrap Private Limited
... Petitioner

V/s.
Goa Invescast Ltd.
... Corporate Debtor

I.A. No. 2409 of 2020

Mr. Anil Seetaram Vaidya,

Resolution Professional,

Having registered office at: Plot No. 107,
Survey No. 62/65, Mahatma Society,
Bhusari Colony, Kothrud, Pune 411308

..... Applicant

Vs.

**Consortium led by Syonira Invecast
Private Ltd.**

Address: D 302, Resewood Heights, Sector
10, Kharghar, Navi Mumbai- 410210

...Respondent

Order delivered on: 09.11.2021

Coram:

Hon'ble Shri H.V. Subba Rao, Member (Judicial)

Hon'ble Shri Chandra Bhan Singh, Member (Technical)

For the Applicant: Mr. Durgaprasad Halwai, Advocate

For the Resolution Applicant: Mr. Devarajan Raman, Advocate

Per Shri Chandra Bhan Singh, Member (Technical)

ORDER

1. The above Application has been moved on 19.01.2021 by the Learned Resolution Professional by invoking the Provisions of Section 30(6) r/w Section 31(1) of the Insolvency & Bankruptcy Code, 2016 seeking approval of a Resolution Plan submitted by the Resolution Applicant viz. Consortium Led by Syonia Invecast Pvt. Ltd.
2. The facts leading to the Application are as under:
 - i. Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor was initiated by this Bench by an order dated 04.07.2019 (Admission Order) and Mr. Vinit Gangwal was appointed as Interim Resolution Professional.
 - ii. The Public Announcement as per Section 15 of IBC in one Marathi (Dainik Herald) and one English (O Herald) newspaper was made on 10.07.2019 Resolution Professional.
 - iii. Pursuant to the public announcement RP received two Expression of Interest from the Prospective Resolution Applicant (PRA).
3. The following proposed Resolution Applicants submitted their interest and willingness to provide Resolution Plan:
 - a) Chemtrols Holdings private Limited and
 - b) Consortium led by Syonira Invecasts Private LimitedBoth the Proposed Resolution Applicants were found eligible and they were asked to submit the Resolution Plan before 25.01.2020.

4. The Applicant submits that however, only one eligible Proposed Resolution Applicant viz. Syonira Invecasts Private Limited submitted the Resolution Plan on 25.01.2020. After evaluating the said Resolution Plan the Resolution Professional vide letter dated 28.01.2020 sought further information/ clarification/ documents from the consortium led by Syonira Invecasts Private Ltd.
5. The applicant submits that in the 5th meeting of the CoC held on 02.03.2020, the Resolution Plan submitted by the Resolution Applicant was placed before the CoC. At the said meeting a detailed negotiation took place between representatives of Bank of Baroda and Resolution Applicant and it was agreed that the Resolution Applicant will submit the revised Resolution Plan to the satisfaction of the CoC, as early as possible in the interest of the resolution of the Corporate Debtor.
6. The CoC decided to appoint a Valuer. The RP accordingly appointed registered valuers on 21.08.2019 to determine the fair value and liquidation value of the Corporate Debtor. These valuers had submitted their reports. The Liquidation and fair value of the Corporate Debtor is as follows:

(In Rs. Lakhs)

Particulars of Assets	Valuation Valuer-I		Valuation Valuer-II		Average Valuation	
	Fair Value	Liquidation Value	Fair Value	Liquidation Value	Fair Value	Liquidation Value
Land and building	649.50	305.18	546.40	332.88	598.11	319.03
Plant & Machinery	106.50	79.90	93.07	46.54	99.79	63.22
Financial Assets	132.81	37.90	131.79	32.26	132.30	35.08
Total	889.12	422.98	771.026	411.68	830.20	417.33

7. The RP submits that after due verification of eligibility of the Successful Resolution Applicant in terms of Section 29(A) of the Code, the Resolution Applicant has submitted an affidavit to Resolution Professional as required under the Code in compliance with Section 29A and 240A of the Code and confirms that it does not possess any disqualification under the said Section. It is submitted that Section 240A applies to the Corporate Debtor, as the Corporate Debtor is a micro, small and medium enterprise (MSME).

“Section 240A. Application of this Code to Micro, Small and Medium Enterprise :-

(1) Notwithstanding anything to the contrary contained in this Code, the provisions of clauses (c) and (h) of section 29A shall not apply to the Resolution applicant in respect of corporate insolvency resolution process of any micro, small and medium enterprises.”

8. The CoC in its 8th meeting held on 20.11.2020 considered the revised and final Resolution Plan submitted by consortium of Syonira Invecasts Private Ltd., Chemtrol Holding Pvt. Ltd. and Chemtrol Solar Pvt. Ltd., approved the Plan unanimously by 100% voting shares by the Committee of creditors. and said Resolution plan the said Resolution Plan consist of following:
- Provides for payment of Insolvency Resolution Process costs in a manner specified by the board in priority to the payment of other debts of Corporate Debtor.
 - Provides for payment of the debts of the Operational Creditors in such manner as specified by Regulation 38(1) of the IBBI (Insolvency Resolution Process for Corporate Persons Regulations) 2016.
 - Provides for management of the affairs of the Corporate Debtor after the approval of the Resolution plan.
 - Does not contravene any of the provisions of the law for the time being in force.

Accordingly, compliance certificate was in Form "H" was issued by the Resolution Professional.

9. The salient features of the Resolution Plan are as under:

- a. M/s. Syonira Invescast Private Limited has invested funds in Goa Invescast Limited and has operated Goa Invescast Limited (GIL) Corporate Debtor for around 4 to 6 months as taken plant on operation basis, in the year 2019. Since Resolution Applicant were involved in Goa Invescast Limited (GIL) Operation, have developed a good relationship with all customers of GIL. RA is well versed with Investment Casting Technology, its speciality. We have the special skills that are required in the Industry and also our team has a good experience in Foundry business and steel making.

M/s. Chemtrols Holding Private Limited has 3,910,093 Equity Shares of GIL having face value of Rs. 10 each totalling to Rs 3,91,00,930/- (Three Crore Ninety-One Lakhs Nine Hundred and Thirty only) out of total paid capital of Rs. 4,40,28,580/- (Four Crore Forty Lakhs Twenty-Eight Thousand Five Hundred and Eighty Only). i.e. 88.81% of Equity Stake holder. The relationship of holding or subsidiary companies is established either with the control of Board of Directors or control of share capital. A company will be a holding company of another in the following scenarios:

- i. Controls the composition of the Board of Directors of the other company.
- ii. Exercises or controls more than 50% of the total share capital either on its own or together with one or more of its subsidiary companies. Since the Terms 1 & 2 is complied, Goa Invescast Limited is classified as Subsidiary company of Chemtrols Holding Private Limited.

M/s. Chemtrols Solar Private Limited, is a subsidiary of the Chemtrols Group, a diversified group with interest in Process Control Instrumentation & Automation, Manufacturing, and Clean tech. Chemtrols Solar aims to provide World Class Solutions in the Solar space with a commitment to reliability, excellence and quality which the Chemtrols Group is known for.

- b. The Corporate Debtor is engaged in the business of manufacture and sale of investment castings for a range of applications including petrochemicals, automotives, etc. Investment Castings finds its application in environments where dimensional accuracy, intricacy, high surface finish, corrosion resistance, high temperature resistance, high strength, etc. are major requirements. Capacity of the plant is 600 tons of saleable investment castings per annum.

GIL caters to various Industries like:-

- Process Equipment Manufacturers (pump and valve components, pressure vessel components)
- General Engineering (transmission, hydraulic components)
- Automobile (gear, brake, miscellaneous components)

As per the due diligence of the Resolution Applicant capacity of the plant is 300 tons. GIL is in collaboration with the “DURIRON COMPANY INC”, USA which is presently known as Flowserve Corporation, a leading Foundry in the world having done pioneering work in the field of metallurgy with a number of patented metals developed within its fold.

- c. The Resolution Applicant has experience in the similar field with knowledge to run business in the same premises and conditions, the required Working Capital of Rs. 60.00 lakhs will be infused in a phased manner. Resolution Applicant will strictly abide with

turnaround plan and will ensure proper utilization of the working capital hence ensuring good financial health and the operational success of the business.

- d. The employees would be employed and paid salary only on commencement of the actual saleable production. It shall be after completion of initial repairs and maintenance which would take approximately 4 – 6 months from the effective date. Since GIL/ CD is not having good terms with the existing suppliers, the Raw material cost was higher. However, the Resolution Applicant will work out development of new vendors as well as negotiate payment terms, as such the raw material prices will be controlled. As stated earlier, suppliers may not give any credit due to previous bad experience with GIL/ CD. Hence sufficient working capital will be required for cash purchase and to get purchase discount. It will reduce material and spares cost. Therefore, the expected working capital required in the initial period would be high.
- e. Since factory is very old and there were no major up gradation of equipment. Resolution Applicant is highly technically qualified as well as they have proposed up gradation of overall plant and machineries in the plan, accordingly the power consumption will be brought down to control. Old and obsolete equipment which are less efficient and high power consuming; which will either be repaired or replaced over period of next 6 quarters after effective date.
- f. Mandatory contents of the Resolution Plan as to the treatment to the various Creditors as follows:

Regulation	Treatment
<p>38(1) - The amount due to the Operational Creditors shall be given priority over financial creditor</p>	<p>To be fair and equitable to Operational Creditor, the RA proposes to pay as under: <u>Within 120 days from Effective date</u> a) Workmen dues –Rs. 18.08 lakhs b) Workers and employees Provident fund Rs. 63.15 lakhs c) ESIC Rs. 2.37 lakhs d) Operational Creditors Rs. 2.00 lakhs (excluding Related Party for Related parties - NIL) e) Labour welfare fund Rs. 0.73 lakhs No further amount will be payable other than what is stated above. Such amount proposed shall be paid in priority to financial creditors. <u>Within 120 days from Effective date</u> f) Employee Dues - Rs. 5.00 lakhs The liquidation value available to employees is Nil. But to be fair and equitable resolution applicant proposes to pay Rs. 5.00 lakhs within 120 days from Effective Date. No amount is payable to Related Party. The amount proposed is derived after considering the viability of the unit.</p>
<p>38 (1A) - Interest of all the Stakeholders</p>	<p>Provided at page 54 to 58 of the Resolution Plan.</p>
<p>38(1B) - Statement by the Resolution Applicant</p>	<p>Resolution Applicant states and confirms that RA or any of its related parties have not failed to either implement or contribute to the failure of implementation of any other Resolution plan as approved by AA at any time in the past.</p>
<p>38(2)(a) – Term of Resolution Plan and</p>	<p>Provided at para # 24 of this order.</p>

Regulation	Treatment																
Implementation Schedule																	
38(2)(b) – Management and control of business during its term	<p>The Company shall be revived and operations shall be re-commenced, and it will continue as a going concern. The company will operate in its normal course of business and necessary approvals and repairs of the Building and Plant & Machinery shall be done simultaneously. The management of affairs of the Company after approval of the plan would be done as follows:</p> <p>a) Constitution of new Board of Directors and Key Managerial Personnel</p> <p>It is proposed that the new Board will be constituted upon approval of the Proposed Resolution Plan. The Board would be formed within 30 days of the date of approval of Resolution Plan by the Adjudicating Authority. The new Board shall be accountable for the day to day operations of the Company and shall be bound as per applicable law to protect and preserve the value in the Company. Highlights of the composition of the Board are as below:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">Sr. No.</th> <th style="text-align: center;">Name of Directors/ Key Managerial Personnel</th> <th style="text-align: center;">DIN No.</th> <th style="text-align: center;">Designation</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">1</td> <td>Sandeep Khade</td> <td style="text-align: center;">07354364</td> <td style="text-align: center;">Director</td> </tr> <tr> <td style="text-align: center;">2</td> <td>Dipali Khade</td> <td style="text-align: center;">08488131</td> <td style="text-align: center;">Director</td> </tr> <tr> <td style="text-align: center;">3</td> <td>Deepak Wagavekar</td> <td style="text-align: center;">08488132</td> <td style="text-align: center;">Director</td> </tr> </tbody> </table> <p>The Directors have an experience as mentioned in Section 3</p> <p>b) Continued Corporate existence</p> <ul style="list-style-type: none"> The Company shall continue operations in the normal course of business. While the implementation of the Proposed Plan and settlement of the Creditors happen concurrently, the newly appointed Board and technical team shall take up 	Sr. No.	Name of Directors/ Key Managerial Personnel	DIN No.	Designation	1	Sandeep Khade	07354364	Director	2	Dipali Khade	08488131	Director	3	Deepak Wagavekar	08488132	Director
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Regulation	Treatment
	<p>the responsibilities of the day to day affairs of the Company.</p> <ul style="list-style-type: none"> • After approval of Resolution Plan by CoC no major decision regarding Corporate Debtor shall be taken without the consent of the resolution applicant. • The company shall be deemed to be converted into a Private Limited company.
<p>38(2)(c) – Supervision of Plan</p>	<ul style="list-style-type: none"> • In order to ensure that the Resolution Plan is implemented in accordance to this plan and that the obligations undertaken herein are adhered to in letter and spirit, an appropriate monitoring agency/entity shall be constituted (“Monitoring Agency”) on the NCLT Approval Date. • The Monitoring Agency shall be formed within 30 days from the Effective Date consisting of the Secured Financial Creditors one member, Resolution Applicant and will be chaired by the Resolution Professional for the effective implementation of the Resolution Plan. The remuneration of the Resolution Professional, shall be as mutually agreed between RP, RA and other members of monitoring agency and the said Remuneration shall be borne by Resolution Applicant. • The Monitoring Agency shall function for a maximum period of 12 months from the Effective Date. • The Monitoring Agency shall be governed and bound by the terms of the monitoring agency agreement which inter-alia shall include the terms of service, number of meetings in a year, remuneration inter-se, etc. to be executed after issuance of letter of intent in favour of the Resolution Applicant and be

Regulation	Treatment									
	<p>executed within 7 days of NCLT Approval Date (“Monitoring Agency Agreement”).</p> <ul style="list-style-type: none"> The Resolution Applicant along with the financial creditor reserves the right to dissolve the monitoring agency at any time of plan implementation. 									
<p>38(3)(a) – Address causes of default</p>	<table border="1"> <thead> <tr> <th data-bbox="545 667 930 751">Major Reasons for Default</th> <th data-bbox="935 667 1412 751">Resolution</th> </tr> </thead> <tbody> <tr> <td data-bbox="545 758 930 968"> <p>1. High Financing and Interest costs</p> </td> <td data-bbox="935 758 1412 968"> <p>Resolution Applicant will strictly abide with turnaround plan and will ensure proper utilization of the working capital.</p> </td> </tr> <tr> <td data-bbox="545 974 930 1738"> <p>2. The company faced with the inefficiency of the workers and with the under productivity of the employees.</p> </td> <td data-bbox="935 974 1412 1738"> <p>Present manpower (30 workers + 21 staff) is very high for such small production capacity. The resolution applicant may opt to continue with the existing workers and/ or deploy new skilled labour if need be and/ or shift workers to other group companies of the Resolution Applicant and/ or give a layoff after giving adequate notice on case to case basis. During this phase of repairs, maintenance and modernisation the workers will be paid as per the Minimum Wages Act, 1948 provided they report for duty.</p> </td> </tr> <tr> <td data-bbox="545 1745 930 1818"> <p>3. Increased Raw Material</p> </td> <td data-bbox="935 1745 1412 1818"> <p>As stated earlier, suppliers may not give any credit due to</p> </td> </tr> </tbody> </table>		Major Reasons for Default	Resolution	<p>1. High Financing and Interest costs</p>	<p>Resolution Applicant will strictly abide with turnaround plan and will ensure proper utilization of the working capital.</p>	<p>2. The company faced with the inefficiency of the workers and with the under productivity of the employees.</p>	<p>Present manpower (30 workers + 21 staff) is very high for such small production capacity. The resolution applicant may opt to continue with the existing workers and/ or deploy new skilled labour if need be and/ or shift workers to other group companies of the Resolution Applicant and/ or give a layoff after giving adequate notice on case to case basis. During this phase of repairs, maintenance and modernisation the workers will be paid as per the Minimum Wages Act, 1948 provided they report for duty.</p>	<p>3. Increased Raw Material</p>	<p>As stated earlier, suppliers may not give any credit due to</p>
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	<p>expenditure – as there was delay in the payments to the creditors, they started charging increased prices for the raw materials.</p>	<p>previous bad experience with GIL. Hence sufficient working capital will be ensured for cash purchase and to get purchase discount. It will reduce material and spares cost.</p>
	<p>4. The power consumption was high as the equipment was old and obsolete.</p>	<p>Old and obsolete equipment which are less efficient and high power consuming; which will either be repaired or replaced over period of next 6 quarters after effective date.</p>
	<p>5. Due to all these reasons there was a major drop in the turnover of the company which led to industrial sickness.</p>	<p>Lack of working capital, High raw material cost, High Electricity bills and High number of manpower are the reasons of Sickness of GIL. RA will overcome this by the implementation of the above plans to make it a productive and profitable unit.</p>
<p>38(3)(b) – It is feasible and viable</p>	<p>In opinion of Resolution Applicant, the plan is feasible and viable due to following reasons:</p> <ul style="list-style-type: none"> • Infusion of adequate funds will help Resolution Applicant to run the operations of the company with maximum utilization of production capacity. • Expansion of Business by RA would result in synergy of operations. • RA shall employ further experts, as required. • Experience of Promoters would be handy in running the unit. 	
<p>38(3)(c) – Provisions for effective implementation</p>	<ul style="list-style-type: none"> • Rs. 60 lakhs will be infused as working capital loan post approval of the Resolution Plan by AA • Expansion of the Business by RA would result into synergy benefits. 	

Regulation	Treatment
	<ul style="list-style-type: none"> • Strong customer base of RA
38(3)(d) – Provisions for approvals required and timeline	<ul style="list-style-type: none"> • The RA has experience in the manufacturing and selling of Investment Casting. All the necessary approvals shall be taken as and when required. • Any other approval from any of the Authorities shall be taken as and when needed, for effective implementation of the Resolution Plan to get the unit running with no hindrances.
38(3)(e) – Resolution Applicant has capability to implement the Plan	<ul style="list-style-type: none"> • The resolution applicants are financially sound with Net worth of approximate Rs. 31.00 Cr. • The Applicant is accompanied by personnel who are having vast experience apart from its directors, in all aspects of the investment casting.

10. Pursuant to the order of this Tribunal approving the Resolution Plan following actions will be undertaken to accomplish the Resolution Plan.
- i. Upon upfront payment by the Resolution Applicant, the control of the Corporate Debtor shall vest with the Board of Directors as per Companies Act, 2013.
 - ii. Upon upfront payment, the Resolution Applicant shall constitute the board of the Corporate debtor and appoint key managerial, which may include independent professionals (“New Company Management”) the appointment of key managerial personnel shall be reviewed and ratified on an annual basis by the Resolution Applicant.
 - iii. The New Company Management shall define organisation structure, policies, procedures, records, and methods of reporting that are necessary to collectively ensure that the financial and non-financial operations of the Corporate Debtor is conducted in an appropriate and efficient manner to achieve the Corporate Debtor’s objectives.

11. The Resolution Professional states that the Amount as offered in the Resolution Plan of Rs. 417.33 lakhs shall be full and final settlement of the corporate debtor's claims/ liabilities of the past, including Contingent Liabilities and Litigation Liabilities, if any and also including dues of the State Government and Central Government, Excise Department, VAT (Sales Tax) Department, Income Tax Department, GIDC, Electricity Department, etc. Only the CIRP cost shall be paid at actuals which may increase/ decrease the outlay of Rs. 417.33 lakhs.
12. Earnest money deposit/ bid bond (in the form of bank guarantee):
As part of submission of Resolution Plan, EMD of Rs. 30.00 lakh (Indian Rupees Thirty Lakh only) has been given in the name of Goa Invescast Ltd – Bank of Baroda, Panjim. On approval of Resolution Plan by COC, said amount of earnest money will continue as performance guarantee with Resolution Professional.
13. Performance bank guarantee/ deposit:
The earnest money deposit made of Rs. 30.00 lakhs will continue as Performance Guarantee/ Deposit as envisaged in the Resolution Plan, in favour of "Bank of Baroda, Panjim Branch". The EMD which will be continued as the Performance Deposit shall be adjusted against the last pay out to financial creditor, proposed in this Resolution Plan.
14. The total consideration under the Plan is ₹. 417.33 lakh. Details of the plan outlay (plan consideration) are as follows:

(Amount in Lakhs)

Stakeholders	As a % of Total Liability	Amount Admitted Rs.	Amount Offered Rs.	As a % of claimed	Timing

	(i)	(ii)	(iii)	(iii/ii* 100)	
CIRP Cost					
CIRP Cost (Provision)	3.29	50.00	50.00	100.00	The Total amount of Rs. 50 lakhs is partly paid in the following manner: 1. Rs. 10 Lakhs recovered by electricity department by invoking Bank Guarantee given by Bank of Baroda which now forms part of their claim amount. 2. Rs. 20 Lakhs recovered from payments received from sundry debtors. Balance amount of Rs. 20 lakhs to be adjusted against the funds available with the company and only the remaining shall be paid within 60 days from the effective date.
Financial Creditors- Secured & Unsecured					
Secured Financials - Bank of Baroda	19.50	296.37	275.00	92.79%	Rs. 275.00 lakhs to be paid in 3 installments from the effective date: 1. First installment 25%- within 60 days 2. Second installment 25%- within 120 days

					3. Final installment 50%-within 180 days
Unsecured Financial Creditor	6.84%	103.95		0.00%	
Operational Creditors					
Workmen dues	1.28%	19.49	18.08	92.79%	Within 60 days
Employees Due	2.57%	38.99	5.00	12.82%	Within 180 days
Stakeholders					
Sundry Operational Creditor	25.70%	390.61	2.00	0.51%	Within 60 days
Statutory Liabilities of PF (As per IM Rs. 17.90 lakh)	4.15%	63.15	63.15	100.00%	Within 60 days
Related party operational claims	25.13%	382.08	-	0.00%	
Statutory Liabilities of ESIC (As per Garnishee Order Rs. 5.44 lakhs)	0.36%	5.44	2.37	43.57%	Within 60 days
Statutory Dues of Labour Welfare Fund	0.05%	0.73	0.73	100.00%	
Contingent Liability	11.19%	170.08	1.00	0.59%	Within 180 days
Total		1,520.89	417.33	27.44	
Less: CIRP		(50.00)			
Less: contingent liability		(170.08)			
Amount Admitted by RP as in section 1.4		1,300.81			

**Mr. Sandeep Khade is the director of consortium member company Syonira Invecase Private Limited. In the year 2019, Mr. Khade had deposited Rs. 30.00 lakhs as security deposit and introduced another Rs. 70.00 lakhs to run the*

company on job work basis, and that amount is taken as unsecured financial debt. No payment shall be made against this claim as the amount available is not sufficient to discharge the liability of the employees.

19. Infusion/Source of Funds:

(Amount in Lakhs)

S N	Particulars	From CIRP commen cement date to Effective Date	From receipt of certified copy of NCLT order approving Resolution Plan					Total
			(i.e. Effective date)					
			0 to 60 days	61 to 120 days	121 to 180 days	181 to 240 days	241 to 365 days	
A	Internal accruals / Personal funds of RA							
1	Equity Share Capital	-	50.00	-	-	-	-	50.00
2	Unsecured loan from Resolution Applicants	-		130.08	30.00	98.75	168.50	427.33
	Sub - total (A)	-	50.00	130.08	30.00	98.75	168.50	477.33
B	From Internal Accrual of the Company							
1	Receipts from Sundry Debtors	20.00	-	-	-	-	-	20.00
2	Invoking bank guarantee	10.00	-	-	-	-	-	10.00
	Sub - total (B)	30.00	-	-	-	-	-	30.00
	Total (A+B)	30.00	50.00	130.08	30.00	98.75	168.50	507.33

20. Utilization of Funds:**(Amount in lakhs)**

SN	Particulars	From CIRP commencement date to Effective Date	From receipt of certified copy of NCLT order approving Resolution Plan					Total
			(i.e. Effective date)					
			0 to 60 days	61 to 120 days	121 to 180 days	181 to 240 days	241 to 365 days	
A	Acquisition of GIL							
1	CIRP Cost *	30.00	20.00	-	-	-	-	50.00
2	Workmen dues	-	-	18.08	-	-	-	18.08
3	Secured Financial Creditors	-	-	68.75	-	68.75	137.50	275.00
4	Operational Creditors and contingent liability	-	-	2.00	-	-	1.00	3.00
5	Provident Fund	-	-	63.15	-	-	-	63.15
6	ESIC	-	-	2.37	-	-	-	2.37
7	Employees Dues	-	-	5.00	-	-	-	5.00
8	Labour Welfare Fund	-	-	0.73	-	-	-	0.73
	Sub Total (A)	30.00	20.00	160.08	0.00	68.75	138.50	417.33
B	Revival of GIL							
1	Repairs and maintenance	-	-	-	10.00	10.00	10.00	30.00
2	Working Capital (estimated)	-	-	-	20.00	20.00	20.00	60.00
	Sub Total (B)	-	-	-	30.00	30.00	30.00	90.00
C	Money at hand / (Utilised)	-	30.00	(30.00)				
	Total (A+B+C)	30.00	50.00	130.08	30.00	98.75	168.50	507.33

21. Notes for Infusion/ Sources of Funds:

- i) Equity Share Capital and Unsecured loan by Resolution Applicant:

Amount of Rs. 50.00 lakhs shall be infused as Share Capital in GIL out of own funds of the Resolution Applicants within 60 days from the effective date.

ii) Unsecured Loan from Resolution Applicant

The Resolution Applicant shall infuse funds in the company as unsecured loan in a phased manner cumulatively from their own funds and/ or by lending from a Financial Institution amounting to Rs. 417.33 lakhs in one year from the Effective Date.

22. Notes on Utilization of Funds:

The funds available in the form of fixed deposit and the balance available in the bank of GIL shall be utilized for the payment of the CIRP cost in priority and the balance of the CIRP cost shall be paid as stated below in Note 1.

Note 1: CIRP Cost -

As per the information received by Resolution Professional, the CIRP cost for the entire period has been estimated as Rs. 50.00 lakhs. The unpaid CIRP costs as approved by CoC shall be paid in priority to any payments from the funds available with the company in any account of Bank of Baroda and only the remaining shall be paid. The balance CIRP cost shall be paid at actuals within 60 days from the Effective Date.

Note 2: Workmen Dues -

The workman will be paid in the following manner:

Particulars	Amount Admitted			Payout	Difference waived off	(% of Payout D*100/C)
	Within 24 Months	More than 24 months	Total			
	A	B	C= A+B			
Pending Wages	14.34	-	14.34			

LIC Premium deducted and not paid	2.73	2.42	5.15			
Total	17.07	2.42	19.49	18.08	1.41	92.79%

Claim amount of workmen exceeding Rs. 18.08 lakhs will be written off/ waived totally. The payment will be made within 120 days only against receipt of full and final payment / No Dues against prior period wages certificate from each worker.

Note 3: Secured Financial Creditors -

(Amount in lakhs)

Name of Creditor	Amount Admitted	Payout	Difference waived off	% of payout
Secured Financial Creditors - Bank of Baroda	296.37	275.00	21.37	92.79%

Amount will be paid with 8.00% simple interest per annum commencing from the date of NCLT order approving the Resolution Plan.

Manner of Payment

(Amount in lakhs)

Terms for the Term Loan	Conditions	Amount
0 Date	Receipt of Certified NCLT Order / "E" date	
0 – 120 days	1 st Installment of 25%	68.75
121 – 240 days	2 nd Installment of 25%	68.75
241- 365 days	3 rd Installment of 50%	137.50
Total		275.00

Further the Performance bank deposit of Rs. 30.00 lakhs shall be adjusted against the 3rd and final instalment payable to the bank of Rs. 137.50 lakhs.

After the 1st Instalment, the Financial Creditor shall release the charge on the Current and other movable Assets of the Corporate Debtor. This will enable the Resolution Applicant to avail fresh working capital by approaching financial institutions.

After the final instalment, the financial creditor shall release / vacate the charge on all immovable assets of the Corporate Debtor with ROC and CERSAI (if any). They shall issue a No-Due Certificate stating that there are no dues from the CD after the receipt of last instalment payment as proposed. On approval of the Resolution Plan, Secured Financial Creditors have to withdraw all the notices of willful default (if any), including those reported to RBI (if any) & all the credit rating agencies for corporate debtor which will enable Resolution Applicant to raise fresh loan in near future for effective resolution.

Further if funds are proposed to be raised from any other financial institution, then Bank of Baroda will seamlessly transfer the property related documents to such other lending institution on payment of its dues.

Note 4: Operational Creditors (excluding Related Parties) and contingent liability -

As per Information Memorandum, the amount admitted of Operational Creditors is Rs.390.61 lakhs (excluding related party) and contingent liability is Rs.170.07 lakhs (as per information memorandum)

The Resolution Applicant proposes to apportion Rs. 2.00 lakhs against full and final settlement of their dues existing as on the commencement of CIRP. This payment will be towards their entire dues of Rs. 390.61 lakhs including penalties and fines on proportionate basis. The payment will be made only against receipt of No Dues/ full and final settlement letter from each operational creditor. The payment is proposed to be made in priority to financial creditor within a span of 120 days from the effective date.

There are certain contingent liabilities as on 8th July, 2019 (as per table in Section 1.6 of this Plan) amounting to Rs. 170.07 lakhs and as per audited financials as on 31st March 2019 amounting to Rs. 185.12 lakhs. A cumulative amount of Rs. 1.00 lakh has been provided towards any contingent liabilities which may arise/

crystallise, subject to maximum of Rs. 0.10 lakhs per each line item/ case. The same may be apportioned amongst all contingent liabilities in a span of 365 days.

Statutory dues of socially beneficial nature being Provident Fund, ESIC and Labour Welfare Fund dues will be paid entirely within 120 days from the effective date.

All the other contingent liabilities as stated in section 1.6 of this plan will be settled proportionately for Rs. 1.00 lakh in aggregate, on issue of full and final settlement letter, no dues letter, receipt of the amount paid and withdrawal of all litigation including delayed payment interest and penalty.

The payment will be made only against receipt of No Dues/full and final settlement within a span of 365 days from the effective date. No further amounts will be payable on account of contingent liabilities. Upon such payments all legal suits/dispute pending, shall be deemed to be squashed/abated and no further liability shall be due against the same on the part of RA/CD.

Note 5: Workers and Employees Provident Fund and ESIC Dues :-

Provident Fund -

As per the Information Memorandum, the Workman and Employee Provident Fund due admitted by Resolution Professional is Rs. 17.90 lakhs as on the commencement of CIRP. However, the liabilities communicated to resolution applicant on 2nd March, 2020, just before CoC meeting was of Rs. 63.15 lakhs, Resolution Applicant proposes to pay the whole amount i.e. Rs. 63.15 lakhs within 120 days from the effective date.

The Provident Fund Dues will be paid in the following manner: -

Workmen PF Dues

Particulars	Amount Admitted		Total	Pay	Waiver	% of Payout
	Within 24 Months	More than 24				

	before CIRP start date	month s				
PF dues 2015-20	25.96	21.62	47.58	47.58	0.00	100.00%

Employee PF Dues

Particulars	Amount Admitted		Total	Pay	Waiver	% of Payout
	Within 12 Months before CIRP start date	More than 12 months				
PF dues 2015-20	6.37	9.21	15.58	15.58	0.00	100.00 %

Employee and Workmen PF Dues Total			63.15	63.15	0.00	100.00 %
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ESIC Dues :-

Further as per the Garnishee Order passed for ESIC a demand for an amount of Rs. 5.44 lakh had been raised. No claim has been received from the ESIC department. The Resolution Applicant proposed to pay Rs. 2.37 lakh as full and final settlement of their dues within 120 days from effective date.

Note 6: Labour Welfare Fund :-

As per the audited financials for the Y.E. 31st March 2019 an amount of Rs. 0.73 lakhs is statutory liability of labour welfare fund. The Resolution Applicant proposes to make the entire payment against such dues within 120 days. Any amount over and above Rs. 0.73 lakhs shall be waived off entirely without any further liability on the Resolution Applicant or the Corporate Debtor or the Directors of the company.

Note 7: Employees Dues :-

The Employees will be paid in the following manner:

Particulars	Amount Admitted		Total	Pay	Difference waived off	% of Payout
	Within 12 Months	More than 12 months				
Pending salary	38.56	-	38.56			
Other Expenses	0.20	-	0.20			
Medicclaim Re-im	0.23	-	0.23			
Total	38.99		38.99	5.00	33.99	12.82%

As per the Information Memorandum, the Employee dues admitted by Resolution Professional are Rs. 54.57 lakh (Refer section 1.4) as on the commencement of CIRP. This includes the salary amount of Rs. 38.99 lakhs as shown in table above and the Provident Fund dues of Rs. 15.58 lakhs covered in Note 5. Even though the Estimated Liquidation value available to employees is NIL. However, to be fair and equitable as per section 30(2), RA proposes to apportion Rs. 20.58 Lakh (Rs. 15.58 lakhs towards Provident Fund dues + Rs. 5 lakhs towards pending salary and other benefits) against the full and final settlement of their dues as on the commencement of CIRP. This payment will be towards their entire dues including penalties and fines (whatever be the name). The payment will be made only against receipt of No Dues /full and final payment received from each employee within 120 days from the effective date.

Note 8: Repairs and Maintenance :-

As per the due diligence of the Resolution Applicant it is known that the Plant & Machinery and Building is more than 25 years old and that no major Repairs & Maintenance has been carried out in past 3 years. To achieve the appropriate production capacity and to get the unit running a major expenditure is required towards Repairs & Maintenance of Building and Plant & Machinery, which is estimated to Rs. 30.00 lakhs during the resolution period.

Note 9: Working Capital :-

On best estimate basis working capital requirement provision of Rs. 60.00 lakhs is made by the Resolution Applicant.

24. The indicative timeline of events for implementation of Resolution plan from approval date is as follows :-

INDICATIVE ACTIVITY SCHEDULE		
SN	Activity	Timeline
PHASE I - APPROVAL PROCESS OF THE PROPOSED PLAN		
1	Presentation of Proposed Plan to the CoC	X
2	Approval of Proposed Plan by CoC	X+15 days
3	Application to NCLT	X+25 days
5	Receipt of certified copy of NCLT Approval Order ('Effective date')	E
6	Notice on the Company's Website	E+14 days
7	Intimation to the CoC, IBBI, MCA, Tax authorities, ROC and various other statutory authorities (as applicable)	
8	Intimation to all creditors, existing shareholders and other stakeholders of the Company	
9	Other approvals and filings required under the plan ('Effective date') - RBI (if any) - Income-tax Act - Other Authorities	E+30 days
PHASE II - SETTLEMENT OF CREDITORS		
10	RA to give Performance Guarantee on approval of plan by CoC	The EMD of Rs. 30 lakh will be continue as PG
11	Payment of CIRP Costs as approved by CoC	E + 60 days
12	Payment to Operational Creditors	E + 120 days
13	Company to pay Rs. 275.00 lakhs in 3 instalments	E+120 to 365 days
14	Workman Dues of Rs. 18.08 lakhs for the last 24 months before CIRP commencement date	E + 120 days
15	Employee dues as proposed in the plan of Rs. 5.00 lakhs	E + 120 days
16	Statutory Dues – PF – Rs. 63.15 lakhs, ESIC – Rs.2.37 lakhs and towards Labour Welfare Fund Rs. 0.73 lakhs	E + 120 days
PHASE III - IMPLEMENTATION OF PROPOSED PLAN		

INDICATIVE ACTIVITY SCHEDULE		
SN	Activity	Timeline
16	Resolution Professional to Handover Possession of all Assets / undertaking, records and charge of unit to Resolution Applicant	E
17	Appointment of Monitoring Agency	E
18	Cancellation of existing equity of Erstwhile shareholders and issue of new shares	E+ 60 days
19	Infusion of Funds and subscribe of equity shares and Unsecured Loan by Resolution Applicant.	E+ 60 days
20	Change in Memorandum and Articles of Association and other documentation as required under the proposed plan.	E+ 60 days
21	Management of Company: (i) Constitution of new Board; (ii) Appointment of key managerial personnel; and (iii) Resolution Applicant shall appoint statutory and internal auditors of their choice, subject to applicable regulations.	E+30 days

25. **Observations and findings: -**

- i. The Resolution Applicant proposes to appoint suitably qualified and experienced persons, key personnel and other officer for operations of the Corporate Debtor in terms of Section 30(2)(c). The Plan also provides for implementation of provision of the Resolution Plan as stated above as per Section 30(2)(d). The Resolution Applicant has given a declaration that the Resolution Plan does not contravene any provisions of the law for the time being in force. The Resolution Plan is in compliance of the Regulation 38 of the Regulations in terms of Section 30(2)(f) as under:

- a. Payment to Operational Creditor will be made in priority over Financial Creditor (Regulation 38(1)(a).

- b. Since the plan has been approved by 100% voting share of the CoC. This is in compliance of Regulation 38(1)(b) of the Regulations.
 - c. Declaration by the Resolution Applicant that the Resolution Plan has considered the interest of all the stakeholders of the Corporate Debtor, keeping in view the objectives of the Code (Regulation 38(1A)).
 - d. Declaration by the Resolution Applicant that neither the Resolution Applicant nor any of his related party has either failed or contributed to the failure of the implementation of any other approved Resolution Plan.
- ii. The Resolution Plan has been approved by the 8th meeting of the CoC held on 20.11.2020 with 100% votes in accordance with the provisions of the Code.
- iii. The Hon'ble Supreme Court in *Committee of Creditors of Essar Steel India Limited Vs. Satish Kumar Gupta & Ors.*: (2019) SCC Online SC 1478 and in ***K. Sashidhar v. Indian Overseas Bank & Others: 2019 SCC Online SC 257 (2019) 12 SCC 150***, 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 confirm to the stated requirements.

1. 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 Resolution Plan is feasible and viable. Resolution Applicant agreed to pay the full CIRP cost and also future costs if any as certified by the Resolution Professional and CoC. The Resolution Plan balances the interest of all the stakeholders. Therefore, this Bench in the above background has no option except to approve the present Resolution Plan submitted by the Resolution Applicant. Accordingly this Bench hereby pass the following :-

ORDER

- i. The Resolution Plan submitted by consortium of **Syonira Invecasts Private Ltd.** is hereby approved. It shall become effective from this date and shall form part of this order. 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. We shall clarify here that the Resolution Applicant shall take over the corporate debtor with all its assets and liabilities as per terms as

approved in the Resolution plan. If any relief concerning any identified liability of the corporate debtor is required then that needs to be specifically mentioned and sought for in the resolution plan. This bench cannot allow any general power to any resolution applicant absolving him of liability of the corporate debtor company, without knowing about the liability against which such exemption is sought. In other words, relief/ exemptions from only existing liabilities which are specifically identified can be sought and allowed in the Resolution plan.

- iii. Therefore, when the provision of law and the law laid down by the Hon'ble Supreme Court is applied to the case on hand, it becomes clear that this Resolution plan approved by the COC with the required majority, satisfies all the criteria required for approval of Resolution Plan and accordingly the resolution plan is approved.
- iv. The Resolution Applicant has sought certain reliefs, concessions and waivers in the Resolution Plan is allowed in part on contest. Point (h)(iv)(b) of written submission i.e. (Annexure II Addendum to Resolution Plan at point No. 11(C)(v) is allowed. Relief sought in the written submission is as follows:

“b. Transfer premium of Goa Industrial Development Corporation of Rs. 23.43 Lacs which is expressly specified in Annexure II Addendum to Resolution Plan at page 25 of the sought to be waived as it is held that by Hon'ble Tribunal that the plan approved by the Adjudicating Authority under IBC does not amount to transfer.”

This bench is not inclined to allow any of the other reliefs and waivers prayed by the Resolution Applicant. Therefore, the Resolution Applicant may apply to the relevant regulatory authorities for said reliefs, concessions and waiver and the relevant authorities may consider it as per relevant applicable law.

- v. 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. Any waiver sought in the Resolution Plan, shall be subject to approval by the Authorities concerned.

- vi. It is seen that the Resolution Plan seeks several dispensations, concessions and waivers. Approval of Resolution Plan does not mean automatic waivers. The Resolution Applicant on approval of the Resolution Plan may approach those competent authorities/ courts/ legal forms/ office(s) Government or Semi-Government/State or Central Government for appropriate relief(s) sought in the plan.
- vii. The Resolution Applicant shall obtain the necessary approval required under any law for the time being in force within one year from the date of this order or within such period as provided for in such law, whichever is later.
- viii. Given the above observations, we approve the resolution plan with modifications, as mentioned above, which shall be binding on the Corporate Debtor and its employees, members, creditors, guarantors, Resolution Applicant and other stakeholders involved in the resolution plan.
- ix. The Resolution Professional shall forward all records relating to the conduct of the corporate insolvency resolution process and the resolution plan to the IBBI to be recorded on its database. The Resolution Professional is hereby discharged of his duties after handing over the documents to the Resolution Applicant and it taking charge.
- x. The Memorandum of Association (MoA) and Articles of Association (AoA) shall accordingly be amended and filed with the concerned Registrar of Companies (RoC), 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.

- xi. The moratorium under Section 14 of the Code shall cease to have effect from this date.
- xii. The Applicant and the Monitoring Committee shall supervise the implementation of the Resolution Plan and the Applicant shall file status of its implementation before this Authority from time to time, preferably every quarter.
- xiii. 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.
- xiv. The Applicant shall forthwith send a copy of this Order to the CoC and the Resolution Applicant for necessary compliance.
- xv. The Interlocutory Application No. 2409 of 2020 is accordingly allowed and disposed of.

Sd/-

CHANDRA BHAN SINGH
MEMBER (TECHNICAL)

Sd/-

H. V. SUBBA RAO
MEMBER (JUDICIAL)

